File No. 221038 **Committee Item No.** _____
Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____ **Date:** _____
Board of Supervisors Meeting **Date:** November 1, 2022

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Prepared by: Lisa Lew **Date:** October 28, 2022
Prepared by: _____ **Date:** _____

[Affirming the Categorical Exemption Determination - 45 Bernard Street]

Motion affirming the determination by the Planning Department that the proposed project at 45 Bernard Street is categorically exempt from further environmental review.

WHEREAS, On April 13, 2021, the Planning Department issued a CEQA Categorical Exemption Determination for the proposed project located at 45 Bernard Street (“Project”) under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and San Francisco Administrative Code, Chapter 31; and

WHEREAS, The project site is an approximately 1,380 square foot (23-foot in width by 60-foot in length) lateral and down sloping lot and contains an existing 2,994 square foot, three-story, four-residential-unit building, located mid-block along Bernard Street in the Nob Hill neighborhood, on the block bounded by Bernard Street to the north, Taylor Street to the east, Pacific Avenue to the south and Jones Street to the west; and

WHEREAS, The Project proposes construction of a four-story horizontal rear addition to the existing on-site 2,994 square foot, multi-unit residential building at 45 Bernard Street; the proposed four-story addition encompasses the existing basement, first floor, second floor, and third floor of the existing structure; and

WHEREAS, On July 15, 2022, the project sponsor submitted modified project plans for the Proposed Project resulting in the reduction of the proposed rear addition/rear wall extension by two feet; later revised project drawings also incorporated the removal of a proposed fire escape at the rear, the addition of exterior decks, and a spiral stair to a roof deck; the roof deck was pulled back from the building edges from the original project proposal; and

WHEREAS, On November 7, 2021, the project sponsor filed a separate Accessory Dwelling Unit ("ADU") application to legalize an Unauthorized Dwelling Unit ("UDU") on the project site; and

WHEREAS, Pursuant to Article 19 of the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, Sections 15300-15333), on April 13, 2021, the Planning Department found that the proposed Project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption ("exemption determination"); and

WHEREAS, On August 25, 2022, the San Francisco Planning Commission (Commission) conducted a duly noticed public hearing at a regularly scheduled commission meeting on Discretionary Review Application 2020-005176DRP, took the Discretionary Review requested and approved the Proposed Project with modifications; and

WHEREAS, On September 26, 2022, Brian O'Neill of Zacks, Freedman & Patterson PC, on behalf of the Upper Chinatown Neighborhood Association ("Appellant") filed an appeal with the Office of the Clerk of the Board of Supervisors of the exemption determination; and

WHEREAS, By memorandum to the Clerk of the Board dated September 29, 2022, the Planning Department's Environmental Review Officer determined that the appeal was timely filed; and

WHEREAS, On November 1, 2022, this Board held a duly noticed public hearing to consider the appeal of the exemption determination filed by Appellant; and

WHEREAS, In reviewing the appeal of the exemption determination, this Board reviewed and considered the exemption determination, the appeal letter, the responses to the appeal documents that the Planning Department prepared, the other written records before the Board of Supervisors and all of the public testimony made in support of and opposed to the exemption determination appeal; and

WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors affirmed the exemption determination for the Project based on the written record before the Board of Supervisors as well as all of the testimony at the public hearing in support of and opposed to the appeal; and

WHEREAS, The written record and oral testimony in support of and opposed to the appeal and the oral and written testimony at the public hearing before the Board of Supervisors by all parties and the public in support of and opposed to the appeal of the exemption determination, including the deliberations by the members of the Board, is in the Clerk of the Board of Supervisors File No. 220137, and is incorporated in this Motion as though set forth in its entirety; now, therefore, be it

MOVED, That the Board of Supervisors hereby adopts as its own and incorporates by reference in this Motion, as though fully set forth, the exemption determination; and, be it

FURTHER MOVED, That the Board of Supervisors finds that based on the whole record before it there are no substantial project changes, no substantial changes in project circumstances, and no new information of substantial importance that would change the conclusions set forth in the exemption determination by the Planning Department that the Project is exempt from environmental review; and, be it

FURTHER MOVED, That after carefully considering the appeal of the exemption determination, including the written information submitted to the Board of Supervisors and the public testimony presented to the Board of Supervisors at the hearing on the exemption determination, this Board concludes that the Project qualifies for an exemption determination under CEQA.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)

☐ 2. Request for next printed agenda Without Reference to Committee.

☒ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor _____ inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. _____ from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. _____

☐ 9. Reactivate File No. _____

☐ 10. Question(s) submitted for Mayoral Appearance before the BOS on _____

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Affirming the Categorical Exemption Determination - 45 Bernard Street

The text is listed below or attached:

Motion affirming the determination by the Planning Department that the proposed project at 45 Bernard Street is categorically exempt from further environmental review.

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: