

November 3, 2017

B.O.S. File 177053, 20 Nobles Alley

INTRODUCTION - ADDITIONAL SUBMISSIONS

We are appealing the categorical exemption for this project, File number 171053, a Special Order to be heard on November 14, 2017

As there is an Ethics Complaint regarding the vote on this project before the Board of Appeals on September 13, 2017 we respectfully request that the hearing before the B.O.S. be continued until the Ethics Commission completes its investigation.

We have presented a well-documented case to the Ethics Commission that Commissioner Richard Swig of the San Francisco Board of Appeals was under Ethics Code requirements to recuse himself from voting on this matter. This case is described in detail in the attached Ethics Complaint (1718-026).

We also presented a well-documented case that Commissioner Swig was required to disclose his relationship with the expediter for this project, 20 Nobles, a man who also serves on the San Francisco Board of Examiners and has rented his sole business office space from Mr. Swig since 1988.

As the vote before the Board of Appeals on September 13th was 4-to-1, Commissioner Swig's recusal would have meant that the Board turned down the project sponsors' appeal, and we would not be here today asking for a reconsideration of the categorical exemption.

Sincerely,

Marc Bruno
Appellant
15 Nobles Alley
San Francisco, CA 94133
415-434-1528



Additional Submissions B.O.S. File 171053

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I. Ethics Complaint, 20 Nobles Alley

Ethics Complaint 1718-026, Concerning 20 Nobles Alley

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September 29, 2017

FILED

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Conflict of Interest Complaint, Board of Appeals Member
Complainant: Marc Bruno Respondent: Richard Swig

SAN FRANCISCO
ETHICS COMMISSION

I. Complaint Summary

BY _____

Mr. Richard Swig, a Board Member of the San Francisco Board of Appeals, failed to disclose his business relationships with two parties who appeared before the Board of Appeals of behalf of Appeal 17-088, a matter deliberated and voted upon at the July 12, 2017 and September 13, 2017 meetings of the Board.

Mr. Swig also was required to recuse himself from voting on the matter in which these parties appeared. He did not do so.

Failing to disclose his relationships with Mr. Eustache de St. Phalle, the appellant, and Patrick Buscovich, his representative, Mr. Swig violated and continues to violate Section 3.214 of the San Francisco Campaign and Governmental Conduct Code, commonly referred to as the City's Ethics Code.

Failing to recuse himself from voting on this appeal, Mr. Swig skewered a 4-to-1 vote in favor of two men with whom he has business relationships, benefitting them. Given the extent and nature of these relationships, the public could reasonably question the ability of Mr. Swig to act for its benefit.

Eustache de St Phalle's Business Relationship w. Board Member Richard Swig

Mr. de St. Phalle is a lawyer and named partner in the firm Rains, Lucia, Stern, de St. Phalle and Silver. Since October 1, 2011, the firm maintains a San Francisco office, of which Mr. de St. Phalle is the lead partner. That office is the entire 15th floor of 220 Montgomery Street, a building owned by Mr. Swig's family partnership. Mr. de St. Phalle's law firm has paid Swig LLC \$18,770,640.

In 2011, the year that the firm opened the San Francisco, Mr. de St. Phalle, then with another firm ("The Veen Firm") was named "Of counsel" in the same Press Release announcing the opening of the office in the Mills Building. In 2015, Mr. de St. Phalle joined the firm "Rains, Lucia and Stern" as a full-Partner, and his name was added to the marquee. From the time of Mr. de St. Phalle's becoming a named partner at the firm, the firm has paid Swig LLC approximately \$6,250,880.

Patrick Buscovich's Business Relationship w. Board Member Richard Swig

Patrick Buscovich & Associates has been a tenant at 235 Montgomery Street since 1998. Mr. Swig lists this building as a "source of rental income of \$10,000 or more" on each and every Statement of Economic Interest (SEI) filed with the City's Ethics Commission from 2007 to 2017 (a total of seven SEI Reports). Mr. Buscovich, besides being a 19-year tenant at 235 Montgomery provided professional engineering services to the building. (Buscovich & Associate's website advertising this event, Attached. Also see, San Francisco Property Information Map, "235 Montgomery," Building Permit 2013.1395H, Attached.)

Mr. Swig

II. Facts

Mr. Richard Swig is an appointed member of the five member San Francisco Board of Appeals. He has served on this board for the years 2014, 2015, 2016 and 2017. Prior to this, Mr. Swig served on the San Francisco Redevelopment Agency Board, another review body subject to the requirements of the San Francisco Campaign and Governmental Conduct Code, and 42 U.S. Code § 1983, for the years 2007, 2008, 2009, 2010 and 2011.

Mr. Swig also has served on numerous other boards, commissions, advisory groups and task forces in San Francisco and in St. Helena, California, where Mr. Swig owns a home, an inn, a restaurant and other property.

Ethical Requirements, Board Members on the Board of Appeals

As part of the criteria to serve on the Board of Appeals in San Francisco, Mr. Swig agreed to attend bi-annual Ethics Training Classes provided by the San Francisco Office of the City Attorney, and to sign a Certificate of Ethics Training for each such class, pursuant to California Government Code section 53235 (AB 1234). Mr. Swig also agreed to attend bi-annual classes concerning the City's Sunshine Ordinance, classes that also are sponsored by the City Attorney's Office. Finally, as required by the state's Fair Political Practices Commission, pursuant to the Political Reform Act of 1974 (Government Code § 87100 et seq.), Mr. Swig agreed to submit an annual report showing the sources of his income and the ownership of real property, the so-called "SEI Form 700," a Statement of Economic Interests.

The SEI Form requires that properties and business interests owned by Mr. Swig in San Francisco be reported. However, it seems that the SEI does not require that Mr. Swig report his properties and business interests in Napa Valley.

With the sole exception of a form where certain sections of the SEI are redacted, each and every SEI 700 Form Mr. Swig submitted to the City Ethics Commission includes his reference to 220 Montgomery Street (a.k.a. "the Mills Building") and 235 Montgomery Street (a.k.a. "the Russ Building"). These properties are listed in Mr. Swig's SEI reports at the top of a list entitled, "Additional Sources of Income of \$10,000 or more for Swig Investment Company."

Typically, this list is the final page of each SEI report filed by Mr. Swig.

220 Montgomery Street-- the building where Mr. de St. Phalle has his law office as a named partner in the firm of Rains, Lucia, Stern, de St. Phalle and Silver-- is also listed separately, a second time, in each of the SEI Reports submitted by Mr. Swig. In the case of 220 Montgomery, Mr. Swig also lists it under "Schedule B, Interests in Real Property." Under the category "Nature of Interest?" Mr. Swig notes in each of his SEI reports that he has an "Ownership/ Deed of Trust" in 220 Montgomery.

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Typically, this reference to a "Ownership/Deed of Trust" at 220 Montgomery is listed on page 4 of the Report, as it is in the 2016 Swig SEI Report. (Attached)

"Swig Investment Company" versus "Swig Company, LLC"

"Swig Company, LLC" is never mentioned in Board Member Swig's seven SEI 700 Forms. However, the following companies are mentioned by him as either owned by Mr. Swig, or, when not owned by him, contributing at least \$10,000 annually to his income. The companies listed by Mr. Swig are:

Swig Investment Company
Richard L. Swig Trust
RSMC Investment Company
RSBA Associates
Article 3 Advisors
Not a Bad View, LLC

Although "Swig Company, LLC" is not mentioned in the Swig SEI reports, it seems that what Mr. Swig might mean by "Swig Investment Company" (the first company in this list) is "Swig Company, LLC." Mr. Swig states in his SEI reports that he owns 220 Montgomery as part of "Swig Investment Company." But the actual owner listed at the City Assessor-Recorder Office is "Swig Company, LLC." It is not impossible to conclude these are one in the same company, or, perhaps, co-partners.

Whatever financial instrument or corporate structure Mr. Swig uses as a form of ownership or "interest in," the properties at 220 and 235 Montgomery provide legally significant income to him, for purposes of this ethics complaint. State Ethics Code (Form 700) requires that income from property \$10,000 or more must be reported, and Mr. Swig has reported each of these properties on all seven reports.

Regular Duties of the Board Members who sit on the Board of Appeals

As part of his duties on the San Francisco Board of Appeals, Mr. Swig is expected to consider appeals and related procedural matters that come before the Board, read materials presented by parties to those appeals, listen to in-person presentations made by those parties and their representatives, ask questions of parties to the appeals, participate in discussions with other Board members, and decide based on the official record a correct course of action in accordance with the law. When called upon by a duly made motion, Swig votes on these appeals and related procedural matters.

The majority of appeals that come before the Board concern building permits.

The History of Appeal 17-088 before the Board of Appeals

Mr. Eustache de St. Phalle, an attorney, filed an appeal to the Board of Appeals on or about June 7, 2017. (Appeal 17-088) On or about this day, Dudley de St. Phalle, Mr.



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de St. Phalle's wife, filed a seven-page brief to the Board asking it to overturn a decision made by the San Francisco Planning Department that a proposed garage at 20 Nobles Alley, a building owned by the de St. Phalles, be "disapproved." The de St. Phalle's appeal was scheduled to be heard July 12, 2017 in San Francisco City Hall, Room 466, at which time and place Mr. de St. Phalle and his wife, Dudley de St. Phalle, appeared before the Board.

The first line of the brief presented by Ms. Dudley de St. Phalle referenced Mr. de St. Phalle's co-ownership of the property; to wit, "My husband, Eustache de St. Phalle, and I bought the building at 20 Nobles Alley last summer."

