

1 [Reversing the Certification of the 260 5th Street Project Final Environmental Impact Report]

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3 **Motion reversing the certification by the Planning Commission of the Final**  
4 **Environmental Impact Report for the 260 5th Street Project.**

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6 WHEREAS, the Project Sponsor proposes to demolish an existing light industrial  
7 building on the site and construct a 9-story, 85-foot tall building with a basement level parking  
8 garage, creating up to 179 dwelling units, approximately 5,281 square feet of ground floor  
9 commercial space along 5th Street, and up to 102 off-street parking spaces (including  
10 stackers). Open space is provided on private balconies and two rooftop decks; and

11 WHEREAS, the Project Sponsor applied for environmental review for the Project and  
12 for approvals under Planning Code Section 329 for a Large Project and for exceptions,  
13 including, to rear yard requirements, to obstructions permitted over a sidewalk, to dwelling unit  
14 exposure requirements, to provide off-street parking spaces pursuant, to vertical  
15 non-habitable architectural elements requirements, and to horizontal mass reduction  
16 requirements (City Planning File 2007.0690EKX); and

17 WHEREAS, The Planning Department ("Department") determined that an  
18 Environmental Impact Report ("EIR") was required and provided public notice of that  
19 determination by publication in a newspaper of general circulation on June 11, 2008; and

20 WHEREAS, On July 29, 2009, the Department published the Draft Environmental  
21 Impact Report ("DEIR"); and

22 WHEREAS, The Planning Commission held a duly advertised public hearing on the  
23 DEIR on September 10, 2009, at which time public comment was received on the DEIR and  
24 written comments were received through September 15, 2009; and

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1           WHEREAS, The Department prepared responses to comments received at the public  
2 hearing and in writing during the 45-day public review period for the DEIR, prepared revisions  
3 to the text of the DEIR and published a Draft Comments and Responses document on May 6,  
4 2010; and

5           WHEREAS, A Final Environmental Impact Report (FEIR) was prepared by the  
6 Department, consisting of the DEIR, any consultations and comments received during the  
7 review process, any additional information that became available, and the Draft Comments  
8 and Responses document, all as required by law; and

9           WHEREAS, On May 20, 2010, the Commission reviewed and considered the FEIR  
10 and, by Motion No. 18087, found that the contents of said report and the procedures through  
11 which the FEIR was prepared, publicized, and reviewed comply with the provisions of the  
12 California Environmental Quality Act (CEQA), the State CEQA Guidelines, and Chapter 31 of  
13 the San Francisco Administrative Code; and

14           WHEREAS, By Motion No. 18087, the Commission found the FEIR reflected the  
15 independent judgment and analysis of the Department and Commission, was adequate,  
16 accurate and objective, and that the Comments and Responses document contained no  
17 significant revisions to the DEIR and certified the FEIR, finding that the Project described in  
18 the FEIR will have a project-specific significant and unavoidable effect on the environment  
19 through the loss of opportunity for Production, Distribution, and Repair use on the Project site  
20 and will have a cumulative significant and unavoidable effect on the environment through  
21 demolition of a contributory building to a California Register-eligible historic district; and

22           WHEREAS, By Motion No. 18087, the Commission approved the Project, adopting  
23 CEQA findings related to the Project approvals, including a statement of overriding  
24 consideration, and adopting a Mitigation Monitoring and Reporting Program for the Project;

1           WHEREAS, On June 9, 2010, Angelica Cabande, on behalf of South of Market  
2 Community Action Network (SOMCAN), and Roy Recio, on behalf of Manilatown Heritage  
3 Foundation, filed appeals of the FEIR with the Clerk of the Board of Supervisors; and,

4           WHEREAS, The Board of Supervisors held a public hearing on the Project to review  
5 the decision by the Planning Commission to certify the FEIR; and

6           WHEREAS, The Board has reviewed and considered the FEIR, the appeal letter(s), the  
7 responses to concerns document that the Planning Department prepared, the other written  
8 records before the Board of Supervisors, and heard testimony and received public comment  
9 regarding the adequacy of the FEIR; and

10          WHEREAS, The FEIR files and all correspondence and other documents have been  
11 made available for review by the Board of Supervisors, the Commission, and the public, which  
12 files are available for public review by appointment at the Department offices at 1650 Mission  
13 Street, and are part of the record before the Board of Supervisors; now therefore be it,

14          MOVED, This Board hereby reverses the decision of the Planning Commission in its  
15 Motion No. 18087 to certify the FEIR.