[Affirming the Certification of the 935-965 Market Street Project Final Environmental Impact Report]

Motion affirming the certification by the Planning Commission of the Final Environmental Impact Report for the 935-965 Market Street Project.

WHEREAS, The Project Sponsor proposes to demolish three existing mixed-use commercial and office buildings and construct a new five-story, approximately 90-foot tall building, containing approximately 375,700 gross square feet and approximately 188 off-street parking spaces in a two-story underground garage, with three levels below grade, one for retail use and the other two for parking, at 935-965 Market Street, between Fifth and Sixth Streets (the "Project") within the C-3-G (Downtown General Commercial) and C-3-R (Downtown Retail) Zoning Districts and a 120-X Height and Bulk District; and

WHEREAS, The Project Sponsor applied for environmental review for the Project and for approvals under Planning Code Section 309, including an exception for off-street loading, a Variance of Code standards for gross floor area calculation for floors over 15 feet average height and to allow two over-sized openings, and Conditional Uses authorization for off-street parking in excess of accessory amounts and the demolition of a movie theater use (Application No. 2005.1074!EEK); and

WHEREAS, The Planning Department ("Department") determined that an Environmental Impact Report ("EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on October 1, 2008; and

WHEREAS, On November 4, 2009, the Department published the Draft Environmental Impact Report ("DEIR"); and
WHEREAS, The Planning Commission held a duly advertised public hearing on the DEIR on December 10, 2009, at which time public comment was received on the DEIR and written comments were received through September 15, 2009; and

WHEREAS, The Department prepared responses to comments received at the public hearing and in writing during the public review period for the DEIR, prepared revisions to the text of the DEIR and published a Draft Comments and Responses document on May 12, 2010; and

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

WHEREAS, On July 8, 2010, the Commission reviewed and considered the FEIR and, by Motion No. 18135, found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, By Motion No. 18135, the Commission found the FEIR reflected the independent judgment and analysis of the Department and Commission, was adequate, accurate and objective, and that the Comments and Responses document contained no significant revisions to the DEIR and certified the FEIR, finding that the Project described in the FEIR will have a project-specific significant and unavoidable effect on the environment through a traffic impact at the intersection of Fifth and Stevenson Streets, and contribute to significant and unavoidable cumulative impacts through a cumulative considerable contribution to 2030 cumulative traffic increases at the intersections of Fifth and Stevenson...
Streets and Fifth and Mission Streets, and a cumulatively considerable contribution to a greenhouse gas air quality impact; and

WHEREAS, By Motion No. 18135, the Commission approved the Project, adopting CEQA findings related to the Project approvals, including a statement of overriding consideration, and adopting a Mitigation Monitoring and Reporting Program for the Project;

WHEREAS, On July 28, 2010, Arthur D. Levy, on behalf of Livable City, Walk San Francisco, filed an appeal of the FEIR with the Clerk of the Board of Supervisors; and,

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

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

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

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 FEIR; and be it

FURTHER MOVED, That after carefully considering the appeal of the FEIR, including the written information submitted to the Board of Supervisors and the public testimony presented to the Board of Supervisors, this Board hereby affirms the decision of the Planning Commission in its Motion No. 18135 to certify the FEIR and finds the FEIR to be complete,
adequate and objective and reflecting the independent judgment of the City and in compliance with CEQA, the State CEQA Guidelines, and Administrative Code Chapter 31.
Motion affirming the certification by the Planning Commission of the Final Environmental Impact Report for the 935-965 Market Street Project.

September 14, 2010 Board of Supervisors - APPROVED

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

I hereby certify that the foregoing Motion was APPROVED on 9/14/2010 by the Board of Supervisors of the City and County of San Francisco.

[Signature]
Angela Calvillo
Clerk of the Board