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November 12, 2021

VIA ELECTRONIC SUBMISSION

Land Use and Transportation Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102

Re: 447 Battery Street Landmark Designation (Case No. 2021-002874DES)

Dear Supervisors Peskin, Melgar, and Preston:

Our office represents 447 Partners, LLC, owner of the property located at 447 Battery Street that is the subject of the proposed landmark designation. The property owners do not agree that the property constitutes a landmark. Multiple historic preservationists have determined that past development at the site has significantly altered the original architectural features and the building no longer retains its historic integrity, findings that were confirmed by the Historic Preservation Commission (HPC) in its review of the proposed landmark designation. Moreover, a landmark designation is unnecessary because over the last seven years the owners have undergone extensive environmental review to develop a hotel at the site and all potential impacts to historic resources were thoroughly evaluated during that process. The owners have created a thoughtfully designed project that preserves any of the marginal architectural features that remain intact, such as the brick façade, and HPC determined that the design successfully preserves any remaining historic features. Finally, if the Committee does determine that the property should be landmarked, the owners request that the Committee adopt the designation as recommended by HPC without the addition of any character-defining features because the designation as originally proposed would prevent any economic use of the building.

1. The Property does not Constitute a Landmark

Article 10 of the Planning Code contains general, vague language about the protection of significant historical sites, but does not actually contain any specific criteria for identifying or evaluating historic resources. As a result of the lack of any criteria in Article 10, the City has largely utilized the Secretary of the Interior's "Standards and Guidelines for Archeology and

Historic Preservation” and the California Register of Historical Resources criteria as guidance when evaluating potential landmarks.

The owners of 447 Battery first proposed a hotel project at the site in 2014 and that project has undergone seven years of extensive review. A Historic Resource Evaluation (HRE) was completed by preservation architects Page & Turnbull, and that HRE was peer reviewed by preservation architects Architectural Resources Group. Both the HRE and peer review concluded that the Property should *not be considered a historic resource at all*. The Planning Department disagreed and concluded that the property was a minor historic resource for purposes of CEQA, but at no point over the last seven years did the Planning Department identify the property as a landmark. The Project was reviewed twice by HPC, once to develop potential project alternatives and once to review the Draft Environmental Impact Report, and at no point did HPC identify the Property as a potential landmark.

Even though two independent consultants, the Planning Department, and HPC studied the property extensively and did not identify it as a potential landmark, landmark legislation was introduced in November 2020. Due to the long historic resource review process that had already been completed, the property owners have difficulty understanding the justification for the introduction of a landmark designation, particularly because Article 10 does not provide any standards for the introduction of a landmark designation. HPC Commissioners were equally confused during their review of the landmark designation, with Commissioner So stating she had “questions why we are here” and that a landmark designation seemed “excessive.” Commissioner Johns similarly expressed hesitation because the question of historic preservation “has already been decided.”

Considering the criteria in the Secretary of the Interior's Standards and the California Register of Historical Resources that the City typically uses as guidance when evaluating potential landmarks, 447 Battery does not meet the criteria to be designated a landmark. The four criteria typically considered by the City are Criterion 1 (event); Criterion 2 (persons); Criterion 3 (architecture/design); and Criterion 4 (information potential, typically archeological resources). The landmark legislation as originally introduced identified Criterion 1 (event) and Criterion 3 (architecture/design) as potential reasons to designate 447 Battery as a landmark.

Criterion 1 examines whether a property is associated with events that have made a significant contribution to the broad patterns of our history. The HRE and peer review found that the building at 447 Battery Street is associated with the produce market district but lacks any of the characteristics typically associated with the district, such as open merchant stalls or street level loading areas. The building housed the Jones-Thierbach Coffee Company and is associated with the San Francisco coffee industry, but most coffee roasters were located along California Street in the Financial District. There are no records to indicate that the company was known to be particularly unique or innovative in the coffee industry, with almost no record of the company at all past the 1920s. Both the HRE and peer review found that the building was not particularly representative of the coffee industry and lacks significance in association with the industry.

Criterion 3 examines whether a property embodies the distinctive characteristics of a type, period, or method of construction, and/or represents the work of a master. The HRE and peer review found that while 447 Battery is an example of a brick masonry industrial building, the building lacks any distinctive characteristics such as refined brickwork, arched openings, highly decorative cornices, beltlines, dentils, and pilasters on the façades. Moreover, the property is not a noteworthy example of its building typology due to the extensive past alterations that occurred, such as the removal of the original stucco and paint, damage to the cornice, sandblasting and replacement of some of the original brickwork, doorway alterations on the Merchant Street façade, and removal of original wood frame windows.