At the meeting of the Board of Appeals on July 12, 2017, the following parties made presentations: Zoning Administrator Scott Sanchez, Planning Department; Bernie Curran, Department of Building Inspection; Dudley de St. Phalle; Patrick Buscovich, (representing appellants); Mr. Marc Bruno, a resident neighbor (and author of this complaint) and Mr. Brent McDonald, a resident neighbor and architect.

Mr. Sanchez, Mr. Curran, Mr. Bruno and Mr. McDonald spoke in favor of the Planning Department's "Notice to Disapprove." Appellant de St. Phalles and Mr. Buscovich spoke in opposition to the Planning Department disapproval.

de St. Phalle's appeal was discussed and voted on by Mr. Swig and other members of the Board of Appeals on July 12. The Board voted unanimously to continue the matter until September 13, 2017, because it was made known during deliberations that contrary to Board Rules and Regulations no building plans had been submitted to the Board. (*San Francisco Business and Taxation Code*, Article 1 §§ 8, 10 - Method of Appeal to the Board of Appeals, "Record Forwarded.")

The Board directed Mr. de St. Phalle to return with these plans. On or about August 22, 2017, de St. Phalle submitted the requested plans to the Board of Appeals.

At the continuance of September 13, 2017, the following parties presented before the Board of Appeals: Scott Sanchez, Planning Department; Joseph Duffy, D.B.I., Eustache and Dudley de St. Phalle, appellants; Marc Bruno, a resident neighbor; Paul Lau, a resident neighbor; Kathleen Dooley, a resident neighbor; Brent McDonald, a resident neighbor and architect; Albert Yee, former owner of 20 Nobles Alley.

The four neighbors and former owner who appeared on September 13 testified in support of the Planning Department's disapproval of the garage/s. When questioned by the Board about the project, Zoning Administrator Scott Sanchez re-confirmed the Planning Department's disapproval:

"When the building with the garage doors was researched, 20 Nobles, there were no permits in the 1990s to do that. A garage existed-- magically appearing, it seems-- on a drawing in 1999 for an unrelated project. But there never was a permit that added one or more garage to the subject property, and that's where we are today. That we

Handwritten signature or initials on the right margin, possibly reading 'M. Bruno'.

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maintain that the garages are not legally existing. Neither one was ever legally existing on the property, and under the planning code today they cannot add one at this point. I think that's all I have to say."

In addition to the in-person testimony at the hearing September 13, 2017, the Board received 16 letters of opposition and not one letter in favor of the project. Other than the permit-holders (the de St. Phalles) nobody testified in favor of the project. Mr. Patrick Buscovich did not present at the continuance hearing on September 13, although he was in the room and consulted with the de St. Phalles.

During the deliberations prior to the vote, Board Member Swig took the lead in announcing that he was in favor of the project and wanted to give the de St. Phalle's- who had just been told their time was up by the Board President, Darryl Honda-- more time to address the Board. At Mr. Swig's urging, the Board allowed the de St. Phalle's to re-address some of the issues raised at the hearing on September 13th. Many of these same issues were raised and addressed at the hearing on July 12.

After additional deliberations led by Mr. Swig, the Board moved to approve the project, a vote was taken and the final ballot was 4 in favor and one opposed. The sole opposing vote was by Board Member Ann Lazarus.

A copy of the Board's "Notice of Decision" on Appeal 17-088 is attached.

III. Discussion

"Section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional, or business relationship with any individual who is the subject of, or has an ownership or financial interest in, the subject of a governmental decision being made by the officer or employee. This disclosure requirement applies only if, as a result of the relationship, the public could reasonably question the ability of the officer or employee to act for the benefit of the public. Disclosure on the public record means inclusion in the minutes of a public meeting, or if the decision is not made at a public meeting, recorded in a memorandum kept on file at the offices of the City officer or employee's department, board, or commission."

Good Government Guide, An Overview of the Laws Governing the Conduct of Public Officials (September 3, 2014 update)

Mr. Swig's failure to disclose and recuse himself in this matter concerning Eustache de St. Phalle is a violation of Section 3.214 of the San Francisco Campaign and Governmental Conduct Code.

Mr. Swig also has a business relationship with Patrick Buscovich & Associates and was thereby required to disclose that relationship in the Minutes of the Board of Appeals-- something he never did-- and, recuse himself from voting on any matter that might benefit Mr. Buscovich, something Mr. Swig never did.

Mr. Swig's failure to disclose and recuse himself in this matter, as it might benefit Patrick Buscovich, is also a violation of Section 3.214. It should be noted that Mr. Buscovich, the principle partner in this firm, is also a member of the San Francisco Board of Examiners.

By failing to disclose and recuse himself, Board Member Swig denied Complainant and other members of the public their constitutional right to have their testimony weighed and considered unimpeded by prejudice and subterfuge. The deprivation of this constitutional right is a violation of the 14th Amendment and 42 U.S.C. § 1983, the "Deprivation of Rights and Immunities Clause" of the U.S. Code.

In addition to violating Section 3.214 of the San Francisco Campaign and Governmental Conduct Code on at least two occasions, Mr. Swig's failure to disclose is also a violation of the Statement of Incompatible Activities for the San Francisco Board of Appeals, discussed below at Section IX.

Both meetings of the Board of Appeals were held in the City and County of San Francisco, in San Francisco City Hall, Room 416.

* * *

Sections IV, V, VI, VII and VIII include Attachments, as labeled. They are all found at the back of this report.

- IV. Documentary Evidence of Ownership of 220 Montgomery Street ("Mills Building") by Richard Swig, Board Member, San Francisco Board of Appeals**
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- VIII. Documentary Evidence of Professional Services provided to 235 Montgomery by Patrick Buscovich, Representative of Eustache de St. Phalle before San Francisco Board of Appeals**



IX. Activities by Mr. Swig are also in conflict with the Board of Appeals Statement of Incompatible Activities

By not disclosing his business relationships with de St. Phalle and Buscovich, Board Member Swig also has violated **Section III. A. (3.)(b.)** of the Board of Appeals Statement of Incompatible Activities, because as a landlord to de St. Phalle and Buscovich, Swig "provides services in exchange for compensation."

"(3.)(b.) No officer or employee may be employed by, or provide services in exchange for compensation or anything of value from an individual or entity that presently has an application or matter under review before the Department or has had an application or matter under review before the Department in the preceding 12 months. This prohibition does not apply to employment of or compensation received by an officer's or employee's spouse or registered domestic partner."

[III. Restrictions on Incompatible Activities; A. Restrictions that Apply to all Officers and Employees; (3.) Activities that are Subject to Review by the Department; (b.), at San Francisco Board of Appeals Statement of Incompatible Activities, p. 3]

Advanced Written Determination, a Method to Avoid Possible Conflicts

Mr. Swig is forewarned in the Statement of Incompatible Activities that he and his fellow Board members are encouraged to seek advice from provided counsel at the Ethics Commission and other City agencies and departments should he *even suspect that his actions on the Board of Appeals might result in a conflict of interest.*

Common sense and a commitment to fair play dictate that anyone on the Board of Appeals, a quasi-judicial body, would go the extra mile to adhere to the City's Ethics Code, and the Statement of Incompatible Activities invites Board Members to do just that. Five sources of advice or determination are expressly offered and encouraged by the Statement, and examples are given on how a Board Member ("officer" in the Statement) might ask for such written advice from:

- (1) the Department, by which is meant the Board of Appeals staff;
- (2) the San Francisco Ethics Commission;
- (3) the San Francisco City Attorney;
- (4) the San Francisco District Attorney;
- (5) Any combination thereof.

The Statement of Incompatible Activities is specifically written with Board Members in mind, and I believe that "proposed activities" includes the activities of *Voting as a Board Member* and *Participating in deliberations as a Board Member*, to wit:

"C. ADVANCE WRITTEN DETERMINATION

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As set forth below, an employee of the Department or the director or a member of the Board of Appeals may seek an advance written determination whether a proposed outside activity conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the Department, or is otherwise incompatible and therefore prohibited by section III of this Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called "the requestor"; the individual or entity that provides an advance written determination shall be called "the decision-maker."

1. PURPOSE

This subsection permits an officer or employee to seek an advance written determination regarding his or her obligations under subsections A or B of this section. A written determination by the decision-maker that an activity is not incompatible under subsection A or B provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor's written submission. A written determination cannot exempt the requestor from any applicable law.

If an individual has not requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement.

Similarly, if an individual has requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement if:

- (a) the requestor is an *employee* who has not received a determination under subsection C from the decision-maker, and 20 working days have not yet elapsed since the request was made; or
- (b) the requestor is an *officer* who has not received a determination under subsection C from the decision-maker; or
- (c) the requestor has received a determination under subsection C that an activity is incompatible.

In addition to the advance written determination process set forth below, the San Francisco Charter also permits any person to seek a written opinion from the Ethics Commission with respect to that person's duties under provisions of the Charter or any City ordinance relating to conflicts of interest and governmental ethics. Any person who acts in good faith on an opinion issued by the Commission and concurred in by the City Attorney and District Attorney is immune from criminal or civil penalties for so acting, provided that the material facts are as stated in the

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opinion request. Nothing in this subsection precludes a person from requesting a written opinion from the Ethics Commission regarding that person's duties under this Statement."

[III. Restrictions on Incompatible Activities; C. Advanced Written Determination, at San Francisco Board of Appeals Statement of Incompatible Activities, p. 4- 5.]

X. Conclusion

Ownership and tenancies of the above-referenced properties at 220 Montgomery and 235 Montgomery, as well as the payment of rents by the de St. Phalle Law Firm to Mr. Swig for its tenancy at 220 Montgomery, as well as the professional services provided by Mr. Patrick Buscovich at 235 Montgomery, where Mr. Buscovich has been a tenant since 1998, prove that Board Member Swig has had and still has a business relationship with these two parties, each of whom appeared on behalf of Appeal 17-088 before the Board of Appeals July 12, 2017 and September 13, 2017.

