COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date: July 22, 2013
Board of Supervisors Meeting Date: ____________________

Cmte Board

☐ ☐ Motion
☐ ☐ Resolution
☐ ☐ Ordinance
☒ ☐ Legislative Digest
☐ ☐ Budget and Legislative Analyst Report
☐ ☐ Youth Commission Report
☒ ☐ Introduction Form
☐ ☐ Department/Agency Cover Letter and/or Report
☐ ☐ MOU
☐ ☐ Grant Information Form
☐ ☐ Grant Budget
☐ ☐ Subcontract Budget
☐ ☐ Contract/Agreement
☐ ☐ Form 126 – Ethics Commission
☐ ☐ Award Letter
☐ ☐ Application
☒ ☐ Public Correspondence

OTHER (Use back side if additional space is needed)

☒ ☐ Categorical Exemption Stamp, dtd 5/24/13

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Completed by: Alisa Miller Date: July 19, 2013
Completed by: ____________________________ Date: ____________________________
Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

NOTE: Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underline Arial font. Board amendment deletions are in strikethrough Arial font.

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. 130464 and is incorporated herein by reference.

Section 2. The Administrative Code is hereby amended by adding new Section 31.08(k), to read as follows:

SEC. 31.08. CATEGORICAL EXEMPTIONS.  

***

(i) Appeal of a Determination That Change in Exempt Project is Not A Substantial Modification.

(1) Within 10 days of the posting of the notice of a determination that a change in an exempt project is not a substantial modification as defined in 31.08(i), an appeal may be filed with the Environmental Review Officer requesting that the Environmental Review Officer reverse the
determination and render a new CEQA decision for the project. Such an appeal is not an appeal of a CEQA decision under the California Environmental Quality Act.

(2) If such an appeal is filed when a regularly scheduled meeting of the Planning Commission will be held within 20 days of the filing of the appeal, the Environmental Review Officer shall hold a noticed public hearing on the day of a Planning Commission meeting held within such 20 day period. If no Planning Commission meeting is held within the 20 day period, the hearing shall take place on the day of one of the next two regularly scheduled Planning Commission meetings after such 20-day period.

(3) At the public hearing, the Environmental Review Officer shall reconsider the prior determination in light of all information provided by all parties present, including any project sponsor, as well as written information submitted at or before the public hearing.

(4) If after such reconsideration, the Environmental Review Officer determines that the original determination was in error, the Environmental Review Officer shall render a new CEQA decision for the project in accordance with the requirements of CEQA and this Chapter 31.

(5) If after such reconsideration, the Environmental Review Officer determines that the original decision was not in error, the original determination of the Environmental Review Officer shall be final.

(6) The Environmental Review Officer shall issue a written decision on the appeal within 14 days of the public hearing, and an oral report of the decision shall be provided to the Planning Commission at the next possible meeting after such decision.

(7) To the extent feasible, and subject to the budgetary and fiscal provisions of the Charter, such hearing shall be video-recorded and broadcast by the official television channel of the City and County of San Francisco. At a minimum, such hearing shall be video-recorded and made available on the website of the City and County of San Francisco.
The Planning Department may adopt additional procedures for such appeals.

Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. 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 WARREN
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(7/16/2013, Substituted)

[Administrative Code - California Environmental Quality Act Procedures, Appeal of Exempt Project Modification]

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

Existing Law

The City of San Francisco, in accordance with the requirements of the 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

This ordinance amends one section of Chapter 31. The amendment provides for a process to appeal a determination by the Environmental Review Officer that a change to a project exempt from CEQA is not a substantial modification to the project that requires a new CEQA decision. The appeal process provides for a hearing before the Environmental Review Officer. The Environmental Review Officer would be required to reconsider his or her prior decision in light of any new information submitted before or at the hearing. The appeal must be filed within 10 days of the original decision and the hearing held within 20 days of the appeal, on the same day as a Planning Commission regularly-scheduled meeting. If no Planning Commission meeting is scheduled within the 20-day period, the hearing must be held on the day of the one of the next two Planning Commission hearings. The hearing must be video-recorded, with the recording posted on the City’s website, and, if feasible, broadcast on the City’s official television channel. The Environmental Review Officer must render a decision within 14 days of the hearing.

Background Information
The ordinance is substitute legislation proposed to revise one aspect of the City's existing CEQA implementation procedures. The ordinance amends legislation originally introduced by Supervisor Kim on May 14, 2013. Under the original proposal, one has 30 days to file an appeal to the Planning Commission of a determination by the Environmental Review Officer that a change to a project exempt from CEQA is not a substantial modification to the project that requires a new CEQA decision. The Planning Commission has 60 days to take action on the appeal. The City can not take action to approve the project during the pendency of the appeal.
May 16, 2013

File No. 130464

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

Dear Ms. Jones:

On May 14, 2013, Supervisor Kim introduced the following proposed legislation:

**File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; 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

NON-PHYSICAL EXEMPTION
PURSUANT TO CEQA SECTION
15060 (C)(2).

5/24/13

Joy Navarrete
San Francisco Group  
June 20, 2013  

Honorable David Chiu  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, Ca. 94102-4689  

Dear Supervisor Chiu:  

Thank you for your hard work with us in the past few months to improve local implementation of the California Environmental Quality Act (CEQA). The Sierra Club is pleased that the proposed legislation makes public notification more robust and that the full Board of Supervisors retains its role in hearing CEQA appeals of projects, among other aspects of the legislation that the full Board will consider on June 25, 2013.  

The Sierra Club endorses the CEQA legislation as currently proposed contingent upon the introduction of trailing legislation regarding project modifications. That legislation will implement a process for the televised appeal of Environmental Review Officer decisions on modifications of categorically exempt projects after the appeal period for first approvals has passed.  

We respectfully request that the trailing legislation, matching the intent expressed by you at the last Land Use and Economic Development Committee meeting, be introduced at the full Board on June 25, 2013 (or as soon thereafter as possible) and heard at the Planning Commission and the Historical Preservation Commission in time for the legislation to be considered by the full Board of Supervisors on July 9, where it could be amended into the CEQA implementation legislation – presuming this legislation passes – at its second hearing at the Board.  

Sincerely,  

Susan Vaughan  
Secretary  
Executive Committee  
San Francisco Group  
SF Bay Chapter of the Sierra Club  

CC:  
Mayor Ed Lee  
Clerk of the Board Angela Calvillo  
District Three Legislative Aide Judson True Judson  
District Three Legislative Aide Catherine Rauschuber  
Supervisor Eric Mar
Legislative Aide Nick Pagoulatos
Supervisor Mark Farrell
Legislative Aide Catherine Stefani
Supervisor Katy Tang
Legislative Aide Ashley Summers
Supervisor London Breed
Legislative Aide Conor Johnston
Supervisor Jane Kim
Legislative Aide April Veneracion
Supervisor Norman Yee
Legislative Aide Matthias Mormino
Supervisor Scott Wiener
Legislative Aide Andres Power
Supervisor David Campos
Legislative Aide Hillary Ronen
Supervisor Malia Cohen
Legislative Aide Andrea Bruss
Supervisor John Avalos
Legislative Aide Raquel Redondiez
June 17, 2013

Board of Supervisors – Land Use and Economic Development Committee
City Hall
1 Dr. Carlton B. Goodlett Place, Room 263
San Francisco, CA 94102-4689

Subject: BOS File Nos. 121019, 130248, 130464 – CEQA Procedures Legislation

Supervisors Scott Wiener, Jane Kim and David Chiu of the Land Use and Economic Development Committee:

I appreciate your work on incorporating the requests of the larger community of stakeholders in the crafting of this very important piece of legislation on amending Chapter 31 of the Administrative Code on California Environmental Quality Act (CEQA) procedures.

Many projects are “Cat Ex’d” (categorically exempt) from CEQA after an initial environmental review. In the legislation being massaged over these many months, people have said that projects can morph and both sides have agreed that after a permit approval, this occurs on many occasions. The legislation still needs to allow the citizens the right to appeal projects after changes even if such changes are within the original project description on the permit application or within the scope of the project due to the fact that there could be non-findings at the time of the initial project review but evidence of environmental impact subsequently with the modifications.

