



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Informational Hearing

HEARING DATE: OCTOBER 27, 2011

Date: October 20, 2011
Case No.: **2011.0167T**
Project Address: **Planning Code Amendments: Articles 10 and 11**
Zoning: N/A
Block/Lot: N/A
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Recommendation: **Informational Hearing**

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PROJECT DESCRIPTION AND BACKGROUND

This case concerns the Planning Code Amendments to Articles 10 and 11.

On July 8, 2010, the Planning Commission initiated a text change to the Planning Code as part of the regular "Code Clean-Up" legislation. Included in this initiation were Planning Code changes intended to make the Code consistent with Charter Section 4.135, which establishes the Historic Preservation Commission. As noted in the July 8, 2010 initiation packet:

The Historic Preservation Commission ("HPC") was created in the fall of 2008. Articles 10 and 11 are the Planning Code chapters that outline the designation and permit review processes for historic buildings and have not been updated and do not conform to Charter Section 4.135. At the request of the Planning Commission and the HPC, the Department is proposing amendments to these two Articles. These revisions will simply make them consistent with Charter Section 4.135. There will not be any substantive changes to the Planning Code; the amendments will only remove references to the former Landmarks Preservation Advisory Board and where appropriate, the Planning Commission, to reflect the Charter.¹

In order to provide more time for discussion regarding proposed changes to Articles 10 and 11, the Planning Commission severed Articles 10 and 11 from the so-called "Code Clean Up" legislation. The Code Clean-Up legislation moved on to the Board of Supervisors without addressing proposed changes to Articles 10 and 11.

¹ "Case No. 2010.0080T Executive Summary for Initiation of Planning Code Changes," available online at: <http://sf-planning.org/ftp/files/Commission/CPCPackets/2010.0080t.pdf> (October 18, 2011)

A parallel review process was initiated by the Historic Preservation Commission (HPC) in July, 2010. During a series of public hearings between July and December, 2010, the HPC drafted revisions to Planning Code Articles 10 and 11. The City Attorney's office has reviewed the amendments to both Articles 10 and 11 as drafted by the HPC and has made suggested revisions on the drafts in order to approve them as-to-form. The attached draft Ordinances for revisions to Articles 10 and 11 have been approved as-to-form. In addition, on September 7, 2011, October 3, 2011, October 13, and October 17, 2011 Supervisor Wiener circulated four Memoranda to the Historic Preservation Commission with proposed further amendments to Articles 10 and 11.

At its October 19, 2011 hearing, the HPC passed a motion recommending approval of Article 10 as amended. The City Attorney is currently making additional edits based of the outcome of the October 19, 2011 hearing. A final amended copy of Article 10 is not included in this packet but will be distributed at the October 27, 2011 Planning Commission hearing. The HPC has not passed a final motion regarding Article 11, but has passed two motions of intent to pass a motion recommending approval of the amended Article 11. The City Attorney is currently making additional edits to Article 11 for the HPC's review. The HPC has considered the memos circulated by Supervisor Wiener, but has not consolidated comments into a single letter or motion. The HPC plans to address Supervisor's Wiener's' memo at its November 2, 2011 hearing.

PLANNING CODE AMENDMENTS

The proposed Ordinances would amend Planning Code Sections 10 and 11 as detailed in Exhibits A and B and incorporated herein.

REQUIRED COMMISSION ACTION

No action is required at this time. The proposed Ordinances are before the Commission for informational purposes only. An adoption hearing, when the Planning Commission may recommend approval, approval with modifications, or disapproval to the Board of Supervisors will occur on or after November 10, 2011.

RECOMMENDATION

There is no recommendation at this time.

ISSUES FOR CONSIDERATION AT THE OCTOBER 27, 2011 HEARING

In considering the proposed amendments to Articles 10 and 11, there are specific components on which the HPC has focused over the course of its fall, 2011 public hearings, and that the Planning Commission may wish to consider, including:

- Designations, review of applications, scheduling and notice, appeals, and applicability;
- Amendments recommended by Supervisor Wiener;
- Amendments recommended by Department Staff and members of the public in response to on-going dialogue with Supervisor Wiener and his staff.
- Discussions about economic hardship and fee waivers for Certificates of Appropriateness.

ISSUES FOR CONSIDERATION: DESIGNATIONS, REVIEW OF APPLICATIONS, SCHEDULING AND NOTICE, APPEALS, AND APPLICABILITY

The HPC has considered significant amendments to following Code Sections:

Article 10:

- **Section 1004.1: Landmark and Historic District Designation**

Section 4.135 of the City Charter currently gives the Historic Preservation Commission (HPC) and the Board of Supervisors (BOS) the authority to initiate any landmark designation. The existing Article 10 outlines the initiation process when the Landmarks Preservation Advisory Board (LPAB) was a review body.

Landmark Designation under the existing Article 10

For **individual landmarks**, the existing Article 10 states that there are five methods that an individual landmark is initiated:

- 1) the LPAB
- 2) the Planning Commission
- 3) the BOS
- 4) the Art Commission
- 5) the property owners

For **historic districts**, the existing Article 10 states that there are five methods that a historic district is initiated:

- 1) the LPAB
- 2) the Planning Commission
- 3) the BOS
- 4) the Art Commission
- 5) 66% of the property owners in the propped district

For historic districts, when the initiation is submitted by the public, it must be subscribed by or on behalf of at least 66% of the property owners in the proposed district. The 66% is not required if the historic district is initiated by the LPAB, PC, BOS, or Art Commission.

Based on the HPC's comments at the October 19, 2011 hearing, the City Attorney is currently revising Section 1004.1 to reflect the following procedure. The revised language will be distributed to the Planning Commission at the October 27, 2011 hearing: Under the revised Article 10, the HPC proposes that all Article 10 (local landmark) designations would have a 3-step process: 1) initiation; 2) recommendation; and 3) BOS decision.

Under these revisions there is one process established for Article 10 designation:
Pursuant to City Charter Section 4.135 there would be that landmark(s) could be initiated:

- 1) the BOS can initiate by resolution;
- 2) the HPC can initiate by resolution;

If the HPC 'affirms' the initiation (1st hearing), then it would be scheduled for a recommendation hearing (2nd hearing) at the HPC prior to forwarding to the BOS.

Members of the Public. A member of the public cannot initiate Landmark designation. However, during the public comment portion of a hearing a member of the public may petition either the HPC or the Board of Supervisors to start the Landmark designation process for a property.

A member of the public may also submit historic, architectural or cultural documentation materials to the Planning Department. The Planning Department would have 45 days to review the materials, deem them complete, and schedule an HPC hearing. At the hearing the HPC may decide to accept the landmark designation process, ask for more information regarding the property, or disapprove the application.

The materials required to complete an application and to schedule the hearing before the HPC will be formulated by the HPC at a future date and are not proposed as part of the Code amendments. This information is intended to give the public a clear expectation of the materials required to complete an application and to allow the Planning Department a mechanism to screen applications to prevent misuse of the Landmark designation program.

The HPC must review and make a recommendation for all individual landmark and historic district designation proposals before the BOS makes a final decision. For historic districts, the Planning Commission will have 45 days to make a recommendation to the BOS.

Final approval of an Article 10 designation is by the Board of Supervisors.

- **Section 1006.2: Review of Certificates of Appropriateness by Planning Department**

The revised Article 10 outlines a process in which the HPC may delegate to the Department specific scopes of work to the Planning Department for review and approval. These “Administrative” Certificates of Appropriateness do not require notification or a public hearing before the HPC. This function is currently not allowed under the existing Article 10 but is allowed under Article 11.

- **Section 1006.3: Scheduling and Notice of Hearing before the HPC**

The revised Article 10 consolidated the notification procedures and timeline for HPC hearings on Certificates of Appropriateness. It should be noted that the HPC has eliminated the requirement for notice in the newspaper.

- **Section 1006.8: Appeals of a Certificate of Appropriateness**

The HPC did not modify the 30-day rule for appealing a Certificate of Appropriateness. They did modify Article 10 to defer to the procedures and rules of each appellant body – the Board of Supervisors and the Board of Appeals.

- **Section 1014: Applicability**

The existing Article 10 has a provision that upon initiation of an individual landmark or historic district, no permits may be issued for up to 180 days. The HPC did not modify the timeframe for

individual landmarks and proposes to increase the time period for historic districts to up to one year.

However, the HPC added provisions that will allow any property owner to obtain a permit during this period by applying for a Certificate of Appropriateness. That is, during this period, a project can be approved through the Certificate of Appropriateness procedures.

Article 11:

- **Section 1111.7: Review of Applications for Demolition.**

The existing Article 11 outlines a higher level of review for the demolition of Significant Buildings (Categories I and II buildings within the C-3 zoning districts). However, for Contributory Buildings that had not sold TDR (Categories III and IV buildings within the C-3 zoning districts), the criteria were less stringent. Under the existing Article 11 if a Contributory Building has sold its TDR, it is reviewed with the same criteria as if it were a Significant Building (since the property owner has already received a financial gain through the sale of their TDR).

The HPC determined during its review of Article 11 that there are approximately 40 Contributory Buildings that have not sold TDR. Under the revised Article 11 the proposed demolition of these buildings would be reviewed with the same criteria as if it were a Significant Building.

ISSUES FOR CONSIDERATION: DEPARTMENT RESPONSE TO SUPERVISOR WIENER'S MEMO

Department Staff has the Memos from Supervisor Wiener (attached as Exhibit C) outlining suggested amendments to Articles 10 and 11 of the Planning Code. The following specific points in response to the Supervisor Wiener Memo provided the basis for a discussion at the HPC's October 5th public hearing.

Article 10:

1. SECTION 1002: POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION COMMISSION, (September 7, and October 13, 2011 Memos)

The amended language in Supervisor Wiener's memo dated September 7, 2011 would require community or Board of Supervisors approval of the initiation of all historic resource surveys. Because historic resource surveys are generally associated with broader long-range community planning efforts, the amended language would require the Department to obtain property owner and Board of Supervisor approval prior to proposing any zoning changes or evaluating any long-range planning efforts for compliance with the California Environmental Quality Act (CEQA).

This language creates a significant obstacle for all community planning efforts. The Department is committed to developing goals that outline a commitment to public outreach and participation. Many of the City's Elements within the General Plan outline such policies.

Department recommendation: *Remove the amended language and propose an interim policy to be adopted by the HPC until the Preservation Element is finalized. The interim policy shall provide for comprehensive public outreach for historic resource surveys in order to meet the following goals:*

1. *To assure adequate public outreach is initiated prior to the commencement of any historic resource survey and that continued public outreach and notice occurs throughout the documentation and adoption process;*

2. *To provide opportunities for ongoing community input throughout the historic resource survey documentation and adoption process;*
3. *To increase the public understanding of the role of the historic resource surveys within the larger community planning process;*
4. *To identify partnerships with the public, Historic Preservation professionals, other City Agencies, and a full range of City stakeholders to ensure that the historic resource survey is completed in an objective and accurate manner according to best practices; and,*
5. *To develop collaborative working relationships with a broad representation of the public, especially with those underrepresented within the community who may not generally participate in the local planning process.*

Based on the Supervisor's memo, dated October 13, 2011, he is amenable to the development of administrative bulletins that address these policies and easily accessible by the public rather than including the amended language outline in the September 7, 2011 memo.

Department recommendation: The Department supports this approach.

2. SEC. 1004.2: DECISION OF THE HISTORIC PRESERVATION COMMISSION (September 7, 2011 Memo)

Department recommendation: Every action already requires findings under Section 101 which are attached to all draft decisions before the HPC. No amendment is necessary to this section.

3. SEC. 1004.3: DESIGNATION BY BOARD OF SUPERVISORS (October 13, 2011 Memo)

The Department is open to providing a mechanism for public input for potential landmark designations, including individual landmarks and historic districts. The Department has serious concerns about any new requirement to obtain consent by owners prior to designating historic districts. This would set a precedent for having the public vote on specific land use changes rather than depending on the professional judgment of professionals in the Department and on the HPC and the Board of Supervisors.

Currently, the Department forwards all public comments to the decision-making bodies in order for comments to be considered prior to vote. As a matter of consistency, the Department recommends that documentation of owner consent be recorded and submitted to the HPC, Planning Commission, and Board of Supervisors in order to inform the decision-making process. However, the Department also recommends that the requirement to obtain the vote of a majority of property owners before the Board of Supervisors hear the item should be revised. There will always be some members of the public that are not interested or engaged in the community planning process and obtaining their vote, regardless of position, will be nearly impossible. It also appears that a requirement to record a majority of the votes would prohibit the City from taking any action.

Department Recommendation: The Department recommends that this topic be further discussed with appropriate stakeholders, including commercial tenants and renters, at a future public forum in order to best resolve the concerns of all parties.

4. SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS (September 7, 2011 Memo)

Department recommendation: Every action already requires findings under Section 101 which are attached to all draft decisions before the HPC. No amendment is necessary to this section.

5. SEC. 1006.3. SCHEDULING AND NOTICE OF HEARING (October 13, 2011 Memo)

The Historic Preservation Commission is proposing the following amendments regarding notice of a Certificate of Appropriateness hearing:

- 150-ft to owners and occupants for individuals
- 300-ft to owners and occupants within the district

An Administrative Certificate of Appropriateness doesn't require notice. A project that requires a Certificate of Appropriateness within a Residential (R) District will also likely require Section 311 notification for the building permit application if the project includes an addition, new construction, or other alteration that expands the footprint of the existing building. The Zoning Administrator has confirmed that these notices can be combined.

Department recommendation: To leave noticing requirements as proposed by the Historic Preservation Commission.

6. SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS (September 7, and October 13, 2011 Memos)

The Standards are a philosophical framework and are meant to be interpreted and to guide proposed work on historic properties based on the significance, the intent of the project, and economic and technical feasibility. As a Certified Local Government (CLG) through the State Office of Historic Preservation (OHP) San Francisco has the ability to interpret the Standards, within reason, based on the specific conditions and needs of the City.

Regarding the Supervisor's Memo, dated October 13, 2011, the Department recommends using one set of interpretations of the Secretary of the Interior's Standards (Standards) for the review of individual Landmark and Landmark districts. The Department believes that these interpretations can address nuances between review of Individual Landmarks and Landmark districts as well as levels of significance that the Supervisor would like to clarify.

Department recommendation: Rewording for clarity:

"For applications pertaining to landmark sites and historic districts, the development of interpretations and guidelines based on the Secretary of the Interior's Standards, which will be known as the "San Francisco Standards," shall be used for the purpose to be consistent with and appropriate for the implementation of the purposes of Article 10. The Planning Department shall be responsible for the development of the San Francisco Standards and shall commence a public planning process with final adoption of the San Francisco Standards by the HPC.

Pending the development of the San Francisco Standards, conformance with the Secretary of Interior's Standards for the Treatment of Historic Properties, including any Guidelines, Interpretations, Bulletins, or other materials based on the Secretary of the Interior's Standards that the Planning Department or the HPC has adopted to be consistent with and appropriate for the implementation of the purposes of Article 10 shall be considered"

7. SEC. 1014. APPLICABILITY (September 7, 2011 Memo)

Department recommendation: The Department believes that both the HPC amendments and Supervisor Wiener's amendments achieve the same goal through a slightly altered process.

The HPC desired a longer period of time for review when a designation is pending for landmark districts. The Department agreed to the HPC's compromise of 180 days for sites and 1 year for districts.

The proposed amendment would allow for an HPC hold for 6 months with an additional 3 month extension. If the HPC wanted another 3 months for the total 1 year hold it would require the Department to go to the BOS on behalf of the HPC to ask for an extension.

8. FEATURES ONLY VISIBLE FROM A PUBLICLY RIGHT-OF-WAY, PUBLIC SPACE, OR PUBLICLY ACCESSIBLE INTERIOR CAN BE DESIGNATED. (October 13 and October 17, 2011)

All local designating Ordinances outline the character-defining features that are essential for a property or properties within a Landmark District to convey its significance. Creating a uniform standard that limits the parts or façades of a property than can be designated out of conformance with standard Historic Preservation practice, it would promote façadism, and it would undermine the demolition definition and calculations outlined in Section 1005 of the Planning Code.

Including this language would likely jeopardize San Francisco's Certified Local Government (CLG) Status because this practice is in direct conflict with standard Historic Preservation practice, which states "Parts of buildings, such as interiors, façades, or wings, are not eligible independent of the rest of the existing building."²

Department recommendation: Do not amend the Code to include the proposed language. Continue to designate a property according to standard practice. Identify character-defining features and review process regarding Certificates of Appropriateness for work to those features in the respective designating Ordinance.

Article 11:

² *National Register Bulletin 15: How to Apply National Register Criteria for Evaluation, 4.*

1. **SEC. 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS (October 13, 2001 Memo)**

Department recommendation: Same recommendations as above with Section 1004.4

2. **SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (b) (Septembers 7, 2011 Memo)**

Department recommendation: Leave this section unamended so that the updated historic evaluation still is required.

The proposed amendment would remove the requirement to provide an updated historic evaluation for an unrated building (Category V) (there are a number of unrated buildings that are significant that the Downtown Plan overlooked or chose not to rate). Owners often apply to have a property reclassified in order to leverage TDR. This section was also intended to provide a mechanism for all properties that may demonstrate that a building previously identified as Significant or Contributory no longer has integrity and should be reclassified.

3. **SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (c) (September 7, 2011 Memo)**

Department recommendation: The Department has no objection to this proposed amendment provided that the recommendation above for Section 1111(b) is included.

4. **SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR ALTERATIONS (September 7, 2011 Memo)**

Department recommendation: Same recommendations as above with Section 1006.7

5. **SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (a), (September 7, 2011 Memo)**

Department recommendation: The Department has no objection to this proposed amendment.

6. **SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (b), (September 7, 2011 Memo)**

This amendment adds Category III buildings to this section. The Department is not clear as to why Category III buildings were not included originally. This may have been an oversight.

Department recommendation: The Department has no objection to this amendment because Category III buildings were omitted from this section and this includes them with other Contributing buildings (Category IV).

7. SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (c)(A), (September 7, 2011 Memo)

This amendment would mean that the lack of an action by the BOS constitutes a decision not to reclassify a Category V building. From a process perspective this will be challenging for Planning and all review bodies. There is no indication of when the 180-day clock starts. If a new project also requires Section 309 review and CEQA clearance then the decision or lack of an action to reclassify would have to occur much sooner.

Department recommendation: Insert a cross reference to Sections 1106 and 1107 procedures for reclassification.

8. SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (d), (September 7, 2011 and October 13, 2011 Memo)

In the October 13, 2011 memo, the Supervisors requested recommendations on another standard to be used in this section. The Department is currently working on this recommendation.

Department recommendation: The use of CEQA terminology (such as “materially impair”) within the Planning Code is strongly discouraged.

The small amendment alters the intent of this section, and the added language will be very difficult to convey to the general public, as well as architects and planning staff.

9. SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (e) (September 7, 2011)

Department recommendation: Same as above for Sec. 1111.7: add a cross reference to Sections 1106 and 1107 procedures for reclassification.

ISSUES FOR CONSIDERATION: ECONOMIC HARDSHIP

At the request of the HPC, Department Staff has drafted language for consideration regarding Fee Waivers for Economic Hardship. Staff’s intention was to draft the language narrowly enough to be useful while avoiding a large “loop hole.” The Department recommends the addition of new Planning Code Sections 1006.1(f) and 1006.6(g), as follows:

SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS.

(f) Permit and Application Fee Waivers. In cases of economic hardship an applicant may be exempt from paying the full fees pursuant to Section 350(e)(2) of the Planning Code.

SEC. 1006.6. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

(g) For applications for residential buildings in RH, RM, and RTO Districts, exemption from the requirements of Section 1006.6 may be considered when compliance with the requirements of this Section would create an extreme economic hardship for the property owner because of conditions peculiar to the particular structure or other feature involved provided that:

1. The scope of work does not constitute a demolition pursuant to Section 1005(f) of the Planning Code.
2. The Planning Department has determined that the applicant meets the requirement for economic hardship such that the full fees have been waived pursuant to Section 350(e)(2) or the Planning Code.
3. The Zoning Administrator has determined that in all other respects the scope of work associated with the application is in conformance with Planning Code requirements.
4. The Historic Preservation Commission pursuant to Section 1006.4 of the Planning Code and upon confirmation of the above provisions has determined that the requirements of Section 1006.6 may be waived due to economic hardship and that completion of the scope of work will not be detrimental to the integrity of the district.

Staff continues to work with the Department's Finance team in order to develop appropriate processes and criteria for consideration regarding economic hardship.

Attachments:

Exhibit A: Article 10 amendments as modified at the **October 5th, 2011** HPC hearing;

Exhibit B: Article 11 amendments as modified at the **October 5th, 2011** HPC hearing;

Exhibit C: Four memos from Supervisor Wiener with suggested modifications to Articles 10 and 11

Exhibit D: Correspondence

FILE NO.

ORDINANCE NO.

[Planning Code—Article 10]

**Ordinance amending Article 10 of the San Francisco Planning Code in its entirety;
making environmental findings and findings of consistency with the General Plan and
Planning Code Section 101.1(b).**

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. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On _____ at a duly noticed public hearing, the Planning Commission in Resolution No. _____ found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. _____, which reasons are incorporated herein by reference as though fully set forth.

1 (b) Historic Preservation Commission Findings. On _____ at a duly
2 noticed public hearing, the Historic Preservation Commission in Resolution No.
3 _____ recommended that the Board of Supervisors adopt the proposed Planning
4 Code amendments. A copy of said Resolution is on file with the Clerk of the Board of
5 Supervisors in File No. _____ and is incorporated herein by reference.

6 (c) Environmental Findings. The Planning Department has determined that the
7 actions contemplated in this Ordinance are in compliance with the California Environmental
8 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
9 on file with the Clerk of the Board of Supervisors in File No. _____ and is
10 incorporated herein by reference.

11
12 Section 2. The San Francisco Planning Code is hereby amended by amending Article
13 10, to read as follows:

14 Sec. 1001. Purposes.

15 Sec. 1002. Powers and Duties of *Planning* Department ~~of City Planning~~ and *City*
16 *Planning Historic Preservation* Commission.

17 Sec. 1003. ~~Landmarks Preservation Advisory Board~~ *Historic Preservation Commission*.

18 Sec. 1004. Designation of Landmarks and Historic Districts.

19 Sec. 1004.1. *Nomination and* Initiation of *Landmark and Historic District* Designation.

20 Sec. 1004.2. ~~Referral to Landmarks Preservation Advisory Board.~~ *Decision by the Historic*
21 *Preservation Commission*.

22 Sec. 1004.3. ~~Hearing by City Planning Commission.~~ ~~Sec. 1004.4.~~ Designation by Board of
23 Supervisors.

24 Sec. ~~1004.5-1004.4.~~ Appeal to Board of Supervisors.

25 Sec. ~~1004.6~~ 1004.5. Notice of Designation by Board of Supervisors.

- 1 Sec. ~~1004.7~~ 1004.6. Notice of Amendment or Rescission of Designation.
- 2 Sec. 1005. Conformity and Permits.
- 3 Sec. 1006. Certificate of Appropriateness Required.
- 4 Sec. 1006.1. Applications for Certificate of Appropriateness.
- 5 Sec. 1006.2. Review by Planning Department ~~of City Planning and City Planning~~
- 6 Commission.
- 7 Sec. 1006.3. Scheduling and Notice of Hearing.
- 8 Sec. 1006.4. ~~Referral to Advisory Board Prior to Hearing.~~ Sec. 1006.5. Conduct of Hearing;
- 9 Decision.
- 10 Sec. ~~1006.6~~ 1006.5. Nature of Planning Historic Preservation Commission Decision.
- 11 Sec. ~~1006.7~~ 1006.6. Standards for Review of Applications.
- 12 Sec. ~~1006.8~~ 1006.7. Appeals ~~from Planning Commission Decision~~ of a Certificate of
- 13 Appropriateness.
- 14 Sec. 1007. Unsafe or Dangerous Conditions.
- 15 Sec. 1008. Compliance with Maintenance Requirements.
- 16 Sec. 1009. Advice and Guidance to Property Owners.
- 17 Sec. 1010. Property Owned by Public Agencies.
- 18 Sec. 1011. Recognition of Structures of Merit.
- 19 Sec. 1013. Enforcement and Penalties.
- 20 Sec. 1014. Applicability.
- 21 Sec. 1015. Severability.
- 22 Appendix A List of Designated Landmarks.
- 23 Appendix B Jackson Square Historic District.
- 24 Appendix C Webster Street Historic District.
- 25 Appendix D Northeast Waterfront Historic District.

- 1 Appendix E Alamo Square Historic District.
- 2 Appendix F Liberty-Hill Historic District.
- 3 Appendix G Telegraph Hill Historic District.
- 4 Appendix H Blackstone Court Historic District.
- 5 Appendix I South End Historic District.
- 6 Appendix J Civic Center Historic District.
- 7 Appendix K Bush Street-Cottage Row Historic District.
- 8 Appendix L Dogpatch Historic District.

9
10 SEC. 1001. PURPOSES.

11 It is hereby found that structures, sites and areas of special character or special
12 historical, architectural or aesthetic interest or value have been and continue to be
13 unnecessarily destroyed or impaired, despite the feasibility of preserving them. It is further
14 found that the prevention of such needless destruction and impairment is essential to the
15 health, safety and general welfare of the public. The purpose of this legislation is to promote
16 the health, safety and general welfare of the public through:

17 (a) The protection, enhancement, perpetuation and use of structures, sites and
18 areas that are reminders of past eras, events and persons important in local, State or national
19 history, or which provide significant examples of architectural styles of the past or are
20 landmarks in the history of architecture, or which are unique and irreplaceable assets to the
21 City and its neighborhoods, or which provide for this and future generations examples of the
22 physical surroundings in which past generations lived;

23 (b) The development and maintenance of appropriate settings and environment for
24 such structures, and in such sites and areas;

1 (c) The enhancement of property values, the stabilization of neighborhoods and
2 areas of the City, the increase of economic and financial benefits to the City and its
3 inhabitants, and the promotion of tourist trade and interest;

4 (d) The preservation and encouragement of a City of varied architectural styles,
5 reflecting the distinct phases of its history: cultural, social, economic, political and architectural
6 and

7 (e) The enrichment of human life in its educational and cultural dimensions in order
8 to serve spiritual as well as material needs, by fostering knowledge of the living heritage of the
9 past.

