

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.

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

15 On November 29, 2004, the Clerk of the Board received an appeal of the negative
16 declaration from Arthur Chang, Katherine Petrin and Carolyn Blair ("Appellants").

17 This Board held a duly noticed public hearing on January 4, 2005, to consider the
18 negative declaration appeal filed by Appellants. Following the conclusion of the public hearing
19 the Board reversed the Planning Department's approval of the negative declaration for 329
20 Bay Street based on the whole record before the Board including the written record in File No.
21 041718, which is hereby declared to be a part of this motion as if set forth fully herein; the
22 written submissions to and official written records of the Planning Department determination
23 on the negative declaration and subsequent determinations of the Planning Department
24 related to the 329 Bay Street project; the official written and oral testimony at and audio and
25 video records of the public hearing in support of and opposed to the appeal and deliberation

1 of the oral and written testimony at the public hearing before the Board of Supervisors by all
2 parties and the public in support of and opposed to the appeal of the negative declaration.

3 MOVED, That the Board of Supervisors finds that the negative declaration is
4 inadequate and incomplete in its consideration of the environmental context and setting in that
5 the mitigated negative declaration did not consider the unique character that the street has
6 due to the tree canopy on the street created by the intimate street scale and the number of
7 trees on the street, unlike other streets in the immediate vicinity of the project.

8 FURTHER MOVED, That the Board of Supervisors finds that there appears to be
9 substantial evidence to support a fair argument that the project may have potentially
10 significant environmental effects not considered in the final mitigated negative declaration as a
11 result of the cumulative effect on biological resources that may occur from removal of several
12 trees from this section of Vandewater Street. According to Appellants, a project is proposed
13 at 84 Vandewater Street, where two street trees are located. The project sponsor's stated
14 reasons for removal of the Acacia tree appear to be present in the case of 84 Vandewater
15 Street and the other tree fronting on Vandewater Street at the 329 Bay Street project.
16 Therefore, Appellants presented substantial evidence that several trees may need to be
17 removed from this section of Vandewater Street to accommodate the 329 Bay Street project
18 and the 84 Vandewater Street project. The negative declaration did not analyze the effect on
19 biological resources of the removal of several trees on this section of Vandewater Street.

20 FURTHER MOVED, That the Board of Supervisors directs the Planning Department to
21 reevaluate the project based on the findings set forth above and in light of the whole record, to
22 determine whether substantial evidence supports a fair argument that the project may have
23 potentially significant environmental effects; if not, to revise the negative declaration in light of
24 the findings set forth above; if so, to prepare an environmental impact report that discloses
25 and considers the cumulative effect of the project in combination with other proposed projects

1 on biological resources and provides an objective analysis of mitigation and a reasonable
2 range of alternatives.

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