

Letter of Appeal of Categorical Exemption ("C.E.") 2018-003700PRJ

To: Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<Angela.calvillo@sfgov.org> 415-554-7630

Attn: Brent Jalipa, Legislative Clerk
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<Brent.jalipa@sfgov.org> 415-554-5184

Cc: Aaron Peskin, Supervisor, and District 3
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<aaron.peskin@sfgov.org> 415-554-7450

Cc: John Rahaim, Director
San Francisco Planning Department
1650 Mission Street #400 / SF CA 94103
<john.rahaim@sfgov.org> 415-558.6350

Cc: Elizabeth Jonckheer, Project Planner, S F Planning Department
<elizabeth.gordon-jonckheer@sfgov.org> 415-575-8728

August 16, 2108

Dear Board of Supervisors Clerk Calvillo,

Thank you for accepting this appeal of the above referenced Categorical Exemption for consideration, discussion and vote by the San Francisco Board of Supervisors.

Per San Francisco Administrative Code §31.16(e)(1), this Appeal of C.E. 2018-003700PRJ, consequent to the proposed closure of Washington Square, a park in San Francisco, California and a "known Historic resource," we submit this Appeal to the San Francisco Board of Supervisors. The park in question is a Planning Code Section 10 Landmark.

The Categorical Exemption was inadequately researched. It violates the Landmark Designation of the Park. Notice for consideration by the public of this Exemption and of its effect on the Landmark was inadequate and meets neither the standards of Administrative Code Section §31.04(G) nor the general purposes and mandate of CEQA (§31.01 through §31.04) nor the Community Meeting Schedule guaranteed and promulgated by the City in the

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2018 AUG 16 PM 1:17
BY [Signature]

Memorandum of Understanding between Rec and Park Department and the Public Utilities Commission. (July 20, 2018)

An appeal in this matter, by the current appellants, plus the North Beach Business Association, was filed on June 15, 2018 at this same department, namely, the Clerk of the Board of Supervisors of the City and County of San Francisco (hereinafter "the Clerk").

We the undersigned appellants incorporate by reference all comments and appendices made in that original appeal, a copy of which is attached.

[SEE "ORIGINAL APPEAL, FILED JUNE 15, 2018"]

We vehemently disagree and protest the reasons given us at the time of the appeal for the Clerk's refusal to certify it; namely, that the appeal was filed "too early" because the "Approval Action" had not yet occurred.

The evidence presented here shows that the Action Approval was set in motion under the law and with proper notice to all parties on May 16, 2018. At the time, and perior to the determination that the appeal was utimely (because "too early"), the Clerk and other representatives of the City and County responded positively to appellants' questions regarding the date of the Approval Action. All agreed that the Approval Action date was May 16.

As the City and County had access to legal advice from the City Attorney's office at that time, and, additionally, had access to advice from the office of the Chief Environmental Officer, Lisa Gibson, the City and County should have been able to ascertain the correct Approval Action date in response to appellants' questions.

We point out that by misdirected us in this regard, the City and County has prevented appellants from appealing the Certificate of Appropriateness to the Board of Appeals, an appeal that was also due on June 15. The City rather than the citizens must shoulder the responsibility for the consequences of their ambiguous directions.

We submit those sections of the Administrative Code that clearly define the meaning of an "Approval Action," the substance of which is that the Approval Action took place at the Historic Preservation Commission on May 16, 2018, upon the approval of Motion 340 by that deliberative body.

This Motion, along with other evidence that supports our appeal being timely filed on June 15, 2018, is attached.

A plain reading of the recitations in the Motion, and of the Findings on Page 2, and of the context of the public meeting in which they were presented in Draft Form, clearly indicate that the members of the Historic Preservation Commission were familiar with the Planning Department's determination that the project was "categorically exempt," thereby meeting the requirements of Administrative Code 31.04(h)(2)(A) and establishing, along with other evidence, that the Approval Action Date was May 16.

Signed,



Marc Bruno, Appellant and
15 Nobles Alley
San Francisco, CA 94133
<marcabruno@yahoo.com>



Save North Beach, Appellant
An Unincorporated Association
registered with the California
Secretary of State

Appendices unique to Appeal filed on August 16, 2018

- I. Contents: Appendices re Timeliness of Appeal Filed on June 15, 2018 in the matter of Washington Square Park, C.E. 2018-003700PRJ
- II. Contents: Appendices re Administrative Code Section 31.04, Definition of "Approval Action"
- III. Contents: (1) Historic Preservation Commission Motion 0340, May 16, 2018, and, (2) Planning Department Categorical Exemption 2018-003700PRJ
- IV. Contents: Appendices re Notice to Public of Historic Preservation Commission Meeting on May 16, 2018. "Approval Action" is announced as part of Notice.



SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
Washington Square Water Conservation Project		1020001
Case No.		Permit No.
2018-003700PRJ		
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. Landmark #226. The Washington Square Water Conservation Project seeks to reduce the park's existing irrigation water use by two thirds and improve saturated soils conditions on the main lawn.</p>		

STEP 1: EXEMPTION CLASS

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p>FOR ENVIRONMENTAL PLANNING USE ONLY</p>
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS
TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an *Environmental Evaluation Application* is required.

<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non -archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.

If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an *Environmental Evaluation Application* is required, unless reviewed by an Environmental Planner.

Comments and Planner Signature (optional): Elizabeth Gordon Jonckheer

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input checked="" type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input checked="" type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments): The project includes a minor alteration of land that meets the Secretary of the Interior's Standards per the Certificate of Appropriateness.
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments): (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. Reclassification of property status. (Requires approval by Senior Preservation Planner/Preservation <input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C a. Per HRER dated (attach HRER) b. Other (specify):
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
<input type="checkbox"/>	Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Elizabeth Gordon Jonckheer	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	Further environmental review required. Proposed project does not meet scopes of work in either (check all that apply): <input type="checkbox"/> Step 2 - CEQA Impacts <input type="checkbox"/> Step 5 - Advanced Historical Review STOP! Must file an <i>Environmental Evaluation Application</i>.	
<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Commission Hearing	Signature: Elizabeth Gordon Jonckheer
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	05/17/2018
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Washington Square Water Conservation Project		1020/001
Case No.	Previous Building Permit No.	New Building Permit No.
2018-003700PRJ		
Plans Dated	Previous Approval Action	New Approval Action
	Commission Hearing	
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required.	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:

Letter of Appeal of Categorical Exemption ("C.E.") 2018-003700PRJ

BOARD OF SUPERVISORS
SAN FRANCISCO

To: Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<angela.calvillo@sfgov.org> 415-554-7630

2018 JUN 15 PM 3:56

BY



Attn: Brent Jalipa, Legislative Clerk
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<brent.jalipa@sfgov.org> 415-554-5184

Cc: Aaron Peskin, Supervisor, District 3
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<aaron.peskin@sfgov.org> 415-554-7450

Cc: John Rahaim, Director
San Francisco Planning Department
1650 Mission Street #400 / SF CA 94103
<john.rahaim@sfgov.org> 415-558.6350

Cc: Elizabeth Jonckheer, Project Planner, S F Planning Department
<elizabeth.gordon-jonckheer@sfgov.org> 415-575-8728

Per San Francisco Administrative Code §31.16(e)(1), this Appeal of C.E. 2018-003700PRJ, consequent to the proposed closure of Washington Square, a park in San Francisco, California and a "known Historic resource" located at Block Lot 1020001, is hereby submitted to the San Francisco Board of Supervisors.

The at-issue Categorical Exemption ("C.E.") was inadequately researched and inadequately promulgated, offering no opportunity until this appeal for those members of the public most likely to be affected by the underlying project to suggest changes or otherwise comment on it. The conclusions drawn in the C.E. are flawed, and those flawed conclusions are detrimental to the very reasons given by the City for its so-called "conservancy project."

June 15, 2108

Dear Board of Supervisors Clerk Calvillo,

Thank you for accepting this appeal of the above referenced Categorical Exemption for consideration, discussion and vote by the San Francisco Board of Supervisors.

Marc Bruno, Appellant
15 Nobles Alley
San Francisco, CA 94133
<marcabruno@yahoo.com>
415-434-1528

Daniel Macchiarini, Appellant
President, North Beach Business Association
Macchiarini Creative Design & Metalworks
Gallery, a Legacy Business
<danny1mac@sbcglobal.net>
415-982-2229

**Contents: Appendices re Timeliness
of Appeal Filed on June 15, 2018 in the matter
of Washington Square Park, C.E. 2018-003700PRJ**

1. Angela Calvillo, Clerk of the Board re Timeliness of Appeal (06.26.18)
2. Lisa Gibson, Senior Environmental Review Officer, Planning Department Letter and Chart re Timeliness, (06.26.26)
3. Marc Bruno and Dan Macchiarini, Appellants, Formal Protest of Decision regarding Timeliness by Calvillo and Gibson (06.29.26)
4. Other miscellaneous communications regarding Timeless of Appeal filed by Bruno and Macchiarini on June 15, 2018:
 - a. Lisa Lew, to Marc Bruno (06.26.18)
 - b. Marc Bruno to Recipients (06.27.18)
 - c. Lisa Gibson to Marc Bruno (06.28.18)
 - d. Levi Conover to Marc Bruno (06.28.18)
 - e. Marc Bruno to Recipients (06.29.18)
 - f. Lisa Gibson to Marc Bruno (07.02.18)
 - g. Lisa Gibson to Marc Bruno (07.03.18)
 - h. Marc Bruno to Lisa Gibson (07.09.18)
 - i. Lisa Gibson to Marc Bruno (07.10.10)*

* [Note: After verifying this with the City Attorney's Office, Ms. Gibson writes the following on July 10. Emphasis added.]

"To Marc Bruno
CC Calvillo, Angela (BOS) Jalipa, Brent (BOS) Rahaim, John

(CPC) Jul 10 at 4:34 PM

Dear Mark,

Thank you for your patience awaiting my response pending my return to the office after a brief vacation. The reasoning behind my determination that your CEQA appeal was not timely is as follows:

The Recreation and Park Commission's (RPC's) approval of the concept plan for the Washington Square Water Conservation Project will be the first Approval Action of the project as a whole.

The Historic Preservation Commission's (HPC) approval of the Certificate of Appropriateness is one of the project approvals required in order for the project to proceed, but it is not the approval action for the purposes of determining that the appeal is timely to be heard at the Board of Supervisors.

We apologize for the confusion resulting from the erroneous approval action stated in the HPC hearing notice and in any other communications by the Planning Department.

The Clerk of the Board is holding your appeal on file. **Should the RPC approve the concept plan, the Clerk will schedule the appeal hearing. Thus, you will have the opportunity to present your appeal at that milestone.** You may supplement the materials you've already submitted with any information you deem pertinent to your appeal up to 11 days prior to the date the appeal is scheduled to be heard by the Board.

I hope that clarifies matters for you.

Sincerely,

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division"

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 26, 2018

Marc Bruno
Daniel Macchiarini
15 Nobles Alley
San Francisco, CA 94133

Subject: File No. 180676 - Appeal of CEQA Categorical Exemption Determination - Washington Square Water Conservancy Project

Dear Mr. Bruno and Mr. Macchiarini:

The Office of the Clerk of the Board of Supervisors is in receipt of a memo from the Planning Department, dated June 26, 2018, regarding the timely filing of your appeal of the California Environmental Quality Act (CEQA) Categorical Exemption Determination issued for the Washington Square Water Conservancy Project.


Pursuant to Administrative Code, Sections 31.16(a) and (e), any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the date of Approval Action. Since the date of the Approval Action is unknown at this time, it is not possible for my office to schedule the appeal hearing. I have attached a copy of the Planning Department's memo for further explanation.

The appeal hearing date will be scheduled once the Planning Department informs my office that the date of the Approval Action has occurred.

Note: The Office of the Clerk of the Board will hold the pending appeal up to six months from the appeal filing date, June 15, 2018. At the end of six months, if the Planning Department has not notified our office regarding the approval action of this appeal, we will close the file.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, Lisa Lew at (415) 554-7718, or Jocelyn Wong at (415) 554-7702.

Sincerely,


Angela Calvillo
Clerk of the Board

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Joy Navarette, Environmental Planning, Planning Department
Laura Lynch, Environmental Planning, Planning Department
Dan Sider, Policy Advisor, Planning Department
AnMarie Rodgers, Director of Citywide Planning, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jonas Ionin, Director of Commission Affairs
Elizabeth Jonckheer, Staff Contact, Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: June 26, 2018

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Lisa Gibson, Environmental Review Officer *LG*

RE: Appeal Timeliness Determination – Washington Square Water Conservation Project, Planning Department Case No. 2018-003700PRJ

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

An appeal of the CEQA Categorical Exemption Determination for the proposed project for the Washington Square Water Conservation Project was filed with the Office of the Clerk of the Board of Supervisors on June 15, 2018 by Marc Bruno and Daniel Macchiarini of the North Beach Business Association. As explained below, the appeal is not timely.

Date of Approval Action	30 Days after Approval Action/Appeal Deadline	Date of Appeal Filing	Timely?
Not yet occurred	To be determined	June 15, 2018	No

Approval Action: On May 17, 2018, the Planning Department issued a CEQA Categorical Exemption Determination for the Washington Square Water Conservation Project, proposing improvements to reduce the park's existing irrigation water use. The Approval Action for the project will be the Recreation and Park Commission's approval of the concept plan for the Washington Square Water Conservation Project.

Appeal Deadline: Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action. The Approval Action for this project has not yet occurred, and the appeal deadline is unknown.

Appeal Filing and Timeliness: The appeal is not timely because the Approval Action for the project has not yet occurred.

**** June 26, 2018 - Lisa Lew, BOS to Marc Bruno et al, Appellants ****

On Tuesday, June 26, 2018 4:58 PM, "BOS Legislation, (BOS)"
<bos.legislation@sfgov.org> wrote:

Dear Mr. Bruno and Mr. Macchiarini,

Please find linked below a letter from the Clerk of the Board regarding the appeal of the CEQA Determination of Exemption from Environmental Review for the Washington Square Water Conservancy Project, as well as direct links to the Planning Department's timely filing determination, and the Appeal Letter.

Clerk of the Board Letter - June 26, 2018

Planning Department Memo - June 26, 2018

Appeal Letter - June 15, 2018

The Office of the Clerk of the Board is not able to schedule an appeal hearing for this matter at this time, as the Approval Action has not occurred. The Planning Department will notify this office once the Approval Action has occurred and the matter can move forward.

Note: The Office of the Clerk of the Board will hold the pending appeal up to six months from the appeal filing date, June 15, 2018. At the end of six months, if the Planning Department has not notified our office regarding the Approval Action of this appeal, we will close the file.

I invite you to review the entire matter on our Legislative Research Center by following the links below.

Board of Supervisors File No. 180676

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

**** June 26, 2018 - Marc Bruno, Appellant to Lisa Gibson, ECO ****

Marc Bruno <marcabruno@yahoo.com>

To BOS Legislation, (BOS) danny1mac@sbcglobal.net Marc Bruno Aaron Peskin

CC GIVNER, JON (CAT) STACY, KATE (CAT) JENSEN, KRISTEN (CAT) Rahaim, John (CPC) Sanchez, Scott (CPC) Gibson, Lisa (CPC) Navarrete, Joy (CPC) Lynch, Laura (CPC) Sider, Dan (CPC) Rodgers, AnMarie (CPC) Starr, Aaron (CPC) Ionin, Jonas (CPC) Gordon-Jonckheer, Elizabeth (CPC) Jain, Devyani (CPC) Calvillo, Angela (BOS) Somera, Alisa (BOS) BOS-Supervisors BOS-Legislative Aides

Jun 26 at 5:24 PM

Appeal of Categorical Exemption ("C.E.") 2018-003700PRJ

Lisa Gibson, Senior Environmental Review Officer
San Francisco Planning Department

June 26, 2018

Dear Ms. Gibson,

Your decision regarding the timeliness of the above referenced appeal by me and by the North Beach Business Association (NBBA) is based on the "Approval Action not yet occurring," according to your email dated today. We are specifically appealing the Categorical Exemption. That exemption was approved, according to the City's own notice regarding the hearing, on May 16, 2018. The notice for that hearing, issued by the CCSF, states the following:

A Historic Preservation Commission approval at the public hearing would constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

I attach a copy of this notice for your perusal and clarification.

Thank you,

Marc Bruno, Appellant

**** June 27, 2018 - Marc Bruno, Appellant to Lisa Gibson, ECO ****

Marc Bruno <marcabruno@yahoo.com>

To Gibson Lisa (CPC) Gordon-Jonckheer Elizabeth (CPC)

CC Marc Bruno Jun 27 at 3:39 PM

Here is the HPC Motion I was referring to on the phone just now ...

June 27, 2018

Lisa -

... on the first page the Motion, "H-P-C- Motion No. 0304," states:

WHEREAS, the Project was determined by the Department to be categorically exempt from environmental review. The Historic Preservation Commission ("Commission") has reviewed and concurs with said determination.

Separately, there is a signed document from Elizabeth Gordon-Jonckheer, also indicating that the H-P-C- was to provide the "Approval Action Date."

As I have copied Elizabeth on this, I am sure she can provide it to you, and thereby to the City Attorney.

Yours,

Marc

**** June 27, 2018 - Lisa Gibson, ECO to Marc Bruno, Appellant ****

Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>

To Marc Bruno Gordon-Jonckheer, Elizabeth (CPC) Jun 27 at 4:00 PM
Thank you, Marc. That was fast!

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9032 | www.sfplanning.org

**** June 28, 2018 - Marc Bruno, Appellant to Lisa Gibson, ECO ****

Marc Bruno <marcabruno@yahoo.com>

To Gibson Lisa (CPC)
CC Marc Bruno Conover Levi (REC) Gordon-Jonckheer Elizabeth (CPC) Jun
28 at 8:42 AM
To: Lisa Gibson, Senior Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400

San Francisco CA 94103
415-575-9032 <lisa.gibson@sfgov.org>

Re: Timeliness of Appeal of Categorical Exemption 2018-003700PRJ
Note: In this email, Historic Preservation Commission is identified as "HPC"

June 28, 2018

Lisa -

Thank you for your response re my sending you the action approved by the HPC. In speaking with you, I remembered I had labeled it "Motion," plus the unknown number. A word search enabled me to find it.

The (1.) Notice, (2.) HPC action (Motion), (3.) email to me from Planner Elizabeth Jonckheer, and, (4.) Categorical Exemption signed by Ms. Jonckheer on May 17, 2018 all indicate the Approval Action date as May 16, 2018. All documents are attached.

You asked me what the business community and I would consider a fair solution in these circumstances to appellants, respondents and, above all, for the park and neighborhood. You may not know this, but we are actually asking for very little.

We would be happy to withdraw the appeal if Rec & Park would consider the following: Do six of the seven listed projects at Washington Square (84% of the proposal), then, examine the park again in two year's time to see if water use has significantly decreased. These six projects do not require closing the park, and, based on our engineering studies, and based on Rec & Park's saturation study in November 2017, we strongly believe this more moderate approach will satisfy the needs of all concerned.

In speaking yesterday with a CEQA lawyer about the timeliness issue, the problem is that we have already written an extensive appeal based on the project as presented and approved by the HPC. To allow respondents to change the Approval Action Date makes our arguments stale. It also unfairly gives respondents a second bite of the apple before the Rec and Park Commission, permitting them to change their project based on our appeal. They have already done this, and we vehemently protest it.

Our hope is that by meeting Rec & Park more than halfway, as described above, we and the City and the neighborhood can move forward without any appeal at all.

Sincerely,

Marc Bruno
Appellant

**** June 28, 2018 - Levi Conover, REC to Marc Bruno, Appellant ****

Conover, Levi (REC) <levi.conover@sfgov.org>

To Marc Bruno
CC Gibson, Lisa (CPC) Gordon-Jonckheer, Elizabeth (CPC) Ng, Beverly (REC)
Angulo, Sunny (BOS) Ajike, Toks (REC) Jun 28 at 10:20 AM

Hi Marc,

Thank you for your continued engagement on this project and your willingness to work with the City on your appeal. I wanted to address some of the items Rec & Park has been working on over the last several weeks to address many of the concerns you have raised.

Following my conversations and meetings with you and Dan Macchiarini a few weeks ago, RPD explored additional options to phase the construction and reviewed these plans with Supervisor Peskin. Given the size and configuration of Washington Square as well as the funding limitations, the best outcome is the original one phase closure of the park. Supervisor Peskin asked that we complete this project in a shorter timeframe. We have agreed to a construction schedule of 6 months and will utilize an early completion bonus to incentivize a shorter timeline. We will also include provisions to penalize late completion.

We understand your concerns regarding project duration, neighborhood impacts, and homelessness. We will include provisions in the construction contract to limit the number of parking spaces used by the contractor. The project will be contained within the park boundary and the sidewalks on all sides of the park will remain open. Additionally, the northwest corner of the site with the children's playground and restroom will remain open during construction. We are working with the Department of Homelessness and the Police Department on a plan to assist with quality of life issues, and we will also be removing the proposed low fencing from our project scope.

We hope this helps address some of your major concerns and look forward to continued dialogue with you as we further develop the project.

Best Regards,

Levi Conover
Project Manager

San Francisco Recreation and Park Department City & County of San Francisco
30 Van Ness Avenue, Third Floor, Suite 3000 San Francisco, CA 94102

(415) 581-2572 | levi.conover@sfgov.org

**** June 28, 2018 - Lisa Gibson, ECO to Marc Bruno, Appellant ****

Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>

To Marc Bruno
CC Conover, Levi (REC) Gordon-Jonckheer, Elizabeth (CPC) Jun 28 at 7:33 PM

Dear Marc,

I am in receipt of your email below regarding the above subject matter. I have am consulting with the City Attorney's Office regarding your concerns about the approval action. I will get back to you as soon as possible.

Best,

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9032 | www.sfplanning.org
San Francisco Property Information Map

**** June 29, 2018 - Marc Bruno, Appellant to Lisa Gibson, ECO ****

Marc Bruno <marcabruno@yahoo.com>
To Calvillo Angela (BOS) Jalipa Brent (BOS)
CC Rahaim John (CPC) Gibson Lisa (CPC) Gordon-Jonckheer Elizabeth (CPC) Conover Levi (REC)
BCC Marc Bruno Kathleen Dooley Danny Macchiarini Jun 29 at 5:17 PM
Formal Objection, Protest and Appeal to Brent Jalipa and CCSF re Timeliness of Appeal of Categorical Exemption 2018-003700PRJ

To: Angela Calvillo, Clerk, BOS, and San Francisco
Brent Jalipa, Assistant Legislative Clerk, SF BOS
Cc: Lisa Gibson, Senior Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400 / San Francisco CA 94103
415-575-9032 <lisa.gibson@sfgov.org>

Re: Objection, Protest Appeal of Timeliness Question

June 29, 2018

Dear Ms. Calvillo,

Please know that based on the documents we have reviewed concerning this matter, and based on our understanding of the law as explained to us by attorneys familiar with CEQA appeals before the Board of Supervisors, and based on our inherent sense of proper notice and fair play, we vehemently object, protest and appeal the decision by San Francisco Planning Department or by any other City Agency or Department that asserts that our appeal of the above referenced Categorical is any way untimely.

On the contrary, we believe that all relevant documents in this matter, in accordance with Chapter 31 of the San Francisco Administrative Code, make clear to the public, to appellants and to respondents that the exemption determination was first approved by the San Francisco Historic Preservation Commission on May 16, 2018, and that our appeal of this determination, filed on June 30, 2018, was and is timely, according to a plain reading of the law.

We therefore demand that a new determination immediately be issued by the San Francisco Planning Department verifying that our appeal is timely.

Sincerely,

Marc Bruno, Appellant
15 Nobles Alley, Unit 3
San Francisco, CA 94133
415-434-1528

**** July 2, 2018 - Lisa Gibson, ECO to Marc Bruno, Appellant ****

Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>

To Marc Bruno
CC Rahaim, John (CPC) Gordon-Jonckheer, Elizabeth (CPC) Conover,
Levi (REC) Calvillo, Angela (BOS) Jalipa, Brent (BOS) STACY, KATE (CAT)
JENSEN, KRISTEN (CAT) Lynch, Laura (CPC) Somera, Alisa (BOS) Jalipa, Brent
(BOS) Navarrete, Joy (CPC) Jul 2 at 4:46 PM

Dear Mr. Bruno,

I am in receipt of your correspondence and voice mail objecting to the determination that I made on June 26, 2018 that your appeal of the Washington Square Water Conservation Project is not timely. After careful consideration of the facts and of your arguments, and after consulting with the City Attorney's

Office, I find that the determination stands. My determination remains that the Approval Action for the project will be the Recreation and Park Commission's approval of the concept plan for the project.

I will provide an explanation by separate correspondence, but for now wanted to respond to your most immediate question of whether I will be reversing my determination, in light of the hearing scheduling implications if I were to have reversed course. In conclusion, the "not timely" determination stands as the Approval Action has not occurred.

Sincerely,

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9032 | www.sfplanning.org

**** July 3, 2018 - Lisa Gibson, ECO to Marc Bruno, Appellant ****

Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>

To Marc Bruno Jul 3 at 4:33 PM

Dear Marc,

I received your voice mail requesting that I provide the further explanation of my timeliness determination prior to your meeting with an attorney on Thursday. While I had hoped to provide you that explanation today, unfortunately I am unable to do so. Tomorrow is a holiday and I will be out of the office for the rest of the week. Therefore, this will need to wait until I return next week.

Sincerely,

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9032 | www.sfplanning.org

**** July 9, 2018 - Marc Bruno, Appellant to Lisa Gibson, ECO ****

Appeal of Categorical Exemption 2018-003700PRJ: We await your correspondence

To: Lisa Gibson, Senior Environmental Review Officer

San Francisco Planning Department
1650 Mission Street, Suite 400 / San Francisco CA 94103
415-575-9032 <lisa.gibson@sfgov.org>
Cc: Angela Calvillo, Clerk, BOS, and San Francisco
Brent Jalipa, Assistant Legislative Clerk, SF BOS

July 9, 2018

Lisa -

On July 2 you wrote that we should expect a second email from you to explain your decision to label our appeal of the above referenced matter "untimely." We have not yet received any such second email correspondence from you about this.

For the record, you wrote to us on July 2 the following:

"I will provide an explanation by separate correspondence, but for now wanted to respond to your most immediate question of whether I will be reversing my determination, in light of the hearing scheduling implications if I were to have reversed course. In conclusion, the "not timely" determination stands as the Approval Action has not occurred." Lisa Gibson

Your attention to this matter as soon as possible is appreciated. The entire email you wrote to us is below.

Thank you,

Marc Bruno

**** July 10, 2018 - Lisa Gibson, ECO to Marc Bruno, Appellant ****

Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>

To Marc Bruno

CC Calvillo, Angela (BOS) Jalipa, Brent (BOS) Rahaim, John (CPC) Jul 10 at 4:34 PM

Dear Mark,

Thank you for your patience awaiting my response pending my return to the office after a brief vacation. The reasoning behind my determination that your CEQA appeal was not timely is as follows:

The Recreation and Park Commission's (RPC's) approval of the concept plan for the Washington Square Water Conservation Project will be the first approval action of the project as a whole. The Historic Preservation Commission's (HPC)

approval of the Certificate of Appropriateness is one of the project approvals required in order for the project to proceed, but it is not the approval action for the purposes of determining that the appeal is timely to be heard at the Board of Supervisors.

We apologize for the confusion resulting from the erroneous approval action stated in the HPC hearing notice and in any other communications by the Planning Department.

The Clerk of the Board is holding your appeal on file. Should the RPC approve the concept plan, the Clerk will schedule the appeal hearing. Thus, you will have the opportunity to present your appeal at that milestone. You may supplement the materials you've already submitted with any information you deem pertinent to your appeal up to 11 days prior to the date the appeal is scheduled to be heard by the Board.

I hope that clarifies matters for you.

Sincerely,

Lisa Gibson, Environmental Review Officer/Director
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9032 | www.sfplanning.org

Contents: Appendices re Administrative Code Section 31.04, Definition of "Approval Action"

1. Administrative Code Section 31.04(h) defines "Approval Action."

"The first approval of the project in reliance on the exemption by a City decision-making body at a noticed public hearing."

Administrative Code Section 31.04(h)(2)(a), **Appeal Procedures**

2. Administrative Code Section 31.16(b)(3) describes the effect of the appeal on the approval process; namely, that it "shall not be carried out or consider[ed] further ..."

"For projects that require multiple City approval, the BOS may not take action to approve the action [before the CEQA appeal is heard] and other City boards, commissions, departments and officials shall not carry out or consider further the approval of the project that is the subject of the CEQA decision on appeal except activities essential to abate hazards ..."

Administrative Code Section 31.16(b)(3), **Appeal Procedures**

Those sections of the Code relevant to Appeals are attached.

Search:

Choose search form

Links:

Document

Prev Doc

Next Doc

Table of Contents

Sync TOC

Standard Code View

Results

Prev Hit

Next Hit

Results

Prev Hit

Next Hit

CHAPTER 31: CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCEDURES AND FEES

<p>Article</p> <p><u>I.</u></p> <p><u>II.</u></p> <p><u>III.</u></p> <p><u>IV.</u></p> <p><u>V.</u></p>	<p>GENERAL PROVISIONS</p> <p>PROJECTS COVERED</p> <p>EVALUATIONS</p> <p>FEES</p> <p>SEVERABILITY</p>
---	---

ARTICLE I: GENERAL PROVISIONS

- Sec. 31.01. Authority and Mandate.
- Sec. 31.02. Policies and Objectives.
- Sec. 31.03. Scope of Requirements.
- Sec. 31.04. Responsibility and Definitions.
- Sec. 31.05. Office of Environmental Review.

SEC. 31.01. AUTHORITY AND MANDATE.

(a) This Chapter is adopted pursuant to the California Environmental Quality Act, Public Resources Code Sections 21000 and following, as amended; and pursuant to the Guidelines for Implementation of the California Environmental Quality Act, as amended, appearing as Title 14, Division 6, Chapter 3 of the California Code of Regulations (hereinafter referred to collectively as CEQA). CEQA provides for the orderly evaluation of projects and preparation of environmental documents, and requires adoption of corresponding objectives, criteria and procedures by local agencies.

(b) Any amendments to CEQA adopted subsequent to the effective date of this Chapter 31 shall not invalidate any provision of this Chapter 31. Any amendments to CEQA that may be inconsistent with this Chapter 31 shall govern until such time as this Chapter 31 may be amended to remove such inconsistency.

(c) This Chapter shall govern in relation to all other ordinances of the City of San Francisco ("City") and rules and regulations pursuant thereto. In the event of any inconsistency concerning either public or private actions, the provisions of this Chapter shall prevail.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

(Former Sec. 31.01 amended by Ord. 92-77, App. 3/18/77; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.02. POLICIES AND OBJECTIVES.

The basic purposes of CEQA and this Chapter 31 are to:

- (a) Provide decision makers and the public with meaningful information regarding the environmental consequences of proposed activities.
- (b) Identify ways that environmental damage can be avoided or significantly reduced.
- (c) Provide for public input in the environmental review process.
- (d) Bring environmental considerations to bear at an early stage of the planning process, and to avoid unnecessary

delays or undue complexity of review. Simplicity and directness are to be emphasized, with the type of review related to the depth and variety of environmental issues raised by a project, so that government and public concern may be focused upon environmental effects of true significance.

- (e) Provide procedural direction on implementation of CEQA by the City.
- (f) Prevent significant avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the government agency finds the changes to be feasible.
- (g) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

(Former Sec. 31.02 amended by Ord. 92-77, App. 3/18/77; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.03. SCOPE OF REQUIREMENTS.

- (a) This Chapter adapts CEQA for use by the City. The emphasis of this Chapter is upon implementing procedures, which are expressly left for determination by local agencies, consistent with CEQA.
- (b) The provisions of CEQA are not repeated here, but are expressly incorporated herein by reference as though fully set forth. This Chapter is supplementary to CEQA.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

(Former Sec. 31.03 added by Ord. 134-73, App. 4/11/73; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.04. RESPONSIBILITY AND DEFINITIONS.

- (a) The City and all its officials, boards, commissions, departments, bureaus and offices shall constitute a single "local agency," "public agency" or "lead agency" as those terms are used in CEQA.
- (b) The administrative actions required by CEQA with respect to the preparation of environmental documents, giving of notice and other activities, as specified in this Chapter, shall be performed by the San Francisco Planning Department as provided herein, acting for the City. When CEQA requires posting of a notice by the county clerk of the county in which the project will be located, the Planning Department shall transmit the required notice to the applicable county clerk, and instruct the county clerk on the length of time the notice shall be posted and when the posting shall commence.
- (c) For appeals to the Board of Supervisors under Section 31.16 of this Chapter, the Clerk of the Board of Supervisors shall perform any administrative functions necessary for resolution of the appeal.
- (d) For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission has the authority pursuant to Charter Section 4.135 to review and comment on environmental documents and determinations under this Chapter 31.
- (e) Where adoption of administrative regulations by resolution of the Planning Commission after public hearing is specified herein, there shall be notice by publication in a newspaper of general circulation in the City at least 20 days prior to the hearing and by posting in the offices of the Planning Department, with copies of the proposed regulations sent to the Board of Supervisors and any other affected boards, commissions and departments of the City and to all organizations and individuals who have previously requested such notice in writing. The decision of the Commission in adopting administrative regulations shall be final.
- (f) The City shall be responsible for conducting environmental review for projects undertaken by the City within the City's territorial limits and for projects undertaken by the City outside the territorial limits of the City.
- (g) **Notifications.**

(1) Unless CEQA requires a mailed notice by the United States Postal Service in hard copy form, or an organization or individual requests notice in hard copy form, a City official may provide any mailed notice required by this Chapter using electronic mail transmission whenever an organization or individual provides an email address to the City official; provided that any notices required by this Chapter shall be provided by mail in hard copy form to any organizations or individuals who have requested such notice in writing prior to the effective date of this provision unless such organizations or individuals affirmatively request electronic notification as provided below.

(2) **Electronic Notifications.** The Environmental Review Officer shall implement an electronic notification system for the notification requirements in this Chapter 31. The Environmental Review Officer shall offer interested organizations and individuals the opportunity to subscribe to an automated electronic mail notification system. The system shall distribute all notifications required by this Chapter to subscribers. Subscribers shall have the option to

receive electronic mail regarding all CEQA notifications or all CEQA notifications for: (i) a specific project; (ii) a specific neighborhood, as defined by the Planning Department for notification purposes; (iii) historic districts designated under Articles 10 or 11 of the Planning Code or listed on the National Register of Historic Places; (iv) exemption determinations; (v) negative declarations; and (vi) environmental impact reports. The Environmental Review Officer shall implement the electronic notification system within three months of the operative date of the ordinance enacting this provision of Chapter 31. In the event the system is not operable within such period, the Planning Department shall provide monthly status reports to the Board of Supervisors on the progress the Planning Department has made in implementing the electronic notification system.

(h) Definitions.

"Approval Action" means:

(1) For a private project seeking an entitlement from the City and determined to be exempt from CEQA:

(A) The first approval of the project in reliance on the exemption by the City Planning Commission following a noticed public hearing, including, without limitation, a discretionary review hearing as provided for in Planning Code Section 311 or Section 312, or, if no such hearing is required, either:

(B) The first approval of the project in reliance on the exemption by another City commission, board or official following a noticed public hearing granting an Entitlement of Use for the Whole of the Project; or

(C) The issuance of the Building Permit or other Entitlement of Use for the Whole of the Project in reliance on the exemption without a noticed public hearing.

(2) For all other projects determined to be exempt from CEQA:

(A) The first approval of the project in reliance on the exemption by a City decision-making body at a noticed public hearing; or

(B) If approved without a noticed public hearing, the decision by a City department or official in reliance on the exemption that commits the City to a definite course of action in regard to a project intended to be carried out by any person.

(3) For all projects determined to require the preparation of a negative declaration, the approval of the project by the first City decision-making body that adopts the negative declaration or mitigated negative declaration as provided for in Section 31.11(h) of this Chapter.

"Building Permit" means a permit issued by the Department of Building Inspection as provided by Building Code Section 106A, including, without limitation, a site permit as defined in Building Code Section 106A.3.4.2.

"Date of the Approval Action" means the date the City takes the action on the project that is defined as the "Approval Action," regardless of whether the Approval Action is subject to an administrative appeal.

"Entitlement of Use for the Whole of the Project" means an entitlement that authorizes the project applicant to carry out the project as described in the CEQA decision for the project. Incidental permits needed to complete a project, such as a tree removal permit or a street encroachment permit that alone do not authorize the use sought, would not be an Entitlement of Use for the Whole of the Project, unless such permit is the primary permit sought for the project.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001; amended by Ord. 186-02, File No. 021418, App. 9/6/2002; Ord. 218-02, File No. 021609, App. 11/1/2002; Ord. 168-07, File No. 061537, App. 7/20/2007; Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

(Former Sec. 31.04 amended by Ord. 166-74, App. 4/11/74; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.05. OFFICE OF ENVIRONMENTAL REVIEW.

(a) An Office of Environmental Review is hereby created in the Planning Department, which shall be responsible, acting through the Director of Planning, for the administration of those actions in this Chapter 31 assigned to the Planning Department by Section 31.04.

(b) Said office shall be under the direction of an Environmental Review Officer, who shall supervise the staff members of the office and have charge of the collection of fees by the office. The Environmental Review Officer shall report to, and coordinate and consult with, the Director of Planning.

(c) In addition to the powers and duties conferred below, the Environmental Review Officer may, upon delegation by the Planning Commission as to specific projects, take testimony at supplemental public hearings on draft environmental impact reports, in addition to, and not in lieu of, the hearing held by the Planning Commission as set forth in section 31.14 of this Chapter, and shall report to, and make all such testimony available to, the Planning Commission at a public hearing.

(d) The Environmental Review Officer shall also take such measures, within his or her powers, as may be necessary to assure compliance with this Chapter 31 by persons, and officials, boards, commissions, departments or agencies outside the Planning Department, and shall periodically review the effectiveness and workability of the provisions of this Chapter 31 and recommend any refinements or changes that he or she may deem appropriate for improvement of such provisions.

(e) All projects shall be referred to the Environmental Review Officer except those exempt projects covered by a delegation agreement with the Environmental Review Officer as provided for in Section 31.08(d) of this Chapter. All other officials, boards, commissions, departments, bureaus and offices of the City shall cooperate with the Environmental Review Officer in the exercise of his/her responsibilities, and shall supply necessary information, consultations and comments.

(f) The Environmental Review Officer shall be responsible for assuring that the City is carrying out its responsibilities set forth in CEQA. In addition, when the City is to carry out or approve a project and some other public agency is the "lead agency," as defined by CEQA, and where projects are to be carried out or approved by the State and Federal governments, the Environmental Review Officer shall provide consultation and comments for the City to the other government agencies when appropriate.

(g) To the extent feasible, the Environmental Review Officer shall combine the evaluation of projects, preparation of environmental impact reports and conduct of hearings with other planning processes; and shall coordinate environmental review with the Capital Improvement Program, the San Francisco General Plan and the San Francisco Planning Code.

(h) Adoption and/or revision of administrative regulations to implement CEQA shall be by resolution of the Planning Commission after a public hearing. The Environmental Review Officer may adopt necessary forms, checklists and processing guidelines to implement CEQA and this Chapter 31 without a public hearing.

(i) Upon prior authorization by the Planning Commission, the Environmental Review Officer may attend hearings and testify on matters related to CEQA before governmental organizations and agencies other than governmental agencies of the City and County of San Francisco and may advocate on behalf of the City on matters related to CEQA.

(j) The Environmental Review Officer may provide information to other governmental or environmental organizations and members of the public.

(k) The Environmental Review Officer may delegate his or her responsibilities to an employee of the Office of Environmental Review. All references herein to the Environmental Review Officer shall be deemed to include the Environmental Review Officer's delegate.

(l) The Environmental Review Officer shall process applications for environmental review in accordance with the requirements for equal treatment of permit applicants, unless there is a written finding of a public policy basis for not doing so, as set forth in Campaign and Governmental Conduct Code Section 3.400 and the written guidelines adopted by the Planning Department as required by Section 3.400. For purposes of Section 3.400, this Section of Chapter 31 and any corresponding written guidelines of the Planning Department, the Board finds that expediting environmental review out of order, on a priority basis for the purpose of expediting permit processing shall qualify as a public policy basis for projects consisting of: (1) publicly funded affordable housing projects that provide new affordable housing in 100 percent of the on-site dwelling units (where such units are rented or sold at the economic levels defined in Planning Code Section 415); and (2) bicycle and pedestrian projects that are designed primarily to address public safety issues. When an application for environmental review for any project within one of the categories listed above is submitted to the Planning Department, the Environmental Review Officer shall, throughout all stages of the environmental review process, give precedence to all submittals associated with such project over other projects. The Planning Department also shall provide a written preliminary assessment of the eligibility of such projects for an exemption within 60 days of submittal of a complete Preliminary Project Assessment or equivalent application to the Planning Department. As part of the assessment, the Planning Department shall identify as feasible, based on the content of the submittal, the issues that may affect the type and schedule of the environmental review and the process for analysis of such issues.

(m) The Environmental Review Officer shall prepare an annual report to the Planning Commission and the Board of Supervisors on all appeals filed under any of the appeal provisions of this Chapter 31. The first annual report shall be filed approximately one year after the effective date of this provision of Chapter 31.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001; amended by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

(Former Sec. 31.05 amended by Ord. 166-74, App. 4/11/74; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

Editor's Note regarding Operative Date of Ord. 161-13:

Ordinance 161-13 amends sections of this Article, as shown in the history notes above. Section 6 of that ordinance provides as follows:

Operative Date. *This ordinance shall become operative on the later date of September 1, 2013, or five*

business days after the Secretary of the Planning Commission provides a memorandum to the Clerk of the Board of Supervisors advising that the Planning Commission has held a public hearing at which the Planning Department has demonstrated to the Planning Commission that it has updated its website to provide up-to-date information to the public about each CEQA exemption determination in a format searchable by location, such as through the "Active Permits In My Neighborhood" tool now used by the Planning Department and the Building Department.

At the direction of the Office of the City Attorney, the publisher incorporated the amendments made by Ord. 161-13 into this Code on September 25, 2013.

ARTICLE II: PROJECTS COVERED

- Sec. 31.06. Coverage of State Law.
Sec. 31.07. Listing of Non-Physical and Ministerial Projects.
Sec. 31.08. Exemptions.

SEC. 31.06. COVERAGE OF STATE LAW.

CEQA provides that certain kinds of projects may be subject to CEQA. Some of these projects may be excluded or exempt from CEQA. If not excluded or exempt, CEQA provides a process whereby an initial study is completed, then a determination is made as to whether a negative declaration, mitigated negative declaration, or an environmental impact report ("EIR") should be prepared. In accordance with the requirements of CEQA and as specified herein, the Planning Commission and/or the Environmental Review Officer shall determine when CEQA applies to a project, when the project is excluded or exempt, or when a negative declaration, mitigated negative declaration, or environmental impact report is required.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001; amended by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

SEC. 31.07. LISTING OF NON-PHYSICAL AND MINISTERIAL PROJECTS.

(a) The Environmental Review Officer shall maintain a listing of types of nonphysical and ministerial projects excluded from CEQA. Such listing shall be modified over time as the status of types of projects may change under applicable laws, ordinances, rules and regulations. The listing shall not be considered totally inclusive, and may at times require refinement or interpretation on a case-by-case basis. When the Environmental Review Officer proposes to modify such listing, notice shall be provided on the Planning Commission agenda prior to such modification. Any person who may consider any modification to be incorrect may appeal such modification to the Planning Commission within twenty (20) days of the date of the Planning Commission agenda on which notice of such modification was posted. The Planning Commission may affirm, modify or disapprove such modification, and the decision of the Planning Commission shall be final.

(b) Such listing of excluded projects and modifications thereto shall be kept posted in the offices of the Planning Department, and copies thereof shall be sent to the Board of Supervisors and all other affected boards, commissions and departments of the City.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.08. EXEMPTIONS.

(a) CEQA provides that certain projects are exempt from CEQA because: the project is exempt by statute ("statutory exemption"); the project is in a class of projects that generally do not have a significant effect on the environment ("categorical exemption"); CEQA streamlining procedures allow reliance on a prior environmental document prepared on a zoning or planning level decision, for example, as provided in community plan areas and for specified urban infill projects ("community plan exemption"), except as might be necessary to examine whether there are project-specific significant effects, which are peculiar to the project or its site; or the activity is covered under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, thus, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA ("general rule exclusion"). Unless otherwise specifically stated, reference in this Chapter 31 to "exemptions" or "exempt from CEQA" or an "exemption determination" shall collectively refer to statutory exemptions, categorical exemptions, community plan exemptions and general rule exclusions.

on the certification of the final EIR shall inform the public of its appeal rights to the Board of Supervisors with respect to the final EIR within the time frame specified in Section 31.16 of this Chapter. The certification of completion shall contain a finding as to whether the project as proposed will, or will not, have a significant effect on the environment.

(e) After the City has decided to carry out or approve the project and the project is considered finally approved as provided for in Section 31.16(b)(11), in accordance with CEQA procedures and upon the payment of required fees by the project sponsor, the Environmental Review Officer shall file a notice of determination with the county clerk in the county or counties in which the project is to be located. If required by CEQA, the notice of determination shall also be filed with the California Office of Planning and Research. The Environmental Review Officer shall also post the notice of determination in the offices of the Planning Department and on the Planning Department website, and mail a copy to any organizations and individuals who previously have requested such notice in writing.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001; amended by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

(Former Sec. 31.15 added by Ord. 134-73, App. 4/11/73; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

■ SEC. 31.16. APPEAL OF CERTAIN CEQA DECISIONS.

(a) **Decisions Subject to Appeal.** In accordance with the provisions set forth in this Section 31.16, the following CEQA decisions may be appealed to the Board of Supervisors (the "Board"): (1) certification of a final EIR by the Planning Commission; (2) adoption of a negative declaration by the first decision-making body; and (3) determination by the Planning Department or any other authorized City department that a project is exempt from CEQA.

(b) **Appeal Procedures.** In addition to the applicable requirements of Section 31.16(c) pertaining to EIRs, Section 31.16(d) pertaining to negative declarations or Section 31.16(e) pertaining to exemption determinations, the following requirements shall apply to an appeal of any of the decisions listed in Section 31.16(a).

(1) The appellant shall submit a letter of appeal to the Clerk of the Board within the time frames set forth in Sections 31.16(c), (d), or (e), as applicable. The letter of appeal shall state the specific grounds for appeal, and shall be accompanied by a fee, as set forth in Section 31.22 of this Chapter, payable to the San Francisco Planning Department. The appellant shall sign the letter of appeal, or may have an agent, file an appeal on his or her behalf. The appellant shall submit with the appeal a copy of the CEQA decision being appealed, if available, and otherwise shall submit it when available. The appellant shall submit a copy of the letter of appeal and any other written materials submitted to the Clerk in support of the appeal to the Environmental Review Officer at the time appellant submits the letter of appeal to the Clerk of the Board. The submission to the Environmental Review Officer may be made by electronic means. An appeal shall be accepted by the Clerk with notice given to the appellants that the acceptance is conditioned upon the Planning Department determining that the appeal of the CEQA decision, whether rendered by the Planning Department or another City commission, department, agency or official, has been filed in a timely manner, and the Clerk otherwise determining that the appeal complies with the requirements of this section. The Planning Department shall make such determination within three working days of receiving the Clerk's request for review. Within seven working days of the filing of the appeal the Clerk shall mail notice to the appellants of the acceptance or rejection of the appeal. The Clerk of the Board may reject an appeal if appellant fails to comply with this Section 31.16(b)(1).

(2) After receipt of the letter of appeal, the Environmental Review Officer shall promptly transmit copies of the environmental review document no later than 11 days prior to the scheduled hearing to the Clerk of the Board and make the administrative record available to the Board.

(3) For projects that require multiple City approvals, after the Clerk has scheduled the appeal for hearing and until the CEQA decision is affirmed by the Board, (A) the Board may not take action to approve the project but may hold hearings on the project and pass any pending approvals out of committee without a recommendation for the purpose of consolidating project approvals and the CEQA appeal before the full Board, and (B) other City boards, commissions, departments and officials shall not carry out or consider further the approval of the project that is the subject of the CEQA decision on appeal except activities that are essential to abate hazards to the public health and safety, including abatement of hazards on a structure or site determined by the appropriate City official, including but not limited to the Director of Building Inspection, the Director of Public Works, the Director of Public Health, the Fire Marshal or the Port Chief Engineer, to be an emergency presenting an imminent hazard to the public and requiring immediate action.

(4) The Clerk of the Board shall schedule a hearing on the appeal before the full Board. The Clerk shall schedule the hearing no less than 21 and no more than 45 days following expiration of the time frames set forth in Sections 31.16(c), (d), or (e), as applicable, for filing an appeal. If more than one person submits a letter of appeal, the Board President may consolidate such appeals so that they are heard simultaneously. The Clerk shall provide notice of the appeal by mail to the appellant or appellants and to all organizations and individuals who previously have requested such notice in writing. The Clerk shall provide such notice no less than 14 days prior to the date the appeal is scheduled to be heard by the Board. The Planning Department shall provide to the Clerk of the Board the list of individuals and organizations that have commented on the decision or determination in a timely manner, or requested notice of an appeal, no less than 20 days prior to the scheduled hearing.

(5) Members of the public, appellant and real parties in interest or City agencies sponsoring the proposed project may submit written materials to the Clerk of the Board no later than noon, 11 days prior to the scheduled hearing. The Clerk will distribute any written document submitted by noon, eight days prior to the scheduled hearing to the Board through the Board's normal distribution procedures.

(6) The Board shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions.

(7) The Board shall act on an appeal within 30 days of the date scheduled for the hearing, provided that if the full membership of the Board is not present on the last day on which the appeal is set for a decision within said 30 days, the Board may postpone a decision thereon until, but not later than, the full membership of the Board is present; and provided further, if the Board of Supervisors does not conduct at least three regular Board meetings during such 30 day period, the Board of Supervisors shall decide such appeal within 40 days of the time set for the hearing thereon or at the next regularly scheduled Board meeting should such deadline fall within a Board recess; and provided further that the latest date to which said decision may be so postponed under this Section shall be not more than 90 days from the expiration of the time frames set forth in Sections 31.16(c), (d), or (e), as applicable, for filing an appeal.

(8) The Board may affirm or reverse any CEQA decision by a vote of a majority of all members of the Board. A tie vote shall be deemed to be disapproval of the CEQA decision. The Board shall act by motion. The Board shall adopt findings in support of its decision, which may include adoption or incorporation of findings made by the Planning Commission, Environmental Review Officer or other City department authorized to act on the CEQA decision below. If the Board reverses the CEQA decision, the Board shall adopt specific findings setting forth the reasons for its decision.

(9) If the Board affirms the CEQA decision, the date of the final EIR, the final negative declaration, or final—exemption determination shall be the date upon which the Planning Commission, Planning Department, Environmental Review Officer or other authorized City department, as applicable, first certified the EIR adopted the negative declaration or issued the exemption determination and any actions approving the project made prior to the appeal decision shall be deemed valid.

(10) If the Board reverses the CEQA decision, the prior CEQA decision and any actions approving the project in reliance on the reversed CEQA decision, shall be deemed void.

(11) The date the project shall be considered finally approved shall occur no earlier than either the expiration date of the appeal period if no appeal is filed, or the date the Board affirms the CEQA decision, if the CEQA decision is appealed.

(c) **Appeal of Environmental Impact Reports.** In addition to those requirements set forth in Section 31.16(b) above, the following requirements shall apply only to appeals of EIRs.

(1) Any person or entity that has submitted comments to the Planning Commission or the Environmental Review Officer on a draft EIR, either in writing during the public review period, or orally or in writing at a public hearing on the EIR, may appeal the Planning Commission's certification of the final EIR.

(2) The appellant of a final EIR shall submit a letter of appeal to the Clerk of the Board no later than 30 days after the Planning Commission's certification of the EIR.

(3) The grounds for appeal of an EIR shall be limited to whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.

(4) The Board shall affirm the Planning Commission's certification of the final EIR if the Board finds that the final EIR complies with CEQA, including that it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and that the Planning Commission certification findings are correct.

(5) The Board shall reverse the Planning Commission's certification of the EIR if the Board finds that the EIR does not comply with CEQA, including that it is not adequate, accurate and objective, is not sufficient as an informational document, that its conclusions are incorrect or it does not reflect the independent judgment and analysis of the City, or that the Planning Commission certification findings are incorrect. If the Board reverses the Planning Commission's certification of the final EIR, it shall remand the final EIR to the Planning Commission for further action consistent with the Board's findings. Any further appeals of the EIR shall be limited only to the portions of the EIR that the Planning Commission has revised and any appellant shall have commented on the revised EIR at or before a public hearing held on the revised EIR or the project, if any. The Board's subsequent review, if any, also shall be limited to the portions of the EIR that the Planning Commission has revised including, without limitation, new issues that have been addressed. Any additional appeals to the Board shall comply with the procedures set forth in this

Section 31.16.

(d) **Appeal of Negative Declarations.** In addition to those requirements set forth in Section 31.16(b) above, the following requirements shall apply only to appeals of negative declarations.

(1) Any person or entity that has filed an appeal of the preliminary negative declaration with the Planning Commission during the public comment period provided by this Chapter 31 for filing comments on the preliminary negative declaration may appeal the Planning Commission's approval of the final negative declaration.

(2) The appellant of a negative declaration shall submit a letter of appeal to the Clerk of the Board after the Planning Commission approves the final negative declaration and within 30 days after the Date of the Approval Action for the project taken in reliance on the negative declaration.

(3) The grounds for appeal of a negative declaration shall be limited to whether, in light of the whole record before the Board, the negative declaration conforms to the requirements of CEQA and there is no substantial evidence to support a fair argument that the project may have a significant effect on the environment, and in the case of a mitigated negative declaration, the adequacy and feasibility of the mitigation measures.

(4) The Board shall affirm the Planning Commission approval of the negative declaration if it finds that the negative declaration conforms to the requirements of CEQA and that the record does not include substantial evidence to support a fair argument that the project may have a significant effect on the environment.

(5) The Board shall reverse the Planning Commission approval of the negative declaration if it finds that the negative declaration does not conform to the requirements of CEQA or there is substantial evidence to support a fair argument that the project may have a significant effect on the environment that has not been avoided or mitigated to a less than significant level by mitigation measures or project modifications agreed to by the project sponsor or incorporated into the project. If the Board reverses the decision of the Planning Commission, it shall remand the negative declaration to the Planning Department for further action consistent with the Board's findings.

(A) In the event the Board remands the negative declaration to the Planning Department for revision, the Environmental Review Officer shall finalize the revised negative declaration and send notice to the public, as set forth in Section 31.11 of this Chapter, of the availability of the revised negative declaration. No appeal to the Planning Commission of the revised negative declaration shall be required. In the event an organization or individual wishes to appeal the revised negative declaration, such appeal shall be made directly to the Board of Supervisors within 30 days of publication of the revised negative declaration and shall comply with the procedures set forth in this Section 31.16. The Board's subsequent review, if any, shall be limited to the portions of the negative declaration that the Planning Department has revised.

(B) In the event the Board determines that a project may have a significant effect on the environment that cannot be avoided or mitigated to a less than significant level and, therefore, an EIR is required, the Planning Department shall prepare an EIR in accordance with CEQA and this Chapter 31. Any subsequent appeal to the Board shall comply with the procedures set forth in this Section 31.16.

(e) **Appeal of Exemption Determinations.** In addition to those requirements set forth in Section 31.16(b) above, the following requirements shall apply to appeals of exemption determinations.

(1) Any person or entity may appeal the exemption determination by the Planning Department or other authorized City department to the Board.

(2) The appellant of an exemption determination shall submit a letter of appeal to the Clerk of the Board within the following time frames as applicable:

(A) For a private project seeking a permit, license or other entitlement for use for which the City otherwise provides an appeal process for the entitlement, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and within 30 days after the Date of the Approval Action, regardless of whether the Approval Action is subject to a shorter appeal period. Departments that issue permits or entitlements supported by exemption determinations shall take steps as they determine appropriate to advise applicants seeking permits, licenses or other entitlements for use of the 30-day appeal period for the exemption determination.

(B) For all projects not covered by Section (A):

(i) If the Approval Action is taken following a noticed public hearing as provided for in Section 31.08(f) of this Chapter, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and within 30 days after the Date of the Approval Action.

(ii) If the Approval Action is taken without a noticed public hearing as provided for in Section 31.08(f) of this Chapter, the appeal of an exemption determination shall be filed after the Planning Department issues the exemption determination and within 30 days after the first date the Planning Department posts on the Planning Department's website a notice as provided in Section 31.08(g) of this Chapter.

(C) As to an exemption determination for a project for which no City entity posted the exemption determination on the City's website or otherwise provided public notice of the exemption determination under this Chapter 31, an appeal may be filed within 30 days following the appellant's discovery of the exemption determination.

(3) The grounds for appeal of an exemption determination shall be limited to whether the project conforms to the requirements of CEQA for an exemption.

(4) The Board shall affirm the exemption determination if it finds that the project conforms to the requirements set forth in CEQA for an exemption.

(5) The Board shall reverse the exemption determination if it finds that the project does not conform to the requirements set forth in CEQA for an exemption. If the Board finds that the project does not conform to the requirements set forth in CEQA for an exemption, the Board shall remand the exemption determination to the Planning Department for further action consistent with the Board's findings. In the event the Board reverses the exemption determination of any City department other than the Planning Department, the exemption determination shall be remanded to the Planning Department, and not the City department making the original exemption determination, for consideration of the exemption determination in accordance with the Board's directions.

(Added by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

(Former Sec. 31.16 added by Ord. 40-01, File No. 001007, App. 3/16/2001; deleted by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

(Former Sec. 31.16 amended by Ord. 166-74, App. 4/11/74; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.17. ACTIONS ON PROJECTS.

(a) The certification of completion and the final EIR shall be transmitted by the Environmental Review Officer to the applicant and the board, commission or department that is to carry out or approve the project, and shall be presented to the body which will decide whether to carry out or approve the project. These documents shall also be presented to any appellate body in the event of an appeal from the decision whether to carry out or approve the project.