10
11 SEC. 1002. POWERS AND DUTIES OF PLANNING DEPARTMENT ~~OF CITY~~
12 PLANNING AND CITY PLANNING HISTORIC PRESERVATION-COMMISSION. ~~PLANNING AND CITY PLANNING~~

13 The Planning Department ~~of City Planning~~ (hereinafter referred to as the "Department")
14 and the Planning Commission ~~Historic Preservation Commission~~ ("HPC") shall have and exercise
15 the powers and shall perform the duties set forth in this Section and elsewhere in this Article
16 10 with respect to historical preservation. ~~The Department and the Planning Commission shall be~~
17 ~~advised in the exercise and performance of their powers and duties by the Landmarks Preservation~~
18 ~~Advisory Board hereinafter created.~~

19 (a) The Planning Commission ~~HPC~~:

20 (1) Shall recommend to the Board of Supervisors, after public hearing, on the
21 designation of landmarks and historic districts, as more fully set forth ~~in Section 1004.3~~ below in
22 this Article 10;

23 (2) Shall ~~in appropriate cases, after public hearing,~~ review and decide on applications
24 for construction, alteration, demolition and other applications pertaining to landmark sites and
25 historic districts, as more fully set forth below in this Article 10;

1 (3) May take steps to encourage or bring about preservation of structures or other
2 features where the ~~Planning Commission~~HPC has decided to suspend action on an application,
3 as more fully set forth in Section 1006.6 below; ~~and~~

4 (4) May establish and maintain a list of structures and other features deemed
5 deserving of official recognition although not designated as landmarks or historic districts, and
6 take appropriate measures of recognition, as more fully set forth in Section 1011 below;

7 (5) Shall have the authority to review and comment upon environmental documents under
8 the California Environmental Quality Act and the National Environmental Policy Act for proposed
9 projects that may have an impact on historic or cultural resources;

10 (6) Shall act as the City's local historic preservation review commission for the purposes of
11 the Certified Local Government Program, may recommend properties for inclusion in the National
12 Register of Historic Places, and may review and comment on federal undertakings where authorized
13 under the National Historic Preservation Act;

14 (7) Shall review and comment upon any agreements proposed under the National Historic
15 Preservation Act where the City is a signatory prior to any approval action on such agreement;

16 (8) Shall have the authority to oversee and direct the survey and inventory of historic
17 properties;

18 (9) Shall review and provide written reports to the Planning Commission and Board of
19 Supervisors on ordinances and resolutions concerning historic preservation issues and historic
20 resources, redevelopment project plans, waterfront land use and project plans, and such other matters
21 as may be prescribed by ordinance;

22 (10) Shall have the authority to recommend approval, disapproval, or modification of
23 historical property contracts pursuant to the state Mills Act to the Board of Supervisors, without
24 referral or recommendation of the Planning Commission; and
25

1 (11) Shall recommend to the Planning Commission a Preservation Element of the General
2 Plan, shall periodically recommend to the Planning Commission proposed amendments to such
3 Preservation Element of the General Plan, and shall comment and provide recommendations to the
4 Planning Commission and the Board of Supervisors on other objectives, policies and provisions of the
5 General Plan and special area, neighborhood, and other plans designed to carry out the General Plan,
6 and proposed amendments thereto, that are not contained within such Preservation Element but
7 concern historic preservation.

8 (b) The Department and the Planning CommissionHPC:

9 (1) May carry out, assist and collaborate in studies and programs designed to
10 identify and evaluate structures, sites and areas worthy of preservation;

11 (2) May consult with and consider the ideas and recommendations of civic groups,
12 public agencies, and citizens interested in historical preservation;

13 (3) May inspect and investigate structures, sites and areas which they have reason
14 to believe worthy of preservation;

15 (4) May disseminate information to the public concerning those structures, sites and
16 areas deemed worthy of preservation, and may encourage and advise property owners in the
17 protection, enhancement, perpetuation and use of landmarks, property in historic districts, and
18 other officially recognized property of historical interest;

19 (5) May consider methods other than those provided for in this Article 10 for
20 encouraging and achieving historical preservation, and make appropriate recommendations to
21 the Board of Supervisors and to other bodies and agencies, both public and private; and

22 (6) May establish such policies, rules and regulations as they deem necessary to
23 administer and enforce this Article 10 and Charter Section 4.135 establishing the HPC.

1 SEC. 1003. LANDMARKS PRESERVATION ADVISORY BOARD HISTORIC
2 PRESERVATION COMMISSION.

3 ~~There is hereby created a Landmarks Preservation Advisory Board (hereinafter referred to as~~
4 ~~the "Advisory Board"), which shall advise the Department and the Planning Commission on historical~~
5 ~~preservation matters. The Advisory Board shall consist of nine voting members appointed by the Mayor~~
6 ~~and serving at his pleasure, without salary. Of the original appointments, five shall be for a four-year~~
7 ~~term and four for a two-year term; after the expiration of the said original terms, all appointments shall~~
8 ~~be for four-year terms. In addition, the Art Commission shall choose one of its members to be an ex~~
9 ~~officio member of the Advisory Board, without vote.~~

10 ~~(a) — In making appointments, the Mayor may consult persons and organizations interested in~~
11 ~~historical preservation. Appointees to the Advisory board shall be persons specially qualified by reason~~
12 ~~of training or experience in the historic and cultural traditions of the City, and interested in the~~
13 ~~preservation of its historic structures, sites and areas. The voting members shall be residents of the~~
14 ~~City.~~

15 ~~In November of 2008, the electorate approved Charter Section 4.135, creating the HPC to~~
16 ~~advise the City on historic preservation matters, participate in processes involving historic and cultural~~
17 ~~resources, and take such other actions concerning historic preservation as may be prescribed by this~~
18 ~~Code and other ordinances. Charter Section 4.135 sets forth the requirements for membership to the~~
19 ~~HPC, as well as applicable nomination procedures and term limits for Commissioners. Additionally,~~
20 ~~Charter Section 4.135 establishes staffing for the HPC and sets forth the HPC's role in the Planning~~
21 ~~Department's budget process and establishment of rates, fees, and similar charges. Additional~~
22 ~~requirements, including those related to the establishment of rules and regulations for the HPC's~~
23 ~~organization and procedure, are set forth in Charter Sections 4.100 through 4.104.~~

24 ~~(b) — The Director of City Planning, or his delegate, shall serve as Secretary of the Advisory~~
25 ~~Board, without vote. The Department shall render staff assistance to the Advisory Board.~~

1 ~~(c) The Advisory Board shall elect a Chairman from among its voting members, and shall~~
2 ~~establish rules and regulations for its own organization and procedure.~~

3
4 SEC. 1004. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

5 (a) The HPC shall have the authority to recommend approval, disapproval, or modification
6 of landmark designations and historic district designations under this Code to the Board of
7 Supervisors. Pursuant to the procedures set forth hereinafter:

8 (1) The Board of Supervisors may, by ordinance, designate an individual structure
9 or other feature or an integrated group of structures and features on a single lot or site, having
10 a special character or special historical, architectural or aesthetic interest or value, as a
11 landmark, and shall designate a landmark site for each landmark; and

12 (2) The Board of Supervisors may, by ordinance, designate an area containing a
13 number of structures having a special character or special historical, architectural or aesthetic
14 interest or value, and constituting a distinct section of the City, as a historic district.

15 (b) Each such designating ordinance shall include, or shall incorporate by reference
16 to the pertinent resolution of the Planning CommissionHPC then on file with the Clerk of the
17 Board of Supervisors, as though fully set forth in such designating ordinance, the location and
18 boundaries of the landmark site or historic district, a description of the characteristics of the
19 landmark or historic district that justify its designation, and a description of the particular
20 features that should be preserved. Any such designation shall be in furtherance of and in
21 conformance with the purposes of this Article 10 and the standards set forth herein.

22 (c) The property included in any such designation shall upon designation be subject
23 to the controls and standards set forth in this Article 10. In addition, the said property shall be
24 subject to the following further controls and standards if imposed by the designating
25 ordinance:

1 (1) For a publicly-owned landmark, review of proposed changes to significant
2 interior architectural features.

3 (2) For a privately-owned landmark, review of proposed changes requiring a permit
4 to significant interior architectural features in those areas of the landmark that are or
5 historically have been accessible to members of the public. The designating ordinance must
6 clearly describe each significant interior architectural feature subject to this restriction.

7 (3) For a historic district, such further controls and standards as ~~the Board of~~
8 ~~Supervisors~~ deems necessary or desirable, including but not limited to facade, setback and
9 height controls.

10 (4) For a City-owned park, square, plaza or garden on a landmark site, review of
11 alterations as identified in the designating ordinance.

12 (d) The Board of Supervisors may amend or rescind a designation at any time,
13 subject to all of the procedures set forth in this Article 10 for an original designation; provided,
14 however, that in the event that a landmark is accidentally destroyed or is demolished or
15 removed in conformity with the provisions of Section 1007, or is legally demolished or
16 relocated after compliance ~~has been had~~ with the provisions of ~~Section 1006.2~~ this Article 10, the
17 ~~Director of Planning~~ Director may request the ~~Planning Commission~~ HPC to recommend to the
18 Board of Supervisors that the designation be amended or rescinded, and in such case the
19 procedures for an original designation set forth in Sections 1004.1, and 1004.2 and 1004.3
20 hereof shall not apply.

21
22 SEC. 1004.1. NOMINATION AND INITIATION OF LANDMARK AND HISTORIC DISTRICT
23 DESIGNATION.

24 (a) Nomination. The Department, property owner(s), or member of the public may request
25 the HPC initiate designation of a property as a landmark site or historic district. A nomination for

1 initiation shall contain supporting historic, architectural, and/or cultural documentation, as well as any
2 additional information the HPC may require.

3 (b) *Initiation.* Initiation of designation shall be ~~by the Board of Supervisors or by a~~
4 ~~resolution of intention by the Planning Commission, the Art Commission or the Advisory Board, HPC~~
5 ~~or on the verified application of owners of the property to be designated or their authorized agents.~~
6 made by one of the following methods:

7 (1) *For a Landmark Site:*

8 (i) *by resolution of the Board of Supervisors;*

9 (ii) *by resolution of the HPC; or*

10 (iii) *by submittal of a complete, as determined by the Department, nomination application*
11 *pursuant to subsection (a) above. The HPC shall hold a hearing on the application no later than 45*
12 *days from the date of submittal of the complete application and by resolution shall confirm or*
13 *disapprove the initiation of designation, or may request further information and continue the matter as*
14 *appropriate.*

15 (2) *For a Historic District:*

16 (i) *by resolution of the Board of Supervisors; or*

17 (ii) *by resolution of the HPC.*

18 *The Board of Supervisors and the HPC shall make findings in support of any initiation of*
19 *designation of a landmark site or historic district. The Board of Supervisors shall promptly refer any*
20 *initiation of designation to the HPC for its review and recommendation. ~~Any such application shall be~~*
21 *filed with the Department upon forms prescribed by the Planning Commission, and shall be*
22 *accompanied by all data required by the Planning Commission. Where such an application is submitted*
23 *for designation of a historic district, the application must be subscribed by or on behalf of at least 66*
24 *percent of the property owners in the proposed district.*

1 SEC. 1004.2. ~~REFERRAL TO LANDMARKS PRESERVATION ADVISORY BOARD.~~

2 ~~The proposed designation, resolution or application shall be promptly referred to the Advisory~~
3 ~~Board for review and report to the Planning Commission as to conformance with the purposes and~~
4 ~~standards of this Article 10. The Advisory Board shall recommend approval, disapproval or~~
5 ~~modification of the proposal, or shall report its failure to reach a decision thereon, within 60 days after~~
6 ~~such referral. If no recommendation is rendered within 60 days, the Planning Commission may~~
7 ~~consider the proposed designation as provided in Section 1004.3 below notwithstanding the lack of~~
8 ~~such a recommendation.~~

9
10 ~~SEC. 1004.3. HEARING BY CITY PLANNING COMMISSION DECISION BY THE HISTORIC~~
11 ~~PRESERVATION COMMISSION.~~

12 ~~After receiving a report from the Advisory Board or after the expiration of 60 days from the~~
13 ~~date of referral to the Advisory Board, whichever is sooner, the Planning Commission~~ The HPC ~~shall~~
14 ~~hold a public hearing on the~~ proposal/proposed designation. ~~the Department shall set a time and~~
15 ~~place for such hearing. A record of pertinent information presented at the hearing shall be made~~
16 ~~and maintained as a permanent record.~~

17 (a) Notice of Hearing. Notice of the time, place and purpose of such hearing shall
18 be given by at least one publication in a newspaper of general circulation in the City not less
19 than 20 days prior to the date of hearing. Notice shall also be mailed not less than 10 days
20 prior to the date of hearing to the owners of all property included in the proposed designation,
21 using for this purpose the names and addresses of the last known owners as shown on the
22 records of the ~~Assessor~~ Tax Collector and to the applicant, if any. Failure to send notice by mail to
23 any such property owner where the address of such owner is not a matter of public record
24 shall not invalidate any proceedings in connection with the proposed designation. The
25 Department may also give such other notice as it may deem desirable and practicable.

1 (b) Time Limitation. The ~~Planning Commission~~HPC shall ~~consider the report and~~
2 ~~recommendation of the Advisory Board, if any, and shall~~ consider the conformance or lack of
3 conformance of the proposed designation with the purposes and standards of this Article 10.
4 Where the Board of Supervisors has referred an initiation of designation to the HPC, The Planning
5 Commission~~the HPC~~ shall hold a public hearing and shall approve, disapprove or modify the
6 proposal within 90 days from the date of referral of the proposed designation to the ~~Advisory~~
7 ~~Board~~HPC. Failure to act within said time shall constitute approval. The Board of Supervisors
8 may, by resolution, extend the time within which the ~~Planning Commission~~HPC is to render its
9 decision.

10 (c) ~~Notice of Action Taken. The Planning Commission shall promptly notify the applicant of~~
11 ~~action taken. If the Planning Commission approves or modifies the proposed designation in whole or in~~
12 ~~part, it shall transmit the proposal together with a copy of the resolution of approval, to the Clerk of the~~
13 ~~Board of Supervisors.~~

14 (d) ~~In the event that a proposed designation has been initiated prior to July 18, 2006, and~~
15 ~~the Planning Commission has failed to act upon such proposed designation as of the effective date of~~
16 ~~this ordinance, the Board of Supervisors may act on the proposed designation notwithstanding the~~
17 ~~Planning Commission failure to act on the proposed designation.~~ Referral of Proposed Designation. If
18 the HPC recommends approval of a landmark designation, it shall send its recommendation to the
19 Board of Supervisors, without referral to the Planning Commission. If the HPC recommends approval
20 of a historic district designation, it shall refer its recommendation to the Planning Commission, which
21 shall have 45 days to review and comment on the proposed designation, which comments, if any, shall
22 be sent by the Department to the Board of Supervisors with the HPC's recommendation. If the HPC
23 disapproves designation of a landmark or historic district, that decision shall be final and shall not
24 require referral unless appealed as set forth below.

1 SEC. ~~1004.4~~1004.3. DESIGNATION BY BOARD OF SUPERVISORS.

2 The Board of Supervisors shall hold a public hearing on any proposal so transmitted to
3 it, after due notice to the owners of the property included in the proposal, and such other
4 notice as the ~~said~~ Board may deem necessary. The Board of Supervisors may approve, ~~or~~
5 modify and approve, or disapprove the designation by a majority vote of all its members.
6

7 SEC. ~~1004.5~~1004.4. APPEAL TO BOARD OF SUPERVISORS.

8 If the ~~Planning Commission~~HPC disapproves the proposed designation, such action shall
9 be final, except upon the filing of a valid appeal to the Board of Supervisors within 30 days by
10 a protest subscribed by the owners of at least 20 percent of the property proposed to be
11 designated, or by any governmental body or agency, or by an organization with a recognized
12 interest in historical preservation; provided, however, that if the proposal was initiated by the
13 Board of Supervisors, the Clerk of the said Board shall be notified immediately of the
14 disapproval without the necessity for an appeal.

15 (a) Hearing. The Board of Supervisors shall hold a public hearing on any such
16 proposal appealed to it or initiated by it, after due notice to the owners of the property included
17 in the proposal and any applicant(s), and such other notice as the said Board may deem
18 necessary.

19 (b) Decision. The Board of Supervisors may overrule the ~~Planning Commission~~HPC
20 and approve, or modify and approve, the designation by a majority vote of all its members.

21 (c) Resubmission, Reconsideration. If a proposal initiated by application has been
22 disapproved by the ~~Planning Commission~~HPC or by the Board of Supervisors on appeal, no
23 subsequent application that is the same or substantially the same may be submitted or
24 reconsidered for at least one year from the effective date of final action of the original
25 proposal.

1
2 SEC. ~~1004.6~~1004.5. NOTICE OF DESIGNATION BY BOARD OF SUPERVISORS.

3 When a landmark or historic district has been designated by the Board of Supervisors
4 as provided above, the Department shall promptly notify the owners of the property included
5 therein. The Department shall cause a copy of the designating ordinance, or notice thereof, to
6 be recorded in the office of the County Recorder.

7
8 SEC. ~~1004.7~~1004.6. NOTICE OF AMENDMENT OR RESCISSION OF DESIGNATION.

9 When a landmark or historic district designation has been amended or rescinded, the
10 Department shall promptly notify the owners of the property included therein, and shall cause
11 a copy of the appropriate ordinance, or notice thereof, to be recorded in the office of the
12 County Recorder.

13
14 SEC. 1005. CONFORMITY AND PERMITS.

15 (a) No person shall carry out or cause to be carried out on a designated landmark
16 site or in a designated historic district any construction, alteration, removal or demolition of a
17 structure or any work involving a sign, awning, marquee, canopy, mural or other appendage,
18 for which a City permit is required, except in conformity with the provisions of this Article 10. In
19 addition, no such work shall take place unless all other applicable laws and regulations have
20 been complied with, and any required permit has been issued for said work.

21 (b) (1) Installation of a new general advertising sign is prohibited in any ~~Hh~~historic
22 ~~Dd~~istrict or on any historic property regulated by this Article 10.

23 (2) The Central Permit Bureau shall not issue, and no other City department or
24 agency shall issue, any permit for construction, alteration, removal or demolition of a structure
25 or any permit for work involving a sign, awning, marquee, canopy, mural or other appendage

1 on a landmark site or in ~~an Historic District~~ historic district, except in conformity with the
2 provisions of this Article 10. In addition, no such permit shall be issued unless all other
3 applicable laws and regulations have been complied with.

4 (c) (1) Where so provided in the designating ordinance for a historic district, any or all
5 exterior changes visible from a public street or other public place shall require approval in
6 accordance with the provisions of this Article 10, regardless of whether or not a City permit is
7 required for such exterior changes. Such exterior changes may include, but shall not be
8 limited to, painting and repainting; landscaping; fencing; and installation of lighting fixtures and
9 other building appendages.

10 (2) The addition of a mural to any landmark or contributory structure in a historic
11 district shall require compliance with the provisions of this Article 10, regardless of whether or
12 not a City permit is required for the mural.

13 (3) Alterations to City-owned parks, squares, plazas or gardens on a landmark site,
14 where the designating ordinance identifies such alterations, shall require approval in
15 accordance with the provisions of this Article 10, regardless of whether or not a City permit is
16 required.

17 (d) The Department shall maintain with the Central Permit Bureau a current record
18 of designated landmarks and historic districts. Upon receipt of any application for a permit to
19 carry out any construction, alteration, removal or demolition of a structure or any work
20 involving a sign, awning, marquee, canopy, mural or other appendage, on a landmark site or
21 in a historic district, the Central Permit Bureau shall, unless the structure or feature concerned
22 has been declared unsafe or dangerous pursuant to Section 1007 of this Article 10, promptly
23 forward such permit application to the Department.

24 (e) After receiving a permit application from the Central Permit Bureau in
25 accordance with the preceding subsection, the Department shall ascertain whether ~~Section~~

1 ~~1006 requires~~ a Certificate of Appropriateness is required or has been approved for the work
2 proposed in such permit application. If ~~such a~~ Certificate of Appropriateness is required and has
3 been issued, and if the permit application conforms to ~~such~~ the work approved in the Certificate
4 of Appropriateness, the permit application shall be processed without further reference to this
5 Article 10. If ~~such a~~ Certificate of Appropriateness is required and has not been issued, or if ~~it~~
6 ~~the sole judgment of the Department~~ the permit application does not ~~so~~ conform to what was
7 approved, the permit application shall be disapproved or held by the Department until such
8 time as conformity does exist either through modifications to the proposed work or through the
9 issuance of an amended or new Certificate of Appropriateness; the decision and action of the
10 Department shall be final. Notwithstanding the foregoing, in the following cases the Department
11 shall process the permit application without further reference to this Article 10:

12 (1) When the application is for a permit to construct on a landmark site where the
13 landmark has been lawfully demolished and the site is not within a designated historic district;

14 (2) When the application is for a permit to make interior alterations only on a
15 privately-owned structure or on a publicly-owned structure, unless the designating ordinance
16 requires review of such alterations to the privately- or publicly-owned structure pursuant to
17 Section 1004(c) hereof. Notwithstanding the foregoing, if any proposed interior alteration requiring
18 a permit would result in any visual or material impact to the exterior of the subject building, a
19 Certificate of Appropriateness shall be required to address such exterior effects.

20 (3) When the application is for a permit to do ordinary maintenance and repairs
21 only. For the purpose of this Article 10, "ordinary maintenance and repairs" shall mean any
22 work, the sole purpose and effect of which is to correct deterioration, decay or damage,
23 including repair of damage caused by fire or other disaster;

24 ~~(4) When the application is for a permit to comply with the UMB Seismic Retrofit~~
25 ~~Ordinances and the Zoning Administrator determines that the proposed work complies with the UMB~~

1 ~~Retrofit Architectural Design Guidelines, which guidelines shall be adopted by the Planning~~
2 ~~Commission.~~

3 (f) For purposes of this Article 10, demolition shall be defined as any one of the
4 following:

5 (1) Removal of more than 25 percent of the surface of all external walls facing a
6 public street(s); or

7 (2) Removal of more than 50 percent of all external walls from their function as all
8 external walls; or

9 (3) Removal of more than 25 percent of external walls from function as either
10 external or internal walls; or

11 (4) Removal of more than 75 percent of the building's existing internal structural
12 framework or floor plates unless the City determines that such removal is the only feasible
13 means to meet the standards for seismic load and forces of the latest adopted version of the
14 San Francisco Building Code and the State Historical Building Code.

15 (g) The following procedures shall govern review of the addition of murals to any
16 landmark or contributory structure in a historic district:

17 (1) Where the mural is proposed to be added to a landmark or contributory structure
18 in a historic district, located on property owned by the City, no Certificate of Appropriateness
19 shall be required. On such structures, the Art Commission shall not approve the mural until
20 the ~~Advisory Board~~HPC has provided advice to the Art Commission on the impact of the mural
21 on the historical structure. The ~~Advisory Board~~HPC shall provide advice to the Art Commission
22 within ~~50~~45 days of receipt of a written request for advice and information regarding the
23 placement, size and location of the proposed mural;

24 (2) Where the mural is proposed to be added to a landmark or contributory structure
25 in a historic district, located on property that is not owned by the City, a Certificate of

1 Appropriateness shall be required. The ~~Advisory Board~~HPC shall not act on the Certificate of
2 Appropriateness until the Art Commission has provided advice to the ~~Advisory Board~~HPC on
3 the mural. The Art Commission shall provide advice to the ~~Advisory Board~~HPC within 50 days
4 of receipt of a written request for advice and information regarding the proposed mural.

5
6 SEC. 1006. CERTIFICATE OF APPROPRIATENESS REQUIRED.

7 A Certificate of Appropriateness shall be required and shall govern review of permit
8 applications as provided in Sections 1005(e) and 1005(g), except in the specific cases set forth in
9 Section 1005(e), for the following types of work: In the case of:

10 (1) Any construction, alteration, removal or demolition of a structure or any work
11 involving a sign, awning, marquee, canopy, mural (as set forth in Planning Code Section
12 1005(g); or other appendage, for which a City permit is required, on a landmark site or in a
13 historic district;

14 (2) Exterior changes in a historic district visible from a public street or other public
15 place, where the designating ordinance requires approval of such changes pursuant to the
16 provisions of this Article 10; *and*

17 (3) The addition of a mural to any landmark or contributory structure in a historic
18 district, which is not owned by the City or located on property owned by the City, as set forth
19 in Planning Code Section 1005(g), regardless of whether or not a City permit is required for
20 the mural; *and or*

21 (4) Alterations to City-owned parks, squares, plazas or gardens on a landmark site,
22 where the designating ordinance identifies the alterations that require approval under this
23 Article 10.

24 A Certificate of Appropriateness shall be required and shall govern review of permit
25 applications as provided in Sections 1005(e) and 1005(g), except in the specific cases set forth in

1 ~~Section 1005(e)~~ The procedures, requirements, controls and standards in Sections 1006
2 through 1006.8 shall apply to all applications for Certificates of Appropriateness; provided,
3 however, that the designating ordinance for a historic district, or for a City-owned park,
4 square, plaza or garden on a landmark site, may modify or add to these procedures,
5 requirements, controls and standards.
6

7 SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS.

8 (a) Who May Apply. An application for a Certificate of Appropriateness may be filed
9 by the owner, or authorized agent for the owner, of the property for which the Certificate is
10 sought.

11 (b) Where to File. Applications shall be filed in the office of the Planning Department
12 ~~of City Planning~~.

13 (c) Content of Applications. The content of applications shall be in accordance with
14 the policies, rules and regulations of the Department and the ~~City Planning Commission~~HPC. All
15 applications shall be upon forms prescribed therefore, and shall contain or be accompanied
16 by all information required to assure the presentation of pertinent facts for proper
17 consideration of the case and for the permanent record. In general, the application shall be
18 accompanied by plans and specifications showing the proposed exterior appearance,
19 including but not limited to color, texture of materials, and architectural design and detail;
20 drawings or photographs showing the property in the context of its surroundings may also be
21 required. The applicant may be required to file with ~~his~~ the application ~~the~~ additional information
22 needed for the preparation and mailing of notices as specified in Section 1006.3.

23 (d) Verification. Each application filed by or on behalf of one or more property
24 owners shall be verified by at least one such owner or his authorized agent attesting to the
25 truth and correctness of all facts, statements and information presented.

1 (e) Conditional Uses. *In the case of any proposal for which the City Planning Code requires*
2 *a conditional use authorization in addition to a Certificate of Appropriateness, the Department may*
3 *combine the required applications, notices and hearings for administrative convenience and in the*
4 *interests of the applicant and the public, to the extent deemed feasible and desirable by the Department.*
5 Multiple Planning Approvals. *For projects that require multiple planning approvals, the HPC shall*
6 *review and act on any Certificate of Appropriateness before any other planning approval action. For*
7 *projects that (1) require a conditional use authorization or permit review under Section 309, et. seq. of*
8 *the Code, and (2) do not concern an individually landmarked property, the Planning Commission may*
9 *modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the*
10 *Planning Commission shall apply all applicable historic resources provisions of the Code. For*
11 *properties located on vacant lots, the Planning Commission may modify any decision on a Certificate*
12 *of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all*
13 *applicable historic resources provisions of the Planning Code.*

14
15 SEC. 1006.2. REVIEW BY PLANNING DEPARTMENT OF CITY PLANNING AND CITY
16 PLANNING COMMISSION.

