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San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94012

Re: Opposition to Appeal Filed By Ronald And Katherine Zagoria To Tentative Map Approval For 2146-2150 Union Street

Dear Supervisors:

The project sponsor requests the Board of Supervisors to deny the appeal filed by Ronald and Kathryn Zagoria because the only issue on appeal is the subdivision of land and Appellants have not raised any objection to the subdivision of the land.

The subdivision approval before the Board on appeal is for the addition of four new residential condominiums to be added to an existing two-unit and ground floor commercial building at 2146-2150 Union Street. The enlarged building will be the same height of the existing building, except for a small elevator/stair penthouse. The two existing units will remain rental units and are not being converted to condominiums. The ground floor commercial space will also be retained.

The project complies with the underlying Union Street Neighborhood Commercial zoning and 40-X height and bulk district and is consistent with the General Plan, including the Housing Element, the Transportation Element, and Commerce and Industries Element. A building permit application for the addition was filed on October 26, 2016. The Planning Department mailed a Planning Code Section 311 notice to all adjoining property by June 14, 2017. No party, including appellants, filed for discretionary review. The Planning Department issued a CEQA exemption on March 13, 2017, the building site permit was issued on March 8, 2018, and the property was posted on that same date. No party, including appellants, filed an appeal of the CEQA exemption to the Board of Supervisors within the 30-day appeal period or an appeal of the building permit to the Board of Appeals within the 15-day appeal period.

Appellants are attempting to reopen through a tentative map appeal Planning and Building Code issues long after the building permit was issued and the time to appeal Planning Code and Building Code issues has expired. All of the issues raised in the appeal - roof line and view, and parking -- are issues that were determined during Planning review of the project. Both the Planning and Building Codes provide for notice to Appellants, including an opportunity to

appeal. These notices were given to Appellants, but Appellants failed to appeal any of the Planning or Building Department issues they are trying to appeal now. In any event, private views are not protected and pursuant to recent Board actions off-street parking is not required to be provided to new residential units.

Section 66474 of the Government Code lists grounds for denial of a tentative map. The grounds are:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

The tentative map was reviewed by Planning, which found the subdivision was consistent with the applicable general and specific plans. All of the other criteria for denying a tentative map were determined years ago because Planning and DBI would not have issued a building permit if any of those conditions had existed.

Appellants have not given any reason why the land should not be subdivided. Therefore, the appeal must be denied.

Truly yours,

HERZIG & BERLESE

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