

File No. 221039

Committee Item No. _____

Board Item No. 36

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: November 1, 2022

Cmte Board

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OTHER

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Prepared by: Lisa Lew

Date: October 28, 2022

Prepared by: _____

Date: _____

1 [Conditionally Reversing the Categorical Exemption Determination - 45 Bernard Street]

2
3 **Motion conditionally reversing the determination by the Planning Department that the**
4 **proposed project at 45 Bernard Street is categorically exempt from further**
5 **environmental review, subject to the adoption of written findings of the Board in**
6 **support of this determination.**

7
8 WHEREAS, On April 13, 2021, the Planning Department issued a CEQA Categorical
9 Exemption Determination for the proposed project located at 45 Bernard Street ("Project")
10 under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and San
11 Francisco Administrative Code, Chapter 31; and

12 WHEREAS, The project site is an approximately 1,380 square foot (23-foot in width by
13 60-foot in length) lateral and down sloping lot and contains an existing 2,994 square foot,
14 three-story, four-residential-unit building, located mid-block along Bernard Street in the Nob
15 Hill neighborhood, on the block bounded by Bernard Street to the north, Taylor Street to the
16 east, Pacific Avenue to the south and Jones Street to the west; and

17 WHEREAS, The Project proposes construction of a four-story horizontal rear addition
18 to the existing on-site 2,994 square foot, multi-unit residential building at 45 Bernard Street;
19 the proposed four-story addition encompasses the existing basement, first floor, second floor,
20 and third floor of the existing structure; and

21 WHEREAS, On July 15, 2022, the project sponsor submitted modified project plans for
22 the Proposed Project resulting in the reduction of the proposed rear addition/rear wall
23 extension by two feet; later revised project drawings also incorporated the removal of a
24 proposed fire escape at the rear, the addition of exterior decks, and a spiral stair to a roof
25

1 deck; the roof deck was pulled back from the building edges from the original project proposal;
2 and

3 WHEREAS, On November 7, 2021, the project sponsor filed a separate Accessory
4 Dwelling Unit (“ADU”) application to legalize an Unauthorized Dwelling Unit (“UDU”) on the
5 project site; and

6 WHEREAS, Pursuant to Article 19 of the CEQA Guidelines (California Code of
7 Regulations, Title 14, Division 6, Chapter 3, Article 19, Sections 15300-15333), on April 13,
8 2021, the Planning Department found that the proposed Project is exempt from the California
9 Environmental Quality Act (CEQA) as a Class 1 categorical exemption (“exemption
10 determination”); and

11 WHEREAS, On August 25, 2022, the San Francisco Planning Commission
12 (Commission) conducted a duly noticed public hearing at a regularly scheduled commission
13 meeting on Discretionary Review Application 2020-005176DRP, took the Discretionary
14 Review requested and approved the Proposed Project with modifications; and

15 WHEREAS, On September 26, 2022, Brian O’Neill of Zacks, Freedman & Patterson
16 PC, on behalf of the Upper Chinatown Neighborhood Association (“Appellant”) filed an appeal
17 with the Office of the Clerk of the Board of Supervisors of the exemption determination; and

18 WHEREAS, By memorandum to the Clerk of the Board dated September 29, 2022, the
19 Planning Department’s Environmental Review Officer determined that the appeal was timely
20 filed; and

21 WHEREAS, On November 1, 2022, this Board held a duly noticed public hearing to
22 consider the appeal of the exemption determination filed by Appellant; and

23 WHEREAS, In reviewing the appeal of the exemption determination, this Board
24 reviewed and considered the exemption determination, the appeal letter, the responses to the
25 appeal documents that the Planning Department prepared, the other written records before

1 the Board of Supervisors and all of the public testimony made in support of and opposed to
2 the exemption determination appeal; and

3 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors
4 conditionally reversed the exemption determination for the Project subject to the adoption of
5 written findings of the Board in support of such determination based on the written record
6 before the Board of Supervisors as well as all of the testimony at the public hearing in support
7 of and opposed to the appeal; and

8 WHEREAS, The written record and oral testimony in support of and opposed to the
9 appeal and the oral and written testimony at the public hearing before the Board of
10 Supervisors by all parties and the public in support of and opposed to the appeal of the
11 exemption determination, including the deliberations by the members of the Board, is in the
12 Clerk of the Board of Supervisors File No. 220137, and is incorporated in this Motion as
13 though set forth in its entirety; now, therefore, be it

14 MOVED, That the Board of Supervisors conditionally reverses the determination by the
15 Planning Department that the project is exempt from environmental review, subject to the
16 adoption of written findings of the Board in support of this determination.

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- ☐ 2. Request for next printed agenda Without Reference to Committee.
- ☒ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning "Supervisor inquires"
- ☐ 5. City Attorney request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: