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October 14, 2021

BY JA

President Shamann Walton  
San Francisco Board of Supervisors  
City Hall, 1 Dr. Carleton B. Goodlett Place  
San Francisco, CA 94102

Re: Supplemental Appeal Response to Mitigated Negative Declaration  
("MND") for 1525 Pine Street/File No. 20910

Dear Supervisor Walton:

On behalf of Patricia and Claire Rose and the neighbors of 1545 Pine Street, I must respond to the claims regarding the supposed absence of substantial evidence regarding shadow and light impacts in our Appeal and the mischaracterization of our concern regarding preserving the Grubstake.

**Appellants Have Presented Substantial Evidence to Support a Fair Argument That the Proposed Project Will Create A Significant Environmental Impact**

During the hearings before the Planning Commission, the Appellants submitted an analysis of the shadow and light impacts on multiple residents of 1545 Pine Street. The analysis included: light meter readings (LUX standards) at various locations and times of day and the methodology used to collect the readings; drawings from the materials presented by the Project Sponsors; models demonstrating potential shadow impacts; various alternatives of building heights for possible mitigations showing various possible LUX readings for the alternative mitigations [1 LUX equals 1 lumen per 1 square meter]; with photographs and narrative to show potential shadow and light impacts to specific human receptors. This analysis was not submitted at the time of the initial hearing on the Preliminary Mitigated Negative Declaration, but it was made available to the Planning Commission, the Planning Department staff, and the Project Sponsors prior to the Planning Commission hearing on the Conditional Use Permit for the Project.

As mentioned previously, the Planning Commission limited testimony at the hearing to **one (1) minute** intervals for speakers providing testimony in opposition to the Project. The effectiveness of the presentation of this substantial evidence was seriously compromised. Considerable effort and information created a report of significant environmental consequences, but it was virtually impossible to present a comprehensive and cohesive report. However, the material was there and available for the planners and the Planning Commissioners to review. Perhaps it was that compromised presentation and later hearing that prevented the Planning Department from reviewing and responding to the evidence submitted in the analysis. Certainly, there has been sufficient time to review the analysis to determine there are "environmental

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effects of (the) project (that) will cause substantial adverse effects on human beings, either directly or indirectly”. CEQA Guidelines Section 15065.

Clearly, when examining the whole record before the Planning Commission, enough “substantial evidence” was presented as required by CEQA Guidelines section 15384:

“...enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. (Emphasis Added).

The Planning Department also suggests that no standards exist to determine what light levels might be considered adverse impacts on human beings. LUX standards have been developed to determine the levels of illuminance for human activity. For “Normal office work, PC work, study library, groceries, show rooms, laboratories, check-out areas, kitchens, auditoriums “ a LUX level of 500 is recommended. This type of activity is what occurs in households everywhere, particularly now when most of the country is working from home, and this is considerably below the levels that would occur in those identified residences in 1545 Pine Street.

As we have mentioned before, the Planning Code identifies exposure requirements (Planning Code Section 140); the Building Code regulates the size of window openings in rooms to be occupied as living areas and all these provisions are done to guarantee proper light for human lives. All these measures set policies to protect the citizens of San Francisco to have the proper natural light for their lives. These should not and can not be ignored. We are asking that the Mitigated Negative declaration be returned to the Planning Department and Commission for further environmental review and analysis to determine appropriate mitigation measures to save the lives of the residents of 1545 Pine Street.

**The Grubstake is A Significant Historical Resource and Deserves to be Designated as a Landmark and be Preserved**

I must correct the hostile and abusive characterization of the Appellants request to preserve the Grubstake. The misinformation being distributed by the Project Sponsor is an intentional personal attack on the residents of 1545 Pine Street to demean the residents of 1545 Pine Street in order to gain support for the denial of the Appeal and to secure the Project Approval of a Project that ignores the lives of the adjacent residents and the legacy of the Grubstake.

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It has been understood by the Appellants from the beginning of the preparation of the MND that it is the position of the Planning Department that the Grubstake is “only” a contributor to the Polk Gulch LGBTQ Historic District. The Project Sponsor has gone along with that classification. It is the Appellants position that the Grubstake is more than just a “contributor” and deserves to be treated better than that in order to guarantee its proper preservation.

The analysis by the historic preservation consultants in the HRE only establishes the basic history of the Grubstake diner and focuses primarily on the physical characteristics of the diner. It does reference some oral history, but this is the area that is deficient and requires further research and review. The HRE concludes that the Grubstake diner is only a contributor to the historic district and the demolition of the Grubstake, and the loss of this historic resource would not negatively impact the historic district. This conclusion misses the significance of the Grubstake. There is no other bar or restaurant in the Polk Gulch District that has the history and legacy of the Grubstake. The contribution of the Grubstake to this LGBTQ District literally helped create this district and the loss of this one unique historical resource certainly diminishes the Historic District.

The history of the Grubstake begins around 1916 and while its presence as a diner begins then and is significant for its contribution to establishing the neighborhood then, its historical significance to the LGBTQ community begins in the 1960s, over 70 years ago. This is discussed in the HRE. Just 2 weeks ago, in the Board of Supervisors’ Hearing of October 5, 2021, the Board designated the San Francisco Eagle Bar a landmark under Article 10 of the San Francisco Planning Code. The San Francisco Eagle Bar has a storied history of contributions to the San Francisco’s South of Market Leather and LGBTQ community since the 1980s, over 40 years ago. The histories of these two meeting spaces are so similar and so significant it is incomprehensible why one can be designated as a landmark and the other treated as just a contributor whose demolition would not be considered a loss to the community.

In addition, it must be noted that the preservation of landmark restaurants as part of the development of a new building is not a new experience for San Francisco. In 1981, San Francisco designated the Hoffman Grill at 619 Market Street, a historic landmark (Landmark 144 in Planning Code Article 10, Appendix A) and required the building to preserve the Hoffman Grill and build around and over it. That landmark restaurant is still there (under a different name) with a successful office building development over it.

The point that the Appellants have emphasized in its Appeal is that not enough has been done to acknowledge and preserve the Grubstake. The MND discusses several distinct physical characteristics that exist in the Grubstake today that make it a significant contributor to the Polk Gulch District, but none of those features are identified in the Mitigation Measures of the MND;

*law offices of*  
DAVID P. CINCOTTA

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further, none of them are mentioned in the Conditions of Approval of the Conditional Use Permit.

Moreover, the only Mitigation Measures require (1) the preparation of a HABS survey with (2) interpretive materials of the history and (3) the salvaging of architectural materials within the Grubstake. Regretfully, the Mitigation Measures do not even identify which architectural materials must be salvaged. In my experience with land use entitlements of historic resources, the mitigation measures at a minimum identify which materials must be attempted to be salvaged. However, there is nothing identified.

In summary, the Appellants believe the Grubstake deserves to be saved and believe that the environmental review process has fallen short in determining the proper way to preserve the Grubstake, both its legacy and its historic architectural features. We believe the Project needs to go back to the Planning Department and Commission for further review and analysis.

We believe that this Project can go forward and save the Grubstake and save the neighbors' homes, but it needs to be returned to the Planning Department and Planning Commission for further review and the imposition of appropriate sensitive conditions to accomplish those goals.

Sincerely,



DAVID P. CINCOTTA  
Law Offices of David P. Cincotta

DPC/lw