

1 [Preparation of Findings to Reverse Certification of the 935-965 Market Street Project Final  
2 Environmental Impact Report]

3 **Motion directing the Clerk of the Board to prepare findings reversing the certification of**  
4 **the Final Environmental Impact Report for the 935-965 Market Street Project.**

5  
6 WHEREAS, The Project Sponsor proposes to demolish three existing mixed-use  
7 commercial and office buildings and construct a new five-story, approximately 90-foot tall  
8 building, containing approximately 375,700 gross square feet and approximately 188 off-street  
9 parking spaces in a two-story underground garage, with three levels below grade, one for  
10 retail use and the other two for parking, at 935-965 Market Street, between Fifth and Sixth  
11 Streets (the "Project") within the C-3-G (Downtown General Commercial) and C-3-R  
12 (Downtown Retail) Zoning Districts and a 120-X Height and Bulk District; and

13 WHEREAS, The Project Sponsor applied for environmental review for the Project and  
14 for approvals under Planning Code Section 309, including an exception for off-street loading,  
15 a Variance of Code standards for gross floor area calculation for floors over 15 feet average  
16 height and to allow two over-sized openings, and Conditional Uses authorization for off-street  
17 parking in excess of accessory amounts and the demolition of a movie theater use  
18 (Application No. 2005.1074!EEK); and

19 WHEREAS, The Planning Department ("Department") determined that an  
20 Environmental Impact Report ("EIR") was required and provided public notice of that  
21 determination by publication in a newspaper of general circulation on October 1, 2008; and

22 WHEREAS, On November 4, 2009, the Department published the Draft Environmental  
23 Impact Report ("DEIR"); and

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1           WHEREAS, The Planning Commission held a duly advertised public hearing on the  
2 DEIR on December 10, 2009, at which time public comment was received on the DEIR and  
3 written comments were received through September 15, 2009; and

4           WHEREAS, The Department prepared responses to comments received at the public  
5 hearing and in writing during the public review period for the DEIR, prepared revisions to the  
6 text of the DEIR and published a Draft Comments and Responses document on May 12,  
7 2010; and

8           WHEREAS, A Final Environmental Impact Report (FEIR) was prepared by the  
9 Department, consisting of the DEIR, any consultations and comments received during the  
10 review process, any additional information that became available, and the Draft Comments  
11 and Responses document, all as required by law; and

12           WHEREAS, On July 8, 2010, the Commission reviewed and considered the FEIR and,  
13 by Motion No. 18135, found that the contents of said report and the procedures through which  
14 the FEIR was prepared, publicized, and reviewed comply with the provisions of the California  
15 Environmental Quality Act (CEQA), the State CEQA Guidelines, and Chapter 31 of the San  
16 Francisco Administrative Code; and

17           WHEREAS, By Motion No. 18135, the Commission found the FEIR reflected the  
18 independent judgment and analysis of the Department and Commission, was adequate,  
19 accurate and objective, and that the Comments and Responses document contained no  
20 significant revisions to the DEIR and certified the FEIR, finding that the Project described in  
21 the FEIR will have a project-specific significant and unavoidable effect on the environment  
22 through a traffic impact at the intersection of Fifth and Stevenson Streets, and contribute to  
23 significant and unavoidable cumulative impacts through a cumulative considerable  
24 contribution to 2030 cumulative traffic increases at the intersections of Fifth and Stevenson  
25

1 Streets and Fifth and Mission Streets, and a cumulatively considerable contribution to a green  
2 house gas air quality impact; and

3 WHEREAS, By Motion No. 18135, the Commission approved the Project, adopting  
4 CEQA findings related to the Project approvals, including a statement of overriding  
5 consideration, and adopting a Mitigation Monitoring and Reporting Program for the Project;

6 WHEREAS, On July 28, 2010, Arthur D. Levy, on behalf of Livable City, Walk San  
7 Francisco, filed an appeal of the FEIR with the Clerk of the Board of Supervisors; and,

8 WHEREAS, The Board of Supervisors held a public hearing on the Project to review  
9 the decision by the Planning Commission to certify the FEIR; and

10 WHEREAS, The Board has reviewed and considered the FEIR, the appeal letter(s), the  
11 responses to concerns document that the Planning Department prepared, the other written  
12 records before the Board of Supervisors, and heard testimony and received public comment  
13 regarding the adequacy of the FEIR; and

14 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors  
15 reversed the Commission's decision to certify the FEIR for the Project based on the written  
16 record before the Board of Supervisors as well as all of the testimony at the public hearing in  
17 support of and opposed to the appeal; and

18 WHEREAS, The FEIR files and all correspondence and other documents have been  
19 made available for review by the Board of Supervisors, the Commission, and the public, which  
20 files are available for public review by appointment at the Department offices at 1650 Mission  
21 Street, and are part of the record before the Board of Supervisors; now therefore be it,

22 MOVED, That this Board of Supervisors directs the Clerk of the Board to prepare the  
23 findings specifying the basis for its decision reversing the certification of the FEIR by the  
24 Commission for the Project.



**City and County of San Francisco**

**Tails**

**Motion: M10-134**

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San Francisco, CA 94102-4689

**File Number:** 101030

**Date Passed:** September 14, 2010

Motion directing the Clerk of the Board to prepare findings reversing the certification of the Final Environmental Impact Report for the 935-965 Market Street Project.

September 14, 2010 Board of Supervisors - APPROVED

Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell and Mirkarimi

Absent: 2 - Alioto-Pier and Elsbernd

File No. 101030

I hereby certify that the foregoing Motion was APPROVED on 9/14/2010 by the Board of Supervisors of the City and County of San Francisco.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo  
Clerk of the Board