Realistically, people will not appeal windows that move 6 inches to the left or right of a wall anyway or appeal a change of a staircase banister as were a couple of examples given for not allowing appeal of modifications. The request for this additional language is for the greater purpose for the entire city of San Francisco’s future.
It is to protect the right of the public to appeal these modifications that could impact the environment and to afford the elected and appointed government officials to make responsible decisions to protect the environment as the public has entrusted them to do so. This committee is about land use and not just economic development.
Land use affects the environment. Economic development may not necessarily care.

So to ensure that the strongest environmental protections are in place for the future of our city as the greenest model of a city, and to ensure that people are allowed the right to appeal projects that after modifications can damage our environment, I ask that this be included in the main body of the legislation rather than as a supplemental piece of legislation as needed for clear and open government process.

Thank you very much.

Rose Hillson
115 Parker Avenue
San Francisco, CA 94118
June 11, 2013

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

Dear President Chiu:

The Richmond community Association (RCA) would like to thank you for your leadership in crafting the CEQA amendments that will benefit all San Franciscans. The Richmond Community Association believes the amendments greatly improve Supervisor Weiner’s original CEQA legislation which would have weaken the CEQA protections by:

- Shortening the Appeal time without adequate notification
- Appeals heard by a committee of three Supervisors
- Replacing fair argument language
- Allowing approvals when Appeals being heard at BOS

However, the Richmond Community Association is concern that the modification of projects originally determined to be categorically exempt from CEQA can result in projects that by-pass the CEQA process. There needs to be language that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Many projects, if not most projects, change before completion. San Franciscans need a transparent process for significant modifications to a project. Anything less than this will render CEQA essentially useless.

Yours truly,
Hiroshi Fukuda, President
Richmond Community Association

CC:
Land Use and Economic Development Clerk Alisa Miller Alisa.Miller@sfgov.org
District Three Legislative Aide Judson True Judson.True@sfgov.org
District Three Legislative Aide Catherine Rauschuber Catherine.Rauschuber@sfgov.org
Supervisor Eric Mar Eric.L.Mar@sfgov.org
Legislative Aide Nick Pagoulatos Nickolas.Pagoulatos@sfgov.org
Supervisor Mark Farrell Mark.Farrell@sfgov.org
Legislative Aide Catherine Stefani Catherine.Stefani@sfgov.org
Supervisor Katy Tang <Katy.Tang@sfgov.org>
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Supervisor Norman Yee Norman.Yee@sfgov.org
Legislative Aide Matthias Mormino Matthias.Mormino@sfgov.org
Supervisor Scott Wiener Scott.Wiener@sfgov.org
Legislative Aide Andres Power Andres.Power@sfgov.org
Supervisor David Campos David.Campos@sfgov.org
Legislative Aide Hillary Ronen <Hillary.Ronen@sfgov.org>
Supervisor Malia Cohen Malia.Cohen@sfgov.org
Legislative Aide Andrea Bruss Andrea.Bruss@sfgov.org
Supervisor John Avalos John.Avalos@sfgov.org
Legislative Aide Raquel Redondiez Raquel.Redondiez@sfgov.org
Honorable David Chiu  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, Ca. 94102-4689

Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation. I have testified many times at the Land Use Committee meetings and am very pleased with how closely you and Supervisor Kim and Supervisor Wiener listened to the many voices from around San Francisco.

The Preservation Consortium is especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

However, The Preservation Consortium urges the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last. This is so very important to help save the many valuable historic resources contained in the city.

Sincerely,

Malana Moberg
From: M.A. Miller [ma-miller@msn.com]
Sent: Sunday, June 09, 2013 9:59 PM
To: Miller, Alisa; Chiu, David; True, Judson
Subject: Please amend CEQA legislation

David Chiu, President

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

Re: CEQA legislation

Dear President Chiu:

Thank you for the amendments that you have brought forward to improve the CEQA legislation introduced by Supervisor Weiner. SPEAK (Sunset-Parkside Education and Action Committee) are really pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation. We thank you for your leadership.

However, we urge the inclusion of several more changes in the form of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Otherwise CEQA will be useless if individuals and organizations are not able to challenge projects that change from the first approval to the last.

Thank you for considering these additional amendments!

Sincerely,

Mary Anne Miller

President, SPEAK

Sunset-Parkside Education and Action Committee
Honorable David Chiu
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation.

However, as a member of the public who has seen the issues first-hand in legislation on multiple projects citywide, I strongly urge the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. Parkmerced was a prime example of the concern when legislation is interjected without adequate review.

That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last.

As a local architect, environmentalist, and concerned housing transit and open space advocate who has witnessed first-hand the concerns of adequate analysis and review of projects and alternatives, I am especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

I consistently am concerned about the impacts lobbyists and individual organizations supported by the real estate industry have impacted panels and committees from the Planning Commission to the Historical Preservation Commission, and Ethics Commission, and even the California Coastal Commission. The impacts and lack of public input adequate review of alternatives, and the proper and inclusionary method of open comment and input must be preserved for the public's best interests.

Sincerely,

Aaron Goodman
25 Lisbon St
SF, CA 94112
T: 415.786.6929

CC:
Land Use and Economic Development Clerk Alisa Miller Alisa.Miller@sfgov.org
District Three Legislative Aide Judson True Judson.True@sfgov.org
District Three Legislative Aide Catherine Rauschuber Catherine.Rauschuber@sfgov.org
Supervisor Eric Mar Eric.L.Mar@sfgov.org
Legislative Aide Nick Pagoulatos Nickolas.Pagoulatos@sfgov.org
Supervisor Mark Farrell Mark.Farrell@sfgov.org
Legislative Aide Catherine Stefani Catherine.Stefani@sfgov.org
Supervisor Katy Tang <Katy.Tang@sfgov.org>
June 5, 2013

Honorable David Chiu
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation.

The Sierra Club is especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

However, The Sierra Club urges the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will substantially weaken the public’s ability to track and influence projects that change over the course of the issuance of approvals by different departments and commissions.

Sincerely,

[Signature]

Kathryn Phillips
Director

CC:
Land Use and Economic Development Clerk Alisa Miller
District Three Legislative Aide Judson True Judson
District Three Legislative Aide Catherine Rauschuber
Supervisor Eric Mar
Legislative Aide Nick Pagoulatos
Supervisor Mark Farrell
Legislative Aide Catherine Stefani
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Legislative Aide Hillary Ronen
Supervisor Malia Cohen
Legislative Aide Andrea Bruss
Supervisor John Avalos
Legislative Aide Raquel Redondiez
Honorable David Chiu
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA. 94102-4689

Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation.

The Haight Ashbury Neighborhood Council is especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

However, HANC urges the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last.

We also urge the inclusion of the noticing requirements from Supervisor Kim’s legislation, which include noticing residents by email, regular mail, and posting, in addition to listing projects on Planning’s web site.

Sincerely,

Kevin Bayuk
President

by Tes Welborn, Treasurer
Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation.

I am especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

However, I urge the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last.

Sincerely,

Cathy Bellin
From: NINERSAM@aol.com
Sent: Thursday, May 30, 2013 10:04 AM
To: Chiu, David
Cc: Kim, Jane; Wiener, Scott; Miller, Alisa
Subject: CEQA Amendments

 Supervisor David Chiu, President
 Board of Supervisors
 1 Dr. Carlton B. Goodlett Place
 City Hall, Room 244
 San Francisco, Ca. 94102-4689

Dear President Chiu:

The Richmond community Association (RCA) would like to thank you for your leadership in crafting the CEQA amendments that will benefit all San Franciscans. The Richmond Community Association believes the amendments greatly improve Supervisor Weiner’s original CEQA legislation which would have weaken the CEQA protections by:

- Shortening the Appeal time without adequate notification
- Appeals heard by a committee of three Supervisors
- Replacing fair argument language
- Allowing approvals when Appeals being heard at BOS

However, the Richmond Community Association is concern that the modification of projects originally determined to be categorically exempt from CEQA can result in projects that by-pass the CEQA process. There must be clear criteria for the Environmental Review Officer (ERO) to determine if modifications are significant or not significant to allow a CEQA appeal. Many projects, if not most projects, change before completion. San Franciscans need a transparent process for significant modifications to a project. Anything less than this will render CEQA essentially useless.

Yours truly,

Hiroshi Fukuda, President Richmond Community Association
Chair CSFN Land Use and Housing Community

CC:
Land Use and Economic Development Clerk Alisa Miller Alisa.Miller@sfgov.org
District Three Legislative Aide Judson True Judson.True@sfgov.org
District Three Legislative Aide Catherine Rauschuber Catherine.Rauschuber@sfgov.org
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Supervisor Jane Kim Jane.Kim@sfgov.org
Legislative Aide April Veneracion April.Veneracion@sfgov.org
Supervisor Norman Yee Norman.Yee@sfgov.org
Legislative Aide Matthias Mormino Matthias.Mormino@sfgov.org
Supervisor Scott Wiener Scott.Wiener@sfgov.org
Legislative Aide Andres Power Andres.Power@sfgov.org
Supervisor David Campos David.Campos@sfgov.org
Legislative Aide Hillary Ronen <Hillary.Ronen@sfgov.org>
Supplier Malia Cohen Malia.Cohen@sfgov.org
Legislative Aide Andrea Bruss Andrea.Bruss@sfgov.org
Supervisor John Avalos John.Avalos@sfgov.org
Legislative Aide Raquel Rodondiez Raquel.Rodondiez@sfgov.org
Honorable David Chiu
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

Dear President Chiu:

Thank you for your leadership on local implementation of the California Environmental Quality Act (CEQA). Your amendments have vastly improved Supervisor Scott Wiener’s original CEQA legislation.

I am especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that the fair argument language has been restored to the legislation.

Noticing of all CEQA determinations needs to include much more from Kim’s legislation, informing the public directly by email, letter and poster. Having information on Planning’s website for look up puts too much of a burden on ordinary citizens.

I also urge the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal. Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last.

Sincerely,
Tes Welborn
D5 Action Coordinator
Honorable David Chiu  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, Ca. 94102-4689  

Dear President Chiu:

Thank you for your involvement in the review of local implementation of the California Environmental Quality Act (CEQA). Your amendments have much improved Supervisor Scott Wiener’s original CEQA legislation.

I am especially pleased that the full Board of Supervisors has been restored as the elected body hearing appeals of EIRs and that fair argument language has been restored to the legislation.

However, I urge the inclusion of a sub-section regarding the modification of projects originally determined to be categorically exempt from CEQA. That language should say that modifications of projects after the first approval should trigger new determinations and that those new determinations should be subject to appeal.

Anything less than this will render CEQA essentially useless, as individuals and organizations will not be able to challenge projects that change from the first approval to the last.

Sincerely,

Rupert Clayton

CC:
Land Use and Economic Development Clerk Alisa Miller Alisa.Miller@sfgov.org
District Three Legislative Aide Judson True Judson.True@sfgov.org
District Three Legislative Aide Catherine Rauschuber Catherine.Rauschuber@sfgov.org
Supervisor Eric Mar Eric.L.Mar@sfgov.org
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Legislative Aide April Veneracion April.Veneracion@sfgov.org
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Legislative Aide Raquel Redondiez Raquel.Redondiez@sfgov.org
SUMMARY OF POSSIBLE CEQA AMENDMENTS
SUPERVISOR DAVID CHIU
June 17, 2013

File Nos. 121019, 130248
and 130444
4/17/13. Distributed in Committee
DISCUSSION ONLY
Amendments to be made in Board

Appeal Trigger for Negative Declarations and EIRs
- Maintain current practice - Approval for Neg Decs, Certification for EIRs

Review of Whether Project Changes Constitute a Modification
- Specify language around modifications as agreed to by the Planning Department and stipulate that modifications trigger new environmental review (and hence possibility of new appeal).

- Allow for public hearing with Environmental Review Officer on day of a regularly scheduled Planning Commission meeting to object to decision that a project change is not a modification; short time frame for this process, possibly modeled on Discretionary Review timelines.

