

Appellant Rebuttal of Project Sponsor Response

1846 Grove Street, Conditional Use Authorization and CEQA Appeal

1. Project Sponsor: Safety: The Appellant has asserted a made-up standard for life safety that is not supported in the code.

Appellant Response: Upon contacting a Fire Safety consultant after our appeal was filed, we have learned that the standard used (SFFD AB 5.12) by the SFFD is not in the State of California Building Code nor the International Building Code which is the basis of the California Building Code.

2. Project Sponsor: In their statement conflates the building "exit" and the "exit discharge" as found in the California Building Code.

Appellant Response: Per the Fire Safety consultant, an exit discharge is the point where the occupants have direct access to a public way. The exit is the path to the exit discharge. To quote the definitions section of the CBC "Exit. That portion of a means of egress system between the exit access and the exit discharge or public way. Exit components include exterior exit doors at the level of exit discharge, interior exit stairways and ramps and horizontal exits."

"Exit Discharge. That portion of a means of egress system between the termination of an exit and a public way."

3. Project Sponsor: The arguments against the homes on this site due to safety concerns are a pretext, are unsupported by code, and are unsupported by the code experts responsible for reviewing the project.

Appellant Response: These concerns are now supported by the letter from the expert Fire Safety consultant.

4. Project Sponsor: The Entry: The opposition has asserted without evidence that the 3.5 foot wide passage that leads from the street to the site is inadequate. This passage is as wide as a single loaded residential corridor. Safety is increased over a corridor in that it is an open-to-the-sky condition.

Appellant Response: Per the Fire Safety consultant, nothing in the California Building Code indicates that a residential corridor is the same as an exterior path of travel to the public way. Just because it is acceptable within a structure does not mean it is acceptable elsewhere unless specifically identified in the code. There are many sections of the code that for specific

requirements are different than the requirements of other sections of the code even though the use appears similar.

5. Project Sponsor: The Board of Supervisors has approved ADU legislation that allows multiple ADUs to be accessed from a 3 foot wide tradesman access as the sole means of access and Egress (Reference DBI Information Sheet EG-5 Date August 18, 2018). The open-to –the-sky condition on this property is safer than access under an existing building through the tradesman’s access.

Appellant Response: Per the Fire Safety consultant, the ADU legislation requires that the corridor from the ADU to the exterior of the building must have a fire protection sprinkler system. While this is outdoors which prevents the accumulation of smoke, the purpose of the sprinkler system is not to limit smoke generation, it is to maintain a tenable temperature and maintain the path of egress from direct flame impingement, convected and radiant heat.

6. Project Sponsor: The Appellant has asserted that the project is unprecedented: Our presentation to the Planning Commission included numerous examples of residences that did not directly front the public way or where access was constrained. The mitigation measures as outlined in the Fire Department letter are consistent with other conditions of approval for other projects that do not have a direct frontage to the street.

Appellant Response: Just because these other projects had FD and DBI approval when constructed in the past does not mean they meet current code. These projects may have been allowed based upon SFFD AB 5.12, however, that document was removed from the system starting in 2014; thus, any construction under 5.12 (2013) would have been acceptable but not under current code. The excuse that something that was allowed under a previous code should be allowed is not acceptable. This would be the equivalent of designing a high-rise building based upon the 1970 or earlier versions of the building code. That version had no high-rise requirements at all. High-rise requirements were added to later editions of the building code as a result of a number of high-rise fires. No building department today would allow the reason that, “It was ok in 1970, so it should be ok to not follow the current building code.”

7. Project Sponsor: San Francisco contains hundreds of buildings that do not have direct frontage to the street.

Appellant Response: The code does not require retrofitting existing construction to meet current code unless there is a change in use/occupancy or extensive modifications to the existing structure (each jurisdiction sets those limits that trigger the retrofit). In the industry this is known as existing non-conforming. The above statement does not justify why current code should not be followed.