

1 [Adopting findings related to the conditional use appeal on property located at 2026 Lombard  
2 Street.]

3 **Motion adopting findings related to the appeal of the Planning Commission's approval**  
4 **of Conditional Use Application No. 2002.0497C (which allowed the construction of an**  
5 **approximately 49,000 square foot, 97 room tourist hotel with 78 off-street parking**  
6 **spaces on a lot containing approximately 13,600 square feet), pursuant to Planning**  
7 **Code Section 712.11, 712.21, 712.55 and 303, in an NC-3 (Moderate Scale Neighborhood**  
8 **Commercial) District and a 40-X Height and Bulk District, located at 2026 Lombard**  
9 **Street, north side, between Fillmore and Webster Street (Lot 025 in Assessor's Block**  
10 **0492).**

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12 The appellant, Stephen M. Williams, Esq., filed a timely appeal on August 12, 2003,  
13 protesting the approval by the Planning Commission of an application for a conditional use  
14 authorization (Conditional Use Application No. 2002.0497C), to allow the construction of an  
15 approximately 49,000 square foot, 97 room tourist hotel with 78 off-street parking spaces on a  
16 lot containing approximately 13,600 square feet) pursuant to Planning Code Section 712.11,  
17 712.21, 712.55 and 303, in an NC-3 (Moderate Scale Neighborhood Commercial) District and  
18 a 40-X Height and Bulk District, located at 2026 Lombard Street, north side, between Fillmore  
19 and Webster Street (Lot 025 in Assessor's Block 0492).

20 The public hearing before the Board of Supervisors on said appeal was scheduled for  
21 August 12, 2003, On August 12, 2003, the Board continued the public hearing to September  
22 16, 2003. On September 16, 2003, the Board conducted a duly noticed hearing on the appeal  
23 from the Planning Commission's approval referred to in the first paragraph of this motion.  
24 Following the conclusion of the public hearing on September 16, the Board disapproved the  
25 decision of the Planning Commission (Planning Commission Motion No. 16596, dated June

1 12, 2003) and approved the issuance of requested Conditional Use Application No.  
2 2002.0497C, subject to the conditions imposed by the Planning Commission, and further  
3 subject to additional conditions imposed by the Board of Supervisors.

4 In reviewing the appeal of the approval of the requested conditional use authorization,  
5 this Board reviewed and considered the written record before the Board and all of the public  
6 comments made in support of and in opposition to the appeal.

7 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and  
8 County of San Francisco hereby adopts as its own and incorporates by reference herein, as  
9 though fully set forth, the findings made by the Planning Commission in its Motion No. 16596,  
10 dated June 12, 2003, except as indicated below.

11 FURTHER MOVED, That on September 16, 2003, the Board of Supervisors conducted  
12 a noticed public hearing on an appeal of the Planning Commission's certification of the Final  
13 Mitigated Negative Declaration for this proposed Project. Following the completion of the  
14 appeal hearing on September 16, 2003, the Board affirmed the Planning Commission's  
15 adoption of the Mitigated Negative Declaration. The Board of Supervisors also certified, at the  
16 September 16 meeting, that it had reviewed the Final Mitigated Negative Declaration relating  
17 to the proposed Project and adopted as its own the findings of the Planning Commission. The  
18 Board further finds that there have been no substantial Project changes, no substantial  
19 changes in Project circumstances, and no new information of substantial importance that  
20 would change the conclusions set forth in the Final Mitigated Negative Declaration that the  
21 proposed Project would have no significant impact on the environment.

22 FURTHER MOVED, That at the September 16, 2003, public hearing on this appeal  
23 several members of the public testified that the Project, as proposed, was too massive in  
24 design; that its bulk would not be consistent with the neighboring buildings; that adjacent  
25 buildings, especially to the rear of the Project, were considerably shorter and less bulky in

1 design; that the proposed Project would cast more extensive shadows onto adjacent  
2 properties; and that the Project, as proposed, would create issues of lateral support failure for  
3 adjacent property owners.

4 FURTHER MOVED, That on September 16, 2003, the Board of Supervisors  
5 disapproved the decision of the Planning Commission by its Motion No. 16596, which  
6 approved Conditional Use Application No. 2002.0497C, and approved the requested  
7 Conditional Use Authorization subject to the conditions imposed by the Planning Commission,  
8 and further subject to the following additional conditions imposed by the Board:

9 1. The fourth floor of the proposed Project shall be further revised to delete from  
10 the rear portion of the fourth floor of the building an additional twenty feet, in addition to the  
11 feet previously removed from the rear portion of the fourth floor by the Planning Commission.

12 2. The third floor of the proposed Project shall be further revised to delete from the  
13 rear portion of the third floor of the building an additional ten feet, in addition to the feet  
14 previously removed from the rear portion of the third floor by the Planning Commission.

15 3. The City and County of San Francisco and its officers and employees shall be  
16 named as additional insureds in insurance policies to be obtained for the proposed  
17 construction work related to this Project.