17 (a) ~~Cases Other Than Construction, Removal or Demolition.~~

18 (1) ~~In the case of any alteration of a structure or any work involving a sign, awning,~~
19 ~~marquee, canopy or other appendage, or exterior changes in a historic district visible from a public~~
20 ~~street or other public place, or alterations to a City owned park, square, plaza or garden on a~~
21 ~~landmark site, where a Certificate of Appropriateness is required, the application for said Certificate~~
22 ~~shall be reviewed by the Department with the advice of the Advisory Board. The department, with the~~
23 ~~advice of the Advisory Board, shall determine within 20 days after the application is accepted for filing,~~
24 ~~whether or not the proposal would have a significant impact upon, or is potentially detrimental to, the~~
25 ~~landmark site or historic district; and the Department shall notify the applicant of the determination~~

1 ~~made. If it is determined that there would be no such significant impact or potential detriment, the~~
2 ~~Department shall issue a Certificate of Appropriateness to the applicant.~~

3 ~~(2) — If it is determined that the proposal would have a significant impact upon, or is~~
4 ~~potentially detrimental to, the landmark site or historic district, or upon request of the Planning~~
5 ~~Commission, the Planning Commission shall hold a public hearing on the application.~~

6 ~~(b) — Construction, Removal or Demolition. The Planning Commission shall hold a public~~
7 ~~hearing on the application for a Certificate of Appropriateness for any construction, removal or~~
8 ~~demolition of a structure, except as may be otherwise provided in the designating ordinance for a~~
9 ~~historic district or for City owned park, square, plaza or garden on a landmark site.~~

10 The Department shall review an application for a Certificate of Appropriateness and determine
11 within 30 days of submittal whether the application is complete or whether additional information is
12 required.

13 (a) Minor Alterations. The HPC may define certain categories of work as Minor Alterations
14 and delegate approval of an Administrative Certificate of Appropriateness for such Minor Alterations
15 to Department staff. If the HPC delegates such approvals to Department staff, Minor Alterations shall
16 include the following categories of work:

17 (1) Work to perform ordinary maintenance and repairs, which for the purpose of this Article
18 10 shall mean any work the sole purpose and effect of which is to correct deterioration, decay, or
19 damage;

20 (2) Work the sole purpose and effect of which is to comply with the Unreinforced Masonry
21 Building (UMB) Seismic Retrofit Ordinance and where the proposed work complies with the UMB
22 Retrofit Architectural Design Guidelines adopted by the HPC; or

23 (3) Any other work so delegated to the Department by the HPC.

24 (b) Administrative Certificates of Appropriateness. Upon receipt of a building permit
25 application, an Administrative Certificate of Appropriateness for Minor Alteration work may be

1 approved by the Department without a hearing before the HPC. The Department shall mail the
2 Department's written decision on an Administrative Certificate of Appropriateness to the applicant and
3 to any individuals or organizations who so request. Any Departmental decision on an Administrative
4 Certificate of Appropriateness may be appealed to the HPC within 15 days of the date of the written
5 decision. The HPC may also request review of any Departmental decision on an Administrative
6 Certificate of Appropriateness by its own motion within 20 days of the written decision.

7 (c) Applications for a Certificate of Appropriateness that are not Minor Alterations
8 delegated to Department staff shall be scheduled for hearing by the HPC pursuant to Sections 1006.3
9 and 1006.4 below.

10 SEC. 1006.3. SCHEDULING AND NOTICE OF HEARING.

11 (a) When an application for a Certificate of Appropriateness has been filed and Section
12 1006.2 provides that the Planning Commission shall hold a public hearing thereon, If a public hearing
13 before the HPC on a Certificate of Appropriateness is required, a timely appeal has been made of an
14 Administrative Certificate of Appropriateness, or the HPC has timely requested review of an
15 Administrative Certificate of Appropriateness, the Department shall set a time and place for said
16 hearing within a reasonable period. Notice of the time, place and purpose of the hearing shall
17 be given by the Department as follows:

- 18 (a)(1) By mail to the applicant not less than 20 days prior to the date of the hearing;
19 (b) — By mail not less than 10 days prior to the date of the hearing to the owners of all real
20 property that is the subject of the application and, if said property is in a historic district, to the owners
21 of all real property within the historic district, using for this purpose the names and addresses of the
22 owners as shown on the latest citywide assessment roll in the office of the Tax Collector. Failure to
23 send notice by mail to any such property owner where the address of such owner is not shown on such
24 assessment roll shall not invalidate any proceedings in connection with such action;

1 (e) ~~By publication at least once in a newspaper of general circulation in the City not less~~
2 ~~than 20 days prior to the date of the hearing;~~

3 (2) By mail to any interested parties who so request in writing to the Department;

4 (3) For landmark sites: by mail not less than 20 days prior to the date of the hearing to all
5 owners and occupants of the subject property and owners and occupants of properties within 150 feet
6 of the subject property;

7 (4) For buildings located in historic districts: by mail not less than 20 days prior to the date
8 of the hearing to all owners and occupants of the subject property and owners and occupants of
9 properties within 300 feet of the subject property.

10 (5) By posting notice on the site not less than 20 days prior to the date of the hearing; and

11 (4)(6) Such other notice as the Department *shall* deems appropriate.

12 (b) For the purposes of mailed notice, the latest citywide assessment roll for names and
13 addresses of owners shall be used, and all efforts shall be made to the extent practical, to notify
14 occupants of properties in the notification area. Failure to send notice by mail to any such property
15 owner where the address of such owner is not shown on such assessment roll shall not invalidate any
16 proceedings in connection with such action;

17
18 SEC. 1006.4. ~~REFERRAL TO ADVISORY BOARD PRIOR TO HEARING.~~

19 ~~Where a public hearing before the Planning Commission has been scheduled thereon, the~~
20 ~~application for a Certificate of Appropriateness shall be promptly referred to the Advisory Board and~~
21 ~~shall be considered by the Advisory Board at its next regular meeting, or at a special meeting called for~~
22 ~~that specific purpose. The Advisory Board shall render a report to the Planning Commission at or prior~~
23 ~~to the scheduled public hearing; failure of the Advisory Board to consider the application or to render~~
24 ~~a report shall not constitute grounds for continuation of the public hearing.~~

1 SEC. ~~1006.5~~1006.4. CONDUCT OF HEARING; DECISION.

2 Where a public hearing before the ~~Planning Commission~~HPC has been scheduled:

3 (a) Report and Recommendation. The Department shall make necessary
4 investigations and studies prior to the hearing of the ~~Planning Commission~~HPC. The ~~Department~~
5 shall provide its report and recommendation ~~of the Director of Planning shall be submitted at the~~
6 hearing to the HPC.

7 (b) Record. A record shall be kept of the pertinent information presented at the
8 hearing, and such record shall be maintained as a part of the permanent public records of the
9 Department. A verbatim record may be made if permitted or ordered by the ~~Planning~~
10 CommissionHPC.

11 (c) Continuations. The ~~Planning Commission~~HPC shall determine the instances in
12 which cases scheduled for hearing may be continued or taken under advisement. In such
13 cases, new notice need not be given of the further hearing date, provided such date is
14 announced at the scheduled hearing.

15 (d) Decision. The HPC shall approve, disapprove, or approve with modifications
16 Certificates of Appropriateness for work to designated landmarks or within historic districts, except
17 where it delegates such decisions to Departmental staff under the provisions of Section 1006.2 above.
18 The decision of the ~~Planning Commission~~HPC shall be rendered within 30 days from the date of
19 conclusion of the hearing; failure of the ~~Commission~~ HPC to act within the prescribed time shall
20 be deemed to constitute disapproval of the application. The decision of the ~~Planning~~
21 CommissionHPC, ~~in either approving or, disapproving the application pursuant to Section 1006.6,~~
22 shall be final except upon the filing of a valid appeal to the Board of Appeals or Board of
23 Supervisors as provided in Section 1006.81006.7. ~~The decision of the Planning Commission, in~~
24 ~~suspending action on an application pursuant to Section 1006.6, shall be final.~~ If the ~~Planning~~
25 CommissionHPC, or the Board of Appeals or Board of Supervisors on appeal, approves the

1 application, ~~or after the expiration of any suspension period imposed by the Commission~~, the
2 Department shall issue a Certificate of Appropriateness to the applicant.

3 (e) Time Limit for Exercise. When approving an application for a Certificate of
4 Appropriateness as provided herein, the ~~Planning Commission~~HPC may impose a time limit for
5 submission of a permit application conforming to the Certificate; otherwise, such permit
6 application must be submitted within a reasonable time.

7 (f) Delegation of Hearing. The ~~Planning Commission~~HPC may delegate to a
8 committee of one or more of its members, or to the Director of Planning or his or her designee,
9 ~~or to the Advisory Board~~, or to any combination of the foregoing, the holding of the hearing
10 required by this Article 10 for a Certificate of Appropriateness. The delegate or delegates shall
11 submit to the ~~Planning Commission~~HPC a record of the hearing, together with a report of
12 findings and recommendations relative thereto, for the consideration of the ~~Commission~~HPC in
13 reaching its decision in the case.

14 (g) Reconsideration. Whenever an application has been disapproved by the
15 ~~Planning Commission~~HPC, or by the Board of Appeals or Board of Supervisors on appeal as
16 described in Section ~~1006.6~~1006.7, no application, the same or substantially the same as that
17 which was disapproved, shall be resubmitted to or reconsidered by the ~~Planning~~
18 ~~Commission~~HPC within a period of one year from the effective date of final action upon the
19 earlier application.
20

21 SEC. ~~1006.6~~1006.5. NATURE OF PLANNING~~HISTORIC PRESERVATION~~ COMMISSION
22 DECISION.

23 The decision of the ~~Planning Commission~~HPC after its public hearing shall be in
24 accordance with the following provisions:
25

1 (a) If the application for a Certificate of Appropriateness proposes construction or
2 alteration of a structure or any work involving a sign, awning, marquee, canopy, mural or other
3 appendage, or exterior changes in a historic district visible from a public street or other public
4 place, the *Planning CommissionHPC* shall approve ~~or~~ disapprove, or modify the application in
5 whole or in part.

6 (b) If the application proposes removal or demolition of a structure on a designated
7 landmark site, the *Planning CommissionHPC* may disapprove or approve the application, or
8 may suspend action on it for a period not to exceed 180 days; provided that the Board of
9 Supervisors by resolution may, for good cause shown, extend the suspension for an
10 additional period not to exceed 180 days, if the said Board acts not more than 90 days and
11 not less than 30 days prior to the expiration of the original 180-day period.

12 (c) If the application proposes removal or demolition of a structure in a designated
13 historic district, other than on a designated landmark site, the *Planning CommissionHPC* may
14 disapprove or approve the application, or may suspend action on it for a period not to exceed
15 90 days, subject to extension by the Board of Supervisors as provided in the preceding
16 subsection; provided, however, that the designating ordinance for the historic district may
17 authorize the suspension of action for an alternate period which shall in no event exceed 90
18 days, without extension, and in such event the provision of the designating ordinance shall
19 govern.

20 (d) In the event action on an application to remove or demolish a structure is
21 suspended as provided in this Section, the *Planning CommissionHPC*, ~~with the advice and~~
22 ~~assistance of the Advisory Board~~, may take such steps as it determines are necessary to
23 preserve the structure concerned, in accordance with the purposes of this Article 10. Such
24 steps may include, but shall not be limited to, consultations with civic groups, public agencies,
25 and interested citizens, recommendations for acquisition of property by public or private

1 bodies or agencies, and exploration of the possibility of moving one or more structures or
2 other features.

3
4 SEC. ~~1006.7~~1006.6. STANDARDS FOR REVIEW OF APPLICATIONS.

5 The *Planning Commission, HPC*, the Department, ~~and the Advisory Board~~, and, in the case of
6 multiple approvals under Section 1006.1(f), the Planning Commission, and any other decisionmaking
7 body shall be guided by the standards in this Section in their review of applications for
8 Certificates of Appropriateness for proposed work on a landmark site or in a historic district. In
9 appraising the effects and relationships mentioned herein, the *Planning Commission, the*
10 *Department and the Advisory Board* decisionmaking body shall in all cases consider the factors of
11 architectural style, design, arrangement, texture, materials, color, and any other pertinent
12 factors.

13 (a) The proposed work shall be appropriate for and consistent with the effectuation
14 of the purposes of this Article 10.

15 (b) The proposed work shall comply with the Secretary of the Interior's Standards for the
16 Treatment of Historic Properties.

17 ~~(b)~~(c) For applications pertaining to landmark sites, the proposed work shall preserve,
18 enhance or restore, and shall not damage or destroy, the exterior architectural features of the
19 landmark and, where specified in the designating ordinance pursuant to Section 1004(c), its
20 major interior architectural features. The proposed work shall not adversely affect the special
21 character or special historical, architectural or aesthetic interest or value of the landmark and
22 its site, as viewed both in themselves and in their setting, nor of the historic district in
23 applicable cases.

24 ~~(e)~~(d) For applications pertaining to property in historic districts, other than on a
25 designated landmark site, any new construction, addition or exterior change shall be

1 compatible with the character of the historic district as described in the designating ordinance;
2 and, in any exterior change, reasonable efforts shall be made to preserve, enhance or restore,
3 and not to damage or destroy, the exterior architectural features of the subject property which
4 are compatible with the character of the historic district. Notwithstanding the foregoing, for any
5 exterior change where the subject property is not already compatible with the character of the
6 historic district, reasonable efforts shall be made to produce compatibility, and in no event
7 shall there be a greater deviation from compatibility. Where the required compatibility exists,
8 the application for a Certificate of Appropriateness shall be approved.

9 ~~(d)~~(e) For applications pertaining to all property in historic districts, the proposed work
10 shall also conform to such further standards as may be embodied in the ordinance
11 designating the historic district.

12 ~~(e)~~(f) For applications pertaining to the addition of murals on a landmark or
13 contributory structure in a historic district, the ~~Advisory Board and the Planning Commission~~HPC
14 shall consider only the placement, size and location of the mural, to determine whether the
15 mural covers or obscures significant architectural features of the landmark or contributory
16 structure. For purposes of review under this Article 10, the City shall not consider the content
17 or artistic merit of the mural.

18
19 SEC. ~~1006.8~~1006.7. APPEALS FROM PLANNING COMMISSION DECISION OF A
20 CERTIFICATE OF APPROPRIATENESS.

21 (a) Right of Appeal. The HPC's or the Planning Commission's decision on a Certificate of
22 Appropriateness shall be final unless appealed to the Board of Appeals, which may modify the decision
23 by a 4/5 vote; provided however, that if the project requires Board of Supervisors approval or is
24 appealed to the Board of Supervisors as a conditional use authorization, the decision shall not be
25 appealed to the Board of Appeals but rather to the Board of Supervisors, which may modify the

1 ~~decision by a majority vote. The action of the Planning Commission in approving or disapproving in~~
2 ~~whole or in part an application for a Certificate of Appropriateness shall be subject to appeal to the~~
3 ~~Board of Supervisors in accordance with this Section. An action of the Commission Any Certificate of~~
4 ~~Appropriateness so appealed from shall not become effective unless and until approved by the~~
5 ~~Board of Appeals or Board of Supervisors in accordance with this Section. Nothing in this~~
6 Section shall be construed to authorize the appeal of any decision under Section ~~1006.61006.5~~
7 of this Article 10 to suspend action on an application.

8 (b) Notice of Appeal. Any appeal under this Section shall be taken by filing written
9 notice of appeal with the Board of Appeals or Clerk of the Board of Supervisors, whichever entity
10 is appropriate under the requirements of subsection (a), within 30 days after the date of action by
11 ~~the Planning Commission~~HPC or Planning Commission. ~~In the case of a historic district, the notice of~~
12 ~~appeal shall be subscribed by the owners of at least 20 percent of the property affected by the proposed~~
13 ~~Certificate of Appropriateness; for the purposes of this calculation, the property affected shall be~~
14 ~~deemed to be all property within the historic district. In the case of a landmark not in a historic district,~~
15 ~~the notice of appeal shall be subscribed by the property owner, or by any governmental body or~~
16 ~~agency, or by an organization with a recognized interest in historical preservation.~~

17 (c) Hearing. ~~Upon the filing of such written notice of appeal so subscribed,~~ The Board of
18 Supervisors, the Board of Appeals or the Clerk(s) thereof shall set a time and place for hearing
19 such appeal, which shall be not less than 10 nor more than 30 days after such filing. The
20 Board of Appeals or the Board of Supervisors must decide such appeal within 30 days of the
21 time set for the hearing thereon; provided that, if the full membership of the Boardboard is not
22 present on the last day on which ~~said~~ the appeal is set or continued for hearing within said
23 period, the Boardboard may postpone ~~said~~ the hearing and decision thereon until, but not later
24 than, the full membership of the Boardboard is present; provided, further, that the latest date to
25 which said hearing and decision may be so postponed shall be not more than 90 days from

1 the date of filing of the appeal. Failure of the Board of Appeals or the Board of Supervisors to
2 act within such time limit shall be deemed to constitute approval by the Board of the
3 ~~action~~decision of the HPC or Planning Commission.

4 (d) ~~Decision. In acting upon any such appeal, the Board of Supervisors may disapprove the~~
5 ~~action of the Planning Commission only by a vote of not less than of all members of the Board.~~

6 (e) —Decisions Affecting City Hall. The provisions of this Subsection shall govern
7 decisions by the ~~City Planning Commission~~HPC on a Certificate of Appropriateness for
8 alteration work to be done at City Hall, in lieu of any other provision set forth above. Upon the
9 approval or disapproval by the ~~City Planning Commission~~HPC of a Certificate of
10 Appropriateness for alteration of City Hall, the Secretary of the ~~City Planning Commission~~HPC
11 shall transmit to the Clerk of the Board of Supervisors written notification of the
12 ~~Commission~~HPC's decision. The Clerk shall set a time and place for hearing on the decision,
13 which shall be not less than 10 nor more than 30 days after receipt of such notification. The
14 Board of Supervisors may *either* approve, disapprove, or modify the ~~Commission's~~ HPC's
15 decision by majority vote. The Board of Supervisors must take this action within 30 days of the
16 time set for the hearing thereon, provided that, if the full membership of the Board is not
17 present on the last day on which said hearing is set or continued within said period, the Board
18 may postpone said hearing and decision thereon until, but not later than, the full membership
19 of the Board is present; provided further, that the latest date to which said hearing and
20 decision may be so postponed shall be not more than 90 days from the date of the receipt of
21 written notification. Failure of the Board of Supervisors to act within such time limit shall be
22 deemed to constitute approval by the Board of the action of the ~~City Planning Commission~~HPC.

23
24 SEC. 1007. UNSAFE OR DANGEROUS CONDITIONS.
25

1 None of the provisions of this Article 10 shall be construed to prevent any measures of
2 construction, alteration, or demolition necessary to correct the unsafe or dangerous condition
3 of any structure, other feature, or part thereof, where such condition has been declared
4 unsafe or dangerous by the *Superintendent Director* of the *Bureau Department* of Building
5 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety, and where the
6 proposed measures have been declared necessary; by such official; to correct the *said*
7 condition; provided, however, that only such work as is absolutely necessary to correct the
8 unsafe or dangerous condition may be performed pursuant to this Section. In the event any
9 structure or other feature shall be damaged by fire, or other calamity, or by Act of God or by
10 the public enemy, to such an extent that in the opinion of the aforesaid officials it cannot
11 reasonably be repaired and restored, it may be removed in conformity with normal permit
12 procedures and applicable laws.

13
14 SEC. 1008. COMPLIANCE WITH MAINTENANCE REQUIREMENTS.

15 The owner, lessee or other person in actual charge of a landmark, or of a structure in
16 a# historic district, shall comply with all applicable codes, laws and regulations governing the
17 maintenance of the property. It is the intent of this Section to preserve from deliberate or
18 inadvertent neglect the exterior portions of such landmark or structure, the interior portions
19 thereof when subject to control as specified in the designating ordinance, and all interior
20 portions thereof whose maintenance is necessary to prevent deterioration and decay of any
21 exterior portion. Failure to comply with this Section shall be subject to enforcement and penalties
22 pursuant to Section 1013 below.

23
24 SEC. 1009. ADVICE AND GUIDANCE TO PROPERTY OWNERS.

1 The ~~Advisory Board~~HPC may, upon request of the property owner, render advice and
2 guidance with respect to any proposed work for which a Certificate of Appropriateness is not
3 required; on a designated landmark site or in a designated historic district. In rendering such
4 advice and guidance, the ~~Advisory Board~~HPC shall be guided by the purposes and standards
5 in this Article 10. This Section shall not be construed to impose any regulations or controls
6 upon any property.

7
8 SEC. 1010. PROPERTY OWNED BY PUBLIC AGENCIES.

9 (a) The Department shall take appropriate steps to notify all public agencies
10 ~~which~~that own or may acquire property in the City; about the existence and character of
11 designated landmarks and historic districts; if possible, the Department shall cause a current
12 record of such landmarks and historic districts to be maintained in each such public agency. In
13 the case of any publicly owned property on a landmark site or in a historic district which is not
14 subject to the permit review procedures of the City, the agency owning the said property shall
15 seek the advice of the ~~Planning Commission~~HPC prior to approval or authorization of any
16 construction, alteration or demolition thereon; and the ~~Planning Commission, with the aid of the~~
17 ~~Advisory Board and~~HPC, in consultation with the Art Commission in appropriate cases, shall
18 render a report to the owner as expeditiously as possible, based on the purposes and
19 standards in this Article 10. If ~~Planning Commission~~HPC review of a public project involving
20 construction, alteration or demolition on a landmark site or in a historic district is required
21 under any other law, or under the Charter, ~~the Planning Commission shall render the report~~
22 ~~referred to in this Section to such public agency without specific request therefor~~ a Certificate of
23 Appropriateness shall be required subject to the procedures set forth in this Article 10.

1 (b) All officers, boards, commissions and departments of the City shall cooperate
2 with the ~~Advisory Board and the Planning Commission~~HPC in carrying out the spirit and intent of
3 this Article 10.

4 (c) Nothing in this Article 10 shall be construed to imposed any regulations or
5 controls upon designated landmarks owned or controlled by the Golden Gate Bridge Highway
6 and Transportation District.

7
8 SEC. 1011. RECOGNITION OF STRUCTURES OF MERIT.

9 (a) The ~~Advisory Board may recommend, and the Planning Commission~~HPC may
10 approve, a list of structures of historical, architectural or aesthetic merit ~~which~~ that have not
11 been designated as landmarks and are not situated in designated historic districts. ~~The~~
12 ~~said~~This list may be added to from time to time. The purpose of this list shall be to recognize
13 and encourage the protection, enhancement, perpetuation and use of such structures. The
14 ~~Advisory Board and the Planning Commission~~HPC shall maintain a record of historic structures in
15 the City ~~which~~that have been officially designated by agencies of the State or federal
16 government, and shall cause such structures to be added to the aforesaid list.

17 (b) Nothing in this Article 10 shall be construed to impose any regulations or
18 controls upon such structures of merit included on ~~the said~~such a list and neither designated as
19 landmarks nor situated in historic districts.

20 (c) The ~~Planning Commission, with the advice of the Advisory Board,~~HPC may authorize
21 such steps as it deems desirable to recognize the merit of, and to encourage the protection,
22 enhancement, perpetuation and use of any such listed structure, or of any designated
23 landmark or any structure in a designated historic district, including but not limited to the
24 issuance of a certificate of recognition and the authorization of a plaque to be affixed to the
25

1 exterior of the structure; and the ~~Planning Commission~~HPC shall cooperate with appropriate
2 State and federal agencies in such efforts.

3 (d) The ~~Planning Commission, with the advice of the Advisory Board,~~HPC may make
4 recommendations to the Board of Supervisors and to any other body or agency responsible,
5 to encourage giving names pertaining to San Francisco history to streets, squares, walks,
6 plazas and other public places.

7
8 SEC. 1013. ENFORCEMENT AND PENALTIES.

9 Enforcement and Penalties shall be as provided in Sections 176 and 176.1 of this
10 Code.

11
12 SEC. 1014. APPLICABILITY.

13 (a) No application for a permit to construct, alter or demolish any structure or other
14 feature on a proposed landmark site or in a proposed historic district, filed subsequent to the
15 day that ~~an application has been filed or~~ a resolution adopted to initiate designation or a
16 resolution adopted to confirm initiation of designation of the ~~said~~ proposed landmark site or historic
17 district, shall be approved by the Department while proceedings are pending on such
18 designation; ~~provided however, that after 180 days have elapsed from the date of initiation of said~~
19 ~~designation, if final action on such designation has not been completed, the permit application may be~~
20 ~~approved.~~ for the following time periods:

21 (1) For proposed landmark sites: for 180 days after a resolution is passed initiating
22 designation or confirming initiation of designation;

23 (2) For historic districts: for one year after after a resolution is passed initiating
24 designation.

1 The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to
2 180 days of either of the above-time periods. If final action on such designation has not been
3 completed before the end of the relevant time period, the permit application may be approved.

4 (b) The provisions of this Article 10 shall be inapplicable to the construction,
5 alteration or demolition of any structure or other feature on a landmark site or in a historic
6 district, where a permit for the performance of such work was issued prior to the effective date
7 of the designation of the said landmark site or historic district, and where such permit has not
8 expired or been cancelled or revoked, provided that construction is started and diligently
9 prosecuted to completion in accordance with the Building Code.

10 (c) Notwithstanding subsection (a) above, the Department may approve a permit to
11 construct, alter, or demolish a structure or other feature on a proposed landmark site or in a proposed
12 historic district while proceedings are pending on a proposed designation if the property owner or
13 authorized agent of the property owner applies for and is granted approval of a Certificate of
14 Appropriateness for such work pursuant to the requirements of this Article 10.

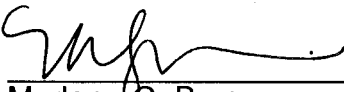
15
16 SEC. 1015. - SEVERABILITY.

17 If any Section, Subsection, Subdivision, Paragraph, sentence, clause or phrase of this
18 Article 10 or any part thereof, is for any reason held to be unconstitutional or invalid, such
19 decision shall not affect the validity of the remaining portions of this Article 10 or any part
20 thereof. The Board of Supervisors hereby declares that it would have passed each Section,
21 Subsection, Subdivision, Paragraph, sentence, clause or phrase thereof, and any amendments
22 thereto, irrespective of the fact that any one or more Sections, Subsections, Subdivisions,
23 Paragraphs, sentences, clauses or phrases be declared unconstitutional.

1 Section 3. The Appendices to Article 10 are not amended by this ordinance and thus
2 have not been included here for brevity.

3
4 Section 4 . Effective Date. This ordinance shall become effective 30 days from the
5 date of passage.

6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: 
10 Marlena G. Byrne
11 Deputy City Attorney

FILE NO.

ORDINANCE NO.

[Planning Code—Article 11]

**Ordinance amending Article 11 of the San Francisco Planning Code in its entirety;
making environmental findings and findings of consistency with the General Plan and
Planning Code Section 101.1(b).**

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. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On _____ at a duly noticed public hearing, the Planning Commission in Resolution No. _____ found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. _____, which reasons are incorporated herein by reference as though fully set forth.

1 (b) Historic Preservation Commission Findings. On _____ at a duly
2 noticed public hearing, the Historic Preservation Commission in Resolution No.
3 _____ recommended that the Board of Supervisors adopt the proposed Planning
4 Code amendments. A copy of said Resolution is on file with the Clerk of the Board of
5 Supervisors in File No. _____ and is incorporated herein by reference.

6 (c) Environmental Findings. The Planning Department has determined that the
7 actions contemplated in this Ordinance are in compliance with the California Environmental
8 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
9 on file with the Clerk of the Board of Supervisors in File No. _____ and is
10 incorporated herein by reference.

