

1 [Adopting Findings Reversing the Exemption Determination for the 424 Francisco Street
2 Project]

3 **Motion adopting findings reversing the determination by the Planning Department that**
4 **the 424 Francisco Street project is exempt from further environmental review.**
5

6 WHEREAS, On or about March 10, 2010, the Planning Department approved a project
7 to install a garage in the existing multi-family residential building located at 424 Francisco
8 Street (the "Project") and, as indicated by an exemption determination stamp on the building
9 permit, determined that the Project was exempt from further environmental review under the
10 California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and San Francisco
11 Administrative Code Chapter 31 as a Class 1 categorical exemption, for a minor alteration of
12 an existing facility (the "exemption determination").
13

14 WHEREAS, By letters to the Clerk of the Board, Malcolm Yeung, on behalf of the
15 Chinatown Community Development Center, and Vedica Puri, on behalf of the Telegraph Hill
16 Dwellers, (collectively, "Appellants"), received by the Clerk's Office on or around March 30,
17 2010, appealed the exemption determination; and

18 WHEREAS, On May 11, 2010, this Board held a duly noticed public hearing to consider
19 the appeal of the exemption determination filed by Appellants; and

20 WHEREAS, This Board reviewed and considered the exemption determination, the
21 appeal letters, the responses to concerns document that the Planning Department prepared,
22 the other written records before the Board of Supervisors and all of the public testimony made
23 in support of and opposed to the exemption determination appeal; and

24 WHEREAS, The exemption determination files and all correspondence and other
25 documents have been made available for review by this Board and the public. These files are

1 available for public review by appointment at the Planning Department offices at 1650 Mission
2 Street, and are part of the record before this Board by reference in this motion; and

3 WHEREAS, CEQA provides that a proposed project may not be considered
4 categorically exempt from further environmental review if substantial evidence in the record
5 supports a fair argument that the project may have a significant effect on the environment.
6 Additionally, CEQA Guidelines Section 15300.2 provides that a project shall not be exempt
7 from environmental review if the project may cause a substantial adverse change in the
8 significance of an historic resource or where the project may contribute to a cumulative impact
9 or impacts; and

10 WHEREAS, This Board considered these issues, heard testimony, and shared
11 concerns that substantial evidence in the record supported a fair argument that the proposed
12 project may contribute to potential cumulative impacts to transportation, neighborhood
13 character and land use, and historic resources, and may cause a significant project-level
14 impact to an historic resource (specifically, the project site); and

15 WHEREAS, This Board heard and shared concerns that the proposed project may
16 contribute to a potential cumulative impact to transportation because the addition of garage
17 parking spaces to a residence (specifically, a residence, such as this one, of four or more
18 units), when considered together with past, present, and probable future projects in the
19 Broadway Neighborhood Commercial District, the North Beach Neighborhood Commercial
20 District, the Chinatown Mixed-Use Districts, and the Telegraph Hill-North Beach Residential
21 Special Use District, may result in increased traffic congestion; and

22 WHEREAS, The proposed project site has been determined to be a potential historic
23 resource and was treated as such for the purposes of CEQA by the Planning Department; and

24 WHEREAS, This Board heard expert testimony supporting a fair argument that the
25 proposed project may have a significant impact on an historic resource (the project site) due

1 to the addition of the garage entrance and other alterations to the street-facing facade of the
2 building, and that a dispute among experts exists as to whether the proposed project may
3 have a significant impact to the historic resource on the project site; and

4 WHEREAS, The Planning Department did not provide notice of the categorical
5 exemption determination for this project under Section 31.08(f) of the Administrative Code.
6 The Planning Department had interpreted Section 31.08(f) to require notice of exemption
7 determinations for certain types of projects only where a "written determination" of exemption
8 had been made; and

9 WHEREAS, This Board clarified that for those types of projects listed in Section
10 31.08(f) of the Administrative Code (specifically, for projects involving historical resources as
11 defined by CEQA, receiving Class 31 or Class 32 exemptions, or demolishing existing
12 structures), notice shall be provided whenever an exemption determination is made, including,
13 as here, where the exemption determination is made by a stamp on the proposed project's
14 building permit; and

15 WHEREAS, Following the conclusion of the public hearing on May 11, 2010, the Board
16 of Supervisors reversed the exemption determination for the Project based on the written
17 record before it, including the Planning Department files and the written documents and
18 information on file with the Clerk of the Board of Supervisors in File No. 100415, as well as all
19 of the testimony at the public hearing in support of and opposed to the appeal; now therefore
20 be it

21 MOVED, That this Board of Supervisors finds that Appellant has both presented and
22 directed attention to substantial evidence in the record supporting a fair argument that the
23 proposed project may contribute considerably to potential cumulative impacts to
24 transportation, neighborhood character and land use, and historical resources and that a
25

1 dispute among experts exists as to whether the project may cause a significant project-level
2 impact to an historical resource (the project site); and

3 FURTHER MOVED, That this Board finds that the Planning Department should have
4 provided notice of the exemption determination as required by Section 31.08(f) of the
5 Administrative Code; and

6 FURTHER MOVED, That this Board directs the Planning Department to prepare an
7 environmental impact report (EIR) analyzing the proposed project's potentially significant
8 environmental impacts, as required by CEQA. Specifically, such EIR shall analyze: (1)
9 whether a cumulative impact to transportation due to the addition of parking to residential
10 buildings of four or more units in the Broadway Neighborhood Commercial District, the North
11 Beach Neighborhood Commercial District, the Chinatown Mixed-Use Districts, and the
12 Telegraph Hill-North Beach Residential Special Use District exists and, if so, whether the
13 proposed project would contribute in a cumulatively considerable manner to such an impact;
14 (2) whether cumulative impacts to neighborhood character, land use, and historic resources
15 exist and, if so, whether the proposed project would contribute in a cumulatively considerable
16 manner to such impacts; and (3) whether the proposed project will result in a project-level
17 impact to an historical resource due to the addition of the garage entrance and other
18 alterations to the street-facing facade of the subject building.