

File No. 221038

Committee Item No. \_\_\_\_\_

Board Item No. 35

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: November 1, 2022

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#### OTHER

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Prepared by: Lisa Lew

Date: October 28, 2022

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Affirming the Categorical Exemption Determination - 45 Bernard Street]

2

3 **Motion affirming the determination by the Planning Department that the proposed**  
4 **project at 45 Bernard Street is categorically exempt from further environmental review.**

5

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

10 WHEREAS, The project site is an approximately 1,380 square foot (23-foot in width by  
11 60-foot in length) lateral and down sloping lot and contains an existing 2,994 square foot,  
12 three-story, four-residential-unit building, located mid-block along Bernard Street in the Nob  
13 Hill neighborhood, on the block bounded by Bernard Street to the north, Taylor Street to the  
14 east, Pacific Avenue to the south and Jones Street to the west; and

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

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

25

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

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

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

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

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

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

21           WHEREAS, In reviewing the appeal of the exemption determination, this Board  
22 reviewed and considered the exemption determination, the appeal letter, the responses to the  
23 appeal documents that the Planning Department prepared, the other written records before  
24 the Board of Supervisors and all of the public testimony made in support of and opposed to  
25 the exemption determination appeal; and

1           WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors  
2 affirmed the exemption determination for the Project based on the written record before the  
3 Board of Supervisors as well as all of the testimony at the public hearing in support of and  
4 opposed to the appeal; and

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

11           MOVED, That the Board of Supervisors hereby adopts as its own and incorporates by  
12 reference in this Motion, as though fully set forth, the exemption determination; and, be it

13           FURTHER MOVED, That the Board of Supervisors finds that based on the whole  
14 record before it there are no substantial project changes, no substantial changes in project  
15 circumstances, and no new information of substantial importance that would change the  
16 conclusions set forth in the exemption determination by the Planning Department that the  
17 Project is exempt from environmental review; and, be it

18           FURTHER MOVED, That after carefully considering the appeal of the exemption  
19 determination, including the written information submitted to the Board of Supervisors and the  
20 public testimony presented to the Board of Supervisors at the hearing on the exemption  
21 determination, this Board concludes that the Project qualifies for an exemption determination  
22 under CEQA.

23  
24 n:\land\as2019\1900434\01635569.docx

# 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: