File No. 121019 Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** May 6, 2013

Board of Supervisors Meeting **Date** _____

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Completed by: Alisa Miller **Date** May 3, 2013
Completed by: _____ **Date** _____

[Administrative Code - California Environmental Quality Act Procedures]

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 121019 and is incorporated herein by reference.

Section 2. The Administrative Code Chapter 31 is hereby amended by amending Sections 31.04, 31.05, 31.06, 31.08, 31.09, 31.10, 31.11, 31.12, 31.13, 31.14, ~~and~~ 31.15, and 31.19 to read as follows:

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~~*; except that the San Francisco Redevelopment Agency shall be a separate "local agency" or "public agency" as specified in CEQA. With regard to establishment of any redevelopment area, the City shall be the "lead agency."*~~

(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 the Environmental Review Officer of the Planning Department has determined may have an impact on historic or cultural resources, the Historic Preservation Commission may review and comment on such environmental documents and determinations in a manner consistent with CEQA and this Chapter 31.

~~*(e)*~~(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 ~~*twenty (*~~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.

~~(d)~~(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) Unless CEQA requires a mailed notice by the United States Postal Service in hard copy form, or an individual or organization requests notice in hard copy form, *a City official may provide any mailed notice required by this Chapter using electronic mail transmission whenever the City official has an email address for the individual or organization.*

(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.

(4) For all projects determined to require the preparation of an environmental impact report, the approval of the project by the first City decision-making body following the certification of completion of the environmental impact report by the Planning Commission as provided for in Section 31.15(d) 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 determination 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.

(i) The Planning Department or other City department as authorized by Section 31.08(d), when rendering a CEQA decision, shall identify the Approval Action for the project and provide that information to the public prior to or at the time of project approval. The information may be provided in an environmental review document or exemption

determination, in information posted by the Planning Department at it offices or on its website, or in a notice about the project or the CEQA decision provided to the public by the Planning Department or other City department.

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 ~~of~~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 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 ~~*that are not excluded or categorically exempt from CEQA*~~ 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.

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 ~~*categorically*~~ exempt from CEQA. If not excluded or ~~*categorically*~~ 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.

SEC. 31.08. ~~*CATEGORICAL*~~ **EXEMPTIONS.**

(a) CEQA provides that certain ~~*classes*~~ *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 ~~*and therefore are categorically exempt from CEQA*~~*("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"); 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.

(b) For categorical exemptions:

(1) Each public agency must list the specific activities that fall within each such class, subject to the qualification that these lists must be consistent with both the letter and the intent of the classes set forth in CEQA. ~~*Except as provided in this section 31.08, projects that are categorically exempt are not subject to the requirements of this Chapter 31.*~~

~~*(b)*~~*(2)* The Environmental Review Officer shall maintain the required list of types of projects which are categorically exempt, and such list shall be kept ~~*posted*~~ in the offices of the Planning Department. Such list shall be kept up to date in accordance with any changes in CEQA and any changes in the status of local projects. The initial list and any additions, deletions and modifications thereto shall be adopted as administrative regulations by resolution of the Planning Commission after public hearing, according to the procedure set forth in Section 31.04~~*(e)*~~*(e)* of this Chapter.

~~*(c)*~~ *(3)* CEQA provides for public agencies to request additions, deletions and modifications to the classes of projects listed as categorically exempt in CEQA. The Planning Commission shall make any such requests, after a public hearing thereon held according to the procedure specified in Section 31.04~~*(e)*~~*(e)* of this Chapter for adoption of administrative regulations.

~~*(d)*~~*(c)* The Environmental Review Officer may adopt necessary forms, checklists and processing guidelines to aid the Planning Department and other departments in determining that a project may be ~~*categorically*~~ exempt in accordance with the letter and the intent expressed in ~~*the classes of categorical exemptions specified in*~~ CEQA and with the administrative regulations adopted by the Planning Commission.

~~(e)~~(d) The Environmental Review Officer shall advise other departments of ~~the categorical~~ exemptions. The Environmental Review Officer may delegate the determination whether a project is ~~categorically~~ exempt from CEQA to other departments, provided that other departments shall consult with the Environmental Review Officer regarding the application of ~~the categorical~~ exemptions, and provided further that the Environmental Review Officer shall be responsible for all determinations so delegated to other departments. *When the Planning Department or other City department determines that a project is exempt from CEQA, the issuance of the exemption determination shall be considered an exemption determination by the Planning Department.*

~~(f)~~(e) When the Environmental Review Officer, or any other department to which the Environmental Review Officer has delegated responsibility pursuant to Section 31.08~~(e)~~(d) above, has determined that a project is ~~excluded or categorically~~ exempt from CEQA, *the Environmental Review Officer:*

(1) May issue a Certificate of Exemption from Environmental Review by posting a copy in the offices of the Planning Department and on the Planning Department website, and by mailing copies to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations who previously have requested such notice in writing.

(2) Shall provide notice to the public ~~shall be provided~~ for all such determinations involving the following types of projects: ~~(1)~~*(A)* any historical resources, ~~as~~ defined ~~in CEQA, including without limitation,~~ *as* any buildings and sites listed individually or located within districts *(i)* listed ~~(i)~~ in Planning Code Articles 10 or 11, ~~(ii) in City-recognized historical surveys, (iii)~~ *on an historic resource survey that has been adopted or officially recognized by the City,* on the California Register *or determined eligible for listing on the California Register by the State Historical Resources Commission, including, without limitation, any location*~~, or (iv)~~ on the

National Register of Historic Places, *or (ii) a resource that the Environmental Review Officer determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1*; ~~(2)~~(B) any Class 31 categorical exemption; ~~(3)~~(C) any demolition *as defined in Planning Code Section 317* of an existing structure; or, ~~(4)~~(D) any Class 32 categorical exemption. ~~*Written determinations of categorical exemptions*~~*All exemption determinations* for these types of projects shall be *in writing,* posted in the offices of the Planning Department *and on the Planning Department's website,* and ~~*shall be*~~ mailed to any individuals or organizations that have previously requested such notice in writing.

~~(g)~~(f) *Informing the public of the Approval Action for a project as part of public hearing notice.*

(1) When the Planning Department or other City department provides notice of a public hearing on the Approval Action for a project that it has determined to be exempt from CEQA, the notice shall:

(A) Inform the public of the exemption determination and how the public may obtain a copy of the exemption determination;

(B) Inform the public of its appeal rights to the Board of Supervisors with respect to the CEQA exemption determination following the Approval Action and within the time frame specified in Section 31.16 of this Chapter; and

(C) Inform the public that under CEQA, in a later court challenge a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Planning Department or other City department at, or prior to, such hearing, or as part of the appeal hearing process, if any, on the CEQA determination.

(2) Additionally, when the Planning Department provides a notice under Planning Code Section 311 or Section 312 of the opportunity to request a discretionary review hearing before the Planning Commission on a Building Permit application, the notice shall:

(A) Contain the information required by this Section 31.08(f) in addition to any notice requirements in the Planning Code;

(B) Inform the notification group that if a discretionary review hearing is requested before the Planning Commission, the Approval Action for the project under this Chapter 31 will occur upon the Planning Commission's approval of the Building Permit application, if such approval is granted; and

(C) Inform the notification group that if a discretionary review hearing is not requested, the Approval Action for the project will occur upon the issuance of a Building Permit by the Department of Building Inspection, if such permit is granted. The notice also shall advise the notification group of how to request information about the issuance of the Building Permit.

*(g) A City board, commission, department or official that grants the Approval Action for a project of the type defined in Section 31.16~~(f)~~(e)(2)(B) of this Chapter, which Approval Action is taken without a noticed public hearing as provided for in Section 31.08(f) of this Chapter, shall thereafter arrange for the Planning Department to post on the Planning Department's website a written decision or written notice of the Approval Action for the project that informs the public of the first date of posting on the website and advises the public that the exemption determination may be appealed to the Board of Supervisors as provided in Section 31.16~~(f)~~(e)(2)(B) of this Chapter within 30 days after the first date of posting of the notice. ~~When the Environmental Review Officer, or any other department to which the Environmental Review Officer has delegated responsibility pursuant to Section 31.08(e) above, has determined that a project is excluded or categorically exempt from CEQA, the Environmental Review Officer may issue a Certificate of Exemption from Environmental Review by posting a copy thereof in the offices of the Planning Department, and by mailing copies thereof to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations who have previously requested such notice in writing.~~

(h) 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~~(c)~~*(b)(11), in accordance with CEQA procedures, the Environmental Review Officer may file a notice of exemption with the county clerk in the county or counties in which the project is to be located.* ~~*The Planning Commission may take testimony on any categorical exemption at the public hearing, if any, in connection with the Planning Commission's consideration of the project that is the subject of the categorical exemption.*~~

(i) The Environmental Review Officer has the authority under Section 31.19(b) *to re-evaluate the application of an exemption to a project in the event that a project changes after the Approval Action for the project. If the Planning Commission or Planning Department renders a new CEQA* ~~exemption determination~~ decision *for a project after the Approval Action,* as provided for in Section 31.19(b), *and the City takes a new Approval Action for the project in reliance on the new CEQA* ~~determination~~decision, *the new CEQA* ~~determination~~decision *may be appealed in accordance with the provisions of Section 31.16 of this Chapter, as to those issues associated with the project changes since the original exemption determination.*

SEC. 31.09. DETERMINATION OF NEED FOR EVALUATION.

Upon receiving an environmental evaluation application for a project; upon referral of a project by the board, commission or department that is to carry out or approve the project; or through such other process for rendering an exemption determination as the Environmental Review Officer shall authorize, the Environmental Review Officer shall determine whether such project is exempt from environmental review. For all ~~*All*~~ projects that are not ~~*statutorily excluded or categorically*~~ exempt from CEQA ~~*shall be referred to the Environmental Review Officer*~~, prior to the *City's* decision as to whether to carry out or approve the project, *the Environmental Review Officer shall conduct* ~~*for*~~ an initial study to establish whether a negative declaration or an environmental impact report is required. *In the event it is clear at the outset that an environmental impact report is required, the*

Environmental Review Officer may make an immediate determination and dispense with the initial study.

SEC. 31.10. INITIAL EVALUATION OF PROJECTS.

(a) ~~*Upon receiving an environmental evaluation application for a project, or upon referral of a project by the board, commission or department that is to carry out or approve the project, the Environmental Review Officer shall determine whether such project is exempt from environmental review. If not exempt, the Environmental Review Officer shall complete an initial study to determine the level of environmental analysis required. In the event it is clear at the outset that an environmental impact report is required, the Environmental Review Officer may, with the consent of the applicant, make an immediate determination and dispense with the initial study.*~~ Each environmental evaluation application or referral shall include a project description using as its base the environmental information form set forth as Appendix H of the CEQA Guidelines, which form shall be supplemented to require additional data and information applicable to a project's effects, including consistency with the environmental issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code and incorporated into the General Plan, shadow impacts, including the analysis set forth in Planning Code Section 295, and such other data and information specific to the urban environment of San Francisco or to the specific project. Each environmental evaluation application or referral shall be certified as true and correct by the applicant or referring board, commission or department. Each initial study shall include an identification of the environmental effects of a project using as its base the environmental checklist form set forth in Appendix G of the CEQA Guidelines and addressing each of the questions from the checklist form that are relevant to a project's environmental effects; provided that the checklist form shall be supplemented to address additional environmental effects, including consistency with the environmental issues included in the Eight Priority Policies set forth in Section 101.1 of the Planning Code and incorporated into

the General Plan, shadow impacts~~, *including the analysis set forth in Planning Code Section 295,*~~ and such other environmental effects specific to the urban environment of San Francisco or to the specific project.

(b) The initial study shall provide data and analysis regarding the potential for the project to have a significant effect on the environment. The basic criteria for determination of significant effect shall be consistent with the provisions set forth in CEQA.

(c) The applicant or the board, commission or department that is to carry out or approve the project shall submit to the Environmental Review Officer such data and information as may be necessary for the initial study. If such data and information are not submitted, the Environmental Review Officer may suspend work on the initial evaluation.

(d) During preparation of the initial study, the Environmental Review Officer may consult with any person having knowledge or interest concerning the project. In cases in which the project is to be carried out or approved by more than one government agency and the City is the lead agency, the Environmental Review Officer shall solicit input from all other government agencies that are to carry out or approve the project.

(e) If a project is subject to CEQA and the National Environmental Policy Act, an initial evaluation prepared pursuant to the National Environmental Policy Act may be used to satisfy the requirements of this Section.

(f) Based on the analysis and conclusions in the initial study, the Environmental Review Officer shall:

(1) Prepare a negative declaration if there is no substantial evidence, in light of the whole record before the Planning Department, that the project may have a significant effect on the environment.

(2) Prepare a mitigated negative declaration if the initial study identified potentially significant effects, but (A) revisions in the project plans or proposals made by or agreed to by the

applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (B) there is no substantial evidence, in light of the whole record before the Planning Department, that the project as revised may have a significant effect on the environment.

(3) Prepare an environmental impact report if the Planning Department determines based on substantial evidence in the record that the project may have a significant effect on the environment. In other words, if the Planning Department is presented with a fair argument that a project may have a significant effect on the environment, the Planning Department shall prepare an environmental impact report even though it may also be presented with other substantial evidence that the project will not have a significant effect.

~~*determine, based on the requirements of CEQA, whether there is a "fair argument" that the project could have a significant effect on the environment, and whether a negative declaration or environmental impact report shall be prepared.*~~

~~*(f) Based on the analysis and conclusions in the initial study, the Environmental Review Officer shall determine, based on the requirements of CEQA, whether the project could have a significant effect on the environment, and whether a negative declaration or environmental impact report shall be prepared.*~~

SEC. 31.11. NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE DECLARATIONS.

(a) When *the Environmental Review Officer determines that a* ~~*any*~~ negative declaration *or a mitigated negative declaration* is *the appropriate level of environmental review* required *by CEQA, such determination* ~~*it*~~ shall be prepared by or at the direction of the Environmental Review Officer. *Unless otherwise specifically stated, reference in this Chapter 31 to "negative declaration" shall collectively refer to a negative declaration and a mitigated negative declaration.* The negative declaration shall *include the information required by CEQA and in any event shall*

describe the project proposed, include the location of the property, preferably shown on a map, and the name of the project proponent, state the proposed finding that the project could not have a significant effect on the environment, and have attached to it a copy of the initial study documenting reasons to support that finding. The negative declaration shall also indicate mitigation measures, if any, included in the project to avoid potentially significant effects.

(b) The Environmental Review Officer shall first prepare a negative declaration on a preliminary basis, and shall post a copy of the proposed negative declaration in the offices of the Planning Department *and on the Planning Department website.* ~~*and mail notice thereof to the applicant and the board(s), commission(s) or department(s) that will carry out or approve the project.*~~

(c) The Environmental Review Officer shall provide a notice of intent to adopt a negative declaration ~~*or mitigated negative declaration*~~ *("notice of intent") to those persons required by CEQA. In each instance, the Environmental Review Officer shall provide notice by:*

(1) Mail to the applicant and the board(s), commission(s) or department(s) that will carry out or approve the project.

(2) ~~*by publication*~~*Publication* in a newspaper of general circulation in the City.

(3) ~~*, by posting*~~*Posting* in the offices of the Planning Department and on the subject site.

(4) ~~*, by mail*~~*Mail* to the owners of all real property within the area that is the subject of the negative declaration and within 300 feet of all exterior boundaries of such area, and by mail to all organizations and individuals who have previously requested such notice in writing, sufficiently prior to adoption of the negative declaration to allow the public and agencies a review period of not less than ~~*twenty (*~~20~~)~~ days, or ~~*thirty (*~~30~~)~~ days if *a 30-day circulation period is* required by CEQA. *In the case of City-sponsored projects that involve rezonings, Area Plans or General Plan amendments and are either citywide in scope or the total area of land that*

is part of the project, excluding the area of public streets and alleys, is 20 acres or more, the Environmental Review Officer shall not be required to provide notice by mail pursuant to this Section 31.11(c)(4) except to all organizations and individuals who previously requested such notice in writing.

(d) The notice of intent shall specify the period during which comments are to be received, the date, time and place of any public hearings on the project *when known to the Planning Department at the time of the notice*, a brief description of the project and its location, ~~and~~ the address where copies of the negative declaration and all documents referenced in the negative declaration are available for review, *and shall include a statement that no appeal of the negative declaration to the Board of Supervisors under Section 31.16 of this Chapter will be permitted unless the appellant first files an appeal of the preliminary negative declaration to the Planning Commission, and any other information as required by CEQA*.

(e) Within ~~twenty (~~20~~)~~ days, or ~~thirty (~~30~~)~~ days if required by CEQA, following the publication of ~~such~~ *the* notice *of intent*, any person may appeal the proposed negative declaration to the Planning Commission, specifying the grounds for such appeal, *or ~~. Any person may~~* submit comments on the proposed negative declaration.

(f) The Planning Commission shall ~~hold~~*schedule* a public hearing on any such appeal within ~~not less than fourteen (14) nor more than thirty (~~30~~)~~ days after the close of the appeal period. Notice of such hearing shall be posted in the offices of the Planning Department, and shall be mailed to the appellant, to the applicant, to the board(s), commission(s) or department(s) that will carry out or approve the project, to any individual or organization that has submitted comments on the proposed negative declaration, and to any other individual*s* or organization*s* that *previously ~~has~~have* requested such notice in writing.

(g) After *holding* such hearing the Planning Commission shall affirm the proposed negative declaration if it finds that the project could not have a significant effect on the environment, may refer the proposed negative declaration back to the Planning Department

for *specified* revisions, or shall overrule the proposed negative declaration and order preparation of an environmental impact report if it finds ~~based on~~ *substantial evidence* to support a fair argument that the project may have a significant effect on the environment.

(h) If the proposed negative declaration is not appealed as provided herein, or if it is affirmed on appeal, the negative declaration shall be considered final, subject to any necessary modifications. Thereafter, the first City decision-making body to act on approval of the project shall review and consider the information contained in the final negative declaration, together with any comments received during the public review process, and, upon making the findings as provided in CEQA, shall adopt the negative declaration, prior to approving the project. *A public notice of the proposed action to adopt the negative declaration and take the Approval Action for the project shall advise the public of its appeal rights to the Board of Supervisors with respect to the negative declaration following the Approval Action in reliance on the negative declaration and within the time frame specified in Section 31.16 of this Chapter.* All decision-making bodies shall review and consider the negative declaration and make findings as required by CEQA prior to approving the project.

(i) If the City adopts a mitigated negative declaration, the decision-making body shall also adopt a program for reporting on or monitoring the mitigation measures for the project that it has either required or made a condition of approval to mitigate or avoid significant environmental effects.

(j) 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*~~(c)~~(b)*(11), in accordance with CEQA procedures*, the Environmental Review Officer ~~*may*~~*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.

SEC. 31.12. DETERMINATIONS THAT ENVIRONMENTAL IMPACT REPORTS ARE REQUIRED.

When the Environmental Review Officer determines ~~*If it is determined that a project may have a significant effect on the environment and*~~that an environmental impact report is required *by CEQA*, the Environmental Review Officer shall *distribute a notice of preparation in the manner and containing the information required by CEQA and provide such other notice as required by CEQA. In addition, the Environmental Review Officer shall prepare a notice advising the public of the notice of preparation and of any scheduled scoping meetings and* publish the notice of preparation in a newspaper of general circulation in the City, ~~*shall*~~ post the notice of preparation in the offices of the Planning Department *and on the Planning Department website*, and ~~*shall*~~ mail the notice of preparation to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project and to all organizations and individuals who have previously requested such notice in writing. The Environmental Review Officer shall provide such other notice as required by CEQA.

SEC. 31.13. DRAFT ENVIRONMENTAL IMPACT REPORTS.

(a) When an environmental impact report ("EIR") is required, it shall be prepared by or at the direction of the Environmental Review Officer. The EIR shall first be prepared as a draft report.

(b) The applicant or the board, commission or department that is to carry out or approve the project shall submit to the Environmental Review Officer such data and information as may be necessary to prepare the draft EIR. If such data and information are not submitted, the Environmental Review Officer may suspend work on the draft EIR. The data and information submitted shall, if the Environmental Review Officer so requests, be in the form of all or a designated part or parts of the proposed draft EIR itself, although the

Environmental Review Officer shall in any event make his or her own evaluation and analysis and exercise his or her independent judgment in preparation of the draft EIR for public review.

(c) During preparation of the draft EIR, the Environmental Review Officer may consult with any person having knowledge or interest concerning the project. If he/she has not already done so in accordance with Section 31.10 above, in cases in which the project is to be carried out or approved by more than one public agency, the Environmental Review Officer shall consult with all other public agencies that are to carry out or approve the project.

(d) When the draft EIR has been prepared, the Environmental Review Officer shall file a notice of completion of such draft *with the California Office of Planning and Research* as required by CEQA *and make the draft EIR available through the State Clearinghouse if and as required by the California Office of Planning and Research*. ~~*A copy of such notice, or a separate notice containing the same information, shall thereupon be posted in the offices of the Planning Department and on the subject site, and mailed to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individual or organization that has requested such notice in writing. The notice of completion shall be sent by mail to the owners of all real property within the area that is the subject of the environmental impact report and within 300 feet of all exterior boundaries of such area.A copy of the draft EIR shall be provided to the applicant and to such board(s), commission(s) or department(s) and to any individual or organization that has so requested.*~~

SEC. 31.14. CONSULTATIONS AND COMMENTS.

(a) *The Environmental Review Officer shall provide public notice of the availability of the draft EIR and schedule a public hearing on the draft EIR with the Planning Commission. The Environmental Review Officer shall provide the notice of availability at the same time that the notice of completion is filed as required by CEQA. The notice of availability shall be distributed at least 30 days prior to the scheduled public hearing on the draft EIR. The Environmental Review Officer shall*

distribute the notice of availability in the manner required by CEQA and in each instance. ~~*Notice*~~ shall ~~*be:*~~

(1) ~~sent~~ Send the notice to *any* public agencies ~~*with jurisdiction by law*~~*that CEQA requires the lead agency to consult with and request comments from on the draft EIR*, and, *in the discretion of the Environmental Review Officer, other* persons with special expertise *with respect to any environmental impact involved.* ~~*as follows: after filing a notice of completion as required by CEQA, the Environmental Review Officer shall send a copy of the draft EIR to any public agencies as required by CEQA, and may send copies to and consult with persons who have special expertise with respect to any environmental impact involved.*~~

~~*(b) In sending such copies, the Environmental Review Officer shall request comments on the draft EIR from such agencies and persons, with particular focus upon the sufficiency of the draft EIR in discussing possible effects on the environment, ways in which adverse effects may be minimized, and alternatives to the project.*~~

(2) Post the notice in the offices of the Planning Department, on the Planning Department website, and on the site of the project.

(3) Publish the notice in a newspaper of general circulation in the City.

(4) Mail the notice to the applicant, the board(s), commission(s) or department(s) that will carry out or approve the project, and to any individuals or organizations that previously have requested such notice in writing.

(5) Mail the notice to the owners of all real property within the area that is the subject of the environmental impact report and within 300 feet of all exterior boundaries of such area. In the case of City-sponsored projects that involve rezonings, area plans or General Plan amendments and are either citywide in scope or the total area of land that is part of the project, excluding the area of public streets and alleys, is 20 acres or more, the Environmental Review Officer shall not be required to provide notice by mail pursuant to this Section 31.14(a)(5).

(b) The notice of availability shall contain the information required by CEQA and in each instance shall:

(1) State the starting and ending dates for the draft EIR review period during which the Environmental Review Officer will receive comments and if comments are not returned within that time it shall be assumed that the agency or person has no comment to make. The public review period shall not be less than 30 days nor more than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse. The Planning Commission or the Environmental Review Officer may, upon the request of an agency or person with special expertise from whom comments are sought, grant an extension of time beyond the original period for comments, but such extension shall not prevent with the holding of any hearing on the draft EIR for which notice has already been given.

(2) State the time, place and date of the scheduled Planning Commission hearing on the draft EIR and all hearings at which the Environmental Review Officer will take testimony.

(3) State that only commenters on the Draft EIR will be permitted to file an appeal of the certification of the Final EIR to the Board of Supervisors under Section 31.16 of this Chapter.

(c) The Planning Department shall make the draft EIR available to the public upon the filing of the notice of completion with the California Office of Planning and Research. The Planning Department shall post a copy of the draft EIR on the Planning Department website and provide a copy of the draft EIR to the applicant and to such board(s), commission(s) or department(s) and to any individuals or organizations that previously have requested a copy in writing, in electronic form on a diskette or by electronic mail transmission when an email address is provided, unless a printed hard copy is specifically requested.

~~*(c) Each notice and request for comments shall state that any comments must be returned within a certain time after the sending of the draft EIR, and if comments are not returned within that*~~

~~*time it shall be assumed that the agency or person has no comment to make. The time limit shall normally be thirty (30) days, or forty-five (45) days if required by CEQA. The Environmental Review Officer may allow a longer period for comments on projects of exceptional size or complexity. The Planning Commission or the Environmental Review Officer may, upon the request of an agency or person from whom comments are sought, grant an extension of time beyond the original period for comments, but such extension shall not interfere with the holding of any hearing on the draft EIR for which notice has already been given.*~~

~~*(d) Notice to the general public shall be provided as follows:*~~

~~*(1)*~~ *(d)* Public participation, both formal and informal, shall be encouraged at all stages of review, and written comments shall be accepted at any time up to the conclusion of the public comment period. The Environmental Review Officer may give public notice at any formal stage of the review process, beyond the notices required by this Chapter 31 *and CEQA*, in any manner ~~*it*~~*the Environmental Review Officer* may deem appropriate~~*, and may maintain a public log as the status of all projects under formal review*~~. ~~*Members of the general public shall be encouraged to submit their comments in writing as early as possible.*~~

~~*(2) The draft EIR shall be available to the general public upon filing of the notice of completion.*~~

~~*(3)*~~ *(e)* The Planning Commission shall hold a public hearing on every draft EIR *during the public comment period*, with such hearing combined as much as possible with other activities of the Planning Commission. The Environmental Review Officer may, upon delegation by the Planning Commission, take testimony at supplemental public hearing(s) on draft EIRs, in addition to, and not in lieu of, the hearing conducted by the Planning Commission, and shall report to and make all testimony received by the Environmental Review Officer available to the Planning Commission at a public hearing. ~~*Notice of the Planning Commission hearings and all hearings at which the Environmental Review Officer takes testimony shall*~~

~~*be given by publication in a newspaper of general circulation in the City at least 30 days prior to the hearing, by posting in the offices of the Planning Department, by posting on or near the site proposed for the project; and by mail sent not less than 30 days prior to the hearing to the applicant, to the board, commission or department that is to carry out or approve the project, and to any other individual or organization requesting such notice.*~~

~~*(4) The draft EIR, including any revisions made prior to or during the public hearing, shall be the basis for discussion at the hearing. To the extent feasible, any comments already received from any agency, organization or individual shall be available at the public hearing.*~~

SEC. 31.15. FINAL ENVIRONMENTAL IMPACT REPORTS.

(a) A final EIR shall be prepared by, or at the direction of, the Environmental Review Officer, based upon the draft EIR, the consultations and comments received during the review process, and additional information that may become available.

(b) The final EIR shall include a list of agencies and persons consulted, the comments received, either verbatim or in summary, and a response to any comments that raise significant points concerning effects on the environment. The response to comments may take the form of revisions within the draft EIR, or by adding a separate section in the final EIR, or by providing an explanation in response to the comment.

(c) A public record *of proceedings* shall be kept of each case in which an EIR is prepared, including all comments received in writing in addition to a record of the public hearing. The final EIR shall indicate the location of such record. *The Environmental Review Officer shall cause the hearing record to be recorded by a phonographic reporter.* Any transcription of a hearing record shall be at the expense of the person requesting such transcription.

(d) When the final EIR has been prepared and in the judgment of the Planning Commission it is adequate, accurate and objective, reflecting the independent judgment and analysis of the Planning Commission, the Planning Commission shall certify its completion in

compliance with CEQA. *The notice of the Planning Commission hearing on the certification of the final EIR shall inform the public of the expected Date of the Approval Action on the project and of its appeal rights to the Board of Supervisors with respect to the final EIR after such date and 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~~(c)~~(b)*(11), in accordance with CEQA procedures, 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.*

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) ~~Where such a modification occurs as to a project that has been determined to be excluded or categorically exempt pursuant to this Chapter, a new determination shall be made as provided in this Chapter.~~For a project that the Planning Department has determined is exempt, when a project changes and a City department re-refers the project application to the Planning Department for review, such review shall include the Environmental Review Officer.

(1) If the Environmental Review Officer determines that the project description as modified is still within the scope of the previous project description, the

Environmental Review Officer shall note this determination in writing in the case record and no further evaluation shall be required by this Chapter.

(2) If the Environmental Review Officer determines that the project description is no longer within the scope of the previous project description, the Environmental Review Officer shall issue a new CEQA decision.

~~(1)~~(A) If the modified project is again determined to be ~~excluded or categorically~~ exempt, ~~no further evaluation shall be required by~~ the Environmental Review Officer shall issue a new exemption determination in accordance with this Chapter.

~~(2)~~(B) If the modified project is determined not to be ~~excluded or categorically~~ exempt, an initial study shall be conducted as provided in this Chapter.

(C) 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.

* * * *

Section 3. The Administrative Code Chapter 31 is hereby amended by deleting Section 31.16 in its entirety and adding new Section 31.16 to read as follows:

~~*SEC. 31.16. APPEAL OF FINAL ENVIRONMENTAL IMPACT REPORTS.*~~

~~*(a) 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 a final EIR to the Board of Supervisors (the "Board").*~~

~~(1) A letter of appeal shall be submitted to the Clerk of the Board within twenty (20) calendar days after the Planning Commission's certification of the EIR, stating the specific grounds for appeal, and accompanied by a fee, as set forth in Section 31.22 herein, payable to the Clerk of the Board. The grounds for appeal shall be limited to issues related to the adequacy, accuracy and objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR as an informational document and the correctness of its conclusions, and the correctness of the findings contained in the Planning Commission's certification of the EIR. The appellant shall submit a copy of the letter of appeal to the Environmental Review Officer at the time appellant submits a letter of appeal to the Clerk of the Board.~~

~~(2) After receipt of the letter of appeal, the Environmental Review Officer shall promptly transmit copies of the EIR to the Clerk of the Board and make the administrative record available to the Board.~~

~~(3) While the appeal is pending, and until the EIR is affirmed or re-certified as may be required by the Board, the City shall not carry out or consider the approval of a project that is the subject of the EIR on appeal.~~

~~(b) The Clerk of the Board shall promptly schedule a hearing on the appeal before the full Board, without regard to any rule or policy of the Board requiring a 30-day review period. If more than one person submits a letter of appeal on a final EIR, the Board shall consolidate such appeals so that they are heard simultaneously. The Board may consolidate or coordinate its hearing on the appeal with other hearings on the project. Notice of the appeal shall be provided by mail to the appellants and to all organizations and individuals who have previously requested such notice, not less than ten (10) days prior to the date of the hearing.~~

~~(c) The Board shall conduct its own independent review of the final EIR. The Board shall consider anew all facts, evidence and/or issues related to the adequacy, accuracy and objectiveness of the final EIR, including but not limited to the sufficiency of the final EIR as an informational document~~

~~*and the correctness of its conclusions, and the Planning Commission's certification of the EIR. The Board may consider new facts, evidence and/or issues that were not introduced before the Planning Commission or the Environmental Review Officer.*~~

~~*(d) The Board shall affirm the Planning Commission's certification of the final EIR only if the Board finds that the final EIR is adequate, accurate and objective, that its conclusions are correct, and that the findings contained in the Planning Commission's certification are correct. The Board may affirm or reverse the action of the Planning Commission only by a vote of a majority of all members of the Board. If the Board reverses the Planning Commission's certification of the final EIR, it shall make specific findings and remand the final EIR to the Planning Commission for further action consistent with the Board's findings. The Board shall act by motion in affirming or reversing the Planning Commission's certification of the final EIR.*~~

~~*(e) The Board shall act on an appeal within thirty (30) days of appeal of the Planning Commission's certification of the EIR, provided that, if the full membership of the Board is not present on the last day on which said appeal is set or continued for hearing within such 30 days, the Board may postpone said hearing and decision thereon until, but not later than, the full membership of the Board is present; provided further, that the latest date to which said hearing and decision may be so postponed shall be not more than ninety (90) days from the date of filing the appeal. The date of certification of the final EIR shall be the date upon which the Planning Commission originally certified the final EIR if: (i) no appeal is filed; or (ii) an appeal is filed and the Planning Commission's certification of the final EIR is affirmed by action of the Board.*~~

~~*(f) In the event the Board remands an EIR to the Planning Commission, the Planning Commission shall take such action as may be required by the specific findings made by the Board and consider re-certification of the EIR. In the event the EIR is re-certified by the Planning Commission, only the portions of the EIR which have been revised, or the new issues which have been addressed, by*~~

~~*the Planning Commission may be appealed again to the Board pursuant to the procedures set forth herein.*~~

~~*(g) The Board may reject an appeal if it finds that the appeal fails to state proper grounds for appeal. The Board shall act by motion in rejecting an appeal.*~~

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")* ~~where the Board is not otherwise the CEQA decision-making body for the project as provided below in Section 31.16(b)~~*: (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) Board as CEQA Decision-Making Body.~~

~~(1) CEQA decisions are not appealable to the Board if the Board is the CEQA decision-making body for the project because the Board of Supervisors must affirm the CEQA decision of the Planning Commission or the Planning Department, prior to or as part of its approval of the project.~~

~~(2) For purposes of this Chapter 31, the Board is the CEQA decision-making body for the project if any of the following circumstances apply:~~

~~(A) At the time an appeal is filed, the Board has affirmed the CEQA decision rendered by a non-elected body of the City and approved the project;~~

~~(B) One or more proposed approval actions for the project are pending before the Board of Supervisors prior to the expiration of the time frames set forth in Sections 31.16 (d),(e), or (f), as applicable, for filing the appeal; or~~

~~(C) The Planning Department prepared the CEQA decision in support of a proposed ordinance.~~

~~(3) For any project for which the Board is the CEQA decision-making body as defined by this Section 31.16, any person may raise objections to the CEQA decision in writing prior to or at a public hearing on the project held by the Board or a committee of the Board. The Board shall consider any written or oral objections raised prior to the close of the public hearing on the project. Procedures for the submittal of materials to the Board by the public or the preparation of a response by the Planning Department to any objections raised shall be as set forth by the Board in its Rules of Order, provided, however, that before the Board takes action to approve the project, the Board shall provide the Planning Department with an adequate opportunity to submit a written response to any objections to the CEQA decision raised by the public prior to the close of the public hearing.~~

~~(4) For any project for which the Board is the CEQA decision-making body as defined by this Section 31.16, prior to or as part of its consideration of the project, the Board shall affirm or reject the CEQA decision for the project rendered by the Planning Commission or the Planning Department.~~

~~(c)~~(b) ***Appeal Procedures.*** *In addition to the applicable requirements of Section 31.16* ~~(d)~~(c) *pertaining to EIRs, Section 31.16*~~(e)~~(d) *pertaining to negative declarations or Section 31.16* ~~(f)~~(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 ~~along with all written materials in support of the appeal~~ *to the Clerk of the Board within the time frames set forth in Sections 31.16* (c), *(d),* or *(e),* ~~or (f),~~ *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,* ~~authorized in writing,~~ *file an appeal on his or her behalf. The appellant shall submit with the appeal a copy of the CEQA EIR certification or the negative declaration approval by the Planning Commission,*

or a copy of the exemption determination by the Planning Department that is being appealed ~~and a copy of the Approval Action taken for the project by a City board, commission, department or official~~. *The appellant shall submit a copy of the letter of appeal and* ~~all~~any *written materials 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 Clerk of the Board shall have three business days from the time of submittal of the appeal to assess the appeal package for completeness and compliance with this subpart. If complete and compliant with this subpart, the Clerk shall process the appeal within the time limits from provisional acceptance. *The Clerk of the Board may reject an appeal if appellant fails to comply with this Section 31.16*~~(c)~~(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, while the appeal is pending, and until the CEQA determination 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 may consider the approval of the project that is the subject of the CEQA determination on appeal but shall not undertake activities to implement the project that physically change the environment 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 ~~or as otherwise provided by the Board in its Rules of Order~~*. The Clerk shall schedule the hearing* ~~no less than 30 and~~ *no more than 45 days following expiration of the time frames set forth in Sections 31.16* (c), *(d),* or *(e),* ~~or (f),~~ *as applicable, for filing an appeal.* The Planning Department shall assist the Clerk in determining when the time period for filing an appeal of a particular project has expired. If more than one person submits a letter of appeal, the Board shall 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 have previously 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 Planning Department shall submit to the Clerk of the Board a written response to the appeal no later than noon, eight days prior to the scheduled hearing. Any written document submitted after these deadlines shall not be distributed to the Supervisors as part of their hearing materials.*

(6) The Board shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA.

(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; 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), ~~or (f),~~ as applicable, for filing an appeal.

(8) The Board may affirm or reverse the CEQA decision of the Planning Commission, Planning Department or other authorized City agency 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 or other authorized City department, as applicable, first approved the EIR or 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, including, but not limited to, any approvals of the project granted during the pendency of the appeal, 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.

~~(d)~~(c) ***Appeal of Environmental Impact Reports.*** *In addition to those requirements set forth in Section 31.16~~(c)~~(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 and written materials in support of the appeal to the Clerk of the Board after the Planning Commission certifies the final EIR as complete and no later than ~~within~~ *30 days after the Date of the Approval Action for the project following 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, is adequate, accurate and objective, and reflects the independent judgment and analysis of the City.

(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, is adequate, accurate and objective, and reflects the independent judgment and analysis of the City.

(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 or is not adequate, accurate and objective or does not reflect the independent judgment and analysis of the City. 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.

~~(e)~~(d) ***Appeal of Negative Declarations.*** *In addition to those requirements set forth in Section 31.16~~(c)~~(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, including 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 the project could not 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.

~~(f)~~(e) ***Appeal of Exemption Determinations.*** *In addition to those requirements set forth in Section 31.16~~(c)~~(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 and written materials in support of the 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 ~~an approval of the project in reliance on 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.*

(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.

Section 4. As stated in San Francisco Administrative Code, Chapter 31, the purpose of Chapter 31 is to provide procedures for San Francisco to carry out its responsibilities as a lead agency under the California Environmental Quality Act ("CEQA"), a State statute that has played a key role in protecting the environment. As stated in Chapter 31, Section 31.01, 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. By adopting this ordinance, the Board of Supervisors intends to reaffirm the policies and objectives stated in Chapter 31, Section 31.02, including without limitation, providing decision makers and the public with meaningful information regarding the environmental consequences of proposed activities, identifying ways that environmental damage can be avoided or significantly reduced, providing public input in the environmental review process, bringing environmental considerations to bear at an early stage in the planning process, avoiding unnecessary delays or undue complexity of review and providing procedural direction on implementation of CEQA by the City. Nothing in this ordinance is intended to change the policies and objectives of CEQA, to limit any rights of appeal provided to the public under CEQA, or to limit the authority of the San Francisco Board of Supervisors or the San Francisco Planning Commission to hear and decide CEQA appeals as provided in this Chapter.

Section 45. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 6. 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.

Section ~~57~~. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Elaine C. Warren
ELAINE C. WARREN
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(4/22/2013, Amended in Committee)

[Administrative Code - California Environmental Quality Act Procedures]

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

Existing Law

The City of San Francisco, in accordance with the requirements of California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* ("CEQA"), and CEQA Guidelines, Title 14, California Code of Regulations, Section 15000 *et seq.* has adopted local procedures for administering its responsibilities under CEQA. These procedures are codified in San Francisco Administrative Code Chapter 31. These procedures tailor the general provisions of the CEQA Guidelines to the specific operations of the City and incorporate by reference the provisions of CEQA and the CEQA Guidelines.

Amendments to Current Law

The proposed ordinance establishes procedures for appeal of exemption determinations and negative declarations to the Board of Supervisors and updates some of the procedures in San Francisco Administrative Code Chapter 31 to reflect revisions to CEQA and the CEQA Guidelines and to codify certain administrative procedures that the San Francisco Planning Department has found workable in practice. The primary updates to Chapter 31 are as follows:

- Section 31.04.
    - Deletes a no longer relevant reference to the San Francisco Redevelopment Agency.
    - Clarifies certain administrative functions of entities within the City and County to reflect actual practice and changes in local law, including activities of the Clerk of

the Board, the Historic Preservation Commission and the Environmental Review Officer ("ERO") in transmitting notices to the County Clerk.

- Provides for notices electronically unless someone requests a hard copy or if otherwise specified by CEQA.

- Adds Section 31.04(h) to define "Approval Action," "Building Permit," "Date of the Approval Action," and "Entitlement of Use for the Whole of the Project," all of which relate to describing the approval action for a project that triggers the ability to file an appeal of a CEQA determination to the Board of Supervisors.

- Defines "Approval Action" for an exempt project as:

  (1) for private projects:

  (A) the first approval of the project in reliance on the exemption at a noticed public hearing at the Planning Commission, or, if no such hearing is required,

  (B) the first approval in reliance on the exemption that grants an entitlement for the whole of the project, either by another commission, board or official after a public hearing or by any official of the City without a public hearing.

  (2) for City's own projects (e.g. not private projects):

  (A) the first approval in reliance on the exemption of the project at a noticed public hearing, or

  (B) if approved without a public hearing, the decision in reliance on the exemption that commits the City to a definite course of action in regard to the project.

- Defines "Approval Action" for projects covered by a negative declaration to mean the approval of the project by the first City decision-making body that adopts the negative declaration.

- Defines "Approval Action" for projects covered by an EIR to mean the approval of the project by the first City decision-making body following the certification of the completion of the EIR by the Planning Commission as provided in Section 31.15(d).

- Adds new Section 31.04(i) to require the Planning Department or its delegees to identify the Approval Action for each project as part of the CEQA decision and make that information available to the public.

- Section 31.05. Clarifies existing practice, which is that all projects subject to CEQA are referred to the ERO unless the ERO has delegated specified exemption determinations to another City entity.

- Section 31.08. Clarifies the procedures for handling exemptions from CEQA, including:

    - Updates the ordinance to be consistent with existing Planning Department practice, which is to apply Chapter 31 procedures for projects covered by statutory exemptions, categorical exemptions, community plan exemptions and general rule exclusions.

    - Updates existing ordinance language as to when public notice of an exemption determination is required by: (1) clarifying the definition of projects involving historic resources for which notice is required, and (2) defining demolition projects for which notice is required to be consistent with Planning Code Section 317. Projects involving historic resources that require noticing of an exemption determination include those involving sites or districts listed on the California Register, listed in Planning Code Articles 10 or 11, listed on an historic resource survey that has been adopted or officially recognized by the City, and any other resource that the ERO determines to be an historic resources under CEQA criteria.

    - Updates the ordinance language to be consistent with existing Planning Department practice to produce a written determination for any project for which a notice is required and by posting the determinations on its web page.

    - Requires in Section 31.08(f)(1) that public hearing notices inform the public if the City will take an Approval Action that triggers the ability to file an appeal of a CEQA exemption determination to the Board of Supervisors. Such notices must advise the public of the exemption determination, how to obtain a copy, and the consequences of failing to timely raise objections to the exemption.

    - Requires in Section 31.08(f)(2) that the Planning Department notices under Planning Code Sections 311 and 312 (advising of the right to request a discretionary review hearing) contain the information in Section 31.08(f)(1) and advise those noticed that if a discretionary review hearing is requested and the project is approved by the Planning Commission, such approval will be the Approval Action that triggers the ability to file an appeal of the CEQA exemption determination. If a discretionary review hearing is not requested, the issuance of the Building Permit will trigger the Approval Action.

    - Requires in Section 31.08(g) that when City entities take an Approval Action on a City project (e.g. a project not involving private entitlements) without a noticed public hearing, the City entity shall arrange for Planning to post a notice on

Planning's website informing the public that the CEQA exemption may be appealed to the Board of Supervisors within 30 days after the first date of posting of the notice.

- Provides in Section 31.08(i) that the ERO has the authority, as provided for in Section 31.19, to re-evaluate the application of an exemption to a project in the event the project changes after the Approval Action. In such a case, following a new Approval Action for the project, the new exemption determination may be appealed to the Board under Section 31.16 as to those issues associated with the project changes. As explained below, Section 31.19 is revised to clarify the process for re-evaluation of exemption determinations when a project is modified.

- Sections 31.09 and 31.10.

  - Makes minor clarifying revisions to these sections to reflect actual practice of the Planning Department in its initial evaluation of projects.

  - Clarifies in Section 31.10(f) the language as to when a negative declaration, a mitigated negative declaration, and an environmental impact report are required. The language used is drawn from CEQA Guidelines Sections 15064(f) and 15070 and explains that the phrase used in CEQA Sections 21080(b) through (d) "substantial evidence in light of the whole record, that a project may have a significant impact on the environment" has been judicially interpreted to mean substantial evidence to support a fair argument of a significant impact. Although it does not change the meaning of the current wording, similar "fair argument" language has been included in Sections 31.11(g), 31.16(d)(3) and 31.16(d)(5). Language now in Section 31.12 regarding when to prepare an EIR is deleted.

- Section 31.11.

  - Updates notice and publication provisions for negative declarations to reflect CEQA requirements and Planning Department practices.

  - Provides in Section 31.11(c)(4) that for rezonings, area plans or general plan amendments covering 20 acres or more, Planning is not required to mail a notice of intent to adopt a negative declaration to each property owner within the project area or within 300 feet of the exterior boundaries of the project area, but, requires Planning to post all negative declarations on its web page.

  - Provides in Section 31.11(d) that the notice of intent shall inform the public that only persons appealing the preliminary negative declaration to the Planning Commission will be permitted to appeal the final negative declaration to the Board of Supervisors.

- Provides in Section 31.11(h) that a notice proposing to adopt the negative declaration and take the Approval Action for the project shall advise the public of its appeal rights to the Board of Supervisors following the Approval Action in reliance on the negative declaration.

- Sections 31.12 – 31.15.

  - In addition to deleting language at the beginning of Section 31.12 concerning when to prepare an EIR as explained previously, updates and clarifies the noticing, posting and distribution requirements of CEQA and the practices of the Planning Department with respect to environmental impact reports (EIRs).

  - Provides in Section 31.14(a)(5) that for rezonings, area plans or general plan amendments covering 20 acres or more, Planning is not required to mail a notice of availability of the Draft EIR to each property owner within the project area or within 300 feet of the exterior boundaries of the project area, but provides that Planning shall post all draft EIRs on its web page.

  - Provides in Section 31.14(b)(3) that the notice of availability shall inform the public that only commenters on the Draft EIR will be permitted to file an appeal of the certified EIR to the Board of Supervisors.

  - Provides in Section 31.15(c) that a phonographic reporter record all public hearings on draft EIRs.

  - Provides in Section 31.15(d) that the notice of the certification hearing shall inform the public of the expected Date of the Approval Action on the project and of its appeal rights to the Board of Supervisors after such date.

- Section 31.16. Deletes existing Section 31.16 pertaining to appeals of final EIRs and proposes a new Section 31.16 to address appeals of exemption determinations, negative declarations and environmental impact reports. The key provisions of the new section include:

  - Provides in Section 31.16(a) that exemption determinations, negative declarations and environmental impact reports may be appealed to the Board of Supervisors

  - Specifies the period in which appeals must be filed:

    (1) For an EIR, after certification and within 30 days of the Date of the Approval Action.

(2) For a negative declaration, after the Planning Commission approves the negative declaration and within 30 of the Date of the Approval Action taken in reliance on the negative declaration.

(3) For exemptions, after an exemption is issued and within one of these periods as applicable:

(A) For a private project seeking a permit, license or other entitlement for which the City provides a separate appeal process for the entitlement, within 30 days of the Date of the Approval Action, even where the appeal period for the entitlement is shorter. Departments that grant entitlements supported by an exemption determination shall take steps to advise applicants that the appeal period for exemption determinations is 30 days after approval of the entitlement.

(B) For the City's own projects not involving a private entitlement, if the Approval Action is taken at a public hearing, within 30 days of the Date of the Approval Action; if the Approval Action is taken without a public hearing, within 30 days of the posting on Planning's web site of a notice as provided in Section 31.08(g).

- Specifies the requirements for filing an appeal: one must pay a fee, and the person filing the appeal must have submitted comments during the public comment period on the draft EIR if the appeal is of an EIR; if the appeal pertains to a negative declaration, one must have first appealed the negative declaration to the Planning Commission. The grounds for the appeal must be filed with the appeal.

- Specifies that for projects requiring multiple approvals, while the appeal is pending at the Board, other City agencies and officials may approve the project but shall not take actions to implement the project that will physically change the environment except essential actions to abate hazards to public health and safety. The Board must affirm the CEQA decision before it approves the project but may hold hearings on the project and pass proposed approval actions out of committee without recommendation so that the project approvals and CEQA appeal may be consolidated before the full Board. If the Board reverses the CEQA determination of Planning, all approvals taken by other City agencies and officials, including those taken during the pendency of the appeal, are void.

- Specifies the time frame for the ERO to transmit the environmental documents to the Board and to provide the Board with lists of interested parties.

- Directs the Clerk to schedule the appeal hearing before the full Board. The Clerk shall schedule the CEQA appeal hearing no more than 45 days following the expiration of the time for filing the appeal and provide at least a 14 day notice of the appeal hearing.

- Specifies when materials related to the appeal may be submitted to the Clerk: the appellant and members of the public may submit written materials to the Board up to 11 days, and Planning may submit written materials up to 8 days, before the hearing. The Board shall act within 30 days of the scheduled hearing date but may extend this to not more than 90 days from the deadline for filing the appeal under specified circumstances.

- Specifies the actions that the Board may take for each kind of appeal and the process for then completing the CEQA document in the event the Board reverses the decision of the Planning Commission or Planning Department. If the Board upholds the CEQA decision, prior approval actions are valid. If the Board reverses the CEQA decision, prior approval actions are void.

  (1) In the case of EIRs, if the Board reverses Planning's certification, any further appeals of the revised EIR are limited to revised portions, including any new information, and an appellant must comment on the revised EIR at any earlier public hearing on the revisions.

  (2) In the case of a negative declaration, if the Board reverses Planning's approval, the Board may remand the negative declaration to Planning for revision and if so, further appeals of the revised negative declaration are limited to the revised portions. The Board may alternatively require preparation of an EIR, in which case, Planning shall prepare the EIR in accordance with CEQA and the requirements of this Chapter 31.

- Revises Section 31.19(b) to clarify the process Planning will follow when an exempt project is modified after the Approval Action. Planning will determine if the projects still fits within the scope of the project description in the original application. If it is consistent, Planning will put a written note to this effect in the file. If it is not consistent, Planning will prepare a new CEQA decision – either an exemption determination or an initial study, and if necessary, an EIR. The new CEQA decision is subject to appeal to the Board as provided for in Section 31.08(i).

- Includes in Section 4 of the ordinance findings expressing an intent by the Board of Supervisors to reaffirm the policies and objectives stated in Chapter 31, Section 31.02, and to not change any policies or objectives in CEQA, or to limit any rights of appeal under CEQA or the authority of the Board of Supervisors or the Planning Commission to hear and decide CEQA appeals as provided in Chapter 31.

- Provides in Section 5 ordinance for an effective date.

- Provides in Section 6 of the ordinance for an "Operative Date" of no earlier than September 1, 2013, and not until after 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.

Background Information

The ordinance is proposed to update the City's existing CEQA procedures so that they conform to current provisions of CEQA and CEQA Guidelines, reflect current Planning Department practices, and provide codified procedures for appealing negative declarations and exemption determinations to the Board. The provisions concerning appeals to the Board are intended to respond to requirements in the CEQA statute that if the Board, as the elected body of the City, does not make the final decision regarding a CEQA decision, and instead, such decisions are made by the Planning Commission or Planning Department, the public has the right to appeal those decisions of Planning to the elected Board.

Prior to 2003, the CEQA statute provided for appeals of EIR certifications to the elected decision-making body where a non-elected decision-making body certified the project. In response to this earlier provision of CEQA, the City codified an appeal process for EIRs, which is currently found in Administrative Code Chapter 31.16. The Legislature amended the CEQA statute in 2003 to provide that where a non-elected decision-making body of a lead agency adopts a negative declaration or makes a determination that a project is exempt from CEQA, the negative declaration or CEQA exemption may be appealed to the lead agency's elected decision-making body, if any, after the project is approved. Since 2003, the City has not amended Chapter 31 to provide for an appeal process for negative declarations or exemption determinations. Instead, the City has relied on interim guidelines issued by the Clerk's Office, City Attorney opinions on ripeness and timeliness of appeals and Board Rules of Order for conducting land use appeal hearings.

BOARD of SUPERVISORS

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

April 4, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 29, 2013, Supervisor Wiener introduced the following **substitute** legislation:

File No. 121019-4

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

[2012.1465E]

Non-physical exemption.
Not a project per
CEQA Guidelines
Section 15060(c)(2).
Joanne Sarrell
April 5, 2013

BOARD of SUPERVISORS

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

October 29, 2012

File No. 121019

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On October 16, 2012, Supervisor Wiener introduced the following proposed legislation:

File No. 121019

Ordinance amending the San Francisco Administrative Code Chapter 31 to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Non-physical exemption
CEQA Section 15060(c)(2)
Nov. 13, 2012
Joy Navarrete

Miller, Alisa

From: Rodgers, AnMarie
Sent: Wednesday, March 27, 2013 11:40 AM
To: Calvillo, Angela; Wiener, Scott
Cc: Miller, Alisa; Power, Andres; Warren, Elaine; Givner, Jon
Subject: Historic Preservation Commission Recommends Approval for CEQA Procedures Ordinance [BF 12-1019]
Attachments: HPC Response BF 12-1019 CEQA Appeals.pdf

Dear Supervisor Wiener and Clerk Calvillo,

Last Wednesday, the HPC voted to recommend approval with modifications of Supervisor Wiener's proposed Ordinance to amend the Administrative Code concerning CEQA Procedures. The two recommended modifications are: 1) increase the window of appeal for all CEQA documents to 30 days and 2) provide increased clarity for the process where the Board acts as the CEQA decision-making body.

For more information please see the attached documents.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs
SF Planning Department
415-558-6395

Public access to property information and permit history is just a click away:
http://propertymap.sfplanning.org

SAN FRANCISCO
PLANNING DEPARTMENT

March 27, 2013

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Supervisor Wiener and
Ms. Angela Calvillo, Clerk
Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Case Number 2012.1329U**
BF No. 12-1019: California Environmental Quality Act Procedures

Recommendation: that the Historic Preservation Commission hereby recommends that the Board adopt the proposed Ordinance with the following two modifications: 1) Increase the window of appeal for all CEQA documents to 30 days and 2) Provide increased clarity for the process where the Board acts as the CEQA decision-making body.

Dear Supervisor Wiener and Ms. Calvillo,

On March 14, 2013, the San Francisco Historic Preservation Commission conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019v3.

At the hearing, the Commission voted 5-2 to recommend that the Board of Supervisors approve the proposed Ordinance with the two modifications listed above. The attached materials provide more detail about the Commission's action.

Supervisor Wiener, if you would like to incorporate the recommendations of the Commission please instruct the City Attorney to make the modifications.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc:
City Attorneys Jon Giver and Elaine Warren

Attachment (one copy of the following):
Historic Preservation Commission Resolution No. 704

SAN FRANCISCO
PLANNING DEPARTMENT

Historic Preservation Commission Resolution No. 704

Administrative Code Text Change

HISTORIC PRESERVATION COMMISSION HEARING DATE: MARCH 20, 2013

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Sarah Jones, Acting Environmental Review Officer** **sarah.jones@sfgov.org, 415-575-9034**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT THE PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE CODE, CHAPTER 31, TO REFLECT REVISIONS IN THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND TO UPDATE AND CLARIFY CERTAIN PROCEDURES PROVIDED FOR IN CHAPTER 31, INCLUDING WITHOUT LIMITATION: CODIFYING PROCEDURES FOR APPEALS OF EXEMPTIONS AND NEGATIVE DECLARATIONS; PROVIDING FOR THE BOARD TO MAKE THE FINAL CEQA DECISION ON PROJECTS REQUIRING BOARD LEGISLATIVE ACTION, NEGATING THE NEED TO FILE FORMAL CEQA APPEALS; REVISING NOTICING PROCEDURES FOR ENVIRONMENTAL IMPACT REPORTS AND NEGATIVE DECLARATIONS FOR PLAN AREA PROJECTS EXCEEDING 20 ACRES; EXPANDING NOTICING REQUIREMENTS FOR CERTAIN EXEMPT PROJECTS; AND CLARIFYING EXISTING NOTICING REQUIREMENTS FOR EXEMPT PROJECTS AND THAT THE PROPOSED ORDINANCE BE AMENDED WITH TWO MODIFICATIONS: 1)INCREASE THE WINDOW OF APPEAL FOR ALL CEQA DOCUMENTS TO 30 DAYS AND 2) PROVIDE INCREASED CLARITY FOR THE PROCESS WHERE THE BOARD ACTS AS THE CEQA DECISION-MAKING BODY THROUGH ESTABLISHMENT OF TIME FRAMES FOR SUBMITTAL OF ISSUES AND DEPARTMENT RESPONSES.

PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 7, 2012, the San Francisco Historic Preservation Commission (hereinafter "Historic Preservation Commission") conducted a duly noticed public hearing at a regularly scheduled

meeting to consider the proposed Ordinance. At the hearing, the Commission voted 6-0 (1 commissioner absent) to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code.

Whereas, the Historic Preservation Commission's recommendations are recorded in Resolution Number 694; and

Whereas, on November 29, 2012, the Planning Commission (hereinafter "PC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and
Whereas, the Planning Commission's recommendations are recorded in Resolution Number 18754; and

Whereas, on March 14, 2013, the PC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the Planning Commission's recommendations are recorded in Resolution Number 18826; and

Whereas, on March 14, 2013, the Historic Preservation Commission (hereinafter "HPC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the HPC has reviewed the proposed Ordinance; and **MOVED, that the Commission hereby recommends that the Board adopted the proposed Ordinance with the following two modifications:**

1) Increase the window of appeal for all CEQA documents to 30 days; and

2) Provide increased clarity for the process where the Board acts as the CEQA decision-making body.

FINDINGS

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

1. In 2006, the Planning Commission considered a similar Ordinance. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;

2. In 2010, the Planning Commission and the Historic Preservation Commission considered another Ordinance that incorporated the changes recommended by the Planning Commission in 2006 and would also establish procedures for certain CEQA appeals In 2010, both the PC, with Resolution 18116, and the HPC, with Motion 649, recommended approval of the proposed Ordinance with modifications.
3. The proposal with the two recommended modifications would greatly improve local administration of CEQA by establishing a defined appeal process and increasing public notification.
4. The establishment of the proposed rules, will improve for appellants resulting in more valid appeals and reducing the number of attempted appeals that are found to be invalid.
5. The proposal is anticipated to reduce the amount of time between the issuance of a CEQA Exemption and appeal of that Exemption, thereby increasing certainty for project sponsors and allowing a project to proceed logically and in a manner consistent with the intent of CEQA.
6. The proposed ordinance would also allow (at the project sponsor's risk) necessary approvals to proceed concurrently with consideration of a CEQA appeal, provided they do not allow any physical actions to occur. This provision would avoid delays that can have unintended consequences for project viability.
7. The costs for the City will be reduced in two ways: first each filed appeal will no longer need City Attorney review to determine validity and second, the establishment of procedures for submittal of materials to the Clerk will increase clarity of the appellant's arguments allowing the City to respond specifically to those issues of interest to the appellant.
8. The codification of noticing requirements and time frames for all aspects of the CEQA appeals will make the process more transparent, comprehensive, and implementable for appellants, project sponsors and staff.

I hereby certify that the Historic Preservation Commission ADOPTED the foregoing Resolution on March 20, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Hasz, Johnck, Johns, and Pearlman

NAYS: Hyland

ABSENT: Matsuda and Wolfram

ADOPTED: March 20, 2013

Miller, Alisa

From: Rodgers, AnMarie
Sent: Monday, March 18, 2013 5:03 PM
To: Starr, Aaron; Calvillo, Angela; Wiener, Scott
Cc: Miller, Alisa; Power, Andres; Warren, Elaine; Givner, Jon; Jones, Sarah
Subject: Planning Commission Recommends Approval for CEQA Procedures Ordinance [BF 12-1019]
Attachments: Planning Response BF 12-1019 CEQA Appeals.pdf

Dear Supervisor Wiener and Clerk Calvillo,

Last Thursday, the Commission voted to recommend approval with modifications of Supervisor Wiener's proposed Ordinance to amend the Administrative Code concerning CEQA Procedures. The two recommended modifications are: 1) increase the window of appeal for all CEQA documents to 30 days and 2) provide increased clarity for the process where the Board acts as the CEQA decision-making body.

For more information please see the attached documents.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs
SF Planning Department
415-558-6395

Public access to property information and permit history is just a click away:
http://propertymap.sfplanning.org

SAN FRANCISCO
PLANNING DEPARTMENT

March 18, 2013

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Supervisor Wiener and
Ms. Angela Calvillo, Clerk
Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Case Number 2012.1329U
BF No. 12-1019: California Environmental Quality Act Procedures

Recommendation: that the Commission hereby recommends that the Board adopt the proposed Ordinance with the following two modifications: 1) Increase the window of appeal for all CEQA documents to 30 days and 2) Provide increased clarity for the process where the Board acts as the CEQA decision-making body.

Dear Supervisor Wiener and Ms. Calvillo,

On March 14, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019v3.

At the hearing, the Commission voted 5-2 to recommend that the Board of Supervisors approve the proposed Ordinance with the two modifications listed above. The attached materials provide more detail about the Commission's action.

Supervisor Wiener, if you would like to incorporate the recommendations of the Commission please instruct the City Attorney to make the modifications.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc:
City Attorneys Jon Giver and Elaine Warren

Attachment (one copy of the following):
Planning Commission Resolution No. 18826
Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Resolution No. 18826

Administrative Code Text Change

PLANNING COMMISSION HEARING DATE: MARCH 14, 2013

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Project Name:	California Environmental Quality Act Procedures
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Sarah Jones, Acting Environmental Review Officer** **sarah.jones@sfgov.org, 415-575-9034**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT THE PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE CODE, CHAPTER 31, TO REFLECT REVISIONS IN THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND TO UPDATE AND CLARIFY CERTAIN PROCEDURES PROVIDED FOR IN CHAPTER 31, INCLUDING WITHOUT LIMITATION: CODIFYING PROCEDURES FOR APPEALS OF EXEMPTIONS AND NEGATIVE DECLARATIONS; PROVIDING FOR THE BOARD TO MAKE THE FINAL CEQA DECISION ON PROJECTS REQUIRING BOARD LEGISLATIVE ACTION, NEGATING THE NEED TO FILE FORMAL CEQA APPEALS; REVISING NOTICING PROCEDURES FOR ENVIRONMENTAL IMPACT REPORTS AND NEGATIVE DECLARATIONS FOR PLAN AREA PROJECTS EXCEEDING 20 ACRES; EXPANDING NOTICING REQUIREMENTS FOR CERTAIN EXEMPT PROJECTS; AND CLARIFYING EXISTING NOTICING REQUIREMENTS FOR EXEMPT PROJECTS AND THAT THE PROPOSED ORDINANCE BE AMENDED WITH TWO MODIFICATIONS: 1)INCREASE THE WINDOW OF APPEAL FOR ALL CEQA DOCUMENTS TO 30 DAYS AND 2) PROVIDE INCREASED CLARITY FOR THE PROCESS WHERE THE BOARD ACTS AS THE CEQA DECISION-MAKING BODY THROUGH ESTABLISHMENT OF TIME FRAMES FOR SUBMITTAL OF ISSUES AND DEPARTMENT RESPONSES.

PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 7, 2012, the San Francisco Historic Preservation Commission (hereinafter "Historic Preservation Commission") conducted a duly noticed public hearing at a regularly scheduled

meeting to consider the proposed Ordinance. At the hearing, the Commission voted 6-0 (1 commissioner absent) to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code.

Whereas, the Historic Preservation Commission's recommendations are recorded in Resolution Number 694; and

Whereas, on November 29, 2012, the Planning Commission (hereinafter "PC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the Planning Commission's recommendations are recorded in Resolution Number 18754; and

Whereas, on March 13, 2013, the PC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the PC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the PC has reviewed the proposed Ordinance; and **MOVED, that the Commission hereby recommends that the Board adopted the proposed Ordinance with the following two modifications:**

1) Increase the window of appeal for all CEQA documents to 30 days; and

2) Provide increased clarity for the process where the Board acts as the CEQA decision-making body.

FINDINGS

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

1. In 2006, the Planning Commission considered a similar Ordinance. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;
2. In 2010, the Planning Commission and the Historic Preservation Commission considered another Ordinance that incorporated the changes recommended by the Planning Commission in 2006 and would also establish procedures for certain CEQA appeals In 2010, both the PC, with Resolution 18116, and the HPC, with Motion 649, recommended approval of the proposed Ordinance with modifications.

3. The proposal with the two recommended modifications would greatly improve local administration of CEQA by establishing a defined appeal process and increasing public notification.
4. The establishment of the proposed rules, will improve for appellants resulting in more valid appeals and reducing the number of attempted appeals that are found to be invalid.
5. The proposal is anticipated to reduce the amount of time between the issuance of a CEQA Exemption and appeal of that Exemption, thereby increasing certainty for project sponsors and allowing a project to proceed logically and in a manner consistent with the intent of CEQA.
6. The proposed ordinance would also allow (at the project sponsor's risk) necessary approvals to proceed concurrently with consideration of a CEQA appeal, provided they do not allow any physical actions to occur. This provision would avoid delays that can have unintended consequences for project viability.
7. The costs for the City will be reduced in two ways: first each filed appeal will no longer need City Attorney review to determine validity and second, the establishment of procedures for submittal of materials to the Clerk will increase clarity of the appellant's arguments allowing the City to respond specifically to those issues of interest to the appellant.
8. The codification of noticing requirements and time frames for all aspects of the CEQA appeals will make the process more transparent, comprehensive, and implementable for appellants, project sponsors and staff.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on March 14, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Borden, Hillis, and Sugaya

NAYS: Moore, Wu

ABSENT:

ADOPTED: March 14, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Administrative Code Text Change
PLANNING COMMISSION HEARING DATE: MARCH 14, 2013
HISTORIC PRESERVATION COMMISSION HEARING DATE: MARCH 20, 2013

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Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019, Version 3]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012, substituted on 1/29/13
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Sarah Jones, Acting Environmental Review Officer** **sarah.b.jones@sfgov.org, 415-575-9034**
Recommendation:	**Approval with modifications.**

ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Wiener would amend Administrative Code Chapter 31 provisions to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Background:

On November 7, 2012, the San Francisco Historic Preservation Commission (hereinafter "Historic Preservation Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019. At the hearing, the Commission voted 6-0 (1 commissioner absent) to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code. The Historic Preservation Commission recommendation to Supervisor Wiener was that the Commission was: "seeking additional time or if no additional time is provided, (the Commission was) recommending that the Board of Supervisors adopt a proposed Ordinance with modifications that amends Administrative Code Chapter 31 provisions to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations." Specifically, the Historic Preservation Commission's recommended modifications were as follows:

1) The Historic Preservation Commission agrees with the two previous recommendations from the Department:

   a. Provide the adequate opportunity for all parties to provide written materials to the Board.
   b. All Sections- Increase consistency concerning "Date of Decision".
2) The Historic Preservation Commission believes that the appeal window should generally be 30 days for all CEQA documents. The HPC believes that once the "date of decision" on the first approval has started the countdown on the ability to appeal, the proposed 20 days may not provide sufficient time for appellants to prepare their appeal.
3) Amend the definitions of Historic Resources that would require notice. The proposed Ordinance would amend Section 31.08(e)(2) to require that notice be given for certain types of historical resources. The HPC believes that this section should be revised to clarify that all historic resources found in any adopted survey, regardless of the age of that survey, would require notice.
4) Lastly, the Historic Preservation Commission directs staff to ensure that notices posted on the website must be provided in a clear and obvious manner.

On November 29, 2012, the San Francisco Planning Commission (hereinafter "Planning Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance. At the hearing, the Commission voted 6-0 (1 commissioner absent) to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code. The Planning Commission recommendation to Supervisor Wiener was as follows:

1) engage the public;
2) consider this Commission's recommendations, including
   a. define the "first discretionary action",
   b. consider extending appeal period, and
   c. default to a longer appeal period for actions that are not noticed; and then
3) bring the proposal back to the Planning Commission so that a revised Ordinance which takes public and Commission input into account may be reviewed.

On December 5, 2012, the Historic Preservation Commission conducted a second hearing to consider the proposed Ordinance. At the hearing, the Commission voted 6-0 (1 commissioner absent) in favor of the following recommendation to Supervisor Wiener:

1) Support the Planning Commission resolution (summarized above);
2) Conduct outreach to the public, particularly the historic preservation community; and
3) Bring the proposal back the Historic Preservation Commission so that a revised Ordinance may be reviewed.

Since the Commission hearings, the Supervisor has conducted three large public outreach meetings with the participation of Planning Staff. Groups represented at these meetings include:

<u>January 9th, 2013</u>

- Coalition for San Francisco Neighborhoods
- Cole Valley Improvement Association
- Sierra Club
- D-5 Action

- SF Green Party/Our City
- ENUF
- Arc-Ecology
- San Francisco Tomorrow
- SaveMuni.com
- Community Economic Development Clinic – UC Hastings

January 24th, 2013 Morning Meeting

- Community Economic Development Clinic – UC Hastings
- San Francisco Beautiful
- Sierra Club
- Wild Equity Institute
- SF Preservation Consortium

January 24th, 2013 Afternoon Meeting

- Russian Hill Neighbors
- Coalition for San Francisco Neighborhoods
- SF Ocean Edge
- Planning Association for the Richmond
- Pacific Heights Residents Association
- Haight Ashbury Neighborhood Association
- Sierra Club
- Parkmerced Action Coalition
- Glen Park Association
- Friends of Noe Valley
- Marina Community Association
- San Francisco Tomorrow
- SF Preservation Consortium
- Community Economic Development Clinic – UC Hastings

March 1st, 2013 Meeting

- Coalition for San Francisco Neighborhoods
- Planning Association for the Richmond
- Parkmerced Action Coalition
- Glen Park Association
- San Francisco Tomorrow
- SF Preservation Consortium
- Community Economic Development Clinic – UC Hastings
- San Francisco Green Party
- Aquatic Park Neighbors
- SF Beautiful

For a complete list of attendees for the March 1, 2013 meeting please see Exhibit H

In addition to these large public meetings, private meetings with a variety of stakeholders meetings including affordable housing developers, neighborhood organizations and others throughout the month of January.

As a result of this outreach, Supervisor Wiener introduced Version 3 on January 29th, 2013. The Supervisor has provided time for the public time to review Version 3 and he held an open meeting for the public on March 1, prior to the commission hearings.

The Way It Is Now Summary:

In San Francisco, the Board of Supervisors considers appeals because the California Environmental Quality Act (CEQA) requires local agencies to allow a CEQA appeal to the elected decision-making body *if* a non-elected decision-making body approves the CEQA document. Since the Planning Commission and Planning Department are not elected bodies, CEQA provides that CEQA documents approved by the Commission and Department are appealable to the Board. CEQA Guidelines clarify that such appeal is allowed after the project is approved. Case law has clarified that where the elected decision-making body approves the CEQA document itself, no appeal is required.

The appeal right derives from state law and the ordinance under consideration would not change or abrogate that right.

State CEQA law leaves establishment of the appeal process (and other provisions) to local bodies. In San Francisco, Chapter 31 of the Administrative Code establishes local regulations to implement CEQA. At present, Chapter 31 provides procedures for an appeal of an EIR certification[1] to the Board, but does not provide procedures for an appeal of a neg dec or an exemption. To fill this void, the Clerk of the Board has provided interim procedures for an appeal of a neg dec and an exemption. Not only does Chapter 31 currently *not* provide for a process for an appeal of such determinations, but Chapter 31 does not provide specified time limits for filing appeals. The Clerk has addressed this problem by referring every appeal to the City Attorney's Office for advice on whether an appeal is timely. On February 22, 2008, the City Attorney drafted a memorandum[2] explaining general guidelines for determining if appeals of private projects were 1) "ripe" or ready for appeal and 2) "timely" meaning not too late. This memo provides general guidance whereby appeals could be filed prior to the expiration of the appeal period for the final administrative approval. For private projects, the time in which an appeal can be filed depends on the entitlements needed for a project. The Clerk continues to refer each appeal to the City Attorney's Office for a case by case determination. In practice, it is difficult for the public to understand when the filing of a CEQA appeal is appropriate.

The Way It Would Be Summary:

The proposed Ordinance would codify procedures for appeal of neg decs and exemptions to the Board of Supervisors and update and revise other provisions in Chapter 31.

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[1] The current procedures for appeal of an EIR are set forth in Administrative Code Section 31.16.

[2] The full title of the memorandum is "Amendments to CEQA Guidelines Affecting Board of Supervisors CEQA Appeal Procedures for Negative Declarations and Exemption Determinations/Determining Whether Appeals Are Ripe for Review and Timely Filed". It is posted on the Clerk's web page.

The Ordinance would amend Section 31.08, which now establishes procedures for categorical exemptions, so that the procedures would apply to all exemptions (including statutory exemptions and community plan exemptions) and not just categorical exemptions. It would also expand noticing provisions related to exemptions, none of which are required by CEQA. The Ordinance would delete Section 31.16 in its entirety, which now provides a process for EIR appeals only, and add a new Section 31.16 that would set forth an appeal process for EIRs, neg decs, and all exemptions. This section would establish that when the Board of Supervisors (Board) must approve a project, it is the CEQA decision making body and there would not be a separate appeal process. Instead, the public could raise CEQA issues through the normal Board hearing process and the Board would need to affirm the CEQA documents approved by Planning as part of its approval of the project. In addition, the legislation would clarify the public notice requirements for neg decs and draft EIRs in Sections 31.12-31-15, and remove the current Chapter 31 requirement that Planning provide mailed notices of draft CEQA EIRs and neg decs to properties within and near project areas that are citywide in scope or that affect 20 acres or more.

In addition to the summary above, the Department published an informational memorandum that described the differences between Version Two of the proposed Ordinance and the current version, Version Three. This comparison is available upon request and on the Department website at: http://commissions.sfplanning.org/cpcpackets/2012.1329Uv4.pdf.

ISSUES AND CONSIDERATIONS

CEQA seeks to achieve five crucial objectives prior to project approval: 1) disclose environmental impacts; 2) prevent or reduce environmental damage; 3) disclose agency decisions; 4) promote interagency coordination; and 5) encourage public participation. While state law establishes the framework for CEQA, it provides for lead agencies to establish their own local procedures for carrying out the CEQA process within their jurisdictions. Currently, our local law establishes rules for appeal of EIRs but not negative declarations or exemptions, to our elected Board of Supervisors. This lack of rules for appeals of other CEQA documents harms both potential appellants and project sponsors.

Where the Administrative Code establishes a process for appeals, for EIR documents, the appeal process is administered both more quickly and more effectively. From 2010-2013, EIRs typically have been brought to public hearing for appeals within 48 days of certification by the Planning Commission. This compares to the lengthy average of 208 days that transpired between issuance of an exemption and its appeal before the Board. While this delay is inefficient and costly for the project sponsor, the process appears to not benefit the appellant either – in this time period, all of the filed EIR appeals where procedures are codified were found to be timely appeals whereas, 23% (nearly 1/4) of all exemption appeals were determined to be not timely.

types of CEQA documents[3]	*no. of appeals filed 2010-2013*	*No. of appeals that went to hearing*	*average length of time btw CEQA document issuance and CEQA appeal*	*no. of untimely appeals*	*% of appeals that were not ripe/timely*
Exemptions	*30*	*20*	*208*	*7*	*23%*
Neg Dec	*1*	*1*	*82*	*0*	*0%*
EIR	*19*	*17*	*48*	*0*	*0%*
TOTALS	*50*	*38*	*143*	*7*	*14%*

The current process seems to disadvantage both appellants and project sponsors. Where rules are established for appeals, the hearing happens significantly faster. Where rules are not established, about a quarter of appellants are frustrated to find their appeal does not qualify for hearing.

The proposed Ordinance seeks to correct both issues by codifying rules and by increasing public notification.

After two HPC hearings, one hearing at the PC and several informal meetings and discussions, much of the proposal has been discussed at length. It seems all parties can agree that increased notice and added clarity would improve our local CEQA appeal process. Attachment C summaries the breadth of the topics discussed and responds to each generalized comment with an assessment as to whether this topic has been addressed in the current proposed Ordinance.

The current version of the proposal addressed a key concern from last fall by increasing certainty and defining all "first approval actions" that would open the window for appeals. See Exhibit F for a flow chart of the proposed appeal process for Exemptions. At this time, the Department believes the following issues are the most debated:

1. 20-Day window of appeal;
2. Board as the CEQA decision-making body; and
3. For area plans involving rezoning of 20 acres or more, removal of a local mailed notice requirement that is largely duplicative of the mailed notice otherwise already required for rezoning actions.

Looking at these issues in more detail:

- **20-Day Appeal Window.** The current proposal seeks to create a uniform appeal window for all CEQA documents by applying the existing 20-day window for appeal of EIRs to Neg Decs and

[3] There also were 4 appeals filed for items for which CEQA does not provide an appeal process: letters in which Planning advised a City department that an action was not a project as defined by CEQA (2), an EIR addendum (1) and a NEPA document (1).

Exemptions. While a consistent time frame is laudable, there has been concern that circumstances of an EIR (more notification, longer process) are different from that of the other documents, and therefore the 20 days adequate for an EIR might not be adequate for these other documents, and therefore, the 20 days adequate for an EIR might not be adequate for these other documents that have less ongoing notice and process.. Further, there are current discrepancies between other related appeal deadlines; the deadline for appeal of a building permit is 15-days and the appeal deadline of a conditional use authorization is 30-days. In addition to the length of the appeal window, there is some public concern around the question of the first approval action rather than the final approval action as the "trigger" for the appeal period.

- **Appeals where the Board is the CEQA decision-making body.** As described earlier, CEQA provides a right of appeal only where a non-elected decision-making body, such as the Planning Commission, renders the final decision about the adequacy of a CEQA document. (CEQA Section 21151(c)). Proposed Section 31.16(b) clarifies that when the Board is required to approve a project before it can be implemented, the Board must affirm the CEQA decision rendered by the Department or Planning Commission and no separate appeal process is required. The public would have the ability to raise CEQA questions before the Board through the Board's existing public hearing process, which usually is carried out at a committee, but can involve a hearing before the full Board. To understand how this would function, below are three questions are frequently raised about the process and answers.
  - First, when is the Board established as the CEQA decision-making body?
  - Answer: The potential CEQA projects for which the Board would be the decision-making body include all projects that require the Board to approve an ordinance or resolution, including establishing a SUD or approving a zoning change, appropriating funds, or entering into contracts where Board approval of the contract is required.
  - Second, how are the CEQA-related concerns raised before the Board?
  - Answer: The simplest answer to this question is that the proposed ordinance leaves this decision to the Board as the Board sets out its procedures in the Board's Rules of Order. The proposal states, "any person may raise objections to the CEQA decision at a public hearing on the project held by the Board or a committee of the Board". To try to anticipate how the Board may resolve CEQA concerns that arise at the Board, consider these two scenarios.
    1) **Public comment at a Board committee: Under the Board of Supervisors Rules of Order 3.3 and 4.22, the Board generally considers public comment regarding particular legislative matters only at Board committee meetings, not at meetings of the full Board. After a Board committee considers a matter—and after the committee hears public comment on that matter—the committee generally forwards a recommendation for approval or disapproval on the underlying action to the full Board. The full Board then considers the whole item, including any CEQA affirmation in the legislation. In these circumstances, the Board does not invite additional public comment on the matter after it has been heard in committee. The Board's committee hearing process would satisfy the hearing requirement in the proposal here. The Board also would retain the ability to affirm or deny the CEQA decision by a separate resolution prior to considering the project. Of course, denial of the CEQA decision would prevent further approvals.**
    2) **Public comment before the Board seated as a Committee of the Whole. Instead of, or in addition to, allowing public comment in committee, the Board could allow public comment on CEQA-related concerns at meetings of the full Board. Either**

the Board could allow public comment on a case-by-case basis by deciding to sit as a Committee of the Whole for particular matters, or the Board could amend its Rules of Order to provide a process for public comment at the full Board on such matters. As noted above, the proposal leaves the Board discretion as to how it would handle these matters.

- Third, how would related procedures for this process work?
- Answer: As there is no specific CEQA appeal for these matters, the underlying resolutions and/or ordinances would proceed under standard Board procedures. While this may benefit the concerned public in that CEQA issues may be raised without the need to file an appeal, it does create uncertainty for the Department and the project sponsor. For instance, the proposed Ordinance does not establish a schedule for when materials shall be submitted to the Board. The underlying Board actions would proceed through the Board's normal procedures, without a separate opportunity to assess and respond to CEQA-related issues as provided through the regular appeal procedures. The Department does have concerns as to its ability to respond to any CEQA issues raised.

- **Removal of individual mailed notice for rezonings affecting areas of 20 acres or more.** Under the current proposal City-sponsored projects that both involve rezonings, area plans, or other General Plan amendments *and* that are either citywide in scope or where the total area of land that is part of the project (excluding public streets) is twenty (20) acres or more would not need to provide mailed notice of availability of an EIR and an intent to adopt a Neg Dec. These mailed notices currently required by the Administrative Code may be deleted as the notices are largely duplicative with the mailed noticed required in Planning Code Section 306 et. Seq. which also requires mail notice to owners within 300 feet of all exterior boundaries of an area to be rezoned and to those owners within the potential rezoning. Other forms of notice, such as newspaper advertisements, mailing to those requesting such notice, and mailing to responsible and trustee agencies, would continue. The current version of the proposal increases the requirement that the land be at least 20 acres over the previous proposal for just land over 5 acres. The intent of this provision was to address area plans and citywide plans, and not individual projects on large sites (which might exceed 5 acres in size); most of the Department's area plans are, in fact, over 20 acres.

POTENTIAL COMMISSION ACTION

The proposed Ordinance is before both the Planning Commission and the Historic Preservation Commission so that each may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department strongly recommends that both the Historic Preservation Commission and the Planning Commission recommend ***approval with two modifications*** to the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Recommended Modifications

While the Department recommends support of the proposed Ordinance, there are two modifications that may improve the proposal. The proposed modifications include:

- **Increase the window of appeal for all CEQA documents to 30 days and**
- **Provide increased clarity for the process where the Board acts as the CEQA decision-making body.**

BASIS FOR RECOMMENDATION

The Planning Department strongly supports the proposed Ordinance, with two additional modifications. The Planning Commission considered similar proposed Ordinances in 2006 and 2010. In both instances, the Planning Commission recommended approval with modifications via Resolution Numbers 17335 and 18116. While the Historic Preservation Commission (HPC) was not in existence to review the 2006 proposal, in 2010 the HPC passed Motion 649 approving the proposed Ordinance with modifications. (See prior PC and HPC Resolutions and Motions in Exhibit C) Both the 2006 and 2010 CEQA Reform Ordinances were heard and amended by the Land Use Committee of the Board, however, neither was forwarded to the Full Board. Although the Administrative Code has not been substantively amended concerning CEQA appeals the intervening years, there have been changes and clarifications to the City's CEQA appeals process, including the City Attorney memorandum from February 22, 2008 and the 2007 Amended CEQA Guidelines. The current proposal incorporates many of the earlier changes recommended by the Commissions.

Further, when the Commissions both considered earlier versions of the current proposal in Fall of 2012. This fall the Commissions requested the following:

1) define the "first discretionary action";
2) consider extending appeal period;
3) default to a longer appeal period for actions that are not noticed;
4) conduct further outreach; and
5) revise the proposal based upon that outreach.

With regard to each of these requests, the Department finds the following:

1) **define the "first discretionary action".** The current proposal defines each potential "approval action[4]" that would open the window for CEQA appeal.

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[4] Section 31.01(h) establishes that "*Approval Action*" means:

(1) For a private project that is determined to be exempt from CEQA:

(A) The first approval of the project by the Planning Commission or the Zoning Administrator following a noticed public hearing, including, a discretionary review hearing; or

(B) The first approval of the project by another City commission, board or official following a noticed public hearing granting an entitlement; or

(C) If a Building Permit or other Entitlement of Use for the Whole of the Project is issued in reliance on the exemption without being preceded by a publicly notice·approval hearing, the issuance of the Building Permit or other Entitlement of Use for the Whole of the Project.

(2) For public 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 a Neg Dec, the approval of the project by the first City decision-making body that adopts the Neg Dec or mitigated Neg Dec as provided in Section 31.11(h).

1) **consider extending appeal period.** The current proposal does not extend the appeal period. As proposed, there would be a 20-day window for all CEQA document types.
2) **default to a longer appeal period for actions that are not noticed.** For City projects that do not have an associated public hearing, the "clock" to end the appeal period *does not begin until* a notification of the exemption is posted on the Department's website as provided in Section 31.08(g). This is a change from the previous version which asked for but did not require posting on the website—in these cases the appeal period was 30-days regardless of whether the notice occurred. Under the revised proposal, if there is no notice of these City projects then there is no appeal window cutoff. Further, under the current proposal private projects subject to notification under *Planning Code* Sections 311 and 312 will also require notice about the underlying CEQA determination and about how to appeal both the building permit and the CEQA determination. The cumulative effect of the current proposal would be that the vast majority of projects that are currently the subject of CEQA appeals (those which are either City projects or those that are required to provide 311/312 notification) will now have a requirement to notice the CEQA determination and related appeal process.
3) **conduct further outreach.** Pages three through four of this report detail the additional outreach that has been conducted since this Commission request in Fall 2012.
4) **revise the proposal based upon that outreach.** While not all of the public or the Commission's requests have been accommodated, the vast majority of these requests have been responded to with clarifications made in either the second version (11/20/12) or third and current version (1/29/13). See Exhibit C for a summary listing of requests and responses.

The proposed modifications include:

- **Increase the window of appeal for all CEQA documents to 30 days.** While the current 20-day appeal window for EIRs appears to be effective and functional for all parties, there is typically a much greater public process for EIRs then for other CEQA document types, and therefore public knowledge of the project and the process might be more extensive than for a project receiving an exemption. That said, in keeping with the overall goal of the legislation to increase consistency and clarity in the appeal process, the Department recommends extending the period of appeal for EIRs so that under the proposal all CEQA document types would have the same 30-day window of appeal.
- **Provide increased clarity for the process around CEQA concerns where the Board acts as the CEQA decision-making body.** As noted earlier in this report under "Issues and Considerations" there is some uncertainty about how the Board will chose to respond to CEQA issues that are raised where the Board is the decision-making body. For this reason, the Department recommends codifying procedures for submitting CEQA-related concerns when the Board is the decision-making body that are consistent with the Clerk's rules for preparing the packet for Committee hearings. This would ensure that Board Committee Members, City agencies, and the public would be aware of potential CEQA issues prior to the hearing Committee hearing. This would ensure that City agencies come to the hearing prepared to discuss the potential CEQA concerns and could enable the Board to schedule the matter before the Full Board if it desires.

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(4) For all projects determined to require an EIR, the approval of the project by the first City decision-making body following the certification of completion of the EIR by the Planning Commission as provided in Section 31.15(d).

The Department finds that the proposal with the two recommended modifications would greatly improve local administration of CEQA by establishing a defined appeal process and increasing public notification. Through the establishment of the proposed rules (and with our two recommended modifications), the Department believes that the process will improve for appellants resulting in more timely appeals and reducing the number of attempted appeals that are found to be untimely. Similarly, the proposal is anticipated to reduce the amount of time between the issuance of a CEQA Exemption and appeal of that Exemption, thereby increasing certainty for project sponsors and allowing a project to proceed logically and in a manner consistent with the intent of CEQA

The proposed ordinance would also allow (at the project sponsor's risk) necessary approvals to proceed concurrently with consideration of a CEQA appeal, provided they do not allow any physical actions to occur. This provision would avoid delayGs that can have unintended consequences for project viability.

The costs for the City will be reduced in two ways: first each filed appeal will no longer need City Attorney review to determine timelines and second, the establishment of procedures for submittal of materials to the Clerk will increase clarity of the appellant's arguments allowing the City to respond specifically to those issues of interest to the appellant.

In summary, the Planning Department believes that the codification of noticing requirements and time frames for all aspects of the CEQA appeals will make the process more transparent, comprehensive, and implementable for appellants, project sponsors and staff.

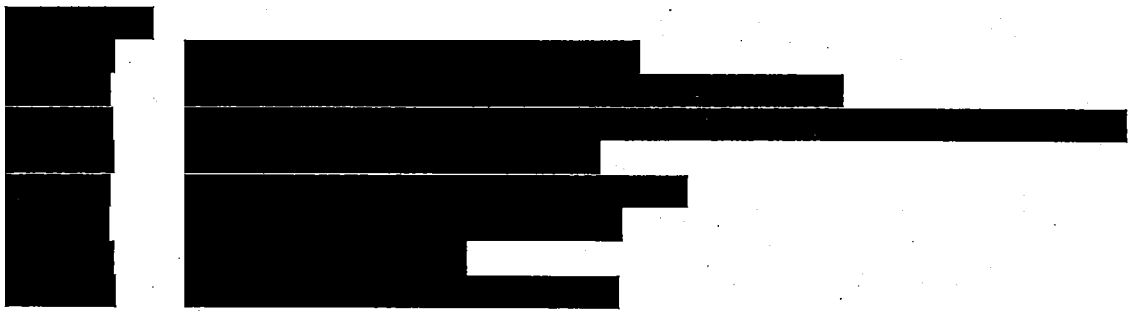
ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

Since the fall hearings, the Planning Department received one letter, which is attached.

RECOMMENDATION:	**Recommendation of Approval with Modifications**



Miller, Alisa

From: Rodgers, AnMarie
Sent: Monday, December 03, 2012 3:42 PM
To: Calvillo, Angela; Wiener, Scott
Cc: bos-legislation@sfgov.org; Caldeira, Rick; Miller, Alisa; Warren, Elaine; Givner, Jon; Elliott, Jason; Power, Andres; Jones, Sarah
Subject: Board File Number 12-1019 CEQA Procedures Ordinance
Attachments: Transmittal Memo.pdf; 18754.pdf

Dear Supervisor Wiener and Ms. Calvillo,

On November 29, 2012, the San Francisco Planning Commission conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019.

At the hearing, the Commission voted 6-0 to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code. The Commission's recommendations are attached and hardcopies have been placed in interoffice mail.

In brief, the Commission's recommendation to Supervisor Wiener was that he
1) engage the public;
2) consider this Commission's recommendations, including:
    (a) clarify the first discretionary action,
    (b) to consider extending appeal period, and
    (c) to default to a longer appeal period for actions that are not noticed; and then
3) bring a revised version of the Ordinance which takes this input into account back to the Planning Commission for consideration.

The Commission appreciates your consideration of this request.

AnMarie Rodgers
Manager of Legislative Affairs
SF Planning Department
1650 Mission Street, #400
San Francisco, CA 94103
415-558-6395

Public access to property information and permit history is just a click away:
http://propertymap.sfplanning.org

SAN FRANCISCO
PLANNING DEPARTMENT

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December 3, 2012

Supervisor Wiener and
Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Case Number 2012.1329U
BF No. 12-1019: California Environmental Quality Act Procedures

Recommendation to Supervisor Wiener 1) engage the public; 2) consider this Commission's recommendations, including a) clarify what the first discretionary action, b) to consider extending appeal period, and c) to default to a longer appeal period for actions that are not noticed; and then 3) bring a revised version of the Ordinance which takes this input into account back to the Planning Commission for consideration.

Dear Supervisor Wiener and Ms. Calvillo,

On November 29, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-1019.

At the hearing, the Commission voted 6-0 to make advisory recommendations to Supervisor Wiener concerning the proposed Ordinance which would amend the Administrative Code. The Commission appreciates your consideration of this request.

Sincerely,

Digitally signed by anmarie rodgers
DN: dc=org, dc=sfgov, dc=cityplanning, ou=CityPlanning, ou=Directors Office, cn=anmarie rodgers, email=anmarie.rodgers@sfgov.org
Date: 2012.11.30 18:19:24 -08'00'

AnMarie Rodgers
Manager of Legislative Affairs

Cc:
City Attorneys Jon Giver and Elaine Warren

Attachment (one copy of the following):
Planning Commission Resolution No. 18754

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Resolution No. 18754

Administrative Code Text Change

HEARING DATE: NOVEMBER 29, 2012

1650 Mission St.
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San Francisco,
CA 94103-2479

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Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048

RECOMMENDING THAT SUPERVISOR WIENER 1) ENGAGE THE PUBLIC; 2) CONSIDER THIS COMMISSION'S RECOMMENDATIONS, INCLUDING: (A) TO CLARIFY THE FIRST DISCRETIONARY ACTION, (B) TO CONSIDER EXTENDING APPEAL PERIOD, AND (C) TO DEFAULT TO A LONGER APPEAL PERIOD FOR ACTIONS THAT ARE NOT NOTICED; AND THEN 3) BRING A REVISED VERSION OF THE ORDINANCE WHICH TAKES THIS INPUT INTO ACCOUNT BACK TO THE PLANNING COMMISSION FOR CONSIDERATION.

PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 29, 2012, the Planning Commission (hereinafter "PC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the PC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the PC has reviewed the proposed Ordinance; and MOVED, that the PC hereby recommends that Supervisor Wiener 1) engage the public; 2) consider this Commission's recommendations, including: (a) clarify the first discretionary action, (b) to consider extending appeal period, and (c) to default to a longer appeal period for actions that are not noticed; and then 3) bring a revised version of the Ordinance which takes this input into account back to the Planning Commission for consideration.

FINDINGS

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

1. In 2006, the Planning Commission considered a similar Ordinance. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;
2. In 2010, the Planning Commission and the Historic Preservation Commission considered another Ordinance that incorporated the changes recommended by the Planning Commission in 2006 and would also establish procedures for certain CEQA appeals In 2010, both the PC, with Resolution 18116, and the HPC, with Motion 649, recommended approval of the proposed Ordinance with modifications.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 29, 2012.

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Wu, Antonini, Borden, Moore, and Sugaya

NAYS:

ABSENT: Hillis

ADOPTED: November 29, 2012

The Way It Is Now:

Environmental Notice & Appeal Provisions – Existing Procedures			
	Exemption	**Neg Dec**	**EIR**
Notice	None required for most. Cat ex as defined in 31.08 (f) requires notice for historic resources, demolitions or class 31 or 32 exemptions.)	Site Posting. Mailed notice to interested parties; approving entities; owners w/in 300' of site & adjacent occupants. Newspaper advertisement. Notice of determination may be filed after approval of project	DEIR: Site Posting. Mailed notice to interested parties; approving entities; agencies w/expertise; owners w/in 300' of site. Newspaper advertisement. Final EIR: Mailed notice to all C&R document recipients (commenters on DEIR, interested parties, etc).
Appeal to CPC	No appeal	Allowed	Not necessary; Planning Commission certifies Final EIR
Appeal to BOS	Allowed	Allowed	Allowed
Deadline for Filing Appeal to BOS - If "ripe" & "timely"	If Building Permit: "ripe" after first approval / "timely" until permit issued & 15-day period for building permit appeal has expired or at conclusion of Board of Appeal hearing on building permit appeal . If CU: "ripe" after Commission hearing until permit issued & "timely" until 30-day period for CU appeal has expired or at conclusion of Board of Supervisors hearing on CU appeal.	If Building Permit: "ripe" after first approval / "timely" until permit issued & 15-day period for building permit appeal has expired or at conclusion of Board of Appeal hearing on building permit appeal . If CU: "ripe" after Commission hearing until permit issued & "timely" until 30-day period for CU appeal has expired or at conclusion of Board of Supervisors hearing on CU appeal.	20 days after CPC certification of FEIR
Who Can Appeal to BOS	Any person	Any person	Any person who commented prior to certification
Deadline for BOS Appeal Hearing	Clerk practice is to schedule hearing within 45 days after appeal filing	Clerk practice is to schedule hearing within 45 days after appeal filing	30 days after appeal filing

The Way It Would Be Under Proposed Ordinance 2012: * Note: only procedures that would change are detailed below. grey box and underlined text.

Environmental Appeal Provisions – Proposed Ordinance 2012			
	Exemption	**Neg Dec**	**EIR**
Notice	Requires that notice be given for demolitions and any historical resources defined as: (A) any buildings and sites listed individually or located within districts listed in Planning Code Articles 10 or 11; (B) on the California Register or determined eligible for listing or on the California Register by the State Historical Resources Commission, including, without limitation, any location, or on the National Register of Historic Places; or (C) a resource that the Environmental Review Officer determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1.** Further provides that projects that rely on an exemption determination and are first approved at a public hearing are required to provide notice of the exemption, right to appeal to the Board and consequences of failing to timely raise objections to the exemption.	No change**.	No change**.
Appeal to CPC	No change.	Appeal to the Planning Commission is required in order to enable subsequent appeal to the Board of Supervisors.	No change.
Appeal to BOS	No change**.	No change**.	No change.
Deadline for Filing Appeal to BOS	Within one of these periods as applicable: for a private project seeking a permit, license or other entitlement for which the City provides a separate appeal process, the time for appeal of the CEQA determination is within the time for appeal of the first entitlement or 20 days of the granting of the first entitlement, whichever is shorter; for projects not covered by (i) if the Planning Department posts a notice as provided in Section 31.08(d) informing the public of the first approval action for a project within 20 days of the posting; or for projects not covered by (i) for which Planning is not asked to post a notice as provided in Section 31.08(d) within 30 days of the first approval.	Within 20 days of the adoption of the negative declaration approving the project.	No change.
Who Can Appeal to BOS	Any person or any person who objected to exemption.	Any person who appealed PND or commented at PND appeal hearing before the Planning Commission.	No change.
Deadline for BOS Appeal Hearing	The Clerk shall schedule the CEQA appeal hearing no less than 20 or more than 45 days following the expiration of the time for filing the appeal.	The Clerk shall schedule the CEQA appeal hearing no less than 20 or more than 45 days following the expiration of the time for filing the appeal.	No change.

