

1 [Adopting findings related to the appeal of the negative declaration issued by the Planning  
2 department for the 329 Bay Street project.]

3 **Motion adopting findings related to the appeal of the negative declaration issued by the**  
4 **Planning Department on June 22, 2004 for 329 Bay Street.**

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6 On May 29, 2004, the Environmental Review Officer of the Planning Department  
7 issued a preliminary mitigated negative declaration for 329 Bay Street in accordance with the  
8 California Environmental Quality Act (“CEQA”), the CEQA Guidelines and San Francisco  
9 Administrative Code Chapter 31. The negative declaration stated that no trees would be  
10 removed to accommodate the project and that the project sponsor would hire an arborist to  
11 develop procedures during construction of the project for protecting the existing Acacia tree  
12 that fronts the project site on Vandewater Street.

13 On June 22, 2004, having received no appeal of the preliminary negative declaration,  
14 the Environmental Review Officer of the Planning Department issued a final mitigated  
15 negative declaration for 329 Bay Street (“negative declaration”) in accordance with  
16 Administrative Code Section 31.11(h). A copy of said document is on file with the Clerk of the  
17 Board of Supervisors in File No. 041641 and is incorporated by reference herein.

18 On November 23, 2004, the Planning Department issued an addendum to the final  
19 mitigated negative declaration that determined that removal of the tree would not result in a  
20 significant impact.

21 On November 29, 2004, the Clerk of the Board received an appeal of the negative  
22 declaration from Arthur Chang, Katherine Petrin and Carolyn Blair (“Appellants”).

23 This Board held a duly noticed public hearing on January 4, 2005, to consider the  
24 negative declaration appeal filed by Appellants. Following the conclusion of the public hearing  
25 the Board reversed the Planning Department’s approval of the mitigated negative declaration

1 for 329 Bay Street based on the whole record before the Board including the written record in  
2 File No. 041718, which is hereby declared to be a part of this motion as if set forth fully  
3 herein; the written submissions to and official written records of the Planning Department  
4 determination on the negative declaration and subsequent determinations of the Planning  
5 Department related to the 329 Bay Street project; the official written and oral testimony at and  
6 audio and video records of the public hearing in support of and opposed to the appeal and  
7 deliberation of the oral and written testimony at the public hearing before the Board of  
8 Supervisors by all parties and the public in support of and opposed to the appeal of the  
9 negative declaration.

10 MOVED, That the Board of Supervisors finds that the mitigated negative declaration is  
11 inadequate and incomplete in its consideration of the environmental context and setting in that  
12 the mitigated negative declaration did not consider the unique character that the street has  
13 due to the existing Acacia tree that forms a significant part of the tree canopy on the street  
14 created by the intimate street scale and the number of mature trees on the street, unlike other  
15 streets in the immediate vicinity of the project.

16 FURTHER MOVED, That the Board of Supervisors finds that there appears to be  
17 substantial evidence to support a fair argument that the project may have potentially  
18 significant environmental effects not considered in the final mitigated negative declaration as a  
19 result of the cumulative effect on biological resources of the removal of the 40-year old Acacia  
20 tree in conjunction with the potential removal of other trees on the street and the effect of the  
21 removal of the 40-year old Acacia tree and potentially other trees on this street's unique  
22 character and urban setting. ~~-that may occur from removal of several trees from this section~~  
23 ~~of Vandewater Street. According to Appellants, a project is proposed at 84 Vandewater~~  
24 ~~Street, where two street trees are located. The project sponsor's stated reasons for removal~~  
25 ~~of the Acacia tree appear to be present in the case of 84 Vandewater Street and the other tree~~

1 fronting on Vandewater Street at the 329 Bay Street project. Therefore, Appellants presented  
2 substantial evidence that several trees may need to be removed from this section of  
3 Vandewater Street to accommodate the 329 Bay Street project and the 84 Vandewater Street  
4 project. The negative declaration did not analyze the effect on biological resources and on  
5 the unique character and urban setting created by the of the removal of several trees on this  
6 section of Vandewater Street.

7 FURTHER MOVED, That the Board of Supervisors directs the Planning Department to  
8 reevaluate the project based on the findings set forth above and in light of the whole record, to  
9 consider the cumulative effects of the project on biological resources and to consider the  
10 effect of the project, including any proposal to remove the 40-year old Acacia tree, on the  
11 street's unique character and urban setting and to determine whether substantial evidence  
12 supports a fair argument that the project may have potentially significant environmental  
13 effects; if not, to revise the negative declaration in light of the findings set forth above, to  
14 include mitigation measures as necessary and feasible, to mitigate any additional identified  
15 significant effects, or, if mitigation is not feasible, ; if so, to prepare an environmental impact  
16 report that discloses impacts that cannot be mitigated and considers project alternatives to  
17 mitigate the identified significant effects. the cumulative effect of the project in combination  
18 with other proposed projects on biological resources and provides an objective analysis of  
19 mitigation and a reasonable range of alternatives.

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