

1 [Adopting Findings Reversing the Final Mitigated Negative Declaration - 3516 and 3526
2 Folsom Street]

3 **Motion adopting findings reversing the approval by the Planning Commission of a final**
4 **mitigated negative declaration under the California Environmental Quality Act for a**
5 **proposed project at 3516 and 3526 Folsom Street.**

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7 WHEREAS, The Planning Commission approved a final mitigated negative declaration
8 under the California Environmental Quality Act (“CEQA”), the CEQA Guidelines, and
9 Administrative Code, Chapter 31 for a proposed project located at 3516 and 3526 Folsom
10 Street (“Project”); and

11 WHEREAS, The proposed Project involves the construction of two single-family
12 residences on two vacant lots along the west side of the unimproved portion of Folsom Street,
13 the construction of the connecting segment of Folsom Street to provide vehicle and pedestrian
14 access to the Project site, and the construction of a stairway between Folsom Street and
15 Bernal Heights Boulevard; and

16 WHEREAS, Each single-family home would be 27 feet tall, two stories over-garage
17 with two off-street vehicle parking spaces accessed from a twelve-foot-wide garage door; and

18 WHEREAS, The Planning Department published a Preliminary Mitigated Negative
19 Declaration (“PMND”) for the proposed Project on April 26, 2017; and

20 WHEREAS, On May 16, 2017, Kathy Angus, for the Bernal Heights South Slope
21 Organization filed an appeal of the Planning Department’s decision to issue the PMND; and

22 WHEREAS, On June 15, 2017, the Planning Commission held a publically-noticed
23 hearing on the PMND, denied the appeal, and finalized the PMND (“FMND”) by Motion
24 No. 19945; and

1 WHEREAS, On June 15, 2017, the Planning Commission declined to take
2 discretionary review of the proposed project, and approved the Project as proposed; and

3 WHEREAS, On July 17, 2017, Ryan Patterson of Zacks, Freeman and Patterson, on
4 behalf of Bernal Heights South Slope Organization, Bernal Safe & Livable, Neighbors Against
5 the Upper Folsom Street Extension, Gail Newman and Ann Lockett (“Appellants”) filed a letter
6 appealing the FMND; and

7 WHEREAS, The Planning Department’s Environmental Review Officer, by
8 memorandum to the Clerk of the Board dated July 24, 2017, determined that the appeal was
9 timely; and

10 WHEREAS, On September 12, 2017, this Board held a duly noticed public hearing to
11 consider the appeal of the FMND filed by Appellants and, following the public hearing,
12 conditionally reversed the Planning Commission’s approval of the FMND subject to the
13 adoption of written findings in support of such determination, and requested additional
14 information and analysis be provided; and

15 WHEREAS, In reviewing the appeal of the FMND, this Board reviewed and considered
16 the FMND, the appeal letter and supporting documents, the responses to concerns document
17 that the Planning Department prepared, the other written records before the Board of
18 Supervisors and all of the public testimony made in support of and opposed to the FMND
19 appeal; and

20 WHEREAS, The Board finds that the letters and public comment presented in support
21 of and against the appeal, including comment letters presented to the Board on September 11
22 and 12, 2017, raise important questions regarding how project construction activities could
23 create vibration impacts on PG&E Pipeline No. 109; and

1 WHEREAS, In light of this new information, the Board has requested that the Planning
2 Department undertake further analysis with respect to the specific issue of the potential
3 vibration impacts of project construction on PG&E Pipeline 109; and

4 WHEREAS, This Board considered these issues, heard testimony, and shared
5 concerns that further information and analysis was required regarding whether the proposed
6 project would cause construction impacts to PG&E Pipeline No. 109; and

7 WHEREAS, The written record and oral testimony in support of and opposed to the
8 appeal and deliberation of the oral and written testimony at the public hearing before the
9 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
10 the FMND is in the Clerk of the Board of Supervisors File No. 170851 and is incorporated in
11 this motion as though set forth in its entirety; now, therefore, be it

12 MOVED, That this Board of Supervisors directs the Planning Department to provide
13 additional information and analysis regarding whether the proposed project construction would
14 result in vibration impacts on PG&E Pipeline No. 109 that could create a risk to public safety;
15 and, be it

16 FURTHER MOVED, In conducting any such additional environmental analysis, the
17 Planning Department shall enlist an independent qualified expert to use all appropriate
18 methods to determine the location, depth and condition of Pipeline No. 109 in the project area
19 and prepare a Vibration Management Plan for the project prior to the issuance of the revised
20 environmental review document; and, be it

21 FURTHER MOVED, That the Vibration Management Plan shall specify what types of
22 construction equipment may be used at the project and any limitations on the use or storage
23 of such equipment in the project vicinity, the specific roles of the Planning Department,
24 Department of Building Inspection, PG&E and any other necessary party in monitoring and
25 enforcing the recommendations of the Vibration Monitoring Plan, and any appropriate safety

1 protocols that must be employed during project construction, including communications
2 between the contractors and PG&E, to reduce the risk of damage to the pipeline; and, be it

3 FURTHER MOVED, That the Vibration Management Plan shall be reviewed and
4 approved by the Planning Department and PG&E prior to issuance of the revised
5 environmental review document; and, be it

6 FURTHER MOVED, That the Planning Department shall incorporate any
7 recommendations of the approved Vibration Management Plan into the mitigation included in
8 the revised environmental review document; and, be it

9 FURTHER MOVED, As to all other issues, the Board finds the FMND conforms to the
10 requirements of CEQA and is adequate, accurate, and objective, the record does not include
11 substantial evidence to support a fair argument that the project may have a significant effect
12 on the environment, and no further analysis is required.

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