**Note: In addition to the above changes there are two changes which apply to all types of CEQA documents:

1. Consistent with the recommendations of the PC and the HPC in 2010, this proposal would codify the existing procedures for notification of City-sponsored projects that are five (5) acres or more for all types of CEQA documents. The proposal would delete the requirement to mail notice to owners within 300 feet of all exterior boundaries of the project area of (1) a notice of intent to adopt a neg dec or (2) a notice of completion of a draft EIR, for projects that either are city-wide in scope or where the total area of land that is part of the project is 5 acres or more.
2. When the Board is required to approve a project before it can be implemented, the Board must affirm the CEQA decision rendered by the Department or Planning Commission and no separate appeal process is required. The public would have the ability to raise CEQA questions before the Board through the Board's existing committee hearing process.

Comparison The Way It Would Have Been Under Proposal Reviewed by PC & HPC in 2010: * Note: only procedures that would change are detailed below. * grey box and underlined text

Environmental Appeal Provisions – Proposed Ordinance 2010			
	Exemption	Neg Dec	EIR
Notice	No change.	No change.	No change.
Appeal to CPC	No change.	No change.	No change.
Appeal to BOS	No change.	Appeal to the Planning Commission is required in order to enable subsequent appeal to the Board of Supervisors.	No change.
Deadline for Filing Appeal to BOS	10 days after first project approval or permit issuance	20 days after PC approval/adoption of FND	No change.
Who Can Appeal to BOS	Any person or any person who objected to exemption at hearing on related approval action, if applicable	Any person who appealed PND or commented at PND appeal hearing	No change.
Deadline for BOS Appeal Hearing	Board decision within 45 days after appeal filing	Board decision within 45 days after appeal filing	No change.

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Administrative Code Text Change
HEARING DATE: NOVEMBER 15, 2012

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Planning
Information:
415.558.6377

Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048

Recommendation: **Recommend Approval with Modifications**

ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Wiener would amend Administrative Code Chapter 31 provisions to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

The Way It Is Now Summary:

The California Environmental Quality Act (CEQA) requires local agencies to allow a CEQA appeal to the elected decision-making body if a non-elected decision-making body approves the CEQA document. In San Francisco, this means when the Planning Department or the Planning Commission acts on an environmental impact report (EIR), a negative declaration (neg dec) or a determination of exemption appeals must be granted before the elected Board of Supervisors.

Chapter 31 of the Administrative Code establishes local regulations to implement CEQA. At present, Chapter 31 provides procedures for an appeal of an EIR[1], but does not provide procedures for an appeal of a neg dec or an exemption. To fill this void, the Clerk of the Board has provided procedures for an appeal of a neg dec and an exemption. Not only does Chapter 31 currently not provide for a process for an appeal of such determinations, but also Chapter 31 does not provide any time limits for filing appeals. On February 22, 2008, the City Attorney drafted a memorandum[2] explaining how the Amended CEQA

[1] The current procedures for appeal of an EIR are set forth in Administrative Code Section 31.16.

[2] The full title of the memorandum is "Amendments to CEQA Guidelines Affecting Board of Supervisors CEQA Appeal Procedures for Negative Declarations and Exemption Determinations/Determining Whether Appeals Are Ripe for Review and Timely Filed".

Guidelines that became effective on July 27, 2007 should be used to establish if appeals were 1) "ripe" or ready for appeal and 2) "timely" meaning not too late.

The Way It Would Be Summary:

The proposed Ordinance would codify procedures for appeal of neg decs and exemptions to the Board of Supervisors. The Ordinance would amend Section 31.08 so as to apply to all Exemptions instead of just Categorical Exemptions. The Ordinance would delete Section 31.16 in its entirety, which now provides a process for EIR appeals only, and add a new Section 31.16 that would set forth an appeal process for EIRs, neg decs, and exemptions (including categorical exemptions, general rule exclusions, and statutory exclusions or exemptions). The new section would establish procedures applicable to all appeals, as well as specific procedures for appeals of EIRs, neg decs, and exemptions. This section would establish that when the Board of Supervisors (Board) must approve a project, it is the CEQA decision making body and there would not be a formal appeal process. Instead, the public could raise CEQA issues through the normal Board hearing process and the Board would need to affirm the CEQA documents approved by Planning as part of its approval of the project. In addition, the legislation would amend the public notice requirements for neg decs and draft EIRs in Sections 31.12-31-15, including that noticing would be more limited for projects that are citywide in scope or on project sites of 5 acres or more.

Detailed Description of Appeal Procedures:

This report provides summaries of the procedures that currently exist, followed by the new procedures proposed in the draft Ordinance.

Current Chapter 31 Procedures:

Chapter 31 currently provides procedures for appeal of an EIR, but does not provide procedures for an appeal of a neg dec or an exemption. The Clerk of the Board has provided procedures for an appeal of a neg dec or an exemption, but Chapter 31 does not provide for a process or any time limits for an appeal of a neg dec or exemption to the Board of Supervisors ("Board").

The procedures for appeal of an EIR are set forth in Administrative Code Section 31.16 and are as follows.

1. Any person who has submitted written or oral comments on a draft EIR may appeal the Planning Commission's certification of the EIR to the Board.
2. A letter of appeal must be submitted to the Board within twenty calendar days after the Planning Commission's certification of the EIR. The letter must state the specific grounds for appeal, which are limited to the adequacy, accuracy and objectiveness of the final EIR, and the correctness of its conclusions. A fee must accompany the appeal letter, and may be waived or refunded under certain circumstances as set forth in Administrative Code Section 31.22.
3. The ERO shall promptly transmit copies of the environmental review documents to the Clerk of the Board and make all other relevant documents available to the Board.
4. While the appeal is pending, the City may not carry out or consider approval of the project.
5. The Board shall hold a hearing without regard to any rule or policy of the Board requiring a 30-day review period multiple appeals will be consolidated into one hearing and may be coordinated with any other hearings on the project.
6. The Board must act on an appeal within 30 days of the appeal of the Planning Commission's certification of the EIR, provided that if the full Board is not present on the last day on which the

appeal is said or continued for hearing, the Board may postpone the hearing for up to 90 days from the date of filing the appeal.

7. The Board conducts its own independent review of the EIR, and may consider anew the facts and evidence and may consider new evidence.
8. The Board must affirm the Planning Commission's certification of the EIR if it finds that the Planning Commission's findings are correct. If the Board reverses the Planning Commission's certification, it shall make specific findings and remand the final EIR to the Planning Commission for further action as directed by the Board. The Board may affirm or reverse the EIR but may not amend the EIR. The Board may reject an appeal if it finds that the appeal fails to state proper grounds for appeal. The Board acts by a vote of a majority of all members of the Board.
9. If the Board remands an EIR to the Planning Commission, the Planning Commission must take such action as may be required by the Board's specific findings.
10. The date of certification of the EIR shall be the Planning Commission's date of certification if no appeal is filed or if the Board upholds the Planning Commission's certification.

Proposed Amendments to Chapter 31

The proposed ordinance updates some of the procedures in San Francisco Administrative Code Chapter 31 to reflect revisions to CEQA and the CEQA Guidelines and to codify certain administrative procedures that the San Francisco Planning Department has found workable in practice. The primary updates to Chapter 31 are as follows:

- Section 31.04. Deletes a no longer relevant reference to the San Francisco Redevelopment Agency. Clarifies certain administrative functions of entities within the City and County to reflect actual practice and changes in local law, including activities of the Clerk of the Board, the Historic Preservation Commission and the Environmental Review Officer ("ERO") in transmitting notices to the County Clerk. Provides for notices electronically unless otherwise specified by CEQA.
- Section 31.05. Clarifies existing practice, which is that all projects subject to CEQA are referred to the ERO unless the ERO has delegated specified exemption determinations to another city entity.
- Section 31.06. Deletes references to "categorical" exemptions and instead references all types of exemptions. See Section 31.08.
- Section 31.08. Clarifies the procedures for handling exemptions from CEQA, including:
    - Defines four types of exemptions to better reflect CEQA and CEQA Guidelines - statutory exemptions, categorical exemptions, community plan exemptions and general rule exclusions.
    - Updates existing ordinance language as to when public notice of an exemption determination is required by (1) clarifying the definition of projects involving historic resources so that the ordinance is consistent with the definition in CEQA, CEQA Guidelines and case law; and (2) defining demolition projects to be consistent with Planning Code Section 317.
    - Updates the ordinance language to be consistent with existing practice of the Planning Department to produce a written determination for any project for which a notice is required and by posting the address and type of determination on the department web page.
    - Provides in Section 31.08(f) that projects that rely on an exemption determination and are first approved at a public hearing are required to provide notice of the exemption, right to appeal to the Board and consequences of failing to timely raise objections to the exemption.

- Provides in Section 31.08(g) that a department approving a project may request the Planning Department to post a notice on Planning's web page advising the public of the department's first administrative approval and informing the public that the exemption determination may be appealed to the Board of Supervisors.

- Sections 31.09 and 31.10. Makes minor clarifying revisions to these sections to reflect actual practice of the Planning Department in its initial evaluation of projects. Revises the language as to when a negative declaration is required to make the ordinance language consistent with CEQA Guidelines.
- Section 31.11. Updates notice and publication provisions for negative declarations to reflect CEQA requirements and Planning Department practices. Provides that projects covering large areas do not require a notice of intent to adopt a negative declaration to be distributed to each property owner within 300 feet of the exterior boundaries of the project area but requires Planning to post all negative declarations on its web page.
- Sections 31.12 – 31.15. Updates and clarifies the noticing, posting and distribution requirements of CEQA and the practices of the Planning Department with respect to EIRs. Provides that projects covering large areas do not require a notice of completion of an EIR to be distributed to each property owner within 300 feet of the exterior boundaries of the project area but provides that Planning shall post all draft EIRs on its web page. Requires a phonographic reporter to record all public hearings on draft EIRs.
- Section 31.16. Deletes existing Section 31.16 pertaining to appeals of final EIRs and proposes a new Section 31.16 to address appeals of exemption determinations, negative declarations and environmental impact reports. The key provisions of the new section include:
  - Exemption determinations, negative declarations and environmental impact reports may be appealed to the Board of Supervisors unless the Board is the CEQA decision-making body for the project. The Board is defined as the CEQA decision-making body for the project if the project involves a CEQA document prepared specifically in support of a Board ordinance or any project for which Board approval actions are pending before the Board or have already been taken on a project at the time a CEQA appeal is filed. Where the Board is the CEQA decision-making body, any person may raise CEQA issues before the Board through the Board's regular public hearing process. The Board must affirm or reject the preliminary CEQA decision rendered by the Planning Department or Planning Commission, prior to, or, as part of, its consideration of the project.
  - Appeals must be filed (1) for an EIR, within 20 days of an EIR certification and approval of the project; (2) for a negative declaration, within 20 days of the adoption of the negative declaration approving the project; and (3) for exemption determinations, within one of these periods as applicable: (i) for a private project seeking a permit, license or other entitlement for which the City provides a separate appeal process, the time for appeal of the CEQA determination is within the time for appeal of the first entitlement or 20 days of the granting of the first entitlement, whichever is shorter; (ii) for projects not covered by (i), if the Planning Department posts a notice as provided in Section 31.08(g) informing the public of the first approval action for a project, within 20 days of the posting; or (iii) for projects not covered by (i) for which Planning is not asked to post a notice as provided in Section 31.08(g), within 30 days of the first approval.
  - To file an appeal, one must pay a fee, and the person filing the appeal must have submitted comments during the public comment period on the draft EIR if the appeal is of an EIR; if the appeal pertains to a negative declaration, the negative declaration must

have been appealed to the Planning Commission first. The grounds for the appeal and all written materials in support of the appeal must be filed with the appeal.

- While the appeal is pending, the City shall not take actions to implement the project that will physically change the environment except essential actions to abate hazards to public health and safety.
- The ordinance specifies the time frame for the ERO to transmit the environmental documents to the Board and to provide the Board with lists of interested parties.
- The Clerk is directed to schedule the appeal hearing before the full Board or as otherwise provided by the Board Rules of Order. The Clerk shall schedule the CEQA appeal hearing no less than 20 or more than 45 days following the expiration of the time for filing the appeal and provide at least a 10 day notice of the appeal hearing.
- For materials to be submitted to Board members prior to the hearing, members of the public may submit written materials to the Board up to 11 days and Planning may submit written materials up to 8 days before the hearing. The Board shall act within 30 days of the scheduled hearing date but may extend this to not more than 90 days from the deadline for filing the appeal under specified circumstances.
- The ordinance specifies the actions that the Board may take for each kind of appeal and the process for then completing the CEQA document in the event the Board reverses the decision of the Planning Commission or Planning Department. If the Board upholds the CEQA decision, prior approval actions are valid. If the Board reverses the CEQA decision, prior approval actions are void.
    - In the case of EIRs, if the Board reverses Planning's certification, any further appeals of the revised EIR are limited to revised portions and an appellant must comment on the revised EIR at any earlier public hearing on the revisions.
    - In the case of a negative declaration, if the Board reverses Planning's approval, the Board may remand the negative declaration to Planning for revision and if so, further appeals of the revised negative declaration are limited to the revised portions. The Board may alternatively require preparation of an EIR, in which case, Planning shall prepare the EIR in accordance with CEQA and the requirements of this Chapter 31.

ISSUES AND CONSIDERATIONS

In addition to the summary above, the Department would like to address certain topics that may be of interest to the public and the commissioners.

- **Review and Comment on CEQA documents by the Historic Preservation Commission (HPC).** Section 31.04(d) specifically states that the HPC has review and comment authority on CEQA consistent with the City Charter. Section 31.08(e)(2) requires that notice be given for any historical resources defined as: (A) any buildings and sites listed individually or located within districts listed in Planning Code Articles 10 or 11, (B) on the California Register or determined eligible for listing or on the California Register by the State Historical Resources Commission, including, without limitation, any location, or on the National Register of Historic Places, or (C) a resource that the Environmental Review Officer determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1. These changes clarify the Administrative Code and make it consistent with the state CEQA language.

- **Interactions between Discretionary Review hearings by the Planning Commission (PC) and CEQA appeals.** For exemptions and neg decs, the proposed Ordinance general establishes that no CEQA appeal clock starts running until after an entitlement action has occurred. This ensures that only projects headed for implementation would be subject to CEQA appeal. While this concept is simple enough, there may be confusion about how this would be implemented when projects are subject to Discretionary Reviews hearings by the Planning Commission. A Discretionary Review (DR) is the authority of the Planning Commission to review projects that comply with the Planning Code and take action to disapprove or modify the project if an exceptional and extraordinary circumstance is found. In practice the current DR procedures establish that once the Department has determined the project to be Code compliant, public notice is provided and the project is held for 30 days to allow the public to request DR. To implement this Ordinance the Department could use the DR notice to also notice the public of the right to appeal as required by Section 31.08(f) the CEQA determination. The CEQA appeal period would then begin running with issuance of the building permit and would be coterminous with the appeal period for the building permit.
- **What happens to the Commission and Board's review process once an appeal is pending?** Previously once an appeal was filed no approval action could be taken. The proposed Ordinance would establish that once an appeal is filed, the City "the City shall not undertake activities to implement the project that physically change the environment except activities that are essential to abate hazards to the public health and safety". (Section 31.16(c)(3)) Under this proposal, projects that require multiple approvals could continue to secure approvals while an appeal is pending. This would allow, for example, the HPC to continue to consider a landmark decision while an appeal is pending.
- **Appeals where the Board is the CEQA decision-making body.** Section 31.16(b) seeks to streamline the Board process for considering project approvals subject to CEQA. It is important to note that CEQA provides a right of appeal only where a non-elected decision-making body, such as the Planning Commission, renders the final decision about the adequacy of a CEQA document. (CEQA Section 21151(c)). Section 31.16(b) clarifies that when the Board is required to approve a project before it can be implemented, the Board must affirm the CEQA decision rendered by the Department or Planning Commission and no separate appeal process is required. The public would have the ability to raise CEQA questions before the Board through the Board's existing committee hearing process. To understand how this would function, below are three clarifications about the process.
  - First, when is the Board established as the CEQA decision-making body? The potential CEQA projects for which the Board would be the decision-making body include all projects that require the Board to approve an ordinance or resolution, including establishing a SUD or approving a zoning change, appropriating funds, or entering into contracts where Board approval of the contract is required.
  - Second, how are the CEQA-related concerns raised before the Board? This subsection states "any person may raise objections to the CEQA decision at a public hearing on the project held by the Board or a committee of the Board". Under the Board Rules 1.4 and 1.5, public comment typically is allowed only during a hearing of a Board committee so this would be the most frequent venue for raising CEQA-related concerns to the Board. After hearing staff presentations and public comment, the Committee would forward a recommendation for approval or disapproval on the underlying action to the full Board. The action before the full Board would include an affirmation of the CEQA document. With the Committee's

recommendation, full Board would then consider the whole item, inclusive of CEQA. The Board could affirm or deny the CEQA decision by a separate resolution prior to considering the project. Of course, denial of the CEQA decision would prevent further approvals. Or, the Board could affirm the CEQA decision within the ordinance or resolution that also approves the project.

- Third, should there be more specificity about related procedures for this process at the Board? Because the Board has a well-defined process for Board proceedings, there is no need for further procedures at the Board when the Board is the CEQA decision-making body. As there is no specific CEQA appeal for these matters, the underlying resolutions and/or ordinances would proceed under standard Board procedures. For this reason, the proposed Ordinance does not establish a briefing schedule for when materials shall be submitted or instructions for filing appeals. The underlying Board actions would proceed through the Board's normal procedures, and CEQA-related concerns may be raised without the filing of an appeal. That said, the Department does have concerns that a party may introduce substantial new information at the Board Committee hearing, thereby hindering the ability of the City to provide a meaningful response.

POTENTIAL COMMISSION ACTION

The proposed Ordinance is before the Historic Preservation Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department strongly recommends that the Historic Preservation Commission recommend ***approval with modifications*** to the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Recommended Modifications

While the Department recommends support of the proposed Ordinance, there are certain modifications that may increase the clarity. The proposed modifications include:

- **All Sections- Increase consistency concerning "Date of Decision".** Throughout the draft ordinance the timeline for filing appeals is triggered by actions that are termed either "granting of the first entitlement") (31.16(f)(2)(A)); "first approval of the project" (31.16(f)(2)(B)); "first approval action" (31.16(f)(2)(C)) or "approval of the project by the first decision making body" (31.16(d)(2)). The variety of terms used could create confusion. The Department recommends using consistent language where possible, understanding some difference in terminology may be necessary for purposes of clarity. For example, the timing of appeal of an exempt private project is tied to the granting of the first appealable entitlement, whereas a public project relying on an exemption is not typically receiving an entitlement, thus different terminology is occasionally needed.
- **Provide the adequate opportunity for all parties to provide written materials to the Board.** Section 31.16(c) establishes review procedures including that under Subsection 31.16(c)(1) the appellant must state the specific grounds for the appeal; under 31.16(c)(5) members of the public, real parties in

interest or City agencies sponsoring the project must submit materials for the Board packet no later than 11 days before the hearing and the Planning Department shall respond to the appeal materials no later than 8 days prior to the hearing; and under 31.16(c)(4) the Clerk shall schedule the hearing no less than 20 days and no more than 45 days after the appeal has been filed. Under this proposal the appellant would have a minimum of 9 days after filing their appeal to submit written materials while project sponsor and the Planning Department may only have 3 days to respond in writing to large, complex appeals.

- **Modify the requirement for the public notice in the case of City-sponsored projects that are citywide in scope or where the total area of land that is part of the project (excluding public streets) is five (5) acres or more.** The proposal would to delete the requirement to mail notice to owners within 300 feet of all exterior boundaries of the project area of (1) a notice of intent to adopt a neg dec, or (2) a notice of completion of a draft EIR, for projects that either are citywide in scope or where the total area of land that is part of the project is 5 acres or more. This language may be interpreted such that notice is not required in the buffer area that is 300 feet beyond the project area or alternatively it could be interpreted that no notice is required within the 300 feet beyond the project area and within the project area. The Department believes that for these large City-sponsored projects this requirement for mailed notice should be deleted in its entirety.

BASIS FOR RECOMMENDATION

The Planning Department strongly supports the proposed Ordinance, with minor modifications. The Planning Commission considered similar proposed Ordinances in 2006 and 2010. In both instances, the Planning Commission recommended approval with modifications via Resolution Numbers 17335 and 18116. While the Historic Preservation Commission (HPC) was not in existence to review the 2006 proposal, in 2010 the HPC passed Motion 649 approving the proposed Ordinance with modifications. (See prior PC and HPC Resolutions and Motions in Exhibit C) Both the 2006 and 2010 CEQA Reform Ordinances were heard and amended by the Land Use Committee of the Board, however, neither was forwarded to the Full Board. Although the Administrative Code has not been substantively amended concerning CEQA appeals the intervening years, there have been changes and clarifications to the City's CEQA appeals process, including the City Attorney memorandum from February 22, 2008 and the 2007 Amended CEQA Guidelines. The current proposal incorporates many of the earlier changes recommended by the Commissions.

Overall, the Department recommends support of the proposed Ordinance because it would increase notification procedures and create a consistent 20-day window for the filing of appeals. For appeal procedures specific to EIRs there are no major changes. EIRs currently have rigorous notice and defined appeal procedures. Appeals of Neg Decs currently have no procedures in Chapter 31. Under the proposal, appeal of Neg Decs to the Planning Commission would be required within 20-days of the decision in order to maintain the right to appeal to the Board. Both Exemptions and Neg Decs would have enhanced notice procedures whereby existing notices would also be used to inform the public of CEQA appeal rights. For exemptions, if there is a public hearing before the project is approved, the City would provide a CEQA-specific notice to inform the public of CEQA appeal rights. Part of the increased notification process would provide for posting notices of Cat Exs and Neg Decs on the website. For exemptions issued for projects involving private entitlements, the appeal period runs with the appeal

period for the first entitlement. For other projects, which would likely be public projects, the appeal period runs either 20 days from the posing of the notice on the web site or 30 days from project approval. By codifying the notice requirements and appeal windows, certainty is increased for both potential appellants and project sponsors. The proposed Ordinance would maintain the public's right to appeal where the Board is not otherwise required to approve the project and consider CEQA issues. It encourages timely transitions between CEQA action and approval action. Lastly, the proposal would reduce duplicative hearings before the Board by requiring consolidation of other required Board hearings with the raising of CEQA issues to the Board.

The proposed Ordinance, with the modifications recommended by the Planning Department, would make Chapter 31 consistent with CEQA requirements for appeals to elected decision-making bodies where the CEQA decision is rendered by a non-elected decision-making body. Furthermore, the proposed Ordinance, with modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, would update notification processes consistent with existing Department practices and CEQA requirements to establish more limited notification requirements for projects of a larger scale and to post the address and type of issued determinations on the website for any project where a notice is required, and would increase and would greatly increase clarity for all parties.

HISTORIC PRESERVATION REVIEW**

**Postscript. On November 15th, 2012, the Historic Preservation Commission reviewed the proposed Ordinance. At this hearing Historic Preservation Commission passed Resolution Number 694 (Exhibit C). This Resolution first requests that the Board of Supervisors provide additional time for review and comment on the proposal. However, if the Board decides to act on the proposed Ordinance before the HPC can hold another hearing, the Historic Preservation Commission would recommend approval with the modifications described on page 5 of Resolution Number 694.

ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department one letter requesting more time for review of the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval with Modifications

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Board of Supervisors File No. 12-1019
Exhibit C:	Planning Commission Resolutions Numbers 17335 and 18116 Historic Preservation Commission Motion Numbers 647, 649 and Resolution Number 694
Exhibit D:	Public Comment

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Planning Commission
Draft Resolution No. ____
Administrative Code Text Change
HEARING DATE: NOVEMBER 15, 2012

Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048

Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT AMENDS ADMINISTRATIVE CODE CHAPTER 31 PROVISIONS TO REFLECT REVISIONS IN THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND TO UPDATE AND CLARIFY CERTAIN PROCEDURES PROVIDED FOR IN CHAPTER 31, INCLUDING APPEALS TO THE BOARD OF SUPERVISORS OF ENVIRONMENTAL DECISIONS AND DETERMINATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND AMENDING THE PROVISIONS FOR PUBLIC NOTICE OF SUCH DECISIONS AND DETERMINATIONS.

PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 15, 2012, the San Francisco Planning Commission (hereinafter "PC") has tentatively scheduled a public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, on November 15, 2012, the PC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the PC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the PC has reviewed the proposed Ordinance; and

MOVED, that the PC hereby recommends that the Board of Supervisors recommends ***approval with modification of the proposed Ordinance*** and adopts the Resolution to that effect.

FINDINGS

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

1. In 2006, the Planning Commission considered a similar Ordinance. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;
2. In 2010, the Planning Commission and the Historic Preservation Commission considered another Ordinance that incorporated the changes recommended by the Planning Commission in 2006 and would also establish procedures for certain CEQA appeals In 2010, both the PC, with Resolution 18116, and the HPC, with Motion 649, recommended approval of the proposed Ordinance with modifications;
3. The 2012 proposed Ordinance builds upon consensus ideas from these earlier efforts;
4. The new proposed Ordinance with the modifications recommended by the Planning Department, would make Chapter 31 consistent with CEQA requirements for appeals to elected decision-making bodies;
5. The proposed amendments, with modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, would update notification processes consistent with existing Department practices and CEQA requirements to establish more limited notification requirements for projects of a larger scale and to post the address and type of issued determinations on the website for any project where a notice is required, and would increase and would greatly increase clarity for all parties;
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1: General

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

OBJECTIVE 1: City Pattern

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

OBJECTIVE 7: Land

ASSURE THAT THE LAND RESOURCES IN SAN FRANCISCO ARE USED IN WAYS THAT BOTH RESPECT AND PRESERVE THE NATURAL VALUES OF THE LAND AND SERVE THE BEST INTERESTS OF ALL THE CITY'S CITIZENS.

II. URBAN DESIGN ELEMENT

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.

OBJECTIVE 2

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

7. The proposed Ordinance 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 Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

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 Ordinance with the recommended modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale.

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

The proposed Ordinance not affect affordable housing supply.

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

The proposed Ordinance 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 Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not affect landmark and historic buildings.

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

The proposed Ordinance will not impact the City's parks and open space.

8. The Historic Preservation Commission therefore recommends ***approval with the modifications described below:***

Recommended Modifications

1) **All Sections- Increase consistency concerning "Date of Decision".** Throughout the draft ordinance the timeline for filing appeals is triggered by actions that are termed either "granting of the first entitlement") (31.16(f)(2)(A)); "first approval of the project" (31.16(f)(2)(B)); "first approval action" (31.16(f)(2)(C)) or "approval of the project by the first decision making body" (31.16(d)(2)). The variety of terms used could create confusion. The Department recommends using consistent language where possible, understanding some difference in terminology may be necessary for purposes of clarity. For example, the timing of appeal of an exempt private project is tied to the granting of the first appealable entitlement, whereas a public project relying on an exemption is not typically receiving an entitlement, thus different terminology is needed.
2) **Provide the adequate opportunity for all parties to provide written materials to the Board.** Section 31.16(c) establishes review procedures including that under Subsection 31.16(c)(1) the

appellant must state the specific grounds for the appeal; under 31.16(c)(5) members of the public, real parties in interest or City agencies sponsoring the project must submit materials for the Board packet no later than 11 days before the hearing and the Planning Department shall respond to the appeal materials no later than 8 days prior to the hearing; and under 31.16(c)(4) the Clerk shall schedule the hearing no less than 20 days and no more than 45 days after the appeal has been filed. Under this proposal the appellant would have a minimum of 9 days after filing their appeal to submit written materials while project sponsor and the Planning Department may only have 3 days to respond in writing to large, complex appeals.

3) **Modify the requirement for the public notice in the case of City-sponsored projects that are citywide in scope or where the total area of land that is part of the project (excluding public streets) is five (5) acres or more.** The proposal would to delete the requirement to mail notice to owners within 300 feet of all exterior boundaries of the project area of (1) a notice of intent to adopt a neg dec, or (2) a notice of completion of a draft EIR, for projects that either are citywide in scope or where the total area of land that is part of the project is 5 acres or more. This language may be interpreted such that notice is not required in the buffer area that is 300 feet beyond the project area or alternatively it could be interpreted that no notice is required within the 300 feet beyond the project area and within the project area. The Department believes that for these large City-sponsored projects this requirement for mailed notice should be deleted in its entirety.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 15, 2012.

Jonas P. Ionin

Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

Case No. 2006.1221E
Administrative Code Chapter 31
Environmental Appeal Amendments

SAN FRANCISCO

PLANNING COMMISSION

RESOLUTION NO. 17335

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND ADMINISTRATIVE CODE CHAPTER 31 TO PROVIDE FOR APPEALS TO THE BOARD OF SUPERVISORS OF ENVIRONMENTAL DECISIONS AND DETERMINATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND PROVIDING PUBLIC NOTICE OF SUCH DECISIONS AND DETERMINATIONS.

WHEREAS, on September 19, 2006, Supervisor Fiona Ma introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 061311 that would amend Administrative Code Chapter 31 to provide for appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act ("CEQA"), and providing public notice of such decisions and determinations.

The proposed ordinance has been determined to be exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2) as a non-physical project.

The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 19, 2006. At that hearing, the Commission took public testimony, closed the public hearing, and continued it to October 26, 2006 with instructions to staff to respond to concerns raised at the hearing. The Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 26, 2006. At that hearing, the Commission deliberated and continued the hearing to November 2, 2006 with instructions to staff to respond to concerns raised at the hearing. The Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 2, 2006.

WHEREAS, CEQA requires local agencies to allow an appeal of an environmental impact report ("EIR"), a Negative Declaration ("Neg Dec") or a determination of exemption to the elected decision-making body if a non-elected decision-making body certifies the EIR, approves a Neg Dec or makes a determination of exemption. At present, Chapter 31 provides procedures for an appeal of an EIR, but does not provide procedures for an appeal of a Neg Dec or an exemption.

The proposed ordinance would codify procedures for appeal of Neg Decs and exemptions to the Board of Supervisors, pursuant to CEQA. The ordinance would delete Section 31.16 in its entirety and add a new Section 31.16 that would set forth an appeal process for EIRs, Neg Decs, and exemptions (including categorical exemptions, general rule exclusions, and statutory exclusions or exemptions). The new section would establish procedures applicable to all appeals, as well as specific procedures for appeals of EIRs, Neg Decs, and exemptions. In addition, the legislation would amend the public notice requirements for Neg Decs and draft EIRs in Sections 31.11 and

PLANNING COMMISSION
Hearing on November 2, 2006

31.13, such that noticing would be more limited for projects meeting certain requirements. Furthermore, Section 31.15 would be amended to specify that final EIRs must be available to the public no less than 10 days prior to the final EIR certification hearing.

Procedures for appeals to the Board are currently set forth by the Clerk of the Board, but those procedures are limited in scope and do not establish time limits for the appeals.

WHEREAS, the Planning Commission supports the proposed ordinance, with modifications. The proposed ordinance generally requires that the Board must act on an appeal within 30 days of the date of the appeal. The Commission recommends that 45 days be allowed before the Board must act, consistent with the current Board practice. This would best ensure that the Planning Department has the opportunity to address all of the issues raised in the appeal and consider any facts and evidence submitted in support of the appeal. The Commission also recommends minor text revisions to clarify the intent of the proposed legislation, and in particular to clarify the intent of provisions related to Notice requirements for Categorical Exemptions. The Commission also recommends that the deadline for filing appeals of Negative Declarations should be within twenty (20) days after the Planning Commission's approval of the Negative Declaration, and further that the deadline for filing appeals of exemptions should be within twenty (20) days after the date the first permit for the project is issued or the first approval of the project is granted.

AND, WHEREAS, the Planning Commission also recommends that the Board of Supervisors reconsider the provisions within the proposed legislation that modify Chapter 31 with respect to Notice requirements on sites of 5 acres or greater.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance, as described in this Resolution and in the proposed Ordinance, with modifications recommended by the Planning Department and Planning Commission.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 2, 2006.

Linda Avery
Commission Secretary

AYES: Alexander, Antonini, Lee, Sugaya

NOES: Moore, Olague

ABSENT: None

ADOPTED: November 2, 2006

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Historic Preservation Commission Motion No. 647

Administrative Code Text Change

HEARING DATE: JUNE 16, 2010

Project Name:	**Appeals of Certain Environmental Determinations and Providing Public Notice**
Case Number:	2010.0336U [Board File No. 10-0495]
Initiated by:	Supervisor Alioto-Pier
Introduced:	April 20, 2010
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Chief Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048
Recommendation:	**Requesting Additional Information**

REQUESTING THAT WITHIN ONE WEEK THE LEGISLATIVE SPONSOR WILL PROVIDE ADDITIONAL INFORMATION ON THE FOLLOWING CONCERNS OF THE HISTORIC PRESERVATION COMMISSION: 1) THE FAIRNESS OF LIMITING APPELLANTS TO THOSE WHO HAVE BEEN INVOLVED OR COMMENTED AT PREVIOUS HEARINGS; 2) THE POTENTIAL TO SPECIFY THE ROLE OF THE HISTORIC PRESERVATION COMMISSION WITHIN THE PROPOSED PROCESS; 3) CATEGORICAL EXEMPTIONS MAY NOT ALWAYS BE PUBLICLY NOTICED AND THEREFORE MAY BE DIFFICULT TO SECURE EARLY PUBLIC INVOLVEMENT; AND 4) POTENTIAL TO LIMIT FUTURE ACTIONS OF THE HISTORIC PRESERVATION COMMISSION IN THE EVENT OF SIMULTANEOUS APPROVALS WHERE A CEQA APPEAL HAS BEEN FILED.

PREAMBLE

Whereas, on November 3, 2009, Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0495 which would codify procedures for appeal of neg decs and exemptions to the Board of Supervisors by amending the Administrative Code. The Ordinance would delete Section 31.16 in its entirety and add a new Section 31.16 that would set forth an appeal process for EIRs, neg decs, and exemptions (including categorical exemptions, general rule exclusions, and statutory exclusions or exemptions). The new section would establish procedures applicable to all appeals, as well as specific procedures for appeals of EIRs, neg decs, and exemptions. In addition, the legislation would amend the public notice requirements for neg decs and draft EIRs in Sections 31.11 and 31.13, such that noticing would be more limited for projects that are citywide in scope or on project sites

of 5 acres or more. Furthermore, Section 31.15 would be amended to specify that final EIRs must be available to the public no less than 10 days prior to the final EIR certification hearing.; and

Whereas, on May 27, 2010, the San Francisco Planning Commission (hereinafter "PC") continued a duly noticed public hearing to the future date of a regularly scheduled meeting on or after June 24, 2010, to consider the proposed Ordinance; and

Whereas, the San Francisco Charter Section 4.135 states under "Other Duties" that the San Francisco Historic Preservation Commission (hereinafter "HPC") has limited jurisdiction to review and comment on certain environmental documents; specifically stating, "For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act."; and

Whereas, on June 16, 2010, the HPC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby abstains from making a recommendation to the Board of Supervisors at this time; instead the HPC intends to continue the hearing until on or after July 7, 2010; and requests that within one week the legislative sponsor will provide additional information on the following concerns of the Historic Preservation Commission:

1) the fairness of limiting appellants to those who have been involved or commented at previous hearings;
2) the potential to specify the role of the Historic Preservation Commission within the proposed process;
3) categorical exemptions may not always be publicly noticed and therefore may be difficult to secure early public involvement; and
4) potential to limit future actions of the historic preservation commission in the event of simultaneous approvals where a CEQA appeal has been filed;

and adopts the Resolution to that effect.

FINDINGS

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

1. The Planning Commission considered a similar Ordinance in 2006. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335; and
2. The proposed Ordinance considered by the Historic Preservation Commission today has incorporated the changes recommended by the Planning Commission in 2006.

I hereby certify that the Historic Preservation Commission ADOPTED the foregoing Resolution on June 16, 2010.

Linda Avery,

Commission Secretary

AYES: Chase, Damkroger, Buckley, Hasz, Martinez, Matsuda, and Wolfram

NAYS:

ABSENT:

ADOPTED: June 16, 2010

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Historic Preservation Commission
Resolution No. 649
Administrative Code Text Change
HEARING DATE: JULY 7, 2010

Project Name:	**Appeals of Certain Environmental Determinations and Providing Public Notice**
Case Number:	2010.0336U [Board File No. 10-0495]
Initiated by:	Supervisor Alioto-Pier
Introduced:	April 20, 2010
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Chief Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT AMENDS ADMINISTRATIVE CODE CHAPTER 31 PROVISIONS FOR APPEALS TO THE BOARD OF SUPERVISORS OF ENVIRONMENTAL DECISIONS AND DETERMINATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND AMEND THE PROVISIONS FOR PUBLIC NOTICE OF SUCH DECISIONS AND DETERMINATIONS.

PREAMBLE

Whereas, on November 3, 2009, Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0495 which would codify procedures for appeal of neg decs and exemptions to the Board of Supervisors by amending the Administrative Code. The Ordinance would delete Section 31.16 in its entirety and add a new Section 31.16 that would set forth an appeal process for EIRs, neg decs, and exemptions (including categorical exemptions, general rule exclusions, and statutory exclusions or exemptions). The new section would establish procedures applicable to all appeals, as well as specific procedures for appeals of EIRs, neg decs, and exemptions. In addition, the legislation would amend the public notice requirements for neg decs and draft EIRs in Sections 31.11 and 31.13, such that noticing would be more limited for projects that are citywide in scope or on project sites of 5 acres or more. Furthermore, Section 31.15 would be amended to specify that final EIRs must be available to the public no less than 10 days prior to the final EIR certification hearing.; and

Whereas, on May 27, 2010, the San Francisco Planning Commission (hereinafter "PC") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the San Francisco Charter Section 4.135 states under "Other Duties" that the San Francisco Historic Preservation Commission (hereinafter "HPC") has limited jurisdiction to review and comment on certain environmental documents; specifically stating, "For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act."; and

Whereas, on June 2, 2010, the HPC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby recommends that the Board of Supervisors recommends ***approval with modification of the proposed Ordinance*** and adopts the Resolution to that effect.

FINDINGS

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

1. The Planning Commission considered a similar Ordinance in 2006. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;
2. The proposed Ordinance considered by the Historic Preservation Commission today has incorporated the changes recommended by the Planning Commission in 2006;
3. The proposed Ordinance, with the modifications recommended by the Planning Department, would make Chapter 31 consistent with CEQA requirements for appeals to elected decision-making bodies;
4. The proposed amendments, with modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale;
5. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

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.

OBJECTIVE 7

ASSURE THAT THE LAND RESOURCES IN SAN FRANCISCO ARE USED IN WAYS THAT BOTH RESPECT AND PRESERVE THE NATURAL VALUES OF THE LAND AND SERVE THE BEST INTERESTS OF ALL THE CITY'S CITIZENS.

II. URBAN DESIGN ELEMENT

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.

OBJECTIVE 2

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

6. The proposed replacement 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 Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

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 Ordinance with the recommended modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale.

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

The proposed Ordinance not affect affordable housing supply..

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

The proposed Ordinance 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 Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not affect landmark and historic buildings.

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

The proposed Ordinance will not impact the City's parks and open space.

7. The Historic Preservation Commission therefore recommends ***approval with the modifications recommended by the Planning Commission and described below:***

Recommended Modifications

1. **All Sections- Add Community Plan Exemptions.** This exemption should be added throughout the Ordinance where types of exemptions are enumerated.
2. **Section 31.16(b)(4)- Request Preparation Time.** This section provides that the "Clerk of the Board shall promptly schedule a hearing on the appeal, without regard to any rule or policy of the Board requiring a 30-day review period". This could be problematic for the Department, appellants, and project sponsors in that a hearing could be scheduled virtually immediately without any reasonable opportunity to prepare and submit written materials for the appeal hearing.
3. **Section 31.16(b)(5)- Delete Requirement for Certain Number of Copies.** This section requires that all parties submit 15 copies to the Clerk of the Board. Our experience with the number of copies provided to our Commissions is that this number is subject to change over time. The Commission recommends leaving this matter to the more malleable "Procedures of the Clerk" rather than to fixing the number through legislation.

4. **Section 31.16(b)(5)- Adjust the Response Deadline.** This section requires all parties submit all written materials no later than noon, seven days prior to the appeal hearing. The Commission would propose a staggered submission deadline that would require the appellant to submit the argument for their appeal 15 days before the hearing, the Department and project sponsor would submit responses to the argument 10 days prior to the hearing, and rebuttals by all parties are due 7 days prior to the hearing. Currently, all parties are submitting late responses and responses to late response up through the day of the appeal hearing. The Code requirement should restrain tardy responses by all parties to the greatest degree possible.

5. **Section 31.16(b)(7)- Change the Requirement for Board Action.** This section requires that the Board act within 45 days of filing the appeal. In practice, there may be some delay between the filing of an appeal and the determination that a filed appeal is a valid appeal. The Commission recommends that the 45-day deadline for Board action be counted from the date the appeal is determined to be valid.

6. **Section 31.16(b)(9)- Request Clarification on Remanded Decisions.** This section discusses reversal of the Planning Commission decision. The Commission suggests this section specify, in greater detail, the process for remanded decisions that are sent back to the Department for further work. Clarification should be added to specify whether if only the content sent back for future work can be the subject of subsequent appeals or instead if the entire CEQA work could be subject to subsequent appeal. In addition, if remanded work is subsequently appealed the Commission would suggest that all future hearings on the topic go directly to the Board of Supervisors to avoid conflicting directions to the Department. If the Board agrees with this recommendation, the Commission further recommends that the rights for an appeal of a previously remanded decision be preserved by timely comments at associated approval hearings or in writing to the ERO.

7. **Section 31.16(e)(1)- Request Clarification on Notice Types That Require Objection to Maintain Appeal Rights.** This section discusses when a potential appellant may appeal an exemption that has been "noticed". This could be made more specific by listing the types of notice that would satisfy this requirement such as notices for 311/312, conditional use authorization, discretionary review and/or other notices of permitting.

8. **Section 31.08(f)- Request Clarifications on Notice Requirements For Exemptions.** This section provides the list of exemptions which require notice. The first clarification concerns a new exemption that would require notice: "any project for which the Planning Code or other City code or regulation requires public notice of any proposed approval action related to the proposed project." The Commission requests clarifications on the intent of this language. The Commission is unclear if MEA could ascertain the full noticing requirements for all projects. The second clarification concerns an existing requirement for notice of demolitions. The Planning and Building Departments have different definitions for "demolition". The Commission requests that this section apply to demolitions as defined by the Planning Code in Section 317.

9. **Section 31.08(f)- Request Clarification on the Process for Preserving Exemption Appeal Rights When No CEQA Hearing Occurs.** The last sentence this section discusses the exemption notice requirements and describes how potential appellants must raise objections as specified in order to preserve the right of appeal to the Board. The Commission believes this section needs clarification for items which have no forum for objecting; i.e. there is no CEQA hearing. In this instance, the Commission would suggest that that appellants need only to raise the issue but not

discuss or resolve the issue in order to maintain the right to appeal. Most importantly, there should not be an "on-the-spot" decision regarding the potential merits of a CEQA appeal at a discretionary review hearing.

10. **Section 31.13(d)-Request Additional Process Description.** This section discusses draft environmental impact reports (DEIR) and associated notice requirements. The section adds additional language discussing projects of large scope. This section, however, does not discuss noticing requirements for steps that occur in advance of DEIR publication such as noticing for "notice of preparation" (NOP) and "initial study" (IS). A more thorough description of the notice requirements for NOP and IS would be beneficial to the public and the Department.
11. **Change "Approval" to "Adoption" as suggested by the City Attorney.** References to NegDec "approvals" by the Planning Commission should be changed to "adoption" throughout the proposed Ordinance to more accurately represent the action taken by the Commission.

8. In addition, the Historic Preservation Commission further recommends **that the draft Ordinance be modified to address the following points of concern**:
   1) ensure fairness in any potential limiting of appellants to those who have been involved or commented at previous hearings and strike requirement for prior participation in categorical exemptions;
   2) add specificity about the role of the Historic Preservation Commission within the proposed process;
   3) increase notice of categorical exemptions and therefore increase capacity to secure early public involvement; and
   4) address the potential to limit future actions of the Historic Preservation Commission in the event of simultaneous approvals (especially potential district designation) where a CEQA appeal has been filed.

I hereby certify that the Historic Preservation Commission ADOPTED the foregoing Resolution on July 7, 2010.

Linda Avery
Commission Secretary

AYES: Buckley, Hasz, Martinez, Matsuda, and Wolfram

NAYS: --

ABSENT: Chase and Damkroger

ADOPTED: July 7, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Resolution No. 18116

Administrative Code Text Change

HEARING DATE: JUNE 24, 2010

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**Appeals of Certain Environmental Determinations and Providing Public Notice**
Case Number:	2010.0336U [Board File No. 10-0495]
Initiated by:	Supervisor Alioto-Pier
Introduced:	April 20, 2010
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Chief Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT AMEND ADMINISTRATIVE CODE CHAPTER 31 PROVISIONS FOR APPEALS TO THE BOARD OF SUPERVISORS OF ENVIRONMENTAL DECISIONS AND DETERMINATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND AMEND THE PROVISIONS FOR PUBLIC NOTICE OF SUCH DECISIONS AND DETERMINATIONS.

PREAMBLE

Whereas, on November 3, 2009, Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0495 which would codify procedures for appeal of neg decs and exemptions to the Board of Supervisors by amending the Administrative Code. The Ordinance would delete Section 31.16 in its entirety and add a new Section 31.16 that would set forth an appeal process for EIRs, neg decs, and exemptions (including categorical exemptions, general rule exclusions, and statutory exclusions or exemptions). The new section would establish procedures applicable to all appeals, as well as specific procedures for appeals of EIRs, neg decs, and exemptions. In addition, the legislation would amend the public notice requirements for neg decs and draft EIRs in Sections 31.11 and 31.13, such that noticing would be more limited for projects that are citywide in scope or on project sites of 5 acres or more. Furthermore, Section 31.15 would be amended to specify that final EIRs must be available to the public no less than 10 days prior to the final EIR certification hearing.; and

Whereas, on May 27, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends ***approval with modification of the proposed Ordinance*** and adopts the Resolution to that effect.

FINDINGS

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

1. The Planning Commission considered a similar Ordinance in 2006. At that time, the Commission recommended approval with modification in Resolution Number 17335;
2. The proposed Ordinance considered by the Commission today has incorporated the changes recommended by the Commission in 2006;
3. The proposed Ordinance, with the modifications recommended by the Planning Department, would make Chapter 31 consistent with CEQA requirements for appeals to elected decision-making bodies;
4. The proposed amendments, with modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale;
5. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

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.

OBJECTIVE 7

ASSURE THAT THE LAND RESOURCES IN SAN FRANCISCO ARE USED IN WAYS THAT

BOTH RESPECT AND PRESERVE THE NATURAL VALUES OF THE LAND AND SERVE THE BEST INTERESTS OF ALL THE CITY'S CITIZENS.

II. URBAN DESIGN ELEMENT

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.

OBJECTIVE 2
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

6. The proposed Ordinance 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 Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

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 Ordinance with the recommended modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale.

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

The proposed Ordinance not affect affordable housing supply..

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

The proposed Ordinance 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 Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not affect landmark and historic buildings.

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

The proposed Ordinance will not impact the City's parks and open space.

7. The proposed Ordinance is exempt from CEQA per CEQA Guidelines Section 15060(c)(2).

8. The Commission therefore recommends ***approval with modifications described below:***

Recommended Modifications

1. **All Sections- Add Community Plan Exemptions.** This exemption should be added throughout the Ordinance where types of exemptions are enumerated.
2. **Section 31.16(b)(4)- Request Preparation Time.** This section provides that the "Clerk of the Board shall promptly schedule a hearing on the appeal, without regard to any rule or policy of the Board requiring a 30-day review period". This could be problematic for the Department, appellants, and project sponsors in that a hearing could be scheduled virtually immediately without any reasonable opportunity to prepare and submit written materials for the appeal hearing.
3. **Section 31.16(b)(5)- Delete Requirement for Certain Number of Copies.** This section requires that all parties submit 15 copies to the Clerk of the Board. Our experience with the number of copies provided to the Planning Commission is that this number is subject to change over time. We recommend leaving this matter to the more malleable "Procedures of the Clerk" rather than to fixing the number through legislation.
4. **Section 31.16(b)(5)- Adjust the Response Deadline.** This section requires all parties submit all written materials no later than noon, seven days prior to the appeal hearing. The Department would propose a staggered submission deadline that would require the appellant to submit the argument for their appeal 15 days before the hearing, the Department and project sponsor would submit responses to the argument 10 days prior to the hearing, and rebuttals by all parties are due 7 days prior to the hearing. Currently, all parties are submitting late responses and responses to late response up through the day of the appeal hearing. The Code requirement should restrain tardy responses by all parties to the greatest degree possible.

5. **Section 31.16(b)(7)- Change the Requirement for Board Action.** This section requires that the Board act within 45 days of filing the appeal. In practice, there may be some delay between the filing of an appeal and the determination that a filed appeal is a valid appeal. The Department recommends that the 45-day deadline for Board action be counted from the date the appeal is determined to be valid.

6. **Section 31.16(b)(9)- Request Clarification on Remanded Decisions.** This section discusses reversal of the Planning Commission decision. The Department suggests this section specify, in greater detail, the process for remanded decisions that are sent back to the Department for further work. Clarification should be added to specify whether if only the content sent back for future work can be the subject of subsequent appeals or instead if the entire CEQA work could be subject to subsequent appeal. In addition, if remanded work is subsequently appealed the Department would suggest that all future hearings on the topic go directly to the Board of Supervisors to avoid conflicting directions to the Department. If the Commission agrees with this recommendation, the Department further recommends that the rights for an appeal of a previously remanded decision be preserved by timely comments at associated approval hearings or in writing to the ERO.

7. **Section 31.16(e)(1)- Request Clarification on Notice Types That Require Objection to Maintain Appeal Rights.** This section discusses when a potential appellant may appeal an exemption that has been "noticed". This could be made more specific by listing the types of notice that would satisfy this requirement such as notices for 311/312, conditional use authorization, discretionary review and/or other notices of permitting.

8. **Section 31.08(f)- Request Clarifications on Notice Requirements For Exemptions.** This section provides the list of exemptions which require notice. The first clarification concerns a new exemption that would require notice: "any project for which the Planning Code or other City code or regulation requires public notice of any proposed approval action related to the proposed project." The Department requests clarifications on the intent of this language. The Department is unclear if MEA could ascertain the full noticing requirements for all projects. The second clarification concerns an existing requirement for notice of demolitions. The Planning and Building Departments have different definitions for "demolition". The Department requests that this section apply to demolitions as defined by the Planning Code in Section 317.

9. **Section 31.08(f)- Request Clarification on the Process for Preserving Exemption Appeal Rights When No CEQA Hearing Occurs.** The last sentence this section discusses the exemption notice requirements and describes how potential appellants must raise objections as specified in order to preserve the right of appeal to the Board. The Department believes this section needs clarification for items which have no forum for objecting; i.e. there is no CEQA hearing. In this instance, the Department would suggest that that appellants need only to raise the issue but not discuss or resolve the issue in order to maintain the right to appeal. Most importantly, there should not be an "on-the-spot" decision regarding the potential merits of a CEQA appeal at a discretionary review hearing.

10. **Section 31.13(d)-Request Additional Process Description.** This section discusses draft environmental impact reports (DEIR) and associated notice requirements. The section adds additional language discussing projects of large scope. This section, however, does not discuss noticing requirements for steps that occur in advance of DEIR publication such as noticing for "notice of preparation" (NOP) and "initial study" (IS). A more thorough description of the notice requirements for NOP and IS would be beneficial to the public and the Department.

Panning Commission Resolution No. 18116
Planning Commission Hearing: June 24, 2010
Historic Preservation Commission Hearing: July 7, 2010

CASE NO. 2010.0336U
Board File No. 100495
CEQA Appeals and Noticing

11. **Change "Approval" to "Adoption" as suggested by the City Attorney.** References to NegDec "approvals" by the Planning Commission should be changed to "adoption" throughout the proposed Ordinance to more accurately represent the action taken by the Commission.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 24, 2010.

Linda Avery
Commission Secretary

AYES: Miguel, Olague, Antonini, Borden, Lee, and Moore

NAYS: Sugaya

ABSENT:

ADOPTED: June 24, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

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Historic Preservation Commission Resolution No. 694

Administrative Code Text Change

HEARING DATE: NOVEMBER 7, 2012

Project Name:	**California Environmental Quality Act Procedures**
Case Number:	2012.1329U [Board File No. 12-1019]
Initiated by:	Supervisor Wiener
Introduced:	October 16, 2012
Staff Contact:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by:	**Bill Wycko, Environmental Review Officer** Bill.Wycko@sfgov.org, 415-575-9048

Recommendation: **Request Additional Time. If no additional time is provided, recommend approval with modifications.**

SEEKING ADDITIONAL TIME OR IF NO ADDITIONAL TIME IS PROVIDED,RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT AMENDS ADMINISTRATIVE CODE CHAPTER 31 PROVISIONS TO REFLECT REVISIONS IN THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND TO UPDATE AND CLARIFY CERTAIN PROCEDURES PROVIDED FOR IN CHAPTER 31, INCLUDING APPEALS TO THE BOARD OF SUPERVISORS OF ENVIRONMENTAL DECISIONS AND DETERMINATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND AMENDING THE PROVISIONS FOR PUBLIC NOTICE OF SUCH DECISIONS AND DETERMINATIONS.

PREAMBLE

Whereas, on October 16, 2012, Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-1019 which would to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including appeals to the Board of Supervisors of environmental decisions and determinations under the California Environmental Quality Act, and amending the provisions for public notice of such decisions and determinations.

Whereas, on November 15, 2012, the San Francisco Planning Commission (hereinafter "PC") has tentatively scheduled a public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the San Francisco Charter Section 4.135 states under "Other Duties" that the San Francisco Historic Preservation Commission (hereinafter "HPC") has limited jurisdiction to review and comment on certain environmental documents; specifically stating, "For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act."; and

Whereas, on November 7, 2012, the HPC conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the HPC has reviewed the proposed Ordinance; and

MOVED, that the Historic Preservation Commission ***first requests additional time for review and comment*** on the proposal. However, if the Board decides to act on the proposed Ordinance before the HPC can hold another hearing, the Historic Preservation Commission would recommend ***approval with the modifications described on page*** 5 and adopts the Resolution to that effect.

FINDINGS

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

1. In 2006, the Planning Commission considered a similar Ordinance. At that time, the Planning Commission recommended approval with modification in Resolution Number 17335;
2. In 2010, the Planning Commission and the Historic Preservation Commission considered another Ordinance that incorporated the changes recommended by the Planning Commission in 2006 and would also establish procedures for certain CEQA appeals In 2010, both the PC, with Resolution 18116, and the HPC, with motion 649, recommended approval of the proposed Ordinance with modifications;
3. The 2012 proposed Ordinance builds upon consensus ideas from these earlier efforts;
4. The new proposed Ordinance with the modifications recommended by the Planning Department, would make Chapter 31 consistent with CEQA requirements for appeals to elected decision-making bodies;

Historic Preservation Commission Resolution No. 694
Planning Commission Hearing: November 15, 2012
Historic Preservation Commission Hearing: November 7, 2012
CASE NO. 2012.1329U
Board File No. 121019
CEQA Procedures

5. The proposed amendments, with modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, would update notification processes consistent with existing Department practices and CEQA requirements to establish more limited notification requirements for projects of a larger scale and to post the address and type of issued determinations on the website for any project where a notice is required, and would increase and would greatly increase clarity for all parties;

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

I. ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 1: General

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

OBJECTIVE 1: City Pattern

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

OBJECTIVE 7: Land

ASSURE THAT THE LAND RESOURCES IN SAN FRANCISCO ARE USED IN WAYS THAT BOTH RESPECT AND PRESERVE THE NATURAL VALUES OF THE LAND AND SERVE THE BEST INTERESTS OF ALL THE CITY'S CITIZENS.

II. URBAN DESIGN ELEMENT

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.

OBJECTIVE 2

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

7. The proposed legislation 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 Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

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

Historic Preservation Commission Resolution No. 694
Planning Commission Hearing: November 15, 2012
Historic Preservation Commission Hearing: November 7, 2012
CASE NO. 2012.1329U
Board File No. 121019
CEQA Procedures

The proposed Ordinance with the recommended modifications, would codify existing procedures for CEQA appeals, would establish time limits for appeals, and would establish more limited notification requirements for projects of a larger scale.

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

The proposed Ordinance not affect affordable housing supply.

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

The proposed Ordinance 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 Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

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

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not affect landmark and historic buildings.

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

The proposed Ordinance will not impact the City's parks and open space.

8. The Historic Preservation Commission ***first requests additional time for review and comment*** on the proposal. However, if the Board decides to act on the proposed Ordinance before the HPC can hold another hearing, the Historic Preservation Commission would recommend ***approval with the modifications described below:***

Recommended Modifications

1) **The Historic Preservation Commission agrees with the two recommendations from the Department:**
   a. **Provide the adequate opportunity for all parties to provide written materials to the Board.** Section 31.16(c) establishes review procedures including that under Subsection 31.16(c)(1) the appellant must state the specific grounds for the appeal; under 31.16(c)(5) members of the public, real parties in interest or City agencies sponsoring the project must submit materials for the Board packet no later than 11 days before the hearing and the Planning Department shall respond to the appeal materials no later than 8 days prior to the hearing; and under 31.16(c)(4) the Clerk shall schedule the hearing no less than 20 days and no more than 45 days after the appeal has been filed. Under this proposal the appellant would have a minimum of 9 days after filing their appeal to submit written materials while project sponsor and the Planning Department may only have 3 days to respond in writing to large, complex appeals. The HPC recommends extending the number of days for the Planning Department to respond.
   b. **All Sections- Increase consistency concerning "Date of Decision".** Throughout the draft ordinance the timeline for filing appeals is triggered by actions that are termed either "granting of the first entitlement") (31.16(f)(2)(A)); "first approval of the project" (31.16(f)(2)(B)); "first approval action" (31.16(f)(2)(C)) or "approval of the project by the first decision making body" (31.16(d)(2)). The variety of terms used could create confusion. The Department recommends using consistent language where possible, understanding some difference in terminology may be necessary for purposes of clarity. For example, the timing of appeal of an exempt private project is tied to the granting of the first appealable entitlement, whereas a public project relying on an exemption is not typically receiving an entitlement, thus different terminology is needed. In addition to these recommendations from the Department, the Commission further recommends that the concept of first entitlement be clarified and made consistent with State CEQA language.

2) **The Historic Preservation Commission believes that the appeal window should generally be 30 days for all CEQA documents.** The HPC believes that once the "date of decision" on the first approval has started the countdown on the ability to appeal, the proposed 20 days may not provide sufficient time for appellants to prepare their appeal.

3) **Amend the definitions of Historic Resources that would require notice.** The proposed Ordinance would amend Section 31.08(e)(2) to require that notice be given for certain types of historical resources. The HPC believes that this section should be revised to clarify that all historic resources found in any adopted survey, regardless of the age of that survey, would require notice.

4) **Lastly, the Historic Preservation Commission directs staff to ensure that notices posted on the website must be provided in a clear and obvious manner.**

Historic Preservation Commission Resolution No. 694
Planning Commission Hearing: November 15, 2012
Historic Preservation Commission Hearing: November 7, 2012
CASE NO. 2012.1329U
Board File No. 121019
CEQA Procedures

I hereby certify that the Historic Preservation Commission ADOPTED the foregoing Resolution on November 7, 2012.

Jonas P. Ionin

Acting Commission Secretary

AYES: Chase, Damkroger, Hasz, Johns, Martinez, and Wolfram

NAYS: None

ABSENT: Matsuda

ADOPTED: 11/7/12

From: Mike Buhler
To: Rodgers, AnMarie
Cc: Wycko, Bill; Joslin, Jeff; Power, Andres; Frye, Tim
Subject: Case Number 2012.1329U [Board File No. 12-1019] - California Environmental Quality Act Procedures
Date: Wednesday, November 07, 2012 6:28:48 PM

Dear AnMarie:

On behalf of San Francisco Architectural Heritage, I'm writing to reiterate and supplement my testimony at today's Historic Preservation Commission on Case Number 2012.1329U [Board File No. 12-1019], Supervisor Wiener's proposed legislation regarding "California Environmental Quality Act Procedures." These comments are preliminary and incomplete and will be more fully presented in a letter to the Planning Commission before its hearing on November 16th.

Given the complexity and sweeping scope of the proposed legislation, we join the Historic Preservation Commission in requesting more time to carefully consider all of its implications. Because of the highly truncated legislative schedule, we find ourselves placed in the position of submitting these placeholder comments for the Planning Commission packet just hours after the HPC finished its deliberations. While Heritage does not oppose efforts to achieve greater clarity in the CEQA and appeal processes, the proposed Ordinance includes major changes from its 2010 antecedent that roll back public disclosure requirements and potentially exempt large classes of historic properties from review.

At the outset, we note that the "Basis for Recommendation" in the staff report to the Historic Preservation Commission (pp.8-9) states that the Planning Department "strongly supports the proposed Ordinance" because the Planning Commission and the Historic Preservation Commission recommended approval of "similar proposed Ordinances" in 2006 (Planning Commission only) and 2010 (both Planning Commission and Historic Preservation Commission). However, there have been several significant substantive changes to the current proposed Ordinance that are not highlighted or explained in the Planning Department staff report. Major inconsistencies include, but are not limited to:

- **Section 31.08(e)(2):** The current proposed Ordinance changes the definition of "historical resources" to exclude properties identified "in City recognized historical surveys" from mandatory public notice requirements. Whereas the 2010 version required notice for projects involving properties in adopted survey areas, the currently proposed Ordinance would trigger notice requirements for survey properties only for "a resource that the Environmental Review Officer [ERO] determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1(g)." Public Resources Code 5024.1(g) allows the ERO to exclude any historic resource identified in a survey if the survey has not been updated in the past 5 years. This loophole would potentially exempt thousands of properties identified in older historic surveys (most of the city's currently recognized historic resources) from public notice requirements, significantly undermining the fundamental purpose of CEQA as a public disclosure process.

- **Section 31.16(b):** Provides that "CEQA decisions are not appealable to the Board [of

Supervisors] if the Board is the CEQA decision-making body for the project." This limitation was not included in the 2010 Ordinance. Under the current proposed Ordinance those wishing to appeal such projects would need to raise their objections in testimony at the Land Use Committee. Indeed, the HPC staff report, at page 7, notes that, "the Department does have concerns that a party may introduce substantial new information at the Board Committee hearing, thereby hindering the ability of the City to provide a meaningful response."

- **Section 31.16(f):** The current proposed Ordinance starts the 20-day clock for appeals of exemptions after the first discretionary project approval. We believe that the 2010 Ordinance did not trigger the appeal period until the final discretionary approval. The current proposed Ordinance essentially turns the 2010 timeline on its head, requiring concerned members of the public to appeal projects at the earliest possible opportunity without all relevant information about the proposed project, triggering numerous potentially unnecessary appeals and bureaucratic staff response.

Because the HPC staff report does not include a side-by-side comparison with the 2010 Ordinance, we are unable to identify all proposed changes in the current version of the legislation without more time to review. At minimum, the Planning Department should clearly explain differences between Supervisor Wiener's proposed legislation and the current notice and appeals process, and even more useful, revisions from the 2010 proposed legislation then endorsed by the Planning Commission and the Historic Preservation Commission. Accordingly, the legislative schedule should be extended to allow members of the public, the Planning Commission, and the Board of Supervisors to understand what is being proposed. Heritage looks forward to providing more detailed comments before the Planning Commission hearing on November 16th.

Sincerely,

Mike Buhler
Executive Director
San Francisco Architectural Heritage
P: 415.441.3000 x15
F: 415.441.3015
2007 Franklin Street
San Francisco, CA 94109
mbuhler@sfheritage.org | www.sfheritage.org
Join Heritage now or sign up for our e-mail list!

File 121019

Board of Supervisors

To: BOS-Supervisors
Subject: reasons why communities need ceqa
Attachments: image2013-04-21-174446.pdf

-----Original Message-----
From: donotreply@lowes.com [mailto:donotreply@lowes.com]
Sent: Sunday, April 21, 2013 9:49 AM
To: Board of Supervisors; parkmercedac@gmail.com
Subject: reasons why communities need ceqa

protect ceqa, protect communities like parkmerced

File Nos. 121019 & 130248 4/22/13 · Received in Committee

* LEGISLATION IS BASED ON ISSUANCE OF A BUILDING PERMIT THAT RELIES ON A FREEFORM **VAGUE** DESCRIPTION OF THE PROJECT --
CAT EX'S ARE MARRIED TO THESE VAGUE DESCRIPTIONS.

* ALL "SITE PERMITS" ARE "BUILDING PERMITS"

  -- NOT ALL SHOW "ADDENDA"

  -- WITH NO ADDENDA + VAGUE DESCRIPTIONS, PROJECT DOES NOT HAVE ENUF DETAILS FOR ALL TO HAVE MEANINGFUL DISCUSSION PRIOR TO APPEALS BEING FILED

  -- WHAT IS THE DIFFERENCE BETWEEN A "SITE PERMIT" AND A "FULL PERMIT"?

  -- NEED EXACT **DEFINITIONS** IN THE LEGISLATION OF WORDS NOT IN THE LEGISLATION SINCE PLANNING AND BUILDING DEPTS' DEFINITIONS DIFFER

* PERMITS APPEALED TOO EARLY IN THE PROCESS ("FIRST APPROVAL") WILL JUST BOTHER EVERYBODY – PEOPLE WILL APPEAL FOR NOTHING WHEN PROJECT IS WITHDRAWN BY DEVELOPER-->USE "LAST APPROVAL"

* IS PLANNING DEPT'S ACTION EVER THE FIRST CITY APPROVAL THAT TRIGGERS THE 30-DAY CLOCK? IF SO, THE LEG CANNOT BE BASED ON THE "FIRST APPROVAL"

3/2008

"NEW SINGLE FAMILY RESIDENCE"

Permits, Complaints and Boiler PTO Inquiry

Permit Details Report

Report Date: **4/22/2013 9:13:14 AM**

Application Number: 200803278181
Form Number: 2
Address(es): 2719B/003 /0 125 CROWN TR
Description: NEW SINGLE FAMILY RESIDENCE
Cost: $530,000.00
Occupancy Code: R-3
Building Use: 27 - 1 FAMILY DWELLING

WITHDRAWN 10/2011

Disposition / Stage:

Action Date	Stage	Comments
3/27/2008	TRIAGE	
3/27/2008	FILING	
3/27/2008	FILED	
10/26/2011	WITHDRAWN	Withdrawn per ower's request

Contact Details:

Contractor Details:

125 CROWN TER.

10/2011 "HORIZONTAL + VERTICAL ADDN"

Permit Details Report

Report Date: 4/22/2013 9:15:59 AM

Application Number: 201110066315
Form Number: 3
Address(es): 2719B / 003 / 0 125 CROWN TR
Description: HORIZONTAL & VERTICAL ADDITION.
Cost: $300,000.00
Occupancy Code: R-3
Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
10/6/2011	TRIAGE	
10/6/2011	FILING	
10/6/2011	FILED	
11/28/2012	APPROVED	
11/28/2012	ISSUED	
12/21/2012	SUSPEND	Broad of Appeals requested to suspended

Contact Details:

Contractor Details:

125 C.T.

" VERT. ↑ EXIST 1ST FLR 8' ... "

Permit Details Report

Report Date: 4/22/2013 8:58:19 AM

Application Number: 200706154015
Form Number: 3
Address(es): 6718 /024 /0 449 CHENERY ST
Description: VERTICALLY EXTEND EXTG 1ST FLOOR UP 8' THEN ADD NEW 1ST FLOOR WITH GARAGE, ADD 3 REAR DECKS. (RAISE EXTG HOUSE)
Cost: $250,000.00
Occupancy Code: R-3
Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
6/15/2007	TRIAGE	
6/15/2007	FILING	
6/15/2007	FILED	
7/25/2008	PLANCHECK	
7/25/2008	APPROVED	
8/5/2008	ISSUED	
7/2/2009	COMPLETE	CFC Issued

449 CHENERY

LIST OF "SITE PERMITS"

Permits, Complaints and Boiler PTO Inquiry

You selected:

Address: **125 CROWN TR** Block/Lot: **2719B / 003**

Please select among the following links, the type of permit for which to view address information:

Electrical Permits Plumbing Permits Building Permits Complaints

(Building permits matching the selected address.)

Permit #	Block	Lot	Street #	Street Name	Unit	Current Stage	Stage Date
201110066315	2719B	003	125	CROWN TR		SUSPEND	12/21/2012
200708068904	2719B	003	125	CROWN TR		WITHDRAWN	10/26/2011
200708068905	2719B	003	125	CROWN TR		WITHDRAWN	10/26/2011
200803278181	2719B	003	125	CROWN TR		WITHDRAWN	10/26/2011
200803278191	2719B	003	125	CROWN TR		WITHDRAWN	10/26/2011
9719940	2719B	003	125	CROWN TR		COMPLETE	01/26/1998
8809518	2719B	003	125	CROWN TR		COMPLETE	11/30/1988

Online Permit and Complaint Tracking home page.

125 C.T.

"SITE PERMIT" = ALL BLDG PERMITS

Permits, Complaints and Boiler PTO Inquiry

Permit Summary Information:

Permit (Application) Number	Plans Revision No.	Received	Number of Plan Sets	Completed	Total Special Inspections
200803278191				0	0

Show Site Permit Details | Show Authorized Agents

"NO ADDENDA FOR THIS PERMIT"

No addenda for this permit.

If you plan to print this report, please note:

- The reports print best from Internet Explorer v5.0 or higher
- You should set your browser's print left and right margins to 0.25", top margin to 0.216", and bottom margin to 0.243".

125 C.T.

6/2007

Permits, Complaints and Boiler PTO Inquiry

Permit Summary Information:

Permit (Application) Number	Plans Revision No.	Received	Number of Plan Sets	Completed	Total Special Inspections
200706154015	1	03/11/2008	2	11	11

Show Site Permit Details | Show Authorized Agents

"NO ADDENDA FOR THIS PERMIT"

No addenda for this permit.

449 C.

Addenda Details:

Description:
SITE

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	10/7/11	10/7/11			10/7/11	CHAN AMARIS	
2	CP-ZOC	10/7/11	10/25/11			11/20/12	SMITH MICHAEL	
3	BLDG	11/21/12	11/26/12			11/26/12	CHUN ROBERT	
4	CP-NP	11/14/11	11/14/11			12/14/11	SMITH MICHAEL	Section 311 Mailed 11/14/11; Expired 12/14/11 (Nora)
5	CP-NP	6/18/12	7/10/12			8/9/12	SMITH MICHAEL	Mailed 311 Notice 7/10/12; Expired 8/9/12 (Vlad)
6	CP-DR	8/7/12	8/10/12			10/25/12	SMITH MICHAEL	Approved per DRA-0295
7	DPW-BSM	11/26/12	11/27/12			11/27/12	MINIANO DANNY	DPW/BSM SITE PERMIT APPROVAL ONLY! Major renovation including (N) garage @ Crown Ter. frontage. Also, horizontal addition at the rear @ Graystone Ter. Needs SI & MSE permits (for retaining wall) prior to any addenda sign off. Also, Tree/Landscape permit from BUF.
8	SFPUC	11/28/12	11/28/12			11/28/12	TOM BILL	Reviewed & assessed for capacity charges. 50% paid with permit fees; balance due within 12 months of permit issuance date. See invoice attached to application. Route site submittal to PPC 11/28/12.
9	PPC	11/28/12	11/28/12			11/28/12	SAMARASINGHE GILES	11/28/12: to CPB.grs 11/27/12: to PUC.grs 11/26/12: Hand delivered to BSM by R. Chun.grs 11/21/12: Delivered to R. Chun, per T. Hui's request.grs
10	CPB	11/28/12	11/28/12			11/28/12	CHEUNG WAI FONG	11/26/12: SFUSD PAID. WF

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

125 C.T.

"SITE PERMIT" vs. "FULL PERMIT"

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	6/15/07	6/15/07			6/15/07	SHAWL HAREGGEWAIN	
2	CP-ZOC	6/18/07	8/1/07	8/23/07	5/5/08	5/5/08	MIDDLEBROOK SOPHIE	08/23/2007: Sent NPR: needs historic review. 05/05/2008: Approved.
3	CP-NP	4/2/08	4/2/08			5/5/08	MIDDLEBROOK SOPHIE	Section 311 mailed on 4/2/08, expires on 5/2/08. 05/05/2008: 311 complete.
4	PPC	5/7/08	5/7/08			7/24/08	GREEN EMILIE	5-7-08: Route to Bldg. sjf 5-12-08: Route to BSM. sjf 5-16-08: Rec'd plan set from BSM. Per Mira, applicant will pick up plans here for "full permit." 05/29/08: Ken Guan PE picked up site permit plans. SM 6-12-08: Route to Bldg (Ted). sjf 7/17/08: recd plns & comments from Maoe Tjoe (BLDG) for cust pick up & correction. gs 7/24/08: applicant picked up plns & comments. gs 7/25/08: route to CPB. gs 7/28/08: REC'D FROM CPB. NEED SCHOOL FEE FORM. EG
5	BLDG	5/7/08	5/8/08			5/8/08	OMOKARO ERIC	PERMIT CONVERTED FROM SITE TO FULL PERMIT
6	BLDG	6/12/08	7/2/08	7/16/08		7/24/08	TJOE MAOE	rechecked. 7/24/08 site permit converted to regular full permit. BSM reapproval required.
7	MECH	7/24/08	7/24/08			7/24/08	ZHAN JAMES	
8	DPW-BSM	5/12/08	5/15/08			5/15/08	MINIANO DANNY	Site permit approval only! Vertical add'n. w/ new garage. needs SI permit. Informed Ken Guan/810-9367/ applicant via phone. No addendum sign off prior to SI permit completion.
9	CPB	7/24/08	7/25/08			7/25/08	SHEK KATHY	SFUSD REQ'D, APPROVED BY JC.

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

449 C.

Miller, Alisa

From: Paul Wermer [pw-sc_paul@sonic.net]
Sent: Monday, April 22, 2013 12:17 PM
To: Wiener, Scott
Cc: Miller, Alisa; Chiu, David; Kim, Jane; Power, Andres
Subject: Comments on 121019 - Proposed CEQA ammendments

Dear Supervisor Wiener,

I have reviewed the proposed amendments to your proposed CEQ legislation (121019) as submitted by Supervisor Chiu's office.

Overall I believe these amendments strengthen the proposed legislation, but have the following comments/questions:

A) p. 12, 31.08*(i) The Environmental Review Officer has the* ***authority*** under Section 31.19(b) *to reevaluate the application of an exemption to a project in the event that a project changes after the Approval Action for the project.*

Does "authority" include the express responsibility to evaluate proposed project changes? Often the project has permit changes that do not obviously go to the ERO, and without some positive actions by DBI & the ERO as part of this section I fear that the authority will exist, but often not be exercised.

B) P16 & possibly elsewhere – in many cases, notice to owners will go to non-residents, yet no notice is required to residents. In a city with the significant number of long-term tenants that San Francisco has, this means the people most subject to impact may not receive notice. Planning must provide a way for residents to request notice of actions in their immediate neighborhood; the **"Online notice up and running"** you propose (#4 in summary) should address that if it does not already do so.

C) p.25 – 31.19(b)– by what criteria does DBI or other city agency determine that a project change requires re-referral? My sense is that many projects get the initial referral to get the permit as a default condition – will this now be the case for all permit changes/additions? I believe this is related to my comment on 31.08(i)

D) p.38, Sec 5 – It would be better if this required some linkage so that residents could register for e-mailed notice for projects on a specific block or blocks. As someone who regularly looks that the PIM site, I am aware of the burden and time impact on a resident who wants to be informed of projects in their area. There needs to be some affirmative notice process as well as the on-line posting

A critical issue in this entire debate is ensuring that residents (as opposed to owners) can register to receive notice of projects in their immediate vicinity, rather than expecting them to monitor a Planning Department website on a weekly basis. As currently drafted, the legislation appears to make that latter responsibility the default process. As one who is fairly experienced in using the Property Information Map and other on-line tools, I am well aware of the burden searching for information can be, especially given how infrequently projects occur on any given block. I urge you to address this issue explicitly.

Sincerely yours,
Paul

Paul Wermer
2309 California St
San Francisco, CA 94115

415 929 1680

COUNCIL OF COMMUNITY HOUSING ORGANIZATIONS
325 Clementina Street,
San Francisco, CA 94103
ccho@sfic-409.org
415.882.0901

April 9, 2013

Supervisor Scott Wiener, Chair
San Francisco Board of Supervisors
Land Use and Development Committee
Attn: Alisa Miller, Committee Clerk
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re. CCHO Proposed Amendments to CEQA Legislation

Chair Wiener, Vice-Chair Kim, and President Chiu:

The Council of Community Housing Organizations has reviewed the proposals to amend current local environmental review guidelines to bring the CEQA appeals process into compliance with State law. As a coalition of affordable housing and community development organizations, we agree that establishing clarity and certainty for timing of appeal filings of categorical exemptions and negative declarations, something that is not currently codified locally, is a needed and helpful improvement.

As project developers with a long history of shepherding building projects through the environmental review process, we know that an inherent problem of the current CEQA review process is the length of time that it takes for a development project to go through environmental review, which is not primarily in the appeals procedures but rather a problem of the entire environmental review process. MEA staff spend an enormous amount of time on appeals and process, and there are significant administrative and resource problems which cannot be dealt with by legislation alone.

In terms of what *can* be done through legislation, CCHO would like to present the following recommendations and amendment proposals. On the modest changes which bring clarity, certainty, and predictable timelines to the process, and bring the City into compliance with CEQA:

1. **Time limit to file EIR appeals.** Planning Department has recommended the EIR appeal time limit be amended to 30 days. CCHO supports the proposal's 30-day period as a reasonable window of time to file appeals.

2. **Time limit to file appeals to Neg Dec, Mitigated Neg Dec, Cat Ex, or changes to approved EIR.** The process for these appeals is currently not codified, though required by CEQA. Under existing law, when the City gives a determination for a categorical exemption or

negative declaration, no time limit exists for when that CEQA approval may be appealed, allowing potential appeals of projects after months or years. This is the primary item that needs to be codified to come into compliance with State law. CCHO supports the proposal's 30-day period as a reasonable window of time to file appeals.

3. **Noticing guidelines.** We agree that noticing should be brought up to date, incorporating web site notices to replace conventional paper mailed noticing. However, CCHO recommends amending the legislation to maintain mailed and email notices as an option for those parties who request it.

On the additional items raised by the legislation which go beyond the scope of bringing the local Code into compliance with CEQA:

4. **Responsibility for hearing administrative appeals of CEQA determinations.** Currently public testimony on EIR appeals are heard by the full Board of Supervisors (CEQA requires hearing by "an elected body"). Relegating public comment to a more limited "committee of the board" would limit accountability and the ability of the public to inform the full voting body. Per the Planning Department's staff report, on average only six EIR appeals are heard per year. CCHO recommends amending the legislation to restore the current language maintaining that EIR appeals shall be heard by the full Board.

5. **Trigger for the appeals process to begin.** Currently the trigger is a Planning Commission "EIR Certification" or a "Notice of Determination." The proposal changes this trigger to a first "Approval Action." CCHO supports the intent of the legislation in giving certainty in the appeals process, and not allowing appeals for minor permits after a project has been entitled. However, the definitions of "first approval actions" are vague, allow approvals without public notice (Sec. 31.04(h)(1)(c)), and could prohibit appeals on major changes to a project. CCHO recommends further study of various cases, and tighter definitions of the "approval actions" that would trigger an appeals window.

6. **Requirement to exhaust Preliminary Neg Dec appeal before a Neg Dec can be appealed.** Currently there is no "exhaustion" requirement in the Code. Such a requirement, that would disallow appeals of a Neg Dec to the elected body if the have not also earlier appealed a preliminary Neg Dec to the Planning Commission, would create a more cumbersome process, requiring two separate appeals to go forward. CCHO recommends amending the legislation to maintain the current Neg Dec appeal process.

7. **Limited Board scope in review of a revised EIR.** Currently, the Code states that appeals of a revised EIR to the elected body are limited to "portions which have been revised or new issues which have been addressed." The proposed legislation, in Sec. 31.16(d)(5) deletes "new issues which have been addressed." As it currently stands, it is already true that those items which were already heard and approved cannot be reopened by appeals. CEQA requires that inserting any new issue into the EIR at any point in its process before it is legally final mandates recirculation and subsequent appealability of that matter. These scenarios rarely come up for individual private projects, but are seen in EIR's for complex area plans and rezonings, where there may be an "addendum" to the EIR about that new topic processed on a separate track immediately afterward, which has to go through the same process of certification/appeal, etc. CCHO recommends amending the legislation to keep the current language in compliance with

CEQA, limiting appeals of revised EIRs to both "portions which have been revised or new issues which have been addressed."

Finally, on getting to what we believe to be a root problem of the environmental review process, namely the length of time for approvals:

8. **Priority projects.** As stated above, changes to the CEQA appeals process do not fundamentally change the real problem for developers, whether market-rate or affordable, which is the length of time needed for environmental review. However, affordable housing has an additional set of constraints, as it often has to vie for competitive funding in order to bring in external State, Federal and private equity investment into the City. The length of time for environmental review and entitlement is especially onerous for these funding sources which are awarded on a competitive basis, and often forces the City to lose opportunities for outside investment. This has nothing to do with the appeal process. Sometimes, we are told, MEA staff are pulled from the current environmental review pipeline to work on certain City priorities. CCHO recommends creating clarity around how projects are given priority in the MEA pipeline in order to achieve City goals. We propose amending the legislation to mandate that City-assisted affordable housing developments, among other City priorities that might be identified, be given priority status within the environmental review process, and establishing a deadline of 60 days for receiving MEA determination.

CCHO presents these amendment proposals in the spirit of constructive feedback, and we ask that you specifically amend the legislation to reflect these amendments. Thank you for considering these amendments. We look forward to working with you toward constructive solutions.

Sincerely,

Fernando Marti
CCHO Co-director

Peter Cohen
CCHO Co-director

Cc: Board of Supervisors

Miller, Alisa

From: Board of Supervisors
Sent: Wednesday, April 10, 2013 11:58 AM
To: BOS-Supervisors; Miller, Alisa
Subject: CEQA appeals amendment hearing testimony 4/8/13, Choden resent - File 121019

From: BERNARD CHODEN [mailto:choden@sbcglobal.net]
Sent: Tuesday, April 09, 2013 7:16 PM
To: czvanski@hotmail.com; sft-board-list@sonic.net; Aaron Goodman; Adam Scow
Cc: Eric Brooks; Board of Supervisors
Subject: CEQA appeals amendment hearing testimony 4/8/13, Choden resent

TESTIMONY OF B. CHODEN AT THE BOS LAND USE HEARING ON PROPOSED CEQA APPEALS PROCESS ORDINANCE AMENDMENTS OF APRIL 8, 2013 ON BEHALF OF SFT.

As a test of "good faith," hearing action on amendments to the CEQA appeals should be postponed until the proposals by Supervisor Jane Kim is fully prepared and reviewed by the public and official bodies.

In addition to provident comments today by others, the following are suggested for ordinance consideration.

1. Authority for CEQA BOS action cannot be legally delegated to others.

2. In accord with state CEQA mandates, environmental impacts must be, for Appeals submission, relevant by "fair argument." Appeals, then, must be included as relevant if they concern, by state mandate, cumulative impacts considered as concurrent events. Such impacts considerations cannot be confined to the boundaries of the development parcel.

The basis for consideration of impacts is based upon the constitutional criteria of "health, welfare and safety" and these criteria are measureable as to impact. Therefore, impact considerations cannot be limited to arbitrary limits of parcel size or permitted time for yearly extensions of permits. If it works let it alone; if not reassess it for environmental circumstantial changes.

3. As the Supervisor said during this hearing, truth lies in the details; however, it also lies in a need for a constant evaluation and implementation processes that are now significantly lacking. The fault in the Appeals process lies not in its inadequacy but in a non-functioning, poorly supervised, politicized bureaucracy that fails to fairly administer the CEQA process.

The BOS has requested examples of such misfeasance. An egregious example lies with the BOS approvals of CEQA for Park Merced and the CPMC Cathedral Hill hospital.

As indicated in the submitted map of three city major PG&E 30" gas pipe lines of age and presumed volatility of the San Bruno gas line explosion. Planning staff and their consultants for the Park Merced CEQA acknowledged the two pipe line presences but judged them insignificant environmentally because construction bulldozers would not harm them; however, they ignored the presence of region's most active earthquake fault, the only a quarter of mile away. The relatively modest earthquake of that fault in 1989 effectively damaged high- rise structures in Park Merced. Planning not only ignored the certain damage to investments and life safety by a probable, time certain far greater earthquake but excised testimony and memorandum concerning this significant environmental impact that would foster a hazardous gas explosion similar to that at San Bruno. The range of an analogous gas explosion would have a 4,000 feet range on either side of Park Merced. Similarly, at the CPMC Cathedral Hill hospital site at Franklin an earthquake generated deadly explosion would reach from that site to the City Hall chambers of this hearing. Yet, the BOS approved CEQA for the

hospital while completely ignorir is hazardous potential. This is a hazar at in the certain event of the next earthquake would remove the hospital as a disaster center as it cared for its own dead. This danger was exacerbated by the mid-night approval, at the Franklin site, of a huge diesel oil emergency storage tank, again, unacknowledged by the BOS CEQA approval.

This is an example of certain future destruction and death. It is an example that requires mitigation as to test and repair of these pipelines. Without mitigation of this danger and the faulty CEQA processes, it portends disasters for which the authorities will be complicit.

Miller, Alisa

From: Board of Supervisors
Sent: Tuesday, April 09, 2013 12:17 PM
To: Miller, Alisa
Subject: F121019: Please Vote NO on Supervisor Wiener's Proposed Changes to SF CEQA. BOS File No.121019

From: Jensen, Lisa [mailto:LJensen@sflaw.com]
Sent: Monday, April 08, 2013 10:40 AM
To: Avalos, John; Breed, London; Campos, David; Chiu, David; Cohen, Malia; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Tang, Katy; Yee, Norman (BOS); Board of Supervisors
Subject: Please Vote NO on Supervisor Wiener's Proposed Changes to SF CEQA. BOS File No.121019

Supervisor,

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019.

- Supervisor Wiener's legislation will severely constrain environmental protection in San Francisco;

In the guise of fixing inefficiencies in CEQA procedures, it would:

* Make it very difficult to get the facts about development projects by forcing appeals to be filed far too early, before final project plans and impacts are known;
* Let appeals be considered solely by a three-member panel of the Board of Supervisors; not the Full Board as it is now;
* Allow many significant projects to avoid the requirement to prepare an Environmental Impact Report (EIR);
* Set onerous requirements for any person or group filing an environmental appeal.

- We welcome sensible reform and real clarifications of the process;

- This is coming in Supervisor Jane Kim's legislation; and,

- Please continue Supervisor Wiener's legislation until Supervisor Kim's legislation catches up.

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019.

Thank you,

Bob

Robert Charles Friese
One Maritime Plaza, 18th Floor
San Francisco, CA 94111
Tel: (415) 421-6500
Fax: (415) 421-2922
E-mail: rfriese@sflaw.com

Miller, Alisa

From: Board of Supervisors
Sent: Tuesday, April 09, 2013 12:08 PM
To: Miller, Alisa
Subject: File 121019 Land Use Committee - April 8, 2013 - CEQA Procedures

From: CHRISTOPHER PEDERSON [mailto:chpederson@yahoo.com]
Sent: Saturday, April 06, 2013 8:51 PM
To: Chiu, David; Kim, Jane; Wiener, Scott
Cc: Board of Supervisors
Subject: Land Use Committee - April 8, 2013 - CEQA Procedures

Dear Supervisors Chiu, Kim, and Wiener,

I urge you to vote in support of Supervisor Wiener's proposed ordinance regarding the City's CEQA procedures. His proposed ordinance is fully consistent with statewide CEQA practice. The determination of what level of CEQA review is appropriate should be made at the outset of the process and any appeals regarding CEQA should be resolved as early in the process as possible.

To delay this decision or to allow multiple boards and commissions to reach independent decisions regarding the required level of review would create tremendous uncertainty and potential expense not only for project proponents but also for the public at large. This uncertainty prejudices not only private development projects but also sorely needed public works projects such as Muni improvements, pedestrian and bicycle enhancements, and park rehabilitation.

So long as adequate public notice is provided, the proposed ordinance will not impair public participation in the City's decisions. Demands for multiple and redundant rounds of CEQA review, however, have little to do with concern about the adequacy of environmental review. They are instead transparent attempts to maintain as many tools as possible for factional interest groups to delay and kill projects they dislike. That is not the purpose of CEQA.

Please vote for the proposed ordinance. Thank you.

Sincerely,
Christopher Pederson
201 Laguna St. # 9
San Francisco, CA 94102

Miller, Alisa

From: Board of Supervisors
Sent: Tuesday, April 09, 2013 12:12 PM
To: Miller, Alisa
Subject: File 121019 Vote NO on the changes to CEQA proposed by Supervisor Wiener

---

From: Kathy Howard [mailto:kathyhoward@earthlink.net]
Sent: Sunday, April 07, 2013 6:50 PM
To: Avalos, John; Breed, London; Campos, David; Chiu, David; Cohen, Malia; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Tang, Katy; Yee, Norman (BOS); Board of Supervisors
Subject: BOS file 121019 Vote NO on the changes to CEQA proposed by Supervisor Wiener

Supervisor,

I urge you to vote NO on Supervisor Wiener's proposed changes to CEQA. I agree that our local CEQA laws need *some* modifications, but Supervisor Wiener's legislation is akin to cutting off an arm to cure a hangnail.

I also do not understand why this legislation is being rushed through, when a second piece of legislation has been proposed by Supervisor Kim. From what I have seen, Supervisor Kim's legislation will have some good, logical reforms and yet preserve CEQA protection for our parks and open spaces. I am sure that you agree that our parks are worth protecting!

San Francisco already has a poor reputation for its approach to the environmental review process. Let's take our time, review both pieces of legislation, and come up with an approach that is both fair and protects the environment.

Thank you for your consideration.

Katherine Howard, ASLA
Outer Sunset District

Miller, Alisa

From:	Board of Supervisors
Sent:	Tuesday, April 09, 2013 12:13 PM
To:	Miller, Alisa
Subject:	Please Vote NO on Supervisor Wiener's Proposed Changes to SF CEQA. BOS File No.121019

From: Jean Barish [mailto:jeanbbarish@hotmail.com]
Sent: Sunday, April 07, 2013 8:21 PM
To: Avalos, John; Breed, London; Campos, David; Chiu, David; Cohen, Malia; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Tang, Katy; Yee, Norman (BOS); Board of Supervisors
Subject: Please Vote NO on Supervisor Wiener's Proposed Changes to SF CEQA. BOS File No.121019

Supervisor,

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019.

- Supervisor Wiener's legislation will severely constrain environmental protection in San Francisco;
In the guise of fixing inefficiencies in CEQA procedures, it would:

- Make it very difficult to get the facts about development projects by forcing appeals to be filed far too early, before final project plans and impacts are known;
- Let appeals be considered solely by a three-member panel of the Board of Supervisors; not the Full Board as it is now;
- Allow many significant projects to avoid the requirement to prepare an Environmental Impact Report (EIR);
- Set onerous requirements for any person or group filing an environmental appeal.

- We welcome sensible reform and real clarifications of the process;

- This is coming in Supervisor Jane Kim's legislation; and,

- Please continue Supervisor Wiener's legislation until Supervisor Kim's legislation catches up.

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019.

Thank you,

Jean B Barish
jeanbbarish@hotmail.com
Member, Planning Association for the Richmond

Miller, Alisa

From: Board of Supervisors
Sent: Tuesday, April 09, 2013 12:14 PM
To: Miller, Alisa
Subject: File 121019: CEQA Legislation - Supervisor Wiener (SF Land-Use) memo vs. Supervisors Wiener's Legislation!

From: Aaron Goodman [mailto:amgodman@yahoo.com]
Sent: Sunday, April 07, 2013 9:41 PM
To: Avalos, John; Breed, London; Campos, David; Chiu, David; Cohen, Malia; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Tang, Katy; Yee, Norman (BOS); Board of Supervisors
Subject: CEQA Legislation - Supervisor Wiener (SF Land-Use) memo vs. Supervisors Wiener's Legislation!

To: SF Board of Supervisors

RE: Please Vote NO on Supervisor Wiener's Proposed Changes to SF CEQA. BOS File No.121019

Supervisors,

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019. Supervisor Wiener's legislation will severely constrain environmental protection in San Francisco; In the guise of fixing inefficiencies in CEQA procedures, it would:

- Make it very difficult to get the facts about development projects by forcing appeals to be filed far too early, before final project plans and impacts are known;
- Let appeals be considered solely by a three-member panel of the Board of Supervisors; not the Full Board as it is now;
- Allow many significant projects to avoid the requirement to prepare an Environmental Impact Report (EIR);
- Set onerous requirements for any person or group filing an environmental appeal.

- We welcome sensible reform and real clarifications of the process;
- This is coming in Supervisor Jane Kim's legislation; and,
- Please continue Supervisor Wiener's legislation until Supervisor Kim's legislation catches up.

Please vote No on Supervisor Wiener's proposed changes to SF CEQA, BOS File No.121019.

Thank you,

We have seen clearly the concerns on how CEQA needs to be enforced and alternatives significantly looked at with the Parkmerced project, BVHP, Treasure Island, North Beach and Merced Branch Libraries, Golden Gate Soccer Fields, and many other sites and issues.

We feel the public needs to have a significant say, when developers keep paying money and lobbyists to change the future of our city without public input. Protect the public's rights, not the developers interests.

Sincerely

Aaron Goodman
25 Lisbon St.
San Francisco, CA 94112

B05-11

File 121019 cpage

From: mike@sfbctc.org
Sent: Friday, April 05, 2013 2:03 PM
To: Board of Supervisors
Subject: Wiener CEQA procedures legislation
Attachments: Wiener CEQA procedures legislation.pdf

Angela, others,

Attached is a letter germane to next Monday's (8 April) Land Use and Economic Development Committee meeting. I have already distributed pdf copies by email to all Supervisors.

Respectfully,

Michael Theriault
Secretary-Treasurer
San Francisco Building and Construction Trades Council

San Francisco Building and Construction Trades Council

1188 FRANKLIN STREET • SUITE 203
SAN FRANCISCO, CA 94109
EMAIL: mike@sfbctc.org

TEL. (415) 345-9333

www.sfbuildingtradescouncil.org

A Century of Excellence in Craftsmanship

5 April 2013

Scott Wiener
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca 94102-4689

Dear Supervisor Wiener:

At their meeting of 21 March 2013, the Delegates of the San Francisco Building and Construction Trades Council voted unanimously to endorse your legislation clarifying the procedures for appeals in San Francisco under the California Environmental Quality Act (CEQA). We did so after first consulting with our statewide organization, the California State Building and Construction Trades Council (CA BCTC), and receiving their preliminary opinion that your legislation did not conflict with their very vigorous efforts in alliance with environmental organizations against changes in CEQA itself.

Subsequently the CA BCTC did raise concerns about some provisions in the legislation. Additionally, at least one business group explicitly linked your legislation to the statewide reforms the CA BCTC is opposing.

I commend you for responding immediately to these concerns. Under your assurance that the concerns about specific provisions in your legislation will be addressed to the CA BCTC's satisfaction, and with the understanding that you will continue working with the CA BCTC to draw the strongest possible distinction between your legislation and the statewide changes in CEQA the CA BCTC opposes, our endorsement stands.

Respectfully,

Michael Thériault
Secretary-Treasurer

cc: CA BCTC
Board of Supervisors
Affiliates

121019
4/8/13 Received in Committee

Coalition for San Francisco Neighborhoods

www.csfn.net • PO Box 320098 • San Francisco CA 94132-0098 • 415.262.0440 • Est 1972

March 1, 2013

Rodney Fong, President
Planning Commission

Historic Preservation Commission

David Chiu, President
Board of Supervisors

Re: Resolution Regarding Proposed Amendments to San Francisco Administrative Code Chapter 31 California Environmental Quality Act (CEQA) Legislation.
BoS File No. 121019

Presidents Fong, Chiu, Historic Preservation Commissioners:

After trying our best to work with Supervisor Wiener since the Planning Commission ordered him to engage the neighborhood and community groups but achieving no relief CSFN unanimously passed the following resolution regarding his proposed amendments to SF CEQA:

Whereas, the Coalition for San Francisco Neighborhoods (CSFN) has worked with other community-based groups to insure specific changes to Supervisor Wiener's latest version (January 31, 2013) on the proposed changes to Chapter 31 of the Administrative Code, California Environmental Quality Act (CEQA) legislation (BoS File No.121019) that was first introduced at the Board of Supervisors on October 16, 2012; and

Whereas, only a few of the delegates to the CSFN and other community-based groups were in attendance at Supervisor Wiener's January 9, 2013 meeting because all had been advised that it had been cancelled; and

Whereas, the CSFN and other community-based groups have asked to have one large meeting to flesh out the disagreements and were forced to meet only in separate groups; and

Whereas, Supervisor Wiener held a "neighborhood groups" meeting for CSFN and other community-based groups on January 24, 2013 which produced no subsequent substantive modifications; and

Whereas, the CSFN and the other community-based groups have come to a consensus on specific requested modifications to Supervisor Wiener's proposed legislation; these have not been met with any important substantive changes that are needed such as:

1. All appeals shall go to the FULL Board of Supervisors rather than be heard at a Committee level which has only a few supervisors on it
2. "First approval" must be changed as the basis for determination of any appeal rights as it is vague, undefined, and arbitrary especially because the project tends to morph from the "first approval" point in time to later when the project is fully ripe
3. Longer than the overly brief time period of 20 calendar days for noticing and filing of documents of projects on appeal
4. Unbundling of Mitigated Negative Declarations and Negative Declarations for review
5. Reinsertion into the legislation about "substantial evidence which supports a fair argument" as in state law
6. Pro-active noticing by the Planning Department on projects so that the public does not have to dig around for the information which is also currently very difficult to search for if it is even online
7. The Environmental Review Officer (ERO) should not have the authority to decide without full and open public participation on decisions of projects that he/she determines are exempt from environmental review and should be noticed to determine exemption from environmental review
8. Larger projects on 20 acres and more should have more noticing rather than less since larger projects are likely to have more impact on more neighborhoods
9. Projects that fall within an area that previously received environmental review shall still be reviewed; and

Whereas, the above requests have been rebuffed with no subsequent substantive changes in the legislation to address these issues to date; therefore be it

***Resolved*, that the CSFN continues to oppose the ordinance as proposed since the consensus points listed above have not been incorporated into the proposed legislation; and be it further**

***Resolved*, CSFN most strongly urges that both the Planning Commissioners and the Historic Preservation Commissioners together with the members of the Board of Supervisors *not* support Supervisor Wiener's proposed ordinance as it stands, i.e. without the modifications that we have respectfully requested for this SF CEQA legislation.**

Thank you.