(b) Before making its decision whether to carry out or approve the project, the decision-making body or appellate body shall review and consider the information contained in the EIR and shall make findings as required by CEQA.

(c) Thereafter, the decision-making body or appellate body may make its decision whether to carry out or approve the project.

(d) After the City has decided to carry out or approve the project, the Environmental Review Officer may file a notice of determination with the county clerk of the county or counties in which the project is to be located and as required by CEQA. Such notice shall contain the information required by CEQA.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

(Former Sec. 31.17; added by Ord. 134-73, App. 4/11/73; repealed by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.18. ADDITIONAL ENVIRONMENTAL REVIEW.

If the Environmental Review Officer or a decision-making body, as defined in CEQA, determine that additional environmental review is required by CEQA, or if modifications to a project require additional environmental review, such review will be conducted as provided by CEQA and in accordance with the applicable procedures set forth in this Chapter 31.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

SEC. 31.19. EVALUATION OF MODIFIED PROJECTS.

(a) After evaluation of a proposed project has been completed pursuant to this Chapter, a substantial modification of the project may require reevaluation of the proposed project.

(b) When the Environmental Review Officer determines that a change in an exempt project is a substantial modification as defined in Section 31.08(i), the Environmental Review Officer shall make a new CEQA decision as provided in this Chapter.

(1) If the Environmental Review Officer again determines that the project as modified is exempt, the Environmental Review Officer shall make a new exemption determination in accordance with the applicable provisions of Section 31.08(e).

(2) If the Environmental Review Officer determines that the modified project is not exempt, an initial study shall

be conducted as provided in this Chapter.

(3) The Planning Department may issue guidance to other City departments in determining the type of project modification that might occur after an Approval Action that would require additional CEQA review. The guidance may also advise on the process and considerations that the Planning Department would use in such cases to determine whether to issue a new exemption determination or undertake further environmental review.

(c) Where such a modification occurs as to a project for which a negative declaration has been adopted or a final EIR has been certified, the Environmental Review Officer shall reevaluate the proposed project in relation to such modification.

(1) If, on the basis of such reevaluation, the Environmental Review Officer determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefor shall be noted in writing in the case record, and no further evaluation shall be required by this Chapter. Notice of any such written determination and the reasons therefor shall be posted in the Planning Department, and shall be mailed to the applicant, the board, commission or department that will carry out or approve the project, to any individual or organization that has commented on the environmental document, and to any other individual or organization requesting such notice in writing.

(2) If, on the basis of such reevaluation, the Environmental Review Officer determines that additional environmental review is necessary, the project shall be considered a new project for purposes of environmental review pursuant to this Chapter. In that event, a new evaluation shall be completed prior to the decision by the City as to whether to carry out or approve the project as modified. CEQA sets forth specific requirements for the determination of whether a supplemental or subsequent EIR is necessary, as well as the process therefor.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001; amended by Ord. 161-13, File No. 121019, App. 7/26/2013, Eff. 8/25/2013, Oper. 9/25/2013 [see note at end of Article])

SEC. 31.20. MULTIPLE ACTIONS ON PROJECTS.

(a) The concept of a project is broadly defined by CEQA so that multiple actions of the same or of different kinds may often constitute a single project. This concept of a project permits all the ramifications of a public action to be considered together, and avoids duplication of review.

(b) Early and timely evaluation of projects and preparation of EIRs shall be emphasized.

(c) Only one initial study, negative declaration or EIR shall be required for each project.

(d) For purposes of determining the appropriate time for evaluation of projects and preparation of EIRs pursuant to this Chapter, there shall be only one relevant decision by the City to carry out or approve, or not to carry out or approve, a project. However for other purposes there may be more than one determination by the same or separate boards, commissions and departments of the City, either discretionary or ministerial, affecting the carrying out or approval of the project. The authority and effectiveness of any other such determinations, including determinations by the Board of Appeals or any other appellate body, shall not be diminished by anything in this Chapter.

(e) Only one evaluation of a project or preparation of an EIR shall occur in cases in which both the City and one or more other public agencies are to carry out or approve a project. In such cases the evaluation or preparation is performed by the lead agency, which agency is selected by reference to criteria in CEQA.

(f) CEQA provides that a single initial study, negative declaration or EIR may be employed for more than one project, if all such projects are essentially the same in terms of environmental effects. Furthermore, an initial study, negative declaration or EIR prepared for an earlier project may be applied to a later project, if the circumstances of the projects are essentially the same.

(g) Reference is made in CEQA to simultaneous consideration of multiple and phased projects, related projects, cumulative effects of projects, projects elsewhere in the region, existing and planned projects.

(h) With respect to projects preceding CEQA, and projects for which evaluations and EIRs have already been completed, or on which substantial work has been performed, CEQA makes provision as to when, if at all, a new evaluation or EIR must be prepared. An effort shall be made, in preparation of evaluations and EIRs, to consider alternatives and thus avoid the need for such further review of the project.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001)

Editor's Note regarding Operative Date of Ord. 161-13:

Ordinance 161-13 amends sections of this Article, as shown in the history notes above. Section 6 of that ordinance provides as follows:

Operative Date. *This ordinance shall become operative on the later date of September 1, 2013, or five business days after the Secretary of the Planning Commission provides a memorandum to the Clerk of the Board of Supervisors advising that the Planning Commission has held a public hearing at which the*

Planning Department has demonstrated to the Planning Commission that it has updated its website to provide up-to-date information to the public about each CEQA exemption determination in a format searchable by location, such as through the "Active Permits In My Neighborhood" tool now used by the Planning Department and the Building Department.

At the direction of the Office of the City Attorney, the publisher incorporated the amendments made by Ord. 161-13 into this Code on September 25, 2013.

ARTICLE IV: FEES

<u>Sec. 31.21.</u>	Allocation of Costs.
<u>Sec. 31.22.</u>	Fees.
<u>Sec. 31.23.</u>	Other Fees.
<u>Sec. 31.23.1.</u>	Community Plan Fees.

SEC. 31.21. ALLOCATION OF COSTS.

(a) The costs of initial evaluations, preparation of environmental impact reports, notices, hearings and other aspects of administering this Chapter 3.1 shall be borne as follows:

- (1) For a project to be carried out by the City: By the board, commission or department that is to carry out such project, as part of the budgeted project costs.
- (2) For a project to be carried out by any person other than the City: By such person.
- (3) For the taking of an appeal to the Planning Commission: By the appellant.

(Added by Ord. 40-01, File No. 001007, App. 3/16/2001) (Former Sec. 31.21; added by Ord. 134-73, App. 4/11/73; repealed by Ord. 40-01)

SEC. 31.22. FEES.

(a) **Authorization of Fees.** The Planning Department shall charge fees to compensate the Department for the cost of performing the activities and providing the services described in Chapter 31 of this Code. Notwithstanding the procedures set forth in this Section 31.22, the Board of Supervisors may modify the fees by ordinance at any time.

(b) **Base Fees.** The base fees to be charged and collected by the Department for the activities performed by the Department under Chapter 31 of this Code are stated in Section 4 of Ordinance No. _____, available in Board of Supervisors File No. 160632 and on the website of the Board of Supervisors. The base fees stated in Section 4 of that ordinance are the fees in effect as of the date of introduction of the ordinance.

(c) **Annual Adjustment of Base Fees.** Consistent with preexisting law, beginning with the setting of fees for fiscal year 2016-2017, the Controller will annually adjust the base fee amounts referenced in subsection (b) and stated in Section 4 of Ordinance No. 149-16 in Board of Supervisors File No. 160632, without further action by the Board of Supervisors, to reflect changes in the two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary Metropolitan Area (PMSA). This process will occur as follows.

No later than April 15 of each year, the Director shall submit the Department's current Fee Schedule to the Controller, who shall apply the CPI adjustment to produce a new Fee Schedule for the fiscal year beginning July 1. No later than May 15 of each year, the Controller shall file a report with the Board of Supervisors reporting the new Fee Schedule and certifying that: (1) the fees produce sufficient revenue to support the costs of providing the services for which the fee is charged and (2) the fees do not produce revenue that exceeds the costs of providing the services for which each permit fee is charged.

No later than September of each year, the Department's Fee Schedule showing the current fee amounts inclusive of annual adjustments shall be published in an Appendix to the Planning Code, posted on the Department's website, and made available upon request at the main office of the Department.

(d) **Surcharges.** In addition to fees, a surcharge shall be assessed on some fees to compensate the Department for the cost of appeals to the Board of Supervisors. These surcharges are stated in Section 4 of Ordinance No. 149-16 in Board of Supervisors File No. 160632. These surcharges are not part of base fees as described in subsection (b) and are not subject to the annual adjustment process described in subsection (c). However, to fully inform the public, such surcharges shall be included in the Planning Department Fee Schedule referenced in subsection (c).

Contents: (1) Historic Preservation Commission Motion 0340, May 16, 2018, and, (2) Planning Department Categorical Exemption 2018-003700PRJ

1. HPC Motion 0340 Recitals, p. 1:

"Whereas the Project was determined by the Planning Department to be categorically exempt from environmental review, the Historic Preservation Commission ("Commission") has reviewed and concurs with said determination."

and, in "Findings," p. 2:

"The above recitals are accurate & constitute findings of the Commission."

The Motion is Attached.

2. Categorical Exemption is issued next day, May 17, 2018

a. Box on left side of page 4, adjacent to Signature of Planner:

"Project Approval Action: Commission Hearing"

b. Signature of Planner:

"Once signed or stamped and dated, this document constitutes a categorical exemption, pursuant to CEQA guidelines and Chapter 31 of the Administrative Code."

Categorical Exemption 2018-003700PRJ is Attached.



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Motion No. 0340 HEARING DATE: MAY 16, 2018

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Case No.: 2018-003700COA
Project Address: Filbert Street and Columbus Avenue
Historic Landmark: No. 226: Washington Square
Zoning: P (Public)
OS (Open Space) Height and Bulk District
Block/Lot: 0102/001
Applicant: Levi Conover, Project Manager
San Francisco Recreation and Park Department
30 Van Ness Avenue, 3rd Floor
San Francisco, CA 94102
Staff Contact: Elizabeth Gordon Jonckheer - (415) 575-8728
elizabeth.gordon-jonckheer@sfgov.org
Reviewed By: Tim Frye - (415) 575-6822
tim.frye@sfgov.org

ADOPTING FINDINGS FOR A CERTIFICATE OF APPROPRIATENESS FOR PROPOSED WORK DETERMINED TO BE APPROPRIATE FOR AND CONSISTENT WITH THE PURPOSES OF ARTICLE 10, TO MEET THE STANDARDS OF ARTICLE 10, TO MEET THE SECRETARY OF INTERIOR'S STANDARDS FOR REHABILITATION, FOR THE PROPERTY LOCATED ON LOT 001 IN ASSESSOR'S BLOCK 0102, WITHIN A P (PUBLIC) ZONING DISTRICT AND AN OS (OPEN SPACE) HEIGHT AND BULK DISTRICT.

PREAMBLE

WHEREAS, on March 13, 2018 Levi Conover of the San Francisco Recreation and Parks Department ("Project Sponsor") filed an application with the San Francisco Planning Department (hereinafter "Department") for a Certificate of Appropriateness for alterations to Washington Square, including: the removal and replacement of existing trees and the addition of new trees, removal of all existing shrubs and bushes in the perimeter planting beds, replacement of existing benches in-kind, replacement of all existing asphalt pathways, installation of perimeter cobble pavers at the lawn and planting bed edges, installation concrete curbs along the planter beds, and installation of perimeter low fencing on outer planter bed edges.

WHEREAS, the Project was determined by the Department to be categorically exempt from environmental review. The Historic Preservation Commission ("Commission") has reviewed and concurs with said determination.

WHEREAS, on May 16, 2018, the Commission conducted a duly noticed public hearing on the current project, Case No. 2018-003700COA ("Project") for its appropriateness.

WHEREAS, in reviewing the Application, the Commission has had available for its review and consideration case reports, plans, and other materials pertaining to the Project contained in the Department's case files, has reviewed and heard testimony and received materials from interested parties during the public hearing on the Project.

MOVED, that the Commission hereby grants the Certificate of Appropriateness, in conformance with the plans dated March 31, 2018 labeled Exhibit A on file in the docket for Case No. 2018-003700COA based on the following findings:

CONDITIONS OF APPROVAL

1. Specifications for final materials, including the post and chain fencing, walkway paving material, cobblestone for planting bed borders, and the bench material will be forwarded for review and approval by Planning Department Preservation Staff prior to the issuance of Building Permit Applications.

FINDINGS

Having reviewed all the materials identified in the recitals above and having heard oral testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of the Commission.
2. Findings pursuant to Article 10:

The Historic Preservation Commission has determined that the proposed work is compatible with the character of the landmark as described in the designation report.

- That the proposed project is compatible with the Washington Square, Landmark Number 226 since the project does not affect the design and form of the site.
- That the project would maintain the existing use of the park as a public open space and would maintain the park's historic character.
- That the proposed project maintains and does not alter or destroy the park's character-defining features or materials.
- The proposed project meets the requirements of Article 10.
- On balance, the proposed project meets the following Secretary of Interior's Standards for Rehabilitation: The proposed project meets the following *Secretary of Interior's Standards for Rehabilitation*:

Standard 1.

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

Standard 2.

The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

Standard 3.

Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

Standard 5.

Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

Standard 9.

New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Standard 10.

New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

3. **General Plan Compliance.** The proposed Certificate of Appropriateness is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7

Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

The goal of a Certificate of Appropriateness is to provide additional oversight for buildings and districts that are architecturally or culturally significant to the City in order to protect the qualities that are associated with that significance.

The proposed project qualifies for a Certificate of Appropriateness and therefore furthers these policies and objectives by maintaining and preserving the character-defining features of Washington Square, Landmark Number 226 for the future enjoyment and education of San Francisco residents and visitors.

4. The proposed project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed project will have no effect on existing neighborhood-serving retail uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed project will strengthen neighborhood character by respecting the character-defining features of the site and landmark in conformance with the Secretary of the Interior's Standards.

- C) The City's supply of affordable housing will be preserved and enhanced:

The project will not affect the City's affordable housing supply. —

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed project will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed project will not have any impact on industrial and service sector jobs.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The project will have no effect on preparedness against injury and loss of life in an earthquake. The work will be executed in compliance with all applicable construction and safety measures.

- G) That landmark and historic buildings will be preserved:

The proposed project is in conformance with Article 10 of the Planning Code and the Secretary of the Interior's Standards.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed project will not impact the access to sunlight or vistas for the parks and open space.