11
12 Section 2. The San Francisco Planning Code is hereby amended by amending Article
13 11, to read as follows:

14 ARTICLE 11: PRESERVATION OF BUILDINGS AND DISTRICTS OF
15 ARCHITECTURAL, HISTORICAL, AND AESTHETIC IMPORTANCE IN THE C-3 DISTRICTS

16 Sec. 1101. Findings and Purposes.

17 Sec. 1102. Standards for Designation of Buildings.

18 Sec. 1102.1. Designation of Buildings.

19 Sec. 1103. Standards for Designation of Conservation Districts.

20 Sec. 1103.1. Conservation District Designations.

21 Sec. 1104. ~~Notice of Designation.~~ Intentionally Left Blank.

22 Sec. 1105. ~~Reconsideration of Designation.~~ Intentionally Left Blank.

23 Sec. 1106. ~~Procedures for Change of Designation.~~ and Designation of Additional
24 Significant and Contributory Buildings.
25

1 Sec. 1107. Procedures for Designation of Additional Conservation Districts or
2 Boundary Change of Conservation Districts.

3 Sec. 1108. Notice of Designation.

4 Sec. 1109. Preservation Lots: Eligibility for Transfer of Development Rights.

5 Sec. 1110. Construction, Alteration or Demolition of Significant or Contributory Buildings
6 or Buildings in Conservation Districts.

7 Sec. 1111. Applications for Permits to Alter, Permits to Demolish, and Permits for New
8 Construction in Conservation Districts.

9 Sec. 1111.1. Determination of Minor and Major Alterations.

10 Sec. 1111.2. ~~Referral of Applications for Major Alterations to Landmarks Preservation~~
11 ~~Advisory Board: Review by the Department of City Planning~~ Sign Permits.

12 Sec. 1111.3. ~~Recommendation by the Director of Planning~~ Review by the Planning
13 Department.

14 Sec. 1111.4. ~~Consideration and Decision by the City Planning Commission~~ Scheduling and
15 Notice of Historic Preservation Commission Hearings.

16 Sec. 1111.5. Decision by the ~~City Planning~~ Historic Preservation Commission.

17 Sec. 1111.6. Standards and Requirements for Review of Applications for Alterations.

18 Sec. 1111.7. ~~Permits for Signs~~ Standards and Requirements for Review of Applications for
19 Permits to Demolish.

20 Sec. 1112. ~~Demolition of Significant and Contributory Buildings and Buildings in~~
21 ~~Conservation Districts~~ Intentionally Left Blank.

22 ~~Sec. 1112.1. Applications for a Permit to Demolish.~~

23 ~~Sec. 1112.2. Disposition of Applications to Demolish Contributory Buildings and Unrated~~
24 ~~Buildings in Conservation Districts.~~

1 ~~Sec. 1112.3. Applications to Demolish Significant Buildings or Contributory Buildings from~~
2 ~~which TDR Have Been Transferred; Acceptance and Notice.~~

3 ~~Sec. 1112.4. Referral to the Landmarks Preservation Advisory Board Prior to Hearing; Review~~
4 ~~by the Director of Planning.~~

5 ~~Sec. 1112.5. Planning Commission Hearing and Decision.~~

6 ~~Sec. 1112.6. Decision of the Planning Commission.~~

7 ~~Sec. 1112.7. Standards and Review of Applications to Demolish.~~

8 Sec. 1113. Standards of Review for New and Replacement Construction in
9 Conservation.

10 Sec. 1114. Modification of a Decision of the Historic Preservation Commission.

11 Sec. 1115. Appeal.

12 Sec 1116. Unlawful Alteration or Demolition.

13 Sec. ~~1115~~1117. Conformity with Other City Permit Processes.

14 Sec. ~~1116~~1118. Unsafe or Dangerous Conditions.

15 Sec. ~~1117~~1119. Maintenance Requirements and Enforcement Thereof.

16 Sec. ~~1119~~1120. Enforcement and Penalties.

17 Sec. ~~1120~~.1121 Relationship to Article 10.

18 Sec. ~~1121~~1122. Notice of Amendment.

19 Sec. ~~1122~~1123. Notice Procedure.

20 Sec. ~~1123~~1124. Time Provisions.

21 Sec. ~~1124~~1125. Severability.

22 Appendix A Category I Buildings.

23 Appendix B Category II Buildings.

24 Appendix C Category III Buildings.

25 Appendix D Category IV Buildings.

1 Appendix E Kearny-Market-Mason-Sutter Conservation District.

2 Appendix F New Montgomery-Second Street Conservation District.

3 Appendix G Commercial-Leidesdorff Conservation District.

4 Appendix H Front-California Conservation District.

5 Appendix I Kearny-Belden Conservation District.

6 Appendix J Pine-Sansome Conservation District.

7
8 SEC. 1101. FINDINGS AND PURPOSES.

9 (a) It is hereby found that a substantial number of the buildings in the C-3 District
10 have a special architectural, historical, and aesthetic value. These buildings contribute
11 substantially to San Francisco's reputation throughout the United States as a City of
12 outstanding beauty and physical harmony. A substantial number of these special buildings
13 have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of
14 preserving and continuing their use, and without adequate consideration for the irreplaceable
15 loss to the people of the City of their aesthetic, cultural, historic and economic value.

16 (b) It is further found that distinct and definable subareas within the C-3 District
17 possess concentrations of buildings that together create a unique historic, architectural, and
18 aesthetic character which contributes to the beauty and attractiveness of the City. The quality
19 of these geographic areas has been and continues to be degraded by the unnecessary
20 demolition of buildings of substantial architectural and aesthetic merit, by their replacement
21 with buildings which conflict with the character and scale of the area, and by alteration of
22 buildings in a manner which conflicts with the character and scale of the area.

23 (c) It is therefore declared that the protection, enhancement, and perpetuation of
24 buildings and definable subareas of special architectural, historical, and aesthetic interest is
25

necessary to promote the health, safety, prosperity and welfare of the people of the City.

Accordingly, the purposes of this Article are:

- (1) The protection, enhancement, and perpetuation of structures and subareas of special architectural, historical, and aesthetic character which contribute to the urban environment;
- (2) The maintenance and improvement of a healthy economy for the City by enhancing both property values and the City's attractiveness as a place to do business;
- (3) The protection and improvement of the City's attractiveness to tourists and other visitors, and the stimulus to business provided thereby;
- (4) The enrichment of the educational, cultural, aesthetic and spiritual life of the inhabitants of the City by fostering knowledge of the heritage of the City's past and retaining the quality of the City's urban environment.

(d) It is further found that the use of Transferable Development Rights ("TDR") as provided herein is necessary to promote the urban planning and design goals of the *Master General Plan* by (1) maintaining appropriate overall development capacities in each zoning district within the C-3 area, as defined by applicable floor area, height, bulk and other parameters; (2) encouraging and directing development into the Special Development District in order to maintain a compact downtown financial district; and (3) facilitating the retention of Significant Buildings, and ~~encouraging the retention of~~ Contributory Buildings, and the compatible replacement or alteration of Unrated buildings in Conservation Districts, as defined herein.

SEC. 1102. STANDARDS FOR DESIGNATION OF BUILDINGS.

The buildings in the C-3 Districts are divided into five categories according to the Building Rating methodology as set forth and explained in the Preservation of the Past section

1 of the Downtown Plan, a component of the ~~Master~~ General Plan. Those categories are as
2 follows:

3 (a) Significant Buildings - Category I. Buildings ~~which~~ that:

- 4 (1) Are at least 40 years old; and
5 (2) Are judged to be Buildings of Individual Importance; and
6 (3) Are rated Excellent in Architectural Design or are rated Very Good in both

7 Architectural Design and Relationship to the Environment.

8 (b) Significant Buildings - Category II. Buildings:

- 9 (1) ~~Which~~ That meet the standards in Section 1102(a) above; and
10 (2) To which, because of their depth and relationship to other structures, it is

11 feasible to add different and higher replacement structures or additions to height at the rear of
12 the structure, even if visible when viewing the principal facades, without affecting their
13 architectural quality or relationship to the environment and without affecting the appearance of
14 the retained portions as separate structures when viewing the principal facades. The
15 designation of Category II Buildings shall identify for each building the portion of the building
16 beyond which such additions may be permitted.

17 (c) Contributory Buildings - Category III. Buildings ~~which~~ that:

- 18 (1) Are located outside a designated Conservation District; and
19 (2) Are at least 40 years old; and
20 (3) Are judged to be Buildings of Individual Importance; and
21 (4) Are rated either Very Good in Architectural Design or Excellent or Very Good in

22 Relationship to the Environment.

23 (d) Contributory Buildings - Category IV. Buildings ~~which~~ that:

- 24 (1) Are located in a designated Conservation District; and
25 (2) Are at least 40 years old; and

1 (3) Are judged to be Buildings of Individual Importance, and are rated either Very
2 Good in Architectural Design or Excellent or Very Good in Relationship to the Environment.

3 (4) Are judged to be Buildings of Contextual Importance and are rated Very Good in
4 Architectural Design and/or Excellent or Very Good in Relationship to the Environment.

5 (e) Unrated Buildings - Category V. Buildings ~~which~~ that are not designated as
6 Significant or Contributory.

7
8 SEC. 1102.1. DESIGNATION OF BUILDINGS.

9 The buildings in the C-3 District are classified as follows:

10 (a) Significant Buildings - Category I. The buildings listed in Appendix A to this
11 Article 11 are hereby designated as Significant Buildings - Category I.

12 (b) Significant Buildings - Category II. The buildings listed in Appendix B to this
13 Article 11 are hereby designated as Significant Buildings - Category II.

14 (c) Contributory Buildings - Category III. The buildings listed in Appendix C to this
15 Article 11 are hereby designated as Contributory Buildings - Category III.

16 (d) Contributory Buildings - Category IV. The buildings listed in Appendix D to this
17 Article 11 are hereby designated as Contributory Buildings - Category IV.

18 (e) Unrated Buildings - Category V. All buildings in the C-3 District not otherwise
19 designated in this Section are hereby designated as Unrated - Category V.

20
21 SEC. 1103. STANDARDS FOR DESIGNATION OF CONSERVATION DISTRICTS.

22 Portions of the C-3 District may be designated as Conservation Districts if they contain
23 substantial concentrations of buildings that together create subareas of special architectural
24 and aesthetic importance. Such areas shall contain substantial concentrations of Significant
25

1 and Contributory Buildings and possess substantial overall architectural, aesthetic or historic
2 qualities justifying additional controls in order to protect and promote those qualities.

3
4 SEC. 1103.1. CONSERVATION DISTRICT DESIGNATIONS.

5 The following Conservation Districts are hereby designated for the reasons indicated in
6 the appropriate Appendix:

7 (a) The Kearny-Market-Mason-Sutter Conservation District is hereby designated as
8 set forth in Appendix E.

9 (b) The New Montgomery-Second Street Conservation District is hereby designated
10 as set forth in Appendix F.

11 (c) The Commercial-Leidesdorff Conservation District is hereby designated as set
12 forth in Appendix G.

13 (d) The Front-California Conservation District is hereby designated as set forth in
14 Appendix H.

15 (e) The Kearny-Belden Conservation District is hereby designated as set forth in
16 Appendix I.

17 (f) The Pine-Sansome Conservation District is hereby designated as set forth in
18 Appendix J.

19
20 SEC. 1104. INTENTIONALLY LEFT BLANK. NOTICE OF DESIGNATION.

21 ~~(a) The Zoning Administrator shall notify by mail the owners of every building designated~~
22 ~~by this ordinance as a Significant or Contributory Building and every building within a conservation~~
23 ~~district as established by this ordinance.~~

24 ~~(b) With respect to buildings designated Significant or Contributory by this ordinance,~~
25 ~~notice shall also be given by posting each such building in a conspicuous place as well as by~~

1 ~~publication pursuant to the provisions of California Government Code Section 6064. The notice shall~~
2 ~~state that the owner of every building so designated has the right to request a change of designation~~
3 ~~and the time permitted for making such a request.~~

4 ~~(c) — The Zoning Administrator shall cause a copy of this ordinance, or notice thereof, to be~~
5 ~~recorded in the office of the County Recorder for properties designated as Significant or Contributory,~~
6 ~~and for properties designated within a conservation district, by this ordinance.~~

7
8 SEC. 1105. INTENTIONALLY LEFT BLANK. RECONSIDERATION OF DESIGNATION.

9 ~~(a) — Request for Reconsideration. Within 45 days of the effective date of this ordinance, a~~
10 ~~request for reconsideration and change of a designation may be filed by any affected property owner,~~
11 ~~by any organization or group which has historic preservation stated as one of its goals in its bylaws or~~
12 ~~articles of incorporation, or the application of at least 50 registered voters of the City, based on the~~
13 ~~grounds that under the standards contained in Section 1102 the designation set forth in this ordinance~~
14 ~~is incorrect. Such a request shall be filed with the Department of City Planning on forms provided for~~
15 ~~that purpose. The Department of City Planning shall not accept or act upon any application filed after~~
16 ~~45 days have passed. Once a request for reconsideration has been made as to any building, no~~
17 ~~additional requests shall be accepted as to that building; however, another applicant may seek a~~
18 ~~change of designation different from that sought in the original reconsideration request. Any property~~
19 ~~owner who contends that the designation applicable to its property deprives the owner of a~~
20 ~~constitutionally protected property right, or that, by reason of such application, the property owner is~~
21 ~~entitled to compensation, shall assert such argument in connection with and in aid of the application~~
22 ~~filed under this Section and provide all evidence in the property owner's possession in support of such~~
23 ~~contention.~~

24 ~~(b) — Referral to the Landmarks Preservation Advisory Board; Review by the Department of~~
25 ~~City Planning. Upon determination by the Zoning Administrator that an application is complete, the~~

1 ~~Zoning Administrator shall promptly refer the matter to the Landmarks Preservation Advisory Board~~
2 ~~for review and recommendation, and the Department of City Planning shall undertake a study of the~~
3 ~~reconsideration request and prepare a report and recommendation. The Landmarks board shall~~
4 ~~recommend approval, disapproval, or approval with modifications of the application within 30 days of~~
5 ~~receiving it; provided, however, that if more than 30 applications are received within any 15 day~~
6 ~~period at the Department of City Planning, the Zoning Administrator may extend the time for Advisory~~
7 ~~Board action with respect to those applications for an additional period of time not to exceed 45 days,~~
8 ~~and if more than 50 applications are received within such time, for an additional period of time deemed~~
9 ~~necessary to allow sufficient time for Board review. If the Landmarks Board fails to respond within the~~
10 ~~allowed time the City Planning Commission shall proceed without a recommendation from the~~
11 ~~Landmarks Board.~~

12 ~~(c) — Submittal to the Planning Commission. Upon completion of the study by the Department~~
13 ~~of City Planning and recommendation by the Landmarks Advisory Board, the matter shall be scheduled~~
14 ~~for public hearing before the Planning Commission; provided, however, that in no event shall it be~~
15 ~~scheduled later than 30 days after the Advisory Board has made its recommendation unless the~~
16 ~~applicant consents to an extension of this time limit. Notice of the hearing shall be given by mail to the~~
17 ~~applicant and to any other persons requesting notice.~~

18 ~~(d) — City Planning Commission Decision. The Planning Commission may approve,~~
19 ~~disapprove, or approve with modifications the reconsideration application. The building shall be~~
20 ~~deemed to be designated according to the decision of the Planning Commission and the provisions of~~
21 ~~this Article 11 applicable to that designation shall apply to the building notwithstanding another~~
22 ~~designation of the building in Appendices A, B, C or D to this Article.~~

23 SEC. 1106. PROCEDURES FOR CHANGE OF DESIGNATION: AND DESIGNATION
24 OF ADDITIONAL SIGNIFICANT AND CONTRIBUTORY BUILDINGS.
25

1 Buildings may be designated as Significant or Contributory or their designation may be
2 changed through amendment of Appendices A, B, C and D of this Article. Such designation or
3 change of designation shall be governed by the following provisions in lieu of the provisions of
4 Section 302:

5 (a) Initiation. The designation or change of designation of a Significant or
6 Contributory building may be initiated by motion of the Board of Supervisors, by resolution of
7 the ~~Planning Commission or the Landmarks Preservation Advisory Board~~ Historic Preservation
8 Commission, by the verified application of the owner or authorized agent of the affected
9 property, by the application of any organization or group ~~which that~~ has historic preservation
10 stated as one of its goals in its bylaws or articles of incorporation, or by the application of at
11 least 50 registered voters of the City. Except in the case of initiation by governmental bodies,
12 any such application shall contain historic, architectural, and/or cultural documentation to support
13 the initiation or change of designation as well as any additional information that may be required by
14 the application procedures and policies established by the Historic Preservation Commission. ~~be filed~~
15 with the Department of City Planning upon forms prescribed by the Department of City Planning, and
16 shall be accompanied by all data required by the Department. ~~If initiated by motion of the Board of~~
17 Supervisors, the Clerk of the Board of Supervisors shall refer the matter to the Historic Preservation
18 Commission for its review and recommendation prior to passage by the Board of Supervisors, without
19 referral to the Planning Commission.

20 (b) Notice; ~~Referral to the Landmarks Preservation Advisory Board;~~ Referral to the
21 Historic Preservation Commission; Review by the ~~Planning~~ Department of City Planning. Upon
22 determination by the ~~Zoning Administrator~~ Department that a verified application is complete and
23 contains all necessary information or upon receipt of the motion or resolution of one of the
24 governmental bodies set forth in Subsection (a) above, the ~~Zoning Administrator~~ Department
25 shall: (1) promptly schedule a hearing before the Historic Preservation Commission on the proposed

1 designation or change of designation; and (2) send notice of the proposed designation or change of
2 designation hearing by mail no less than 20 days prior to the date of the hearing to the owner(s) of
3 the affected property, unless the application is that of the owner; the applicant(s), if any, for the
4 designation or change in designation; to the owners of all properties within 150 feet of the affected
5 property; and to any interested parties who so request in writing to the Department. and (2) promptly
6 refer the matter to the Landmarks Preservation Advisory Board for review and the submittal of a
7 recommendation. The Department of City Planning shall also undertake a study of the proposed
8 designation or change of designation.

9 (c) Action by the Planning Historic Preservation Commission. ~~Upon completion of the~~
10 ~~review of the~~The proposed designation or change of designation ~~by the Department of City~~
11 ~~Planning and the submittal of the report by the Landmarks Board, the matter~~ shall be placed on the
12 agenda of the Planning Historic Preservation Commission for public hearing. The Planning
13 Historic Preservation Commission shall determine the appropriate designation or change in
14 designation of the building. If the Planning Historic Preservation Commission approves or
15 modifies the proposed designation or change of designation in whole or in part, it shall transmit
16 ~~the proposal its recommendation,~~ together with a copy of the resolution ~~of approval,~~ to the Clerk
17 of the Board of Supervisors without referral to the Planning Commission.

18 (d) Designation by Board of Supervisors. The Board of Supervisors, or a committee
19 thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of
20 Supervisors may approve, modify and approve, or disapprove the designation or change of
21 designation by a majority vote of all its members.

22 (e) Appeal to Board of Supervisors. If the Planning Historic Preservation Commission
23 disapproves the proposed designation or change of designation, such action shall be final
24 except upon the filing of a notice of appeal to the Board of Supervisors within 30 days by the
25 applicant or any of the persons, organizations or groups listed in Section 1106(a); provided,

1 however, that if the proposal was initiated by the Board of Supervisors, the Clerk of the *said*
2 Board shall be notified immediately of the disapproval without the necessity for an appeal.

3 (f) Hearing and Decision By the Board of Supervisors on Appeal. The Board of
4 Supervisors, or a committee thereof, shall hold a public hearing on any such proposal
5 appealed to it ~~or initiated by it~~. The Board of Supervisors may uphold the Planning Historic
6 Preservation Commission, overrule the Planning Historic Preservation Commission and approve,
7 or modify and approve, the designation or change of designation by a majority vote of all its
8 members.

9 (g) Notice of Proceedings Before the Board of Supervisors. Notice of the hearing
10 scheduled before the ~~Planning Commission and~~ Board of Supervisors, and of the availability of
11 applicable reports, shall be given by mail no less than 20 days prior to the date of the hearing to
12 the initiators of the designation or change of designation, to the ~~owners~~ owner(s) of any
13 affected building, to any appellants, and to any other interested person or organization who so
14 requests in writing to the Department requesting notice.

15 (h) Grounds for Designation or Change of Designation. The designation of a
16 building may be changed if (1) changes in the area in the vicinity of a building located outside
17 a Conservation District warrant a change in the rating of the building with respect to its
18 relationship to the environment and therefore place it in a different category, pursuant to
19 Section 1102; or (2) changes in Conservation District boundaries make a building of
20 Contextual Importance fall outside a Conservation District and therefore no longer eligible for
21 designation as a Contributory building, or, conversely, make a building of Contextual
22 Importance fall within a Conservation District and therefore eligible for designation as a
23 Contributory Building; or (3) changes in the physical features of the building due to
24 circumstances beyond the control of the owner, or otherwise permitted by this Article, warrant
25 placing the building in a different category pursuant to the standards set forth in Section 1102;

1 or (4) restoration of the building to its original quality and character warrants placing the
2 building in a different category pursuant to the standards set forth in Section 1102; or (5) by
3 the passage of time, the building has become at least 40 years old, making it eligible to be
4 considered for designation as a Significant or Contributory building, pursuant to Section 1102;
5 or (6) the discovery of new factual information (for example, information about the history of
6 the building) makes the building eligible for rating as a Building of Individual or Contextual
7 Importance and, therefore, eligible to be designated as a Significant or Contributory Building.

8
9 SEC. 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION
10 DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS.

11 A Conservation District may be designated or its boundary changed through
12 amendment of Section 1103.1 of this Article 11. The Historic Preservation Commission may
13 recommend approval, disapproval, or modification of Conservation District designations or boundary
14 changes to the Board of Supervisors. Such designation or boundary change shall be governed by
15 the following provisions in lieu of the provisions of Section 302.

16 (a) Initiation of Designation or Boundary Change. The designation of an area of the
17 C-3 District as a Conservation District or the change of District boundaries may be initiated by
18 motion of the Board of Supervisors, by resolution of the ~~Planning~~Historic Preservation
19 ~~Commissioner the Landmarks Preservation Advisory Board~~, upon the verified application of the
20 owners or other authorized agents of greater than 25 percent of the structures in the area
21 proposed for designation (or, as to an alteration, 25 percent of the structures of the proposed
22 new district unless it would be an area smaller than the existing district, in which case it shall
23 be 25 percent of the structures of the existing district), upon the verified application of any
24 organization or group ~~which~~that has historic preservation stated as one of its goals in its
25 bylaws or articles of incorporation, or upon the verified application of at least 150 registered

1 voters of the City. Except in case of an initiation by governmental bodies, any such application
2 shall contain historic, architectural, and/or cultural documentation to support the designation or
3 boundary change as well as any additional information that may be required by the application
4 procedures and policies established by the Historic Preservation Commission be filed with the
5 Department of City Planning upon forms prescribed by the Department of City Planning, and shall be
6 accompanied by all data required by said Department.

7 (b) Notice; Referral to the ~~Landmarks Preservation Advisory Board~~ Historic Preservation
8 Commission; Review by the Planning Department of City Planning. ~~Notice, referral to the~~
9 ~~Landmarks Board and review by the Department of City Planning shall be as provided in Section~~
10 ~~1106(b) of this Article. If a proposed Conservation District designation or boundary change is initiated~~
11 ~~by the Board of Supervisors, the Clerk of the Board shall refer the matter to the Historic Preservation~~
12 ~~Commission for its review and recommendation. Upon determination by the Planning Department that~~
13 ~~a verified application is complete and contains all necessary information or upon receipt of a motion or~~
14 ~~resolution by the Board of Supervisors or the Historic Preservation Commission initiating designation~~
15 ~~or a change in designation, the Department shall (1) promptly schedule a hearing before the Historic~~
16 ~~Preservation Commission on the proposed district or boundary change; and (2) send notice of the~~
17 ~~Historic Preservation Commission hearing by mail no less than 20 days prior to the date of the hearing~~
18 ~~to the initiators of the designation or boundary change, to the owners of all lots within the proposed~~
19 ~~new district or the district being modified, and to any interested parties who make a request in writing~~
20 ~~to the Department.~~

21 (c) ~~Submittal to the Planning Commission. Submittal to and action by the Planning~~
22 ~~Commission shall be as set forth in Section 1106(e) of this Article. Action by the Historic Preservation~~
23 ~~Commission. The proposed designation or boundary change shall be placed on the agenda of the~~
24 ~~Historic Preservation Commission for public hearing. If the Historic Preservation Commission~~
25 ~~approves or modifies the proposed designation or boundary change in whole or in part, the~~

1 Department shall transmit the Historic Preservation Commission's recommendation together with a
2 copy of the Historic Preservation Commission's resolution and with any comments of the Planning
3 Commission, as set forth in subsection (d) below, to the Clerk of the Board of Supervisors.

4 (d) Review by the Planning Commission. Following action by the Historic Preservation
5 Commission, the Department shall promptly refer the Historic Preservation Commission's
6 recommendation on the proposed Conservation District designation or boundary change to the
7 Planning Commission, which shall have 45 days to review and comment on the proposed designation
8 or boundary change. The Planning Commission's comments, if any, shall be forwarded to the Board of
9 Supervisors together with the Historic Preservation Commission's recommendation. Notice of the
10 Planning Commission hearing shall be given as provided in Section 1107(b) of this Article.

11 (e) Designation by Board of Supervisors. The Board of Supervisors, or a committee
12 thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of
13 Supervisors may approve, modify and approve, or disapprove the designation or boundary
14 change by a majority vote of all its members.

15 (e)(f) Appeal to Board of Supervisors. If the ~~Planning~~ Historic Preservation Commission
16 disapproves the proposed designation or boundary change, such action shall be final except
17 upon the filing of a notice of appeal to the Board of Supervisors within 30 days by the
18 applicant or any of the persons, organizations, or groups listed in Section 1107(a); provided,
19 however, that if the proposal was initiated by the Board of Supervisors, the Clerk of the ~~said~~
20 ~~b~~Board shall be notified immediately of the disapproval without the necessity for an appeal.

21 (f)(g) Hearing and Decision by the Board of Supervisors. The Board of Supervisors, or a
22 committee thereof, shall hold a public hearing on any such proposal appealed to it ~~or initiated~~
23 by it. The Board of Supervisors may uphold the ~~Planning~~ Historic Preservation Commission,
24 overrule the ~~Planning~~ Historic Preservation Commission and approve, or modify and approve,
25 the designation or boundary change by a majority vote of all its members.

1 ~~(g)~~(h) Notice of Board of Supervisors Proceedings. Notice of the hearing scheduled
2 pursuant to this Section before the Planning Commission shall be given by mail no less than 20 days
3 prior to the date of the hearing to: the initiators of applicants for the designation or alteration, if
4 any; the owners of all lots within 300 feet of the proposed new district or of that portion of the
5 district being altered; appellants, if any; as well as and to interested individuals or organizations
6 who request such notice in writing to the Department.

