

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.**

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

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

WHEREAS, The exemption determination files and all correspondence and other
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 finds
11 substantial evidence in the record to support a fair argument that the proposed Project may
12 contribute to potential cumulative impacts to transportation, neighborhood character and land
13 use, and historic resources, and may cause a significant project-level impact to an historic
14 resource (specifically, the project site); and

15 WHEREAS, This Board finds that the proposed Project may contribute to a potential
16 cumulative impact to transportation because the addition of garage parking spaces to a
17 residence (specifically, a residence, such as this one, of four or more units), when considered
18 together with past, present, and probable future projects in the Broadway Neighborhood
19 Commercial District, the North Beach Neighborhood Commercial District, the Chinatown
20 Mixed-Use Districts, and the Telegraph Hill-North Beach Residential Special Use District, may
21 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, the raising of the building, and other alterations to the
2 street-facing facade of the building, and that a dispute among experts exists as to whether the
3 proposed project may have a significant impact to the historic resource on the project site; and

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

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

15 MOVED, That this Board of Supervisors grants the appeal of the exemption
16 determination and finds that Appellant has both presented and directed attention to
17 substantial evidence in the record supporting a fair argument that the proposed project may
18 contribute considerably to potential cumulative impacts to transportation, neighborhood
19 character and land use, and historical resources and that a dispute among experts exists as
20 to whether the project may cause a significant project-level impact to an historical resource
21 (the project site); and

22 FURTHER MOVED; That this Board finds that the Planning Department should have
23 provided notice of the exemption determination as required by Section 31.08(f) of the
24 Administrative Code; and
25

1 FURTHER MOVED, That this Board directs that the categorical exemption is void and
2 that any further consideration of project approval must be preceded by preparation of an
3 environmental impact report (EIR) analyzing the proposed project's potentially significant
4 environmental impacts, as required by CEQA. Specifically, such EIR shall analyze: (1)
5 whether a cumulative impact to transportation due to the addition of parking to residential
6 buildings in the Broadway Neighborhood Commercial District, the North Beach Neighborhood
7 Commercial District, the Chinatown Mixed-Use Districts, and the Telegraph Hill-North Beach
8 Residential Special Use District exists and, if so, whether the proposed project would
9 contribute in a cumulatively considerable manner to such an impact; (2) whether cumulative
10 impacts to neighborhood character, land use, and historic resources exist and, if so, whether
11 the proposed project would contribute in a cumulatively considerable manner to such impacts;
12 and (3) whether the proposed project will result in a project-level impact to an historical
13 resource due to the addition of the garage entrance and other alterations to the street-facing
14 facade of the subject building.

15 FURTHER MOVED, That this Board directs that for those types of projects listed in
16 Section 31.08(f) of the Administrative Code (specifically, for projects involving historical
17 resources as defined by CEQA, receiving Class 31 or Class 32 exemptions, or demolishing
18 existing structures), mailed notice is required to be given to any individuals or organizations
19 that have previously requested such notice and shall be provided whenever an exemption
20 determination is made, including, without limitation, where as here, where an exemption
21 determination is made by a stamp on the proposed project's building permit.



City and County of San Francisco

Tails

Motion: M10-88

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 100638

Date Passed: May 25, 2010

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

May 19, 2010 Board of Supervisors - ASSIGNED

May 25, 2010 Board of Supervisors - AMENDED

Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Noes: 2 - Alioto-Pier and Elsbernd

May 25, 2010 Board of Supervisors - NOT AMENDED

Ayes: 4 - Alioto-Pier, Chu, Dufty and Elsbernd
Noes: 7 - Avalos, Campos, Chiu, Daly, Mar, Maxwell and Mirkarimi

May 25, 2010 Board of Supervisors - APPROVED AS AMENDED

Ayes: 7 - Avalos, Campos, Chiu, Daly, Mar, Maxwell and Mirkarimi
Noes: 4 - Alioto-Pier, Chu, Dufty and Elsbernd

File No. 100638

I hereby certify that the foregoing Motion was APPROVED AS AMENDED on 5/25/2010 by the Board of Supervisors of the City and County of San Francisco.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board