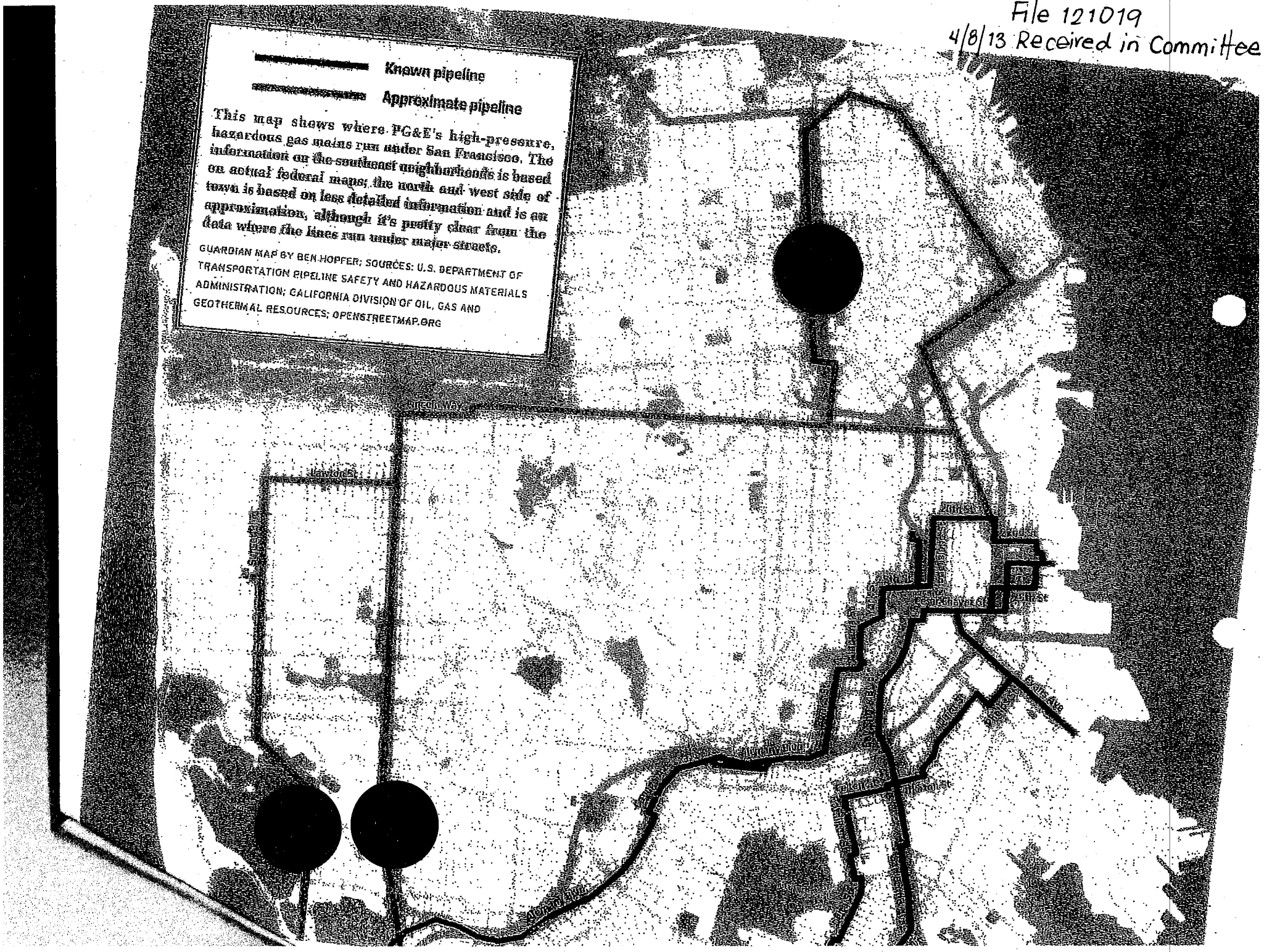
Sincerely,

Judith Berkowitz

Judith Berkowitz
President

cc: Planning Commissioners Cindy Wu, Michael Antonini, Gwyneth Borden, Rich Hillis, Kathrin Moore, Hisashi Sugaya;
Historic Preservation Commissioners Andrew Wolfram, Richard S. E. Johns, Karl Hasz, Aaron Jon Hyland, Diane Matsuda;
Planning Director John Rahaim; Acting Commission Secretary Jonas Ionin;
Supervisors Eric Mar, Mark Farrell, Katy Tang, London Breed, Jane Kim, John Avalos, David Campos, Scott Wiener, Malia Cohen, Norman Yee; Clerk of the Board of Supervisors Angela Calvillo

File 121019
4/8/13 Received in Committee



File 121019
4/8/13 Received
in Committee

Michael Rice
400 Sussex Street
San Francisco, CA 94131

April 8, 2013

Hon. Scott Wiener
Hon. Jane Kim
Hon. David Chiu
Land Use and Economic Development Committee
Board of Supervisors
City Hall
San Francisco, CA 94102

Comments on Proposed Amendments to Administrative Code - California Environmental Quality Act Procedures

I am writing for myself, but I am currently the president of the Glen Park Association. My comments are based on over10 years experience at project review at the neighborhood level in Glen Park. And, for full disclosure, I am retired from previous employment in CEQA consulting, including many years of work on CEQA review in San Francisco.

The proposed CEQA procedures are needed and beneficial.

Over the my time with the Glen Park Association, I have seen virtually every 311 or 312 notice, discretionary review request, zoning appeals or adjustments, and major building permit application. Those are all projects typically processed under CEQA Categorical Exemptions, or in some cases, Negative Declarations. The widely distributed mailed or posted notices, typically have a 20- or 30-day notice or appeal period.

State CEQA law and guidelines calls for disclosure and review of environmental effects early in the project process. The proposed Chapter 31 amendments will clarify that the CEQA appeal clock would start at the first approval. This makes complete sense. Using the current notice practices, with added information about CEQA appeals, will mean that parties most concerned about a project will know their CEQA rights at this stage.

While some have called for longer notice or appeal periods, a 20- to 30-day period is fully consistent with State CEQA Guidelines. Only EIRS require at least a 45-day or optional longer public review period.

An example of what this legislation will avoid: Last year, during appeals of Recreation and Park Department plans for renovation of the Glen Park Recreation Center, a CEQA appeal of the Categorical Exemption was filed, potentially taking this to the Board of Supervisors. After deliberation, the City Attorney found that appeal to be untimely. The circumstances were directly related to the lack of a defined appeal notice for the Cat Ex. While I, and many others in Glen Park, are pleased that the recreation center plan was sustained and is under way, a clearer and earlier CEQA appeal process would have been the right thing. This legislation would have avoided this confusion.

Finally, both the Planning Commission and the Historic Preservation Commission have recommended approval of the ordinance. I am very familiar with the range of views and deliberations of both commissions; they are on the "front-line" of CEQA review in San Francisco. The endorsements should carry great weight with the Board of Supervisors.

Thank you for your work in this ordinance.

Sincerely,

Michael Rice

Michael Rice

AIA San Francisco
A Chapter of the American Institute of Architects

File 121019
4/8/13 Received
in Committee

April 5, 2013

President David Chui
Supervisor Jane Kim
Supervisor Scott Weiner
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Dear President Chui, Supervisors Kim and Weiner,

The Board of Directors of the American Institute of Architects, San Francisco, representing its 2300 members, urges your forwarding with recommendation to the full Board of Supervisors, Supervisor Weiner's proposed amendments to the San Francisco Administrative Code that would alter how San Francisco implements the California Environmental Quality Act (CEQA).

AIA San Francisco members represent about 400 architecture firms in San Francisco and the vast majority, close to 80%, are small businesses. They provide pro bono assistance to hundreds of nonprofits and serve as internationally recognized historic preservation experts. They design affordable housing, homes, businesses, skyscrapers and even bridges. We are passionate about creating a more livable City and seek to serve us all by crafting beautiful and sustainable places to learn, live and work.

San Francisco's Municipal Code and Charter contain unique provisions that make enforcement of CEQA different in San Francisco than in other California jurisdictions. Supervisor Weiner's modest proposal clarifies appeal procedures for categorical exemptions and negative declarations, by creating a fairer and more transparent process for everyone. CEQA defines a "project" as any permit, approval, or action that is subject to the discretion of a local administrative body. As our friends at SPUR have noted: San Francisco's code essentially makes all permits issued by the City for virtually any type of project discretionary and therefore subject to all of the rules and regulations set forth in CEQA, including appeals.

For this reason, the application of CEQA in San Francisco is enormously complex and more far-reaching in its impacts than anywhere else in the entire state. Taken in this context, the legislation before you outlines modest changes that begin to put forth a clearer and more streamlined process for everyone.

The Planning Department case report notes that the current Administrative Code does not outline an appeal process for "neg decs" and exemptions, whereas it does outline a process for EIR appeals. In addition, there is no timeline for appeals of neg decs and exemptions. Currently, as your case report notes, the Clerk of the Board refers every appeal of a neg dec and exemption to the City Attorney's Office for advice on whether the appeal is timely. This is not an efficient or transparent mechanism to handle appeals. The proposed legislation addresses this issue by creating clear procedures and

Hallidie Building
130 Sutter Street, Suite 600
San Francisco, CA 94104
Facsimile 415.874.2642
Telephone 415.362.7397
www.aiasf.org

timelines that appellants, the Planning Department and project sponsors can rely upon, without sacrificing our time honored tradition of allowing all sides to have a say in our city's future.

We look forward to continued conversations with the Planning Department and members of the Board of Supervisors to develop a more improved and consistent review process to benefit our City.

Sincerely yours,

John Kouletisis

John Kouletisis
President

Re> CEQA
4/8/13

File 121019
4/8/13 Received
in Committee

Subject: 537 Natoma St., SF, 2005.09.01.1813, 1820

From: paul page (pagebike@yahoo.com)

To: ben.fu@sfgov.org;

Date: Tuesday, December 28, 2010 12:23 PM

Hi Ben: I am the owner of 534 Natoma St., since 2008, across from this project. I had a few questions or comments...

I am happy to see the site redevelop, but I think the design isn't sensitive to its context. The proposed design would possibly reduce my property value without some mitigation. I would like a response before Jan. 20, so I can decide on whether to request a Discretionary Review.

1. Was a Pre-App meeting held with planning and/or neighbors?

2. Was a Shadow study completed? Are the results available to me?

3. In the RED residential district, wouldn't a building over 40 feet require a Conditional Use hearing/permit according to Section 253?

4. Considering that other buildings (non-SRO) in the block between Russ and 6th streets are 4-6 units, isn't this building the equivalent of "group housing", requiring 140sf of lot per unit?

5. How many of these units are market-rate condos, and what are the expected sale prices for the units?

6. How was Section 261.1 implemented in the frontage design on Natoma Street?

"**General Requirement.** Except as described below, all subject frontages shall have upper stories set back at least 10 feet at the property line above a height equivalent to 1.25 times the width of the abutting narrow street."

Mid-block Passages. Subject frontages abutting a mid-block passage provided per the requirements of Section 270.2 shall have upper story setbacks as follows:

(A) for mid-block passages between 20 and 30 feet in width, a setback of not less than 10 feet above a height of 25 feet.

7. Open Space: 1900 sf on the roof for open space effectively raises the roof on Natoma from 44 feet to 52-54 feet, which would be required by code in order to place a barrier to prevent people from falling off. Also, with thirteen one bedroom units, assuming 2-3 per unit, 26-39 people, isn't the roof essentially going to be accessory living space with canopies, portable heaters, trees?

8. Considering that Natoma is a narrow alley, and that there is no parking on one side of the street, has a traffic and parking impact analysis been done to show that there will be no off-site impacts? I already have many of my neighbors parking on the sidewalk in front of my house, and the City has not permitted

me to place a bollard or planter restricting illegal parking. 13 units, with how many vehicles? and their guests? surely parking on the sidewalk in front of my house would be an added safety hazard and burden on my tenants from noise, walkability and pollution.

9. Has a historical determination been made to save the existing brick facade?

10. Would the metal rollup door be solid or a mesh allowing noise and fumes from the garage to enter my tenants apartment windows? What was the thought process on locating the garage door where it is proposed?

11. What sort of exterior lighting is expected and where is it located on the building?

12. What are the two bonus rooms on the groundfloor and why would they have exterior doors but no interior doors? Would these be rented spaces? Why do they have interior stairs? These two groundfloor rooms would seem intended for commercial space but I don't believe it is zoning policy to permit new commercial space in the RED residential neighborhood.

Thanks, Paul Page.

Subject: Re: 537 Natoma St., SF, 2005.09.01.1813, 1820

From: paul page (pagebike@yahoo.com)

To: ben.fu@sfgov.org;

Cc: john.rahaim@sfgov.org;

Date: Wednesday, January 26, 2011 2:16 PM

Mr. Fu: Since I haven't heard from the city or the applicant, I would like to request Discretionary Review of the project. Although the notice was dated 12-21-10, I didn't receive it until 12/28. Paul Page 415 314 4913.

--- On **Tue, 12/28/10, paul page** <***pagebike@yahoo.com***> wrote:

> From: paul page <pagebike@yahoo.com>
> Subject: 537 Natoma St., SF, 2005.09.01.1813, 1820
> To: ben.fu@sfgov.org
> Date: Tuesday, December 28, 2010, 12:23 PM
>
> Hi Ben: I am the owner of 534 Natoma St., since 2008, across from this project. I had a few questions or comments...
>
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> 1. Was a Pre-App meeting held with planning and/or neighbors?
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> 2. Was a Shadow study completed? Are the results available to me?
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> 3. In the RED residential district, wouldn't a building over 40 feet require a Conditional Use hearing/permit according to Section 253?
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> 4. Considering that other buildings (non-SRO) in the block between Russ and 6th streets are 4-6 units, isn't this building the equivalent of "group housing", requiring 140sf of lot per unit?
>
> 5. How many of these units are market-rate condos, and what are the expected sale prices for the units?
>
> 6. How was Section 261.1 implemented in the frontage design on Natoma Street?
>
> "**General Requirement.** Except as described below, all subject frontages shall have upper stories set back at least 10 feet at the property line above a height equivalent to 1.25 times the width of the abutting narrow street."

Subject: Re: 537 Natoma St., SF, 2005.09.01.1813, 1820

From: Ben.Fu@sfgov.org (Ben.Fu@sfgov.org)

To: pagebike@yahoo.com;

Cc: john.rahaim@sfgov.org;

Date: Wednesday, January 26, 2011 2:43 PM

Mr. Page,

An email response was sent to you on Jan. 04, 2011. Please see email below. The expiration date of the notice and the deadline for filing a discretionary review (DR) was Jan. 20, 2011. The instruction on how to file a DR was attached to the notice you received. Since the deadline has passed, if you wish to oppose the proposal, you would need to appeal the permit with the Board of Appeals. Please contact them for additional information on the appeal process (http://www.sfgov3.org/index.aspx?page=763).

Thanks,

Ben A. Fu, City Planner
Planning Department
City and County of San Francisco
1650 Mission Street #400
San Francisco, CA 94103
Tel: 415.558.6613 / Fax: 415.558.6409
E-Mail: ben.fu@sfgov.org
www.sfgov.org/planning

Ben Fu/CTYPLN/SFGOV
01/04/2011 02:34 PM

To: paul page <pagebike@yahoo.com>
cc:

Subject: Re: 537 Natoma St., SF, 2005.09.01.1813, 1820(Document link: Ben Fu)

Mr. Page,

Shadow analysis, historic evaluation and environmental review were conducted prior to public notification of the proposed project. The permit was submitted in 2005, which predates the effective date of the pre-application requirement (July, 2009). The building is measured at 40 feet tall, with an additional 4-ft parapet, which is permitted in the Planning Code. Roof decks to accommodate the required open space does not constitute building mass or height. The residential density min. for lots within the RED District is 1 unit per 400 sf of lot area. The property with 5,425 sf would accommodate up to 13 dwelling units. You also some additional questions regarding sale price, parking, etc, which I would be happy to address if you wish to meet.

Thanks,

Ben A. Fu, City Planner
Planning Department
City and County of San Francisco
1650 Mission Street #400
San Francisco, CA 94103
Tel: 415.558.6613 / Fax: 415.558.6409
E-Mail: ben.fu@sfgov.org
www.sfgov.org/planning

paul page <pagebike@yahoo.com>
12/28/2010 12:23 PM

To: ben.fu@sfgov.org
cc:
Subject: 537 Natoma St., SF, 2005.09.01.1813, 1820

Subject: Re: 537 Natoma St., SF, 2005.09.01.1813, 1820

From: paul page (pagebike@yahoo.com)

To: ben.fu@sfgov.org;

Cc: john.rahaim@sfgov.org;

Date: Wednesday, January 26, 2011 3:07 PM

Ben ...I only received an automated email indicating you would be out until Jan.3. I think the department is ignoring the need for a conditional use permit and violating setback requirements so that the developer can get extra units to the detriment of adjoining neighbors. Paul.

On Wed Jan 26th, 2011 2:43 PM PST Ben.Fu@sfgov.org wrote:

>Mr. Page,
>
>An email response was sent to you on Jan. 04, 2011. Please see email
>below. The expiration date of the notice and the deadline for filing a
>discretionary review (DR) was Jan. 20, 2011. The instruction on how to
>file a DR was attached to the notice you received. Since the deadline has
>passed, if you wish to oppose the proposal, you would need to appeal the
>permit with the Board of Appeals. Please contact them for additional
>information on the appeal process
>(http://www.sfgov3.org/index.aspx?page=763).
>
>Thanks,
>
>_____
>Ben A. Fu, City Planner
>Planning Department
>City and County of San Francisco
>1650 Mission Street #400
>San Francisco, CA 94103
>Tel: 415.558.6613 / Fax: 415.558.6409
>E-Mail: ben.fu@sfgov.org
>www.sfgov.org/planning
>
>
>
> Ben
> Fu/CTYPLN/SFGOV
> To
> 01/04/2011 02:34 paul page <pagebike@yahoo.com>
> PM cc
>
> Subject
> Re: 537 Natoma St., SF,

B\ ,-LUC April 8, 2013 CEQA Me .ng
449 Chenery (w/ supporting docs/pics)
Rose Hillson

File 121019
4/8/13 Received
in Committee

- 449 Chenery: 1-1/2 story "transitional Queen Anne Victorian" cottage (was 417 Chenery per 1913 Sanborn map)
- A Tuscan column, two wooden steps, tongue-and-groove floor boards and a short railing complement the front porch
- City records show date of build as 1900 though could be earlier
- Listed as "Category B" Potential Historic Resource
- Project proposal was to raise 1st floor, create new 2nd floor, add 3 decks, add garage
- June 15, 2007 – DBI application submitted
- Nov. 21, 2007 – Cat Ex'd w/ HRER
- April 2, 2008 – 311 Notice sent
- May 7, 2008 -- DBI permit converted from site permit to full permit
- July 24, 2008 – plans rechecked, need BSM reapproval

CAT EX means changes to a potential historic resource do not harm its "Integrity"

- Removal of porch column (character-defining feature)
- Moving building to eliminate front yard setback
- Lifting building so front street-level porch is now one-story above grade
- Adding rail where the street-level porch was

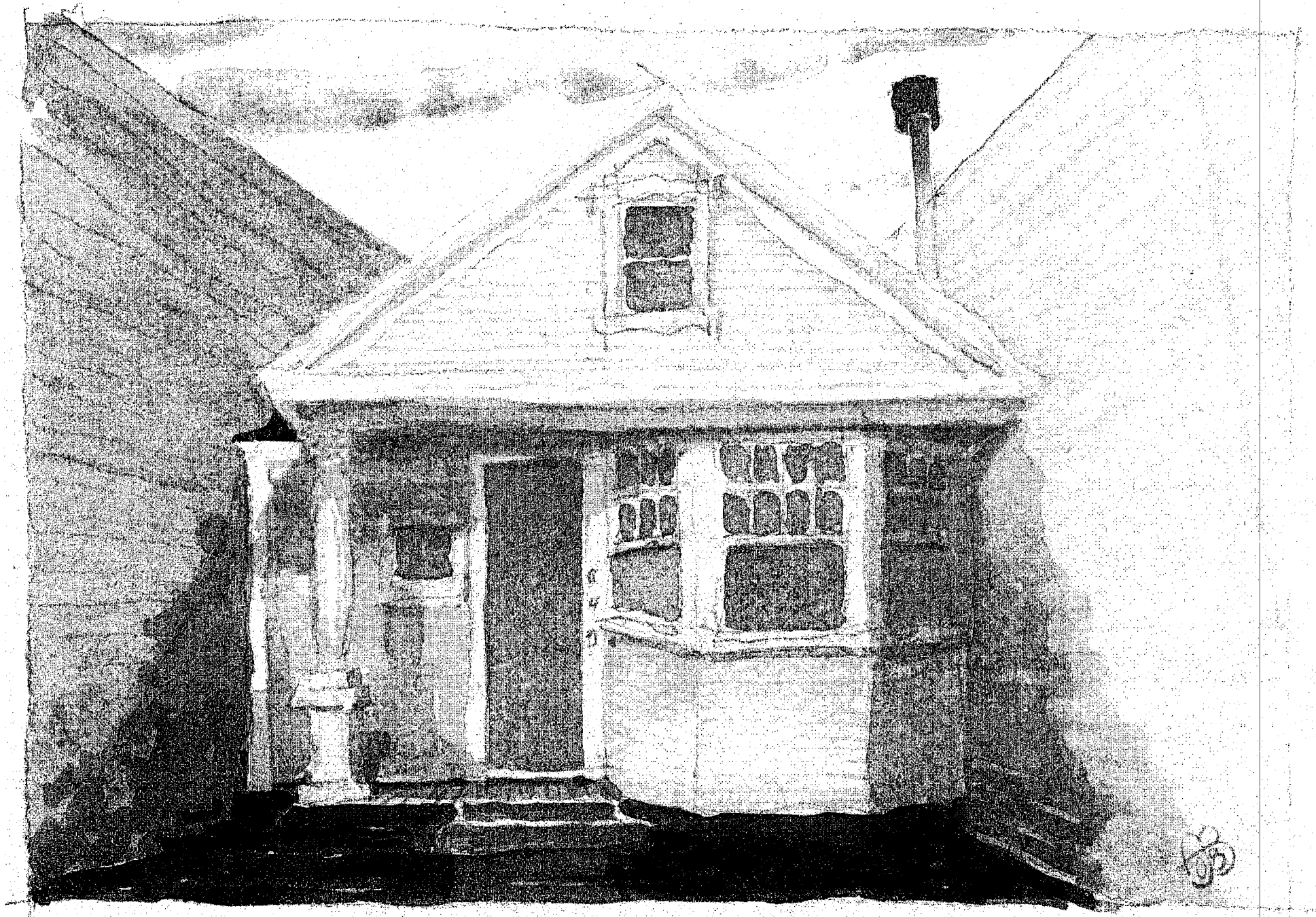
These are all dings to CEQA evaluation for "integrity" of the potential historic resource. Planning should not have Cat Ex'd this project.

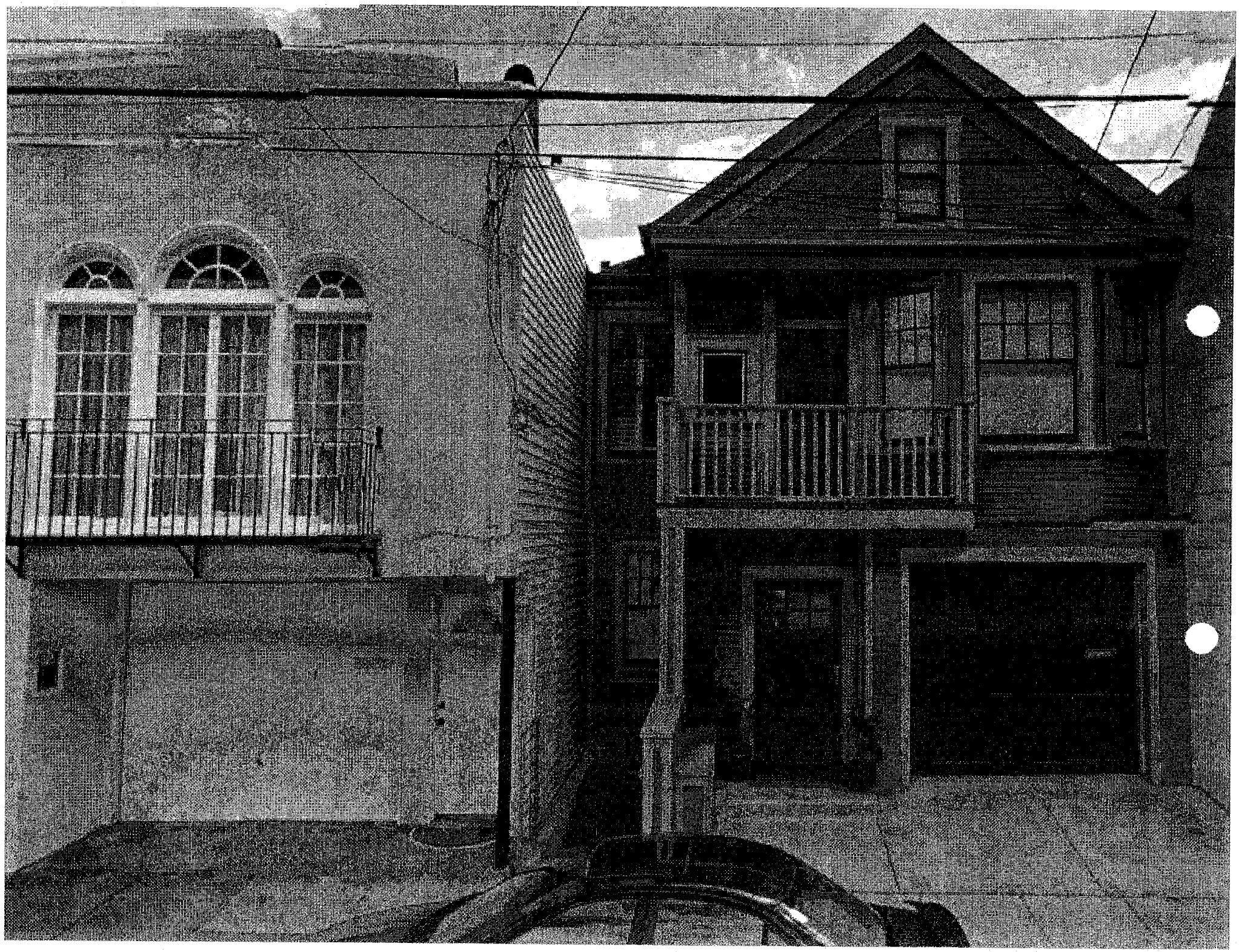
After all the changes made, 449 Chenery is now:

"Category C" – "not a potential historic resource"

When projects are Cat Ex'd subjectively by Planning, and the timelines for appeal are made short (20-30 days) in Supervisor Wiener's legislation, people cannot appeal since deadlines have passed; "first approval" occurred early in the process – 5 months before 311 Notice. Even with a 311 Notice, what is on it is not necessarily what will be built. That is the problem with the "first approval." This is only one example of not being able to have neighborhood protection with Supervisor Wiener's proposed legislation.

No mechanism is in place nor will Planning adopt one to check up on projects that should come back to them for CEQA review when they morph because DBI will not tell them and Planning will not be forced to look for them.
Please look at next page for other examples I may not have time to go over in my 2 minutes of allotted time to speak today.





Quarry's

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	6/15/07	6/15/07			6/15/07	SHAWL HAREGGEWAIN	
2	CP-ZOC	6/18/07	8/1/07	8/23/07	5/5/08	5/5/08	MIDDLEBROOK SOPHIE	08/23/2007: Sent NPR: needs historic review. 05/05/2008: Approved.
3	CP-NP	4/2/08	4/2/08			5/5/08	MIDDLEBROOK SOPHIE	Section 311 mailed on 4/2/08, expires on 5/2/08. 05/05/2008: 311 complete.
4	PPC	5/7/08	5/7/08			7/24/08	GREEN EMILIE	5-7-08: Route to Bldg. sjf 5-12-08: Route to BSM. sjf 5-16-08: Rec'd plan set from BSM. Per Mira, applicant will pick up plans here for "full permit." 05/29/08: Ken Guan PE picked up site permit plans. SM 6-12-08: Route to Bldg (Ted). sjf 7/17/08: recd plns & comments from Maoe Tjoe (BLDG) for cust pick up & correction. gs 7/24/08: applicant picked up plns & comments. gs 7/25/08: route to CPB. gs 7/28/08: REC'D FROM CPB. NEED SCHOOL FEE FORM. EG
5	BLDG	5/7/08	5/8/08			5/8/08	OMOKARO ERIC	PERMIT CONVERTED FROM SITE TO FULL PERMIT
6	BLDG	6/12/08	7/2/08	7/16/08		7/24/08	TJOE MAOE	rechecked. 7/24/08 site permit converted to regular full permit. BSM reapproval required.
7	MECH	7/24/08	7/24/08			7/24/08	ZHAN JAMES	
8	DPW-BSM	5/12/08	5/15/08			5/15/08	MINIANO DANNY	Site permit approval only! Vertical add'n. w/ new garage: needs SI permit. Informed Ken Guan/810-9367/ applicant via phone. No addendum sign off prior to SI permit completion.
9	CPB	7/24/08	7/25/08			7/25/08	SHEK KATHY	SFUSD REQ'D, APPROVED BY JC.

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
7/2/2009	Robert Power	FINAL INSPECT/APPRVD	CFC ISSUED
10/27/2008	Michael Gunnell	REINFORCING STEEL	REINFORCING STEEL

Description:	VERTICALLY EXTEND EXTG 1ST FLOOR UP 8' THEN ADD NEW 1ST FLOOR WITH GARAGE, ADD 3 REAR DECKS. (RAISE EXTG HOUSE)
Cost:	$250,000.00
Occupancy Code:	R-3
Building Use:	27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
6/15/2007	TRIAGE	
6/15/2007	FILING	
6/15/2007	FILED	
7/25/2008	PLANCHECK	
7/25/2008	APPROVED	
8/5/2008	ISSUED	
7/2/2009	COMPLETE	CFC Issued

Contact Details:

Contractor Details:

License Number:	UND
Name:	UNDECIDED UNDECIDED
Company Name:	UNDECIDED
Address:	UNDECIDED * UNDECIDED CA 00000-0000
Phone:	

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	6/15/07	6/15/07			6/15/07	SHAWL HAREGGEWAIN	
2	CP-ZOC	6/18/07	8/1/07	8/23/07	5/5/08	5/5/08	MIDDLEBROOK SOPHIE	08/23/2007: Sent NPR: needs historic review. 05/05/2008: Approved

Projects

PROJECTS: MAP

Case No.:	**2007.1352E**
Case Type:	Categorical Exemption Certificate w/ Pres HRER
Case Status:	Closed
Case Filed:	11/21/2007
CEQA CatEx:	View Categorical Exemption Evaluation
Project Name:	449 CHENERY ST
Project Description:	Vertical extension of 1st floor to accommondate new garage, create 2nd floor, and add 3 decks at the rear of building.
Project Decision:	Approved
Project Decision Date:	
Planning Dept Contact:	JEAN POLING Tel: 415-575-9072

back to top

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

Historic Resource Evaluation Response

1650 Mission S
Suite 400
San Francisco,
CA 94103-247

Reception:
415.558.637

Fax:
415.558.6409

Planning
Information:
415.558.6377

MEA Planner:	Jeremy Battis
Project Address:	**449 Chenery Street**
Block/Lot:	6718/024
Case No.:	**2007.1352E**
Date of Review:	December 13, 2007
Planning Dept. Reviewer:	Sophie Middlebrook
	(415) 558-6372 | sophie.middlebrook@sfgov.org

PROPOSED PROJECT ☐ Demolition ☒ Alteration

PROJECT DESCRIPTION

The proposed project includes raising the existing subject building by 8' in order to accommodate two off-street parking spaces as well as the addition of a second unit at the ground level. The project also proposes to replace the non-historic rear addition. Preliminary plans of the proposed additions have been submitted to the Department with the Environmental Exemption application, and a building permit application has been filed.

PRE-EXISTING HISTORIC RATING / SURVEY

The County Assessor records indicate that the building was constructed in 1900; however, information presented by the Project Sponsor indicates that the building was constructed circa 1906-7, in the period just after the earthquake and fires of 1906 when residential development increased significantly in the Glenn Park area. The footprint of the subject property first appears on the 1913-15 Sanborn Fire Insurance Map. Although the subject building is not included on any historic surveys and is not included on the National or the California Registers, its recorded date of construction makes it a "Category B" building for the purposes of CEQA review by the Planning Department.[1]

HISTORIC DISTRICT / NEIGHBORHOOD CONTEXT

The subject building is located on the southeast side of Chenery Street, between Mateo and Roanoke Street, within an RH-2 Zoning District and a 40-X Height and Bulk District. According to information submitted by the Project Sponsor, the subject property is within the subdivision known as Fairmount Terrace, originally laid out in 1871, in the Glenn Park neighborhood. A mix of architectural styles characterizes Chenery Street at this location, including two- and three-story residential buildings constructed in the early and mid-twentieth century in a range of architectural styles including Marina and Mediterranean Revival style buildings and modified Queen Anne and Craftsman style residences. It does

[1] Please see "Preservation Bulletin #16," available online at:
http://www.sfgov.org/site/uploadedfiles/planning/projects_reports/PresBulletin16CEQA10_8_04.PDF (November 2, 2007)

None

HISTORIC RESOURCE EVALUATION RESPONSES: MAP

HRER Decision (12/13/2007): Property is not a Historic Resource

View Historic Resource Evaluation Response

HISTORIC SURVEYS AND EVALUATIONS: MAP

Building Name:

Address:

Planning Dept. Historic Status Code: C - Not a Historic Resource

National Register Status Code:

Area Plan:

Area Plan Rating:

Informational Survey:

Survey Rating:

California Register:

Heritage Rating:

UMB Survey:

1976 Architectural Survey:

A Few More Examples of CEQA and "First Approval" Problem

for BOS-LUC Meeting of April 8, 2013

Rose Hillson

"First approval" is a problem since it can be for a project early in the process and not for what is actually going to be built. Projects get approved by Planning Commission but they morph. Then neighbors do not know and something unexpected is built. Changes should trigger CEQA review but it is not done. This is made worse when Supervisor Wiener's proposed legislation delegates Planning's authority over CEQA Cat Ex's and Neg Dec's to other city agency officials. Examples:

690 Stanyan:

- Heard by Planning Commission on Oct. 23, 2008.
- Public review of the Draft EIR deadline was 5pm on Mar. 10, 2008.
- DEIR was certified.

The Adoption of CEQA Findings and Request for CU Authorization for a PUD was required for demolishing a 24-ft. high 23,600 sq. ft. building, removal of 42-space surface parking lot to construct a 4-story, 115,400 sq. ft. building with 149,800 sq. ft. of combined retail on ground and 62 residential units and 3 levels of subterranean parking with 176 spaces. There was approval with conditions and modifications.

- Project has NOT broken ground yet.
- If the developer changes his plans, no further notice required and "first approval" has passed.

How would the public know about the details of the final revised? And even if they find out, it will be too late under the tight 20-30-day appeal timeframes that are stated in Supervisor Wiener's proposed changes to local CEQA legislation.

800 Brotherhood Way:

- This project is going ahead with landscaping work and removing areas originally marked as being retained.
- "First approval" obtained from Planning Commission
- After 30 days have lapsed, significant changes being made to 800 Brotherhood Way contrary to plans as shown to Planning
- Under Supervisor Wiener's proposed CEQA legislation, the major changes will not get CEQA review nor can they be appealed. Timeline has been exhausted.

MAIN MESSAGE:

- People continue to change their projects and the public gets no rights to appeal since deadline passed due to early "first approval."
- The "first approval" will not work to protect the provisions of state CEQA law which is in place to protect the environment and give the broadest notification and appeals rights to the public.

Where is the public benefit from the minimum protections of CEQA as stated in state law if Supervisor Wiener's legislation were to pass with this "first approval," with delegation of Cat Ex and Neg Dec's to others and with the lesser scrutiny of a sub-committee level of BOS appeal review?

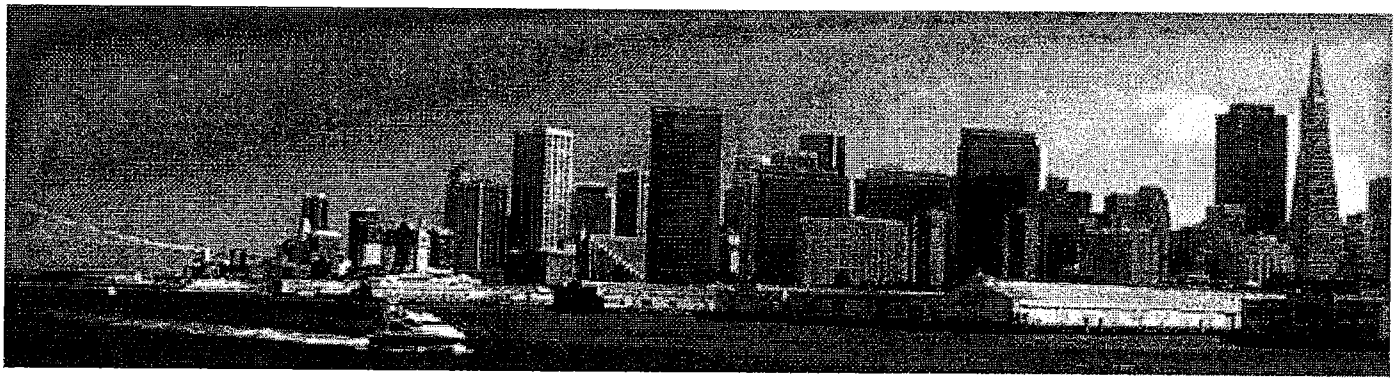
Please do not pass Supervisor Wiener's proposed CEQA legislation. Work with the community on Supervisor Kim's more neighborhood-friendly legislation. Too many other things are being changed in Supervisor Wiener's legislation which has nothing to do with timeliness or openness.

R. Hillson

4-8-13

Re: Historic Resources

CEQA Exemptions



When a determination that a project is excluded or categorically exempt from CEQA has been issued, notice to the public shall be provided for all such determinations involving the following types of projects: (1) any historical resources as defined in CEQA, including without limitation, any buildings and sites listed individually or located within districts listed (i) in Planning Code Articles 10 or 11, (ii) in City-recognized historical surveys, (iii) on the California Register, or (iv) on the National Register of Historic Places; (2) any Class 31 categorical exemption; (3) any demolition of an existing structure; or, (4) any Class 32 categorical exemption. (Administrative Code Chapter 31).

Below are recent CEQA exemption determinations for projects along with the date of the determination. Please note that due to workload, exemption determinations are posted here generally two to three weeks after they are issued.

For questions or comments on exemptions, please contact the Environmental Planning exemptions coordinator at monica.pereira@sfgov.org . For questions or comments on the web page, please contact the Environmental Planning webmaster at jeanie.poling@sfgov.org

Determination Address

thru Jan. 3, 2012
(91 pages)

Week of 03.25.2013 CatEx Determinations Part 1
Week of 03.25.2013 CatEx Determinations Part 2
1. 10th Ave_1750
2. 15th St_2426
3. Laidley St_2012.0121E
4. Vallejo St_2880
5. Capp St_645
6. Rossi Playground
7. Clayton St_200
8. Shotwell_930
9. Washington Square
10. Green St_2550
11. Scott St_2355
12. 21st Ave_1320
13. 21st St_4201
14. 22nd Ave_2531
15. 22nd Ave_2638
16. 24th Ave_1883
17. 25th St_4277
18. 32nd Ave_1268
19. 32nd Ave_1886
20. 35th Ave_838
21. 39th Ave_2472
22. 3rd St_4923
23. 42nd Ave_663
24. 6th St_564
25. Anza St_4300 #4
26. Athens st_599

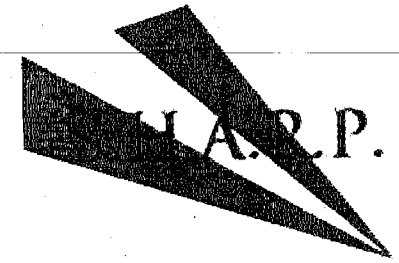
27. Bartlett St_307
28. Bay St_784
29. Bayshore Blvd_185
30. Bennington St_31
31. Bright St_495
32. Bryant St_2570
33. Bryant St_523
34. California St_16
35. California St_3001
36. California St_50
37. California St_720
38. Cambridge St_711
39. Carmelita St_74
40. Castro St_2220
41. Cerritos Ave_140
42. Chicago Way_116
43. Chicago Way_38
44. Cragmont Ave_46
45. Detroit St_143
46. Divisadero St_2038
47. Duncan St_359-361
48. El Camino Del Mar_745
49. Elliot St_306
50. Encanto Ave_2-4
51. Fair Oaks St_383
52. Fillmore St_1406-1408
53. First St_234
54. Flood Ave_10
55. Geary Blvd_3555
56. Geary Blvd_7033
57. Geary St_524
58. Grand View Ave_151
59. Grant Ave_347
60. Greenwich St_449A
61. Greenwich St_533-537
62. Harris Place_14
63. Hayes St_1015
64. Hayes St_2033
65. Hill St_544
66. Hollister Ave_1098
67. Jackson St_2750
68. Jamestown Ave_855
69. Jules Ave_144
70. Keystone Way_48
71. Liberty St_246
72. Lombard_1926
73. Lyon St_1726
74. Manor Dr_85
75. Market St_1663
76. Market St_575
77. Masonic Ave_1507
78. McAllister St_2000
79. Mizpah St_19
80. Moraga St_436
81. Moultrie St_572
82. Noriega St_3125
83. North Point St_900
84. Oxford St_527
85. Parker Ave_180-182
86. Post St_240
87. Prentiss St_574
88. Rausch St_29A-31
89. Rockdale Dr_666
90. Saint Germain Ave_130
91. Santa Marina_39
92. Sea Cliff_130
93. Seminole Ave_78
94. Seville St_140
95. Sotelo Ave_84
96. South Van Ness_873-875
97. Spruce St_115
98. Spruce_679
99. Sweeny St_314
100. Taraval St_401
101. Teresita Blvd_824

102. Texas St_635
103. Valencia St_1156
104. Vallejo St_1417
105. Van Ness Ave_2826
106. Waller St_1333
107. Yale St_469

Week of 03.18.2013 CatEx Determinations
1. 16th Ave_226-228
2. 19th Ave_1430
3. SFMTA_Masonic Ave Traffic Signal Visibility Improvements
4. BOS File #130029_Building Code - Seismic Standards
5. Sanchez St_257
6. SFMTA_Pedestrian Countdown Signals
7. SFMTA_The Pedestrian Safety and Ecouragement Campaign
8. SFMTA_Traffic Signal Modifications
9. SFMTA_Stern Grove-Pine Lake Park-Parkside Square
10. 20th Ave_3251
11. 22nd Ave_162
12. 22nd Ave_319
13. 23rd Ave_2031
14. 23rd Ave_223
15. 24th Ave_634
16. 26th St_3948
17. 26th St_820
18. 28th Ave_1935
19. 28th St_172-178
20. 29th Ave_807
21. 33rd Ave_1246
22. 3rd St_370
23. 41st Ave_2490
24. 42nd Ave_1838
25. 42nd Ave_579
26. 7th Ave_172
27. Allison St_384
28. Arguello Blvd_830
29. Bayview_192
30. Blake St_80
31. Bright St_419
32. Broadway_2901
33. Broderick St_1125-1127
34. Brunswick_795
35. Buena Vista Ave_181
36. Cabrillo St_1546
37. California St_101
38. Carroll Ave_2021
39. Cesar Chavez_3978
40. Chestnut St_930
41. Clay St_2775
42. Clement St_1434-1436.1
43. Clement St_1434-1436
44. Clement St_301
45. Clementina St_782-784
46. Commonwealth Ave_11
47. Divisadero St_661
48. Edgewood Ave_257
49. Eureka St_212-214
50. Farragut_95
51. Fulton St_1570
52. Fulton St_1640
53. Fulton St_988
54. Genebern Wy_132
55. Guerrero St_432
56. Guerrero_49-53
57. Harold Ave_155
58. Harrison St_450
59. Heron St_7
60. Jersey_422
61. Junipero Serra Blvd_712
62. Lyon St_1341-1343
63. Majestic Ave_64
64. Marietta Dr_35
65. Marina Blvd_755
66. Market St_1596

etc. ↓

File 121019
4/8/13 Received
in Committee



Sunset Heights Association of Responsible People
1661 7TH Ave. San Francisco, CA 94122

Supervisor Norman Yee
1 Dr. Carleton Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: CEQA APPEAL PROCESS REFORM

Dear Supervisor Yee,

I write to express the strong support of the Sunset Heights Association of Responsible People (S.H.A.R.P.) for the CEQA appeal reform legislation authored by Supervisor Wiener. Our neighborhood association believes this proposed legislation is sorely needed to create clear rules and reduce unnecessary bureaucracy.
This is an important open government measure that promotes transparency. It is unjust to keep the planning process hidden from the general public and accessible only to a few experts who understand the confusing rules. We need understandable time frames for appeals so neighborhood groups, project sponsors and individual neighbors do not have to hire an attorney for projects like home remodels and window installations.

As you know, EIR appeals are not affected. The reform legislation only affects Categorical Exemptions and "Negative Declarations of Environmental Impact." These are not large developments, but smaller public and private projects such as transit and park improvements and home improvements such as kitchen remodels and window installations.

San Francisco is the only city in California that uses such complex and confusing procedures. For example, every single CEQA appeal must be referred to the City Attorney to determine whether it is properly before the Board of Supervisors. No wonder taxpayers are upset with the way government functions.
This legislation does not take away the right to appeal any planning decision. Instead, it strengthens noticing requirements to make sure average people are aware of their right to appeal, and when and how to appeal. More people will be aware of their rights on a timely basis.

In addition, S.H.A.R.P. strongly opposes Supervisor Kim's counter-legislation. Her legislation will make the appeals process worse, by making it more bureaucratic, more expensive, more cumbersome and less understandable to average citizens. Most homes in the Sunset Heights area (and in District 7 generally) are either 50 years old or almost that old. Every project on every building 50 years or older would no longer be able to obtain over-the-counter Categorical Exemption stamps to replace a window or a roof. Instead, homeowners would have to obtain a certificate and wait 3-6 months. While this is clearly folly, it's understandable given that her legislation has not been vetted by the Planning Department, Planning Commission, or the City Attorney, nor has it been before a public hearing. It was clearly introduced to gum up the works.

We know you are a supporter of pedestrian safety improvements, which is why San Francisco WALKS is one of the many supporters of Supervisor Wiener's CEQA legislation, along with the good-government group SPUR, and park, transit, affordable housing, and neighborhood groups such as SHARP.
The citizens of District 7 elected you with the understanding that you support open government and transparency, and not as an advocate of increased bureaucracy and waste. In summary, we urge you to support Supervisor Wiener's CEQA appeals reform legislation. Please feel free to contact us if you have any questions.

Sincerely,

Charles Head
President, S.H.A.R.P.

Cc: Members of the Board of Supervisors

File 121019
4/8/13 Received
in Committee

GAST ARCHITECTS 355 11th STREET, SUITE 300, SAN FRANCISCO, CA 94103
T 415.885.2946 F 415.885.2808 WWW.GASTARCHITECTS.COM

April 8, 2013

TESTIMONY BEFORE THE BOARD OF SUPERVISORS LAND USE COMMITTEE
By David S. Gast, AIA, LEED AP
Principal, Gast Architects

CEQA serves a real public good in ensuring review of projects for their impacts. But San Francisco's implementation of CEQA suffers from a lack of transparency, an uncertain process, and burdensome time and costs to homeowners, taxpayers – both supporters and opponents of projects.

Supervisor Weiner's legislation to bring sanity to one aspect of SF's implementation of CEQA, the appeals process, is a strong first step in the correct direction. Without limiting the appeal rights of any constituents, it brings some certainty and transparency and fairness to what can easily become a time-consuming, expensive, and bureaucratic process requiring the input of expensive land-use attorneys to understand and navigate.

Supervisors unvetted, last-minute introduction of alternative legislation moves SF's implementation of CEQA profoundly in the wrong direction. It's negative impact in terms of approvals time and cost is entirely unwarranted and counterproductive. It introduces new procedures that will negatively impact all homeowners and businesses located in buildings over 50 years old – the great majority of all projects.

