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September 14, 2015

President London Breed and Clerk of the San Francisco Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689

Re: Appeal of Tentative Subdivision Maps Nos. 8530, 8531, and 8532
(DPW Order No. 183946)

Dear President Breed and Clerk of the Board:

This firm represents Parkmerced Owner, LLC, project sponsor of the Parkmerced Mixed Use Development Project (the "Project"). This responds to the appeal of the tentative subdivision maps Nos. 8530, 8531, and 8532 (the "Tentative Subdivision Maps") filed by Mr. Stuart Flashman on behalf of his client Parkmerced Action Coalition ("PmAC") dated September 2, 2015.

Importantly, the Subdivision Maps relate only to the first phase of the Project, and therefore affect only a small subset of blocks within the overall Project site. Additional subdivision maps will be processed for subsequent Project phases as the Project is constructed over the anticipated 20-30 year development period.

For the reasons explained below, the appeal is without merit. We respectfully request that the Board of Supervisors affirm the approval of the Tentative Subdivision Maps by the Department of Public Works ("DPW"). We note as a preliminary matter that DPW issued notices of the approval to far more residents than required by law and therefore exceeded the noticing requirements of the San Francisco Subdivision Code and the California Subdivision Map Act. We object to Mr. Flashman's assertion that more residents should have been notified about the approval of the maps.

1. DPW Met and Exceeded all Due Process Requirements

Mr. Flashman first asserts that PmAC's due process rights were violated by a lack of appropriate notice and hearing of the approval of the Tentative Subdivision Maps. The opposite is the case—DPW sent notices to thousands of residents outside of the legally required noticing radius.

First, DPW sent written notice of its approval to all residents of Parkmerced, as well as all property owners located within 300 feet of the Project site. The San Francisco Subdivision Code requires that such written notice be sent only to property owners within 300 feet of the to-be-subdivided property. SF Subdivision Code section 1313. By sending notice of the approval to all residents of Parkmerced, DPW surpassed all applicable noticing requirements.

Second, DPW surpassed the applicable notice requirements by sending written notice to all residents within 300 feet of the 152-acre Project site. DPW is required to notice only those properties within 300 feet of the to-be-subdivided property, which is a small subset of the overall 152-acre Project site. We support the City's decision to notify all of the residents of Parkmerced of the approval, despite the fact that such notice was not required by law.

Contrary to Mr. Flashman's assertions, no public hearing is required (or is typically conducted by DPW) for the approval of subdivision maps. SF Subdivision Code section 1312; 1313. All Constitutional Due Process rights have been met by providing PmAC with the opportunity to appeal DPW's approval of the Tentative Subdivision Maps, which PmAC has secured by filing this appeal.

2. The Notice Contains the Correct Property Description

Mr. Flashman asserts that the (i) notice and (ii) Tentative Subdivision Maps each contain a distinct list of Assessor's Parcel Numbers (APNs) and are therefore confusing. The difference is easily explained—the notice contains all of the APNs comprising the overall Project, while the Tentative Subdivision Maps being processed pertain only to the first phase of the Project. The APNs shown on the Tentative Subdivision Maps are therefore a subset of those shown on the notice.

DPW correctly issued the notice, as the purpose was to apprise residents and neighbors of an approval related to the implementation of the overall Project. DPW could have theoretically and legally issued the notice with only the APNs related to the first phase of the Project. But had DPW done so, far fewer residents of Parkmerced would have been notified. We suspect that Mr. Flashman would have objected if DPW had limited its notice to including only those APNs subject to subdivision, as the Tentative Subdivision Maps are an implementing approval of the overall Project.

3. DPW Correctly did not Attach all Application Materials to the Notice of Approval; Including all Application Materials in Public Notices is Neither Customary nor Legally Required

Mr. Flashman objects that certain supporting application materials (such as the list of notified persons and a list of community benefits) were not provided with the notice of approval. No City agency to our knowledge includes application materials in its public notices, as the inclusion of these materials would make the notices both (i) voluminous in size and (i) highly paper consumptive. The notice issued by DPW is consistent with DPW's practices, except that, as discussed above, it was sent to far more households than required by law.

4. All Actions Necessary to Approve the Tentative Subdivision Maps Have Occurred

Mr. Flashman questions whether certain actions have occurred, such as “whether high pressure fire safety lines have been provided within all the subdivision areas” and “whether all water and sewer line changes have been reviewed and approved”.

None of the actions listed by Mr. Flashman must occur prior to DPW approving the Tentative Subdivision Maps. Most importantly, most of the actions (such as installing new fire safety lines and water pipes) are not legally permitted to occur until after the Tentative Subdivision Maps (and other associated permits, such as Street Improvement Permits) have been approved. The City would not allow Parkmerced to construct these facilities until after the Tentative Subdivision Maps and other permits have been approved and bonding has been provided for the public improvements.

DPW approved the Tentative Subdivision Maps with nearly three-hundred (300) detailed conditions of approval, all of which must be satisfied prior to construction of the Project. Many of these conditions of approval relate to items referenced by Mr. Flashman.

5. The Owner of the Property is Currently Parkmerced Owner, LLC

Like most real property in San Francisco, the ownership of Parkmerced has changed from time to time. The Project site is currently owned by the project sponsor, Parkmerced Owner, LLC. The Development Agreement requires that written notice be provided to the City concurrent with any transfer of the Project site.

Notices of transfer were timely provided to the City in November 2014, when the Project site was transferred Parkmerced Owner, LLC. These notices met all requirements of the Development Agreement.

We acknowledge that DPW issued the Tentative Subdivision Maps with a typographical error—the owner should be listed at “Parkmerced Owner, LLC” rather than “Parkmerced Owners, LLC.” The inadvertent typographical error does not affect the validity of the approval and may be rectified by a minor correction of the Tentative Subdivision Maps. These types of minor corrections are anticipated and permitted by the San Francisco Subdivision Code and the California Subdivision Map Act.

6. No Taxes Are Unpaid

Mr. Flashman indicates that certain taxes are past due for APN 7236/001. This parcel is not part of the Project Site—it is located approximately two blocks from the Project site across 19th Avenue from the Stonestown shopping center.

In sum, the Tentative Subdivision Maps comply with all applicable requirements of the San Francisco Subdivision Code and the California Tentative Subdivision Map Act. We respectfully request that the Board of Supervisors affirm the decision of DPW to approve the Tentative Subdivision Maps.

Sincerely,



Jim Abrams
