

1 [Affirming the Exemption Determination - 435-437 Potrero Avenue]

2

3 **Motion affirming the determination by the Planning Commission that a project located**
4 **at 435-437 Potrero Avenue is exempt from environmental review.**

5

6 WHEREAS, The Planning Commission has determined that a project located at 435-
7 437 Potrero Avenue is exempt from environmental review under the California Environmental
8 Quality Act ("CEQA"), the CEQA Guidelines, and San Francisco Administrative Code Chapter
9 31. The proposed project involves establishment of an internet services exchange to occupy
10 the entirety of an existing 10,000 square foot building. By letter to the Clerk of the Board,
11 received on August 12, 2013, Mica I. Ringel (Appellant) appealed the exemption
12 determination. The Appellant provided a copy of the Planning Commission's Motion No.
13 18921, dated July 11, 2013, approving a conditional use application for the proposed project,
14 which motion found that the proposed project was exempt under Class 1 of the CEQA
15 Guidelines as a minor alteration to an existing facility (14 Cal. Code Reg. §15301 et seq.); and

16 WHEREAS, On September 24, 2013, this Board held a duly noticed public hearing to
17 consider the appeal of the exemption determination filed by Appellant and, following the public
18 hearing, affirmed the exemption determination; and

19 WHEREAS, In reviewing the appeal of the exemption determination, this Board
20 reviewed and considered the exemption determination, the appeal letter, the responses to
21 concerns document that the Planning Department prepared, the other written records before
22 the Board of Supervisors and all of the public testimony made in support of and opposed to
23 the exemption determination appeal. Following the conclusion of the public hearing, the Board
24 of Supervisors affirmed the exemption determination for the project based on the written
25 record before the Board of Supervisors as well as all of the testimony at the public hearing in

1 support of and opposed to the appeal. The written record and oral testimony in support of and
2 opposed to the appeal and deliberation of the oral and written testimony at the public hearing
3 before the Board of Supervisors by all parties and the public in support of and opposed to the
4 appeal of the exemption determination is in the Clerk of the Board of Supervisors File No.
5 130805 and is incorporated in this motion as though set forth in its entirety; now therefore be it

6 MOVED, That the Board of Supervisors of the City and County of San Francisco
7 hereby adopts as its own and incorporates by reference in this motion, as though fully set
8 forth, the exemption determination; and be it

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

14 FURTHER MOVED, That after carefully considering the appeal of the exemption
15 determination, including the written information submitted to the Board of Supervisors and the
16 public testimony presented to the Board of Supervisors at the hearing on the exemption
17 determination, this Board concludes that the project qualifies for a exemption determination
18 under CEQA.

19

20 n:\landuse\mbyrne\bos ceqa appeals\435-437 potrero cat ex aff.doc

21

22

23

24

25