18 4. Rigid wall support is required for all of the excavation work performed at the  
19 construction site.

20 5. Pump testing and data reporting (to the City) for the construction site is required.

21 6. If permittees receive permission to enter the property of adjacent property owners  
22 during construction of the Project, then all structures on the adjacent property shall be  
23 underpinned. If permittees do not receive permission to enter the property of adjacent  
24 property owners during construction of the Project, then the permittees shall provide rigid  
25 shoring of the adjacent property at the construction site, including the use of pre-stressed

1 materials.

2 7. No permits for work on the Project construction site shall be issued until the Project  
3 has received Structural Advisory Committee peer review.

4 FURTHER MOVED, That the Board of Supervisors finds that findings made by the  
5 Planning Commission that the Project, as approved by the Commission, complies with the  
6 criteria of Planning Code Section 303 are incorrect and without substantiation for the following  
7 reasons:

8 (1) The Project, at the size and intensity contemplated in the Commission  
9 approved design, will not provide a development that is necessary or desirable, or compatible  
10 with, the neighborhood or the community. As stated in the Commission's decision, the rear of  
11 the subject property abuts several lots lying in two different zoning Districts, the NC-2 (Small  
12 Scale Neighborhood Commercial) and RH-3 (Residential, House, Three family). These lots  
13 are primarily higher density residential (12-24) apartments with several single and two family  
14 dwellings as well. Building heights in the area range from 20 to approximately 40 feet, with  
15 taller buildings common along Lombard Street and along nearby Chestnut Street. The  
16 proposed Project would replace a two-story hotel/motel with a four-story hotel, with the square  
17 footage of the new structure increasing from the 8,630 square feet of the current structure to  
18 49,000 square feet for the new structure. The Project, as approved, is not designed to fit well  
19 within the context and mitigate its larger size. The rear building walls, which will be  
20 immediately adjacent to less intensive uses, including residential uses, will be at the property  
21 line on the ground floors, and would be set back by ten feet on the third floor, and twenty feet  
22 on the fourth floor in the Commission's approved proposal. Even with these setbacks on the  
23 third and fourth floors, the overall impact of the building in the rear will be to create a massive  
24 and bulky structure (with windows included) immediately adjacent to residential units, creating  
25 a loss of air and light, as well as privacy. The building, as approved by the Commission, will

1 overwhelm and dominate the rear properties and residential units with the new construction.

2 (2) The Project, as proposed, must provide adequate protection for the safe  
3 lateral support of adjacent properties, especially considering the size of the construction and  
4 excavation that will take place on the property. Without adequate lateral support, serious  
5 damage to persons and structures on adjacent properties may occur. The Planning  
6 Commission's decision did not adequately address this significant concern, which was stated  
7 by many of the public speakers, and was supported with testimony and information provided  
8 by professional consultants. The Board is unable to find that the Project, as proposed, is not  
9 detrimental, during both construction and after construction, to the health, safety, convenience  
10 or general welfare of persons residing or working in the vicinity, or injurious to property,  
11 improvements or potential development in the vicinity.

12 FURTHER MOVED, That with the imposition of the additional conditions stated above,  
13 the Board will be reducing the bulk of the Project by eliminating from the rear of the top two  
14 floors of the building that part of those two floors that are immediately adjacent to neighboring  
15 parcels that include residential units. This will reduce the bulk of the building, and revise the  
16 building so that it will more closely resemble the bulk and mass of buildings to the rear of the  
17 Project. This modification to the Project will also reduce the loss of light and air, and privacy  
18 to the rear properties adjacent to the building. With the imposition of the construction and  
19 geotechnical conditions the Board is taking steps intended to protect the applicant's property,  
20 as well as the property of adjacent property owners, and to protect the safety of persons  
21 living, working and visiting in the immediate area of the Project.

22 FURTHER MOVED, That with the imposition of the additional conditions, as listed  
23 above, the Board of Supervisors finds that the Project, as revised, will meet the requirements  
24 of Planning Code Section 303. The revised Project will provide a development that is  
25 necessary or desirable for, and compatible with, the neighborhood or the community, and that

1 such use will not be detrimental to the health, safety, convenience or general welfare of  
2 persons residing or working in the vicinity, or injurious to property, improvements or potential  
3 development in the vicinity, and that such use will not adversely affect the General Plan.

4 FURTHER MOVED, That, on balance, the Project, as revised by the Board of  
5 Supervisors, is consistent with the objectives and policies of the General Plan, and is  
6 consistent with the Priority Policies of Planning Code Section 101.1.

7 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the  
8 competing public and private interests, disapproved the decision of the Planning Commission  
9 by its Motion No. 16596, dated June 12, 2003, and approved the issuance of Conditional Use  
10 Application No. 2002.0497C on property located at 2026 Lombard Street, subject to the  
11 conditions imposed by the Planning Commission and the additional conditions imposed by the  
12 Board of Supervisors on September 16, 2003, as referred to earlier in this motion.

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