Given these business relationships, Board Member Swig was obligated as a matter of law, common sense and fair play to disclose his connections to these two men and to recuse himself from voting on any matter that might benefit them.

His failure to do so is a violation of Section 3.214 et. seq. of the City's Campaign and Governmental Conduct Code, the Board of Appeals Statement of Incompatible Activities and of the 14th Amendment of the U.S. Constitution, and of 42 USC §1983.

The votes taken on Appeal 17-088 on July 12, 2017 and September 13, 2017 at the meetings of the San Francisco Board of Appeals must be reversed, and the matters considered by the Board under the auspices of Appeal 17-088 must be remanded to administrative bodies for reconsideration and review. Mr. Richard Swig must be enjoined from voting on Appeal 17-088 or participating in any deliberations concerning it.

On information and belief all matters described by me herewith are true and correct. Signed,



Marc Bruno
15 Nobles Alley
San Francisco, California

Date: *Sept. 29, 2017*



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

PETER KEANE
CHAIRPERSON

DAINA CHIU
VICE-CHAIRPERSON

PAUL A. RENNE
COMMISSIONER

QUENTIN L. KOPP
COMMISSIONER

YVONNE LEE
COMMISSIONER

LEEANN PELHAM
EXECUTIVE DIRECTOR

DATE: October 5, 2017
NAME: Marc Bruno
ADDRESS: marcabruno@yahoo.com

Re: Ethics Complaint No. 1718-026

Dear Mr. Bruno:

Thank you for filing a complaint with the Ethics Commission on **September 29, 2017**. The Commission has assigned the tracking number referenced above to your complaint.

Commission Staff will now conduct a preliminary review of your complaint to determine whether it alleges sufficient facts of specific violations of law to warrant a full investigation. The Ethics Commission has jurisdiction over violations of City law relating to campaign finance, lobbying, conflicts of interest, or governmental ethics. We will review the allegations and evidence you provided and determine if there is reason to believe that a violation of these laws may have occurred. Once this determination is made, you will be notified.

If the Commission needs additional information from you regarding this matter, a member of the enforcement staff will contact you. If you have any questions, please call (415) 252-3100.

Sincerely,

/s/ Jessica L. Blome
Jessica L. Blome
Deputy Director
Enforcement & Legal Affairs

II . Neighbors Letters in Opposition, 20 Nobles Alley

Cynthia G. Goldstein, Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>
<gary.cantara@sfgov.org>
<scott.sanchez@sfgov.org>

September 4, 2017

Dear Sir / Madam:

I have owned a shop next door to the intersection of Nobles and Grant for 23 years. As a retailer, resident, and, above all, a person who loves this City, I passionately support Planning Department's decision to disapprove the placement of a new garage at 20 Nobles Alley.

I understand people want garages for their cars. The problem is, this is not an automatic right when you live in a City. And Nobles is not the right place to have a new garage. The garages that are there now at 20 Nobles Alley have proven unsafe. That's the reason they never were used.

The owners of the property-- they bought it only one year ago, in August, 2016-- have been cited for Short Term Rental Violations. How can an intelligent property owner (or, just a *responsible* one) *not* know that San Francisco is for very good reason sensitive to illegal short term rentals?

Many people have lost their apartments because of those rentals, and I find it remarkable that the City's Board of Appeals would ever go out of its way to allow such people to avoid planning rules in order to help themselves to a garage. Actions such as these, were you to allow a garage at 20 Nobles, lead common people to believe the city's review boards are favorable to some people and not others.

Given the new owners blatantly avoided registering their short term rentals for three months, and given they advertised 20 Nobles as a short rental for the whole year, it is impossible to believe they ever intended to really live here.

William Haskell to San Francisco Board of Appeals
September 4, 2017

My business, *Aria*, has been at 1522 Grant for over two decades. I regularly use a storage unit and door just 60 feet away, on Nobles Alley. It is two doors down from 20 Nobles, and on the same side of the street. I am there everyday using that door, and I think I would have noticed the new so-called neighbors if they had ever really lived here.

Please consider what you are doing before you allow one more non-neighbor land investor to pull the wool over the eyes of the city's guardians. I know you are doing your best to determine what is fair, but please remember that others, the ones who wrote the planning code, also consider what is fair before making their policies. To allow the owners at 20 Nobles to circumvent that policy for the sake of a garage in is just plain wrong.

William Haskell
1522 Grant Avenue
San Francisco, CA 94133

17-088

BOARD OF APPEALS

SEP 05 2017

APPEAL # 17-088

COFF

Cynthia G. Goldstein, Executive Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>, <gary.cantara@sfgov.org>,
<eiliesh.tuffy@sfgov.org>

September 3, 2017

Dear Appeals Board Member:

I write as a longtime resident of North Beach and as a native San Franciscan who grew up primarily in this neighborhood. This is an area of the city dear to me, both because I am a resident and because of the unique contribution the neighborhood's buildings and people have made to San Francisco.

As a property owner in the neighborhood, I am sympathetic to the need for parking. Nevertheless, I strongly support the Planning Department decision to deny the installation of a new garage at 20 Nobles. The reason is simple: Without a Planning Code and without a common commitment to it, the city will become every man and woman for themselves, and the loving City by the Bay will become one more metropolitan dystopia.

It seems to me our planning code consists of three elements: public policy, safety considerations and history. On all three grounds, I do not think it proper to allow a garage at 20 Nobles.

On historical grounds, and after considerable use of public resources, the Planning and Building Departments, along with the Bureau of Street Use and Mapping, determined the garages currently at 20 Nobles are not legal. There is no evidence of an application, a job card or a permit for a garage.

With regard to safety, alleyways with garages make it difficult to use the sidewalks. I am a pedestrian and public transit user. If and when we allow private parties to install garages in alleys, the permit history should be free of the legal issues we find at 20 Nobles. To repeat what was stated by Planning, "the creation of a ground floor garage was not part of the approved project scope for that permit or any other permit on file with the Department of Building Inspection."

Lastly, our planning code is a reflection of public policy. I am a property manager, a property owner and a long-time volunteer at a program for those who have no property at all-- the homeless. Although the issue at 20 Nobles seems to be only about a garage, it also concerns the homeless.

The Property Information Map for 20 Nobles, Block 0104 / Lot 025, indicates that the very people asking for an exception to be made in the planning code so that they may build a new garage were cited in March of this year for using the building illegally and without registration for short-term rentals. They were advertising the property not merely for the two months when people rented, but until nearly the end of the year. The only thing that stopped them, it seems, is that their plans were uncovered by the City.

Almost none of the people where I volunteer were born homeless. They were forced onto the street because of family dysfunction, health breakdowns, loss of employment and/or (and *most directly*) by simply getting evicted. It is well known that many of these evictions result from short-term rentals-- people misusing commercial buildings as hotels, just like the property owners at 20 Nobles. I know this site would be only one more, small, illegal hotel. But the cumulative effect of all these illegal usages is devastating for the poor. This is the reason I ask you to support the findings of the Planning Department and not allow the owners to avoid the rules of the Planning Code one more time.

Please do not hesitate to phone if I can be of further assistance to you,

Kelli Smith

Kelli Smith
415-846-3280
sfkelli@sbcglobal.net

FILE

BOARD OF APPEALS *988*
 AUG 23 2017
 APPEAL # 17-088

Garage at 20 Nobles Alley, SF

My name is Louis Biro and I am a freelance artist, independent contractor and 29 year North Beach resident, who has lived a block away from the proposed garage at 20 Nobles Alley. I work and shop in the neighborhood, and walk past these garages almost every day.

I am against the new garage proposal because my understanding from the City's Notice of Denial is that the current garages are illegal, and any new garage proposal there would contradict a law passed by the Board of Supervisors protecting small alleys from garages.

Given that the existing garages were built illegally, I do not believe that the current owners should be allowed to build a new garage now, because that would reward the property for breaking the law in the first place.

These issues were known at the time of purchase, and it would be unfair and contradictory.

I also feel that the placement of any new garage would have a negative impact on the rest of us that live in the district. This is a pedestrian section of the neighborhood and there are no other working garages in this area.

I am not against the new owners wanting to increase the value of their property.

If there were any new construction to be done on this site, I would like to see them obtain legal permits, if possible, and create an additional unit for more housing in the area.

As a long term resident I have watched the decrease of curb and sidewalk space over the years as many legal construction projects have occurred. I don't believe that one more, albeit illegal, project improves the neighborhood in any way.

Louis Biro

FILE

BOARD OF APPEALS

AUG 23 2017

APPEAL # 17-088 *9/8*

STATEMENT of PAUL LAU (read by Angela Chu)

My name is Paul Lau and I have lived in Nobles Alley for almost 25 years.

I have worked as a bus boy and in other capacities at restaurants throughout the City.

Because I often come home from work late at night, it is often the case that I sleep until late in the morning.

For this reason, and because I am concerned about the safety and welfare of those who live right next to the proposed garage door, I am asking each of you to not approve this garage.

Thank you for the time to let me address you, and please know that I appreciate all the work you do for the City.

FILE

11/11/17

BOARD OF APPEALS

Mejia, Xiomara (BOA)

SEP 07 2017

APPEAL # 17-088 88

From: Albert Yee <jeldoi@sbcglobal.net>
Sent: Thursday, September 07, 2017 7:24 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB)
Subject: Support of Planning Department Disapproval of Garages, 20 Nobles, Appeal #17-088
Attachments: Image.jpg; Image (2).jpg; Image (4).jpg; Image (5).jpg; Image (6).jpg; Image (7).jpg; Image (8).jpg; Image (9).jpg; Image (10).jpg

Hello,

Please include my attached testimony and exhibits as part of the official record for the meeting on 09/13/17, Appeal #17-088.

Thank you.

Albert Yee
jeldoi@sbcglobal.net
510 862 4232

FILE

BOARD OF APPEALS

AUG 23 2017

APPEAL # 17-088

Statement of Albert Yee, August 2, 2017

My name is Albert Yee. I appeared here two weeks ago to address a proposed garage at 20 Nobles. I am here today to clarify my position and give you several documents you do not have.

The Yee family owned 20 Nobles for almost 40 years. My parents purchased it in 1958, and, following the death of my parents, my brothers and I sold the property in June, 1997.

During the entire time we owned the property, we never installed a garage. On the contrary, we made almost no additions to the property except to envelope the original wooden structure in stucco.

I lived at 20 Nobles until I left for college. I attended University of California at Berkeley, and I received a degree in engineering. From then until my retirement. I worked in the United States as Senior Principal Engineer for a consulting engineering company.

Based on my experience as an engineer, and based on my experience at 20 Nobles, I can tell you that no garage should have been placed there without proper permits. To do so without specs, without drawings, without any calculations for soft story framing is an indication that someone made a major structural change outside the parameters of the law.

I feel it is unfair to suggest the garages were ever there when my family sold the house, as if we placed them there illegally. We didn't.

Here is a photo of the house when we sold it. Here is a photo of the house when we bought it 40 years earlier. The earlier photo is from the Recorder-Assessor's Office.

You can see that the apertures at the front of the house are identical. You also can see that except for the stucco envelope, the house is historically preserved. When my family added the stucco envelope, we did it properly. We got a permit.

I do not believe the new owners-- who, I'm told, were informed by the City about this problem before they bought the house -- should be allowed to place a new garage there, based on the illegally built garages. This would only invite more people to circumvent the planning and building codes all of us are asked to obey as property owners.

Thank you for your time, and thank you for allowing me to clarify the permitting history at 20 Nobles Alley.

[Exactly **2:10 Minutes**, with the moving of the photos under the audiovisual aid.]

20 Nobles Alley San Francisco CA Apartment House Declaration

August 2, 2017

I, Albert J. Yee, as one of the four former owners of the apartment house at 20 Nobles Alley (include units 18, 18A, 20, and 20A), San Francisco, CA, declare under oath that the apartment house NEVER had car garages as of the date of sale on June 18, 1997.

The 20 Nobles Alley apartment house had two (2) separate basement/storage rooms at street level, each entered by separate regular 30"x76" doorways and separated by an inside brick wall, plus a main entryway into the house, on the date of sale of June 18, 1997.

See attached house pictures.

Sworn by:

Albert J. Yee

Date:

August 2, 2017

At:

Wells Fargo Bank

468 Columbus Ave

San Francisco, CA 94133

4110114

FILE

BOARD OF APPEALS

SEP 05 2017

CJW

APPEAL # 17-088

Kathleen Dooley
216 Filbert St
San Francisco, CA
94133

September 2, 2017

To : Cynthia Goldstein and the San Francisco Board of Appeals,

Ma Goldstein and fellow Commissioners,

As a longtime merchant and resident of North Beach, I am writing in support of the Planning Department's disapproval of permit 2016.08.09.4528 at 20 Nobles Alley. For over 20 years, I ran a business, Columbine Design, which was located on the 1500 block of Grant Avenue, the block that tiny Nobles Alley is located adjacent to. Because of the width of this alley—a mere 11' (and far less than the 41' required for the adding garages in our special use district), it is unconscionable to even consider invalidating the Planning Department's conclusions regarding this permit.

As a shopkeeper on this block, I had a daily view of Nobles Alley and observed that this alley is really only suitable for pedestrian use. I also viewed on a daily basis how drivers doublepark in the alley while running errands, constantly blocking Nobles where it intersects Grant Avenue, impeding pedestrian traffic. The addition of garages on Nobles would only add to the confusion and congestion at this intersection and would have a detrimental effect on the character of the alleyway.

Of all the alleys in North Beach, Nobles is one of the few that has by good luck and deliberate choices maintained the unique character of our historic neighborhood, something which all of us constantly work to maintain.

Since the City has adopted a Transit First policy endorsing the reduction of cars in congested parts of town such as North Beach, it also makes sense to support the Planning Department's decision to not add a garage at 20 Nobles Alley. That is especially true because Planning, Building and the Bureau of Streets Use and Mapping have all made written determinations that the current two car garages there are illegal.

As a founder and former president of the North Beach Business Association, I have seen a number of bad actors, both commercial and residential, locate in our commercial district, and these are often the same people who justify breaking the provisions of the Planning Code as if these rules should apply to everyone but them. This is just wrong— and something I can never support. In this case, it is my understanding that the current owners had the information regarding the illegality of the garages on the premises before purchasing said property and have, therefore, no basis for even applying for a permit to "legalize" the situation.

It has also come to my attention that, for a number of months, this home has been rented out as an unregistered short term rental—from January to March so far of this year— in direct violation of City laws pertaining to short term rentals. Since the owners maintain other properties as primary residences, it seems logical that they may choose to continue to illegally continue to rent out the building. With the extreme shortage of housing in our neighborhoods, and the many evictions of longtime residents (evictions that are very detrimental to the dynamic fabric of North Beach), the last thing the City should support are owners who so willingly take a home out of circulation to be used as an ersatz hotel. This type of behavior must not be rewarded.

Once again, I strongly believe it is the Board's obligation to uphold the Planning Department's disapproval of legitimizing these illegal structures and deny the permit application to build a new garage in Nobles Alley.

Kathleen Dooley

FILE

Mejia, Xiomara (BOA)

From: Cantara, Gary (BOA)
Sent: Tuesday, September 05, 2017 7:41 AM
To: Mejia, Xiomara (BOA)
Subject: FW: SUPPORT: Notice of Planning Department Disapproval, 20 Nobles Alley, #

SEP 05 2017

17-088

Public Comment below, for Appeal No. 17-088.

*Gary Cantara, Legal Assistant
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
(415) 575-6882 direct line
(415) 575-6880 main line*

From: Howard [mailto:wongaia@aim.com]
Sent: Saturday, September 02, 2017 4:39 AM
To: Goldstein, Cynthia (BOA) <cynthia.goldstein@sfgov.org>; Cantara, Gary (BOA) <gary.cantara@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Tuffy, Eiliesh (CPC) <eiliesh.tuffy@sfgov.org>
Subject: SUPPORT: Notice of Planning Department Disapproval, 20 Nobles Alley, #

TO: BOARD OF APPEALS
c/o Cynthia Goldstein, Scott Sanchez, Gary Cantara and Eiliesh Tuffy
RE: Permit 201608094528, 20 Nobles Alley, New Garage Abatement Application
SUPPORT: SF Planning Department's "Notice of Planning Department Disapproval"

Dear Commissioners, Directors and Planning Staff;

As a nearby neighbor and architect, I support the determination of the San Francisco Planning Department and its "Notice of Planning Department Disapproval"---regarding an illegal garage opening on a narrow street under 41 feet in width--- within a designated historic district.

As a narrow dead-end alley with multiple residential entryways, Nobles Alley has unique constraints and potential liabilities. Cars may need to back up or back down the street--into Grant Avenue's busy pedestrian and traffic routes. With extremely tight turning radiuses, a garage would require multiple maneuvers that could easily hit adjacent buildings and infringe over pedestrian sidewalks.

Parenthetically, this property apparently has been used as a part-time rental, possibly illegally. Especially if visiting tourists use such a garage, the odds of an accident would increase---given their unfamiliarity with San Francisco's hilly terrain and narrow dead-end streets.

Regards,
Howard Wong, AIA

FILE

DENNIS HEARNE photographer

tel 415 989 5152

779 Vallejo Street in North Beach between Powell and Stockton
San Francisco, California 94133
email dennishearne@mac.com
www.dennishearne.com

Cynthia C. Goldstein
Executive director
San Francisco Board of Appeals
1650 Mission St, Suite 304
San Francisco, CA 94103

BOARD OF APPEALS

SEP 06 2017 *CSJ*

APPEAL # 17-D88

Dear Cynthia C. Goldstein,

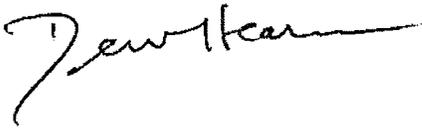
This Letter is sent in support of the "Notice of Planning Department Disapproval" regarding Permit 201608094528, 20 Nobles Alley New Garage application.

Besides the points made in the Disapproval Notice I also may note that the entire resident was illegally used for short term rentals from January through March of this year. The explosion of Ellis Acts and AirB&B rentals by investors only interested in profit should be further addressed by the City Government.

I vote that the Garage addition should not be supported.

thank you,,

Dennis Hearne



FILE

SEP 7 11:13/17

Mejia, Xiomara (BOA)

From: Daniel Macchiarini <danny1mac@sbcglobal.net>
Sent: Wednesday, September 06, 2017 10:33 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Sanchez, Scott (CPC)
Cc: Marc Bruno; Aaron Peskin; Lee Block
Subject: No to 20 Nobles Alley Garage Reconstruction/Remodel

BOARD OF APPEALS

SEP 07 2017 *CS*

MACCHIARINI CREATIVE DESIGN APPEAL # 17-088

1544 Grant Ave.

San Francisco, Calif.

(415)982-2229

www.macchiarinireations.com

Danny1Mac@sbcglobal.net

MODERNIST DESIGN SINCE 1948

September 6, 2017

Cynthia G. Goldstein, Executive Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Dear Appeal Board Members,

I write you to support the Planning Department decision to deny the installation of a new garage at 20 Nobles for three reasons. First, it is in clear violation of the city codes concerning this kind of construction which are well conceived based upon safety concern in accessing alleys by emergency vehicles which this kind of (de)construction will clearly obstruct. Secondly, construction vehicles will take parking on Grant Ave. for months to both remove debris and bring construction material up the alley to the worksite. These parking spaces will be taken on the street where my business operates further exacerbating the colossal parking problems in North Beach and hindering customer access to our small business commercial district and my business in particular.

Lastly, For over a decade and a half, North Beach has been the target of massive (de)construction projects both private and public, streetscape and inside privately owned buildings. WE NEED A BREAK!

Please oppose this project and ALL further projects of this kind which violate zoning ordinances, are disruptive to both neighbors and our commercial district.

Thank You,

Daniel Macchiarini

Macchiarini Creative Design

1544 Grant Ave. SF Ca 94133

Board Member North Beach Business Association

FILE

Cynthia G. Goldstein, Executive
Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Ronald F. Sauer
320 Clementina, Apt. 410
San Francisco, CA 94103

BOARD OF APPEALS

SEP 07 2017

CS

APPEAL # 17-088

Former resident at 121 Varennes, SF CA 94133

Dear Board Member :

I was living for ten years with Roger Strobel, a native of N. Beach, at 121 Varennes, and used the basement back-exit that opens on Nobles Alley, as often as not. Very pleasant, having a quiet dead-end space at one's toetips, like a little slice of Morocco, or the old city in Sevilla.

That kind of tranquility and emptiness is increasingly an endangered dimension here in our wonderful city, increasingly molested by money-flush arrivitises who half the time appear to want to profit from the city, rather than wanting to live here, or give here, or be here, often renting illegally to out-of-towners. Such people passing through are not to be begrudged wanting cozier digs than a sterile hotel, but they move mostly briefly and namelessly through our neighborhood and add little as they pass.

What they do inadvertently if not willfully is drive up the price of living here in San Francisco, a place that has been a haven for creativity, for artists, musicians, poets, small bookstores, and their glorious like, these mostly now an endangered species. And all that is changing with a mercurial toxicity.

When Roger and I noticed the garage machination at its inception, we thought it a dicey idea from the get. It didn't seem all that feasible. It looked doubtful at best. And then it turned out they did it without permits. I mean, what about the structural considerations? Who are these clowns? Where

do they get off putting their private lives before the Law and even genuinely esthetic concerns? The way it came off looking is a blight on the alley. Nobles Alley looked all of apiece before, and now that section looks an appendage of some god-forsaken industrial park, or something better suited to the suburbs.

I cannot speak for everyone living in the alley at the time, but I know that many of us would have spoken up-- and against the garages-- had we been given half a chance. Don't give credibility to the underhanded approach taken in the past. You cannot legitimize subterfuge.

Sincerely

Ronald F. Sauer

FILE

11/17
BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

To: the Board of Appeals: <cynthia.goldstein@sfgov.org>
<boardofappeals@sfgov.org> <eiliesh.tuffy@sfgov.org>
Cc <aaron.peskin@earthlink.net> <lee.hepner@sfgov.org>

September 6, 2017

Dear Ms. Goldstein and Fellow Board Members:

My name is Gloria Zelman, and I was a tenant at 23 Nobles directly across the street from 20 Nobles from 1991 until July, 2009. During that time, two garages were built at 20 Nobles.

I do not recall exactly what year the garages were built. However, I would like to share with you this: During the 10 or 11 years I lived there after the garages were installed, neither one of them was ever used.

My work took me downtown every day. I would be gone from 12:00 Noon to 6:00 or 7:00 daily-- including, sometimes on Saturday. It seems to me that if those garages were being used by someone, I would have noticed this on at least one or two occasions. In fact, I never saw a single car pull in or out of either of those garages.

It seemed to me at the time that the two garages might have been installed as a consequence of poor planning.

As a longtime resident of North Beach -- I lived in the neighborhood for a total of 29 years-- I can attest to the fact that a garage (or garages) such as the ones placed at 20

Nobles are by nature unsafe. They would be a safety hazard.

Anyone living at 21, 23 or 25 Nobles (I was then living in Apartment 23, the middle floor of the three-story building) would be endangered entering or exiting the building. A car attempting to park in the garages at 20 Nobles would have to maneuver back and forth across the narrow sidewalk, blocking the entrance to the building.

Had I been given a chance to comment on the construction back in the late '90s, I am sure that I would have pointed out these unsafe conditions to City Planning. Later, there was no need to complain about the garages at 20 Nobles because they were simply not being used.

Sincerely,

Gloria Zelman
415-505-1947

FILE

Mejia, Xiomara (BOA)

From: Linda Federowicz <linda.federowicz@gmail.com>
Sent: Wednesday, September 06, 2017 12:28 PM
To: Goldstein, Cynthia (BOA)
Subject: 20 Nobles

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

0104/025
2016.08.09.04528

Dear Ms Goldstein and Members of the Board,

As a long-time resident of North Beach, since 1978, I have been able to experience all the drastic changes that have occurred in the neighborhood. Based on these experiences, I am strongly opposed to the imposition of a new garage at 20 Nobles Alley.

In fact, it is my understanding that the garages there now, were built illegally, which is one good reason not to allow another in the same location.

I believe that North Beach and unique character of our neighborhood is worth preserving. While on the one hand, it probably doesn't seem likely that a garage or two would destroy all that. The very opposite is the case. Let me tell you why.

Many people who have lived in our neighborhood for decades have been forced to give up their most treasured apartments because of short term rentals. Developers and investors are buying up our neighborhood not to live here, but to make windfalls of money on the units they buy. And this seems to be obviously what is happening at 20 Nobles, because the owners are never here and have already gotten in trouble with the city for illegal short term rentals.

Why should such dishonest owners that have no respect for the law or our neighbors in this area be rewarded by the City with a new garage?
The answer is, they shouldn't be.

Most important of all, I was living here in 1997 and 1998, the years that the two illegal garages were probably built. Had I been given a chance to protest these garage then-- instead of having it done behind the scenes, where nobody could comment or criticize-- I most definitely would have shown up and said, "This is not good for the neighborhood."

Every single apartment right now is so very very precious and so is each one of my precious neighbors. It would be wonderful if the people at 20 Nobles would create a new apartment instead of a new garage.

Thank you so very very much for your time.

Sincerely,
Linda Federowicz

FILE

To: San Francisco Board of Appeals
1650 Mission Street, Suite 304 San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>
<boardofappeals@sfgov.org>

BOARD OF APPEALS

SEP 07 2017 *csj*

APPEAL # 17-088

September 7, 2017

RE: San Francisco's Upper Grant Avenue, Appeal No. 17-088

Dear Commissioners:

I raise two points concerning the above referenced appeal, both of which strongly support the decision by the San Francisco Planning Department to properly disapprove the construction of a new garage at 20 Nobles Alley.

First, by stipulation I include my comments made at the Board Hearing of July 12, 2017 on this matter. You might recall that one of my primary concerns at that time was that the garages now existing at 20 Nobles seem never to have been permitted.

Nothing I have learned since then about this project convinces me otherwise. Indeed, the testimony at that hearing, which I now have had a chance to review, confirms that Planning and Building representatives familiar with the extensive research done on this permit history came to the same conclusion: the garages at 20 Nobles were never legal.

The practical effect of this is that the garages are likely to be structurally unsound, and included neither neighborhood participation nor City oversight in their design and construction.

This aspect of the permit *also* should be considered by the Board. If everything we did as architects, engineers and review boards was confined to paper, and never improved the daily lives of people in the real world, we would not be doing our jobs properly.

In the 20 years since the garages were built, not one of three owners who owned the building have ever applied for a curb cut, unsurprising,

as the owners themselves must have realized that the garages were unpermitted do to obvious tell-tale signs such as this.

Secondly, I would like to raise a fairness and process issue. It seems to me that if the Board of Appeals and the Planning Department relies on the eyes and ears of the neighborhood to call attention to such permit problems, as exist at 20 Nobles, then, City agencies should be forthcoming with record requests by interested neighbors.

In regards to 20 Nobles Alley, neighbors asked time and again for the plans attached to the current proposal, Permit 201608094528. They never were given plans until two days ago-- and these plans do not correspond to the permit submittal in question, they are a revision in response to issues since raised.

The permit is dated August 9, 2016; the plans are dated over one year later. Secondly, the permit describes the movement of a door to the center of the building, the plans do not. Third, the City's Permit Tracking records shows plans being submitted by the permit-holders on this project September 21, 2016; a revision being submitted to Planning on January 13, 2017 and a second revision (also given to Planning) on February 6, 2017. The plans recently provided to the nieghborhoos are dated 8/21/17

It is *these* plans, not the latest rendition, that were at issue at the hearing before the Board of Appeals on July 12. They have yet to be submitted to public scrutiny.

In this respect, the property owners today seem to me to be no more forthcoming than those in the 1990s who built the illegal garages in the first place. To change plans a fourth or fifth time outside of public view once again removes those most directly affected from the design process. I believe this is a serious error, unfair and inconsistent with our City's Building and Planning Codes.

Sincerely,

Brent McDonald
Architect C-24017

FILE

11-17

Mejia, Xiomara (BOA)

BOARD OF APPEALS

From: Catz Forsman <catzforsman@gmail.com>
Sent: Thursday, September 07, 2017 2:38 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Sanchez, Scott (CPC); Tuffy, Eillesh (CPC)
Subject: Support for planning dept. disapproval of garages at 20 Nobles Alley (appeal # 17-088)

SEP 07 2017

APPEAL # 17-088

Dear Appeals Board Member:

My wife and I are long time North Beach residents. I lived at 15 Nobles Alley for many years before we were married. We are sympathetic for the need for parking in North Beach however we support the planning department decision to deny a new garage at 20 Nobles Alley.

This is a particularly narrow and confined alleyway with heavy pedestrian and vehicular traffic. To add a garage and the ensuing traffic that would result seems insane and particularly dangerous to pedestrians.

We understand also that the garage in question is not legal. There is no evidence of an application or a permit for a garage. It is also indicated that the people asking for an exception to be made in the planning code in order to build a new garage were cited in March 2017 for using the building illegally and without registration for short term rentals.

North Beach is special to us and we are protective of the area. We genuinely feel that an additional garage would diminish the safety and quality of life in this neighborhood for residents and visitors.

Sincerely,

Catz and Jean Forsman
934 Broadway
San Francisco, CA 94133

FILE

SEP 7 11 01 17

Mejia, Xiomara (BOA)

From: Anthony Gantner <afgantner@aol.com>
Sent: Thursday, September 07, 2017 12:52 PM
To: Goldstein, Cynthia (BOA); Sanchez, Scott (CPC); BoardofAppeals (PAB)
Subject: Support of Planning Disapproval of Garages, 20 Nobles; Appeal # 17-088.

September 7, 2017

Board Members and Commissioners
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

Re: Support of Planning Disapproval of Garages, 20 Nobles; Appeal # 17-088.

Dear Board Members and Commissioners:

For several years in the 1970s, my grandmother, Dorothy Erskine, promoted an idea with residents, businesses and staff at the Planning Department that Grant Avenue in North Beach would thrive as a full or part-time pedestrian walkway. The idea simply was to close off four blocks of Grant to vehicular traffic, from Grant at Columbus on the south to Grant at Filbert Street on the north.

I remain convinced that Dorothy's vision is a viable alternative to the street we find today. If you look at our parks throughout the City-- and if you speak with senior members of S.P.UR.-- you will discover that Ms. Erskine was extremely prescient when it came to making the city inviting to everyone. She worked for over 50 years for a livable, sustainable and *walkable* City. A walkway on Grant, (from Columbus to Filbert, **with no garages**) would revitalize the merchant community, make the public right-of-way more family friendly and set an example to the world of our City's commitment to greening the urban environment.

Today, in our "zero garage environment" from Grant at Columbus to Grant at Filbert, Nobles Alley runs off the 1500 block of Grant. A garage there would make such a walkway impossible or greatly truncated. I hope the City will consider this when reviewing the possibility of a new garage at 20 Nobles Alley.

Given our city's strong commitment to car share, bicycles and Transit First— new garages are less necessary than ever, including one on Nobles Alley.

Thank you for your thoughtful consideration of this matter; please include the within email as part of the official record for your meeting on 9/13/17.

Anthony F. Gantner

FILE

70 9/10/17

Mejia, Xiomara (BOA)

From: Marc Bruno <marcabruno@yahoo.com>
Sent: Thursday, September 07, 2017 4:28 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Longaway, Alec (BOA)
Cc: Marc Bruno
Subject: Support of Planning Department Notice of Disapproval, Appeal #17-088
Attachments: SF Chron #1 11.04.03.pdf; SF Chron #2 11.04.03.pdf; Screen Shot 2017-09-07 at 3.53.30 PM.png; Ltr- Omar Masry 07.17.17.docx

Board of Appeal Case # 17-088 (Building Permit Application 201608094528) 20 Nobles Alley

San Francisco Board of Appeals
 1650 Mission Street, Suite 304
 San Francisco, CA 94103
 <cynthia.goldstein@sfgov.org>
 <boardofappeals@sfgov.org>

BOARD OF APPEALS

SEP 07 2017

cas

APPEAL # 17-088

09 - 06 - 17

Dear Commissioners,

It was suggested at the hearing on this matter on July 12, 2017 that the Planning Department had already decided, or was about to decide, that the building and building site where the proposed garage would be placed has no historic value.

While I agree with the Department's Notice of Disapproval for the project, I disagree with what the Planning Department seems ready to conclude about the building's lack of historical value.

In subsequent discussions by phone with Ms. Eiliesh Tuffy, the planner on this project, I learned that the Department relies primarily on the 1982 North Beach Survey to come to the conclusion that 20 Nobles is a "non-contributor."

As I point out in one section of my comments on that 1982 Survey,

"The Survey's authors themselves tell us directly how they intended their work to be used. Nothing in their statement of purpose mentions or even hints at the Survey being used to determine which buildings are worth saving and which not. Here is a complete copy of that brief Statement:

Statement of Purpose

The Survey was originally suggested in 1980 by Ms. Margret Price on behalf of a proposed group called North Beach Merchants and Professionals. The concern was that "North Beach" was disappearing from City maps; that this area of the City, with it's "wonderful urban fabric" (architectural historian Randolph Delehanty) had never been examined and documented; and the contributions of Italian-Americans should be acknowledged through examination of their traditional geographic location. The purpose was furthermore to define the area known as North Beach, as opposed to Russian or Telegraph Hills. A non-profit California corporation, separate

from the Merchants, was organized to administer the grant funds and direct the survey. The survey period was January 1,1981 through June 30, 1982. "

The complete Draft Comments on the Survey, and I apologize for not having a more finished version prepared for this Board package.

In addition, I would like to respond to the applicant / Permit Holder's remarks at the hearings about my personal motives for objecting to a garage at 20 Nobles Alley.

I am a preservationist. I work closely with others who are like-minded in the neighborhood-- and many who are aren't. The article I wrote for the San Francisco Chronicle (2003, attached) resulted in the referenced property being purchased by the City and turned into a library-- the location of the City's newest, the North Beach Library.

I also was commented upon by the applicant / permit-holder at the hearing on July 12 that I was somehow involved in her and her husband being cited by the City for violating the short-term rental code. I had nothing to do with reporting that, and I did not even know it was happening.

An attached letter from Omar Masry, the lead attorney for the Short Term Rental Enforcement confirms my un-involvement with this matter.

In conclusion, I think it important that whomever buys a building in our increasingly attractive and desired City plays by the rules. That is all this matter is about. Without the rules, including the Planning Code, the City will cease to function in a way that is forward-looking, benevolent and just.

Sincerely,

Marc Bruno
415-434-1528

Problems with North Beach Survey
marc bruno 09.07.17 DRAFT COMMENTS

Of the eight separate addresses in Nobles Alley, each and every Chinese-owned property surveyed in 1982 is unlisted. Of those Chinese-owned buildings two of them, 6 - 8 Nobles and 18 - 20 Nobles, clearly fall within the parameters of "contributory" set forth by the Survey's authors.

More problematic still, one of the listed "contributory" buildings, 21 - 23- 25 Nobles, clearly falls *outside* the parameters set forth by the Survey's authors.

Here is a screen shot of the listings in the 1982 Survey:

interviewers who did all the house-by-house ground-work for the survey shied away from Chinese-owned buildings because of language difficulties. Equally likely is that Chinese owners were resistant to their buildings being given a "special status" and choose not to participate.

In regards to the possibility of cultural bias, it is interesting to note that of the 16 participating researchers in the 1982 Survey, only one has a Chinese surname. Of the seven field workers (students) who actually walked the streets and determined which buildings should be included, *none* have a Chinese surname

Here is an example of two other buildings in Nobles Alley that illustrates the deficiencies of the North Beach Survey:

(1) 6 - 8 Nobles on the north side of the alley is a building owned by Chinese owners and *not listed* in the Survey. This building remains one of the best - preserved and least altered buildings in the alley, if not in the entire historic district. The oddly narrow garage door was used as a storage unit, and that door plus all the apertures on the facade are still there today.

A 1958 photo from the Assessor's Office, from the Recorder Assessor Office indicates that the building had not undergone any post- earthquake changes.

(2) 21 - 23- 25 Nobles on the south side of the street is not even an independent property, nor was it at the time of the Survey in 1982. As indicated on a 1949 Sanborn Map, and confirmed by current property records, the correct address for the building is 460 - 462 Union Street. This address is not listed in the North Beach Survey. The addition of a modern garage and an overhanging bay window on the Union Street side of the building show that drastic revisions were made to the building in the 1950 and '60s.

The Planning Code neither encourages nor allows categorization of buildings as historically significant based on an in-law unit. Why was 21 - 23 - 25 included in the Survey at all?

There is an additional problem with the inclusion of 21 - 23 - 25 Nobles. The window treatments at 21 - 23 - 25 Nobles, the backside of 460 - 462 Union, are uninterrupted casements far larger in width than anything in the entire historic district. It is simply not the way windows were made at the time of the building's construction in 1908.

2 Noble's Alley
15 Noble's Alley
21-25 Noble's Alley

Grant Avenue District
Grant Avenue District
Grant Avenue District

A complete listing of the eight addresses in Nobles Alley, with the Survey's designation of "contributory," as noted:

North side of alley:

Nobles # 2, contributory (a non-Chinese owner) and *should be so listed*;

Nobles # 6 - 8 is **non-contributory** (a Chinese owner) and *should be listed (see notes on this building below)*;

Nobles # 12 - 16 is **non-contributory** (a non-Chinese owner) and *should not be listed*;

Nobles # 18 - 20 is **non-contributory** (a Chinese owner) and *should be listed (see notes on this building below)*.

South side of alley:

Nobles # 21 - 23 - 25 is listed (a non-Chinese owner) and *should not be listed (see notes on this building below)*;

Nobles # 15 is listed (non-Chinese) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed;

Nobles # 7 - 9 is **non-contributory** (a non-Chinese owner) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed;

Nobles # 5 is **non-contributory** (a non-Chinese owner) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed.

