



DRAFT MINUTES

Regular Meeting of the CODE ADVISORY COMMITTEE

DATE: September 11, 2024 (Wednesday)
TIME: 9:30 a.m. to 11:00 a.m.
LOCATION: 49 South Van Ness Ave, 5th Floor, Room 0511

Note: Public comment is welcome and will be heard during each agenda item. Reference documents relating to agenda are available for review at the 49 South Van Ness Ave, 2nd Floor, TSD Counter. For information, please email ken.hu@sfgov.org.

Present

Ned Fennie, A.I.A, Chair
Stephen Harris, S.E., Vice-Chair
Paul Staley
Don Libbey, P.E.
Tony Sanchez-Corea
Gina Centoni
Jonathan Rodriguez
Deepak Patankar, AIA, LEED AP
Zachary Nathan, AIA, CASp
Arnie Lerner, FAIA, CASp
Henry Karnilowicz
Ira Dorter

Excused

Brian Salyers
John Tostanoski
Jim Reed
Marc Cunningham
Rene’ Vignos, S.E.

Absent

Others Present

Thomas Fessler, DBI
Kerry Birnbach, OSB
Christine Gasparac, DBI
Chad Hodgkins, Public
Call-in User_2 (628652****), Public
James Heron, Public
Roger, Public

Tate Hanna, DBI
Rachel Leong, OSB
James Zhan, DBI
Ken Hu, DBI
Call-in User_3 (415579****), Public
Matthew Armour, DBI

Katie Tang, OSB
Lorenzo Rosas, BOS
Barry Hooper, ENV
Morgan Heller, OSB
Charley Goss, Public
William Rehling, Public

1.0 The meeting was called to order. Roll call found a quorum of committee members were present.

- 2.0 Approval of the minutes of the Code Advisory Committee regular meeting of August 14, 2024.
- A motion was made to approve the minutes as written.
 - Seconded and approved.
- 3.0 Discussion and possible action regarding proposed ordinance amending the Housing Code to require R-1 and R-2 group buildings to maintain at least one existing elevator for residents' use. (File No 240807)

Possible action would be to make a recommendation to the Building Inspection Commission for their further action.

Discussion:

- This is a recurring item that previously brought up to the CAC without an ordinance or sponsor.
- Concerns were raised about the challenges of elevator repairs in older buildings, including the need for custom parts, state approvals, and potential delays.
- Some members noted the importance of retaining Section C, which was removed, as it could provide flexibility for ongoing repairs.
- The discussion highlighted that with an NOV, tenants might be exempt from paying rent, which complicates timelines for owners.
- A suggestion was made to provide a grace period for property owners who actively pursue repairs, especially given the complexity of historic elevators.
- Hearing officers may have the discretion to grant additional time if owners show diligent efforts and supply work plans.
- Lorenzo Rosas, from Supervisor Stefani's office, explained that Section C was originally included to support owners making good-faith repair efforts and avoid penalizing them for delays outside their control.
- DBI Legislative Affairs Manager Tate Hanna explained that the existing NOV (Notice of Violation) process already accommodates "good faith" repair efforts without escalating penalties for delayed elevator repairs.
- The discussion highlighted the challenges of maintaining elevators in both historic and modern buildings, especially with the scarcity of certified elevator technicians and state inspectors.
- Suggestions were made to limit leniency to buildings with historic designation due to unique repair challenges, though concerns were raised about whether differing standards could be fairly applied.
- The issue of elevator accessibility for individuals with disabilities had not been previously addressed by the disability access subcommittee.
- Current ordinances focus on maintenance under the housing code, not on mandating structural accessibility changes.
- Court action was suggested as a faster solution than city enforcement for addressing urgent elevator repair needs. The process of obtaining court orders to compel landlords to take swift action on repairs was explained, though it is not an immediate fix.
- The city's current enforcement, through notices of violation (NOVs) and hearings, is often too slow to meet immediate accessibility needs.

- There was consensus on adding language to the proposed ordinance to clarify DBI's authority in accessibility cases.

Public Comment:

- Chad Hodgkins, attending remotely, shared their experience with frequent elevator outages at Park West, where they reside. As a wheelchair user, they have had to call the Fire Department multiple times to help them navigate stairs when the elevator was down, affecting their ability to get to work and manage daily needs. They emphasized that the building, advertised as wheelchair-accessible, only has one elevator in each section, leading to significant challenges. They urged the code enforcement team to prioritize stricter oversight and maintenance of elevators in buildings that claim to be accessible, as these outages are disruptive and dehumanizing.

Action:

- A motion was made to approve the ordinance as written with the additional findings.
- Seconded and approved.

4.0 Discussion and possible action regarding proposed ordinance: Gas Infrastructure for Energy Policy and Conservation Act (EPCA) Appliances in New Construction.

The possible action would be to make a recommendation to the Building Inspection Commission for their further action.

Discussion:

- Barry Hooper, Senior Green Building Coordinator at the San Francisco Environment Department, gave a presentation on the proposed ordinance.
- Due to quorum issues and public notice timing, the ordinance couldn't be brought before the Green Building Subcommittee.
- The ordinance focuses on modifying San Francisco's all-electric ordinance to accommodate a Ninth Circuit Court ruling regarding Berkeley's natural gas ban.
- The 2020 ordinance required new buildings to meet electrification standards, but the Ninth Circuit ruling on Berkeley's ban on gas infrastructure invalidated similar measures.
- The new ordinance clarifies that natural gas infrastructure may be allowed for appliances covered by the Energy Policy and Conservation Act (EPCA), which preempts local bans on gas appliances.
- The modification doesn't repeal the city's all-electric policy but allows gas infrastructure for certain appliances, ensuring compliance with federal preemption while maintaining the city's electrification goals.
- The California Restaurant Association was involved in the Berkeley case, highlighting exceptions for certain commercial kitchen equipment.
- Concerns were raised about the ordinance potentially creating a loophole for developers to install gas appliances in new buildings.
- EPCA's applicability to specific appliances like boilers, water heaters, and furnaces was discussed.
- Regional air quality management efforts are moving forward with zero-emission rules, impacting both new and existing construction.

- The ordinance is intended to align with both air quality and climate goals, despite concerns over its potential impact on the city's all-electric push.
- A friendly amendment was proposed to ensure that the administrative bulletin clarifying the ordinance is updated and presented promptly.

Public Comment:

- No public comment.

Action:

- A motion was made to approve the proposed ordinance as written, with the recommendation to update the administrative bulletin accordingly.
- Seconded and approved.

5.0 Discussion and possible action regarding proposed ordinance amending the Building Code to excuse the requirement for professionally prepared architectural drawings for building permits to change certain use designations that do not increase occupant load or occupancy class, or include alterations.

Possible action would be to make a recommendation to the Building Inspection Commission for their further action.

Discussion:

- DBI Legislative Affairs Manager Tate Hanna made a presentation regarding the proposed ordinance.
- The ordinance amends building code requirements related to professional architectural drawings for building permits. It targets changes in use designations that don't increase occupancy or include alterations.
- The ordinance proposes removing the requirement for professionally prepared plans in specific cases. Plans would still need to be submitted, but they wouldn't have to be prepared by a licensed professional. This applies to buildings in existing A, B, or M occupancy classifications, provided there are no changes in occupant load, no physical alterations, and no changes to mechanical, electrical, or plumbing systems. Additionally, no new kitchen or bar-related equipment would be allowed.
- Katie Tang, Executive Director of the Office of Small Business (OSB) and representative of Mayor Breed's office, provided an overview of the proposed legislation aimed at supporting small business economic development and reducing barriers in the permitting process.
- A two-year pilot program was highlighted, where businesses such as Pasta Supply Co. and Crown Thai Massage benefited from submitting building permit applications without needing detailed architectural drawings, as they were not altering the space.
- The new version of the ordinance, introduced by the Mayor, includes additional safeguards to protect safety and prevent changes like adding new kitchens or altering mechanical systems.
- There was a discussion about how many businesses would fall within the exceptions, with some estimating that it could be very rare, such as one out of a thousand.
- A question arose regarding the baseline permitted and approved space that DBI would use to ensure that exceptions are met.

