

November 2, 2020

Dear Board of Supervisors,

We, the property owners of 1846 Grove Street strongly object to the adoption of Findings Related to the Condition Use Authorization at 1846 Grove Street, File No 201231.

This Motion adopts findings in support of the Board of Supervisor's disapproval of Planning Commission Motion No. 20681, approving Conditional Use Authorization.

The findings cite "significant safety risks presented by the narrow path of ingress and egress". These findings are contrary to findings of the Agencies having direct knowledge of building codes, direct responsibility for safety, direct control and jurisdiction of safety.

We object to the Adoptions of Finding based on the following failures and deficiencies of the Board of Supervisors.

1. The Board of Supervisors failed to consider the written documents provided by the San Francisco Fire Department signed by the San Francisco Fire Marshal along with others in the chain of command. This document approves the project for Fire Department Access with a "Conditions of Approval Letter dated 11/27/2018 signed by Fire Marshal Daniel De Cossio, Captain Michael Patt, and Kamal Andrews, P.E.
2. The Board of Supervisor failed to consider the written documents provided by the Department of Building Inspection related to exiting. Documents were provided through a pre-application process signed by Jeff Ma, DBI Technical Services, on 6/13/2017. The Board of Supervisors ignore the recognized process for determination of code compliance as described in DBI Administrative Bulletin AB-028. The Board of Supervisors fails to recognize that this is the process by which exit width and occupancy classification is determined.
3. During deliberation Supervisor Preston draws a false equivalency with respect to exiting between and apartment building (and R-2 occupancy) and the same number of units designed as a single family/duplex (R-3 occupancy). The Board of Supervisors ignore the clear distinctions made the in building code with respect to exiting and fire safety that are inherent to each of these building types.

The Board of Supervisors fail to recognize that the occupancy classification cannot be severed from codes related to egress width. The San Francisco Building Code is an integrated document.

4. The Board of Supervisors fail to invite or compel DBI Staff and representatives of the Fire Department to provide testimony with regard to the project and their letters of Approval.
5. Instead, the Board of Supervisors inappropriately rely on the testimony of Planning Department Staff (Matt Dito) who is asked to affirm statements made by Supervisor Preston about Building Code. These issues are not in the jurisdiction of the Planning Department.

In later testimony, a Planning Supervisor (Aaron Starr) correctly states that Planning Staff are in no way qualified to affirm suppositions by the Supervisors about building code issues. Planning Staff suggest the DBI and Fire Department Staff be called upon to answer questions about safety. Supervisors ignore Planning staff and these Department are not called upon to testify.

6. The Board of Supervisor's fail to consider their own ADU legislation which allows a similar configuration of units in an R-3 or R-2 occupancy to use a single ingress/egress path of a size that meets code. This is as outlined in DBI Information Sheet EG-05 which was referenced in the Project Sponsor's package but was ignored by the Supervisors.

7. The Board of Supervisors fail to recognize that the Board of Permit Appeals is the Board having jurisdiction over matters related a dispute related to building code issues with respect to exiting, fire ratings, and egress width. Disapproval of Planning Commission findings related to Building Code compliance is an inappropriate exercise by a political body without professional expertise, and without process by which to adjudicate issues related to the building code and thus safety. The Board of Appeals always hears testimony from the Departments having jurisdiction.

8. The Board of Supervisor's failed to consider their obligations under the Housing Accountability Act (applicable to market rate housing per Honchariw v. County of Stanislaus) which requires that Government Agencies make substantial written findings based upon substantial evidence in the record. The HAA requires that the Board of Supervisor in overturning an approval identify the provision of the code by which the project is not in compliance. The Board of Supervisors has failed to provide such documentation with regard to the findings of "significant safety risks". These findings are not based upon and supported by the "preponderance of the evidence" as required by the Housing Accountability Act and documentation of such evidence is not provided.

The Conditional Use Authorization came to the Board of Supervisor after a four year process of consideration by Fire Department, Building Department and Planning Departments representing hundreds of hours and years of work both for the Owner and city staff.

We urge the Board of Supervisors not to adopt the Motion. We urge that the Public Hearing be reopened for a de novo consideration of the narrow issue related to the egress width and occupancy type. We urge that the Supervisor hear testimony from the agencies having jurisdiction. We urge the members of the Board of Supervisor's to then act in good faith, considering the preponderance of the evidence.

Sincerely,

Troy Kashanipour, Ronan Concannon, and Alexander Plotitsa, Owners