5. For these reasons, the proposal overall, is appropriate for and consistent with the purposes of Article 10, meets the standards of Article 10, and the Secretary of Interior's Standards for Rehabilitation, General Plan and Prop M findings of the Planning Code.

DECISION

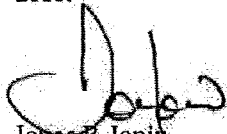
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES WITH CONDITIONS** a Certificate of Appropriateness for the property located at Lot 001 in Assessor's Block 0102 for proposed work in conformance with the plans labeled Exhibit A on file in the docket for Case No. 2018-003700COA.

APPEAL AND EFFECTIVE DATE OF MOTION: The Commission's decision on a Certificate of Appropriateness shall be final unless appealed within thirty (30) days. Any appeal shall be made to the Board of Appeals, unless the proposed project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use, in which case any appeal shall be made to the Board of Supervisors (see Charter Section 4.135).

Duration of this Certificate of Appropriateness: This Certificate of Appropriateness is issued pursuant to Article 10 of the Planning Code and is valid for a period of three (3) years from the effective date of approval by the Historic Preservation Commission. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor.

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OF OCCUPANCY UNLESS NO BUILDING PERMIT IS REQUIRED. PERMITS FROM THE DEPARTMENT OF BUILDING INSPECTION (and any other appropriate agencies) MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

I hereby certify that the Historical Preservation Commission ADOPTED the foregoing Motion on May 16, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Black, Hyland, Johnck, Johns, Matsuda, Wolfram

NAYS: None

ABSENT: Pearlman

ADOPTED: May 16, 2018

SF REC & PARK | WASHINGTON SQUARE PARK WATER CONSERVATION PROJECT

January 31, 2018



Project Manager

Levi Conover

Recreation and Parks Department

Design Team

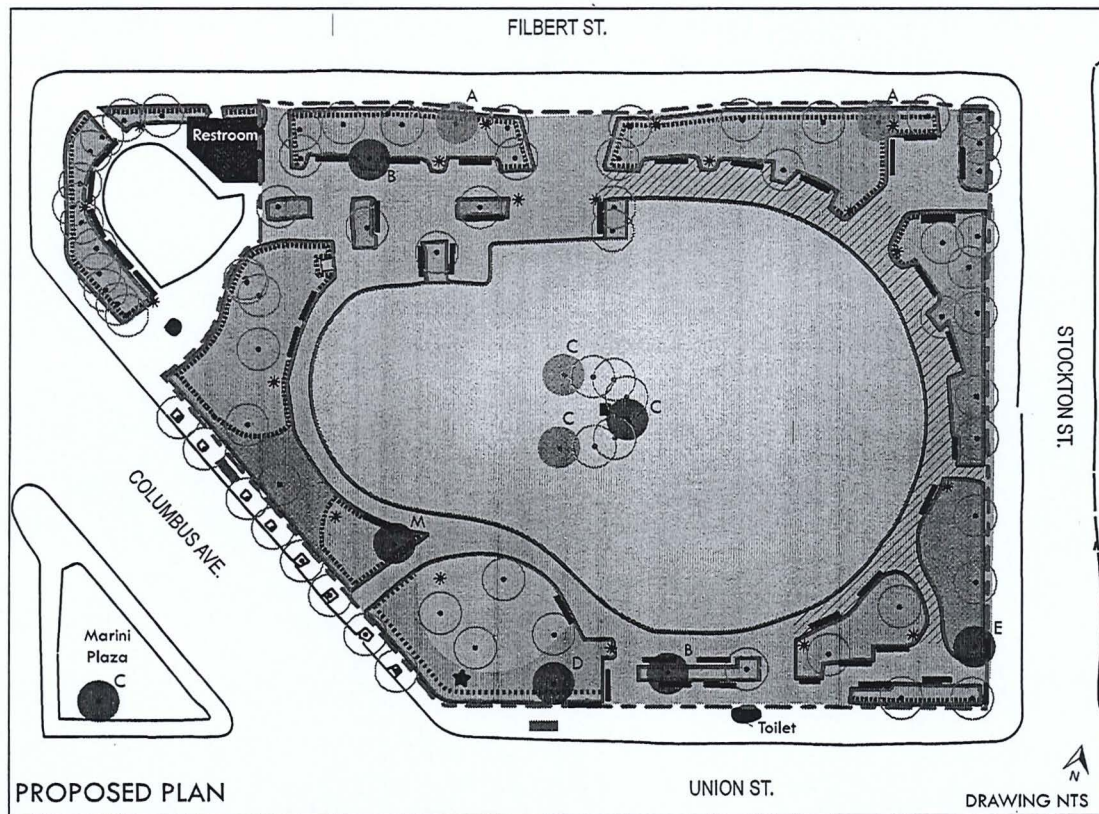
Edward Chin, Landscape Architect

Andrea Alfonso, Landscape Architect

San Francisco Public Works



Building Design & Construction



Tree Legend

- A- *Olea Europaea*, European Olive (Qty.2)
- B- *Michelia doltsopa*, Sweet Michelia (Qty.2)
- C- *Populus nigra*, Black Poplar (Qty.4)
- D- *Platanus racemosa*, CA Sycamore (Qty.1)
- E- *Pinus Pinea*, Stone Pine (Qty.1)
- M- *Maytensus boaria*, Mayten (Qty.1)

Legend

- | | | | | | |
|---|------------------------------|----|--------------------------|----|--------------------------------|
| 1 | Existing Tree | 5 | Existing Bus Stop | 11 | New Tree |
| 2 | Existing Light Pole | 6 | Proposed Cobble Paving | 12 | Tree to Be Removed/Replaced |
| 3 | Proposed Bench, as necessary | 7 | Proposed Concrete Curb | 13 | Proposed Grass |
| 4 | Proposed Low Fencing | 8 | Proposed Grading Area | 14 | Proposed Low Shrub/Groundcover |
| | | 9 | Proposed Concrete Paving | 15 | Remove AC paving |
| | | 10 | Proposed Mulch | 16 | Park Sign |

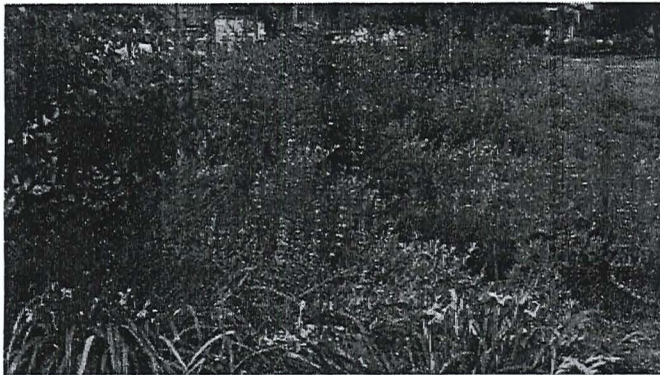


PLANTING RECOMMENDATIONS

Plant species selected for the palette meet several underlying criteria, which are: low water use, provide habitat for insects and birds and low maintenance. Additionally, their profile grows under three feet tall to maintain clear site lines for park safety.

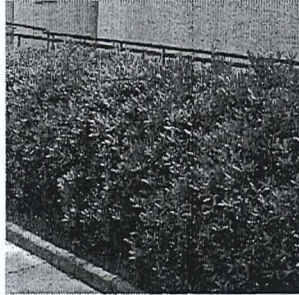
It is recommended that the planting beds be filled with drifts of plant massings that seamlessly blend together. This will allow specific plants to define planting beds and give structure and character to the perimeter of the park.

Temporary protective fencing should be installed at the perimeter of new planting beds until new permanent perimeter fencing can be installed.

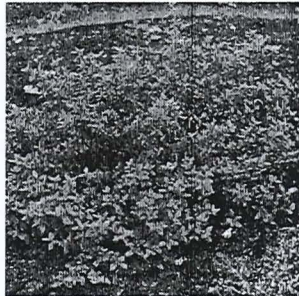


PLANTING PRECEDENTS

FOUNDATION PLANTING: MAX 3' HIGH



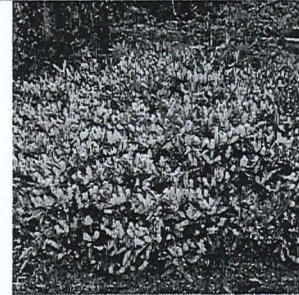
Olea europea 'little ollie'
Little Ollie Dwarf Olive
✱



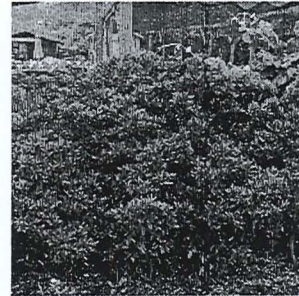
Correa 'Dusky Bells'
Red Australian Fuchsia
✱ ✱ ✱



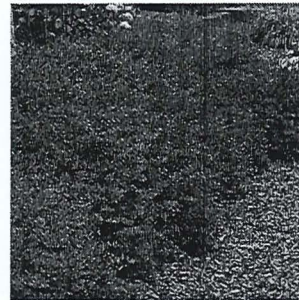
Ceanothus 'Concha'
Concha Ceanothus
✱ ✱



Prunus Laurocerasus 'Otto Luyken'
Cherry Laurel
✱ ✱ ✱

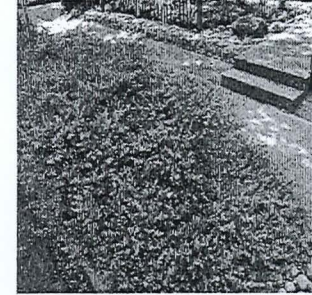


Rhamnus californica 'Mt. San Bruno'
Dwarf Coffeeberry
✱ ✱ ✱

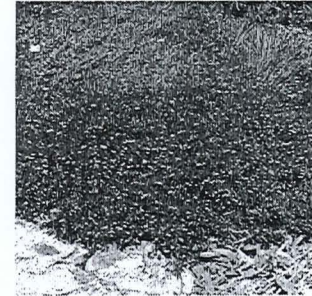


Berberis thunbergii
Berberis
✱

GROUNDCOVER



Baccharis pilularis 'Twin Peaks'
Dwarf Coyote Brush
✱ ✱



Sollya heterophylla
Australian Bluebell Creeper
✱ ✱ ✱



Ceanothus gloriosus 'Anchor Bay'
Anchor Bay Ceanothus
✱ ✱

Legend

- ✱ Shade Tolerant
- ✱ Spring Bloom
- ✱ Summer Bloom
- ✱ Fall Bloom
- ✱ Winter Bloom
- ✱ Attracts Insects and/or birds

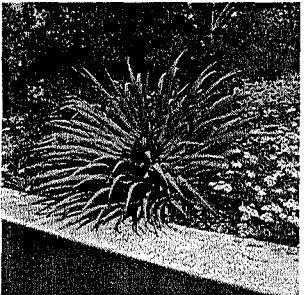
SHRUBS + SUCCULENTS



Ribes Sanguineum
Pink Flowered Currant
* * * *



Woodwardia fimbriata
Chain Fern
*



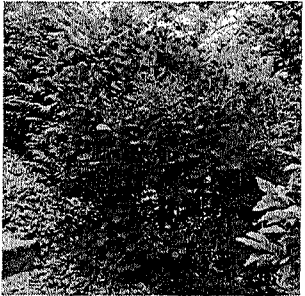
Agave bracteosa
Spider Agave



Punica granatum 'nana'
Dwarf Pomegranate
* *



Phormium tenax spp.
Dwarf Flax
*



Cotinus coggygria
Smoketree
* *

PERENNIALS



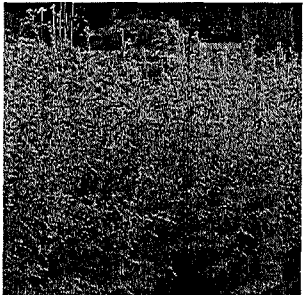
Heuchera maxima
Island Alum Root
* * *



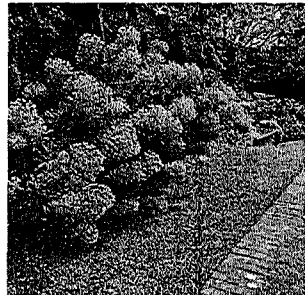
Helleborus spp.
Lenten Rose
* * * *



Anemone x hybrida 'Honorine Jobert'
Japanese Anemone
* * * *



Zauschneria californica
California Fuchsia
* * *



Euphorbia characias 'wulfenii'
Spurge
* *



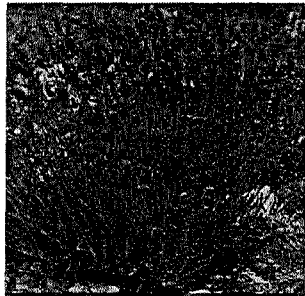
Santolina chamaecyparissus
Lavender Cotton
* *



Rosmarinus officinalis 'Prostratus'
Creeping Rosemary
* * *



Penstemon heterophyllus 'BOP'
Blue Bedder
* * *



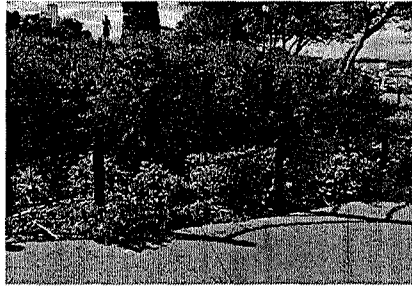
Lavendula spp.
Lavender
* * *

Legend

- * Shade Tolerant
- * Spring Bloom
- * Summer Bloom
- * Fall Bloom
- * Winter Bloom
- * * * Attracts Insects and/or birds



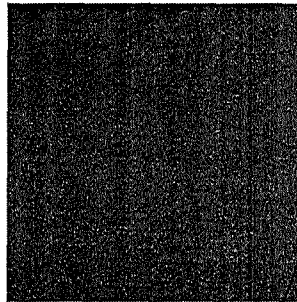
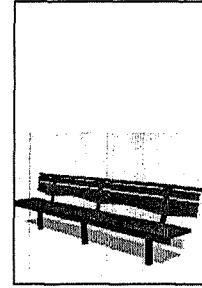
Building Design & Construction



Plant Protection Fence



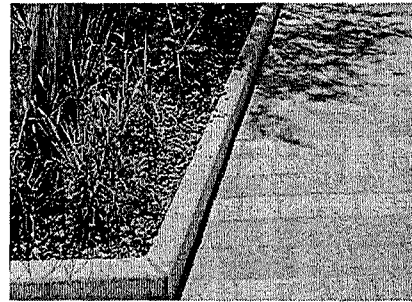
Historic Bench
replace to match existing



Paving
waterjet concrete with
integral color



Paving Edge
basalt pavers



Curb at Sidewalk



SAN FRANCISCO PLANNING DEPARTMENT

BOARD OF SUPERVISORS
SAN FRANCISCO

2018 JUN 15 PM 3:56

CEQA Categorical Exemption Determination

BA

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
Washington Square Water Conservation Project		1020001
Case No.		Permit No.
2018-003700PRJ		
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. Landmark #226. The Washington Square Water Conservation Project seeks to reduce the park's existing irrigation water use by two thirds and improve saturated soils conditions on the main lawn.</p>		

STEP 1: EXEMPTION CLASS

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p>FOR ENVIRONMENTAL PLANNING USE ONLY</p>
<input type="checkbox"/>	Class _____

Contents: Appendices re Notice to Public of Historic Preservation Commission Meeting on May 16, 2018. "Approval Action" is announced as part of Notice.