HPC focused in particular on the extensive alterations that have occurred at the building as a reason not to landmark the building. Commissioner Nageswaren commented on her experience with that damage this cause to historic buildings that have been sandblasted, explaining that she “hesitates to landmark a building” that has been so extensively sandblasted. In discussing the architectural features of 447 Battery, Commissioner Johns noted that “as a physical thing, its been completely stripped.” As a result, HPC did not support criterion 3 as a reason to landmark the Property.

This situation is similar to the analysis of the properties right next door to 447 Battery, 425 Washington and 439-445 Washington, which the City just approved for complete demolition. Those buildings were also originally built in 1906; also retain some original façade and brickwork on Merchant Street; also exemplify the simple industrial design of the post-1906

earthquake reconstruction era; and, unlike 447 Battery, are associated with the wholesale produce industry that was a significant and important part of the financial district's history. However, due to past alterations and a lack of lasting contributions to the industry, the City approved the complete demolition of these properties. (See William Kostura, *HRE of 425 and 439-445 Washington Street*, May 2017; San Francisco Planning Department, *HRE Response for 425 and 439-445 Washington Street*, February 11, 2018.) Given the lack of concern with the loss of two similarly situated buildings right next door to 447 Battery, there does not appear to be consistently applied criterion for when the City determines whether a building constitutes a landmark.

In sum, the Property has been fully evaluated by every department with expertise in historic preservation and at no time has the property been identified as a potential landmark. The building is not particularly representative and lacks significance in association with the coffee industry and is not an architecturally unique building that has undergone significant alterations since originally constructed. The building does not meet the criteria for landmark designation.

2. A Landmark Designation of the Property is Unnecessary

The core purpose of Article 10 landmark designation is to ensure the “protection, enhancement, perpetuation and use of structures” and prevent their unnecessary destruction. As explained above, the owners have embarked on a seven-year process to redevelop the site as a hotel. The project proposes to retain the existing public facing façades on Battery and Merchant Streets, and transition to a modern hotel building with significant step backs that separate the addition from the original façade below. In addition to the hotel itself, the project proposes a voluntary revitalization of the full block of Merchant Street between Battery Street and Sansome Street into a pedestrian-friendly, landscaped, shared street.

A Draft EIR for the project has been published and the project was reviewed twice by HPC, once to develop potential project alternatives and once to review the Draft EIR. HPC was supportive of the project and determined that the design successfully preserves the main remaining historic features, namely the remaining brick façade and cornice. During review of the landmark designation, HPC extensively discussed their past support of the project and questioned the necessity of a landmark designation for a building that has already been extensively reviewed.

The owners similarly question the necessity of the landmark designation as they have already provided multiple historic evaluations of the building and explored several different preservation alternatives. Any marginal architectural features that remain will be preserved as part of the proposed project. In fact, the proposed project will ensure that the existing façade is maintained over time and preserve whatever architectural features are left. Without the proposed project, the existing building will likely fall into disrepair. Approving the project as proposed is the best way to preserve the remaining features.

The purpose of Article 10 is to prevent the unnecessary destruction of historic structures and ensure their preservation. It is clear through the extensive review of the proposed project that this purpose has already been fulfilled by existing City procedures. Thus, the landmark designation is simply unnecessary.

3. At Minimum, the Landmark Designation Should be Implement as Recommended by HPC

As explained above, the building does not meet the criteria for a landmark designation and should not be landmarked at all. HPC specifically did not support criterion 3 as a reason to landmark the property and removed the three-story height and roughly rectangular footprint as a character-defining feature. If this Committee does decide to landmark the property, the owners request that the designation be adopted pursuant to HPC's recommendation.

HPC extensively discussed the interrelation of the landmark designation and the proposed project. The Commissioners hesitated to landmark the building at all, including because HPC had already expressed their support for the project and expressed concern that the proposed landmark designation would interfere with the preferred preservation alternative. To get enough Commissioners to recommend approval of the landmark at all, the Commissioners amended the designation to remove criterion 3 and remove the three-story height and roughly rectangular footprint as a character-defining feature.

The owners are similarly concerned that the landmark designation will interfere with the proposed project and would deprive the owners of all economically viable use of the property. In particular, the character-defining features as originally proposed would appear to prohibit any future additions or alterations to any portion of the existing building, limiting any future owner from making any use of the structure beyond costly historic restoration work. Particularly

considering that the remaining marginal features of the building have already been preserved through the existing City procedures, there is no reasonably necessary public purpose to impose additional landmark protections unless such protections were intended specifically prevent any future economical use of the building. The owners therefore respectfully request that if the landmark designation move forward at all, the designation be adopted pursuant to HPC's recommendation as this recommendation would potentially allow for an economically viable use of the property.

CONCLUSION

The property has already been fully evaluated by the City and determined not to be potential landmark. The proposed project at the site preserves any marginal remaining architectural features, making the designation simply unnecessary. We therefore respectfully request that the Committee not move forward with the landmark legislation.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Brian O'Neill