7 ~~(h)~~(i) Standards Applicable to Designation or Boundary Change. The standards
8 governing the designation and change of District boundaries are those set forth in Section
9 1103. Areas may be removed from Conservation Districts if the character of the area has
10 changed such that the area no longer qualifies under the standards set forth in Section 1103.

11
12 SEC. 1108. NOTICE OF DESIGNATION.

13 When a building has been designated Significant or Contributory or its designation is
14 changed pursuant to Section 1106, or when a new Conservation District is established or the
15 boundary of a Conservation District changed pursuant to Section 1107, the ~~Zoning~~
16 ~~Administrator~~ Planning Department shall notify each affected property owner by mail and shall
17 cause a copy of the ordinance, or notice thereof, to be recorded ~~in the office of~~ with the County
18 Recorder. The Department shall file in its permanent records any new designation or change of
19 designation of a Significant or Contributory Building or a new Conservation District or change of a
20 Conservation District boundary and shall notify the Central Permit Bureau pursuant to Section 1117 of
21 this Article.

22 SEC. 1109. PRESERVATION LOTS: ELIGIBILITY FOR TRANSFER OF
23 DEVELOPMENT RIGHTS.

1 ~~For the purpose of transfer of development rights (TDR) as provided in Section 128 of this~~
2 ~~Code,~~ Lots on which are located Significant or Contributory Buildings, or Category V Buildings
3 in those certain Conservation Districts and portions thereof as indicated in Section 8 of the
4 Appendix relating to that District are eligible preservation lots as provided in Section 128 of this
5 Code for the purposes of Transferable Development Rights ("TDR"), as provided in this Section:

6 (a) Significant Buildings. Lots on which are located buildings designated as
7 Significant Buildings - Category I or Category II - are eligible to transfer the difference
8 between the allowable gross floor area permitted on the lot by Section 124 of this Code and
9 the gross floor area of the development on the lot, if all the requirements for transfer set forth
10 in Section 128 are met. Lots on which are located Significant Buildings which have been
11 altered in conformance with the provisions of this Article retain eligibility for the transfer of
12 TDR.

13 (b) Contributory Buildings. Lots on which are located buildings designated as
14 Contributory Buildings - Category III or Category IV - are eligible to transfer the difference
15 between the allowable gross floor area permitted on the lot by Section 124 of ~~the~~ this Code
16 and the gross floor area of the development on the lot, if all the requirements for transfer set
17 forth in Section 128 are met. Alteration or demolition of such a building in violation of Section
18 1110 ~~or Section 1112~~, or alterations or demolitions made without a permit issued pursuant to
19 Sections 1111 through 1111.6Z, eliminates eligibility for the transfer of TDR; provided,
20 however, that such eligibility may nonetheless be retained or acquired again if, pursuant to
21 Section ~~1114(b)~~ 1116(b): the property owner demonstrates as to any alteration that it was ~~not~~
22 ~~major, or if the property owner restores the demolished or altered building~~ a Minor Alteration as
23 defined herein and has applied for a Permit for Minor Alteration pursuant to Section 1111.1; or that
24 the property owner has obtained a Permit to Alter to restore the original distinguishing qualities and
25 character-defining features that were altered. Once any TDR have been transferred from a

1 Contributory Building, the building is subject to the same restrictions on demolition and
2 alteration as a Significant Building. These restrictions may not be removed by the transfer of
3 TDR back to the building.

4 (c) Category V Buildings in Conservation Districts. Where explicitly permitted in
5 Section 8 of the Appendix establishing a Conservation District, lots located in such a District
6 on which are located Category V Buildings (designated as neither Significant nor Contributory)
7 are eligible to transfer the difference between the allowable gross floor area permitted on the
8 lot under Section 124 of the Code and the gross floor area of the development on the lot, if all
9 the requirements for transfer set forth in Section 128 are met; provided, however, that a lot is
10 eligible as a Preservation Lot pursuant to this Section only if: (1) the exterior of the building is
11 substantially altered so as to make it compatible with the scale and character of the Significant
12 and Contributory Buildings in the district, including those features described in Sections 6 and
13 7 of the Appendix to Article 11 describing the relevant district, and has thus been determined
14 by the Historic Preservation Commission to be a Compatible Rehabilitation, and the building
15 meets or has been reinforced to meet the standards for seismic loads and forces of the 1975
16 Building Code; or (2) the building on the lot is new, having replaced a Category V Building,
17 and has received approval by the Historic Preservation Commission as a Compatible
18 Replacement Building, pursuant to Section 1113. ~~The procedures governing these determinations~~
19 ~~are set forth in Section 309.~~

20
21 SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR
22 CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

23 ~~With respect to a designated Significant or Contributory Building or any Category V Building~~
24 ~~in a Conservation District, no person shall carry out or cause to be carried out any alteration to the~~
25 ~~exterior of a building for which a permit is required pursuant to the Building Code unless the permit is~~

1 approved pursuant to the provisions of Sections 1111 through 1111.6 of this Article; provided,
2 however, that this approval is not required with respect to the owner of a Contributory Building of
3 Category III who has not transferred any TDR and who elects to proceed with a major alteration
4 without reference to Sections 1111 through 1111.6. Election to proceed without a permit pursuant to
5 this Section may be made at the time that the Zoning Administrator determines that the proposed
6 alteration is major pursuant to Section 1111.1. If no election is made at the time of the Zoning
7 Administrator's determination that an alteration is major, the applicant may make such election at any
8 time thereafter. Review under Sections 1111 through 1111.6 shall cease after such election has been
9 made and the permit shall be processed without regard to the requirements of that Section. Election
10 shall be made in writing on a form provided by the Zoning Administrator. Where an owner elects not to
11 proceed pursuant to Sections 1111 through 1111.6, the proposed alteration for which the application is
12 filed shall be deemed not to meet the requirements of Section 1111.6, and if the alteration permit is
13 issued and work commenced thereunder, the Zoning Administrator shall not issue a Statement of
14 Eligibility for the lot on which the building is located.

15 (a) No person shall carry out or cause to be carried out any construction, alteration,
16 removal or demolition of a structure or any work involving a sign, awning, marquee, canopy, mural, or
17 other appendage, or any new or replacement construction for which a permit is required pursuant to
18 the Building Code, on any designated Significant or Contributory Building or any building in a
19 Conservation District unless a permit for such work has been approved pursuant to the provisions of
20 this Article 11.

21 (b) The Historic Preservation Commission shall approve, disapprove, or modify all
22 applications for permits to alter or demolish any Significant or Contributory Buildings or buildings
23 within Conservation Districts, and permits for any new and replacement construction within
24 Conservation Districts, subject to appeal as provided in Section 1115 of this Article 11. The Historic
25 Preservation Commission shall review and act on such permits prior to any other Planning approval

1 action(s). Buildings or areas within the C-3 District designated pursuant to the provisions of both
2 Article 10 and Article 11 shall be regulated pursuant to the procedures of both Articles. In case of
3 conflict, the more restrictive provisions shall apply.

4 (c) If the proposed work would constitute a demolition as defined in Section 1005(f) of this
5 Code, such work shall, in addition to any other requirements, be subject to the provisions of this Article
6 11 governing demolitions and shall require a "Permit to Demolish." All other proposed construction
7 or alteration of a structure, including any new or replacement construction, or any work involving a
8 sign, awning, marquee, canopy, mural, or other appendage work, but excepting ordinary maintenance
9 and repairs, shall require a "Permit to Alter."

10 (d) No person shall demolish or cause to be demolished a Significant or Contributory
11 Building or any building in a Conservation District without obtaining a Permit to Demolish and, if
12 located within a Conservation District, a permit for a Compatible Replacement Building.

13 (e) If at any time following the approval of a Permit to Alter, changes are proposed to the
14 scope of work such that the proposed new scope of work, if approved, would constitute a demolition as
15 defined herein, the owner shall file a new application for a Permit to Demolish and shall obtain such
16 approval prior to proceeding with the proposed new scope of work.

17 (f) A building permit application or amendment for any work that exceeds the scope of
18 work of an approved Permit to Alter or Permit to Demolish shall be referred to the Planning
19 Department by the Central Permit Bureau for Historic Preservation Commission review and approval
20 pursuant to this Article 11 before the permit may be approved or issued.

21 (g) Notwithstanding the foregoing, in the following cases the Department may process the
22 permit application without further reference to this Article 11:

23 (1) When the application is for a permit for ordinary maintenance and repairs only. For
24 the purpose of this Article 11, "ordinary maintenance and repairs" shall mean any work, the sole
25

1 purpose and effect of which is to correct deterioration, decay or damage, including repair of damage
2 caused by fire or other disaster.

3 (2) When the application is for a permit to construct any new or replacement structures on a
4 site where a Significant or Contributory Building has been lawfully demolished pursuant to this Code
5 and the site is not within a designated Conservation District; or

6 (3) When the application is for a permit to make interior alterations only and does not
7 constitute a demolition as defined herein, unless the Department has determined that the proposed
8 interior alterations may result in any visual or material impact to the exterior of the building or when
9 the designating ordinance or applicable Appendix in this Article requires review of such interior
10 alterations.

11 **SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH,**
12 **AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS.**

13 ~~The Zoning Administrator may define categories of alterations which are deemed to be minor~~
14 ~~alterations and individual permits falling within those categories shall be reviewed and acted upon~~
15 ~~without referral to the Zoning Administrator for review pursuant to Sections 1111 through 1111.6. All~~
16 ~~other applications for permits to undertake any alteration of a building designated Significant or~~
17 ~~Contributory or a building in any Conservation District shall be referred to the Zoning Administrator~~
18 ~~by the Central Permit Bureau within five days of receipt. An applicant for a major alteration permit for~~
19 ~~a Category V Building in any of the Conservation Districts which provides for such eligibility may~~
20 ~~request on the application a determination that if the proposed alteration is completed as approved, the~~
21 ~~building will be deemed a Compatible Rehabilitation under Section 1109(c) so that the lot on which the~~
22 ~~building is located becomes eligible as a Preservation Lot for the transfer of TDR.~~

23 Upon receipt of any application for a building permit, demolition permit, site permit, alteration
24 permit, or any other permit relating to a Significant or Contributory Building or a building within a
25

1 Conservation District, the Central Permit Bureau shall forward such application to the Planning
2 Department for determination as to whether the application is subject to the provisions of this Article
3 and, if so, for approval under this Article. An application for a Permit to Alter or Permit to Demolish
4 or for new and replacement construction in any Conservation District shall be filed by the owner or
5 authorized agent for the owner of the property for which the permit is sought with the Planning
6 Department. Each application shall be verified by at least one property owner or his or her authorized
7 agent attesting to the truth and correctness of all facts, statements and information presented.

8 (a) Content of Applications. The content of applications shall be in accordance with the
9 policies, rules and regulations of the Department and the Historic Preservation Commission. All
10 applications shall be upon forms prescribed therefore and shall contain or be accompanied by all
11 information required to assure the presentation of all pertinent facts for proper consideration of the
12 case and for the permanent record. Applications shall include the following information:

13 (1) Plans, sections and elevations showing all existing and proposed work, including but not
14 limited to color, texture of materials, architectural design, profile, and detail;

15 (2) All demolition calculations and associated detail drawings showing all interior and
16 exterior alterations associated with the proposed scope of work, including but not limited to any
17 changes to the exterior and internal structural framework, floor plates, removal of interior walls, or
18 changes to the foundation;

19 (3) Specifications describing the means and methods associated with the proposed scope of
20 work, including any technical specifications for all exterior restoration or cleaning work;

21 (4) Photographs showing the property and the context of its surroundings;

22 (5) Any other information that the Department determines may be necessary for the
23 particular scope of work proposed; and

24 (6) Information needed for the preparation and mailing of notices as specified in Section

25 1111.4.

1 **(b) In addition to the contents specified for applications in (1) above, any application for a**
2 **Permit to Demolish shall also contain the following information:**

3 **(1) An updated historic resource evaluation and conditions assessment report that includes**
4 **any pertinent information on the condition of the building and historical, architectural, and cultural**
5 **documentation about the building;**

6 **(2) The amount paid for the property;**

7 **(3) The date of purchase, the party from whom purchased, and a description of the business**
8 **or family relationship, if any, between the owner and the person from whom the property was**
9 **purchased;**

10 **(4) The cost of any improvements since purchase by the applicant and date the**
11 **improvements were made;**

12 **(5) The assessed value of the land, and improvements thereon, according to the most recent**
13 **assessments;**

14 **(6) Real estate taxes for the previous five years;**

15 **(7) Annual debt service, if any, for the previous five years;**

16 **(8) All appraisals obtained within the previous five years by the owner or applicant in**
17 **connection with his or her purchase, financing or ownership of the property;**

18 **(9) Any listing of the property for sale or rent, price asked and offers received, if any;**

19 **(10) Any consideration by the owner for profitable and adaptive uses for the property,**
20 **including renovation studies, plans, and bids, if any;**

21 **(11) If it is a Preservation Lot eligible to transfer TDR, the amount and value of such**
22 **untransferred TDR;**

23 **(12) Annual gross income from the property for the previous five years;**

24 **(13) Itemized operating and maintenance expenses for the previous five years;**

25 **(14) Annual cash flow for the previous four years; and**

1 (15) Building plans, elevations, sections, detail drawings, and any other information required
2 for the Replacement Building.

3 (c) For Permits to Demolish buildings from which TDR have been transferred the
4 application shall contain the following information in addition to that set forth in (a) and (b) above:

5 (1) The Statement of Eligibility as set forth in Section 128;

6 (2) An itemized list of the amount of TDR that has been transferred from the property;

7 (3) A list of the amount of untransferred TDR rights remaining on the property;

8 (4) The amount received for rights transferred;

9 (5) The transferee(s); and

10 (6) A copy of each document effecting a transfer of such rights.

11 (d) An application for a Permit to Demolish any building located in a Conservation District
12 or an application for new construction on vacant lots shall include plans, specifications and elevations
13 showing the proposed exterior appearance, including but not limited to color, texture of materials, and
14 architectural design and detail, for the replacement construction.

15 (e) Category V Buildings (Unrated). The owner or owner's representative of a Category V
16 building located in a Conservation District may apply for one of the following:

17 (1) Compatible Rehabilitation. An applicant for a Permit to Alter a Category V Building
18 (Unrated) may request on the application a determination by the Historic Preservation Commission
19 that if the proposed alteration is completed as approved, the building will be deemed a Compatible
20 Rehabilitation under Section 1109(c) so that the lot on which the building is located becomes eligible
21 as a Preservation Lot for the transfer of TDR.

22 (2) Compatible Replacement Building. An applicant for new construction in a Conservation
23 District on a lot where a Category V Building (Unrated) has been lawfully demolished may request on
24 the application a determination by the Historic Preservation Commission that if the proposed new
25 construction is completed as approved, the new building will be deemed a Compatible Replacement

1 Building under Section 1109(c) so that the lot on which the building is located becomes eligible as a
2 Preservation Lot for the transfer of TDR.

3 SEC. 1111.1. DETERMINATION OF MINOR AND MAJOR ALTERATIONS.

4 ~~Within 10 days after referral by the Central Permit Bureau, the Zoning Administrator shall~~
5 ~~determine in writing if the proposed alteration is a Major Alteration or a Minor Alteration.~~

6 (a) ~~An alteration is considered Major if any of the following apply:~~

7 (1) ~~The alteration will substantially change, obscure or destroy exterior character defining~~
8 ~~spaces, materials, features or finishes; or~~

9 (2) ~~The alteration would affect all or any substantial part of a building's structural~~
10 ~~elements, exterior walls or exterior ornamentation; or~~

11 (3) ~~The alteration occurs by virtue of construction which results in a substantial addition of~~
12 ~~height above the height of the building.~~

13 (b) ~~An alteration is considered minor if:~~

14 (1) ~~The criteria set forth in Subsection (a) do not apply; or~~

15 (2) ~~It is an alteration of the ground floor display areas within the architectural frame (piers~~
16 ~~and lintels) of the building to meet the needs of first floor commercial uses; or~~

17 (a) The Historic Preservation Commission shall determine if a proposed alteration is a
18 Major Alteration or a Minor Alterations and may delegate approval of Minor Alteration to Department
19 staff, whose decisions may be appealed to the Historic Preservation Commission pursuant to
20 subsection 1111.1(c). All work not determined to be a Minor Alteration shall be a Major Alteration
21 and subject to Historic Preservation Commission approval. If so delegated to Department staff, the
22 categories of Minor Alteration shall include but are not limited to the following:

23 (3)(1) The Alterations whose sole purpose and effect of the alteration is to comply with the
24 UMB Seismic Retrofit Ordinances and the Zoning Administrator determines that the proposed work
25

1 ~~that comply~~ complies with the UMB Retrofit Architectural Design Guidelines, which guidelines
2 shall be adopted by the ~~Planning~~ Historic Preservation Commission; ~~or~~

3 (2) Any other work so delegated to the Department by the Historic Preservation
4 Commission.

5 (b) Minor Alterations delegated to Department staff shall be approved, approved with
6 modifications, or disapproved as a Permit for Minor Alteration by the Department without a hearing
7 before the Historic Preservation Commission. The Department shall mail its written decision
8 approving a Permit for Minor Alteration to the applicant and any individuals or organizations who
9 have so requested in writing to the Department. The Department's decision may be appealed to the
10 Historic Preservation Commission within 15 days of the date of the written decision. The Historic
11 Preservation Commission may also review the decisions of the Department by its own motion if such
12 motion is made within 20 days of the date of the written decision.

13 (c) All applications for a Permit to Alter that are not Minor Alterations delegated to
14 Department staff shall be approved, approved with modifications, or disapproved by the Historic
15 Preservation Commission pursuant to the procedures in Section 1111.4 below.

16 ~~(e) The Zoning Administrator shall mail to the applicant and any individuals or~~
17 ~~organizations who so request the written determination as to the category of the proposed alteration.~~
18 ~~Decisions of the Zoning Administrator may be appealed to the Board of Permit Appeals within 10 days~~
19 ~~of the written determination in the manner provided in Section 308.2.~~

20 ~~(d) Permits determined to be for minor alterations shall be returned, with that~~
21 ~~determination noted, to the Central Permit Bureau for further processing; provided, however, that the~~
22 ~~Zoning Administrator may take any action with respect to the application otherwise authorized.~~

1 SEC. 1111.2. ~~REFERRAL OF APPLICATIONS FOR MAJOR ALTERATIONS TO~~
2 ~~LANDMARKS PRESERVATION ADVISORY BOARD: REVIEW BY THE DEPARTMENT OF CITY~~
3 ~~PLANNING.~~

4 (a) ~~Upon determination that the proposed alteration is a major alteration, the Director of~~
5 ~~Planning shall refer applications for permits to alter Significant and Contributory Buildings to the~~
6 ~~Landmarks Preservation Advisory Board for its report and recommendation, which shall be rendered~~
7 ~~within 30 days. Said time limit for the Board to render its report may be extended by the Department of~~
8 ~~City Planning for an additional 30 days to render its report in the case of complex alterations, multiple~~
9 ~~hearings, or upon request of the applicant. If the Board fails to submit a report and recommendation~~
10 ~~within the time allowed, the matter may be considered without reference to such report and~~
11 ~~recommendation.~~

12 (b) ~~Simultaneously with the proceedings before the Landmarks Board, the application shall~~
13 ~~be reviewed by the Department of City Planning.~~

14 (c) ~~Applications for permits to alter any Category V building in a Conservation District~~
15 ~~which alteration is determined to be major shall be governed by the standards of Section 1111.6(e) and~~
16 ~~the procedures set forth in Section 309. SIGN PERMITS.~~

17 (a) New general advertising signs are prohibited in any Conservation District or on any
18 historic property regulated by this Article 11.

19 (b) If a permit for a sign is required pursuant to Article 6 of this Code, the requirements of
20 this Section shall apply to such permit in addition to those of Article 6.

21 (c) Apart from and in addition to the requirements of Article 6, an application for a
22 business sign, general advertising sign, identifying sign, or nameplate to be located on a Significant or
23 Contributory Building or any building in a Conservation District shall be subject to review by the
24 Historic Preservation Commission pursuant to the provisions of this Article. The Historic Preservation
25 Commission shall disapprove the application or approve it with modifications if the proposed location,

1 materials, typeset, size of lettering, means of illumination, method of replacement, or the attachment
2 would adversely affect the special architectural, historical or aesthetic significance of the subject
3 building or the Conservation District. No application shall be denied on the basis of the content of the
4 sign.

5
6 SEC. 1111.3. RECOMMENDATION BY THE DIRECTOR OF PLANNING.

7 ~~After considering any report and recommendation submitted by the Landmarks Preservation~~
8 ~~Advisory Board, the Director of Planning shall make a determination on the application and shall~~
9 ~~submit a written recommendation containing findings to the Planning Commission. The~~
10 ~~recommendation may be to approve, to approve with conditions, or disapprove the application for~~
11 ~~alteration, and, where applicable, the application for a determination that the building is a Compatible~~
12 ~~Rehabilitation. The Commission, the applicant and any other person who so requests shall be supplied~~
13 ~~with a copy of reports and recommendations of the Landmarks Preservation Advisory Board and the~~
14 ~~findings and recommendations of the Director of Planning.~~ REVIEW BY THE PLANNING

15 DEPARTMENT.

16 The Department shall review all applications and shall determine within 30 days after the
17 application is filed whether the application is complete. Applications for Minor Alterations that have
18 been delegated to Department staff may be approved by the Department pursuant to Section 1111.1
19 without a hearing before the Historic Preservation Commission. Upon acceptance as complete of any
20 other application under this Article or upon appeal to or a request by the Historic Preservation
21 Commission to exercise its review powers over a Minor Permit to Alter as set forth in 1111.1, the
22 Historic Preservation Commission shall hold a hearing and approve, approve with modifications, or
23 disapprove the application in accordance with the procedures set forth in this Section 1111.

SEC. 1111.4. ~~CONSIDERATION AND DECISION BY THE CITY PLANNING~~

~~COMMISSION.~~

(a) ~~The recommendation of the Director of Planning shall be placed on the consent calendar of the City Planning Commission; provided, however, that upon the request of the applicant or of any person prior to the City Planning Commission meeting or by a member of the Commission at the meeting, the matter may be removed from the consent calendar and calendared for a public hearing before the Planning Commission at a later meeting, which shall be the next regular meeting of the Commission unless the applicant otherwise consents.~~

(b) ~~Notice of the time, place and purpose of the hearing before the City Planning Commission shall begin given as follows:~~

~~(1) By mail to the applicant;~~

~~(2) When the application is for alteration of a building located in a Conservation District, by mail not less than 10 days prior to the date of the hearing to the owners of all real property within 300 feet of property that is the subject of the application.~~

SCHEDULING AND NOTICE OF HISTORIC PRESERVATION COMMISSION HEARINGS

If a public hearing before the Historic Preservation Commission is required under this Section 1111, the Department shall set a time and place for the hearing within a reasonable period. Notice of the time, place, and purpose of the hearing shall be given by the Department not less than 20 days prior to the date of the hearing as follows:

(a) By mail to the owner of the subject property;

(b) By mail to the applicant;

(c) By mail to any interested parties who make a request in writing to the Department;

(d) For applications for a building located in a Conservation District, by mail to the owners of all real property within 300 feet of the subject property;

1 (e) For applications for a building not located in a Conservation District, by mail to the
2 owners of all real property within 150 feet of the subject property;

3 (f) By posting notice on the site; and

4 (g) By any other means as the Department deems appropriate.

5 Notice for Historic Preservation Commission review of Minor Permits to Alter. A hearing for
6 the Historic Preservation Commission to exercise its review powers over a Minor Permit to Alter shall
7 be noticed:

8 (a) By mail not less than 10 days prior to the date of the hearing to the applicant, all owners
9 within 150 feet of the subject property, as well as to any other interested parties who so request in
10 writing to the Department; and

11 (b) By posted notice on the site not less than 10 days prior to the date of the hearing.

12 SEC. 1111.5. DECISION BY THE CITY PLANNING HISTORIC PRESERVATION
13 COMMISSION.

14 (a) The ~~Planning~~Historic Preservation Commission may approve, disapprove, or
15 approve with conditions an application for ~~an alteration permit~~ a Permit to Alter or a Permit to
16 Demolish and, where applicable for new or replacement construction, for a determination that the
17 building is a Compatible Rehabilitation under Section 1113 or a Compatible Replacement Building
18 under Section 1109(c), and shall make findings in support of its decision. ~~If the Planning~~
19 Commission approves the recommendation of the Director of Planning, it may adopt or modify the
20 findings of the Director of Planning as appropriate. ~~Where the Planning Commission disapproves the~~
21 recommendations of the Director of Planning, it shall make findings supporting its decision. ~~If the~~
22 Commission disapproves the application for a permit to alter, it shall recommend disapproval to the
23 Central Permit Bureau which shall deny the application. The Planning Commission's determination
24 that a building qualifies or fails to qualify as a Compatible Rehabilitation is a final administrative
25

1 ~~decision. Any decision of the Planning Commission rendered pursuant to this Section shall be rendered~~
2 ~~within 30 days from the date of conclusion of the hearing.~~

3 (b) For applications for a Permit to Demolish, the applicant has the burden of establishing
4 that the criteria governing the approval of applications set forth in Section 1111.7 have been met.

5 (c) The decisions of the Historic Preservation Commission shall be final except upon
6 modification by the Planning Commission as provided in Section 1114 or upon the filing of a timely
7 appeal to the Board of Appeals or Board of Supervisors as provided in Section 1115.

8
9 SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF
10 APPLICATIONS FOR ALTERATIONS.

11 The Historic Preservation Commission, the Board of Permit Appeals, the Board of
12 Supervisors, the City-Planning Commission and the Department, the Director of Planning, and the
13 Landmarks Board shall be governed by the following standards in the review of applications for
14 major alteration permits Permits to Alter. In the case of conflict with other requirements, including the
15 requirements of Article 10, the more restrictive standards shall apply.

16 (a) The proposed alteration shall be consistent with and appropriate for the
17 effectuation of the purposes of this Article 11.

18 (b) The proposed work shall comply with the Secretary of the Interior's Standards for the
19 Treatment of Historic Properties, including any guidelines, interpretations, bulletins, or other materials
20 that the Historic Preservation Commission has adopted.

21 ~~(b)(c)~~ For Significant Buildings - Categories I and II, and for Contributory Buildings -
22 Categories III and IV, proposed alterations of structural elements and exterior features shall
23 be consistent with the architectural character of the building, and shall comply with the
24 following specific requirements:
25

1 (1) The distinguishing original qualities or character of the building may not be
2 damaged or destroyed. Any distinctive architectural feature which affects the overall
3 appearance of the building shall not be removed or altered unless it is the only feasible means
4 to protect the public safety.

5 (2) The integrity of distinctive stylistic features or examples of skilled craftsmanship
6 that characterize a building shall be preserved.

7 (3) Distinctive architectural features which are to be retained pursuant to Paragraph
8 (1) but which are deteriorated shall be repaired rather than replaced, whenever possible. In
9 the event replacement is necessary, the new material shall match the material being replaced
10 in composition, design, color, texture and other visual qualities. Repair or replacement of
11 missing architectural features shall be based on accurate duplication of features,

12 substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural
13 designs or the availability of different architectural elements from other buildings or structures.
14 Replacement of nonvisible structural elements need not match or duplicate the material being
15 replaced.

16 (4) Contemporary design of alterations is permitted, provided that such alterations
17 do not destroy significant exterior architectural material and that such design is compatible
18 with the size, scale, color, material and character of the building and its surroundings.

19 (5) The degree to which distinctive features need be retained may be less when the
20 alteration is to exterior elements not constituting a part of a principal facade or when it is an
21 alteration of the ground-floor frontage in order to adapt the space for ground-floor uses.

22 (6) In the case of Significant Buildings - Category I, any additions to height of the
23 building (including addition of mechanical equipment) shall be limited to one story above the
24 height of the existing roof, shall be compatible with the scale and character of the building,
25 and shall in no event cover more than 75 percent of the roof area.

1 (7) In the case of Significant Buildings - Category II, a new structure or addition,
2 including one of greater height than the existing building, may be permitted on that portion of
3 the lot not restricted in Appendix B even if such structure or addition will be visible when
4 viewing the principal facades at ground level, provided that the structure or addition does not
5 affect the appearance of the retained portion as a separate structure when so viewing the
6 principal facades and is compatible in form and design with the retained portion. Alteration of
7 the retained portion of the building is permitted as provided in Paragraphs (1) through (6) of
8 this Subsection ~~(b)(c)~~.

9 ~~(e)(d)~~ Within Conservation Districts, all major exterior alterations, of Category V
10 Buildings, shall be compatible in scale and design with the District as set forth in Sections 6
11 and 7 of the Appendix which describes the District.

12 ~~(e) If TDR have been transferred from any Contributory Building, the building shall be~~
13 ~~subject to the same restrictions on alterations as a Significant Building. These restrictions may not be~~
14 ~~removed by the transfer of TDR back to the building.~~

15 SEC. 1111.7. ~~PERMITS FOR SIGNS.~~

16 ~~(a) — Installation of a new general advertising sign is prohibited in any Historic District or~~
17 ~~Conservation District or on any historic property regulated by this Article 11.~~

18 ~~(b) — Wherever a permit for a sign is required pursuant to Article 6 of this Code, an~~
19 ~~application for such permit shall be governed by the provisions of this Section in addition to those of~~
20 ~~Article 6.~~

21 ~~(c) — Apart from and in addition to any grounds for approval or disapproval of the~~
22 ~~application under Article 6, an application involving a permit for a business sign, or general~~
23 ~~advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building~~
24 ~~or any building in a Conservation District may be disapproved, or approved subject to conditions if the~~
25

1 ~~proposed location, materials, means of illumination or method or replacement of attachment would~~
2 ~~adversely affect the special architectural, historical or aesthetic significance of the building or the~~
3 ~~Conservation District. No application shall be denied on the basis of the content of the sign.~~

4 ~~(d) The Director of Planning shall make the determination required pursuant to Subsection~~
5 ~~(b). Any permit applicant may appeal the determination of the Director of Planning to the City~~
6 ~~Planning Commission by filing a notice of appeal with the Secretary of the Commission within 10 days~~
7 ~~of the determination. The City Planning Commission shall hear the appeal and make its determination~~
8 ~~within 30 days of the filing of the notice of appeal.~~

9 STANDARDS AND REQUIREMENTS FOR
10 REVIEW OF APPLICATIONS FOR DEMOLITION.

11 (a) The Historic Preservation Commission, Planning Commission, Board of Appeals, and
12 the Board of Supervisors (each referred to as a "Decisionmaker" for the purposes of this Section) shall
13 apply the following standards in their review of applications for a Permit to Demolish a Significant or
14 Contributory Building or building within a Conservation District. No demolition permit may be
15 approved unless:

16 (1) For Significant Buildings (Category I and II); Contributory Buildings (Category III);
17 and Contributory Buildings in a Conservation District (Category IV) from which TDR have been
18 transferred:

19 (A) The Decisionmaker determines and makes written findings based on substantial
20 evidence in the record that the property retains no substantial remaining market value or reasonable
21 use, taking into account the value of any TDR that have been transferred or which may be available to
22 transfer from the property and the cost of rehabilitation to meet the requirements of the Building Code
23 or City, State and federal laws. Costs necessitated by alterations or demolition made in violation of
24 Article 10 or 11, or by failure to maintain the property in violation of Section 1119, may not be
25 included in the calculation of rehabilitation costs; or

1 (B) The Director of the Department of Building Inspection or the Chief of the Bureau of Fire
2 Prevention and Public Safety determines after consultation, to the extent feasible with the Historic
3 Preservation Commission and the Planning Department, that an imminent safety hazard exists and that
4 demolition of the structure is the only feasible means to secure the public safety.

5 (2) For Contributory Buildings in a Conservation District (Category IV) from which no
6 TDR has been transferred:

7 (A) The Decisionmaker determines and makes written findings based on substantial
8 evidence in the record that the property retains no substantial remaining market value or reasonable
9 use, taking into account the value of any TDR that may be available to transfer from the property and
10 costs of rehabilitation to meet the requirements of the Building Code or City, State and federal laws.
11 Costs necessitated by alterations or demolition made in violation of Article 10 or 11, or by failure to
12 maintain the property in violation of Section 1119, may not be included in the calculation of
13 rehabilitation costs;

14 (B) The Director of the Department of Building Inspection or the Chief of the Bureau of Fire
15 Prevention and Public Safety determines, after consultation to the extent feasible with the Historic
16 Preservation Commission and the Planning Department, that an imminent safety hazard exists and that
17 demolition of the structure is the only feasible means to secure the public safety; or

18 (C) The Decisionmaker determines based on substantial evidence in the record that:

19 (i) Because of physical conditions specific to the Contributory Building or site, the
20 rehabilitation and reuse of the building will not meet most of the goals and objectives of the proposed
21 replacement project;

22 (ii) The proposed replacement project is compatible with the Conservation District in which
23 the property is located; and

1 (iii) Specific economic, social, or other benefits of the proposed replacement project
2 significantly outweigh the benefit conferred from the historic preservation of the particular structure or
3 feature.

4 (3) For Category V Buildings (Not Rated) in Conservation Districts: The Decisionmaker
5 determines that: (A) the building has not gained additional historical or architectural significance that
6 may make it eligible for classification as a Category I, II, or IV building; and (B) the proposed
7 Replacement Building is compatible with the Conservation District in which the property is located. If
8 the Decisionmaker determines based on new documentation presented that a Category V building has
9 gained significance such that it is eligible for classification as a Category I, II, or IV building, the
10 Permit to Demolish shall be reviewed under Subsection (a)(1) or (a)(2) above, and not under this
11 Subsection (a)(3). Additionally, if the building has completed a Compatible Rehabilitation pursuant to
12 Section 1109(c), and has transferred development rights from the property, then the building shall be
13 treated as a Significant Building (Category I or II).

14 (b) The cumulative effects on the integrity of the Conservation District associated with
15 demolition of a Contributory Building shall be considered and may be grounds for denial of the Permit
16 to Demolish.

17 (c) In addition to the above requirements, no demolition permit shall be issued by the
18 Department of Building Inspection or any other agency for any building located in a Conservation
19 District until an application for the new or replacement building has been approved in accordance with
20 the standards for new construction in a Conservation Districts as provided in this Article, and the
21 building or site permit conforming to such approval has been lawfully issued.

22 **SEC. 1112. INTENTIONALLY LEFT BLANK. DEMOLITION OF SIGNIFICANT AND**
23 **CONTRIBUTORY BUILDINGS AND BUILDINGS IN CONSERVATION DISTRICTS.**
24
25

1 ~~No person shall demolish or cause to be demolished all or any part of a Significant or~~
2 ~~Contributory Building or any building in a Conservation District without obtaining a demolition or~~
3 ~~alteration permit pursuant to the provisions of this Article. Applications for permits to demolish~~
4 ~~Category V Buildings located outside a Conservation District may be processed without reference to~~
5 ~~this Article.~~

6 ~~SEC. 1112.1. APPLICATIONS FOR A PERMIT TO DEMOLISH.~~

7 ~~Applications for a permit to demolish any Significant or Contributory Building or any building~~
8 ~~in a Conservation District shall comply with the provisions of Section 1006.1 of Article 10 of this Code.~~

9 ~~In addition to the contents specified for applications in Section 1006.1 of Article 10, any~~
10 ~~application for a permit to demolish a Significant Building, or a Contributory Building from which~~
11 ~~TDR have been transferred, on the grounds stated in Section 1112.7(a)(1), shall contain the following~~
12 ~~information:~~

13 ~~(a) — For all property:~~

14 ~~(1) — The amount paid for the property;~~

15 ~~(2) — The date of purchase, the party from whom purchased, and a description of the business~~
16 ~~or family relationship, if any, between the owner and the person from whom the property was~~
17 ~~purchased;~~

18 ~~(3) — The cost of any improvements since purchase by the applicant and date incurred;~~

19 ~~(4) — The assessed value of the land, and improvements thereon, according to the most recent~~
20 ~~assessments;~~

21 ~~(5) — Real estate taxes for the previous two years;~~

22 ~~(6) — Annual debt service, if any, for the previous two years;~~

23 ~~(7) — All appraisals obtained within the previous five years by the owner or applicant in~~
24 ~~connection with his or her purchase, financing or ownership of the property;~~
25

1 ~~(8) — Any listing of the property for sale or rent, price asked and offers received, if any;~~

2 ~~(9) — Any consideration by the owner for profitable and adaptive uses for the property,~~
3 ~~including renovation studies, plans, and bids, if any; and~~

4 ~~(b) — For income producing property:~~

5 ~~(1) — Annual gross income from the property for the previous four years;~~

6 ~~(2) — Itemized operating and maintenance expenses for the previous four years;~~

7 ~~(3) — Annual cash flow for the previous four years.~~

8 ~~Applications for the demolition of any Significant or Contributory Building shall also contain a~~
9 ~~description of any Transferable Development Rights or the right to such rights which have been~~
10 ~~transferred from the property, a statement of the quantity of such rights and untransferred rights~~
11 ~~remaining, the amount received for rights transferred, the transferee, and a copy of each document~~
12 ~~effecting a transfer of such rights.~~

13 ~~SEC. 1112.2. DISPOSITION OF APPLICATIONS TO DEMOLISH CONTRIBUTORY~~
14 ~~BUILDINGS AND UNRATED BUILDINGS IN CONSERVATION DISTRICTS.~~

15 ~~(a) — The Zoning Administrator shall determine, within five days of acceptance of a complete~~
16 ~~application, the designation of the building and, with respect to Contributory Buildings, whether any~~
17 ~~TDR have been transferred from the lots of such buildings.~~

18 ~~(b) — If the Zoning Administrator determines that TDR have been transferred from the lot of a~~
19 ~~Contributory Building, the application for demolition of that building shall be reviewed and acted upon~~
20 ~~as if it applied to a Significant Building.~~

21 ~~(c) — The Zoning Administrator shall approve any application for demolition of a~~
22 ~~Contributory Building in a Conservation District from which no TDR have been transferred, or an~~
23 ~~Unrated Building located in a Conservation District, if a building or site permit has been lawfully~~
24 ~~issued for a replacement structure on the site, in compliance with Section 1113. The Zoning~~
25

1 ~~Administrator shall approve an application for demolition of a Significant Building—Category II if a~~
2 ~~building or site permit has been lawfully issued for an alteration or replacement structure on the~~
3 ~~portion of the site which would be affected by the demolition, in compliance with Section 1111.6(b)(7).~~

4 ~~The Zoning Administrator shall disapprove any application for a demolition permit where the~~
5 ~~foregoing requirement has not been met; provided, however, that the Zoning Administrator shall~~
6 ~~approve any otherwise satisfactory application for such a permit notwithstanding the fact that no~~
7 ~~permit has been obtained for a replacement structure if the standards of Section 1112.7 for allowing~~
8 ~~demolition of a Significant Building are met.~~

9 ~~(d)—The Zoning Administrator shall approve applications to permit demolition of a~~
10 ~~Contributory Building—Category III from which no TDR have been transferred only if a building or~~
11 ~~site permit for a replacement building on the same site has been approved, and it has been found,~~
12 ~~pursuant to review under the procedural provisions of Section 309, that the proposed replacement will~~
13 ~~not adversely affect the character, scale or design qualities of the general area in which it is located,~~
14 ~~either by reason of the quality of the proposed design or by virtue of the relation of the replacement~~
15 ~~structure or structures to their setting. Notwithstanding the preceding sentence, the Zoning~~
16 ~~Administrator shall approve any such demolition permit application if the standards of Section 1112.7~~
17 ~~for allowing demolition of a Significant Building are met.~~

18 ~~SEC. 1112.3. APPLICATIONS TO DEMOLISH SIGNIFICANT BUILDINGS OR~~
19 ~~CONTRIBUTORY BUILDINGS FROM WHICH TDR HAVE BEEN TRANSFERRED; ACCEPTANCE~~
20 ~~AND NOTICE.~~

21 ~~Upon acceptance as complete of applications for a permit to demolish any Significant Building~~
22 ~~or to demolish any Contributory Building from which TDR have been transferred, the application shall~~
23 ~~be placed on the agenda of the Planning Commission for hearing.~~

1 ~~SEC. 1112.4. REFERRAL TO THE LANDMARKS PRESERVATION ADVISORY BOARD~~
2 ~~PRIOR TO HEARING; REVIEW BY THE DIRECTOR OF PLANNING.~~

3 ~~The application for a permit to demolish a building covered by Section 1112.3 shall be referred~~
4 ~~to the Landmarks Preservation Advisory Board and considered by said Board pursuant to the~~
5 ~~provisions of Section 1006.4 of this Code. The Director of Planning shall prepare a report and~~
6 ~~recommendation for the Planning Commission. If the Landmarks Board does not act within 30 days of~~
7 ~~referral to it, the Planning Commission may proceed without a report and recommendation from the~~
8 ~~Landmarks Board.~~

9 ~~SEC. 1112.5. PLANNING COMMISSION HEARING AND DECISION.~~

10 ~~The application shall be heard by the Planning Commission. Notice of the hearing shall be~~
11 ~~given in the manner set forth in Section 309(c). In such proceedings, the applicant has the burden of~~
12 ~~establishing that the criteria governing the approval of applications set forth in Section 1112.7 have~~
13 ~~been met.~~

14 ~~SEC. 1112.6. DECISION OF THE PLANNING COMMISSION.~~

15 ~~The Planning Commission may approve, disapprove or approve with conditions, the~~
16 ~~application, and shall make findings relating its decision to the standards set forth in Section 1112.7.~~
17 ~~The decision of the Planning Commission shall be rendered within 30 days from the date of conclusion~~
18 ~~of the hearing.~~

19 ~~SEC. 1112.7. STANDARDS AND REVIEW OF APPLICATIONS TO DEMOLISH.~~

20 ~~The Board of Permit Appeals, the City Planning Commission, the Director of Planning, and the~~
21 ~~Landmarks Board shall follow the standards in this Section in their review of applications for a permit~~
22 ~~to demolish any Significant or Contributory Building from which TDR have been transferred.~~
23
24
25

1 ~~No demolition permit may be approved unless: (1) it is determined that under the designation,~~
2 ~~taking into account the value of Transferable Development Rights and costs of rehabilitation to meet~~
3 ~~the requirements of the Building Code or other City, State or federal laws, the property retains no~~
4 ~~substantial remaining market value or reasonable use; or (2) the Superintendent of the Bureau of~~
5 ~~Building Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after~~
6 ~~consultation, to the extent feasible, with the Department of City Planning, that an imminent safety~~
7 ~~hazard exists and that demolition of the structure is the only feasible means to secure the public safety.~~
8 ~~Costs of rehabilitation necessitated by alterations made in violation of Section 1110, by demolition in~~
9 ~~violation of Section 1112, or by failure to maintain the property in violation of Section 1117, may not~~
10 ~~be included in the calculation of rehabilitation costs under Subsection (1).~~

11
12 SEC. 1113. STANDARDS OF REVIEW FOR NEW AND REPLACEMENT
13 CONSTRUCTION IN CONSERVATION DISTRICTS.

14 (a) The Historic Preservation Commission, Planning Commission, Board of Appeals, and
15 Board of Supervisors shall find in their review of applications for ~~No person shall construct or cause to~~
16 ~~be constructed~~ any new or replacement structure or for an addition to any existing structure in a
17 Conservation District ~~unless it is found~~ that such construction is compatible in scale and design
18 with the District as set forth in Sections 6 and 7 of the Appendix ~~which~~ that describes the
19 District.

20 (b) Applications for a building or site permit to construct or add to a structure in any
21 Conservation District shall be reviewed ~~and approved, approved with modifications, or disapproved~~
22 by the Historic Preservation Commission before any other Planning approval action that may be
23 required, including review by the Planning Commission pursuant to the procedures set forth in
24 Section 309 and shall only be approved pursuant to Section 309 if they meet the standards
25 set forth herein. For projects that require Section 309 review, the Planning Commission may modify

1 the decision of the Historic Preservation Commission pursuant to Section 1114, provided that the
2 project does not concern a designated Significant (Categories I and II) or a Contributory (Category III)
3 building.

4 (c) ~~if~~ if a building or site permit application for construction of a building to construct or
5 add to a structure in any Conservation District is approved by the Historic Preservation Commission
6 pursuant to this Section Article without modification by the Planning Commission and if the building
7 is constructed in accordance with such approval, and if the building is located in a
8 Conservation District for which, pursuant to Section 8 of the Appendix establishing that
9 district, such a transfer is permitted, the building shall be deemed a Compatible Replacement
10 Building, and the lot on which such building is located shall be eligible as a Preservation Lot
11 for the transfer of TDR.

12 SEC. 1114. MODIFICATION OF A DECISION OF THE HISTORIC PRESERVATION
13 COMMISSION.

14 For projects that require multiple planning approvals, the Historic Preservation Commission
15 shall review and act on any Permit to Alter or Permit to Demolish before any other Planning approval
16 action.

17 (a) For projects that require a Conditional Use Authorization or Permit Review under
18 Section 309 and do not concern a Significant Building (Categories I & II) or a Contributory Building
19 (Category III only), the Planning Commission may modify any decision on a Permit to Alter or Permit
20 to Demolish by a two-thirds vote, provided that the Planning Commission shall apply all applicable
21 historic resources provisions of this Code.

22 (b) For projects to be located on vacant lots, the Planning Commission may modify any
23 decision on a Permit to Alter by a two-thirds vote, provided that the Planning Commission shall apply
24 all applicable historic resources provisions of this Code.
25

1 SEC. 1115. APPEAL.

2 The Historic Preservation Commission's or the Planning Commission's decision on a Permit to
3 Alter or a Permit to Demolish shall be final unless appealed to the Board of Appeals, which may modify
4 the decision by a four-fifths vote; provided however, that if the project requires Board of Supervisors
5 approval or is appealed to the Board of Supervisors as a Conditional Use Authorization, the decision
6 shall not be appealed to the Board of Appeals but rather to the Board of Supervisors, which may modify
7 the decision by a majority vote. Any appeal must be made within 30 days after the date of the final
8 action by the Historic Preservation Commission or Planning Commission.

9
10 SEC. 1116. UNLAWFUL ALTERATION OR DEMOLITION.

11 (a) In addition to any other penalties provided in Section ~~1119~~1120 or elsewhere,
12 alteration or demolition of a Significant or Contributory Building or any building within a
13 Conservation District in violation of the provisions of this Article shall eliminate the eligibility of
14 the building's lot as a Preservation Lot, ~~and such~~ Such a lot, if it is the site of an unlawfully
15 demolished Significant Building, or Contributory Building from which TDR have been transferred,
16 may not be developed in excess of the floor area ratio of the demolished building for a period
17 of 20 years from the unlawful demolition, if it is the site of an unlawfully demolished Significant
18 Building (Category I or II), or Contributory Building (Category III) or the site of an unlawfully
19 demolished Contributory Building (Category IV) from which TDR have been transferred. No
20 department shall approve or issue a permit that would authorize construction of a structure
21 contrary to the provisions of this Section.

22 (b) A property owner may be relieved of the penalties provided in Subsection (a) if:
23 (1) as to an unlawful alteration ~~or demolition~~, the owner can demonstrate to the ~~Zoning~~
24 ~~Administrator~~ Historic Preservation Commission that the violation would have constituted a Minor
25

1 Alteration and has applied for a Permit for Minor Alteration to legalize the violation ~~did not constitute~~
2 ~~a major alteration as defined in Section 1111.1;~~ or (2) as to an unlawful alteration, the owner
3 restores the original distinguishing qualities and character of the building destroyed or altered,
4 including exterior character-defining spaces, materials, features, finishes, exterior walls and
5 exterior ornamentation. A property owner who wishes to effect a restoration pursuant to
6 Subsection (b)(2) shall, in connection with the filing of a building or site permit application,
7 seek approval of the proposed restoration by reference to the provisions of this Section. If the
8 Historic Preservation Commission approves the application ~~is approved and it is determined~~
9 determines that the proposed work will effect adequate restoration, the City Planning Historic
10 Preservation Commission shall so find. Upon ~~such~~ approval, and the completion of ~~such~~ work,
11 the lot shall again become an eligible Preservation Lot and the limitation on floor area ratio set
12 forth in Subsection (a) shall not thereafter apply. The City Planning Historic Preservation
13 Commission may not approve the restoration unless it first finds that the restoration can be
14 done with a substantial degree of success. The determination under this Subsection (b)(2) is a
15 final administrative decision.

16 SEC. ~~1115~~1117. CONFORMITY WITH OTHER CITY PERMIT PROCESSES.

17 Except where explicitly so stated, nothing in this Article shall be construed as relieving
18 any person from other applicable permit requirements. The following requirements are
19 intended to insure conformity between existing City permit processes and the provisions of
20 this Article:

21 (a) Upon the designation of a building as a Significant or Contributory Building, or
22 upon the designation of the Conservation District, the ~~Zoning Administrator~~Planning Department
23 shall inform the Central Permit Bureau of said designation or, in the case of a Conservation
24 District, of the boundaries of said District and a complete list of all the buildings within said
25

1 District and their designations. The Central Permit Bureau shall maintain a current record of
2 such Buildings and Conservation Districts.

3 (b) Upon receipt of any application for a building permit, demolition permit, site
4 permit, alteration permit, or any other permit relating to a Significant or Contributory Building
5 or a building within a designated Conservation District, the Central Permit Bureau shall
6 forward such application to the Planning Department of City Planning, except as provided in
7 Section 1111. If the ~~Zoning Administrator~~Planning Department determines that the application is
8 subject to provisions of this Article, processing shall proceed under the provisions of this
9 Article. The Central Permit Bureau shall not issue any permit for construction, alteration,
10 removal or demolition of any structure, or for any work involving a Significant or Contributory
11 Building or a building within a Conservation District unless either the Zoning
12 AdministratorPlanning Department has determined that such application is exempt from the
13 provisions of this Article, or processing under this Article is complete and necessary approvals
14 under this Article have been obtained. The issuance of any permit by a City department or
15 agency that is inconsistent with any provision of this Article may be revoked by the
16 Superintendent of the BureauDirector of the Department of Building Inspection pursuant to Section
17 303(e)the provisions of the San Francisco Building Code.

18 (c) No abatement proceedings or enforcement proceedings shall be undertaken by
19 any department of the City for a Significant or Contributory building or a building within a
20 Conservation District without, to the extent feasible, prior notification of the Department of City
21 Planning Department and the Historic Preservation Commission. Such proceedings shall comply
22 with the provisions of this Article where feasible.

23
24 SEC. ~~1116~~1118. UNSAFE OR DANGEROUS CONDITIONS.
25

1 Where the ~~Superintendent of the Bureau~~Director of the Department of Building Inspection or
2 the Chief of the Bureau of Fire Prevention and Public Safety determines that a condition on or
3 within a Significant or Contributory Building is unsafe or dangerous and determines further
4 that repair or other work rather than demolition will not threaten the public safety, said official
5 shall, after consulting with the Planning Department of City Planning and the Historic Preservation
6 Commission, to the extent feasible, determine the measures of repair or other work necessary
7 to correct the condition in a manner which, insofar as it does not conflict with State or local
8 requirements, is consistent with the purposes and standards set forth in this Article.

9 SEC. ~~1171119~~. MAINTENANCE REQUIREMENTS AND ENFORCEMENT
10 THEREOF.

11 (a) Maintenance. The owner, lessee, or other person in actual charge of a
12 Significant or Contributory Building shall comply with all applicable codes, laws and
13 regulations governing the maintenance of property. It is the intent of this Section to preserve
14 from deliberate or inadvertent neglect the exterior features of buildings designated Significant
15 or Contributory, and the interior portions thereof when such maintenance is necessary to
16 prevent deterioration and decay of the exterior. All such buildings shall be preserved against
17 such decay and deterioration and free from structural defects through prompt corrections of
18 any of the following defects:

- 19 (1) Facades which may fall and injure members of the public or property;
20 (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor
21 supports, deteriorated walls or other vertical structural supports;
22 (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal
23 members which sag, split or buckle due to defective material or deterioration;
24
25

1 (4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or
2 floors, including broken windows or doors;

3 (5) Defective or insufficient weather protection for exterior wall covering, including
4 lack of paint or weathering due to lack of paint or other protective covering;

5 (6) Any fault or defect in the building which renders it not properly watertight or
6 structurally unsafe.

7 (b) Enforcement Procedures. The procedures set forth in Building Code Sections
8 ~~203114 through 116~~ governing unsafe buildings or property shall be applicable to any violations
9 of this Section.

10 SEC. ~~1191120~~. ENFORCEMENT AND PENALTIES.

11
12 Enforcement and Penalties shall be as provided in Sections 176 and 176.1 of this
13 Code.

14 SEC. ~~1201121~~. RELATIONSHIP TO ARTICLE 10.

15 Buildings or areas within the C-3 District designated pursuant to the provisions of both
16 Article 10 and Article 11 shall be regulated pursuant to the procedures of both Articles. In case
17 of conflict, the more restrictive provision shall control.

18 Notwithstanding the rating of a building in a C-3 District pursuant to the provisions of
19 Article 11, buildings may be designated as landmarks according to the provisions of Article 10.

20 ~~Where an appeal is taken from a decision regarding alteration of a building which is both a~~
21 ~~landmark under Article 10 and a Significant or Contributory Building under Article 11, the appeal~~
22 ~~shall be taken to the Board of Supervisors pursuant to the provisions of Article 10.~~

23
24 SEC. ~~1211122~~. NOTICE OF AMENDMENT.

1 Notice of ~~any~~the hearing before the ~~City Planning~~Historic Preservation Commission, ~~or, if~~
2 ~~no hearing, notice of~~ and the first hearing before the Board of Supervisors, of a proposed
3 amendment to this Article which materially alters the limitations and requirements applicable
4 to any building or class of buildings shall be given to the owners of such buildings by mail.

5
6 SEC. ~~1122~~1123. NOTICE PROCEDURE.

7 When any provision of this Article requires notice by mail to a property owner, the
8 officer or body providing the notice shall use for this purpose the names and addresses as
9 shown on the latest citywide Assessment Roll in the Assessor's Office.

10
11 SEC. ~~1123~~1124. TIME PROVISIONS.