"A Historic Preservation Commission approval at the public hearing would constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h)."

The notice for the project is attached. In addition to this on-line notice, six poster sized notices on foam core backing were mounted in Washington Square beginning May 7, 2018.



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street, Suite 400 • San Francisco, CA 94103 • Fax (415) 558-6409

NOTICE OF PUBLIC HEARING

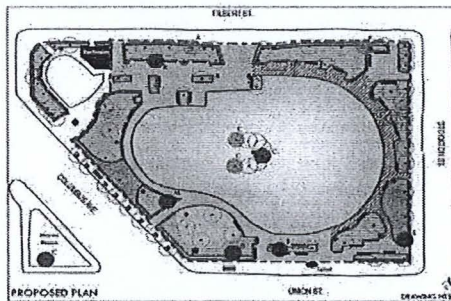
Hearing Date: **Wednesday, May 16, 2018**
 Time: **Not before 12:30 PM**
 Location: **City Hall, 1 Dr. Carlton B. Goodlett Place, Room 400**
 Case Type: **Certificate of Appropriateness**
 Hearing Body: **Historic Preservation Commission**

PROPERTY INFORMATION		APPLICATION INFORMATION	
Project Address:	Washington Square	Case No.:	2018-003700COA
Cross Street(s):	Filbert St. & Columbus Ave.	Building Permit:	N/A
Block /Lot No.:	0102/001	Applicant:	SF Rec & Park Dept.
Zoning District(s):	P / OS	Telephone:	(415) 581-2572
Designation:	Landmark Number 226	E-Mail:	levi.conover@sfgov.org

PROJECT DESCRIPTION

The proposed project includes: the removal and replacement of three existing trees and the addition of four new trees that were previously removed due to disease/hazard, removal of all existing shrubs and bushes in the perimeter planting beds, ADA upgrades to pathways, including the replacement of all existing asphalt pathways with stained concrete, installation of perimeter cobble pavers at the lawn and planting bed edges, installation of a new 6"-12" tall concrete curb along the planter beds, and installation of perimeter low fencing on outer planter bed edges.

A Historic Preservation Commission approval at the public hearing would constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).



Legend

- | | | |
|----------------------------------|------------------------------|-------------------------------------|
| 1 - Limit of Work | 5 - Existing Bus Stop | 11 - New Tree |
| 2 - Existing Tree | 6 - Proposed Cobble Paving | 12 - Tree to Be Removed/Replaced |
| 3 - Existing Light Pole | 7 - Proposed Concrete Curb | 13 - Proposed Grass |
| 4 - Proposed Bench, as necessary | 8 - Proposed Grading Area | 14 - Proposed Low Shrub/Groundcover |
| 5 - Proposed low fencing | 9 - Proposed Concrete Paving | 15 - Remove AC paving |
| | 10 - Proposed Mulch | 16 - Park Sign |

ADDITIONAL INFORMATION

ARCHITECTURAL PLANS: If you are interested in viewing the plans for the proposed project please contact the planner listed below. The plans of the proposed project will also be available one week prior to the hearing through the Historic Preservation Commission agenda at: <http://www.sf-planning.org>.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

FOR MORE INFORMATION, PLEASE CONTACT PLANNING DEPARTMENT STAFF:

Planner: **Elizabeth Jonckheer** Telephone: **(415) 575-8728** E-Mail: elizabeth.gordon-jonckheer@sfgov.org

ORIGINAL APPEAL FILED JUNE 15, 2018

Letter of Appeal of Categorical Exemption ("C.E.") 2018-003700PRJ

To: Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<angela.calvillo@sfgov.org> 415-554-7630

Attn: Brent Jalipa, Legislative Clerk
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<brent.jalipa@sfgov.org> 415-554-5184

Cc: Aaron Peskin, Supervisor, District 3
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<aaron.peskin@sfgov.org> 415-554-7450

Cc: John Rahaim, Director
San Francisco Planning Department
1650 Mission Street #400 / SF CA 94103
<john.rahaim@sfgov.org> 415-558.6350

Cc: Elizabeth Jonckheer, Project Planner, S F Planning Department
<elizabeth.gordon-jonckheer@sfgov.org> 415-575-8728

Per San Francisco Administrative Code §31.16(e)(1), this Appeal of C.E. 2018-003700PRJ, consequent to the proposed closure of Washington Square, a park in San Francisco, California and a "known Historic resource" located at Block Lot 1020001, is hereby submitted to the San Francisco Board of Supervisors.

The at-issue Categorical Exemption ("C.E.") was inadequately researched and inadequately promulgated, offering no opportunity until this appeal for those members of the public most likely to be affected by the underlying project to suggest changes or otherwise comment on it. The conclusions drawn in the C.E. are flawed, and those flawed conclusions are detrimental to the very reasons given by the City for its so-called "conservancy project."

June 15, 2108

Dear Board of Supervisors Clerk Calvillo,

Thank you for accepting this appeal of the above referenced Categorical Exemption for consideration, discussion and vote by the San Francisco Board of Supervisors.

Marc Bruno, Appellant
15 Nobles Alley
San Francisco, CA 94133
<marcabruno@yahoo.com>
415-434-1528

Daniel Macchiarini, Appellant
President, North Beach Business Association
Macchiarini Creative Design & Metalworks
Gallery, a Legacy Business
<danny1mac@sbcglobal.net>
415-982-2229

I. Introduction

My name is Marc Bruno and I submit this appeal on behalf of the North Beach Business Association, the sole neighborhood group representing businesses in the North Beach Commercial District, and myself.

Appellant Marc Bruno

I am the Treasurer of the St. Vincent de Paul Society Conference at Saints Peter and Paul Church, a volunteer position. I also am a former employee of San Francisco St. Vincent de Paul Society, a non-profit organization serving the needs of homeless individuals and families who live in and pass through the City. St. Vincent de Paul Society is a contractual partner with the City for one of the San Francisco's largest homeless shelters, MSC South. We also help operate two of the City's new Navigation Centers.

In my role as volunteer and former employee of the Society, I have worked with the homeless in and around the proposed project site, Washington Square, for over 20 years. In addition to the environmental concerns described herewith, I am disturbed by the project sponsor's failure to formulate a plan to relocate and house the many homeless individuals and families who live in Washington Square. Without such planning, these people, already facing severe economic and emotional challenges, will be further harmed, as will the public at-large.

Appellant North Beach Business Association (hereinafter, "NBBA")

North Beach Business Association (NBBA) represents over 100 active members, all businesses located in North Beach. At least 15 of these businesses are in plain view of and surround Washington Square, the site of the proposed project. These businesses and others in our greater commercial district will be greatly damaged should the project proceed without further environmental review. Indeed, many of our member businesses are convinced they will be out of business by the time the so-called conservancy project is complete. Their loss will be a direct consequence of the failure of the City to mitigate the overt detrimental effects on the environment should the project move forward without reasonable mitigation.

The mitigation we seek, and the mitigation the writers of the Categorical Exemption inexplicably ignore, are the reasonable measures that should be taken to ameliorate the effects of the project on traffic, air quality and noise. There should be plans in place for construction and dirt removal and re-installation, dust mitigation as well as noise mitigation, so that businesses around Washington Square, many of which are outdoor sidewalk cafes with patios, will not go out of business.

A traffic disruption mitigation plan should also be in place. No construction debris, materials nor vehicles should be stored or parked on sidewalks, nor on public and commercial parking spaces, nor in bicycle, bus and taxi lanes.

It also is imperative that an effective and enforceable contractor oversight and accountability plan be in place to ensure immediate on-site compliance with an approved mitigation plan, and that the project be completed by the contracted due date. Any extension of the project will, unavoidably, have a negative impact on the environment and the cultural integrity of the neighborhood, and these in turn will exacerbate the project's impact on the historic commercial district that is so essential to the quality of life in North Beach.

II. Objection to and Appeal of Categorical Exemption 2016-014104ENV

Please know that by this communication, hand-delivered to the Board of Supervisors as well as sent digitally by email, the undersigned Appellants notify you that we object to and appeal the attached "Categorical Exemption" for Washington Square, a park in San Francisco, California, Case Number 2018-003700PRJ, Block Lot 1020001.

The Categorical Exemption is based on a review of a project sponsored by the San Francisco Recreation and Parks Department. The title of the project is "Washington Square Water Conservancy Project." No other identifying information is given concerning the project in the Categorical Exemption.

Based on the year-long duration of the closure of an Article 10 Landmarked resource, we believe that *at a minimum* the real party in interest, the San Francisco Recreation and Parks Department, is required to request and publish a Mitigated Negative Declaration before proceeding with the project.

III. Arguments in Favor of Appeal of C.E. 2018-003700PRJ

~~(A.) Project Sponsors' Failure to Notify the Public and decision-makers assigned to approve, modify or disapprove the environmental impact of the project that the project site, a public park, would be closed for one year. is an egregious error. Inadvertently or deliberately, sponsors misled the public and the assigned decision-makers, preventing them from grasping the scope of the project, an essential component used to evaluate the probable effect on the environment.~~ review

Project sponsors failed to notice the public and public's designated decision-makers (a.k.a. "Commissioners") of its intent to close the park for one year. Indeed, it barely mentions any closure whatsoever in the documents presented to the Commission. In so doing, project sponsors fail to reveal the scope of the project, an essential element in evaluating its likely environmental impact.

By failing to notify decision-makers of this closure

The comments of Commissioner Ellen Johnck, RPA, are particularly telling in this regard. In deliberations on the Washington Square project on May 16, the single hearing on this project, the Commissioner points out that nowhere in the supporting documents to the Commission and the public is mention made of "site closure" or "park closure;" to wit:

"I would move continuance. It seems like there is some overlap here, and even though I agree that some of the issues don't exactly apply to our historic issue, ***I was unaware that the park was going to close-- even though I thoroughly read the entire document.*** I don't see a problem with moving [the motion] a month, really, with the parks department so we can do more and hear more about this." [Emphasis added.]

Commissioner Johnck, the Commission's only Preservation Professional, is not mistaken in her assessment of the Planning Department's and Rec and Park's failure to be forthright in revealing the year-long closure of the project site. In the entire 82-page report to the Commission, there is only one mention of the word "closure," in a single sentence describing the public's correspondence "related to this project." Note that the reference does not even say on which side the public falls. The reader might as easily assume that the public correspondence is *in favor* of the closure as against it -- perhaps because the closure is so unexpected brief.

The decision-makers ("Commissioners") are left hanging. They do not know the implication of the correspondence, because they are told anywhere that the park will even be closed for one day; to wit:

"The Department has received public correspondence related to this project in regard to the duration of the closure of the park due to the remodel, and the dislocation of the park's homeless population."

That's it in the entire 82-page supporting document regarding "closure" of the project site, a Section 10 Landmarked Public Resource. And if decision-makers were kept in the dark up until the time of the hearing on May 16, how much more was the public kept there too?

As no mention is made of the length of the park closure, and as no mention is made of what position the public correspondence takes on the issue, reference to public correspondence is no better than the "newspeak" George Orwell ridicules-- and warns us against-- in his book *1984*.

No mention is made of the project site closure in agenda item for Washington Square before the Commission on May 16. No mention is made of the closure

on the notice posted in the park to invite the public to the Historic Preservation Commission Hearing. No mention is made of it in the on-line disclosure form for the hearing, and no mention is made of it by Project Manager Levi Conover and Project Planner Elizabeth Jonckheer, testifying before the Commission on May 16.

Without truthfully revealing the negative effect of the project on the park closure, the Planning Department discouraged participation by the public in reviewing the Categorical Exemption and the effect of the underlying project on the environment. On no written notice or signage concerning the hearing of May 16, 2018 does the City present any information to the public concerning the closing of the park.

By not presenting an assessment that refers to the closure of the park-- nor even mentioning the *possibility* that the park will be closed-- the City failed to give proper notice to the public about the scope of the project. As project scope is an essential element in understanding a project's likely impact on the environment, project sponsors' failure to mention the scope of the project skewed public comment away from the essential environmental questions at the hearing on May 16.

City officials have an obligation to explain to the public the downside of a project as well as the upside. City officials failing to notify the public of the closure of the park is a violation of that transparency each of us as citizens have a right to expect from representative government.

On its face the Categorical Exemption is flawed for this reason alone: because prior to and during the hearing before the Commission on May 16 project sponsors place the context of the project and its scope in a false light.

III. Arguments in Favor of Appeal of C.E. 2018-003700PRJ

(B.) City's Failure to Publish and Promulgate the Categorical Exemption prior to the Historic Preservation Commission hearing on May 16, 2018 that was to consider such exemption is a violation of law and undercuts the very basis of the California Environmental Quality Act.

The San Francisco Planning Department failed to publish, issue, review, give notice or otherwise promulgate the Categorical Exemption in this matter, as required by law.

In the Commission Package prepared by the Department for its Commission (the "Historic Preservation Commission"), there is only one mention of the Department's decision that the proposed project at Washington Square. On

page 1, of the proposed Motion to be signed by the Commission, should Planning receive an approval by the Commission, the Motion reads:

"WHEREAS, the Project was determined by the Department to be categorically exempt from environmental review. The Historic Preservation Commission ("Commission") has reviewed and concurs with said determination."

This textual relic from the "supporting packet" for the project sponsor's application for a Certificate of Appropriateness makes no sense grammatically or procedurally. (It is copied directly from the Planning Department's Case Report, the department's sole submission to the Commission for Agenda Item (9), May 16, 2018. The title of the agenda item is "Washington Square - Request for Certificate of Appropriateness.")

How and under what circumstances was the Commission given a chance to do what it claims to have done by signing off on the Certificate of Appropriateness on May 16, 2018? In other words, how could the Commission on that day or any other day have "reviewed and concur[ed] with said determination?"

The Commission was not presented with the Categorical Exemption *prior to* the meeting, and the Commission was not presented with the Categorical Exemption *during* the meeting. How then could the Commission "review" such exemption being advocated by the Planning Department?

In their testimony before the Commission in favor of the application for the Certificate of Appropriateness on May 16, neither Levi Conover, Recreation and Parks Department Project Manager nor Elizabeth Jonckheer, Project Planner, mentions the words "Categorical Exemption" nor the word "exemption" nor "CEQA" nor any other word or reference that implies any sort of review was being offered-- or questions answered-- by either department for the City's assigned decision-makers.

Together with Ghirardelli Square (approved 1970) and the Music Concourse at Golden Gate Park (2005) Washington Square, landmarked in 1999, is one of only three Landmarked Public Spaces under Article 10 of the San Francisco Planning Code. To put it another way, of the 266 such Landmarks under Article 10, 263 are buildings and three, only, are open spaces that may be experienced by the public in a way unique to the enjoyment of the natural environment.

Given that Washington Square is one of only three such landmarked spaces, and given that the Historic Preservation Commission is assigned to protect such landmarks, the review of a Categorical Exemption for a year-long project in, on and around such space should receive the highest scrutiny.

That was not done here, because the Planning Department and the real party in interest, the Rec and Park Department, did not adequately inform the Commission of the scope of the project nor submit the Categorical Exemption prior to or during the Commission hearing.

The need for such documentation in order for the Commission to properly review the environmental consequences of a project is anticipated by the "Rules and Regulations of the Historic Preservation Commission," which read, in part, as follows:

Submittals and Hearing Procedures:

I. Submittals:

a. Staff packet due to Commission one week in advance of hearing.

II. Content of submittals should be as follows:

1. Clear plans and elevations (all plans should include a "north" directional arrow)
2. Physical context, adjacency, back and facing properties across the right-of-way to illustrate the historic context of the project (which should include color streetscape on both sides of street)
3. Environmental and historic resource documents to be attached to all submittals.

By any reasonable standard, the Categorical Exemption itself-- the document upon which the exemption is based-- should have been submitted to the public and to the Commission prior to the hearing, That it was not so submitted precluded the public and decision-makers from adequately reviewing the environmental impact of the proffered exemption.

Even had Mr. Conover and Ms. Jonckheer presented the Categorical Exemption at the time of the hearing, what good would such presentation do for the public whose rights at the hearing were violated by not being given the relevant documents prior to the Commission's approval of them?

The Categorical Exemption from which we appeal is a clearly delineated decision by the department, and such document was never presented to the public or the Commission prior to or during the hearing on May 16. It should have been so presented, as a matter of transparency, fair play and law. prior to its consideration for the first time at the City's Historic Preservation Commission on May 16, 2018. Indeed, the C.E. is not included in the Board packet for the meeting on May 16. (See Exhibit 2, "Historic Preservation Commission, Motion 0340").

III. Arguments in Favor of Appeal of C.E. 2018-003700PRJ

(C.) The City's Failure to Mitigate the acknowledged detrimental effect on traffic, parking and air quality as a consequence of the project belies the notion that the project shall produce no significant on the environment.

As neighbors of the project, Appellants are gravely concerned by the cumulative impact of construction with seven projects located within a 0.25 Mile radius of the project proposed for Washington Square, coupled with current work being done or planned as part of the Central Subway (less than one mile away). Better Market Street, Geary Bus Rapid Transit Project and the re-building of 46 residential units and six ground-floor commercial spaces directly across from the park will result in a significant cumulative impact on traffic, parking and air quality that is never considered by the Planning Department in its Categorical Exemption.

As representatives of residents *and* the local business community, Appellants respectfully ask the Supervisors to take notice of the North Beach - Telegraph Hill Historic District, and area that contains the City's oldest commercial spaces and most longstanding active businesses. Of the 100+ members of the North Beach Business Association, 16 are eligible for "legacy business designation," and four additional businesses are already so designated. Of the 100+ members of the organization, each one is owner-operated, and only three member businesses have a second store location elsewhere in the City.

The lives of these owners, their employees and the families of all members of the owners and employees rely on an open, transparent and thorough review of a project that will so profoundly affect the vitality of the businesses on which they depend for income. Such historic and review cannot and should not casually ignore the likely environmental that will lead to the demise of businesses in the community.

Interestingly, but not surprisingly, some of the same criteria that gave rise to the requirements of CEQA also give rise to our opposition to the Categorical Exemption. As CEQA protects our health and well-being by protecting the environment, so does CEQA indirectly protect the well-being of businesses by establishing minimum local standards of air quality and traffic mitigation so that people may live with and near construction projects without facing serious health consequences.

What family with children will eat a pizza at a restaurant covered with dust and smoke from a construction project a mere 30' from their table? What tourist will pay \$200 and upwards per night for a room in a bed and breakfast hotel that cannot guarantee the quiet enjoyment of her room? What hat shop will attract clients who cannot even hear what they say over the phone, because of noise from a backhoe less than 60' from the front door?

All these circumstances will come to pass if the environmental review of the proposed project is not adequately researched, and if the truth of the proposed

scope of the project is not revealed to the public and to decision-makers responsible for reviewing the Categorical Exemption.

Tony's Neapolitan Pizzeria will suffer; Grodin's Hat Store and its many employees will suffer; Washington Square Inn will suffer. And these are but three of the 14 businesses that look directly across the street at Washington Square.

It is for this public and these representative businesses that we are here today. As the full scope of the project was never revealed to the public or to decision-makers until the day of the hearing on May 16 (and then, just barely), so were the public and decision-makers denied the chance to properly consider the scope of the project in reviewing the Categorical Exemption.

We ask the Board of Supervisors to now give the proper review of the Categorical Exemption, with all the facts before this Board.

CEQA requires consideration by lead agencies not only of the effects of a project on the physical environment but also the effect on the cultural context that is integral to the fabric of the environment. Here, in North Beach, one of the most densely populated and historic areas of the City, the loss of active retail and restaurant businesses that might result as a result of the project sponsors' year long project was never considered in the Categorical Exemption. This is one more reason we believe the research and conclusions of that exemption are fatally flawed. The document simply does not reflect the reality of the environmental impact of the proposed project.

The cumulative effect of the neighborhood's seven building projects-- all within a 0.25 mile radius of Washington Square-- require project sponsors to, *at a minimum* produce a Mitigated Negative Declaration before proceeding.

III. Arguments in Favor of Appeal of C.E. 2018-003700PRJ

(D.) Project Sponsor's proposed fencing of those sections of the site dedicated to trees and plantings will have a profound effect on the character and traditional use of the park, thereby offending the preservation requirements of an Article 10 Landmark.

In her testimony before the Commission, City Planner Elizabeth Jonckheer states that changes being made to the park "are consistent with the historic configuration of the park and with the visual appearance of the park" (SF GOV TV VIDEO, HPC, MAY 16, 2018, Time Code 25:55) ""will not alter the character defining features of the landscape" "proposed fencing will not impact the traditional use or open character of the landscape"

Nothing could be further from the truth or more unreasonable than to suggest that in this park, barley one acre in size, the fencing of each and every sections of plantings will have no impact on the park.

Appellants offer just one "fun fact" to dispute this unreasonable claim by the Planning Department. If one were to measure the full length of fencing being added to the park under the euphemism of "modification," that length exceeds the perimeter of the entire park, which is, as mentioned above, an Article 10 Landmarked site.

The fencing being proposed is unsightly, unnecessary and inconsistent with the open character of the park as it was reconceived by prominent San Francisco landscape architects Lawrence Halprin and Douglas Bayliss in 1958.

In addition, in a small space such as Washington Square, fencing is dangerous to children, dog walkers and others. Under the proposed fencing plan, there will be no easy way for a child to retrieve a ball, a college student to retrieve a Frisbee or anyone to pick up a wayward small dog. And yet, as someone who has lived near this park for over 30 years, I know that all these activities take place in Washington Square every day.

Adding black chains and iron-in-appearance fencing to a park the size of Washington Square is to impose a *large park mentality* on a delicate open space that functions well as it is today. And such fencing undoes the unique qualities of this much beloved and admired community space.

IV. Legal Background, CEQA

CEQA (Pub. Resources Code § 21000 et seq.) requires that an agency analyze the potential environmental impacts of the Project, i.e., its proposed actions, in an environmental impact report (EIR) except in certain limited circumstances. (See, e.g., PRC § 21100).

The environmental review is the very heart of CEQA. (Dunn-Edwards v. BAAQMD (1992) 9 Cal.App.4th 644, 652). A foremost principle in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the scope of the statutory language, and to include public notice, public input and public participation in the development of projects that affect the environment. (Communities for a Better Environment v. Cal. Resources Agency (2002) 103 Cal.App.4th 98, 109).

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of

a project. (14 Cal. Code Regs. (CEQA Guidelines) § 15002(a)(1)). Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made.

An EIR protects not only the environment but also informed self-government. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564). A properly executed environmental review is an alarm bell to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. (*Berkeley Keep Jets Over the Bay v. Bd. of Port Commissioners*. (2001) 91 Cal.App.4th 1344, 1354).

Second, CEQA also requires public agencies to avoid or reduce environmental damage when feasible by requiring environmentally superior alternatives and mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); *Citizens of Goleta Valley* 52 Cal.3d at 564). Mitigation measures must be fully enforceable and not deferred. (CEQA Guidelines § 15126.4; *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 308-309).

The mitigation component of a properly executed environmental review serves to provide the public and responsible government officials with information about the environmental impacts of a proposed project-- and to identify ways environmental damage can be avoided and reduced. (Guidelines §15002(a)(2)).

If the project will have a significant effect on the environment, CEQA requires the adoption of a feasible alternative that meets most of the project objectives but results in fewer significant impacts. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal. App. 3d 1167, 1180-81).

A feasible alternative is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (Pub. Res. Code § 21061.1; 14 Cal. Code Regs. § 15364). CEQA requires that an EIR provide a discussion of project alternatives that allows meaningful analysis.

A properly done environmental review shall describe a range of reasonable alternatives to the project, or to the location of the project, to feasibly attain most of the basic objectives while avoiding or substantially lessening any of the detrimental effects of the project, and evaluate the comparative merits of the alternatives. (CEQA Guidelines § 15125.6).

In the instant case, no such mitigation methods and alternatives have been offered by the Planning Department. This is not surprising, because it seems to

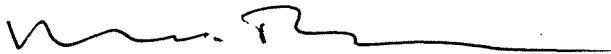
appellants that the Department and the real party in interest, the sponsor Recreation and Parks Department, have gone out of their way to hide the closure of the park, and the extent of that closure, from both the Historic Preservation Commission and the public at-large.

IV. Timeliness of this Appeal under CEQA

This appeal is timely filed within all applicable statutes of limitations. This action is timely under CEQA because it is filed within 30 days of the City and County's Categorical Exemption, dated May 17, 2018 and filed with the Clerk of the San Francisco Board of Supervisors on June 15, 2018. (PRC § 21167(b), (c), and (e); 14 CCR § 15112(c)(1).

Thank you for your considered attention and discussion of this appeal.

Signed,



Marc Bruno, Appellant
15 Nobles Alley
San Francisco CA 94133
<marcabruno@yahoo.com>
415-434-1528



Daniel Macchiarini, Appellant
President, North Beach Business Association
Macchiarini Creative Design & Metalworks
Gallery, a Legacy Business
<danny1mac@sbcglobal.net>
415-982-2229

Note: It is our intention to submit additional documents supporting this appeal prior to the 30 day expiration period. Thank you.

From: [Ko, Yvonne \(CPC\)](#)
To: [Marc Bruno](#)
Cc: [Jalipa, Brent \(BOS\)](#); [Wong, Elaine \(CPC\)](#); [Chang, Michelle \(CPC\)](#)
Subject: RE: New Fee Waiver Request (Second Appeal of Categorical Exemption 2018-003700PRJ)
Date: Tuesday, August 21, 2018 1:32:26 PM

Hi Mr. Bruno and Brent,

Yes, I am confirming that you are still eligible for the Fee Waiver to the above referenced Categorical Exemption Appeal for Washington Square Water Conservation Project.

Please let me know if you have any question.

Thank you very much.

Yvonne Ko, Revenue Team Supervisor
Finance Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.558.6386 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Marc Bruno [mailto:marcabruno@yahoo.com]
Sent: Tuesday, August 21, 2018 1:26 PM
To: Ko, Yvonne (CPC)
Cc: Jalipa, Brent (BOS)
Subject: New Fee Waiver Request (Second Appeal of Categorical Exemption 2018-003700PRJ)

New Fee Waiver Request (Second Appeal of Categorical Exemption 2018-003700PRJ)

Yvonne Ko, Revenue Team Supervisor
Planning Department Fee Waivers, Appeals
1650 Mission Street, Suite 400
San Francisco, CA 94103
Yvonne Ko (CPC) <yvonne.ko@sfgov.org>
415-558-6386 Phone / 558-6409 Fax

August 21, 2018

Yvonne -

At the suggestion of Brent Jalipa in the San Francisco Board of Supervisors, Office of the Clerk, I am requesting re-verification that I am eligible for a "Fee Waiver" in the above referenced matter, for which I filed a *new appeal* on Thursday, August 16, 2018.

The factors determining the eligibility for this waiver are identical to the the presented to you three months ago, in May, 2018. A copy of your original letter verifying my eligibility for a

Fee Waiver at that time is attached.

Please do not hesitate to call or email should you have any questions about this request for a *new fee waiver*.

Thank you,

Marc Bruno, Appellant
15 Nobles Alley
San Francisco, CA 94133

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2018 JUN 15 PM 3:56

BY 

From: Ko, Yvonne (CPC)
To: Marc Bruno
Cc: Jalpa, Brent (BOS); Wong, Elaine (CPC)
Subject: RE: Here is Completed Neighborhood Waiver Application
Date: Wednesday, May 30, 2018 9:27:16 AM

Hi Mr. Bruno,

I have received your fee waiver request package and have reviewed them. You have been approved for the Board of Supervisors' CEQA appeal fee waiver for this application related to "Washington Square Water Conservancy Project".

If you have any question regarding this fee waiver approval, please feel free to contact me.

Yvonne Ko, Revenue Team Supervisor
Finance Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.558.6386 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Marc Bruno [mailto:marcabruno@yahoo.com]
Sent: Friday, May 25, 2018 11:03 AM
To: Ko, Yvonne (CPC)
Cc: Marc Bruno
Subject: Here is Completed Neighborhood Waiver Application

Yvonne Ko, Revenue Team Supervisor
Planning Department Fee Waivers, Appeals
1650 Mission Street, Suite 400
San Francisco, CA 94103

May 25, 2018

Thank you for your quick response. Here is our Completed Form for Application of Fee Waiver. Also attached is the Categorical Exemption we are appealing, plus the letter from the neighborhood group's President, per your request.

Please contact me if you have any questions about our appeal or application.

Have a wonderful Memorial Day Weekend,

Marc Bruno
15 Nobles Alley
San Francisco CA 94133
<marcabruno@yahoo.com>