We need to be able to move needed projects forward with clear, concise, and fair regulations that don't restrict appeal rights, but move projects through the process expeditiously and with minimal bureaucracy and expense.

I'm an architect practicing in SF for over 40 years, 33 of which with my own custom residential firm. I practice throughout the Bay Area and elsewhere in the country, and never have experienced anything close to the absolute absurdity of the CEQA implementation process in SF. Let's take the first steps to correct this.

For example, we are working pro bono with a Haight Ashbury merchant, American Cyclery, to create a parklet at Frederick and Stanyan as an amenity to the neighborhood. Should Supervisor Kim's legislation pass, we will be subjected to a minimum of $5000 of additional costs, and a minimum of six months of additional process to take our project to the Planning and the Historic Preservation Commissions since the land we are working on is in Park and Rec. ownership. This is a burden that delivers no discernible public benefit and increases costs and time frames for delivery of a public amenity.

Please pass Supervisor Weiner's legislation on to the entire Board

SPUR

File 121019
4/8/13 Received
in Committee

SPUR HEADQUARTERS
654 Mission Street
San Francisco, California
94105
415.781.8726 t
www.spur.org

SPUR SAN JOSE
38 West Santa Clara Street
San Jose, California
95113
408.510.5688 t
www.spur.org/sanjose

April 8, 2013

Scott Wiener, Chair
Land Use Committee of the Board of Supervisors
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Supervisor Wiener,

SPUR strongly supports the proposed ordinance to amend San Francisco's California Environmental Quality Act procedures. This legislation is an extremely modest proposal that helps clarify appeal procedures for exemptions and negative declarations, creating a fairer and more transparent process for everyone.

As you know, San Francisco is unique in California in its application of CEQA. San Francisco's Municipal Code and Charter contain unique provisions that make enforcement of CEQA different in San Francisco than in other California jurisdictions. CEQA defines a "project" as any permit, approval, or action that is subject to the discretion of a local administrative body. In most jurisdictions there is a clear distinction between "discretionary" actions that require the use of judgment or subjective criteria on the part of the approving body and "ministerial" actions that simply involve comparing of a project against established standards or checklists. For example, in most jurisdictions rezoning a property is considered discretionary, because it generally involves judgment by officials about the appropriateness of the change, while a building permit is considered ministerial because a builder must simply prove he or she has completed a checklist of standard requirements. **San Francisco's code, however, essentially makes all permits issued by the City for virtually any type of project discretionary and therefore subject to all of the rules and regulations set forth in CEQA, including appeals.**

For this reason, the application of CEQA in San Francisco is enormously complex and more far-reaching in its impacts than anywhere else in the entire state. Taken in this context, the legislation before you outlines a series of modest changes that collectively take a small step towards creating a clearer and more streamlined process for everyone.

The legislation proposes three key changes:

1. It would codify procedures for appeal of negative declarations (neg decs) and exemptions to the Board of Supervisors, including the timing of those appeals.
2. It would expand noticing provisions related to exemptions, none of which are required by CEQA.
3. It would establish that when the Board of Supervisors must approve a project, it is the CEQA decision-making body and therefore there would not be a separate appeal process.

Each of these three changes helps to clarify and streamline the CEQA appeals process. The Planning Department case report notes that the current Administrative Code does not outline an appeal process for neg decs and exemptions, whereas it does outline a process for EIR appeals. In addition, there is no timeline for appeals of neg decs and exemptions. **Currently, as your case report notes, the Clerk of the Board refers every appeal of a neg dec and exemption to the City Attorney's Office for advice on whether the appeal is timely. This is not an efficient or transparent mechanism to handle appeals.** The proposed legislation addresses this issue by creating clear procedures and timelines that appellants, the Planning Department and project sponsors can rely upon.

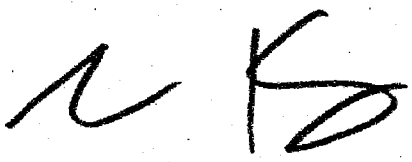
Lastly, there has been substantial public discussion about the issue of the timeline of appeals. We feel very strongly that the first approval action should serve as the trigger for the appeal process. It is not efficient or appropriate to wait until the entire entitlements process has been completed before filing an appeal.

We also applaud Supervisor Wiener for making numerous substantive amendments to the legislation in response to community comments. We believe that all legitimate issues have now been addressed in the current third draft of the ordinance, as summarized in your case report.

In summary, we strongly urge you to move this legislation forward.

Thank you for your consideration of our position. Should you have any questions, please do not hesitate to contact me at 415-644-4292 or skarlinsky@spur.org

Sincerely,



Sarah Karlinsky
Deputy Director

Cc: Supervisor Jane Kim
Supervisor David Chiu
SPUR Board of Directors

Teresa M. Welborn
2001 Oak Street
San Francisco CA 94117
415.752.8520 p **tesw@aol.com** **415.418.6103 f**

File 121019
4/8/13 Received in Committee

April 8, 2013

Supervisors Scott Wiener, Jane Kim, and David Chiu **RE: CEQA Reform**

Dear Supervisors:

I want you to know about one of the many examples of CEQA violations now occuring. It is another reason why we need the reforms that Supervisor Kim is proposing.

1. On October 24, 2012 Marvin Yee filed an Environmental Evaluation Application for 789 Frederick Street to the Planning Department and stated the following:
   That the project is not related to a larger project, series of projects or program; and
   That there would be no more than 5,000 SF ground disturbance at the site; and
   The Described Proposed Use is "Community Garden"; and
   The Estimated Cost is $250,000.
   The address was incorrect, it is 780 Frederick Street.

2. In the December 3, 2012 memo to GM Ginsburg Yee says construction at the site will be 11,200 SF for the development of the demonstration areas, and that Demolition/Site Preparation will involved 16,800SF. Despite filling out the Environmental Evaluation Application saying the project would involve ground disturbance of no more than 5,000 SF.

3. There has been no notice to the public of ground disturbance, potential hazardous materials exposure, or opportunity for input, etc.

4. The approximately one acre site was historically used as a steam train switching yard, then as a recycling center anc community garden. We believe there are potentially hazardous materials such as heavy metals, oil, and other toxins being released into the air. Additionally, there is a high-pressure gas line running under the site, sitting on a shallow water table, and the potential location of a tribal burial ground, as numerous arrowheads have been found on the site.

5. January 18, 2013, GM Phil Ginsburg wrote to the Mayor's Office stating "the overall cost of the community garden is estimated to be approximately $1.6 million." He also stated that it would contain vendor displays and provide "naming oppportunities" for $110,000 to $400,000 each.

The categorical exemption was issued erroniously, and this is a mockery of public process.

Cordially,

Teresa M. Welborn
enc.

Teresa M. Welborn
2001 Oak Street
San Francisco CA 94117
415.752.8520 p tesw@aol.com 415.418.6103 f

April 8, 2013

Supervisor London Breed **RE: CEQA Reform**

Dear Supervisor Breed:

I want you to know about one of the many examples of CEQA violations now occuring. It is another reason why we need the reforms that Supervisor Kim is proposing.

1. On October 24, 2012 Marvin Yee filed an Environmental Evaluation Application for 789 Frederick Street to the Planning Department and stated the following:
   That the project is not related to a larger project, series of projects or program; and
   That there would be no more than 5,000 SF ground disturbance at the site; and
   The Described Proposed Use is "Community Garden"; and
   The Estimated Cost is $250,000.
   The address was incorrect, it is 780 Frederick Street.

2. In the December 3, 2012 memo to GM Ginsburg Yee says construction at the site will be 11,200 SF for the development of the demonstration areas, and that Demolition/Site Preparation will involved 16,800SF. Despite filling out the Environmental Evaluation Application saying the project would involve ground disturbance of no more than 5,000 SF.

3. There has been no notice to the public of ground disturbance, potential hazardous materials exposure, or opportunity for input, etc.

4. The approximately one acre site was historically used as a steam train switching yard, then as a recycling center anc community garden. We believe there are potentially hazardous materials such as heavy metals, oil, and other toxins being released into the air. Additionally, there is a high-pressure gas line running under the site, sitting on a shallow water table, and the potential location of a tribal burial ground, as numerous arrowheads have been found on the site.

5. January 18, 2013, GM Phil Ginsburg wrote to the Mayor's Office stating "the overall cost of the community garden is estimated to be approximately $1.6 million." He also stated that it would contain vendor displays and provide "naming oppportunities" for $110,000 to $400,000 each.

The categorical exemption was issued erroniously, and this is a mockery of public process.

Cordially,

Teresa M. Welborn
enc.

+cc LB

Facts from documents:
- The number of new garden plots appears to be 40, neither the 50 previously announced nor the 51 demolished.

- On October 24, 2012 Marvin Yee filed an Environmental Evaluation Application to the Planning Department and stated the following:

- That the project is not related to a larger project, series of projects or program; and

(1) - That there would be no more than 5,000SF ground disturbance at the site; and
- the Described Proposed Use is "Community Garden"; and
- the Estimated Cost is $250,000.

- Less than six weeks later on December 3, Marvin Yee sent a memo 2012 to GM Phil Ginsburg thru Dawn Kamalanathan saying:

"Description – A program of exhibition spaces developed with established organization to showcase their expertise. A portion of the demonstration garden will contain permanent exhibits.

"The demonstration garden would be made available for commercial vendors for a fee to showcase their garden-related products. Spaces would be auctioned to the highest bidder for a specified duration and scheduled for a staggered rotation to provide continual interest to visitors."

- Attached to the Department of Planning Environmental Evaluation Application of October 24, 2012 is the Recreation & Park Commission Project Contract No. 3059V called GGP Community Garden, submitted by Marvin Yee to DPW, which is dated March 2011, and located it at the SW corner of Kezar Stadium.

(2) **- In the December 3, 2012 memo to GM Ginsburg Yee says construction at the site will be 11,200SF for the development of the demonstration areas, and that Demolition/Site Preparation will involved 16,800SF." Despite filling out the Environmental Evaluation Application saying the project would involve ground disturbance of no more than 5,000 SF.**

(3) (4) No notice to public Haz Mat

- In the same December 3, 2012 memo Yee writes re "Sustainable Garden Assistance Center – Future Phase Cost Estimate" for the 780 Frederick St. site.

3) Why did RPD bulldoze a thriving community garden to build a community garden? Where are the funds for the current work coming from? Why hasn't RPD spent the funds to improve the pedestrian path in the Panhandle, which has been in dire need of repair for many years?
   a. If you are stopped from speaking for any reason, cite this immediately:
      i. Sunshine Administrative Code 57.15(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

4) Shouldn't the immediate neighbors be notified that RPD is excavating the site, jack hammering asphalt exposing potentially toxic soil? Besides the decades of vehicles coming through the Recycling Center, the site used to be a steam train switching yard and we believe there are potentially heavy metals, oil, and other toxins being released into the atmosphere. In addition, there is a high-pressure gas line that runs under it, sits on top of a shallow water table and arrowheads have been found many times in the surrounding soil possibly revealing this may be a tribal burial ground. Ultimately, has the soil been tested? Should there be an environmental impact report before further work continues?
   a. If you are stopped from speaking for any reason, cite this immediately:
      i. Sunshine Administrative Code 57.15(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

5) The HANC Recycling Center provided recycling services for Golden Gate Park. Although new recycling containers have recently appeared in Golden Gate Park, it is not clear whether RPD has any established plan for recycling within the Park. On March 8, 2011, the Board of Supervisors adopted Resolution 121-11 which called for, among other things, that the Recreation and Parks Department and the Department of the Environment collaborate with the Haight Ashbury Neighborhood Council in developing and implementing a recycling program in Golden Gate Park. Although HANC no longer runs a recycling center, we still have expertise in recycling and can contribute to the development and implementation of such a plan. In any event, Golden Gate Park (and other RPD facilities) should have a real recycling plan.
   a. If you are stopped from speaking for any reason, cite this immediately:
      i. Sunshine Administrative Code 57.15(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

- "The start-up cost estimate for future phase elements as shown on the concept plan is as follows:

Demonstration/Site Preparation (16,800 SF)	*$25,200*
Demonstration Area	*$360,910*
Materials Distribution	*$295,750*
Outdoor Classroom	*$107,250*
Project Contingency (20%)	*$157,822*
FUTURE PHASE COST ESTIMATE	*$946,932*

Note: This cost estimate does not include part-time staff funding for a site and program manager estimated at $75,000." (This would presumably be annually.)

(Where is this money being budgeted, and who has approved it?)

- On <u>January 18, 2013, GM Ginsburg</u> wrote Olga Ryerson on the Mayor's office describing the "Future Phase" at 780 Frederick St., stating, "The new Community Garden in GGP will not only help meet a portion of this need, but also offer educational opportunities and technical assistance both to existing plot-holders and to new gardeners who join the movement as both the department and other city and private agencies work to add gardening capacity in San Francisco.

"Overall Budget: The overall cost of the GGP Community Garden is estimated to be approximately <u>$1.6 million</u> for Phase 1 and Phase 11. (See images attached and above.)Phase 1 construction of large gardening beds, a nursery and potentially a small greenhouse would cost about $250,000."

(Who has heard about or approved this $1.6 million budget, and where is it coming from?)

<u>Ginsburg writes two paragraphs on "Naming opportunities"</u>, saying lead contributor of $300 – 400,000 could be more prominently recognized. Another for $110,000 could be prominently recognized.

(Who has heard of this, or approved it?)

UNIVERSITY OF
CALIFORNIA
HASTINGS
COLLEGE OF THE LAW

CIVIL JUSTICE CLINIC
100 McAllister Street, Suite 300
San Francisco, CA 94102
(415) 557-7887 (phone)
(415.) 557-7895 (fax)

To: Eric Brooks

From: Justin D. Bigelow, Edward D. Mata, and Mark N. Aaronson

Re: Wiener CEQA Amendments Section 31.16(b) "Board as CEQA Decision Making Body"

Date: April 3, 2013

Introduction

Proposed section 31.16(b) of Supervisor Wiener's amendments to the San Francisco Administrative Code adds a new factor into the local application of CEQA: whether the Board of Supervisors is the "CEQA decision-making body." When the Board is the CEQA decision-making body, the initial CEQA determination by the Planning Department or Planning Commission cannot be administratively appealed by members of the public to the Board of Supervisors, but the Board is obliged to hold a public hearing before a Board committee and the full Board must vote to affirm or reject the initial CEQA decision before acting on the underlying project. The changes would affect the process of Board review of CEQA determinations. This memo analyzes two questions prompted by Supervisor Wiener's proposed section 31.16(b):

1) What are the differences when the Board is the CEQA decision-making body versus when the Board is not the CEQA decision-making body?
2) When is the Board the CEQA decision-making body?

Discussion

1) What are the differences when the Board is or is not the CEQA decision-making body?

A. The Proposal Eliminates a Right of Public Hearing Before the Full Board.

Currently, all administrative appeals of CEQA determinations are considered after a public hearing before the full Board of Supervisors.[1] Supervisor Wiener's proposal eliminates the right to a public hearing before the full Board both when the Board is the CEQA decision-

[1] S.F. Admin. Code § 31.16(b).

making body and for all administrative appeals.[2] For context, the Board of Supervisors heard 38 different appeals of CEQA determinations between 2010 and 2012.[3]

Based on the stated intent of the proposal to streamline the CEQA process, it appears highly likely that when the Board is the CEQA decision-making body the public hearing will be the regular public hearing for the project when it is heard by the Board's Land Use and Economic Development Committee. That is, the CEQA public hearing envisioned by the amendments is actually the regular public hearing on the merits of the project. While both project merits and the CEQA determination will be the subject of the public hearing, the amendments do not identify rules to submit written comments or contemplate additional time for public comment to accommodate the combined subject matters.[4] The full Board would then affirm or reject the CEQA determination in light of the Committee hearing record.[5] The Board in its discretion could decide to hold any public hearing before the full Board, but it is doubtful that public hearings will regularly be held before the full Board as is the case now for CEQA determination appeals.

B. The Proposal Eliminates the Right to an Administrative Appeal when the Board is the CEQA decision-making body.

When the Board is the CEQA decision-making body, the public cannot appeal to the Board of Supervisors the CEQA decision of the Environmental Review Officer, Planning Department, or Planning Commission.[6] The CEQA decision instead would be automatically before the Board for consideration. In that event, as noted above, it is likely a Board committee would hold a public hearing regarding the project merits **and** the relevant CEQA determination, after which on referral back from the committee, the full Board must approve or reject the CEQA determination before acting on the project approvals.[7] When the Board is the CEQA decision-making body, members of the public would not need to request a public hearing in writing. Rather, interested individuals could present their positions regarding both the CEQA determination and the merits of the project at the public hearing before the Board's Land Use and Economic Development Committee.[8] Individuals could still appeal the Board's approval or rejection of a CEQA determination in court.[9]

---

[2] *Proposed §§ 31.16(b)(3) & 31.16(c)(4)*

[3] Wycko, B., S.F. Environmental Review Officer, "Commissioner requests information on proposed CEQA legislation [BF 12-1019]." S.F. Planning Department Memo to S.F. Planning Commission & Historic Preservation Commission, Nov. 29, 2012, Attachment B: Appeals Filed at the Board of Supervisors.

[4] *See Proposed § 31.16(b)(3).*

[5] *Proposed § 31.16(b)(4).*

[6] *Proposed § 31.16(b)(1).*

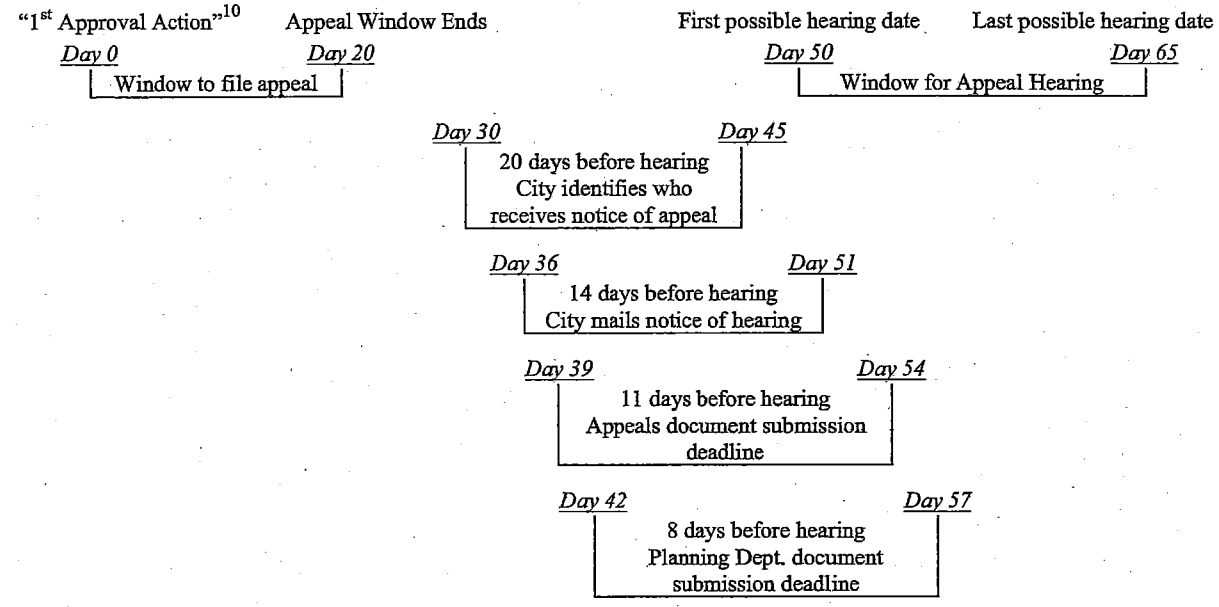
[7] *Proposed §§ 31.16(b)(1), (b)(3), & (b)(4).*

[8] *Proposed § 31.16(b)(3).*

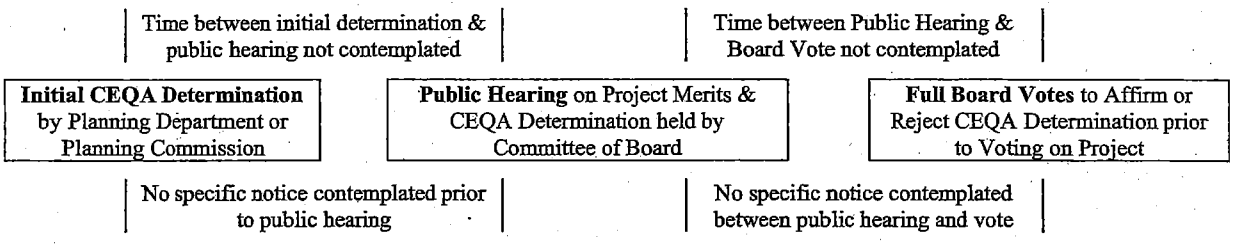
[9] Cal. Pub. Res. Code § 21167; *see also* Cal. Pub. Res. Code § 21152(a). Notably, it appears likely that to have standing to appeal the CEQA determination in court, one would be required to comment orally or in writing at the public hearing pursuant to CEQA's administrative exhaustion requirement.

Unlike the proposed administrative appeal process, Supervisor Wiener's proposed amendments do not contemplate formal rules or timelines to review CEQA determinations when the Board is the CEQA decision-making body. Likewise, the proposal does not contemplate specific notice requirements when the Board is the CEQA decision-making body. The following flowcharts illustrate the paths for a CEQA determination depending upon whether or not the Board is the CEQA decision-making body:

Proposed Process When BOS is Not the CEQA Decision-Making Body



Proposed Process When Board is the CEQA Decision-Making Body



2) When is the Board the CEQA decision-making body?

It is important to note that the Board is not the CEQA decision-making body based on the type of CEQA determination. The Board may or may not be the CEQA decision-making body for a project regardless of whether it is subject to an exemption, negative declaration, or EIR. Proposed section 31.16(b)(2) sets forth in subsections (A), (B), and (C) three universes of projects where the Board becomes the CEQA decision-making body; each is addressed below.

[10] For discussion of proposed "1st Approval Action," *see* Bigelow, J. & Mata, E., "Comparison of CEQA Amendments." UC Hastings C.E.D. Memo, Nov. 15, 2012, pages 2-3.

A. Subsection 31.16(b)(2)(A)

First, proposed section 31.16(b)(2)(A) states that "the Board is the CEQA decision-making body if . . . [a]t the time an appeal is filed the Board has affirmed the CEQA decision rendered by a non-elected body of the City and approved the project." It appears subsection (A) forecloses any possibility that once a CEQA determination **and** the project have each been approved by the Board of Supervisors, the project could be brought back to the Board of Supervisors on appeal.

Notably, if a project were to change after the Board approved both the CEQA determination and the project, the validity of the initial CEQA determination could not be challenged as it applied to the revised project unless there was a new CEQA determination. This issue is particularly relevant for exemption determinations in light of other changes in Supervisor Wiener's proposal. Specifically, proposed section 31.08(i) authorizes the Environmental Review Officer to examine a project that has changed since an exemption determination was granted to determine if the initial exemption still applies. Proposed section 31.08(i) is unclear whether the Environmental Review Officer's reevaluation of the initial application for exemption is a new CEQA determination that could be subject to an administrative appeal to the Board.[11] For instance, assume an exemption was appealed to the Board of Supervisors, which affirmed the exemption, and the project was then approved. Then, there are project changes after the approvals. The ERO *may* reevaluate the applicability of the exemption, but unless the Planning Department or Planning Commission "renders a new CEQA exemption determination," the reevaluation would not be subject to an appeal because the Board could still be construed to be the CEQA decision-making body.[12]

B. Subsection 31.16(b)(2)(B)

Second, proposed section 31.16(b)(2)(B) states that "the Board is the CEQA decision-making body if . . . [o]ne or more proposed approval actions for the project is pending before the Board of Supervisors prior to the expiration [of the administrative appeal period]." In essence, this means the Board is the CEQA decision-making body if it will hear a resolution or ordinance related to the project within twenty days of the first approval action of the project.

The drafting of subsection (2)(B) is ambiguous in two ways. First, because Supervisor Wiener's proposal explicitly contemplates actions before "the Board or a Committee of the Board" in other sections, it is unclear whether the Board would be the CEQA decision-making body if a resolution or ordinance were scheduled to be heard before a Board committee and not the full Board. Second, it is unclear whether the Board would be the CEQA decision-making body if the resolution or ordinance were scheduled to be heard by the Board *after* the expiration of the appeal windows. The ambiguity in this second instance concerns whether the Board

[11] Current S.F. Admin. Code §§ 31.19(a) & (b) clarify that reevaluations of the applicability of an exemption upon a "substantial modification" of an approved project is a new CEQA determination that can be appealed. However, because *Proposed § 31.08(i)* may apply to any project changes, the ability to appeal the validity of the reevaluation remains murky.

[12] *See Proposed § 31.08(i).*

would be the CEQA decision-making body if it scheduled a project approval hearing on or after the twenty-first day since the first approval action. The underlying circumstances leading to this ambiguity would most likely involve an approval action pending before the Board within twenty days of the first approval action but the hearing for which is delayed until after the twenty days had passed. Because of the expiration of the twenty-day period, the Board arguably no longer would be the decision-making body and an appeal by a concerned party would no longer be timely. In such circumstances, the Board would not have any jurisdiction to scrutinize a CEQA determination either as the CEQA decision-making body or as a result of a CEQA administrative appeal filed by a concerned party.

C. Subsection 31.16(b)(2)(C)

Third, proposed section 31.16(b)(2)(C) states that "the Board is the CEQA decision-making body if . . . [t]he Planning Department prepared the CEQA decision in support of a proposed ordinance." Essentially, the Board would be the CEQA decision-making body any time it created an ordinance – as opposed to a resolution – regarding a project or a policy. On the one hand, subsection (C) is broader than subsection (B) because it applies to all Board ordinances that are subject to CEQA review regardless of when the ordinance will be heard by the Board. On the other hand, subsection (C) is narrower because it applies only to Board ordinances and not to resolutions or motions of the Board that require CEQA review.

This provision does not create an exception to Board review of CEQA decisions when there is an ordinance subject to CEQA review. However, as with other situations noted above, there is no right to have a hearing before the full Board, and it is unclear what notice provisions and other procedures would apply regarding participation in a combined public hearing before a Board committee on both the CEQA determination and the merits of either an ordinance alone or an ordinance and other land use entitlements if specific project approvals are also involved.

Conclusion

Proposed section 31.16(b) as presently drafted eliminates the guarantee of a public hearing on CEQA determinations before the full Board of Supervisors. It also delineates a new form of Board of Supervisor's jurisdiction in CEQA matters, which is unclear in application. Lastly, it establishes a procedurally vague committee hearing and Board decision-making process for some CEQA determinations based on the form and/or timing of related Board actions on the underlying subject matter.

The CEQA determinations affected by proposed section 31.16(b) include exemptions, negative declarations, and EIRs. The lack of clarity in both application and procedure occurs when the Board is the decision-making body. Procedural uncertainties are due to the inapplicability of notice and other procedural safeguards that circumscribe CEQA appeals and the failure of the proposed amendments to address and codify comparable procedures when CEQA matters are before the Board but not as a result of the filing of an appeal.

March 19, 2013
Memo: to Linda D'Avirro
From: Denis M.
acts about and Questions for April 2,2013 PROSAC

Q: When was the GGP Community Garden & Sustainable Garden Assistance Center project initially developed?

Q: Who approved the auctioning of exhibit space to commercial venders at 780 Frederick St. site, and offering naming rights to donors?

Q: Were public hearings about this project held, and if so, where, when and to whom were notices sent, and where were notices posted? Who attended the meeting(s) from RPD and who from various nearby communities.

Q: What has been done in the project at this point in time?

Q: Where is the $1.6 million budgeted?

Q: When is there to be public hearing on the proposal to offer significant and permanent naming rights to big donors?

1 re 780 Frederick St., former HANC site at the southwest corner of Kezar Stadium.

Facts on the ground:
- More than just community garden plots have been installed.
- Concrete materials stalls have been poured.
- Much of the site has been cleared, and the east entrance and the materials bins are shaped to corresponds to the DPW-Dept. of Engineering March 2011 approved drawings, and correspond to the picture on page 2 of GM Ginsburg's January 18, 2013 memo to Olga Ryerson.

Facts from RPD communication:
- Immediate neighbors were told that HANC's 50+ garden plots were to be replaced with 50 new plots.
- Most people in and around the east end of GGP, and 780 Frederick, including the Kezar Stadium Advisory Committee were not informed of this proposed development at Kezar.
- That RPD would spend $250,000 to demolish and rebuild 50 garden plots.

Date received:
10/26/12

SAN FRANCISCO
PLANNING DEPARTMENT

Environmental Evaluation Application

The California Environmental Quality Act (CEQA) requires public agencies to review the environmental impacts of proposed projects. In San Francisco, environmental review under CEQA is administered by the Major Environmental Analysis (MEA) division of the Planning Department. The environmental review process begins with the submittal of a completed Environmental Evaluation (EE) Application to the Planning Department. Only the current EE Application form will be accepted. No appointment is required but staff is available to meet with applicants upon request.

The EE Application will not be processed unless it is completely filled out and the appropriate fees are paid in full. Checks should be made payable to the San Francisco Planning Department. See the current *Schedule of Application Fees* and contact the staff person listed below for verification of the appropriate fees. Fees are generally non-refundable. **Documents in italics are available online at sfgov.org/planning.**

The EE Application is comprised of four parts. Part 1 is a checklist to ensure that the EE Application is complete; Part 2 requests basic information about the site and the project; Part 3 is a series of questions to help determine if additional information is needed for the EE Application; and Part 4 is a project summary table.

The complete EE Application should be submitted to the Planning Department staff as follows: For projects greater than 10,000 square feet in size and where Part 3 Questions #3, #8, #10, or #11 are answered in the affirmative, or for projects that require mitigation measures, please send the application materials to the attention of Ms. Fordham or Ms. Poling. For all other projects, please send the application materials to the attention of Ms. Pereira.

Monica Pereira
1650 Mission Street, Suite 400
San Francisco, CA 94103
(415) 575-9107, monica.pereira@sfgov.org

Chelsea Fordham or Jeanie Poling
1650 Mission Street, Suite 400
San Francisco, CA 94103
(415) 575-9071, chelsea.fordham @sfgov.org
(415) 575-9072, jeanie.poling@sfgov.org

PART 1 – EE APPLICATION CHECKLIST	Provided	Not Applicable
Two copies of this application with all blanks filled in	☒	
Two sets of project drawings (see "Additional Information" at the end of page 4,)	☒	
Photos of the project site and its immediate vicinity, with viewpoints labeled	☒	
Fee To be transferred as journal entry when fee amount is confirmed.	☐	
Supplemental Information Form for Historical Resource Evaluation and/or Historic Resource Evaluation Report, as indicated in Part 3 Questions 1 and 2	☐	☒
Geotechnical Report, as indicated in Part 3 Questions 3a and 3b	☐	☒
Tree Disclosure Statement, as indicated in Part 3 Question 4	☐	☒
Phase I Environmental Site Assessment, as indicated in Part 3 Question 8	☐	☒
Additional studies (list)	☐	☒

Applicant's Affidavit. I certify the accuracy of the following declarations:

a. The undersigned is the owner or authorized agent of the owner(s) of this property.
b. The information presented is true and correct to the best of my knowledge.
c. I understand that other applications and information may be required.

Signed (owner or agent): Marvin Yee — Digitally signed by Marvin Yee DN: cn=Marvin Yee, o=SF Recreation and Parks, ou=Capital Division, email=marvin.yee@sfgov.org, c=US Date: 2012.10.24 19:34:22 -07'00' Date: 10-24-12

(For Staff Use Only) Case No. 2012.1380E Address: 710 Frederick St.

Block/Lot: 1264/001

v.12.22.2010

SAN FRANCISCO DEPARTMENT OF CITY PLANNING
CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW

CLASS 4(b) landscaping of parks.
Jeanie Poling 10/2/12

PART 2 – PROJECT INFORMATION

Owner/Agent Information

Property Owner	City/County of San Francisco	Telephone No.	415-581-2541
Address	30 Van Ness Ave, 5th Floor	Fax. No.	415-581-2540
	San Francisco, CA 94102	Email	Marvin.Yee@sfgov.org
Project Contact	Marvin Yee	Telephone No.	415-581-2541
Company	Recreation and Parks	Fax No.	415-581-2540
Address	30 Van Ness Ave, 5th Floor	Email	Marvin Yee@sfgov.org
	San Francisco, CA 94102		

Site Information

Site Address(es):	780 Frederick Street in Golden Gate Park		
Nearest Cross Street(s)	Arguello Street		
Block(s)/Lot(s)	1264/001	Zoning District(s)	Public Park
Site Square Footage	12,200 SF	Height/Bulk District	NA
Present or previous site use	Park		
Community Plan Area (if any)	NA		

Project Description – please check all that apply

☐ Addition ☐ Change of use ☐ Zoning change ☐ New construction

☐ Alteration ☐ Demolition ☐ Lot split/subdivision or lot line adjustment

☒ Other (describe) Park land improvements Estimated Cost $250,000

Describe proposed use Community garden

Narrative project description. Please summarize and describe the purpose of the project.

Improve paved portion of parkland into a community garden. Site improvements include the installation of raised garden planters, compost and garden material bins, and tool storage container. The plant nursery area will be set up with portable shelves. Limited removals include asphalt and gravel sub-base for raised planters, and to repave for ADA compliance at the existing driveway.

PART 3 – ADDITIONAL PROJECT INFORMATION	Yes	No
1. Would the project involve a major alteration of a structure constructed 50 or more years ago or a structure in an historic district? If yes, submit a *Supplemental Information Form for Historical Resource Evaluation*. Instructions on how to fill out the form are outlined in the *San Francisco Preservation Bulletin No. 16* (see pages 28-34 in Appendix B).	☐	☒
2. Would the project involve demolition of a structure constructed 50 or more years ago or a structure located in an historic district? If yes, a Historic Resource Evaluation Report (HRER)* will be required. The scope of the HRER will be determined in consultation with the Department's Preservation Coordinator.	☐	☒
3a. Would the project result in excavation or soil disturbance/modification greater than 8 feet below grade? If yes, how many feet below grade would be excavated? _____ What type of foundation would be used (if known)? _____	☐	☒
3b. Is the project site located in an area of potential geotechnical hazard as identified in the San Francisco General Plan or on a steep slope or would the project be located on a site with an average slope of 20% or more? If yes to either Question 3a or 3b, please submit a Geotechnical Report.*	☐	☒
4. Would the project involve expansion of an existing building envelope, or new construction, or grading, or new curb cuts, or demolition? If yes, please submit a *Tree Disclosure Statement*.	☐	☒
5. Would the project result in ground disturbance of 5,000 gross square feet or more?	☐	☒
6. Would the project result in any construction over 40 feet in height? If yes, apply for a Section 295 (Proposition K) Shadow Study. This application is available on the Planning Department's website and **should be submitted at the Planning Information Center**, 1660 Mission Street, First Floor.	☐	☒
7. Would the project result in a construction of a structure 80 feet or higher? If yes, an initial review by a wind expert, including a recommendation as to whether a wind analysis* is needed, may be required, as determined by Department staff.	☐	☒
8. Would the project involve work on a site with an existing or former gas station, auto repair, dry cleaners, or heavy manufacturing use, or a site with underground storage tanks? If yes, please submit a Phase I Environmental Site Assessment (ESA).* A Phase II ESA (for example, soil testing) may be required, as determined by Department staff.	☐	☒
9. Would the project require any variances, special authorizations, or changes to the Planning Code or Zoning Maps? If yes, please describe.	☐	☒
10. Is the project related to a larger project, series of projects, or program? If yes, please describe.	☐	☒
11. Is the project in Eastern Neighborhoods or Market & Octavia Community Plan Area? If yes, and the project would be over 55 feet tall or 10 feet taller than an adjacent building built before 1963, please submit an elevation or renderings showing the project with the adjacent buildings.	☐	☒

* Report or study to be prepared by a qualified consultant who is contracted directly by the project sponsor.

PART 4 – PROJECT SUMMARY TABLE

If you are not sure of the eventual size of the project, provide the **maximum** estimates.

Gross Square Footage (GSF)	Existing Uses	Existing Uses to be Retained	Net New Construction and/or Addition	Project Totals
Residential				
Retail				
Office				
Industrial				
Parking				
Other (specify use)	12,200 SF (open space)	12,200 SF (open space)	NA	12,200 SF
Total GSF	12,200 SF	12,200 SF	NA	12,200 SF
Dwelling units				
Hotel rooms				
Parking spaces				
Loading spaces				
Number of buildings				
Height of building(s)				
Number of stories				

Please describe any additional project features that are not included in this table:

Additional Information: Project drawings in 11x17 format should include existing and proposed site plans, floor plans, elevations, and sections, as well as all applicable dimensions and calculations for existing and proposed floor area and height. The plans should clearly show existing and proposed off-street parking and loading spaces; driveways and trash loading areas; vehicular and pedestrian access to the site, including access to off-street parking and parking configuration; and bus stops and curbside loading zones within 150 feet of the site. A **transportation study** may be required, depending on existing traffic conditions in the project area and the potential traffic generation of the proposed project, as determined by the Department's transportation planners. **Neighborhood notification** may also be required as part of the environmental review processes.

Miller, Alisa

From: Michael Russom [michaelrussom@sbcglobal.net]
Sent: Monday, April 08, 2013 10:41 AM
To: Miller, Alisa
Subject: April 8 hearing on CEQA

Alisa--You offered to have something from me for the record on today's CEQA hearing. I hope this gets to you in time to have it in the proper hands.

CEQA: Example of the Planning Dept Allowing Major Project Changes Without Environmental Review

What Wiener is saying about his legislation is simply false.

It does apply to large projects such as Parkmerced. Under Wiener's legislation, for any

project on which the Board of Supervisors will be voting on any approval item, the Board will not be required to hear a full legal appeal before the entire Board. Instead the EIR will just be informally lumped in with the project's other approvals at the three member Land Use Committee, under normal public comment procedure, with no opportunity for appellants to present a formal appeal.

For a project like Parkmerced that is so

contentious and so profoundly important to the existing residents, a

mere three member committee hearing would be totally inadequate to presenting the serious problems with an EIR.

There were many changes in the Parkmerced plan that happened -after- the EIR was first released, but were not cited by Planning staff as a reason to do a -new- EIR when they should have called for one.

Michael Russom

Parkmerced garden apartment resident

PmAC member

Member of the CEQA Improvement coalition

Miller, Alisa

From: BVNA [BVNA@ix.netcom.com]
Sent: Sunday, April 07, 2013 6:45 PM
Cc: Ballard, Sarah; Miller, Alisa
Subject: SUPPPORT Sup. Wiener's CEQA bill

Honorable Members of the Board of Supervisors:
cc: Clerk of the Land Use Committee, Sarah Ballard, SFRPD

Buena Vista Neighborhood Association (BVNA) strongly urges that you **SUPPORT Supervisor Wiener's proposed legislation to establish a fair, clear and transparent CEQA appeals process in San Francisco.** The legislation is scheduled to be heard as Item 1 before your Board's Land Use Committee on Monday, April 8.
A glaring example of the unfair, inappropriate abuses which Sup. Wiener's bill addresses is an outrageous and selfish one-person, last-minute appeal regarding needed improvements at Dolores Park, which was featured in an SF Chronicle article today (Sunday 4/7). That unfair appeal attempts to overturn years of thorough and thoughtful outreach and broad community process that helped shape and supports the needed improvements. Supervisor Wiener's legislation also extends more fairness to small businesses, among other deserving constituencies.
Supervisor Kim's proposed alternative legislation on the topic does not deliver the same level of needed improvements which Sup. Wiener's bill does.

Respectfully
Richard Magary, Steering Committee Chair
Buena Vista Neighborhood Association (BVNA)
555 Buena Vista West #601; San Francisco CA 94117-4143
415/431-2359
BVNA@ix.netcom.com
4/7/20913 18:40pdt

LAND USE
C-PAGES
FILE NO: 121019

From: Michael Milenski [vmmilenski@yahoo.com]
Sent: Friday, April 05, 2013 7:50 AM
To: Board of Supervisors
Subject: Changes to CEQA

To whom it may concern:

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Victor Milenski
2049 Oak St. #2
San Francisco, CA 94117

From: tesw@aol.com
Sent: Friday, April 05, 2013 7:44 AM
To: Board of Supervisors
Cc: Wiener, Scott; Kim, Jane; Chiu, David; Breed, London
Subject: CEQA legislation

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

In San Francisco, the Planning Department can require projects to undergo a full environmental impact report (EIR). Alternatively, projects can receive a designation of negative declaration or mitigated negative declaration (neg decs), or be declared categorically exempt (cat exes) from undergoing EIRs.

Supervisor Scott Wiener is the sponsor of legislation that was first drafted in 2012. No one knows who has backed Supervisor Wiener's legislation or who was involved in crafting that legislation. Since then, community and environmental groups were invited to speak with Supervisor Wiener, but no substantial changes were made to his legislation. Instead, it continues to favor developers and exclude the public.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Teresa Welborn

From: tesw@aol.com
Sent: Friday, April 05, 2013 7:41 AM
To: Board of Supervisors
Cc: Wiener, Scott; Kim, Jane; Chiu, David; Breed, London
Subject: CEQA legislation

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Glen L. Van Lehn

From: Vincent Pietromartire [vpietromartire@gmail.com]
Sent: Thursday, April 04, 2013 11:19 PM
To: Board of Supervisors
Subject: SF resident in opposition to Supervisors Scott Weiner's legislation

To the San Francisco Board of Supervisors

As a long time resident of the city, I am opposed to Supervisor Wiener's changes to CEQA.

I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time. This request seems more than reasonable.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

I believe it is important to remember that CEQA was first passed four decades ago, in 1970, to:

- * mandate environmental analysis of projects that may have environmental impacts;
- * require alternatives to and/or mitigation of those projects that do have environmental impacts;
- *mandate public disclosure of the environmental findings;
- *and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Vincent Pietromartire
837 Central Ave.
vpietromartire@gmail.com

From:	NINERSAM@aol.com
Sent:	Thursday, April 04, 2013 11:06 PM
To:	Avalos, John; Breed, London; Campos, David; Chiu, David; Tang, Katy; Cohen, Malia; Elsbernd, Sean; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Wiener, Scott; Yee, Norman (BOS)
Cc:	Board of Supervisors
Subject:	Supervisor Weiner's CEQA Amendentsw

Richmond Community Association 146 18th Avenue San Francisco, CA 94121

Board of Supervisors
1 Dr. Carton Goodlett Pl Rm 224
San Francisco, Ca 94102

Subject: Oppose Supervisor Weiner's CEQA Amendments

Dear Supervisors,

The Richmond Community Association (RCA) urges you to oppose Supervisor Weiner's CEQA Amendments because it weakens CEQA protection for San Franciscans. RCA understands that there needs to be changes in the current San Francisco procedures to process appeals for categorical exemptions and negative declarations. Supervisor Weiner's amendments go much further and drastically guts the CEQA protection that San Franciscans have had for decades.

The most important changes are as follows:

1. It changes the trigger which begins the appeal timeline from the final discretionary approval to the first discretionary approval. Developers must be overjoyed; it is bad news for the residents who don't closely follow Planning Department and Planning Commission meeting. Many people don't get involved in a project initially because there is very little interest until they become familiar with a project. The appeals process is extremely important because many changes can and do occur during the appeal process. If the trigger is changed to the first discretionary approval, the public will miss their opportunity to protect the environment.

2. It allows the San Francisco Board of Supervisors to avoid hearing any CEQA appeals, including appeals of Environmental Impact Reports (EIRs), under its State mandated responsibility as a full 11 member judicial body to consider such appeals in formal appeal proceedings, and to instead relegate consideration of objections to CEQA determinations to a three member committee of the Board which would not be required to hold full formal appeal hearings to consider such objections.

3. It allows the Planning Department to determine if a new EIR is required if there are significant changes in the initial plan. Almost everyone agrees that there are changes after a plan is approved. Can we depend on the Planning Department to make sound decisions when they decided to Neg Dec the 2004 Housing Element and the Bike Plan. The District Appeals Court ruled against the City in both of those cases. The consensus of most neighborhood organizations is that the Planning Department is too pro-development and cannot be dependent on the protect the environment without community input.

Allow Supervisor Kim's CEQA Amendments to be hear along with Supervisor Weiner's CEQA Amendments. Do not approve CEQA Amendments April 8, 2013.

Yours truly,
Hiroshi Fukuda,
President, Richmond Community Association

From: DG [dgrayhello@yahoo.com]
Sent: Thursday, April 04, 2013 9:40 PM
To: Board of Supervisors
Subject: oppose Supervisor Wiener's changes to CEQA

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Diana.....

"Spiritual practices help us move from identifying with the ego to identifying with the soul. Old age does that for you too. It spiritualizes people naturally." Ram Dass

From: Johanna Ward [jwar1811@yahoo.com]
Sent: Thursday, April 04, 2013 8:08 PM
To: Board of Supervisors
Subject: CEQA Changes- Scott Wiener's Proposal

Dear Board Member of SF Board of Supervisors:

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Johanna Ward
Concerned SF Resident

From: Peter Nasatir [merko@att.net]
Sent: Thursday, April 04, 2013 4:15 PM
To: Board of Supervisors
Subject: Supv. Wiener's changes to CEQA

Dear Supervisors,

I am deeply concerned with Supervisor Wiener's changes to CEQA, and urge you to oppose those changes until Supervisor Kim' s changes to CEQA may be considered at the same time.

There is a reason the CEQA has been in place for 40 years. Don't let Supervisor Weiner's short-sighted proposal pass without considering Supervisor Kim's changes at the same time.

Thank you for your consideration of this matter.

Sincerely,

Peter Nasatir,
Western Addition

From: Michelle Welch [meeshell1943@gmail.com]
Sent: Thursday, April 04, 2013 2:15 PM
To: Board of Supervisors
Subject: Hold Supervisor Weiner's CEQA legislation

I oppose Supervisor Wiener's changes to CEQA. I ask that his draft legislation be held so that Supervisor Kim' changes to CEQA may be considered at the same time.

Two pieces of legislation regarding local implementation of the California Environmental Quality Act are now making their way through the legislative process at San Francisco City Hall. Representatives of the Community CEQA Improvement Team are supporting the legislation sponsored by Supervisor Jane Kim and hope this legislation serves as the basis for improving local application of CEQA.

It is important to remember that CEQA was first passed four decades ago, in 1970, to:

- mandate environmental analysis of projects that may have environmental impacts;
- require alternatives to and/or mitigation of those projects that do have environmental impacts;
- mandate public disclosure of the environmental findings;
- and empower the public and allow the public ample time to appeal those findings.

Please protect San Francisco's implementation of our state CEQA law.

Sincerely,

Michelle Welch
519 Ashbury Street
San Francisco, CA 94117

From: Roger Kat [rager4@sbcglobal.net]
Sent: Thursday, April 04, 2013 3:16 PM
To: Board of Supervisors
Subject: CEQA

I oppose Scott Wiener's CEQA legislation. It would harm a lot of good people.

Regards Roger

From: Roger Kat [rager4@sbcglobal.net]
Sent: Thursday, April 04, 2013 3:36 PM
To: Board of Supervisors
Subject: CEQA amendment

What I meant to say in my previous email is that I oppose Scott Wiener's changes to CEQA.

Regards Roger

April 4, 2013

Supervisor David Chiu
Supervisor Jane Kim
Supervisor Scott Wiener
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

Dear Members of the Land Use & Economic Development Committee,

I am writing this letter in support of Supervisor Wiener's CEQA Appeals Process Reform Legislation.

While the original intent of CEQA is laudable and must remain intact, it is too often misused as a legal tool to stop or delay projects for reasons that are not truly related to protecting the environment. This has real consequences for our communities. Many community-serving projects which have been vetted through rigorous planning and environmental evaluation are suffocated by frivolous appeals and costly delays. The current appeals process is ambiguous and cumbersome, and the time has come to modernize the process and ensure it is fair and accessible to everyone.

Moderate and reasonable reform measures proposed by Supervisor Wiener would maintain the foundation of CEQA, requiring enhanced public discourse and the same rigorous planning and environmental evaluation, while also establishing firm guidelines for the deficient appeals process. Such reform would allow 1) the process to be more transparent and better comprehended by ordinary citizens, and 2) for appeals to be filed in a timely manner, without undue subsequent appeals which are a waste of time and money, and too often a burden to communities. In my community of North Beach/Telegraph Hill, abuse of CEQA has resulted in extensive and expensive delays of an exhaustively-vetted project to replace the North Beach Library. This is a positive, community-serving development that was stifled by an angry group of opponents who used CEQA appeals to delay and disrupt the widely supported project. Supervisor Wiener's proposal would serve to curb such abuse.

It is my hope that the Committee will seriously consider the impact of the CEQA appeals process on small and/or private projects, which can have a chilling effect on community revitalization, environmental enhancements, and smaller property improvements. Park improvement projects (such as the now infamous Lafayette Park renewal project), as well as private home improvements are at the mercy of a faulty CEQA appeals process. To that point, I suspect Supervisor Kim's reform proposal will place an unfair burden on owners of smaller properties, particularly older properties which abound in District 3, and the city as a whole. There is real concern that under this alternative proposal, redundant evaluations, as well as the potential for numerous/frivolous appeals and increased fees, would place undue financial and emotional strain on many property owners. I fear such hardship would ultimately lead to community blight, as owners will be unwilling or unable to make improvements to individual properties, or even to mutually beneficial open space. This can have serious impact on urban renewal and community spirit, and may have the unintended consequence of driving families out of San Francisco. Just as park improvements, community projects, and larger development ventures face the never-ending threat of endless appeals and EIRs (often from obstructionists whose opposition has nothing to do with environmental concerns), so will owners of small properties whose even minor improvement plans will be at the mercy of an unduly expensive, cumbersome, and unpredictable process. These small properties are owned by families, and hardworking, taxpaying citizens who deserve better, they are the bedrock of our communities.