12 Unless otherwise indicated, all time provisions governing the taking of action by City
13 officials are directory and not mandatory.

14
15 SEC. ~~1124~~1125. SEVERABILITY.

16 If any part of this Article 11 is held to be unconstitutional or invalid, such decision shall
17 not affect the validity of the remaining portions of this Article 11 or any part thereof. The Board
18 of Supervisors hereby declares that it would have passed all portions of this Article and any
19 amendments thereto irrespective of the fact that any one or more portions be declared
20 unconstitutional or invalid.

21
22 Section 3. In enacting this Ordinance, the Board intends to amend only those words,
23 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams
24 or any other constituent part of the Planning Code that are explicitly shown in this legislation
25 as additions, deletions, Board amendment additions, and Board amendment deletions in

1 accordance with the "Note" that appears under the official title of the legislation. This
2 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
3 deletions not explicitly shown as described above, omissions, or other technical and non-
4 substantive differences between this Ordinance and the Planning Code that are contained in
5 this legislation are purely accidental and shall not effectuate an amendment to the Planning
6 Code. The Board hereby authorizes the City Attorney, in consultation with affected City
7 departments, to make those necessary adjustments to the published Planning Code, including
8 non-substantive changes such as renumbering or relettering, to ensure that the published
9 version of the Planning Code is consistent with the laws that this Board enacts.

10 Section 4. Effective Date. This ordinance shall become effective 30 days from the date
11 of passage.

12
13
14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By:



17 MARLENA G. BYRNE
18 Deputy City Attorney



Scott Wiener

memorandum

to: President Charles Chase, Historic Preservation Commission and Members

from: Supervisor Scott Wiener

date: September 7, 2011

re: Amendments to Articles 10 and 11 of the Planning Code

Dear Commissioners:

Please consider the following amendments to the amendments of Articles 10 and 11 that are currently before you. I am considering introducing similar amendments to the legislation, when it comes before the Board of Supervisors. I am submitting these to you in the hope that you can review and comment. I welcome any comments you may have.

Article 10:

- SECTION 1002: POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION COMMISSION, subsection (8), edit as follows: (8) Shall have the authority to oversee and direct the survey and inventory of historic properties provided that no such survey or inventory shall proceed unless one of the following two occur: (1) a majority of property owners in the proposed survey area agree to the survey's commencement and the Board of Supervisors, by majority vote of all members, approves the survey's commencement; or (2) the Board of Supervisors, by a 2/3 vote of all members, approves the survey's commencement;
- SEC. 1004.2: DECISION OF THE HISTORIC PRESERVATION COMMISSION, subsection (c), edit as follows: (c) Referral of Proposed Designation. If the HPC recommends approval of a landmark designation, it shall send its recommendation to the Board of Supervisors, without referral to the Planning Commission. If the HPC recommends approval of an historic district designation, it shall refer its recommendation to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be sent by the Department to the Board of Supervisors with the HPC's recommendation. Such comments shall be transmitted to the Board of Supervisors as a resolution and shall (i) address the consistency of the proposed designation with the General Plan and the priority policies of Section 101.1 and (ii) identify any amendments to the General Plan and to the priority policies of Section 101.1 necessary to facilitate adoption of the proposed designation. If the HPC disapproves designation of a landmark or historic district, that decision shall be final and shall not require referral unless appealed as set forth below.
- SEC. 1004.4: APPEAL TO THE BOARD OF SUPERVISORS, subsection (b), edit as follows: (b) Decision. The Board of Supervisors may overrule the HPC and approve, modify and approve the designation by a majority vote of all its members. The Board of Supervisors may designate an historic district by a majority vote of

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all its members if a majority of the property owners in the proposed historic district consent in writing to the designation; in the event a majority of the property owners in the proposed historic district have not consented in writing to the designation, the Board of Supervisors may nonetheless designate the historic district by a 2/3 vote of all its members.

• SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS, subsection (e), edit as follows: (e) Multiple Planning Approvals: For projects that require multiple planning approvals, the HPC must review and act on any Certificate of Appropriateness before any other planning approval action. For projects that (1) require a conditional use authorization or permit review under Section 309, et. seq. of the Code, and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions. For properties located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions.

• SEC. 1006.3. SCHEDULING AND NOTICE OF HEARING, subsection (a)(4), edit as follows: (4) For buildings located in historic districts: by mail not less than 20 days prior to the date of the hearing to all owners and occupants of the subject property and owners and occupants of properties within 300 150 feet of the subject property.

• SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS, subsection (b), edit as follows: (b) The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

• SEC. 1014. APPLICABILITY, subsection (a)(2), edit as follows: (2) For historic districts: ~~4-year~~ 180 days after the date of initiation. The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to 90 days of either of the above-time periods. The Board of Supervisors may approve by resolution one further extension of up to 90 days of either of the above time periods. If final action on such designation has not been completed before the end of the relevant time period, the permit application may be approved.

Article 11:

• SEC. 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS, subsection (e), edit as follows: (e) Designation by Board of Supervisors. The Board of Supervisors, or a committee thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of Supervisors may approve, modify and approve, or disapprove the designation or boundary change by a majority vote of all its members if a majority of the property owners in the proposed Conservation District or within the expanded boundaries consent in writing to the designation; if a

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Scott Wiener

majority of the property owners in the proposed Conservation District or within the expanded boundaries have not consented in writing to the designation, the Board of Supervisors may nonetheless designate and expand the boundaries of the Conservation District by a 2/3 vote of all its members.

- SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (b), edit as follows: (b) In addition to the contents specified for applications in (1) above, any application for a Permit to Demolish a Significant building or a Contributory building from which TDR have been transferred shall also contain the following information:
- SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (c), the requirements (1)-(6) become (16) to (21) rather than a new subsection (c).
- SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR ALTERATIONS, subsection (b), edit as follows: (b) The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. ~~The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, including any Guidelines, Interpretations, Bulletins, or other materials that the Historic Preservation Commission has adopted.~~
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (a), edit as follows: (a) For Significant Buildings (Category I and II), ~~contributory Buildings (Category III), and for Contributory Buildings in a Conservation District (Category III and IV)~~ from which TDR have been transferred:
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (b), edit as follows: (b) For Contributory Buildings ~~in a Conservation District (Category IV)~~ from which no TDR has been transferred:
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (c)(A), edit as follows: (A) Based on new documentation presented, the building has not gained additional historical or architectural significance that may make it eligible for classification as a Category I, II, or IV building. Any determination that a Category V building may be eligible for reclassification shall be void if, within 180 days of such determination, the Board of Supervisors has not re-designated the building to a Category I, II or IV building;
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (d), edit as follows: The cumulative effects on the integrity of the Conservation District associated with demolition of the Contributory Building shall be considered and may be grounds for denial of the Permit to Demolish if the effects would materially impair the significance of the Conservation District.

Member, Board of Supervisors
District 8



City and County of San Francisco

Scott Wiener

- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (e), edit as follows: If a building located within a Conservation District (Category II, IV, and V) or a Category III Building located outside of a Conservation District is found to have gained significance pursuant (c)(i1) above and the building has been re-classified by the Board of Supervisors within 180 days, then the Permit to Demolish will be reviewed under Subsection (a) or (b) above, and not under Subsection (c).

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Member, Board of Supervisors
District 8



City and County of San Francisco

Scott Wiener

memorandum

to: President Charles Chase, Historic Preservation Commission and Members

from: Supervisor Scott Wiener *SW*

date: October 3, 2011

re: Amendments to Articles 10 and 11 of the Planning Code

Dear Commissioners:

This memo supplements my memo of September 7, 2011, outlining my thoughts on the current updating of Articles 10 and 11 of the Planning Code. I thank you for considering these proposals and look forward to your feedback as the legislation moves to the Planning Commission and ultimately the Board of Supervisors.

I support including in Articles 10 and 11 a provision allowing for an "economic hardship opt-out" for property owners who want to make changes to their buildings but who do not have the economic means to do so in compliance with historic preservation standards or to pay for a Certificate of Appropriateness. I have spoken with Tim Frye about this issue, and we have engaged in productive dialogue about it. I believe he is researching how this opt-out works in other historic districts in the United States. Obviously, any hardship opt-out would have to be drafted as a narrow exemption that avoids abuse.

An economic hardship opt-out is important to avoid gentrification of historic districts. Many people own property but are of limited economic means. Perhaps they purchased the property many years ago and are of modest income or retired. Perhaps they inherited the property from a parent and have enough money to pay property taxes and basic upkeep but not enough to make more expensive changes. The last thing we want to do is to drive these people out of historic districts or prevent them from making needed improvements to their buildings. For example, if a person of limited means has a sub-standard window that he wishes to replace, preservation rules could require a fairly expensive window replacement and could trigger the need to replace all windows. Although the Planning Department, to its credit, works with property owners and at times allows a longer time window to make the additional triggered changes, for residents of limited means, no amount of time will allow them to have sufficient funds to comply with historic standards.

Historic districts, like all neighborhoods in San Francisco, should be diverse. This diversity includes diversity of income. I am confident that we can formulate an economic hardship opt-out that is narrowly drafted and that will allow everyone to live and remain in these districts.

I look forward to your feedback and to a continuing dialogue.

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Member, Board of Supervisors
District 8



City and County of San Francisco

Scott Wiener

memorandum

to: President Charles Chase, Historic Preservation Commission and Members

from: Supervisor Scott Wiener

date: October 13, 2011

re: Amendments to Articles 10 and 11 of the Planning Code

Dear President Chase and Commissioners:

Please consider this response to the Planning Department's 10/05/11 memo to your Commission concerning Planning Code Amendments to Article 10 and 11, including my proposed further amendments to Articles 10 and 11. I welcome any comments you may have.

Article 10:

Section 1002: Regarding surveys, I believe the Planning Department's recommendations are going in the right direction. My preference is to see community engagement policies and procedures set out in one or more administrative bulletins, available online and at the counter. These policies and procedures should clearly delineate the outreach process for survey work, and establish clear performance metrics for outreach that are to be reported semi-annually to both your Commission and the Planning Commission. These published policies and procedures should apply to outreach generally and not be placed in the Preservation Element, but should be more accessible to the public and amended as necessary. Notices regarding survey work should clearly state the expected implications and potential costs to affected property owners, of, for example, identification as a contributor to a potential historic district. Outreach targets must include renters and commercial tenants, who often carry the costs of maintaining and operating property.

Section 1004.3: Regarding designation, my preference is to require an informational vote from a majority of property owners prior to a simple majority vote of the Board of Supervisors. I would also like to require the Department to obtain the vote of a majority of property owners in a proposed district before designation can be brought before the Board of Supervisors.

Regarding the Economic Hardship Exemption/Opt-Out, it is my understanding that the Planning Department is researching best practices in this area. I look forward to the results of this research. My intention is to include Affordable Housing projects, regardless of income level, and mixed-use and commercial properties as part of this Exemption/Opt-Out.

Section 1006.3: Regarding scheduling and noticing of hearing, the HPC has recommended that all occupants within 300 feet of a property seeking a C of A be noticed 20 days prior to the hearing. This change is very expensive and lacks a data source for "occupants".

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Member, Board of Supervisors
District 8



City and County of San Francisco

Scott Wiener

Section 1006.7: Regarding the San Francisco Standards, my preference is to bring the proposed Standards, including any Guidelines, Interpretations, Bulletins or other materials to the Planning Commission for recommendation as well as to the HPC for adoption. These standards should also be considered and ultimately adopted by the City to inform and improve review of historic projects under CEQA.

Pending the development of the San Francisco Standards, compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties should only be required of landmarks.

Section 1014: My preference is that an additional hold be routed to the BOS on behalf of the Historic Preservation Commission. This allows for further public comment and check-in.

Additionally, for districts and private landmarks subject to Article 10, there should be a uniform standard establishing that only character-defining features visible or accessible from the public right of way or public space can be protected by a designating ordinance.

Article 11:

Section 1107: Regarding designation, my preference is to require an informational vote from a majority of property owners prior to a simple majority vote of the Board of Supervisors. I would also like to require the Department to obtain the vote of a majority of property owners in a proposed district before designation can be brought before the Board of Supervisors.

Section 1111(b), 1111.6, 111.7(a) and (b): I believe that owners of Contributory Buildings for which TDR has not been transferred should, at a minimum, receive notice of the proposed changes regarding demolition controls.

Section 1111.7(d). If the "materially impair" standard does not work for the Department, I would be interested to hear recommendations on another standard that would convey what constitutes an impact on the integrity of a Conservation District.

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Member, Board of Supervisors
District 8



City and County of San Francisco

Scott Wiener

memorandum

to: President Charles Chase, Historic Preservation Commission and Members

from: Supervisor Scott Wiener

date: October 17, 2011

re: Amendments to Articles 10 and 11 of the Planning Code

Dear President Chase and Commissioners:

Please consider the below correction to my 10/13/2011 memo. My apologies for the confusion.

Please replace:

Article 10:

Additionally, for districts and private landmarks subject to Article 10, there should be a uniform standard establishing that only character-defining features visible or accessible from the public right of way or public space can be protected by a designating ordinance.

with:

Article 10:

Additionally, for districts and private landmarks subject to Article 10, there should be a uniform standard establishing that only exterior character-defining features, or interior character defining architectural features that are or historically have been visible or accessible from the public right of way or public space can be protected by a designating ordinance.

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Tim Frye/CTYPLN/SFGOV
10/03/2011 04:39 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc John Rahaim/CTYPLN/SFGOV@SFGOV
bcc
Subject Proposed changes to Articles 10 and 11

FYI. Let's talk about this before the hearing in case it comes up. thanks.

Timothy Frye
Preservation Coordinator
San Francisco Planning Department
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San Francisco, CA 94103
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v: 415.575.6822

----- Forwarded by Tim Frye/CTYPLN/SFGOV on 10/03/2011 04:39 PM -----



"Woodward, Lucinda"
<LWOODWARD@parks.ca.gov>
v>
10/03/2011 01:10 PM

To "Tim Frye (Tim.Frye@sfgov.org)" <Tim.Frye@sfgov.org>, "Charles Edwin Chase (c.chase@argsf.com)" <c.chase@argsf.com>
cc "Mike Buhler (mbuhler@sfheritage.org)" <mbuhler@sfheritage.org>, "Donaldson, Milford" <mwdonaldson@parks.ca.gov>
Subject Proposed changes to Articles 10 and 11

Good morning, Tim and Charles,

Mike Buhler has brought to my attention changes proposed by Supervisor Scott Wiener to Articles 10 and 11 of the San Francisco Planning Code. Please keep in mind that San Francisco's 1995 Certification Agreement states "the Participant [City and County of San Francisco] shall obtain the prior approval of the SHPO for any amendments to said ordinances." The reason for this, of course, is to ensure that proposed changes are in conformance with the Certified Local Government program; if they do not, decertification could result. At your earliest convenience please request the formal comments of the State Historic Preservation Officer pursuant to the CLG agreement.

After reviewing the Memorandum sent to the San Francisco Historic Preservation Commission from Supervisor Wiener September 7, 2011, I wanted to provide preliminary comments in two areas that have the potential to affect San Francisco's participation in the Certified Local Government program.

- Article 10 Section 1002: POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION Commission (8). Historic preservation planning is the basis for any comprehensive historic preservation program. *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* provides the basis for federal and federally assisted programs, including the Certified Local Government Program. Obtaining property owner's permission to conduct a survey is not good practice. This proposal appears to confuse actual designation of properties, including districts, with survey. It is not uncommon for local

governments to seek property owner comments or consent for designation. This is appropriate because designation may subject the property and property owner to certain historic preservation laws or regulations. On the other hand, survey, is a planning tool; its purpose is to allow local governments to locate properties that may be historic in order to take them into account while making planning decisions. It also ensures predictability by identifying historic or potentially historic properties early on in the planning process, not when a development proposal or project underway. Designation is regulatory; survey is a process for identifying and gathering data. Over the past decade the Office of Historic Preservation has granted San Francisco over \$200,000 for surveys as part of its participation in the Certified Local Government program. San Francisco has been a statewide model in its neighborhood survey program, especially in its relationship to coordinating survey with specific planning areas.

- Article 10 Section 1006.7: STANDARDS FOR REVIEW OF APPLICATIONS (b): The Secretary of the Interior's Standards for the Treatment of Historic Properties is the industry standard nationwide. The regulations that implement the Certified Local Government Program (Section 61.6(e)(1)(iii)) state that state and local legislation for the designation and protection of properties must be consistent with the National Historic Preservation Act. Review by San Francisco of undertakings subject to review under Section 106 of the National Historic Preservation Act (36 CFR Part 800) must use the Secretary of the Interior's Standards; the Programmatic Agreement among the Advisory Council on Historic Preservation, the City and County of San Francisco, and the State Historic Preservation Office to carry out that review requires the use of the Standards. The California Environmental Quality Act uses the Standards as a basis for categorical exemptions.

I look forward to working with the City and County of San Francisco as it considers these proposals.

Lucinda M. Woodward

Supervisor, Local Government Unit
California Office of Historic Preservation

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(Submitted by Nancy Shanahan)

Proposed new language for Section 1111.7(a):

- (a) For Contributory Buildings in a Conservation District (Category IV) from which TDR have been transferred, and for Significant Buildings (Category I and II) and Contributory Buildings (Category III):**

Leave (b) as it was.

(Submitted by Nancy Shanahan)

Problems with current Section 1004.1:

1. Allows for nomination of a district under (a), but no way for the HPC to consider it and initiate the designation.
2. The way it is written, no way to tell when a “nomination” under (a) becomes an “initiation” under (b). How would anyone know when the Department determines that a submittal is complete? As written, there is no time limit for the Department’s review and determination. The Department could delay for an unlimited time before it “determines” that the nomination is complete which constitutes “initiation,” which would, in turn, stop the clock on permits under Section . As proposed, the Department would be required to schedule the initiation hearing with the HPC within 45 days of submittal of the application – the dept can request additional info during that time or work with the party making the nomination to ensure its completeness. At the hearing, the HPC can adopt a resolution to initiate, request further info, or simply disapprove the nomination. The adoption of the initiation resolution by the HPC would stop the clock on permits, not an imprecise date when the Dept determines the application is complete.

SEC. 1004.1. NOMINATION AND INITIATION OF LANDMARK AND HISTORIC DISTRICT DESIGNATION.

a) *Nomination. The Department, property owner(s), or member(s) of the public may request that the HPC initiate designation of a ~~property as~~ landmark site or a historic district upon forms prescribed by the HPC and any. Any such nomination for initiation of designation shall contain historic, architectural, and/or cultural documentation to support the initiation as well as any additional information the HPC may require. The Department shall schedule an initiation hearing before the HPC no later than 45 days from the receipt of any nomination request.*

b) *Initiation. Initiation of designation shall be made by one of the following methods:*

~~1) Landmark Site(s):~~

~~1) by a resolution of the Board of Supervisors; or~~

~~2) by a resolution of the HPC; or~~

~~e-3) by submittal of a complete, as determined by the Department, as to a~~ nomination application pursuant to (a) above. ~~The HPC shall hold a hearing on the application no later than 45 days from date of submittal of the complete application~~ by resolution ~~shall of the HPC confirming or disapprove~~ the initiation of designation; ~~provided that the HPC or may disapprove the nomination or~~ request further information and continue the matter as appropriate.

~~2. Historic Districts:~~

~~a) a resolution to initiate designation by the Board of Supervisors; or~~

~~b) a resolution of intention to initiate designation by the HPC;~~

Any resolution by the Board of Supervisors or the HPC shall make findings to support the initiation of designation of the landmark site and/or historic district. The Board of Supervisors shall promptly refer any resolution of initiation of designation to the HPC for its review and recommendation.

(submitted by Nancy Shanahan)

PROPOSED CLEAN-UP OF ARTICLE 10 FOR OCTOBER 5, 2011 MEETING

Problems with current Section 1004.1 (pgs 10-11):

1. Allows for nomination of a district under (a), but no way for the HPC to consider it and initiate the designation.

2. The way it is written, no way to tell when a “nomination” under (a) becomes an “initiation” under (b). How would anyone know when the Department determines that a submittal is complete? As written, there is no time limit for the Department’s review and determination. The Department could delay for an unlimited time before it “determines” that the nomination is complete, which constitutes “initiation.” Even though this initiation would subject to confirmation by the HPC, it creates confusion.

As proposed below, the Department would be required to schedule the initiation hearing with the HPC (for nominations for landmarks and historic districts) within 45 days of submittal of the application – the Dept can request additional info during that time or work with the party making the nomination to ensure its completeness. At the hearing, the HPC will review the nomination application and can adopt a resolution to initiate, request further info, or simply disapprove the nomination. The date of the adoption of the HPC resolution confirming the initiation of designation by the HPC would stop the clock on permits pursuant to Section 1041 (page 35).

SEC. 1004.1. NOMINATION AND INITIATION OF LANDMARK AND HISTORIC DISTRICT DESIGNATION.

a) Nomination. The Department, property owner(s), or member(s) of the public may request that the HPC initiate designation of a ~~property as~~ landmark site or a historic district upon forms prescribed by the HPC and any- A-such nomination for initiation of designation shall contain historic, architectural, and/or cultural documentation to support the designation as well as any additional information the HPC may require. The Department shall schedule an initiation hearing before the HPC no later than 45 days from the receipt of any nomination request.

b) Initiation. Initiation of designation shall be made by one of the following methods:

~~1) Landmark Site(s):~~

~~a-1) by a resolution of the Board of Supervisors; or~~

~~b-2) by a resolution of the HPC; or~~

~~e-3) by submittal of a complete, as determined by the Department, as to a nomination application made pursuant to (a) above. The HPC shall hold a hearing on the application no later than 45 days from date of submittal of the complete application by resolution shall of the HPC confirming or disapprove the initiation of designation; provided that the HPC or may disapprove the nomination or request further information and continue the matter as appropriate.~~

~~2. Historic Districts:~~

~~a) a resolution to initiate designation by the Board of Supervisors; or~~

~~b) a resolution of intention to initiate designation by the HPC;~~

Any resolution by the Board of Supervisors or the HPC shall make findings to support the initiation of designation of the landmark site and/or historic district. The Board of Supervisors shall promptly refer any resolution of initiation of designation to the HPC for its review and recommendation.

Inconsistency between Section 1005(e)(3) (on page 17) and Section 1006.2(a)(1) (on page 22):

Need to delete Section 1005(e)(3) (on page 17, lines 20-23) because it is inconsistent with the provisions in Section 1006.2(a)(1) (on page 22, lines 17-19) providing (per the Charter) for the HPC to define categories of Minor Alterations and delegate their approval to Department staff:

1. Section 1006.2(a)(1) (on page 22) provides for the HPC to define categories of Minor Alterations and delegate their approval to Department staff, including:

“(1) Work to perform ordinary maintenance and repairs, which for the purpose of this Article 10 shall mean any work the sole purpose and effect of which is to correct deterioration, decay, or damage;”

2. Section 1005(e)(3) (on page 17) must be deleted because it is inconsistent with 1006.2(a)(1) because it provides that the Dept “*shall process....without reference to Art 10*” any application for a permit to do “*ordinary maintenance and repairs*” which “*shall mean any work the sole purpose and effect of which is to correct deterioration, decay, or damage...*”

Section 1006(b) (on page 23, lines 4 and 6) -- Suggestion – Please consider making the time limits for appealing Departmental decisions for Administrative C of A’s the same – 20 days for each for simplification. Unclear why there is a difference and may create confusion as to the timeliness of any appeal.

Section 1006.7(c) (on pages 30-31) regarding hearings before the Board of Appeals:

MB added the “*Board of Appeals*” to the provision setting time limits for making a decision on an appeal of a C of A. Is this appropriate? Please check with the City Atty again and look at the Board of Appeals rules at:

<http://www.sfgov3.org/Modules/ShowDocument.aspx?documentid=459>

The Board of Appeals was specifically left out of this provision in previous drafts because the Board of Appeals is quasi judicial board which has its own very specific rules and briefing schedule which would likely not fit within these time limitations. Existing Art 10 has always contained this language limiting the time for the Board of Supervisors to act [See Section 1006.8(c)], so it was kept in the prior drafts. But it may **not** be appropriate for the Board of Appeals.

Section 1010(a) (on page 33): Language needs clarification.

As written, it says if HPC review is required under any *other* law (implying a law *other* than Art 10. What law could this be?) or under the Charter, a C of A is required. I believe the intent of this provision is as I have re-drafted below – a parallel sentence to that highlighted above. The first situation is where a project on a publicly owned site is NOT subject to city permit review; the second should refer to the situation where such a project IS subject to any city permit review. **These are highlighted in yellow to show the language.** Please consider revising as follows:

“SEC. 1010. PROPERTY OWNED BY PUBLIC AGENCIES.

*(a) The Department shall take appropriate steps to notify all public agencies which own or may acquire property in the City, about the existence and character of designated landmarks and historic districts; if possible, the Department shall cause a current record of such landmarks and historic districts to be maintained in each such public agency. **In the case of any publicly owned***

property on a landmark site or in a historic district which is not subject to the permit review procedures of the City, the agency owning the said property shall seek the advice of the HPC prior to approval or authorization of any construction, alteration or demolition thereon; and the HPC, in consultation with the Art Commission in appropriate cases, shall render a report to the owner as expeditiously as possible, based on the purposes and standards in this Article 10. ~~If HPC review of a public project involving construction, alteration or demolition on a landmark site or in a historic district is required under any other law, or under the Charter, a Certificate of Appropriateness shall be required subject to the procedures set forth in this Article 10. In the case of any publicly owned property on a landmark site or in a historic district which is subject to the permit review procedures of the City, the agency owning the said property shall be subject to the provisions of this Article 10 and if the project involves construction, alteration or demolition on a landmark site or in a historic district, a Certificate of Appropriateness shall be required.~~

Section 1014(b) (on page 36, line 7) -- Suggestion – Please consider changing the word "designation" in line 36 to "resolution to initiate or to confirm initiation of the designation"? That would make it compatible with (a). 4444See the following:

“(b) The provisions of this Article 10 shall be inapplicable to the construction, alteration or demolition of any structure or other feature on a landmark site or in a historic district, where a permit for the performance of such work was issued prior to the effective date of the ~~designation~~ resolution to initiate or to confirm initiation of the designation of the said landmark site or historic district, and where such permit has not expired or been cancelled or revoked, provided that construction is started and diligently prosecuted to completion in accordance with the Building Code.



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:07 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV, Tim Frye/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: S. Weiner's proposed amendments to prop. J are UNNECESSARY

Linda D. Avery-Herbert

Director of Commission Affairs
SAN FRANCISCO PLANNING COMMISSION &
SAN FRANCISCO HISTORIC PRESERVATION COMMISSION
1650 MISSION STREET – SUITE 400
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:06 PM -----



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10/05/2011 11:36 AM

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cc amgodman@yahoo.com, angelmahan@hotmail.com, ash Shepard@well.com, charlesnhead@hotmail.com, choden@sbcglobal.net, christienu@gmail.com, cm_marsteller@hotmail.com, cynthia.servetnick@gmail.com, emhilton1@aol.com, emtjal@sbcglobal.net, garynoguera@earthlink.net, gerrycrowley@aol.com, greg.scott@us.pwc.com, gumby5@att.net, jbardis@xdm.com, kernaghane@juno.com, krdevincenzi@gmail.com, ma-miller@msn.com, magaryr@ix.netcom.com, melindalavalle@aol.com, milletdick@yahoo.com, mmward@mac.com, mother_ed@bigeds.com, page364@earthlink.net, penelopeclark@yahoo.com, raedoyle@sbcglobal.net, scau1321@aol.com, sfjberk@mac.com, sullam@aol.com, wozopozo@pacbell.net
Subject S. Weiner's proposed amendments to prop. J are UNNECESSARY

Dear Commissioners,

There is not one single example of preservation stopping an affordable housing project or any transportation projects in San Francisco, most projects often use historic buildings so they can get the tax credits and utilize the historic building code. Besides, any such project would be reviewed under CEQA, which is an entirely separate process from the HPC.

