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CITY CLERK

42

OFFICE OF THE
CITY ATTORNEY

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

April 24, 1987

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DEPUTY CITY
ATTORNEYS:
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LINDA M. GONZALES

City Council
Sacramento, CA 95814

**SUBJECT: Amendment of City Environmental Procedures
Established by Resolution 78-172 Regarding
Appeals of Planning Commission Actions on
Negative Declarations and Environmental
Impact Reports When Projects Must be Acted
Upon by the City Council**

Honorable Mayor and Members in Session:

SUMMARY

The current City environmental regulations have been interpreted in the past to permit appeals of advisory Planning Commission certification of EIR's and ratification of negative declarations to the City Council. This is true even though the Council must take final action on the project and must also decide whether to ratify the negative declaration or certify the EIR. This amendment would provide that no appeal can be made of an advisory environmental action of the Planning Commission where the Council will hear and decide the matter in any event.

RECOMMENDATION

It is recommended that the attached resolution be adopted.

Respectfully submitted,

THEODORE H. KOBEY,
Assistant City Attorney

RECOMMENDATION APPROVED:

WALTER J. SLIPE,
City Manager

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RESOLUTION NO. 87-327

Adopted by The Sacramento City Council on date of

APPROVED
BY THE CITY COUNCIL

APR 28 1987

OFFICE OF THE
CITY CLERK

RESOLUTION AMENDING THE CITY ENVIRONMENTAL PROCEDURES ESTABLISHED BY RESOLUTION 78-172 REGARDING APPEALS OF PLANNING COMMISSION ACTIONS ON NEGATIVE DECLARATIONS AND ENVIRONMENTAL IMPACT REPORTS WHEN PROJECTS MUST BE ACTED UPON BY THE CITY COUNCIL

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1

Section 8.6 of the City of Sacramento environmental procedures, established by Resolution No. 78-172, is hereby amended to read as follows:

Section 8.6 Referral to Council.

(a) The City Clerk shall place the appeal on the Council agenda for consideration not later than the third regular meeting following the date of receipt of the appeal. The item shall be placed on the agenda as an administrative hearing, and shall be conducted in accordance with the Council's rules, regulations and procedures for the conduct of administrative hearings.

(b) Any appeal taken pursuant to §8.2 shall not operate to stay any hearing or action by the Planning Commission where a private project consists both of land use entitlements on which the Planning Commission can take final action and land use entitlements on which the Planning Commission will take advisory action and the City Council must take final action. In such a case, the Planning Commission may, notwithstanding such an appeal, ratify the negative declaration or certify the final EIR and act on all project entitlements as if said appeal had not been filed. Any Commission action shall be deemed final only if the Commission's decision to ratify the negative declaration or certify the EIR is affirmed by the City Council. This Paragraph (b) shall apply to any appeal pending on the date of its adoption.

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(c) Notwithstanding any other provision of these regulations to the contrary, on any project on which the Planning Commission takes advisory action and final action must be taken by the City Council, there shall be no appeal of the Planning Commission's action to the City Council. This paragraph (c) shall apply to any appeal pending on the date of its adoption.

MAYOR

ATTEST:

CITY CLERK

42

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

RESOLUTION AMENDING THE CITY ENVIRONMENTAL PROCEDURES ESTABLISHED BY RESOLUTION 78-172 REGARDING APPEALS OF PLANNING COMMISSION ACTIONS ON NEGATIVE DECLARATIONS AND ENVIRONMENTAL IMPACT REPORTS WHEN PROJECTS MUST BE ACTED UPON BY THE CITY COUNCIL

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MAYOR

ATTEST:

CITY CLERK



Environmental Council of Sacramento, Inc.

Mayor Anne Rudin
Mayor's Office
City Hall
Sacramento, CA 95814

Member Organizations

- American Lung Association of Sacramento — Emigrant Trails
- Audubon Society
- California Native Plant Society, Sacramento Valley Chapter
- California Park and Recreation Society, District 11
- Capitol Bicycle Commuters Association
- League of Women Voters of Sacramento
- Modern Transit Society of Sacramento
- Planned Parenthood Association of Sacramento
- ~~Sacramento County Farm Bureau~~
- Sacramento Old City Association
- Sacramento Valley Bicycle Advocates
- Save the American River Association
- Sierra Club, Mother Lode Chapter
- South Natomas Community Association
- Zero Population Growth

Dear Mayor:

ECOS would like to file the following comments for item number 42 on tonight's agenda.

Where the City Council is the decision-making body, CEQA requires that any EIR or negative declaration must be certified or approved by the Council itself. Under such circumstances, any decision by the City staff or Planning Commission concerning the adequacy of the environmental documentation prepared for a project is in the nature of a preliminary decision or recommendation, not a final action. Where final action can only be taken by the Council itself, there is no reason for separate consideration of "appeals" from the preliminary decisions of the City staff and Planning Commission.

ECOS has no objection to the proposed Resolution amending the City Environmental Procedures, with the understanding that it is the intent of the proposed resolution that no appeal of any decision or recommendation by the City staff or the Planning Commission is required where those decisions or recommendations are preliminary to the final certification or approval of an EIR or negative declaration by the City Council.

Sincerely,

Michael R. Eaton

cc: Council members