

1 [Findings Reversing the Revised Mitigated Negative Declaration - 2417 Green Street]

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3 **Motion adopting findings to reverse the Final Mitigated Negative Declaration under the**
4 **California Environmental Quality Act for the proposed project located at 2417 Green**
5 **Street.**

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7 WHEREAS, On May 16, 2017, the Planning Department determined that the proposed
8 project at 2417 Green Street (“Project”) is exempt from environmental review pursuant to Title
9 14 of the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3,
10 Sections 15300-15387), Class 1 of the CEQA Guidelines (14 Cal. Code Reg., Section 15301),
11 which provides an exemption for minor alterations to existing facilities including demolition of
12 up to three single-family residences in urban areas; and

13 WHEREAS, On November 22, 2017, an appeal of the categorical exemption was filed
14 by Richard Drury and Rebecca Davis of Lozeau Drury LLP on behalf of Philip Kaufman
15 (“Appellant”); and

16 WHEREAS, On January 9, 2018, this Board held a duly noticed public hearing to
17 consider the appeal of the exemption determination filed by Appellant and, following the public
18 hearing, the Board of Supervisors conditionally reversed the exemption determination for the
19 Project subject to the adoption of written findings of the Board in support of such
20 determination based on the written record before the Board of Supervisors as well as all of the
21 testimony at the public hearing in support of and opposed to the appeal; and

22 WHEREAS, in Motion No. M18-012, the board found based on evidence in the record
23 before it that the Project is not categorically exempt from review under CEQA; and

24 WHEREAS, A Preliminary Mitigated Negative Declaration (“PMND”) for the proposed
25 project located at 2417 Green Street was published on June 26, 2019; and

1 WHEREAS, The project site is a rectangular-shaped lot located on the south side of
2 Green Street in the Pacific Heights neighborhood, and is developed with a four-story-over-
3 garage, single-family dwelling constructed circa 1908; the lot is approximately 25 feet wide,
4 100 feet deep and 2,500 square feet in size; the lot slopes steeply upward from the street
5 such that the garage level and approximately half of the first floor are below existing grade at
6 the rear of the building; and

7 WHEREAS, The Project, as initially submitted in April, 2017, proposed to construct
8 one- and three-story horizontal rear additions, 3rd and 4th floor vertical additions, and to lower
9 all floor plates within the existing single-family dwelling by approximately 2 feet; the floor area
10 would increase from approximately 4,118 square feet to approximately 5,115 square feet; the
11 project also proposed alterations to the front façade, interior modifications including the
12 expansion of the existing basement level garage to accommodate another off street parking
13 space, and the partial excavation and terracing of the rear yard; since the October 23, 2017,
14 neighborhood notification and subsequent filings of three requests for Discretionary Review,
15 the project sponsor revised the project by proposing to include a one-bedroom accessory
16 dwelling unit occupying the entire first floor of the project, which measures approximately
17 1,023 square feet; and

18 WHEREAS, On January 9, 2020, the Planning Commission held a public hearing, and
19 affirmed the Environmental Review Officer's decision to issue the PMND pursuant to the
20 California Environmental Quality Act, Public Resources Code, Sections 21000 et seq.
21 ("CEQA"), the CEQA Guidelines, 14 Cal. Code of Reg., Sections 15000 et seq., and Chapter
22 31 of the San Francisco Administrative Code, finding that the project could not have a
23 significant impact on the environment, and issued the Final Mitigated Negative Declaration
24 ("FMND"); and

1 WHEREAS, Following the January 9, 2020 hearing, the project sponsor redesigned the
2 project to reduce the depth of the horizontal rear addition; reduce the amount of excavation at
3 the basement level; reduce the amount of excavation at the first-floor breezeway directly
4 adjacent to 2421 Green Street; and to eliminate the lowering of the existing floor plates
5 (“Revised Project”); the Revised Project still proposes an Accessory Dwelling Unit on the first
6 floor, now measuring approximately 987 square feet, and also proposes an additional parking
7 space in the basement level, as originally proposed; and

8 WHEREAS, On July 16, 2020, the Planning Commission held a public hearing on the
9 project, took Discretionary Review and approved the Project with revisions and upheld the
10 FMND; and

11 WHEREAS, On February 5, 2020, and again on August 7, 2020, Richard Drury of
12 Lozeau Drury LLP, on behalf of Phillip Kaufman (“Appellant”) filed letters appealing the
13 FMND; and

14 WHEREAS, The Planning Department's Environmental Review Officer, by memoranda
15 to the Clerk of the Board dated August 12, 24 and September 3, 2020, determined that the
16 February 5, 2020 appeal was unripe, and the August 7, 2020 appeal had been timely filed;
17 and

18 WHEREAS, On November 10, 2020, this Board held a duly noticed public hearing to
19 consider the appeal of the FMND filed by Appellant; and

20 WHEREAS, The FMND must be supported by substantial evidence in the record,
21 which includes facts, reasonable assumptions predicated upon facts and expert opinion
22 supported by facts; and

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

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

3 WHEREAS, The Board heard extensive testimony from the City's experts as well as
4 experts provided by the appellant regarding potential impacts of the Revised Project on the
5 historic significance of the neighboring property at 2421 Green Street, resulting from potential
6 destabilization of the brick foundations of the historic Coxhead House which may impact one
7 or more character-defining features of the house; and

8 WHEREAS, The Board heard extensive, and sometimes conflicting, testimony
9 regarding the approximate slope of the property; and

10 WHEREAS, The Board heard conflicting testimony concerning whether the mitigation
11 measure proposed in the FMND is adequate to address potential environmental impacts of
12 the Revised Project; and

13 WHEREAS, Based on the evidence presented at and prior to the hearing on this
14 matter, the Board found that the record includes substantial evidence to support a fair
15 argument that the Revised Project may have a significant impact on the historic significance of
16 the historic Coxhead House, that the Revised Project may compromise the structural integrity
17 of the neighboring property and that the mitigation measure proposed in the FMND is
18 insufficient to protect the historic resource; and

19 WHEREAS, While the Department must complete an independent evaluation, the
20 Board finds based on the record before it that further study in an EIR and adoption of
21 additional mitigation measures relating to slope stabilization is warranted; and

22 WHEREAS, On that basis, following the conclusion of the public hearing, in Motion
23 M20-167, the Board of Supervisors unanimously reversed the Planning Commission decision
24 upholding the FMND subject to the adoption of written findings of the Board in support of such
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1 determination based on the written record before the Board of Supervisors as well as all of the
2 testimony at the public hearing in support of and opposed to the appeal; and

3 WHEREAS, The written record and oral testimony in support of and opposed to the
4 appeal and deliberation of the oral and written testimony at the public hearing before the
5 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
6 the FMND is in the Clerk of the Board of Supervisors File No. 200137 and is incorporated in
7 this motion as though set forth in its entirety; now, therefore, be it

8 MOVED, That this Board of Supervisors reverses the determination by the Planning
9 Commission adopting the FMND; and, be it

10 FURTHER MOVED, That the Planning Department is directed to conduct further study,
11 to work with the Department of Building Inspection concerning the issues of slope stability and
12 potential impacts to the structural integrity of the historic property located at 2421 Green
13 Street, and to analyze and apply all appropriate mitigation measures as are necessary to
14 protect the historic significance of the Coxhead House located at 2421 Green Street; and, be
15 it

16 FURTHER MOVED, That as to all other issues, the Board finds the FMND conforms to
17 the requirements of CEQA and is adequate, accurate, and objective, the record does not
18 include substantial evidence to support a fair argument that the project may have a significant
19 effect on the environment, and no further analysis is required.

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