While I applaud both Supervisors' efforts to address the shortcomings of CEQA, Supervisor Wiener's proposal is balanced, clear, and in the true spirit of the law's original intent, which was never meant to suffocate good, vetted, and fair development or improvement projects. Please consider the CEQA reform legislation proposed by Supervisor Wiener. Reasonable reform as set forth by this legislation is long over-due, and is good for San Francisco.

Regards,

Stephanie Greenburg
President, SoTel Neighbors
(415) 794-7596
stephgreenburg@sotelneighbors.org
www.sotelneighbors.org

Cc: Alisa Miller, Clerk, Land Use & Economic Development Committee
Cc: Andres Power, Legislative Aide, Office of Supervisor Scott Wiener

Miller, Alisa

From:	Sue Vaughan [susan.e.vaughan@sonic.net]
Sent:	Friday, April 05, 2013 12:06 AM
To:	Miller, Alisa
Cc:	Wiener, Scott; Chiu, David; Kim, Jane
Subject:	Comment: Administrative Code - California Environmental Quality Act Procedures: 121019

April 4, 2013 Comments for:
Administrative Code - California Environmental Quality Act Procedures: 121019

The legislation that Supervisor Scott Wiener has introduced attempts to excise the public from the planning process and handicap lawyers who would sue, using the California Environmental Quality Act, in effort to protect the environment. Supervisor Wiener's legislation intends to do this by:

- Starting the clock ticking on the 20 to 30 day window in which appeals can be filed for noticed projects at the first approval instead of the last approval;

- Requiring that all documents in support of appeals be submitted at the time of the appeal. Anything that is missed cannot later be used in a court of law, and if any appellant gets something wrong in the rush to file the appeal and the right to appeal is denied at the administrative level, the appellant has lost the right FOREVER to appeal in a court of law; and,

- Eliminating the appeal of full environmental impact reports to the full Board of Supervisors if the Board must take any approval action on the project (such as was the case with Treasure Island, the America's Cup, Park Merced, and Hunter's Point). Simply restricting the 'appeal' to a committee of three members of the Board of Supervisors is not the same thing. For one thing, an EIR can be approved at Planning on a Thursday and go directly to Land Use a few days later (as long as there is a 72-hour notice period). Depending on how rushed a project is, appellants do not necessarily have time to get all their documents together for a committee 'appeal.' In addition, appeals to the full Board of Supervisors are real appeals. Appellants have time to present their cases, the other side rebuts, and all of this is in the record for a later lawsuit. 'Appeals' to just a committee will be restricted to the usual two minutes per person of public testimony.

This legislation has absolutely nothing to do with streamlining or clarity. If there are problems with local CEQA implementation, they may lie in Planning Department process. We should have learned in the mid-2000s that the SFMTA was wrong when it decided not to do an EIR. Please reject this legislation.

Susan Vaughan
District 1

Miller, Alisa

From: Roland Salvato [rolandsalvato@hotmail.com]
Sent: Thursday, April 04, 2013 7:49 PM
To: Miller, Alisa
Cc: Kim, Jane; Chiu, David; Wiener, Scott
Subject: Examples of Development Plans Shifting After "First Approval"

To the Land Use and Economic Development Committee for the scheduled Monday, April 8, 2013 Regular Meeting
Regular Agenda item: Administrative Code - California Environmental Quality Act Procedures]121019
There are many flaws in the proposed legislation and its consideration should be postponed pending review of alternative legislation. The most obvious flaw is the legislation's failure to define while instituting the concept of "First Approval" to trigger an appeal under CEQA. There are countless examples of development/land use projects that have been altered beyond their original approved plans.

1. According to Supervisor Farrell's office, the small building in the Marina Green now proposed for development was originally slated to be an office AT FIRST APPROVAL. Without any kind of notice the plans somehow morphed into the building being planned as a RESTAURANT. That approval is an example of what could change pending a "first approval" plan basis.
2. In 2001, 2928/32 Larkin Street had approved plans for new construction. The building's design changed in 2002 and no notice of an updated project was issued. This was obviously a procedural flaw, but an example of what will be occurring regularly under Wiener's legislation.
3. 899 North Point obtained a series of permits issued, for demolition, rezoning, change of use...and a construction variance for no rear yard. Following a CEQA appeal in 2004 based on the environmental unsuitability of the locale, mitigation factors somewhat improved the project. Subsequent to the appeal the entire building's design was altered significantly, but not as a function of the environmental mitigation. Moreover, the building did not go through another review process as it should have. Not sure why, but obviously the CEQA appeal would never have occurred because the project changed several times- size, scope, etc. The neighbors would not have known when to appeal the environmental issues because the "first approval" was achieved years before the CEQA appeal needed to be filed

Each of these cases was verified in Planning Department files.

Supervisors: It would be better form to have Supervisor Wiener demonstrate WHY his legislation needs "first approvals" to trigger CEQA appeals, not put the requirement on us to show why citizens need time to formulate appeals. The onus is on the Supervisor who is proposing the legislation before you.

Please respond to this email indicating you've received it.

Thank you.

BAYAREA COUNCIL

March 6, 2013

Board of Supervisors
1 Dr. Carlton B. Goodlett Place,
San Francisco, CA 94102

Dear Members of the Board of Supervisors:

I am writing on behalf of the Bay Area Council in support of the CEQA procedures legislation sponsored by Supervisor Scott Wiener.

CEQA is fundamentally a good law and it gives well intentioned people strong powers to stop bad projects. Unfortunately, it also gives people with intentions not related to any environmental concern, those same strong powers to stop good projects. We believe this legislation, which would make timelines for noticing and appeals more reasonable and streamlined, will help rein in abuse of the CEQA process and provide clarity to project sponsors in San Francisco and their projects that require CEQA review. It is our understanding that the proposed legislation would not reduce or remove any potential appellant's rights, but rather clarifies when an appeal must be filed. This is critical to the success of development projects that will be instrumental in meeting the goals of SB 375 and the Bay Area's Sustainable Communities Strategy.

Streamlining and clarifying CEQA's intricate, and often convoluted, appeals process is an important aspect of the modernization of the law, without jeopardizing its environmental protections or public input on projects. This legislation will provide a more level playing field for both market-rate and affordable housing developers in San Francisco.

I hope you will agree and move this legislation forward.

Sincerely,

Jim Wunderman
President & CEO
Bay Area Council

Letter from Bridge Housing on CEQA Reform

President David Chiu and Members of the Board of Supervisors
City Hall, Room 244
1 Carlton B. Goodlett Place
SF, CA 94102

Ref: Proposed Reform of CEQA

Dear President Chiu and Members of the Board of Supervisors:

As you know, one of BRIDGE Housing's core missions is to identify solutions that will address California's worsening housing affordability crisis. Nowhere is this more urgent than in San Francisco where our supply of affordable housing has not kept up with our relentless demand. We need to do a much better job of building more housing for our non-wealthy citizens.

Sadly, our local CEQA rules have too frequently been an obstacle that harms our ability to build more housing and do it more cheaply. It is repeatedly used against proposals that embody principles of appropriate land use and sensible urban infill. For example, BRIDGE's landmark Coronet development on Geary Street, built for low-income seniors, is a common example of the misuse of CEQA. Local project opponents fought and delayed this excellent project for many years in an attempt to kill it, using environmental arguments as a pretext.

There are far too many examples of CEQA being invoked locally to appeal negative declarations and categorical exemptions for affordable housing projects, usually long after their approvals have been granted. These abuses increase the risk and uncertainty of building affordable housing, making it take longer and costlier to build. The harm CEQA abuse causes affordable housing is real.

On behalf of BRIDGE Housing, I would like to express my strong support for Supervisor Scott Wiener's sensible and modest CEQA reform proposal. We believe that simple fairness requires that some limits have to be placed on appeals of "neg decs" and "cat exes". Supervisor Wiener's proposal has had months of public hearings and review by community groups. He has made extensive modifications to his proposal in response to this outreach. Unfortunately, we have to acknowledge that in spite of this, some folks will never agree to any compromise or changes to the existing CEQA rules.

Finally, we learned that a competing CEQA reform measure was recently introduced by Supervisor Jane Kim. This last-minute proposal has apparently had no community review, no public hearings and, unfortunately appears to vastly increase the complexity of the public process for project entitlements – something our City does not need. We regret that we cannot support this measure.

I am writing to respectfully request that you support Supervisor Wiener's modest CEQA reform proposal. The reforms it contains are badly needed and it has been subjected lengthy public outreach to make it stronger. It is good policy for our City.

Sincerely,

Cynthia A. Parker
President & CEO
BRIDGE Housing Corporation

CENTER FOR CREATIVE LAND RECYCLING

Redesigning Land for Sustainable Communities

April 1, 2013

Supervisor Scott Wiener
Land Use Committee
1 Carlton B. Goodlet Place
San Francisco, CA 94102

RE: Support for Supervisor Weiner's Proposal to Clarify CEQA Procedures

Dear Supervisor Wiener:

On behalf of the Center for Creative Land Recycling (CCLR), I respectfully request that you support the modest, long overdue reforms being proposed by Supervisor Scott Wiener to the city's local CEQA rules. CCLR is a nonprofit organization dedicated to promoting smart growth and infill development. We support community-oriented projects to bring parks, affordable housing, and jobs to low-income communities in an environmentally sensitive manner.

Under current rules, detractors can wait months after projects have received their approvals to file appeals to successfully delay them. The lack of clarity and consistency adds enormous uncertainty and costs to projects. **This proposal will particularly assist the development of affordable housing and other community-serving amenities in low-income and environmental justice communities**, where projects must succeed on very tight budgets and even tighter timelines. For these organizations, the added delay from an unexpected appeal of their environmental review long after the resources for the project have been committed is especially harmful.

CEQA law and procedures are complex and poorly understood. As a consequence, even the most well-intentioned efforts to simplify and improve the process are greeted with deep suspicion. However, Supervisor Wiener's proposal does NOTHING to prevent citizens from being informed and participating in an open, transparent process. In fact, **this proposal improves and expands noticing of CEQA determinations over current procedures**. In addition, the proposal has gone through significant public vetting – months of stakeholder outreach and roundtable discussions that have yielded nearly three dozen amendments, resulting in a strong proposal that is ready for final passage.

We urge the Land Use Committee to approve this thoughtful, much-needed improvement to the environmental review process in our city.

Sincerely,

S. Shakofsky

Stephanie Shakofsky
Executive Director

333 Pine Street, Suite 300, San Francisco, California 94104 • 415.398.1080 • Fax 415.398.5738 • www.cclr.org

EAH

A NONPROFIT HOUSING CORPORATION

April 2, 2013

Landuse Committee
1 Carlton B. Goodlet Place
San Francisco, CA 94102

RE: Support for Supervisor Weiner's Proposal to Clarify CEQA Procedures

Dear Supervisor Kim & Supervisor Chiu

On behalf of EAH Housing, I respectfully request that you support the modest, long overdue reforms being proposed by Supervisor Scott Wiener to the city's local CEQA rules.

EAH Housing is a nonprofit corporation founded with the belief that attractive affordable housing is the cornerstone to sustainable communities. Established in 1968, EAH has become one of the largest and most respected nonprofit housing development and management organizations in the western United States.

Under current rules, opponents can wait months after projects have received their approvals to file appeals to successfully delay them. The lack of clarity and consistency adds enormous uncertainty and costs to projects. This proposal will particularly assist the development of affordable housing and other community-serving amenities in low-income and environmental justice communities, where projects must succeed on very tight budgets and even tighter timelines.

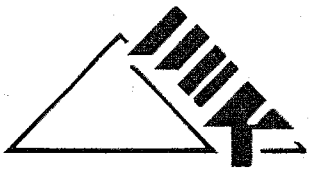
CEQA law and procedures are complex and poorly understood. As a consequence, even the most well-intentioned efforts to simplify and improve the process are greeted with deep suspicion. However, Supervisor Wiener's proposal does NOTHING to prevent citizens from being informed and participating in an open, transparent process. In fact, **this proposal improves and expands noticing of CEQA determinations over current procedures**. In addition, the proposal has gone through significant public vetting – months of stakeholder outreach and roundtable discussions that have yielded nearly three dozen amendments, resulting in a strong proposal that is ready for final passage.

We urge the Land Use Commission to approve this thoughtful, much-needed improvement to the environmental review process in our city.

Sincerely,

Mary Murtagh

Mary Murtagh
President and CEO



Golden Gate Heights Neighborhood Association
P.O. Box 27608
\San Francisco, CA 94127

April 4, 2013

Land Use Committee
San Francisco Board of Supervisors

Dear Supervisors,

At our meeting last Tuesday, April 2, 2013, the Board of the Golden Gate Heights Neighborhood Association (GGHNA) voted to send a letter to the Land Use Committee in support of Supervisor Wiener's proposed legislation to reform the CEQA appeal process, and in opposition to Supervisor Kim's proposed alternative.

GGHNA represents nearly 500 households in the inner Sunset part of the City. Our neighborhood is primarily owner-occupied, single family houses. For many of us, our only interaction with CEQA is when we want to make an addition or change to our home. San Francisco's current CEQA process is confusing and complex. As a homeowner trying to negotiate approvals for a home remodel (or to oppose the McMansion being built next door), it is very difficult to figure out what you (or others) have to do to appeal a CEQA determination and when those appeals are due. It should not be this complicated.

Supervisor Wiener's legislation will create a more open, predictable process to resolve CEQA disputes. It will make it easier for everyday people – not just land use attorneys – to understand the rules and the deadlines. The legislation will not impact larger projects that require an Environmental Impact Review, such as Parkmerced. But it will make the CEQA process more open and more clear for the "little guys" in San Francisco, the homeowners who just want to make small but important improvements to their homes. We support Supervisor Wiener's legislation.

By contrast, Supervisor Kim's legislation would have a negative impact on our members because nearly all of the homes in Golden Gate Heights (indeed, most of the homes throughout San Francisco) are more than 50 years old. According to Supervisor Kim's proposal, the over-the-counter permits that our members currently can get for minor projects (for example, to replace broken hand rails, windows, or leaky roofs) would no longer be allowed. This will add months of delay to a home remodel project and will cost homeowners $5000 or more to obtain the Categorical Exemption Certificate they will need to continue with their minor project. Kim's legislation also provides for as many as five separate appeals of a project. Supervisor Kim's legislation will make it much more difficult for our members and homeowners throughout the city to make the kind of minor home repairs and remodels that we need to do to enhance our homes and protect our investments in them. We oppose Supervisor Kim's alternative legislation.

Please support the CEQA appeal reform legislation authored by Supervisor Wiener.

Sincerely,

Sally Stephens
President, Golden Gate Heights Neighborhood Association
415-577-9646 cell
sally.stephens.sf@gmail.com

Power, Andres

From: Tim Colen [tim@sfhac.org]
Sent: Monday, March 11, 2013 11:43 AM
To: planning@rodneyfong.com
Subject: SUPPORT Sensible CEQA Reform

Dear President Fong,

On behalf of the SF Housing Action Coalition, I respectfully request that you support the modest, long overdue reforms being proposed by Supervisor Scott Wiener to our local CEQA rules. There are sadly too many examples of how CEQA has been invoked to block or delay projects for reasons having nothing to do with improving environmental quality. We have seen again and again how it is used against proposals that embody principles of sensible land use and appropriate urban infill. It is ironic that CEQA has become a potent obstacle to our City addressing the real environmental challenges it faces.

This is not the first time an attempt has been made to reform CEQA in SF. Over the past 10 years, Supervisors Fiona Ma and Michela Alioto-Pier also tried unsuccessfully to introduce similar reforms. At your request, Sup. Wiener has delayed his proposal for months to conduct extensive additional outreach among certain environmental and neighborhood groups. He has done this and made still more modifications to his proposal. Yet it must be acknowledged that some folks will simply never support ANY change to these badly outmoded rules.

The SFHAC believes that for certain projects, there should be fair limits placed on the time they can be appealed under CEQA. Under current rules, opponents can wait months after these projects have received their approvals to file appeals to successfully delay them. These abuses add enormous uncertainty and costs to both private, and more frequently, public projects. Contrary to our opponent's claims, Sup. Wiener's proposal does NOTHING to prevent citizens from being informed and participating in an open, transparent process.

Please support these modest, badly needed reforms.

Sincerely,
Tim Colen

Tim Colen, Executive Director
San Francisco Housing Action Coalition
95 Brady Street
San Francisco, CA 94103
Office: (415) 541-9001
Cell: (415) 601-1709
www.sfhac.org

"The SF Housing Action Coalition advocates for the creation of well-designed, well-located housing, at ALL levels of affordability, to meet the needs of San Franciscans, present and future."

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL UNION NO. 261

March 26, 2013

SAN FRANCISCO
3271 18th Street
San Francisco, CA 94110
Phone: (415) 826-4550
Fax: (415) 826-1948

SAN MATEO COUNTY
300 7th Avenue
San Mateo, CA 94401
Phone: (650) 344-7168
Fax: (650) 344-5357

MARIN COUNTY
4174 Redwood Highway
San Rafael, CA 94903
Mail P.O. Box 4250
San Rafael, CA 94913
Phone: (415) 492-0936
Fax: (415) 492-8233

Honorable Supervisor David Chiu
President
San Francisco Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, California 94102

Re: CEQA Appeal Process Reform Legislation

Dear Supervisor Chiu:

On behalf of LiUNA! Local 261, I am writing in support of Supervisor Scott Wiener's proposed legislation to streamline CEQA appeals and notice procedures. We agree that the current procedures are very much in need of clarification and simplification, and believe that Supervisor Wiener's proposals are the better approach toward serving the goals of the California Environmental Quality Act and the needs of the residents of San Francisco for comprehensible and accessible means of addressing CEQA disputes.

Supervisor Wiener's proposed legislation is fair to all stakeholders, in that it will improve access to information and reduce unnecessary delays which adversely affect both private and public sector projects and the interests of our members.

We request your vote as a member of the Land Use and Economic Development Committee in support of this important legislation.

Yours truly,

Ramon Hernandez

RAMON HERNANDEZ
Business Manager

mercy HOUSING

February 19, 2013

Board of Supervisors

1 Carlton B. Goodlet Place

San Francisco, CA 94102

To Members of the Board of Supervisors

I am writing on behalf of Mercy Housing California in support of the CEQA procedures legislation, sponsored by Supervisor Wiener. Mercy Housing California is a non-profit organization whose mission to create stable, vibrant and healthy communities by developing, financing, and operating program-enriched affordable housing for families, seniors and people with special needs.

Mercy Housing does not typically endorse local legislation, but we are making an exception in this case because of the importance of the topic. CEQA law and procedures are complex and poorly understood. As a consequence, even the most well-intentioned efforts to simplify and improve the process are greeted with deep suspicion. In this case, the Board is considering a very reasonable and modest proposal to give some basic shape and logic to the timelines for noticing and appeals.

Mercy supports this legislation because as affordable housing developers, it is critical that we receive some relief from the byzantine nature of the appeals process. To my knowledge, this legislation does not reduce or remove any potential appellant's rights, but simply clarifies when an appeal must be filed. This is a basic fairness issue that any non-profit or for-profit needs in order to do their work.

I hope you will agree and move this legislation forward.

Sincerely

Doug Shoemaker

President, Mercy Housing California

Mercy Housing California
1360 Mission Street, Suite 300, San Francisco, California 94103 o | 415.355.7100 f | 415.355.7101 tty | 800.855.2880 mercyhousing.org

LIVE IN HOPE

MICHAEL SIMMONS PROPERTY DEVELOPMENT, INC.

2370 MARKET STREET #458 SAN FRANCISCO CA 94114

PHONE 415.845.5527 FAX 415.358.8842

April 1, 2013

Supervisor Chiu
City and County of San Francisco
Land Use Committee
1 Carlton B. Goodlet Place
San Francisco, CA 94102

RE: Support for Supervisor Weiner's Proposal to Clarify CEQA Procedures

Dear Supervisor Chiu

On behalf of Michael Simmons Property Development (MSPDI), I respectfully request that you support the modest, long overdue reforms being proposed by Supervisor Scott Wiener to the city's local CEQA rules. MSPDI is a real estate consulting firm working with nonprofit organizations in San Francisco to building community facilities and affordable housing.

Under current rules, opponents can wait months after projects have received their approvals to file appeals to successfully delay them. The lack of clarity and consistency adds enormous uncertainty and costs to projects. This proposal will particularly assist the development of affordable housing and other community-serving amenities in low-income and environmental justice communities, where projects must succeed on very tight budgets and even tighter timelines.

CEQA law and procedures are complex and poorly understood. As a consequence, even the most well-intentioned efforts to simplify and improve the process are greeted with deep suspicion. However, Supervisor Wiener's proposal does NOTHING to prevent citizens from being informed and participating in an open, transparent process. In fact, **this proposal improves and expands noticing of CEQA determinations over current procedures**. In addition, the proposal has gone through significant public vetting – months of stakeholder outreach and roundtable discussions that have yielded nearly three dozen amendments, resulting in a strong proposal that is ready for final passage.

We urge the Land Use Commission to approve this thoughtful, much-needed improvement to the environmental review process in our city.

Sincerely,

Michael Simmons
President

PAR Planning Association for the Richmond
5758 Geary Blvd., # 356 - San Francisco CA 94121-2112
Voice Mails & Faxes-(415) 541-5652 –Direct & Voice Mails (415) 668-8914
Email: president@sfpar.org Web Site: www.sfpar.org

March 4, 2013

The Honorable
Supervisor Scott Wiener
City Hall, Room 274
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102
Scott.Wiener@sfgov.org

In re: Comments with respect to the proposed legislation to amend Chapter 31 of San Francisco's Administrative Code regarding the State's CEQA legislation

Dear Supervisor Wiener:

Thank you for hosting "roundtables" to review and discuss your proposed legislation to amend San Francisco's CEQA implementation legislation and thank you for inviting PAR to them.

PAR supports the proposal to codify the requirements for appealing exemptions and negative declarations (whether mitigated or unmitigated) with the intention of having such appeals occur as early in the process as possible before there is a needless waste of time, energy and costs.

A key element of the strategy in that proposed legislation appears to be to ensure the public is promptly and reliably notified of:

- the time, date, and place of the proposed determination that would start the clock running for filing timely appeals and that would do so on a single web site if at all possible;
- the source or sources and the detailed reasons for the proposed exemption and, if applicable, for any proposed mitigations would also be promptly identified; and
- all of these notifications would rely exclusively on the web site of the City and County of San Francisco and those linked to it for its various agencies, departments and commissions that may be making those determinations.

Because many members of the public do not have internet access that ensures their prompt receipts of such information, PAR urges that the currently-proposed 20-day time limit for filing appeals be increased to at least 30, if not 60, days. This would also simplify the proposed legislation since limits of 30- or 60-days are much more consistent with other similar time limits..

Thank you for providing this opportunity to offer our suggestion with regard to the legislation being proposed.

Sincerely,

Raymond R. Holland
President

Cc: Anmarie Rogers, SF Planning Department (anmarie.rogers@sfgov.org)

February 22, 2013

President David Chiu
SF Board of Supervisors

Dear President Chiu:

On behalf of the 12,000 members of the San Francisco Bicycle Coalition, I am writing to express my support for legislation proposed to streamline and clarify the process of appealing select CEQA findings.

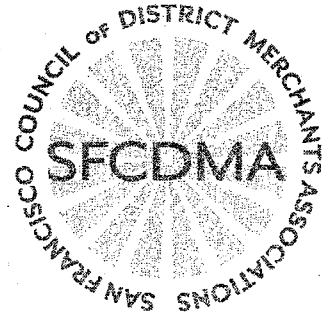
Many projects that improve bicycling in San Francisco are not found by City staff to require a full EIR, using a strict interpretation of existing CEQA review practices. These projects should be able to proceed to construction at a reasonable pace. But the lack of clarity around the process for appealing and resolving CEQA findings that do not lead to a full EIR creates confusion and delay for City staff and community members. This confusion costs the City money and other resources, and creates deep frustration among community members who have supported the project.

The proposed legislation would still provide opportunity for anyone to appeal a CEQA finding, and would actually help make that process even clearer to navigate for potential appellants. But it would also make the process more predictable and, as a result, less costly for the City, and frustrating for community members, who find the process opaque.

For these reasons, we support the proposed legislation to streamline the San Francisco CEQA process for non-EIR findings.

Sincerely,

Leah Shahum
Executive Director



SAN FRANCISCO COUNCIL OF DISTRICT MERCHANTS ASSOCIATIONS

March 31, 2013

Supervisor Mark Farrell
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Re: CEQA Reform

Dear Supervisor Farrell,

Supervisor Wiener has introduced a reasonable measure that would bring some certainty to the CEQA appeal process in San Francisco. The problem addressed by Supervisor Wiener's legislation concerns categorical exemptions and negative declarations, the lowest possible level of environmental review under CEQA. Under existing law, when the City approves a categorical exemption or negative declaration for a project, no time limit exists for when that CEQA approval may be appealed. Some project opponents have exploited this oversight and have appealed projects at the last moment after months (or years) of work has been devoted to the project.

Supervisor Wiener seeks to correct this glaring problem by introducing time limits within which these CEQA approvals must be appealed.

Supervisor Jane Kim recently introduced her own "CEQA reform" legislation that not only would thwart Supervisor Wiener's efforts, but also would severely worsen the already broken CEQA regulatory regime in San Francisco. Among Supervisor Kim's proposals are the following:

1. Every project on every building 50 years of older – nearly ¾ of San Francisco's building stock – would no longer be eligible for a CEQA Categorical Exemption stamp (often issued over the counter in a matter of hours) for a minor change, such as changing a window, replacing a rotted out handrail, or replacing a failing roof. Instead, any and all such projects will be required to get a "Categorical Exemption Certificate", which is a detailed report that can take 3-6 months to issue and currently costs $5,000, as opposed to $300 hundred dollars for a Categorical Exemption stamp.
2. Similarly, all projects in parks and "open space", which is a very broad term, would require the same 3-6 month and $5,000 certificate instead of the current Categorical Exemption stamp.

3. Currently, a CEQA document for a single project can be appealed only once, even if the CEQA document covers numerous permits associated with the same project. Under Supervisor Kim's proposed legislation, the CEQA document could be appealed each time a discretionary permit is issued for a project. So, for example, if a home remodel required 3 building permits, a street tree permit, and a curb cut permit – all covered by the same CEQA document – the CEQA document could be appealed five different times, triggering 5 separate appeal hearings at the Board of Supervisors for that single project.

I urge you to approve Supervisor Wiener's proposed legislation which will contribute to the expediting of projects and thus the creating of jobs and building more housing. For businesses in particular commercial tenants will not get caught up in a delay that will have a substantial financial impact.

Sincerely.

Henry Karnilowicz
President • SFCDMA

SAN FRANCISCO
CHAMBER OF COMMERCE

David Chiu, President
San Francisco Board of Supervisors
1 Carlton B. Goodlett Place, Room #244
San Francisco, CA 94102

March 25, 2013

RE: Support File #121019 – CEQA Procedures

Dear President Chiu,

The San Francisco Chamber of Commerce, representing over 1500 businesses in San Francisco, is pleased to support Supervisor Scott Wiener's legislation as introduced to create a statutory process for appeals to the Board of Supervisors under the California Environmental Quality Act (CEQA).

Supervisor Wiener's legislation attempts to fix the lack of predictability in our current CEQA appeals process by clarifying appeal procedures, setting clear appeal deadlines and improving notice to the public of CEQA determinations. Currently no such statutory process exists in San Francisco for many projects, particularly those determined to be exempt from, or that receive negative declarations for, environmental review. This results in unnecessary and costly project delays that often do not ensure environmental protection from project impacts. Instead, CEQA appeals are frequently used to disrupt projects, which may then become economically unfeasible due to the costs of long delays associated with adjudicating the appeal.

We need clear rules that everyone understands and vigorous public participation that informs and improves our city's development projects while maintaining the integrity of our environmental review process. Supervisor Wiener's legislation achieves this by establishing time frames for filing appeals, enhancing noticing to the public, and requiring that CEQA appeals be considered simultaneously with underlying project approvals instead of in separate, duplicative proceedings.

The San Francisco Chamber of Commerce commends Supervisor Wiener for taking on long-overdue reforms to our CEQA process, and we urge the Board of Supervisors to support his critical legislation.

Sincerely,

Jim Lazarus
Senior Vice President for Public Policy

cc: Clerk of the Board of Supervisors; Distribute to BOS

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

LOCAL UNION NO. 104

PHONE (415) 621-2930 FAX (415) 621-2554

1939 MARKET STREET
SAN FRANCISCO, CA 94103-1085

April 4, 2013

Supervisor David Chiu
President of the San Francisco Board Supervisors
City Hall, Room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102
VIA ELECTRONIC MAIL: David.Chiu@sfgov.org

Dear Supervisor Chiu:

SMART Local 104 stands firmly in opposition to gutting the California Environmental Quality Act that is being proposed in Sacramento. Within the last month our rank and file members have walked hand and hand with affordable housing advocates and environmentalist to help legislators in Sacramento understand how vital CEQA is for our State.

That being said, we stand with Supervisor Weiner's legislation to have the implementation of CEQA in San Francisco more closely conform to the practice in other jurisdictions in the State. Nothing in the Supervisor's proposal can supersede state law. It will provide clear, predictable, and transparent procedures that benefit everyone – neighbors, project sponsors, and labor.

We urge you to support Supervisor Weiner's legislation.

Sincerely,

Anthony Urbina
Business Representative
AU: kf opeiu3 afl-cio

CC: San Francisco Board of Supervisors (via electronic mail)

SPUR

SPUR URBAN CENTER
654 Mission Street
San Francisco, California
94105
415.781.8726
www.spur.org

SPUR SAN JOSE
38 West Santa Clara Street
San Jose, California
95113
408.510.5688
www.spur.org/sanjose

March 11, 2013

Hon. Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear President Fong and Commissioners,

SPUR strongly supports Supervisor Wiener's legislation to amend San Francisco's California Environmental Quality Act procedures. This legislation is an extremely modest proposal that helps clarify appeal procedures for exemptions and negative declarations, creating a fairer and more transparent process for everyone.

As you know, San Francisco is unique in California in its application of CEQA. San Francisco's Municipal Code and Charter contain unique provisions that make enforcement of CEQA different in San Francisco than in other California jurisdictions. CEQA defines a "project" as any permit, approval, or action that is subject to the discretion of a local administrative body. In most jurisdictions there is a clear distinction between "discretionary" actions that require the use of judgment or subjective criteria on the part of the approving body and "ministerial" actions that simply involve comparing of a project against established standards or checklists. For example, in most jurisdictions rezoning a property is considered discretionary, because it generally involves judgment by officials about the appropriateness of the change, while a building permit is considered ministerial because a builder must simply prove he or she has completed a checklist of standard requirements. **San Francisco's code, however, essentially makes all permits issued by the City for virtually any type of project discretionary and therefore subject to all of the rules and regulations set forth in CEQA, including appeals.**

For this reason, the application of CEQA in San Francisco is enormously complex and more far-reaching in its impacts than anywhere else in the entire state. Taken in this context, the legislation before you outlines a series of modest changes that collectively take a small step towards creating a clearer and more streamlined process for everyone.

The legislation proposes three key changes:

1. It would codify procedures for appeal of negative declarations (neg decs) and exemptions to the Board of Supervisors, including the timing of those appeals.
2. It would expand noticing provisions related to exemptions, none of which are required by CEQA.
3. It would establish that when the Board of Supervisors must approve a project, it is the CEQA decision-making body and therefore there would not be a separate appeal process.

Each of these three changes helps to clarify and streamline the CEQA appeals process. The Planning Department case report notes that the current Administrative Code does not outline an appeal process for neg decs and exemptions, whereas it does outline a process for EIR appeals. In addition, there is no timeline for appeals of neg decs and exemptions. **Currently, as your case report notes, the Clerk of the Board refers every appeal of a neg dec and exemption to the City Attorney's Office for advice on whether the appeal is timely. This is not an efficient or transparent mechanism to handle appeals.** The proposed legislation addresses this issue by creating clear procedures and timelines that appellants, the Planning Department and project sponsors can rely upon.

Lastly, there has been substantial public discussion about the issue of the timeline of appeals. We feel very strongly that the first approval action should serve as the trigger for the appeal process. It is not efficient or appropriate to wait until the entire entitlements process has been completed before filing an appeal.

We also applaud Supervisor Wiener for making numerous substantive amendments to the legislation in response to community comments. We believe that all legitimate issues have now been addressed in the current third draft of the ordinance, as summarized in your case report.

In summary, we strongly urge you to move this legislation forward.

Thank you for your consideration of our position. Should you have any questions, please do not hesitate to contact me at 415-644-4292 or skarlinsky@spur.org

Sincerely,

Sarah Karlinsky
Deputy Director

Cc: Supervisor Scott Wiener
AnMarie Rogers, Planning Department
Sarah Jones, Planning Department
SPUR Board of Directors

Power, Andres

From: Frank Noto [Frank@fnstrategy.com]
Sent: Tuesday, April 02, 2013 2:17 PM
To: Yee, Norman (BOS)
Cc: Lee, Esther (BOS)
Subject: CEQA

Supervisor Yee,

The Sunset Heights Association (SHARP) strongly supports the CEQA appeals reform legislation, and opposes the counter-legislation. **Will you please meet with some of your neighbor constituents to share views on this issue?**

We would welcome an opportunity to meet with you at City Hall or in the neighborhood this week before the next public hearing at the Board's Land Use committee (perhaps scheduled for Monday, April 8).

Thank you for your consideration.

Frank Noto

Office: 415-834-5645
Cell: 415-830-1502

WALK SAN FRANCISCO

February 25, 2013

President David Chiu, San Francisco Board of Supervisors
President Rodney Fong, San Francisco Planning Commission
President Courtney Damkroger, San Francisco Historical Preservation Commission

Re: Support: File Number 121019 – CEQA Procedures

Dear President Chiu, President Fong, and President Damkroger:

On behalf of Walk San Francisco, I am writing to support proposed legislation to streamline and clarify the process of appealing select findings based on the California Environmental Quality Act (CEQA), because this will help reduce delays in delivering projects that make walking safer and more pleasant.

Many street improvement projects in San Francisco are not found by City staff to require a full environmental impact report (EIR), using a strict interpretation of existing CEQA review practices.

These projects – which may include, for example, sidewalk corner "bulb-outs" to shorten street crossings, increase pedestrian visibility, and tame traffic speeds – should be able to proceed to construction swiftly, especially as these projects can actually save lives.

However, the process for appealing CEQA findings currently creates confusion and delay in completing important street improvement projects. This confusion increases project costs for the City, frustrates community members who have supported the project, and most importantly, delays critical pedestrian safety measures.

The proposed legislation would still enable the appeal of a CEQA finding, and would help make that process clearer and simpler for potential appellants. It would also make the process more predictable, less costly for the City, and less frustrating for community members, by reducing delays in projects to make people safer on San Francisco streets.

For these reasons, Walk San Francisco supports the proposed legislation to streamline the San Francisco CEQA process for non-EIR findings.

Thank you for your consideration.

Sincerely,

Elizabeth Stampe
Executive Director

995 Market Street, Suite 1450, San Francisco, CA 94103 • 415-431-WALK (9255) • www.walksf.org

121019

Miller, Alisa

From: Lamug, Joy
Sent: Thursday, March 14, 2013 1:55 PM
To: Miller, Alisa
Subject: FW: CEQA Legislation - Supervisor Wiener (SF Planning Commission) 3.15.13
Attachments: 031413_CEQAissues.pdf; Points_For_March_14_Planning_Hearing_On_CEQA-2.pdf

Here you go.

Thanks,

Joy Lamug
Board of Supervisors-Clerk's Office
(415) 554-7712

From: Board of Supervisors
Sent: Thursday, March 14, 2013 10:56 AM
To: BOS-Supervisors; Lamug, Joy
Subject: CEQA Legislation - Supervisor Wiener (SF Planning Commission) 3.15.13

Peggy Nevin
Executive Assistant
Clerk of the Board of Supervisors
415-554-7703
peggy.nevin@sfgov.org

From: Aaron Goodman [mailto:amgodman@yahoo.com]
Sent: Thursday, March 14, 2013 9:33 AM
To: Board of Supervisors
Cc: Secretary, Commissions
Subject: CEQA Legislation - Supervisor Wiener (SF Planning Commission) 3.15.13

Please find the attached memo on the 3.14.13 planning commission hearing on CEQA issues by Supervisor Wiener.

I am unable to attend the hearing and speak against the proposed legislation.

I submit in support of the opposition of this issue the points they raise against the legislation, and support other memo's and organizations OPPOSED to the current legislation being discussed today at the Planning Commission.

Sincerely

Aaron Goodman

Aaron Goodman
25 Lisbon St.
San Francisco, CA 94112
T: 415555.786.6929
E: amgodman@yahoo.com

San Francisco Planning Commission
(via email @ 930am 3.15.2013)

March 15, 2013

I am directly opposed to the CEQA Legislation Proposed by Supervisor Wiener. His legislation places those most vulnerable at an ever more weakened position in relation to ongoing concerns citywide. There are numerous examples of the projects and proposals where the Public's interests were steamrolled vs. adequate input and response and re-review of projects and proposals. This indicates that the public's need to comment and effect the outcome is ever more dire, as our city gentrifies, and displaces more of the existing fabric while ignoring the Public's protection and environmental concerns of the projects proposed. The protection of families, seniors, students, and the working class of many districts is consistently at risk, and they lose the ability to comment or provide ever more valuable input based on the inadequate decision making of our policy makers. Often individuals submit comments and ideas that far exceed the governing bodies proposals, and highlight neglected issues and specific concerns of the community. With Supervisor Wiener's legislation this will be limited, and in some cases eliminated, due to the already difficult efforts most of the public have in attending and commenting on the numerous projects and proposals some prime examples are;

a) Parkmerced's project is one of the few projects currently in court on CEQA related issues, and it showcased how poorly the city in general looked at the serious concerns of Preservation, Sustainability, Transit, Traffic, and Parking and cumulative impacts of surrounding projects and proposals. It also showcased how project based planning ignores the overall impacts on housing, affordability of housing, and gentrification of housing by institutional growth. Other examples of this include the academy of Art, UCSF, CPMC, and many other organizations.
b) The 19th Ave Transit Study currently in initial phases, ignores the future Phase 2 segment to Daly City Bart and its much larger future costs, and ignores the impacts of the larger projects including SFSU-CSU's Masterplan and the General Growth Properties future proposal.
c) The 800 Brotherhood Way Project, lacked an EIR, and also any redress in terms of affecting a public park and green-belt feeding to Lake Merced. The lack of any EIR and proper process ignored the future projects proposed and even though appealed was ignored by city agencies due to covering up a mis-issued memo from the acting zoning administrator.

d) Many of the public on project hearings I attended on Parkmerced could not stay to later hours of the hearings, or were not informed as property owners or businesses of the EIR's! Some only came to hear of the proposals from the community members and were not sure of the ways in which to comment or submit their concerns. More than once hand-written notes on left-over paper were the only method they had to submit their opposition, and many had never attended a hearing at city hall and had to take time from work or duties to get to city hall to testify only to be told that the hearing would extend way into the night, and would be a last item, or only limited to 1 minute of testimony. Yet these people were so concerned they would stay and make their voices heard. This is what Supervisor Wiener wants to eliminate with his legislation.
e) The North Beach Library and Appleton and Wolfard library issues on a collection of buildings, and the impacts of the renovation programs without adequate alternatives.
f) 55 Laguna and numerous other preservation related projects.
g) General Plan and Citywide planning initiatives that often ignore the publics concerns while mandating issues related to private benefits.

I am supportive of the issues raised by many preservation, professionals and environmentalist groups on the legislation that will attend and speak today the issues raised by them are sound and principled I hope you will seriously consider those points submitted by CEQA groups and organizations strongly opposed to Supervisor Wiener's Legislation. I attach their points as reference.

Sincerely

Aaron Goodman

Cc:

SF Board of Supervisors board.of.supervisors@sfgov.org

****TALKING POINTS FOR THURSDAY MARCH 14 PLANNING HEARING ON CEQA**** (SF City Hall, Room 400, 12 noon)

ON ITEM 8, PROJECT TIMING:

These rule changes should not be considered until the proposed amendments to CEQA procedures are decided upon, -especially- where the rule changes would allow deadline extensions due to CEQA appeals. The rule changes themselves would give developers excessive leeway to delay, and leave important land and buildings idle much too long, with the selfish intention of increasing profits by waiting for property values to increase. And they would give FAR too much power to the Zoning Administrator to extend such delays indefinitely.

ON ITEM 12, WIENER CEQA PROCEDURE AMENDMENTS (3 points):

1) On November, 29, 2012, the Planning Commission unanimously recommended to Supervisor Wiener that he meet with the many community opponents to the first and second drafts of his CEQA legislation, and to then introduce an AMENDED text which reflects feedback from these community organizations.

2) Supervisor Wiener was then highly selective in notices he sent to community representatives, leaving most of us uninformed that the meetings were taking place. Community representatives were forced to find out about the Supervisor's so-called 'roundtable discussions' third hand, and then send out our own notices to others and alert them to these important meetings.

3) After three so-called 'roundtable discussions' with Supervisor Wiener, Planning Staff, and City Attorney Elaine Warren, no substantial changes AT ALL have been made in this legislation to address the many serious problems that we have clearly documented both to them and to the Planning Commission. We therefore call on the Commission to recommend a 'NO' vote on Supervisor Wiener's legislation to the Board of Supervisors.
Community requirements which have still not been met are:

Community CEQA Improvement Team – Requirements Of Any CEQA Process Legislation

1) There must be no 'First Approval' trigger of the appeals clock. This is far too early in the process to enable sufficient examination and understanding of projects. While a more clear trigger is reasonable, that trigger should be the *final* approval that a project as a whole receives from the Planning Commission or the Board of Supervisors (whichever body takes that final action). Where the final approval is also a first approval, we must ensure more robust noticing so that no environmental review falls under the radar.

2) There must be no codification of the practice of the Environmental Review Officer (ERO) of the Planning Department, and individual city agencies, simply deciding together, autonomously, behind closed doors (in many cases with no notice whatsoever) that a project is exempt from environmental review. All such determinations must be noticed to both the Planning Commission and the public, and where substantial community/environmental impacts are possible, should be scheduled for at least a consent calendar vote by the Planning Commission (unless CEQA demands a more thorough process). This would ensure that the public finds out about and can pull for consideration any debatable exemption.

3) All sections which would allow the Board of Supervisors to avoid a formal legal appeal hearing before the full Board are unacceptable. All appeals must be heard at a full, formal, Board appeal hearing, without exception.

4) There must be no elimination of the "Fair Argument" standard. State law codifies that an Environmental Impact Report (EIR) is warranted if there is "substantial evidence which supports a fair argument" that a project may significantly negatively impact the environment. Supervisor Wiener's legislation cuts out the words "which supports a fair argument" setting a much tougher test for triggering Environmental Impact Reports. The coalition insists on retaining the current local wording, which simply states "fair argument" on its own.

(more talking points on page 2)

5) Almost all of the deadlines in Supervisor Wiener's legislation for filing an appeal, for noticing, hearings, etc. are far too brief. Its 20 day limits for appeals are particularly egregious. Community stakeholders require a 60 day public notice period in cases where more robust noticing is needed, and 30 days rather than 20 in all other cases.

6) Reduced noticing for area plans, general plans, and plans covering "20 acres or more" is unacceptable. Under the Wiener legislation, notice in writing of new projects and changes in such project areas would no longer be required to residents within those area plans and within 300 feet of their boundaries. Such large area plans should get more public notice and scrutiny, not less.

7) Current practice of allowing new projects to avoid environmental review when they are within a larger project that has already received environmental review, should be much more restricted in any new CEQA procedures law. Such 'bootstrapping' of new projects into old approvals should be greatly curtailed.

8) Combining Mitigated Negative Declarations and simple Negative Declarations into one category is unacceptable. All preliminary mitigated negative declarations which the ERO negotiates with developers must be fully noticed in writing to the public with all mitigations indicated. And where significant environmental impacts may exist, a Planning Commission hearing on a mitigated negative declaration must be required.

9) All CEQA public noticing practices must be very proactive. MOST IMPORTANTLY: Any proposed CEQA legislation should require that any failure in noticing to the public result in an automatic extension of comment and appeal deadlines by the number of days the noticing error delayed public awareness; and where this is unclear or the noticing failure was egregious, the deadline clock for comments and appeals should simply be reset to the beginning of the full required deadline period. In cases where an environmental review or EIR document and/or the underlying project are very large, voluminous and/or complex, the public should be able to easily request and receive extensions in comment and noticing deadlines.

-end-

File 121019

BDS-11
Land Use Clerk

From: Roland Salvato [rolandsalvato@hotmail.com]
Sent: Thursday, February 28, 2013 5:26 PM
To: Wiener, Scott
Cc: Board of Supervisors; Avalos, John; Breed, London; Cohen, Malia; Farrell, Mark; Kim, Jane; Mar, Eric (BOS); Yee, Norman (BOS); Chu, Carmen; Campos, David; Chiu, David; Tang, Katy; Planning Commissioner (Hisashi) Sugaya; Planning Commissioner Rodney FONG; Planning Commissioner Kathrin MOORE; Planning Commissioner (Gwyneth) Borden; Rodney (Planning Commission) Fong; Planning Commissioner (Cindy) Wu; Planning Commissioner (Michael) Antonini; HPC Andrew Wolfram; HPC RSE Johns; HPC Karl Hasz; aaron.hyland.hpc@gmail.com; HPC Diane
Subject: Still Time To Do The Right Thing With Your CEQA Legislation

Supervisor Wiener,

It's been more than three months since the November hearing in which the Planning Commission suggested that you meet with constituents and stakeholders about your CEQA legislation, instead of just throwing it up to see if it sticks.

Since then you've hosted a few meetings with some of the stakeholders (I'm aware of two, plus one planned for tomorrow) and you had a chance to see a range of concerns and suggestions, most of which were given to you in writing and in very good faith.

Yet, the two sets of changes you've made to your first draft of the legislation do not reflect *any* of the significant recommendations from the more than 15 community-based groups focusing on improving CEQA. You've taken the time to host these "outreach" meetings, but your stated goal in the preamble to each meeting was to "explain" the legislation, rather than work with us to improve it.

This is ironic, given your statement that *"I've been meeting with various community stakeholders to ensure that the public has accurate information about the legislation and to receive feedback to make the legislation even stronger."* What gives you the right to say that, if it's not true?

Even if we try to overlook the obvious flaws at the outset of your legislative process (i.e., neglecting to call a broad set of community stakeholders to the table), there are two other concerns that cannot be ignored:

- You've neglected to supply any evidence—statistical or otherwise—to substantiate the reasons your legislation includes shorter appeal periods, looser notification requirements, more leniency to the Environmental Review Officer and other stunning restrictions on the public's rights of appeal under CEQA in all of your drafts.
- You've neglected to incorporate the most important elements devised by the community groups to improve the legislation, even though they've been elucidated verbally at each meeting and provided to you consistently in writing.

You have said: *"CEQA is an important environmental protection statute that, at times, can be used not to protect the environment but rather to oppose projects having nothing to do with the environment."* If that is true then it shouldn't be so hard to provide evidence that some CEQA appeals are illegitimate. Without proof, this statement is no more than unfounded prejudice. If you are proposing by this statement to change the State's definition of 'Environmental Protection', then nothing in your legislation does that.

You have also said: *"Our current process is the opposite - vague and chaotic, favoring those who are experienced in the process at the expense of the general public."* Can you specify the 'expense to the public' of this 'vague and chaotic' process – a process that citizens have been applying since 1970 when Governor Ronald Reagan signed the State legislation?

Finally, what have you really accomplished—and what can you justly accomplish—by pretending to solicit community feedback to your legislation? Tomorrow you will have one more opportunity to do the right thing – please don't waste it.

121019

CEQA: HISTORY OF ILLEGAL CHANGES Case No. 2012.1329U
Board of Supervisors to: Alisa Miller 11/16/2012 06:26 PM

From: WongAIA@aol.com
To: carmen.chu@sfgov.org, sean.elsbernd@sfgov.org, Eric.L.Mar@sfgov.org, john.avalos@sfgov.org, david.campos@sfgov.org, David.Chiu@sfgov.org, Board.of.Supervisors@sfgov.org, Malia.Cohen@sfgov.org, Mark.Farrell@sfgov.org, Jane.Kim@sfgov.org, Scott.Wiener@sfgov.org, Christina.Olague@sfgov.org,
Date: 11/15/2012 02:55 AM
Subject: CEQA: HISTORY OF ILLEGAL CHANGES Case No. 2012.1329U

TO: Board of Supervisors
RE: CEQA LEGISLATION---A HISTORY OF ILLEGAL PROPOSALS
Subject: Case No. 2012.1329U [Board File No. 12-1019]---California Environmental Quality Act Procedures (Supervisor Wiener)

Over the years, misguided attempts have been made to alter CEQA that reduce information to the public and reduce public participation---violating the Public Records Code, Brown Act, Sunshine Ordinance. CEQA and CEQA case law.