- Accessibility was a key concern, particularly regarding how it would be handled and what implications it might have.
- A concern was raised about the potential for bad actors to exploit the process and get unapproved spaces approved without proper checks.
- One suggestion was to clarify that while licensed professional plans may not be required, the plans still need to be reviewed by a plan checker.
- There was a discussion about whether the state code requires professionally prepared plans for permit applications, with some suggesting that it may not.
- A distinction was made about spaces not needing to go through additional approvals unless there were changes in occupancy or use, but older spaces might still have issues based on previous approvals.
- Some pointed out that small businesses might face challenges, but as long as there is a plan review process, the business will have to comply with the required standards.
- Concerns were raised about situations where minor changes or tenant turnovers (such as a new business taking over a space) might trigger issues related to occupancy, fire, or other regulations.
- There was a discussion about whether certain terms such as “tenant space” and “kitchen service” needed better definitions to avoid confusion.
- A conversation followed about whether businesses should already be compliant with the Accessible Business Entrance (ABE) program to qualify for certain exceptions or processes.
- There was agreement that making it easier for small businesses to operate was important, but concerns about how the building department might get involved in this process needed to be addressed
- The potential challenges of coordinating between Planning and DBI were highlighted, with some suggesting that once a use change is approved, businesses should not have to return to the building department unless there’s a change in occupancy or significant work.
- Suggestions were made to separate the use change process from DBI’s involvement, but further research into city codes was needed to clarify how this could be implemented.
- The overall direction was supported, but more clarity was needed on how to proceed with making the process smoother without compromising safety or regulations.

Public Comment:

- William Rehling, representing Accessible San Francisco, raised concerns about the proposed ordinance. While supportive of reducing red tape, they cautioned that it could unintentionally increase the workload for inspectors and plan checkers, potentially leading to more accessibility compliance errors. They warned that applicants might incorrectly use the exception when actual construction is taking place, risking non-compliance with building codes. Rehling also pointed out that public accommodations, which have stricter accessibility requirements, could misuse the exception. While acknowledging that only a small number of projects might qualify, they expressed concern that even a few misapplications could overwhelm inspectors. They questioned whether the conversion of a beauty salon into a massage parlor, referenced in the pilot program, could have been done without a building permit, given the significant changes involved. Rehling flagged vague language in the proposal regarding tenant space modifications and urged clearer

definitions to prevent misuse. In conclusion, they expressed appreciation for the proposal's intent but emphasized the importance of prioritizing accessibility.

Action:

- No motion was made.

6.0 Review of communication items. The Committee may discuss or acknowledge communication items received for discussion.

- ABE program deadline extension
CAC Secretary Thomas Fessler updated CAC members the ABE program deadline extension ordinance was passed and the new deadline will be September 30th, 2025.
- BIC passed the ordinance to update cross-references.
- Addressing procedure
- Site permit processing
- Sunshine requirements refresher
- Low voltage technology presentation

7.0 Public Comments on items not on this agenda but within the jurisdiction of the Code Advisory Committee. Comment time is limited to 3 minutes or as determined by of the Chairperson.

- No public comment.

8.0 Committee comments on items not on this agenda.

- Invitation to Public Works representatives for a discussion regarding ADA requirements for a 30"x48" clear floor area with a 2 percent slope, centered on the power door operator or doorbell in the public right of way.

9.0 Subcommittee Reports: (Discussion & possible action)

Housing Code Subcommittee:

Subcommittee Chair: Henry Karnilowicz
Subcommittee Members: Ira Dorter
Jim Reed
Paul Staley

- No meeting. No report.

Mechanical Electrical Plumbing & Fire Subcommittee:

Subcommittee Chair: Brian Salyers, F.P.E.
Subcommittee Members: Henry Karnilowicz
Jim Reed

- No meeting. No report.

Administrative & General Design and Disability Access Subcommittee:

Subcommittee Chair: Jonathan Rodriguez
Subcommittee Members: Arnie Lerner, F.A.I.A., CASp
Tony Sanchez-Corea

Zachary Nathan, A.I.A., CASp
Henry Karnilowicz
Deepak Patankar, AIA, LEED AP

- The Subcommittee held a meeting earlier today, during which a motion to approve Item 7.0 on this agenda failed due to a tie vote.

Structural Subcommittee:

Subcommittee Chair: Stephen Harris, S.E.
Subcommittee Members: Rene' Vignos, S.E., LEED A.P.
Marc Cunningham
Ned Fennie, A.I.A.
Don Libbey, P.E.

- No meeting. No report.

Green Building Subcommittee:

Subcommittee Chair: Zachary Nathan, AIA, CASp
Subcommittee Members: Gina Centoni
Henry Karnilowicz
Jonathan Rodriguez

- No meeting. No report.

10.0 Committee Member's and Staff's identification agenda items for the next meeting, as well as current agenda items to be continued to another CAC regular meeting or special meeting, or a subcommittee meeting.

- Addressing
- Site Permit Processing
- Info Sheet Regarding Exterior Facade Maintenance Permits Requirement
- Filed Permit Expiration Commencement
- Sunshine Requirements Refresher
- Low Voltage Technology Presentation

11.0 Adjournment.

- The meeting was adjourned at 11:00 a.m.