(It is important to note that Survey authors never designated a building "non-contributory," and this might be part of the reason that certain buildings in Nobles were overlooked. Once student-surveyors decided that a building evinced major changes, or was somehow inaccessible, none of the Survey's three "lead authors" re-examined the building.)

Of the eight buildings listed in the 1982 Survey, three markedly contradict the criteria set forth by the authors themselves, and two others are questionable. One of three that openly contradict the criteria of what makes something "contributory" is 20 Nobles.

20 Nobles should have been included as a contributory building in the 1982 Survey, but wasn't.

The reason for this is unknown. It is possible cultural bias directed the student

Presuming Survey researchers had access to the Sanborn map and Recorder-Assessor photos we have today, is it possible that the "contributory list" was never intended to be used for purposes of deciding which buildings were worth preserving and which not?

The Survey's authors themselves tell us directly how they intended their work to be used. Nothing in their statement mentions or hints at preservation.

Statement of Purpose

The Survey was originally suggested in 1980 by Ms. Margret Price on behalf of a proposed group called North Beach Merchants and Professionals. The concern was that "North Beach" was disappearing from City maps; that this area of the City, with its "wonderful urban fabric" (architectural historian Randolph Delehanty) had never been examined and documented; and the contributions of Italian-Americans should be acknowledged through examination of their traditional geographic location. The purpose was furthermore to define the area known as North Beach, as opposed to Russian or Telegraph Hills. A non-profit California corporation, separate from the Merchants, was organized to administer the grant funds and direct the survey. The survey period was January 1, 1981 through June 30, 1982.

This is the entire statement of purpose of the authors of the North Beach Survey.

(3) 20 Nobles Alley

#20 Nobles Alley (Chinese owned and *not* included as part of the Survey) is a perfectly preserved building with a unique double vertical structure on a single lot. While it is not clear why two separate buildings were built at 20 Nobles, the rear having only a narrow passage for entry from the public right of way, it seems the original owner might have used the rear building to support his burgeoning alcohol business elsewhere in the neighborhood.

This man, "Arturo Elias," was of Greek and Spanish origin and is noted, in part, for having owned one of the most notorious bars and flop-houses in the Barbary Coast - and for having been arrested on numerous occasions for using strong-arm tactics to collect the rents.

In 1982, at the time of the North Beach Survey, #20 Nobles Alley was the same building built and lived in by Arturo Elias, the only difference being the addition of a stucco treatment to the building's wood facade by the "Yee Family," who purchased #20 Nobles in 1958 and sold it in 1997/ 1998.

In my conversations with Albert Yee, a member of the family who, with his elder brother, took charge of the building upon their mother's death in 1993, I was told

the original wood facade here at #20 Nobles was not removed or destroyed but, rather, encased in a chicken-wire-and-lathe construction upon which a plaster frontage was applied.

In every respect, the structure at 20 Nobles exceeds the requirements of "historic" designated by the City's residential design guidelines, which read, in part,

"The term *historic building* includes all buildings designated as City Landmarks or located in historic districts, identified on the National Register of Historic Places, and all buildings rated in the 1976 Architectural Survey of Significant Buildings by the Department of City Planning. Alteration of an historic building therefore requires review by the City's Landmarks Preservation Advisory Board, and the application of national guidelines intended to preserve the historic character of buildings."

Residential Design Guidelines San Francisco Department of City Planning, REF 720.9794 Sa52r 1989b (November, 1989)

The application of a stucco frontage in 1958 does not under any architectural or preservationist guideline *automatically* disqualify a building from being considered a contributor to the historic district.

Moreover, as noted in the City's residential guidelines, the building's presence within the North Beach Telegraph Hill Historic District establishes a presumption of its historicity, the burden of which requires any applicant to remove that presumption.

20 Nobles has no structural, historic or architectural imperfections from today looking backwards to the day of its birth, an elegant and pure edifice residing in the near-geographic center of one of the City's and, indeed, nation's most pre-eminent Historic Districts.

Appendix 1 Reply of Planning Department to Questions Concerning North Beach Survey:

***** Marc Bruno to Planner Eiliesh Tuffy *****

August 8, 2017

Two Questions Concerning North Beach Survey

Dear Eiliesh-

Welcome back to the department. I understand you recently were on vacation.

Thank you for your note, re-printed below, which answers some but not all of the questions I posed regarding the failure of the North Beach Survey to include 20 Nobles as a contributory building. (One of the things you kindly did was to send me a copy of the North Beach Survey, a document written by Anne Bloomfield and others-- including students from San Francisco State.)

The two questions I left on your machine-- in response to the conclusions you draw in the attached letter--- are these:

- (1) How can the Planning Department draw conclusions about the building prior to submission of the historical documents required to be submitted by the applicant?
- (2) If the applicant has submitted such documents, may I view them?

Thank you for your time and your quick response-- though only partial-- to my prior request.

Yours,

Marc Bruno
15 Nobles Alley
San Francisco CA 94133
415-434-1528

Tuffy, Eiliesh (CPC) <eiliesh.tuffy@sfgov.org>
To Sanchez, Scott (CPC) Marc Bruno Silva, Christine (CPC)
CC Lee, Matthew (CAT) Young, Victor Atijera, Evamarie (CPC) CPC-Record Request
August 8, 2017 : 4:13 p.m.

Dear Marc,
Attached please find a .pdf file (27MB) of the 1982 North Beach Survey, which Anne Bloomfield participated in as lead researcher.

While district boundaries were identified for the Upper Grant Historic District that encompass Nobles Alley, 20 Nobles Alley was not cited as a contributing historic resource.
Only 3 building on Noble Alley were listed for inclusion in the district: #2, #15, and #21-25.

The reason why 20 Nobles appears in the city's Property Information Map with an Historic Resource Status of "A" is due to the presence of the historic district overlay --- to alert planners of the presence of a district. This is to ensure exterior alterations to non-contributors do not destroy the integrity of the overall district. In general, CEQA-Historical review allows for the insertion of a garage door on a non-contributing building if the immediate surrounding context supports that type of alteration, if the door is kept to the minimum dimensions required, and it is painted out to match the exterior building siding and minimize its visual prominence. Based on those criteria, a single garage door at 20 Nobles would be acceptable to Preservation strictly from a CEQA-Historical standpoint.

I hope this is helpful in your review.

Sincerely,

Eiliesh Tuffy

Planner/Preservation Specialist

Direct: 415-575-9191 | Fax: 415-558-6409

<http://www.sf-planning.org>

**III. Summary of Appeal of Categorical Exemption,
20 Nobles Alley**

Summary of Appeal of Categorical Exemption at 20 Nobles Alley, Proposed Building of a New or Legalized Garage, the Current, Unused Garage Never Having Been Permitted.

17 neighbors-- business owners and residents who live and work near 20 Nobles Alley-- object to and appeal the designation of the 2-building 3-unit site as "Categorically Exempt."

The effect of a Categorical Exemption at 20 Nobles is to allow an illegal garage currently located there-- a garage which, being poorly designed, has never been used-- to be legalized and modified-for-use, the first and only such garage in Nobles Alley, the first such garage in the 1500 block of Grant Avenue where Nobles is located, and, indeed, the first and only garage in the four blocks from Grant-at-Columbus to Grant-at-Filbert.

By adding this garage to the four block commercial corridor in the heart of the North Beach Historic District, the proposed project represents "substantial change that may effect the environment," a change that requires review under the California Environmental Quality Act.

"Categorical Exemption" means no review whatsoever. We ask instead for a Mitigated Negative Declaration, the only review that will give those of us who live here-- and the City at-large-- a chance to protect this unique urban oasis, this pedestrian friendly and graceful alley.

No person or group supports this project. The only advocates are the permit-holders, whose primary residence is in Mill Valley. Just months after purchasing 20 Nobles, they were found guilty of illegal short-term rentals there. Their intentions are clear; in equity they would be said to have "unclean hands," undermining the relief they now seek from the City. Had they not been exposed, they still would be advertising on Airbnb today. To reward them with a garage subverts and undercuts City housing policy, and does so based on a misapplication of the law.

City Housing Policies subverted by Legalizing a Garage at 20 Nobles

In 2010, our City's elected officials by unanimous vote implemented Planning Code Section 249.24, prohibiting new garages in alleyways in the North Beach Special Use District. The legislation included an express statement of City policy, to wit:

"San Francisco Planning Code Section 249.49. **Purposes.** To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert residential buildings from rental buildings to tenancies-in-common."

To regulate. To decrease pollution. To protect rental units. What "narrow public right of way" in the City is narrower than the sidewalks of Nobles Alley? You will not find them. Sidewalks traversed daily by residents who enter and exit 45 units accessible only via pedestrian-friendly Nobles Alley.

Section 249.49 is not opposed to TICs *per se*. Conversions mean the loss of rentals. This is the law's goal: To preserve residential rentals available to all San Franciscans, regardless of means. It is recognized that Airbnb also has a detrimental effect on rentals. The City cited the permit-holders at 20 Nobles for engaging in Airbnb rentals illegally. To allow a garage there *undoes* what elected officials chose to *do*. One more reason we oppose a Categorical Exemption and demand a more meaningful environmental review.

CEQA cannot be used to undermine local Environmental Law

CEQA does not endorse circumventing local environmental law. That is particularly true when, as here, elected officials in their legislation expressly include the reasons for their policies.

The illegal garage at 20 Nobles damages an "A" level historic resource, and, by virtue of being illegal, sets a precedent jeopardizing the Historic District. This is another reason that adding a garage at 20 Nobles would violate CEQA, because Section 15300.2 of the Guidelines provides that a "project shall not be exempt from environmental review if it may cause a substantial adverse change in the significance of a historic resource or where it may contribute to a cumulative impact on a historic district."