Electronic Posting and Notification System
- Continue to tie operative date of legislation to searchable, geocoded posting of CEQA determinations.

- Require creation of subscription-based email system within 3 months of operative date, with categories matching geocoded information in Planning’s existing database.

Clarify Required Content of Exemption Determinations
- Include project description, approval action.

- No “written determination” separate from exemption determination.

Affordable Housing and Bicycle/Pedestrian Safety
- Prioritize these projects in a way workable for the Planning Department and advocates

Document Submittals
- Maintain deadline for appellant documents as 11 days before hearing, and 8 days for response from Planning.

- Add in allowance for re-rebuttal only on new issues by appellants up to 3 days in advance of hearing.

Timeline for Scheduling Appeals at the Board of Supervisors
- Stipulate that hearings before the Board of Supervisors will be held a minimum of 21 days subsequent to the appeal.

"Fair Argument" Language
- Identify additional locations to add in “fair argument” language where legally appropriate.

HPC and Planning Timelines on Draft EIR Hearings
- Require 7 days between hearings at HPC and the Planning Commission on Draft EIRs, except where this requirement would lengthen the DEIR comment period.
July 19, 2013

File No. 130464-2

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

Dear Ms. Jones:

On July 16, 2013, Supervisor Kim introduced the following substitute legislation:

**File No. 130464-2**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

A categorical exemption stamp was submitted for the previous version of this legislation on May 24, 2013. If you wish to submit additional documentation, please forward it to me.

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
July 19, 2013

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

Dear Commissioners:

On July 16, 2013, Supervisor Kim introduced the following substitute legislation:

**File No. 130464-2**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; 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
MEMORANDUM

TO: Ed Reiskin, Director, Municipal Transportation Agency
   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
   Phil Ginsburg, General Manager, Recreation and Park Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
      Board of Supervisors

DATE: July 19, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors’ Land Use and Economic Development Committee has received the following substitute legislation, introduced by Supervisor Kim on July 16, 2013:

File No. 130464-2

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them 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
   Kate Breen, Municipal Transportation Agency
   Janet Martinson, Municipal Transportation Agency
   William Strawn, Department of Building Inspection
   Carolyn Jayin, Department of Building Inspection
   Frank Lee, Department of Public Works
   Greg Wagner, Department of Public Health
   Kelly Alves, Fire Department
   Sarah Ballard, Recreation and Park Department
May 16, 2013

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

Dear Commissioners:

On May 14, 2013, Supervisor Kim introduced the following proposed legislation:

**File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; 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
May 16, 2013

File No. 130464

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

Dear Ms. Jones:

On May 14, 2013, Supervisor Kim introduced the following proposed legislation:

File No. 130464

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; 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
MEMORANDUM

TO: Ed Reiskin, Director, Municipal Transportation Agency
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
Phil Ginsburg, General Manager, Recreation and Park Department

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: May 16, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Kim on May 14, 2013:

File No. 130464

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them 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
Kate Breen, Municipal Transportation Agency
Janet Martinsen, Municipal Transportation Agency
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Frank Lee, Department of Public Works
Greg Wagner, Department of Public Health
Kelly Alves, Fire Department
Sarah Ballard, Recreation and Park Department
Introduction Form
By a Member of the Board of Supervisors or the Mayor

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. 130464
☐ 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): Chu
Supervisor Kim, Campo, Nava, Mar, Yee

Subject:
Administrative Code - California Environmental Quality Act Procedures, Appeal of Exempt Modification

The text is listed below or attached:
See attached.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:
Introduction Form
By a Member of the Board of Supervisors or the Mayor

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 [Name] inquires"

☐ 5. City Attorney request.


☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [Number]

☐ 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 [Date]

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 Kim, [Names], [Names], [Name]

Subject:

Administrative Code - California Quality Act Procedures, Appeal of Exempt Project Modifications

The text is listed below or attached:

Ordinance amending Administrative Code Chapter 31 to provide for appeal to the Planning Commission of a Planning Department determination that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

Signature of Sponsoring Supervisor: [Signature]

For Clerk's Use Only:

[Stamps]