Led by business interests and land use attorneys, there is a tactical plan to benefit the few at the expense of the greater public good. Specific business interests have attempted to force through CEQA legislation, often in the dark of night, employing the very tactics that created CEQA in the first place---by example, the demolitions of the Western Addition/ Lower Fillmore/ Nihonmachi, rampant freeway construction, diminution of cultural/ ethnic neighborhoods, erosion of prime open space, disregard of nature conservancy, worsening of environmental health, demolition of historic resources, filling in the Bay....

- Proposed legislation has been written by land use attorneys, paid for by business interests, and promulgated by public relations campaigns.
http://www.reubenlaw.com/index.php/rj/singleUpdate/...try_try_again_supervisor_wiener_takes_up_ceqa_reform
http://www.alston.com/Files/Publication/a9c174c2-e443-4ac2-8450-10859cf17aab/Presentation/PublicationAttachment/f421d3da-5855-4819-92b3-17d48d8a5ccc/11-161%20CEQA%20Reform%20Layout.pdf
http://www.calchamber.com/headlines/pages/08252012-ceqareformmovesforwardactionneeded.aspx
- In 2006, CEQA legislation was introduced at the end of the last Board of Supervisor's session. The measure did not pass.
http://www.sf-planning.org/index.aspx?page=754
- In 2011, CEQA legislation was introduced at the end of the last Board of Supervisor's session. The measure did not pass.
http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=37406
http://sf-planning.org/ftp/files/Commission/HPCPackets/2010.0336U_v2.pdf
- In August 2012, late-hour CEQA changes were introduced in the last two weeks of the California Legislative Session. The power play did not succeed.
http://www.planetizen.com/node/58137 .
http://blog.sfgate.com/opinionshop/2012/08/23/ceqa-reform-set-aside-for-another-day/
http://articles.latimes.com/2012/aug/21/opinion/la-ed-ceqa-reform-20120821
- Now, in November 2012, CEQA changes are being rushed at the Board of Supervisors.
Executive Summary: http://commissions.sfplanning.org/cpcpackets/2012.1329U.pdf
- Even worse, the Agenda for the Planning Commission's November 15, 2012 meeting conceals the true nature of Item 11 from the general public---with no reference to the California Environmental Quality Act and CEQA changes to Procedures, Appeals, Public Notice....

> **11. 2012.1329U** *[Planning Commission Agenda, November 15, 2012]*
> **The Commission will consider a proposed Ordinance amending the San Francisco Administrative Code Chapter 31 to update and clarify certain procedures provided for in Chapter 31 [Board File No. 121019] introduced by Supervisor Wiener.** The Commission may take action to make a recommendation to the Board of Supervisors. Preliminary Recommendation: Approval with Modifications.

Regulations warrant improvements over time---but not through political power plays and back room

dealing. CEQA is not the insurmountable obstacle that some portray. Like compliance with building and planning codes, the majority of projects successfully navigate public processes. The few problematic projects often have extraordinary conditions, such as code variances, height changes, rezoning, change of uses, shadow impacts, questionable demolitions, political components etc.----mostly avoidable.

Routinely, many well-designed and well-managed development projects get support, get approvals/ permits, get constructed and benefit project sponsors and society. Project schedules are delayed by a host of issues, such as financing, availability of Planning/ Permitting staff, Planning Code compliance, Building Code compliance, ADA compliance, fire code compliance, poor professional and legal CEQA planning. We should evaluate overall needs---not undermine environmental regulations alone.

Regards, Howard Wong, AIA

121019

From: Aaron Goodman <amgodman@yahoo.com>
To: linda.avery@sfgov.org, hs.commish@yahoo.com, Mooreurban@aol.com, plangsf@gmail.com, wordweaver21@aol.com, cwu.planning@gmail.com, richhillissf@yahoo.com, planning@rodneyfong.com, anmarie.rodgers@sfgov.org, john.rahaim@sfgov.org, bill.wycko@sfgov.org, jeff.joslin@sfgov.org, Andres.Power@sfgov.org, Tim.Frye@sfgov.org,
Cc: board.of.supervisors@sfgov.org
Date: 11/14/2012 08:46 PM
Subject: Case No. 2012.1329U - CEQA changes proposed

Wednesday November 14th, 2012

RE: Case No. 2012.1329U [Board File No. 12-1019] CEQA Proposal by Supervisor Wiener

SF Planning Commissioners, and SF Board of Supervisors

I am deeply concerned that the discussion on the proposed changes of CEQA by Supervisor Scott Wiener dilute the ability of individuals to speak up in timely fashion and question the concerns of projects proposed by big developments and institutions in how they affect the existing working class community members of our city, or inhabitants of a particular area or project from providing insight, thoughtfull solutions, and even better public interest views of a proposed project.

There have often at meetings and hearings on projects been insightfull comment, suggestions and even sketches and proposals that help meet and even improve a project and proposal. To eliminate this dialogue and limit the ability during the hearing process and CEQA existing system and timeline for approvals appears to be an effort to limit the publics input on the process that would be harmfull to existing urban community members, often of low income, or low resources to combat the already stacked "dice" of CEQA review that often favors the developers side and role based solely on their ability to spend more money on attorney's and money paid to fund staffing to review and push through projects at the city level.

As more and more projects take on larger and more increasingly complex roles in the urban fabric, whether they be transportation sites such as the transbay terminal, larger housing projects such as Parkmerced, Treasure Island, and the BVHP, disparate diffused sites such as the SFPL rennovations, and the institutional projects such as 55 Laguna, CPMC, and SFSU's Masterplan, there is a larger need to allow the public adequate time to raise concerns and investigate the project proposal in the publics best interests. By streamlining the process which already has developers and city agencies working in "cahootz" means that individuals speaking on sincere and simple principles of public interests and benefit are being excluded in the proposed changes.

Supervisor Wiener's proposal to change CEQA appeals and process seems to allow too much removal of the individuals or community groups rights to challenge a project or proposal. The memo sent by SF Architectural Heritage soundly raises concerns in terms of historical properties and the issue of eliminating individuals rights to raise concerns on such projects and proposals. Examples of projects that would be directly affected by this legislation would be approvals and CAT-EX exemptions for portions of projects such as SFSU's Masterplan and Parkmerced's Vision projects and the allowing of approval of smaller chunks or blocks without directly looking at the prior noted concerns of how these projects affect overall the prior layout and reading of a masterplanned site. The SFPL projects dealt with dis-continuous sites throughout SF in the Appleton and Wolfard Libraries and raised a distinct concern for the improper rennovations of such buildings in how they affected the prior design and integrity of "concepts" of the architects who designed them. Other raised concerns included the Murals on the Bernal Heights Library, alternatives on the 55 Laguna Project, and inadequate addressing of alternatives on the North-Beach and Merced branch library projects.

The ability of low-income residents (tenants) and their "notification" time-frame is also a concern as many residents of SF do not or are not on major notification systems with the SF Planning Dept. contact lists, which in the cities directory of local and community organizations is often "out-dated" lacking update, or in general missing important involved people of different

organizations or community groups. Tenants and low-income residents also need more time to review such documents. An example would be that Parkmerced residents were required to read through multiple volumes of HEAVY, CEQA documentation in the SFSU-CSU Masterplan AND the Parkmerced Vision projects, and respond in CEQA fashion to the planning department, at the hearings many of the commissioners noted that tenants needed to raise CEQA related points during those hearings, however most tenants and residents could not or did not comprehend HOW to adequately raise concern or issue. By limiting the time and ability to raise issue or concern or suggest a resolution and better alternative to these individuals of existing communities in essence "DRIVES-THEM-OUT" through manipulating the ability of groups to raise question to the cities approval process on large-scale projects. The only alternative most organizations and community groups have in the process is the legal route and that only occurs post most of the hearings. Only by encouraging participation and involvement do most community members attend 1-2 hearings on a project or actually attend CEQA hearings to provide public comment to ensure that their "voice" is heard.

As I am unable to attend the hearing and speak directly to you on this concern, I have submitted this email in strong protest to the proposed changes by Supervisor Wiener, as a concerned citizen of SF and person involved commenting on a couple of the above projects.

I would rather see a few more longer nights in meetings or hearings, and a few more months of delay in terms of discussion and analysis of a proposed projects environmental approvals to ensure that communities are not being "BULLDOZED" without adequate review and analysis environmentally of the alternatives and solutions that can be set forth through DIALOGUE.... That is what your jobs are about, and not just green-lighting every set of plans that are placed in front of you.

To suggest changes to CEQA without adequate discussion with ALL affected parties and individuals is to circumvent adequate inclusivity in the public discussion of projects, and proposals that affect EVERY citizen in SF. The built environment and the need to ensure that we consider alternatives, and environmentally sustainable solutions on proposals requires more thought, more time and yes sometimes more paperwork and delays. That is the system, it works well as is, and if we are to review the states guidelines we need to ensure that ALL groups affected have time and financially supportive assistance to document and comprehend how the proposed CEQA changes suggested by Supervisor Wiener affect their projects and proposals that affect them and there current appeals.

The fact that CEQA and the process of approvals is still in court for the Parkmerced case along with a number of other projects and proposals in SF, is a strong indicator that it is not just every single project that is delayed, it is projects that individuals have raised SOLID and SOUND concern on that need you to spend more time and effort reviewing and that when the public suggests sound PUBLIC POLICY and challenges the city on it, we should not just circumvent any further challenge by changing the rules of the game.

Preservation, Environmental, Community, and Planning groups all question why this needs to be revisited without adequate input by stakeholders, I hope that as public policy leaders you can assess that prior indicators on CEQA proposals for "on-the-fly" changes were met with strong challenge, and will be most likely repeated on this ram-rodded and special interest driven piece of legislature by Supervisor Scott Wiener.....

Sincerely

Aaron Goodman
25 Lisbon St.
San Francisco, CA 94112
e: amgodman@yahoo.com
c: 415.786.6929

121019

Fw: Supervisor Wiener's Proposed Revisions to Local CEQA Implementation Ordinance - Planning Case No. 2012.1329U [BOS File No. 12-1019]

Board of Supervisors to: Alisa Miller 11/16/2012 06:25 PM

From:	SF Preservation Consortium <sfpreservationconsortium@yahoo.com>
To:	planning@rodneyfong.com, cwu.planning@gmail.com, wordweaver21@aol.com, plangsf@gmail.com, richhillissf@yahoo.com, Mooreurban@aol.com, hs.commish@yahoo.com, Elaine.Warren@sfgov.org, john.rahaim@sfgov.org, bill.wycko@sfgov.org, Tina.Tam@sfgov.org, jeff.joslin@sfgov.org, anmarie.rodgers@sfgov.org, commissions.secretary@sfgov.org,
Cc:	scott.wiener@sfgov.org, c_olague@yahoo.com, jane.kim@sfgov.org, Sean.Elsbernd@sfgov.org, david.campos@sfgov.org, Malia.Cohen@sfgov.org, John.Avalos@sfgov.org, Board.of.Supervisors@sfgov.org, Andres.Power@sfgov.org, c.chase@argsf.com, awmartinez@earthlink.net, andrew.wolfram@perkinswill.com, RSEJohns@yahoo.com, cdamkroger@hotmail.com, karlhasz@gmail.com, diane@johnburtonfoundation.org, tim.frye@sfgov.org, marlena.byrne@sfgov.org, anthony_veerkamp@nthp.org, ChristineMadrid_French@nthp.org, calshpo@parks.ca.gov, cheitzman@californiapreservation.org, mbuhler@sfheritage.org, alex.bevk@docomomo-noca.org, sfpreservationconsortium@yahoogroups.com
Date:	11/15/2012 09:33 AM
Subject:	Supervisor Wiener's Proposed Revisions to Local CEQA Implementation Ordinance - Planning Case No. 2012.1329U [BOS File No. 12-1019]

Dear President Fong and Honorable Commissioners:

We urge you to delay action on Supervisor Wiener's Proposed Revisions to Local California Environmental Quality Act (CEQA) Implementation Ordinance Amending Chapter 31 of the San Francisco Administrative Code, Case No. 2012.1329U [Board File No. 12-1019] which may be viewed at:

http://commissions.sfplanning.org/cpcpackets/2012.1329U.pdf

as this item as noticed does not convey the topic or the sweeping changes that are being proposed.

In general the ordinance conflicts with CEQA's intended purpose to 1) disclose environmental impacts to decision makers and the public; 2) prevent or reduce environmental damage; 3) disclose agency decisions; 4) promote inter-agency coordination; and 5) encourage public participation.

We concur with San Francisco Architectural Heritage's below-copied email and attached letter.

Sincerely,

Stewart Morton, Acting Chair
San Francisco Preservation Consortium

-- On Wed, 11/7/12, Mike Buhler <MBuhler@sfheritage.org> wrote:

From: Mike Buhler <MBuhler@sfheritage.org>
Subject: Case Number 2012.1329U [Board File No. 12-1019] - California Environmental Quality Act Procedures
To: "anmarie.rodgers@sfgov.org" <anmarie.rodgers@sfgov.org>
Cc: "bill.wycko@sfgov.org" <bill.wycko@sfgov.org>, "Joslin, Jeff (jeff.joslin@sfgov.org)" <jeff.joslin@sfgov.org>, "Andres.Power@sfgov.org" <Andres.Power@sfgov.org>, "Tim Frye" <Tim.Frye@sfgov.org>
Date: Wednesday, November 7, 2012, 6:26 PM

Dear AnMarie:

On behalf of San Francisco Architectural Heritage, I'm writing to reiterate and supplement my testimony at today's Historic Preservation Commission on Case Number 2012.1329U [Board File No. 12-1019], Supervisor Wiener's proposed legislation regarding "California Environmental Quality Act Procedures." These comments are preliminary and incomplete and will be more fully presented in a letter to the Planning Commission before its hearing on November 16th.

Given the complexity and sweeping scope of the proposed legislation, we join the Historic Preservation Commission in requesting more time to carefully consider all of its implications. Because of the highly truncated legislative schedule, we find ourselves placed in the position of submitting these placeholder comments for the Planning Commission packet just hours after the HPC finished its deliberations. While Heritage does not oppose efforts to achieve greater clarity in the CEQA and appeal processes, the proposed Ordinance includes major changes from its 2010 antecedent that roll back public disclosure requirements and potentially exempt large classes of historic properties from review.

At the outset, we note that the "Basis for Recommendation" in the staff report to the Historic Preservation Commission (pp.8-9) states that the Planning Department "strongly supports the proposed Ordinance" because the Planning Commission and the Historic Preservation Commission recommended approval of "similar proposed Ordinances" in 2006 (Planning Commission only) and 2010 (both Planning Commission and Historic Preservation Commission). However, there have been several significant substantive changes to the current proposed Ordinance that are not highlighted or explained in the Planning Department staff report. Major inconsistencies include, but are not limited to:

· Section 31.08(e)(2): The current proposed Ordinance changes the definition of "historical resources" to exclude properties identified "in City recognized historical surveys" from mandatory public notice requirements. Whereas the 2010 version required notice for projects involving properties in adopted survey areas, the currently proposed Ordinance would trigger notice requirements for survey properties only for "a resource that the Environmental Review Officer [ERO] determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1(g)." Public Resources Code 5024.1(g) allows the ERO to exclude any historic resource identified in a survey if the survey has not been updated in the past 5 years. This loophole would potentially exempt thousands of properties identified in older historic surveys (most of the city's currently recognized historic resources) from public notice requirements,
significantly undermining the fundamental purpose of CEQA as a public disclosure process.

· Section 31.16(b): Provides that "CEQA decisions are not appealable to the Board [of Supervisors] if the Board is the CEQA decision-making body for the project." This limitation was not included in the 2010 Ordinance. Under the current proposed Ordinance those wishing to appeal such projects would need to raise their objections in testimony at the Land Use Committee. Indeed, the HPC staff report, at page 7, notes that, "the Department does have concerns that a party may introduce substantial new information at the Board Committee hearing, thereby hindering the ability of the City to provide a meaningful response."

· Section 31.16(f): The current proposed Ordinance starts the 20-day clock for appeals of exemptions after the first discretionary project approval. We believe that the 2010 Ordinance did not trigger the appeal period until the final discretionary approval. The current proposed Ordinance essentially turns the 2010 timeline on its head, requiring concerned members of the public to appeal projects at the earliest possible opportunity without all relevant information about the proposed project, triggering numerous potentially unnecessary appeals and bureaucratic staff response.

Because the HPC staff report does not include a side-by-side comparison with the 2010 Ordinance, we are unable to identify all proposed changes in the current version of the legislation without more time to review. At minimum, the Planning Department should clearly explain differences between Supervisor Wiener's proposed legislation and the current notice and appeals process, and even more useful, revisions from the 2010 proposed legislation then endorsed by the Planning Commission and the Historic Preservation Commission. Accordingly, the legislative schedule should be extended to allow members of the public, the Planning Commission, and the Board of Supervisors to understand what is being proposed. Heritage looks forward to providing more detailed comments before the Planning Commission hearing on November 16th.

Sincerely,

Mike Buhler
Executive Director
San Francisco Architectural Heritage
P: 415.441.3000 x15
F: 415.441.3015
2007 Franklin Street
San Francisco, CA 94109
mbuhler@sfheritage.org | www.sfheritage.org

SF Heritage letter re CEQA Procedures (Sup.Wiener) (11.14.12).pdf

SAN FRANCISCO
ARCHITECTURAL
HERITAGE

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November 14, 2012

Submitted by email
Rodney Fong, President
San Francisco Planning Commission
Attn: Linda Avery, Commission Secretary
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2414
Email: linda.avery@sfgov.org

RE: Case Number 2012.1329U [Board File No. 12-1019], California Environmental Quality Act Procedures (Supervisor Wiener)

Dear President Fong and Members of the Commission:

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to comment further on Case Number 2012.1329U [Board File No. 12-1019], Supervisor Wiener's proposed legislation amending "California Environmental Quality Act Procedures." While Heritage does not oppose efforts to achieve greater clarity in the CEQA and appeals processes, the proposed Ordinance includes major revisions to its 2010 antecedent that cut off avenues for appeals, confuse public notice procedures, and exclude projects involving historic resources in survey areas from public scrutiny. Given the complexity and sweeping scope of the legislation, we join the Historic Preservation Commission in requesting more time to carefully consider all of its implications.

Heritage's preliminary concerns about the proposed Ordinance, including deviations from Supervisor Alioto-Pier's 2010 legislation, are highlighted below:

- **The Planning Department should explain differences between the current Ordinance and the 2010 legislation sponsored by Supervisor Alioto-Pier**

The "Basis for Recommendation" in the staff report to the Planning Commission states that the Department "strongly supports the proposed Ordinance" because the Planning Commission and the Historic Preservation Commission recommended approval of "similar proposed Ordinances" in 2006 (Planning Commission only) and 2010 (both Planning Commission and Historic Preservation Commission). However, there are several new provisions that are not highlighted. The apparent rush to approve this legislation—with back-to-back hearings at the Board of Supervisors scheduled during Thanksgiving week—combined with the Department's unwillingness to grant the HPC's request for a continuance and its

failure to identify textual changes, reinforces doubts about the integrity of the process.

Before the Planning Commission takes action on the proposed Ordinance, the Department should be asked to explain clearly differences between Supervisor Wiener's legislation and proposed amendments introduced by Supervisor Alioto-Pier in 2010 (and endorsed by the Planning Commission and the Historic Preservation Commission). The rationale behind making these changes should be fully disclosed and debated. Accordingly, the hearing schedule should be extended to allow members of the public, the Planning Commission, and the Board of Supervisors to fully understand what is being proposed.

- **By changing the definition of "historical resources," the proposed Ordinance eliminates mandatory public disclosure of CEQA exemptions for projects involving resources identified in City-recognized or adopted surveys. (Section 31.08(e)(2))**

The current proposed Ordinance changes the definition of "historical resources" to exclude properties identified "in City recognized historical surveys" from mandatory public notice requirements. Whereas the 2010 version required notice for projects involving properties in recognized survey areas, the current proposed Ordinance triggers notice requirements for survey properties only for "a resource that the Environmental Review Officer [ERO] determines, based on substantial evidence, to be a historical resource under Public Resources Code Section 5024.1(g)." Public Resources Code 5024.1(g) allows the ERO to exclude any historic resource identified in a survey if the survey has not been updated in the past five years—a standard that many City surveys do not meet.[1] In effect, these proposed changes would substitute the ERO's opinion for an officially recognized survey. This loophole would potentially exempt thousands of properties identified in older historic surveys (most of the city's currently recognized historic resources) from public notice requirements, significantly undermining the fundamental purpose of CEQA as a public disclosure process.

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[1] Under Public Resources Code Section 5024.1(g): "A resource identified as significant in an historical resource survey may be listed in the California Register if the survey meets **all** of the following criteria:

(1) The survey has been or will be included in the State Historic Resources Inventory.

(2) The survey and the survey documentation were prepared in accordance with office procedures and requirements.

(3) The resource is evaluated and determined by the office to have a significance rating of Category 1 to 5 on DPR Form 523.

(4) If the survey is five or more years old at the time of its nomination for inclusion in the California Register, the survey is updated to identify historical resources which have become eligible or ineligible due to changed circumstances or further documentation and those which have been demolished or altered in a manner that substantially diminishes the significance of the resource." (emphasis added.)

- **No procedures are included in the proposed Ordinance to ensure that the Historic Preservation Commission has a meaningful opportunity to comment on all environmental review documents under CEQA and NEPA for projects that may impact historic resources.**

In addition to deciding which "historical resources" are subject to public notice requirements, the ERO would have broad discretion to limit environmental review documents that can be reviewed by the HPC.[2] Under the "five-year rule" in Public Resources Code Section 5024.1(g), the ERO could withhold environmental documents from HPC review—even for projects impacting highly-rated buildings—if the property is included in an outdated survey. There is no such filter on the HPC's authority in the San Francisco Charter, which states: "For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act."[3]

In addition, the Ordinance includes no procedure for the ERO to consult with the HPC to solicit its expertise and special knowledge as to whether a project may impact a historic resource at the Initial Study phase[4]; and no procedure for the ERO to refer a preliminary negative declaration finding to the HPC.[5]

- **The proposed Ordinance eliminates the public's right to appeal CEQA determinations if the Board of Supervisors must approve any aspect of a project. (Section 31.16(b))**

Currently, any person who has submitted written or oral comments on a draft EIR may appeal the Planning Commission's certification of the EIR to the Board of Supervisors. The proposed Ordinance eliminates this right "if the Board is the CEQA decision-making body for the project." The public would not be able to appeal a Planning Commission certification of an EIR or adoption of a negative declaration, or a determination that a project is exempt from CEQA if the project requires any approval action by the Board. Those wishing to appeal such projects would need to raise their objections in testimony at the Board committee level. This limitation

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2 Section 31.04 (d) of the proposed amendments provides that for proposed projects "that the Environmental Review Officer of the Planning Department has determined may have an impact on historic or cultural resources, the HPC may review and comment on such environmental documents and determinations in a manner consistent with CEQA and this Chapter 31."

3 City Charter, Section 4.135.

4 Section 31.10(d).

5 The 2010 proposed amendments to Chapter 31 sponsored by Supervisor Alioto-Pier provided, in Section 31.11(b) that the ERO: "shall refer all preliminary negative declarations for projects that may affect any historic resource, as defined by CEQA, to the Historic Preservation Commission for its review and comment, which the Environmental Review Officer shall consider as part of the completion of the negative declaration."

was not included in the 2010 Ordinance sponsored by Supervisor Alioto-Pier. As recognized in the staff report, there would be no opportunity for the City to respond to new information or to modify the environmental document: "the Department [has] concerns that a party may introduce substantial new information at the Board Committee hearing, thereby hindering the ability of the City to provide a meaningful response."

- **The timeline for triggering appeals under the proposed Ordinance would be the "first approval" of the project instead of the final discretionary project approval. (Section 31.16(f))**

The current proposed Ordinance starts the 20-day clock for appeals after the first discretionary project approval. The trigger point for appeals is variously referred to in the Ordinance as "granting of the first entitlement" (31.16(f)(2)(A)), "first approval of the project" (31.16(f)(2)(B)), "first approval action" (31.16(f)(2)(C)), or "approval of the project by the first decision making body" (31.16(d)(2)). This inconsistency is not only confusing to the public, but undermines the stated goal of the Ordinance to provide clarity for project sponsors and appellants. The 2010 version did not trigger the appeal period until after the final discretionary approval.

The current Ordinance turns the 2010 timeline on its head, forcing concerned members of the public to file an appeal at the earliest possible opportunity, while allowing the City to take actions to approve, modify, and impose conditions on a project while the appeal is pending.[6] In other words, the project appealed after the "first entitlement" could be vastly different than the one finally approved.

- **Because public notification procedures for exemptions and "first approval actions" are sometimes discretionary, there is no way for the public to know with any certainty when time limits for appeals are triggered.**

Although it aims to improve public notice procedures, the proposed Ordinance does not include uniform notice requirements to clearly establish when the 20-day appeal period is triggered. For example, when the ERO or other department has determined that a project is exempt from CEQA, the ERO ***may***, but is not required to, issue a "Certificate of Exemption from Environmental Review" to be posted in office and website and mailed.[7] Likewise, the City board, commission, department or official that first approves a project ***may***, but is not required to, "arrange for the Planning Department to post on the Planning Department's website a written decision or written notice of the first approval action..."[8] If there is no notice given of

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6 Under Section 31.16(c)(3), the City could continue to secure multiple approvals of the project while the appeal is pending so long as they do not "physically change the environment" except for those "necessary to abate hazards to public health and safety."

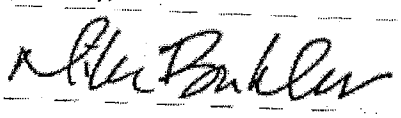
7 Section 31.08(e)(1).

8 Section 31.08(g).

the "first approval action," which would trigger the time limits, the appeal to the Board must be filed within 30 days of the first approval action.[9]

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to comment on Supervisor Wiener's proposed amendments to the City's CEQA public disclosure and appeals procedures. Please do not hesitate to contact me at mbuhler@sfheritage.org or (415) 441-3000x15 should you have any questions or need additional information.

Sincerely,



Mike Buhler
Executive Director

cc: Planning Commission
Historic Preservation Commission
Supervisor Scott Wiener
Supervisor Eric Mar
Supervisor Malia Cohen
John Rahaim, Director of Planning
Jeff Joslin, Director of Current Planning
AnMarie Rodgers, Manager, Legislative Affairs

[9] Sections 31.16(f)(2)(A), (B) and (C).

File 121019

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BOARD OF SUPERVISORS
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November 14, 2012

Via e-mail and hand delivery

Supervisor Scott Wiener
1 Dr. Carlton B. Goodlett Place
City Hall, Room. 244
San Francisco, Ca 94102-4689

Re: Ordinance Amending San Francisco Administrative Code Chapter 31; Proposed Changes to California Environmental Quality Act Procedures (File No. 121019)

Dear Supervisor Wiener:

On behalf of our thousands of members, supporters, and activists in the City of San Francisco, the Center for Biological Diversity ("Center") respectfully submits the following comments concerning amendments to San Francisco's California Environmental Quality Act ("CEQA") procedures introduced by your office on October 19, 2012 (File No. 121019; hereafter "proposed amendments"). Both the Center and many of its individual members strongly support the twin purposes of CEQA, namely its procedural emphasis on full disclosure and analysis of environmental impacts with an opportunity for public participation, and its substantive requirement that public agencies and private developers mitigate or avoid the significant impacts of their projects to the extent feasible. Faithful compliance with CEQA—including public input—has improved countless public and private projects in California over the last 40 years, resulting in tangible protection for endangered species and their habitats, cleaner air and water, and more efficient use of scarce public resources.

Although many of the proposed amendments appear to be technical conforming changes, the proposal as a whole would make public participation in City decision-making more difficult. First and foremost, the repeal of existing appeal procedures in Administrative Code 31.16, and their replacement with the far more restrictive and limited provisions in the proposed amendments, will both raise obstacles to public participation in development decisions and narrow the scope of the Board's review. The Board of Supervisors is the ultimate decision-maker in the City of San Francisco, and its elected members are the representatives whom the people must be able to hold accountable for the environmental consequences of development choices. As the California Supreme Court held more than 20 years ago, CEQA documents are not mere vehicles for information disclosure, but rather essential tools of democratic accountability. *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California* (1988) 47 Cal.3d 376, 392. By restricting the scope of the Board's authority to review

Kevin P. Bundy • Senior Attorney • 351 California St., Suite 600 • San Francisco, CA 94104
Phone: 415-436-9682 x313 • Fax: 415-436-9683 • kbundy@biologicaldiversity.org

Supervisor Scott Wiener
Re: Proposed Changes to CEQA Procedures (File No. 121019)
November 14, 2012

CEQA decisions on appeal, the proposed amendments could inappropriately constrain the Board's ability to act as the City's final decision-making body.

Other specific provisions of the proposed amendments would raise additional bars to public participation, potentially conflict with state law, and increase rather than reduce the City's exposure to CEQA litigation. Specifically:

• The proposed amendments establish a confusing and unnecessarily complex process for providing notice of CEQA exemption determinations.

• A narrow definition of historical resources in the proposed amendments appears to conflict with state law, which may increase the City's litigation risk in determining that certain projects are categorically exempt from CEQA.

• Under the proposed amendments, members of the public must submit written materials regarding an appeal to the Board of Supervisors one full day *before* the City is required to give notice of the appeal. Put another way, written materials will be due before members of the public are informed that an appeal is happening. This will make it very difficult, if not impossible, for the public to provide meaningful input on appeals.

• The proposed amendments would "deem valid" prior CEQA approval actions, which could force project appellants to file lawsuits even before the Board reaches decisions on their appeals in order to avoid CEQA's strict statute of limitations. This will subject the City to additional unnecessary and expensive litigation.

• The proposed amendments would force members of the public to file *two* appeals—and pay two appeal fees of $500 each—in order to seek review of a proposed negative declaration before the Board of Supervisors. There is no rational basis for making review of a negative declaration more difficult and more expensive than review of an exemption or EIR.

These concerns and other issues are addressed in the attached analysis. I would be happy to discuss these comments with you or your staff. I can be reached at (415) 436-9682 x313 or by email at kbundy@biologicaldiversity.org. Thank you for considering our serious concerns with this proposal.

Sincerely,

Kevin P. Bundy
Senior Attorney

Cc: Members of the Board of Supervisors
Members of the Planning Commission

Center for Biological Diversity
Analysis of Proposed Amendments to Administrative Code Chapter 31
November 14, 2012

I. Major Concerns

• **Page 7, line 15-page 8, line 3 (Proposed § 31.08(e)(2)):** The proposed amendments expressly require notice of exemption determinations only in specific circumstances (e.g., where historical resources are affected, demolition will occur, or the City invokes a Class 31 or 32 categorical exemption). Otherwise, notice appears to be provided only where a public hearing on the underlying approval action will be held (Proposed § 31.08(f)) or provided solely at the discretion of City officials (Proposed § 31.08(g)). Proposed section 31.16(f)(2) establishes three different deadlines for appeal depending upon whether and when notice has been provided. It would be much simpler, and fairer to members of the public attempting to comply with the proposed appeal procedures, to require prompt and effective notice of all exemption determinations. In addition to being posted on the Planning Department website, such notice should be provided to all individuals and organizations who have previously requested notice of exemption determinations.

• **Page 7, lines 16-23 (Proposed § 31.08(e)(2)(i)):** The proposed amendments define historical resources in a manner that appears to conflict with state law. Public Resources Code section 21084.1 provides that a project causing a significant adverse change in a historical resource may have a significant effect on the environment. This section also provides that historical resources "deemed significant" pursuant to Public Resources Code section 5024.1(g) are "presumed to be historically significant . . . unless *the preponderance of the evidence* demonstrates that the resource is not historically or culturally significant" (emphasis added).

The proposed amendments, however, allow the Environmental Review Officer to determine whether such a resource is historically significant based on *substantial* evidence (i.e., any credible evidence) rather than a *preponderance* of the evidence (i.e., the majority of the evidence). This lower "substantial evidence" standard is therefore inconsistent with the standard prescribed by Public Resources Code section 21084.1. Because many CEQA exemptions (categorical exemptions) do not apply where a project may have a significant impact on the environment, and Public Resources Code section 21084.1 treats historical resource impacts as potentially significant, these proposed amendments may result in legally vulnerable determinations by the Environmental Review Officer.

• **Page 23, lines 7-18 (Proposed Section 31.16(c)(4), (5)):** The proposed amendments would provide notice of an appeal to the public *after* the deadline for submission of written materials on the appeal. This could make it impossible for members of the public to submit timely written materials.

Under Proposed Section 31.16(c)(4), the City must provide notice of an appeal to organizations and individuals who have requested notice "no less than ten days prior" to the hearing date. Under Proposed Section 31.16(c)(5), however, members of the public must submit any written materials to the Board "no later than noon, 11 days prior to the scheduled hearing." Written materials on the appeal thus would be due *one day before* public notice of the appeal is given. This provision will frustrate public input and deprive the Board of comments from members of the public other than the appellant. Members of the public should have a reasonable period of time following notice of the appeal to prepare written materials for the Board's consideration.

• **Page 24, lines 12-16 (Proposed Section 31.16(c)(9)):** The proposed amendments create a situation where appellants will be compelled to file litigation *prior* to the Board's decision on appeal. This could result in potentially unnecessary lawsuits being filed in Superior Court on virtually every project appealed to the Board of Supervisors, dramatically increasing potential costs to both the City and members of the public.

The amendments would deem valid "any approval actions" for a project "made prior to the appeal decision" if the Board affirms the challenged CEQA decision. These "approval actions" could include the filing of notices of exemption or notices of decision. *See* Proposed Sections 31.08(h), 31.11(j), 31.15(e). Filing of these notices triggers CEQA's short statutes of limitations. Pub. Res. Code § 21167 (allowing 30 days from the filing of a notice of determination for a negative declaration or EIR, and 35 days from the filing of a notice of exemption for an exemption determination, to file a challenge).

Under the timelines provided in the proposed amendments, however, the Board's decision on appeal could be rendered as many as 90 days following expiration of the deadline for appeal—that is, as many as 110 days from the original CEQA decision and approval. Proposed Section 31.16(7). CEQA's statute of limitations therefore could expire long before the Board renders a decision on appeal.

The California Supreme Court has strictly enforced CEQA's statutes of limitations in cases where notices of determination and exemption are even arguably valid. *See, e.g.*, *Stockton Citizens for Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481; *Committee for Green Foothills v. Santa Clara County Board of Supervisors* (2010) 48 Cal.4th 32. Under the proposed amendments, if the original CEQA decision and project approval included filing of a notice of determination or notice of exemption, that notice apparently would be deemed valid as of the original filing date. As a result, in order to avoid letting CEQA's statute of limitations expire 30 or 35 days after filing of the original notice, appellants could be forced to file protective CEQA litigation well before any decision on appeal is rendered. The proposed amendments thus could lead to potentially unnecessary litigation over virtually every decision appealed to the Board of Supervisors, dramatically increasing costs to the City and members of the public.

• **Page 25, lines 23-25 (Proposed Section 31.16(e)(1)):** The proposed amendments will require members of the public to pay appeal fees twice in order to seek review of a negative declaration before the Board of Supervisors.

Under Proposed Section 31.11(e), any person may, in response to a notice of intent to adopt a negative declaration, *either* appeal the proposed negative declaration to the Planning Commission *or* submit comments. However, in order to appeal a decision to adopt a negative declaration to the Board of Supervisors, the appellant must have previously appealed that decision to the Planning Commission; submission of timely comments on the negative declaration is insufficient. Proposed Section 31.16(e)(1).

The proposed amendments thus treat appeals of negative declarations differently from appeals of EIRs. In order to appeal an EIR, the appellant need only have submitted timely comments on the draft EIR. Proposed Section 31.16(d)(1). Because a separate appeal fee is required for appeals to the Planning Commission and the Board of Supervisors, Administrative Code section 31.22(a)(3), (4), appellants seeking review of negative declarations—unlike appellants of EIRs—will be required to pay a $500 fee twice. In addition, the City may be forced to expend staff and financial resources on two separate appeals.

There is no rational basis for this different treatment. Timely comments on a proposed negative declaration should be sufficient to preserve an appellant's right to review by the Board of Supervisors.

II. Other Concerns and Technical Issues

• **Page 2, lines 23-25 (Proposed Section 31.04(g)):** The proposed amendments allow the City to provide any notice required to be "mailed" by email whenever a City official has an email address for the recipient. Because notice is very important to timely compliance with appeal deadlines, members of the public should have the option of specifying that they would prefer to receive notice by mail.

• **Page 5, lines 14-17 (Proposed Section 31.08(a)):** The definition of "community plan exemption" references "CEQA streamlining procedures" that allow reliance on a prior environmental document. It is not clear whether this definition is intended to reference only recent amendments to CEQA streamlining the CEQA process for infill projects (SB 226), or whether it refers to the long-standing practice of "tiering" analysis of later projects to prior environmental documents. The former could properly be called at least a partial "exemption" from CEQA. The "tiering" process in general, however, is not an "exemption" from CEQA and should not be defined as such. The definition should thus include a cross-reference to the SB 226 exemption.

• **Page 11, lines 12 and 19 (Proposed Section 31.10(f)(1), (2)):** By striking references to the "fair argument" standard, he proposed amendments may create confusion about what standard the City is applying in determining whether CEQA requires a negative

declaration or an EIR for a particular project. Although the proposed language appears to be consistent with CEQA Guidelines section 15070, references to the "fair argument" standard should be retained, if only to reflect that the City is not attempting to deviate from prevailing CEQA standards.

• **Page 14, line 8 (Proposed Section 31.11(g)):** Again, the proposed amendments should reference the "fair argument" standard in the context of decisions whether or not to prepare an EIR.

BOARD of SUPERVISORS

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

MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Karen Hong Yee, County Clerk
Mohammed Nuru, Director, Department of Public Works
Barbara Garcia, Director, Department of Public Health
Chief Joanne Hayes-White, Fire Department
Fire Marshal Thomas Harvey, Fire Department
Monique Moyer, Executive Director, Port
Edward Byrne, Chief Engineer, Port
Ed Reiskin, Director, Municipal Transportation Agency

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: April 24, 2013

SUBJECT: AMENDED LEGISLATION

The Board of Supervisors' Land Use and Economic Development Committee accepted the following **amended** legislation at their April 22, 2013 meeting. This matter is being referred to your department for informational purposes.

File No. 121019-6

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

This matter will be heard again at the Land Use and Economic Development Committee meeting on May 6, 2013, at 1:30 p.m.

If you wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Elaine Forbes, Port
Greg Wagner, Department of Public Health
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Kelly Alves, Fire Department
Frank Lee, Department of Public Works
Kate Breen, Municipal Transportation Agency
Janet Martinsen, Municipal Transportation Agency

BOARD of SUPERVISORS

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TDD/TTY No. 554-5227

April 24, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On April 22, 2013, the Land Use and Economic Development Committee accepted the following **amended** legislation:

File No. 121019-6

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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TDD/TTY No. 554-5227

April 24, 2013

File No. 121019-6

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On April 22, 2013, the Land Use and Economic Development Committee accepted the following **amended** legislation:

File No. 121019-6

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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

April 4, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 29, 2013, Supervisor Wiener introduced the following **substitute** legislation:

File No. 121019-4

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Karen Hong Yee, County Clerk
Mohammed Nuru, Director, Department of Public Works
Barbara Garcia, Director, Department of Public Health
Chief Joanne Hayes-White, Fire Department
Fire Marshal Thomas Harvey, Fire Department
Monique Moyer, Executive Director, Port
Edward Byrne, Chief Engineer, Port

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: April 4, 2013

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, introduced by Supervisor Wiener on April 2, 2013. This matter is being referred to your department for informational purposes.

File No. 121019-4

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board of Supervisors (Board) to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

This matter will be heard at the Land Use and Economic Development Committee meeting on April 8, 2013 at 1:30 p.m.

If you wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Kelly Alves, Fire Department

BOARD of SUPERVISORS

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

February 6, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 29, 2013, Supervisor Wiener introduced the following **substitute** legislation:

File No. 121019-3

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; and clarifying existing noticing requirements for exempt projects.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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

MEMORANDUM

TO: Tom Hui, Acting Director, Department of Building Inspection

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: February 6, 2013

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following substitute legislation, introduced by Supervisor Wiener on January 29, 2013. This matter is being referred to your department for informational purposes.

File No. 121019

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; and clarifying existing noticing requirements for exempt projects.

If you do wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Legislative & Public Affairs, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

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MEMORANDUM

TO: Karen Hong Yee, County Clerk
Mohammed Nuru, Director, Department of Public Works
Barbara Garcia, Director, Department of Public Health
Chief Joanne Hayes-White, Fire Department
Fire Marshal Thomas Harvey, Fire Department
Monique Moyer, Executive Director, Port
Edward Byrne, Chief Engineer, Port

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: February 6, 2013

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, introduced by Supervisor Wiener on January 29, 2013. This matter is being referred to your department for informational purposes.

File No. 121019

Ordinance amending Administrative Code, Chapter 31, to reflect revisions in the California Environmental Quality Act (CEQA) and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; and clarifying existing noticing requirements for exempt projects.

If you wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Kelly Alves, Fire Department
Trisha Prashad, Port

BOARD of SUPERVISORS

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San Francisco 94102-4689
Tel. No. 554-5184
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TDD/TTY No. 554-5227

October 29, 2012

File No. 121019

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On October 16, 2012, Supervisor Wiener introduced the following proposed legislation:

File No. 121019

Ordinance amending the San Francisco Administrative Code Chapter 31 to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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

MEMORANDUM

TO: John Rahaim, Director, Planning Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: October 29, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Wiener on October 16, 2012:

File No. 121019

Ordinance amending the San Francisco Administrative Code Chapter 31 to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31.

The proposed ordinance is being transmitted pursuant to Board Rule 5.41 for review and recommendation.

If you wish to submit any reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Scott Sanchez, Zoning Administrator, Planning Department
AnMarie Rodgers, Legislative Affairs Manager, Planning Department
Linda Avery, Secretary, Planning Commission

Amendment #1 Offered by Supervisor Wiener
File NO. 121019 – California Environmental Quality Act Procedures

File No. 121019
4/22/13 Received in Committee
✓ ACCEPTED

Amend the legislation to include the following finding in an uncodified section:

As stated in San Francisco Administrative Code, Chapter 31, the purpose of Chapter 31 is to provide procedures for San Francisco to carry out its responsibilities as a lead agency under the California Environmental Quality Act ("CEQA"), a State statute that has played a key role in protecting the environment. As stated in Chapter 31, Section 31.01, 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. By adopting this ordinance, the Board of Supervisors intends to reaffirm the policies and objectives stated in Chapter 31, Section 31.02, including without limitation, providing decision makers and the public with meaningful information regarding the environmental consequences of proposed activities, identifying ways that environmental damage can be avoided or significantly reduced, providing public input in the environmental review process, bringing environmental considerations to bear at an early stage in the planning process, avoiding unnecessary delays or undue complexity of review and providing procedural direction on implementation of CEQA by the City. Nothing in this ordinance is intended to change the policies and objectives of CEQA, to limit any rights of appeal provided to the public under CEQA, or to limit the authority of the San Francisco Board of Supervisors or the San Francisco Planning Commission to hear and decide CEQA appeals as provided in this Chapter.

File No. 121019
4/22/13 Received in Committee
✓ ACCEPTED

SUMMARY OF POTENTIAL CEQA AMENDMENTS
Supervisor David Chiu
Friday, April 19, 2013

1. **Require that all hearings on CEQA appeals be before the full Board.**

a. Delete references to Board as CEQA decision-maker.

b. Clarify that the Board can't approve the project until the CEQA decision is affirmed but it can hold hearings on the project and pass pending approvals out of committee without recommendation for the purpose of consolidating the approvals with the appeal before the full Board.

c. Other boards and commissions can continue to take approval actions.

2. **Minimize changes to EIR appeal process**

a. Delete requirement to submit written materials with the appeal; to have an agent authorized in writing, if an agent files the appeal; to not require submittal of the approval action with the appeal.

b. Provide that an EIR appeal can be filed after certification and no later than 30 days after the Date of the Approval Action. This allows appeals to be filed, but not scheduled for hearing, before an approval AND allows appeals after approval.

c. Provide for the hearing on appeal to be set no more than 45 days from the deadline for filing the appeal. Current law says schedule the appeal as soon as possible and provide a 10 day notice. Sup. Wiener's proposal says schedule no less than 30 and no more than 45 days from the deadline for filing an appeal. A 14-day notice is required and materials must be submitted 11 days before the hearing.

3. **Fair argument.**

The "fair argument" language is added in three places: Section 31.11(g), Section 31.16(d)(3) and Section 31.16(d)(5).

4. **Online notice up and running for all exemptions, even those issued for over-the-counter permits.**

A new, uncodified Section 5 is added at the end of the ordinance to address an "Operative Date." It provides that the ordinance will become operative on the later of September 1, 2013 or after the Planning Commission sends a memo to the Board of Supervisors confirming that the department has updated its website to provide up-to-date information to the public about each CEQA exemption determination in a searchable format by location and has held a public hearing to demonstrate the tool. See also #6 below.

5. **Keep status quo on submitting documents.**

Revise the ordinance so that the Appellant is not required to submit all written materials at the time an appeal is filed. See #2a above. Other provisions in Sup. Wiener's ordinance on the timing of submittal of documents are not revised – 11 days for appellant, 8 for Planning [note that current law does not address this issue; Clerk's interim guidelines somewhat address the issue for negative declarations and exemptions and the proposed ordinance is consistent with those guidelines].

6. **First approval – clarify**

a. New language is added to provide that Planning must identify the Approval Action for each project and provide that information to the public either in the CEQA document or in information it posts on its

website or in other public information it provides to the public about a CEQA decision. The effect of this provision is to not only require Planning to inform the public of the Approval Action (to address complaints that the definitions are unclear) but it also effectively requires Planning to post information about every exemption that is not otherwise publicly noticed.

b. New language is added to provide that Planning may issue guidance to other city departments in determining the type of project modifications that might occur after an Approval Action that would require additional review. It states that it could also advise on the process and considerations that Planning would use to determine whether to issue a new determination or undertake additional environmental review.

7. Allow Exemption and Neg Dec Appeals after Determination and before Approval

Consistent with EIRs (see 2b above), revised ordinance would allow appeals to be filed, but not scheduled for hearing, before an approval but opens the 30-day appeal window after approval. This helps (along with 6a above) to address any uncertainty around what the approval is for a particular determination.

8. Strengthens Language Around Project Modifications after CEQA Determinations for Exemptions

New language is added to provide that the Environmental Review Officer shall review project applications that are re-referred to Planning because they have changed if the Environmental Review Officer determines that the project description is no longer within the scope of the previous project description, the Environmental Review Officer shall issue a new CEQA determination. The ERO would have to put any notice that the project has not changed in writing in the case file. Sup. Wiener's ordinance provides that new exemption determinations are appealable to the Board.

9. Provides Notices in Hard Copy Form if Requested

New language clarifies electronic mailing language in 31.04(g) to continue to allow individuals and organizations to request hard copy mailings of any mailed notices required by Chapter 31.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☒ 8. Substitute Legislation File No. 121019

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

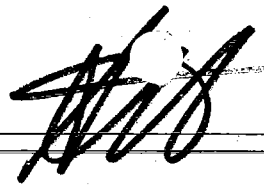
Supervisor Wiener

Subject:

Administrative Code - California Environmental Quality Act Procedures

The text is listed below or attached:

Ordinance amending Administrative Code Chapter 31 to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; clarifying existing noticing requirements for exempt projects; and making environmental findings.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

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Sponsor(s):

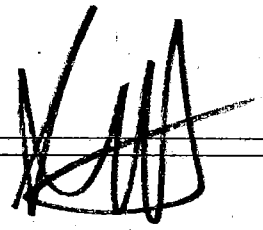
Supervisor Wiener

Subject:

CEQA Procedures

The text is listed below or attached:

Ordinance amending Administrative Code Chapter 31 to reflect revisions in the California Environmental Quality Act and to update and clarify certain procedures provided for in Chapter 31, including without limitation: codifying procedures for appeals of exemptions and negative declarations; providing for the Board to make the final CEQA decision on projects requiring Board legislative action, negating the need to file formal CEQA appeals; revising noticing procedures for environmental impact reports and negative declarations for plan area projects exceeding 20 acres; expanding noticing requirements for certain exempt projects; and clarifying existing noticing requirements for exempt projects.

Signature of Sponsoring Supervisor: 

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Supervisor Wiener

Subject:

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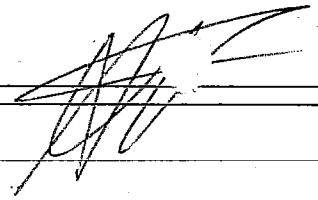
Signature Sponsoring Supervisor: 

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☒ 1. For reference to Committee: Land Use & Economic Development Committee

An ordinance, resolution, motion, or charter amendment.

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Supervisor Wiener

Subject:

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Signature of Sponsoring Supervisor:

For Clerk's Use Only:

12/10/19