



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Resolution No. 704 Administrative Code Text Change

HISTORIC PRESERVATION COMMISSION HEARING DATE: MARCH 20, 2013

Project Name: California Environmental Quality Act Procedures
Case Number: 2012.1329U [Board File No. 12-1019]
Initiated by: Supervisor Wiener
Introduced: October 16, 2012
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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

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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;

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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