We should not give permit-holders a Get Out of Jail Card when, in their own words, they admit, "Nothing prevents us walking a few blocks to our car." (They currently rent a garage less than one block away.) There are no public benefits to adding a garage in Nobles, and there is no private necessity. We ask you to overturn the Categorical Exemption so that whatever is done here adheres to City housing policy, conforms to Section 249.49 and enhances the environmental balance and walkability of the North Beach Historic District. Thank you.

**IV. Two Supporting Documents from Planning
Department, Summary of Appeal of Categorical
Exemption, 20 Nobles Alley**



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Planning Department Disapproval

May 8, 2017

Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

RE: 20 Nobles Alley (Address of Permit Work)
0104/025 (Assessor's Block/Lot)
2016.08.09.4528 (Building Permit Application Number)
Telegraph Hill-North Beach Residential SUD (Special Use District)

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Building Permit Application #2016.08.09.4528 has been received by the Planning Department and assigned to planner Eiliesh Tuffy. Eiliesh has completed review of the application for corrective work to address Notice of Violation #201620916. The scope of work for the project as stated on the application is: "garage door correction per NOV 201620916- seal unpermitted garage door, relocate legal garage door to center of ground floor."

Please be advised that the Planning Department has disapproved Building Permit Application No. 2016.08.09.4528. This notice is to alert the project sponsor of the process of review for the submitted application and to convey the Department's findings that, due to restrictions enacted with the adoption of the Telegraph Hill-North Beach Residential Special Use District in 2010, the Planning Department cannot approve the proposed relocation of the existing garage door at the front façade of the existing residential structure.

CEQA – Historical Review

The North Beach neighborhood was surveyed in 1982 to identify cultural resources of significance in the area. The findings of the North Beach survey, which was adopted by the Board of Supervisors in 1999, included areas within the neighborhood that qualified for designation in the California Register of Historical Resources. The subject property at 20 Nobles Alley is located within the boundaries of the Upper Grant Avenue Historic District, but was not found to be a contributing building to the district at the time of the survey due to its extensive alterations. Visible alterations to "Non-Contributing" buildings are typically reviewed for their general compatibility with the surrounding district.

The Historical Review of the design proposal determined that the existing two-garage door design could not be supported because it would not conform to Sec. 144 of the Planning Code, which limits garage openings to no more than one-third of the width of the ground story along the front lot line. However, because some historic buildings in the historic district have single garage door entrances of a modest scale, the removal of the second unpermitted garage door and restoration of a prior man-door and window opening was reviewed as a means of returning the ground floor design to a more historic appearance. This determination was predicated on the sponsor's ability to provide evidence of the single garage door's legal installation.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

Building Permit Review

Building permits and plans were reviewed to determine a record of work at the property. Plans associated with permit applications (nos. 9723784 and 9723786) filed in 1997 to remove kitchens, remove interior, non-load bearing wall and combine units 20 and 20A into one unit," show a single garage opening. However, the creation of a ground floor garage was not part of the approved project scope for that permit or any other permit on file with the Department of Building Inspection. Similarly, there are no permits on file that approved the creation of a second garage door opening at the subject property. Lacking any evidence of the legal construction of the ground floor garage doors, the proposal to "seal unpermitted garage door, relocate legal garage door to center of ground floor" was reviewed as a "new" garage installation in an existing residential structure.

Planning Code Review

The Planning Code Review determined that legalization of either a 2-door garage or a 1-door garage at the subject property would not meet the requirements of Section 144 and Section 249.49 of the Planning Code, with the latter code section preventing the installation of new garages in existing residential structures.

SEC. 144 - STREET FRONTAGES IN RH, RTO, RTO-M, AND RM DISTRICTS.

Section 144(b)(1) Entrances to Off-Street Parking

Except as otherwise provided herein, in the case of every dwelling in such districts no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is set back from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width, or to a single such entrance of less than 8 feet in RTO and RTO-M districts. In addition, no entrance to off-street parking on any lot shall be wider than 20 feet, and where two or more separate entrances are provided there shall be a minimum separation between such entrances of six feet. Lots in RTO and RTO-M districts are limited to a total of 20 feet per block frontage devoted to entrances to off-street parking. Street-facing garage structures and garage doors may not extend closer to the street than a primary building facade unless the garage structure and garage door are consistent with the features listed in Section 136 of this Code. Entrances to off-street parking shall be located at least six feet from a lot corner located at the intersection of two public rights-of-way.

SEC. 249.49. TELEGRAPH HILL – NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT.

Section 249.49(a) Purposes.

To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

Section 249.49(c)(2)(4) Installation of a Parking Garage

In approving installation of the garage, the Commission must find that(4) the garage would not front on a public right-of-way narrower than 41 feet.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

The project proposes to install a new garage door at the front façade of an existing residential building located on an alley narrower than 41 feet in the Telegraph Hill-North Beach Residential Special Use District. Therefore, the Planning Department cannot approve permit application #2016.08.09.4528 to seal unpermitted garage door, relocate legal garage door to center of ground floor. Permit application #2016.08.09.4528 will be returned to the Department of Building Inspection for cancellation.

Please note that, due to the Notice of Violation on the property, the Enforcement case for this property will remain active until the project sponsor submits an application to abate the violation. Please contact the assigned Enforcement staff planner, Chaska Berger, by phone at 415-575-9188 or by email at chaska.berger@sfgov.org regarding timeframes for submitting materials to address the Notice of Violation.

Planning Department & Planning Commission Denials.

Project sponsors seeking to appeal the denial of a permit application by the Planning Department or Commission may not file an appeal until the Department of Building Inspection (DBI) issues the Notice of Disapproval for the project. The appeal must be filed within 15 calendar days from the date of DBI's Notice of Disapproval. A copy of the following documents must be submitted to Board staff: (a) the building permit application that was denied, with notation by Planning Staff on the back; and (b) the Notice of Disapproval that was issued by DBI.

For further information regarding how to appeal the disapproval of this building permit application, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Eiliesh Tuffy
Current Planning Division

Cc: Scott Sanchez, Zoning Administrator
Chaska Berger, Zoning and Compliance
Tom C. Hui, Director of DBI

[Web Site: <http://planning.sanfranciscocode.org/2/249.49/>]

San Francisco Planning Code § 249.49.

TELEGRAPH HILL – NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT

a.

Purposes. To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

b.

Applicability. The provisions of this Special Use District shall apply to the RH and RM zoned parcels within the area bounded by Bay Street on the north, The Embarcadero and Sansome Street on the east, Broadway on the South, and Columbus Avenue on the west, as shown on Sectional Map SU01 of the Zoning Map.

c.

Controls.

1.

Number of Off-Street Residential Parking Spaces. Up to three cars for each four dwelling units is a Permitted use; up to one car for each dwelling unit requires a Conditional use, subject to the criteria and procedures of Section 151.1(f); above one car for each dwelling unit is Not Permitted.

2.

Installation of a Parking Garage. Installation of a garage in an existing residential building of four or more units requires a mandatory discretionary review hearing by the Planning Commission; Section 311 notice is required for a building of less

than four units. In approving installation of the garage, the Commission shall find that: (1) the proposed garage opening/addition of off-street parking will not cause the “removal” or “conversion of residential unit,” as those terms are defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-street parking will not substantially decrease the livability of a dwelling unit without increasing the floor area in a commensurate amount; (3) the building has not had two or more “no-fault” evictions, as defined in 37.9(a)(7)-(13) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5) the proposed garage/addition of off-street parking installation is consistent with the Priority Policies of Section 101.1 of this Code.

Prior to the Planning Commission hearing, or prior to issuance of notification under Section 311(c)(2) of this Code, the Planning Department shall require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the Department shall independently verify. The Department shall also have made a determination that the project complies with (4) and (5) above.

AMENDMENT HISTORY

History

(Added by Ord. 77-10, File No. 091165, App. 4/16/2010;
amended by Ord. 176-12 , File No. 120472, App. 8/7/2012, Eff.
9/6/2012)

New division (b) added and former division (b) redesignated as
current division (c); Ord. 176-12 , Eff. 9/6/2012.

Download

Plain TextJSON

Comments

Section 144 First Appears in the Planning Code in April, 2008

07/10/17

Brent -

The date is found in the final line of this reprint, below, of the relevant section of the San Francisco Planning Code. It reads: **Supp. No. 16, April 2008.**

This date tells us when Section 144 was first added to a printed edition of the Code, but it does not necessarily tell us when this section was first enacted. Passage might have occurred the year before, in 2007. I will find out what the answer is when I go to the Planning Department tomorrow morning.

FYI- Below is a reprint of Section 144 from the "Internet Archive Reprint of Part I of the San Francisco Planning Code." You may find the reprint on-line here:

https://archive.org/stream/gov.ca.sf.planning.01/ca_sf_planning_01_djvu.txt

The reference to Section 144 in the Appeals Board file may be found in the Planning Department's Disapproval letter, as you know. Here is a reprint of that part of the letter first referring to Section 144:

"The Historical Review of the design proposal determined that the existing two-car garage door design could not be supported because it would not conform to Sec. 144 of the San Francisco Planning Code, which limits garage openings to no more than one-third of the width of the ground story along the front line. "

(Notice of Planning Department Disapproval, 20 Nobles P. 1)

Yours,

Marc

Here's the complete section from the Internet Archive, with the referenced first printing date, below:

SEC. 144. TREATMENT OF GROUND STORY ON STREET FRONTAGES, RH-2, RH-3, RTO, RM-1 AND RM-2 DISTRICTS.

(a) General. This Section is enacted to assure that in RH-2, RH-3, RM-1, RM-2, and RTO Districts the ground story of dwellings as viewed from the street is compatible