Please reject this blatant power grab. The lobbyists and developers will have to control their greed.

Thank you,
Lee Miller
SF

Mission Dolores Neighborhood Association
PO Box 460184, San Francisco, CA 94114, Ph. 863-3950
Web Site: <http://www.missiondna.org> Email: missiondna@earthlink.net

October 3, 2011

Charles Chase, President and
Member of the Historic Preservation Commission
City and County of San Francisco
1669 Mission Street, 4th Floor
San Francisco, CA 94103

Dear President Chase and Commissioners:

After considering Supervisor Scott Weiner's proposed amendments to Articles 10 and 11, MDNA has voted unanimously to oppose these changes in no uncertain terms. Our reasoning is based on the fact that we're convinced that they will make it more difficult to propose historic districts, conservation districts, or even complete historic surveys.

Mr. Weiner also appears to want to eviscerate the laws under which your commission must operate. Regardless of his intent, we hope that you will discourage this ill-advised legislation.

We are opposed to his proposals for the following reasons:

1. They target and seem designed to prevent the initiation of historic districts by the citizens of this city.
2. Requiring a majority of home owners to agree to an historic survey before it can be undertaken is nonsensical, and probably unconstitutional.
3. Until a survey is completed, there is no way to know if a possible district even exists.
4. There is certainly no justification for giving control over surveys to the Board of Supervisors, unless the goal is (as appears to be the case) to discourage such surveys from even taking place.
5. By tightening requirements and shortening turnaround times, the amendments would again make it less likely for anyone to successfully designate an historic district.
6. By requiring that the survey be evaluated on whether or not it meets the Priority Policies before voting on it will reverse the proper order of the planning process. Planning proceeds *after* an historic survey has been done, not before. The planning process needs to be informed by it, rather than the other way around. The same is true for his proposed changes to Section 1006.1.

7. Mr. Weiner's proposals to shorten the time for designation of historic districts and conservation districts, and require still more signatures (a time consuming process in itself) is yet another strategy for ensuring that districts are never designated at all by making the process too onerous.
8. The use of the Secretary of the Interior's Guidelines for the Treatment of Historic Resources has been the law ever since these Standards were officially adopted by the LPAB, which was sometime in the mid-1980's. It was important then, as it is today, to retain this set of National Standards in order for the review and treatment of the City's historic buildings to be consistent with that of cities across the country. City Planning has no time to rewrite these standards, and they should not be rewritten in an ad hoc case by case way.
9. We have not deciphered what Mr. Weiner intends by his changes to the rules for demolition, but we suggest rejecting those too since it appears they are to weaken controls on demolitions of contributing structures, and to raise the bar for what is considered historic.

What Mr. Weiner is proposing is "sentence first, verdict afterwards." We request that you reject this legislation in its entirety.

Sincerely,

Lucia Bogatay, Co President, MDNA
Peter Lewis, Co-President, MDNA

Cc: All members of the HPC, Tim Frye, John Rahaim, and Peter Lewis

LIBERTY HILL

NEIGHBORHOOD ASSOCIATION

October 5, 2011

Historic Preservation Commission
San Francisco Planning Department

Dear Commissioners:

On behalf of the Liberty Hill Neighborhood Association, I am writing to state our opposition to the amendments to Articles 10 and 11 of the Planning Code proposed by Supervisor Wiener. In our view, the effect of these amendments is to impede historic preservation efforts and to weaken existing protections for historic districts and buildings.

Though there are many troublesome elements to the proposed legislation, we would like to focus on two areas.

First, the legislation would require the commencement of any historic survey be approved by either the majority of the property owners in the neighborhood or two-thirds of the Board of Supervisors. That creates a substantial procedural barrier and will reduce (perhaps to zero) the number of historic surveys conducted. In our view, development and historic preservation can be properly balanced only if there is an understanding of the historic elements at stake. Limiting historical surveys denies planners and policy makers a valuable source of information about the historic elements in our City. It seems odd to setup roadblocks to the creation of information unless the real goal is to allow historic elements to be damaged or destroyed through ignorance.

Second, the legislation would eliminate the requirement that projects comply with the Secretary of Interior's guidelines for historic preservation or any other set of guidelines. Instead, the Planning Department is empowered to write a new set of guidelines (the "San Francisco Standards") and compliance with these San Francisco Standards will only be a factor in evaluating a project, not a requirement. The Secretary of Interior's standards have been developed over many years and have been adopted by many cities. While they may not be perfect, they have been effective at advancing historic preservation, are well-understood, and are updated on a regular basis. No information has been provided on what would be contained in the San Francisco Standards or whether they would be effective at achieving historic preservation goals. However, given the tenor of the proposed amendments, one can only assume that the new standards will be significantly weaker than existing standards. The effect is that rather than having nationally recognized requirements for historic preservation, San Francisco will have weak, unenforceable guidelines. That is an unacceptable step backwards and is clearly contrary to the intent of the citizens of San Francisco expressed many times at the ballot box.

As residents of one of the City's oldest Historic Districts, we ask that that you reject this legislation.

Sincerely,



Peter S. Heinecke
Vice-President
Liberty Hill Neighborhood Association



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:14 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: Please stop S. Wiener's power grab for his developer cronies

Linda D. Avery-Herbert

Director of Commission Affairs
SAN FRANCISCO PLANNING COMMISSION &
SAN FRANCISCO HISTORIC PRESERVATION COMMISSION
1650 MISSION STREET – SUITE 400
SAN FRANCISCO, CA 94103-2414
TEL: 415.558.6407 – FAX: 415.558.6409
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:14 PM -----



caroline kleinman
<digs_sf@yahoo.com>
10/05/2011 10:40 AM

To awmartinez@earthlink.net,
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karlhasz@gmail.com, diane@johnburtonfoundation.org,
tim.frye@sfgov.org, linda.avery@sfgov.org,
marlena.byrne@sfgov.org
cc
Subject Please stop S. Wiener's power grab for his developer cronies

I am urging the Historic Preservation Commission to strongly reject the proposed amendments to Articles 10 and 11 for the following reasons:

- The proposed amendments are inconsistent with nationally-recognized best practices
- The proposed amendments would dilute the US Secretary of the Interior standards.
- The proposed

amendments would establish “San Francisco Standards” which would replace nationally-recognized standards.

- The proposed amendments would establish prohibitive standards to initiate historic resource surveys and designate historic districts.
- The proposed amendments have been referred to as “severe remedies to hypothetical problems” .
- The proposed amendments demonstrate a lack of good faith as they were not vetted by an historic preservation joint task force even though the author’s staff are members of that task force.

Historic preservation has served San Francisco well over the past decades. It has contributed both to the quality of life for San Francisco residents and to making San Francisco a world class tourist destination. San Francisco has learned from its past mistakes when entire

neighborhoods eg the Western Addition were bulldozed in the name of “progress”. But, economic hard times may have made some forget these lessons. Although these attempts to amend Articles 10 and 11 may be well-intentioned, they are at best misguided. They would undermine decades of due diligence by many parties knowledgeable in the area of historic preservation.



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:13 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: Proposed Amendments to Articles 10 and 11

Linda D. Avery-Herbert

Director of Commission Affairs
SAN FRANCISCO PLANNING COMMISSION &
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:13 PM -----



Joan Joaquin-Wood
<joanwood@earthlink.net>

10/05/2011 11:23 AM

Please respond to
Joan Joaquin-Wood
<joanwood@earthlink.net>

To Linda Avery <Linda.Avery@sfgov.org>
cc
Subject Proposed Amendments to Articles 10 and 11

Historic Preservation Commission
c/o Linda Avery

Please add my name to the supporters of the remarks offered by Architectural Heritage with respect to Supervisor Wiener's ideas for revisions to Articles 10 and 11 of the Planning Code. Supervisor Wiener seems to have little respect for the beauty and traditions of San Francisco. It is either that or he wants to make some kind of name for himself. Several months ago when his crusade started, he invited all the Commissions to sit in the "orchestra" seats of the Supervisors' chambers except for the Historic Preservation Commissioners, who had to sit with the public and submit speaker cards, with their time reduced to 1 minute except for Charles Chase at the beginning. This conduct exemplifies Supervisor Wiener's attitude toward preservation and needs to be controlled. Joan Wood, Houston Alley, North Beach

Joan Wood



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:15 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: OPPOSED to Supervisor Wiener's Amendments to
Articles 10 and 11

Linda D. Avery-Herbert

Director of Commission Affairs
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:16 PM -----



":\)" <gumby5@att.net>

10/05/2011 10:41 AM

Please respond to
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To "Alan Martinez" <awmartinez@earthlink.net>, "Andrew Wolfram" <andrew.wolfram@perkinswill.com>, "Charles Edwin Chase" <c.chase@argsf.com>, "rsejohns" <rsejohns@yahoo.com>, "Courtney Damkroger" <cdamkroger@hotmail.com>, "Karl Hasz" <karlhasz@gmail.com>, "Diane Matsuda" <diane@johnburtonfoundation.org>, "Tim Frye" <tim.frye@sfgov.org>, "Linda Avery" <Linda.Avery@sfgov.org>, "Marlena Byrne, Esq." <marlena.byrne@sfgov.org>

cc <aeboken@msn.com>, <jbardis@xdm.com>, <sfjberk@mac.com>, <scau1321@aol.com>, <choden@sbcglobal.net>, <christienu@gmail.com>, <gerrycrowley@aol.com>, <krdevincenzi@gmail.com>, <raedoyle@sbcglobal.net>, <amgodman@yahoo.com>, <gumby5@att.net>, <charlesnhead@hotmail.com>, <kernaghane@juno.com>, <melindalavalle@aol.com>, <emtjal@sbcglobal.net>, <wozopo@pacbell.net>, <emhyton1@aol.com>, <magaryr@ix.netcom.com>, <angelmahan@hotmail.com>, <cm_marsteller@hotmail.com>, <page364@earthlink.net>, <ma-miller@msn.com>, <milletdick@yahoo.com>, <garynoguera@earthlink.net>, <penelopeclark@yahoo.com>, <greg.scott@us.pwc.com>, <cynthia.servetnick@gmail.com>, <ashepard@well.com>, <sullam@aol.com>, <mmward@mac.com>, <mother_ed@bigeds.com>, "Hiroshi Fukuda" <ninersam@aol.com>, "Rich Worner" <worner@sbcglobal.net>

Subject OPPOSED to Supervisor Wiener's Amendments to Articles
10 and 11

Dear Historic Preservation Commissioners,
I am opposed to Supervisor Wiener's proposed changes to Articles 10 and 11 and support Heritage's position on same.

The new legislation will put additional costly and nearly unattainable burdens on people seeking support for their potential historic structures. Even with neighborhood support, if the BOS has a need to "improve" an area, the nomination will likely get voted down due to the new larger majority vote required at that level.

In the past, huge swaths of land were bulldozed and buildings moved for the sake of "revitalization" during the redevelopment era in SF. An example of this is Japantown. This can happen again and is detrimental to people of lesser means and could affect these people more disproportionately.

All of Jordan Park is basically historic as well as the adjacent Laurel Heights area. I suspect many other organized and non-neighborhood association areas are also. The new legislation is not a good idea. There are not many application submittals for historic designation, so I do not know why Supervisor Wiener's drastic changes are needed. I think the current system works well and has over the many years since Prop J.

Please reject the amendments proposed by Supervisor Wiener. Thank you all very much for your time and strong opposition to the proposed amendments to Articles 10 and 11. I regret not being able to make the meeting today on this subject. My apologies.

Sincerely,
Rose Hillson
Member, Jordan Park Improvement Association



SAN FRANCISCO
ARCHITECTURAL
HERITAGE

BOARD OF
DIRECTORS

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President

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Willett Moss

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Mark P. Sarkisian

Neil Sekhri

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October 3, 2011

Historic Preservation Commission
San Francisco Planning Department
Attn: Linda Avery, Commission Secretary
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479
Email: linda.avery@sfgov.org

RE: Amendments to Articles 10 & 11 (Supervisor Scott Wiener)

Dear Members of the Commission:

On behalf of San Francisco Architectural Heritage (Heritage), thank you for the opportunity to comment on proposed amendments to Articles 10 and 11 put forward by Supervisor Scott Wiener. Nearly three years after the voters of San Francisco passed Proposition J, a charter amendment creating the Historic Preservation Commission (HPC), San Francisco is on the verge of recommending comprehensive revisions to Articles 10 and 11 to conform the Planning Code to Proposition J. The HPC amendments are the culmination of an exhaustive, collaborative process spanning over a dozen hearings. Unfortunately, the amendments submitted by Supervisor Wiener would undermine this progress and contravene the intent of Proposition J by imposing unprecedented procedural barriers on preservation planning efforts. While Heritage can support revisions that codify existing practice, we strongly oppose policy changes that would dilute the *Secretary of the Interior's Standards* or impose unique hurdles on the initiation of historic resource surveys and the designation of historic districts.

In March 2011, San Francisco Planning and Urban Research (SPUR) and Heritage formed a joint task force that has been meeting monthly to develop policy recommendations on a range of historic preservation issues. The group is comprised of stakeholders in the preservation, development, and planning communities, including legislative staff from Supervisor Wiener's office. Although the initial focus of the task force was on historic districts, the scope of the discussion has broadened to include the process for conducting historic resource surveys, distinguishing between various types of preservation districts, and project review within potential and designated historic districts—many of the same topics addressed by the proposed amendments before you. Nonetheless, the proposed amendments were not shared with members of the task force in advance.

Heritage has consistently sought to build consensus for policy recommendations based on nationally-recognized best practices. Many of the ideas put forward by Supervisor Wiener depart from this fundamental objective, opting for "go it alone" solutions to perceived problems that have no precedent in San Francisco or any other city. A detailed analysis of each proposed amendment and Heritage's position follows:

AMENDMENT #1

SECTION 1002. POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION COMMISSION: *(8) Shall have the authority to oversee and direct the survey and inventory of historic properties provided that no such survey or inventory shall proceed unless one of the following two occur: (1) a majority of property owners in the proposed survey area agree to the survey's commencement and the Board of Supervisors, by majority vote of all members, approves the survey's commencement; or (2) the Board of Supervisors, by a 2/3 vote of all members, approves the survey's commencement;*

- **HERITAGE POSITION:** Heritage strongly opposes the amended language because it would impose unprecedented procedural barriers and prohibitive costs that would effectively end the Planning Department's historic resource survey program and abrogate the city's responsibilities as a Certified Local Government. Because historic resource surveys are associated with broader long-range community planning efforts, the amended language would require the Department to obtain property owner and Board of Supervisor approval prior to proposing any zoning changes or evaluating any long-range planning efforts for compliance with CEQA. The practical effect of the proposed amendments would be to add uncertainty to the development process and potentially jeopardize the Certified Local Government status conferred on the City of San Francisco by the State Office of Historic Preservation and the National Park Service. Heritage supports the Department's recommendation to adopt interim policies to provide for robust public outreach and community participation in the survey process.
 - **Historic resource surveys are widely recognized as model planning policy:** Historic surveys serve as the foundation for local preservation efforts by providing for the systematic collection and organization of information on the buildings, structures, and sites that are of local historical and cultural significance. They do not result in historic designation or require property owners to obtain a Certificate of Appropriateness for proposed alterations. Surveys provide greater predictability for property owners and provide planners with a database from which to channel new development. The American Planning Association's Policy Guide on Historic and Cultural Resources recognizes that, "a sound preservation program must be based on a survey, an historic preservation ordinance and plan, and economic and technical assistance in coordination with other community policies and ordinances."¹
 - **Requiring majority owner consent to initiate an historic resource survey is unprecedented and inconsistent with best practices:** The proposal to require majority owner consent to initiate historic surveys is anomalous and contrary to the intent of

¹ APA Policy Guide on Historic and Cultural Resources, Policy Guide Principle 4, www.planning.org/policy/guides/adopted/historic.htm. This year, the APA selected SurveyLA to receive the prestigious 2011 National Planning Excellence Award for Public Outreach, commending the City of Los Angeles for "taking this significant step to identify and protect its rich heritage."

Proposition J. As noted by the State Office of Historic Preservation, owner consent provisions undermine and are incompatible with effective preservation protections: “Practical experience around the country shows that it is difficult to craft an effective historic preservation program if owner consent is required. Inevitably, the city will lose significant structures or deleterious alterations will be made. ... The vast majority of preservation ordinances nationwide wisely avoid any type of owner consent provisions.”²

- **The amended language could jeopardize the city’s Certified Local Government status:** As a Certified Local Government (CLG), the City of San Francisco is required to “maintain a system for the survey and inventory of historic properties.”³ CLG status is subject to decertification by the State Office of Historic Preservation if a “CLG fails to adequately survey historical resources in its jurisdiction.”⁴ Among other benefits, certification enables the city to apply for federal grants, formally comment on National Register nominations, and administer Section 106 review under the National Historic Preservation Act. Since 2000, the City of San Francisco has received over \$200,000 in CLG grants for historic preservation projects. The city’s CLG status has also enabled it to assume Section 106 review authority to streamline approval of federally-funded affordable housing projects involving historic resources.⁵
- **The burden of documenting owner support would prompt independent surveys conducted outside the purview of the city:** Prohibitive costs and procedural barriers blocking the initiation of local surveys would force neighborhood groups to pursue less burdensome alternatives, such as listing in the California Register of Historic Resources or the National Register of Historic Places. Neither registration program requires minimum owner support for a district to be determined eligible for listing. State and national nominations bypass the Planning Department and Board of Supervisors altogether, with the final vote on designation made by the State Historical Resources Commission. The result is that the HPC and the Planning Department would have a significantly diminished role in identifying the city’s historic resources compared to locally-sanctioned survey.

² Technical Assistance Bulletin #14, “Drafting Effective Historic Preservation Ordinances: A Manual for California’s Local Governments” (California State Office of Historic Preservation, 2005).

³ Certification Agreement between the City and County of San Francisco and the California State Historic Preservation Officer, August 18, 1995.

⁴ *Certified Local Government Program Application and Procedures* (California State Office of Historic Preservation, 2007), at pp.38-39.

⁵ Programmatic Agreement By and Among the City and County of San Francisco, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Historic Properties Affected by Use of Revenue from the Department of Housing and Urban Development Part 58 Programs, January 19, 2007. In its June 2011 annual compliance report, the Mayor’s Office of Housing reported that “our expectation that review times for individual projects [under the Programmatic Agreement] would decrease was realized.”

- **The proposed amendment would impose unnecessary costs on property owners:** By effectively halting survey activity, the amended language would result in project-by-project review of potential impacts on historic resources. Property owners in non-surveyed areas would be required to pay for an historic resource evaluation report before undertaking any major alteration or demolition project involving a building over 45 years of age.

AMENDMENT #2

SECTION 1004.2. DECISION OF THE HISTORIC PRESERVATION COMMISSION: *If the HPC recommends approval of a landmark designation, it shall send its recommendation to the Board of Supervisors, without referral to the Planning Commission. If the HPC recommends approval of an historic district designation, it shall refer its recommendation to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be sent by the Department to the Board of Supervisors with the HPC's recommendation. Such comments shall be transmitted to the Board of Supervisors as a resolution and shall (i) address the consistency of the proposed designation with the General Plan and the priority policies of Section 101.1 and (ii) identify any amendments to the General Plan and to the priority policies of Section 101.1 necessary to facilitate adoption of the proposed designation. If the HPC disapproves designation of a landmark or historic district, that decision shall be final and shall not require referral unless appealed as set forth below.*

- **HERITAGE POSITION:** The amended language in the first romanette appears unnecessary because the HPC already makes findings on General Plan consistency for Certificates of Appropriateness, individual landmark nominations, and historic district nominations. Likewise, the Planning Commission is charged with balancing competing planning priorities and makes General Plan findings when commenting on historic district nominations. To the extent the second romanette could require amendments to Section 101.1 priority policies to designate an historic district, Heritage opposes the amended language because the Board of Supervisors lacks authority to amend the City Charter. Whether intended or not, the amended language could require proposed historic districts—and amendments to priority policies needed to facilitate their adoption—to be approved by voters.

AMENDMENT #3

SECTION 1004.4. APPEAL TO THE BOARD OF SUPERVISORS: *(b) Decision. The Board of Supervisors may overrule the HPC and approve, modify and approve the designation by a majority vote of all its members. The Board of Supervisors may designate an historic district by a majority vote of all its members if a majority of the property owners in the proposed historic district consent in writing to the designation; in the event a majority of the property owners in the proposed historic district have not consented in writing to the designation, the Board of Supervisors may nonetheless designate the historic district by a 2/3 vote of all its members.*

- **HERITAGE POSITION:** Heritage opposes the amended language as unnecessary and unduly burdensome. Although there is a need to clarify certain procedures for historic districts, final designation should remain by a simple majority vote of the Board of Supervisors.
 - **The amended language prescribes a severe remedy to a hypothetical problem:** Over the past 45 years, only eleven local historic districts have been designated in San Francisco, the most recent being the Dogpatch neighborhood in 2003. (Another pending district in Duboce Triangle enjoys broad community support.) By requiring documentation of majority owner support—or a super-majority of the Board of Supervisors—the proposed amendment would impose a unique, costly, and time-consuming hurdle on historic district designation. No other zoning changes in San Francisco are subject to this requirement.
 - **The burden of documenting owner consent will prompt state and national nominations that circumvent the city process:** Procedural barriers for local historic district nominations will force neighborhood groups to pursue designation under the California Register and/or National Register. Although neither registration program requires owner consent for a formal determination of eligibility, both trigger the same level of CEQA review as local designation. The result is that the HPC, Planning Commission, and Board of Supervisors will have a significantly diminished role in the process.

AMENDMENT #4

SECTION 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS: *(e) For projects that require multiple planning approvals, the HPC must review and act on any Certificate of Appropriateness before any other planning approval action. For projects that (1) require a conditional use authorization or permit review under Section 309, et seq. of the Code, and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions. For properties located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions.*

- **HERITAGE POSITION:** The HPC and Planning Commission already make consistency findings under Section 101 when reviewing applications for Certificates of Appropriateness. The proposed amendment is unnecessary.

AMENDMENT #5

SECTION 1006.3. SCHEDULING AND NOTICE OF HEARING: (a)(4) *For buildings located in historic districts: by mail not less than 20 days prior to the date of the hearing to all owners and occupants of the subject property and owners and occupants of properties within ~~300~~ 150 feet of the subject property.*

- **HERITAGE POSITION:** The HPC is recommending the following amendments to notice requirements for a Certificate of Appropriateness: within 150 feet to owners and occupants for individual landmarks and within 300 feet to owners and occupants for projects within a historic district. The HPC's proposed notice requirement for projects located in historic districts is appropriate given the potential for impacts on the district as a whole.

AMENDMENT #6

SECTION 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS: (b) *The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. The proposed work shall comply with the Secretary of the Interior's Standards for Treatment of Historic Properties.*

- **HERITAGE POSITION:** The proposal to develop an alternative to the *Secretary of the Interior's Standards* "for specific application in San Francisco" is unnecessary and contrary to nationally accepted preservation practice. The amended language would also eliminate mandatory compliance with the *Secretary's Standards*. Although other cities have developed design guidelines that interpret the *Secretary's Standards* for application within a specific historic context,⁶ Supervisor Wiener's proposal seeks to create new standards that are filtered through (and potentially diluted by) other planning priorities in the General Plan. To the extent the amendment seeks to substitute less rigorous standards for the *Secretary's Standards*, Heritage opposes the adoption of "San Francisco Standards."
 - **The amended language would result in two levels of review for projects subject to CEQA and/or federal environmental review:** The proposed "San Francisco Standards" would cause confusion and uncertainty by subjecting projects to different levels of

⁶ The *Historic Design Guidelines for Downtown Los Angeles* (July 2002), for example, "provide...guidance about compatible storefront and signage design, repair and maintenance of older buildings, renovation that highlights historic features, and sensitive new construction." See www.laconservancy.org/initiatives/guidelines.php4.

historic review under Article 10, CEQA, Section 106, and/or the National Environmental Policy Act. Whereas the “San Francisco Standards” would apply to Certificates of Appropriateness, projects undergoing CEQA or federal review would still be evaluated for conformance with the *Secretary’s Standards*.⁷ Certificates of Appropriateness approved under the “San Francisco Standards” could still be challenged under CEQA for failing to meet the *Secretary’s Standards*.

- **The *Secretary’s Standards* provide detailed guidance on urban design issues:** Standards 9 and 10 of the *Standards for Rehabilitation* expressly contemplate and provide criteria for evaluating additions to historic buildings and new infill construction.⁸ These Standards are augmented and refined by National Park Service publications addressing specific design issues, including *National Register Bulletins*, *Preservation Briefs*, and the *Rehab Yes/No Learning Program. Preservation Brief 14: New Exterior Additions to Historic Buildings* provides detailed guidance on additions and new construction within a dense urban environment.⁹ To date, the NPS has published 56 *Interpreting the Standards* bulletins that cover a wide range of topics, from “New Additions” and “Alterations without Historical Basis” to “Incorporating Solar Panels in a Rehabilitation Project” and “Rooftop Additions.”¹⁰
- **The *Secretary’s Standards* provide ample flexibility to accommodate local development needs:** The HPC and its predecessor, the Landmarks Preservation Advisory Board, have frequently applied the *Secretary’s Standards* to approve major additions to historic buildings and infill projects, such as 72 Townsend, 690 Market Street, and 178 Townsend (currently under construction). Located in the South End Historic District, the 178 Townsend project is adding four stories and 94 rental housing units behind the edifice of the former Arc Light Company Station B building, constructed in 1888. Although not without controversy, these projects demonstrate the compatibility of the *Secretary’s Standards* with San Francisco planning and development goals.
- **The amended language could jeopardize the city’s Certified Local Government status:** The city’s CLG status is subject to decertification if “the CLG no longer meets the minimal requirements or...a CLG’s performance is not satisfactory.” Performance shall be deemed unsatisfactory if, *inter alia*, “the commission substantially fails to maintain consistency of

⁷ CEQA Guidelines Section 15064.5(b)(3), for example, considers any adverse impacts to be mitigated if the project follows the *Secretary’s Standards*.

⁸ “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings,” www.nps.gov/hps/tps/standguide/rehab/rehab_standards.htm.

⁹ “Preservation Brief 14: New Exterior Additions to Historic Buildings,” www.nps.gov/hps/tps/briefs/brief14.pdf.

¹⁰ “Historic Preservation Tax Incentives: Interpreting the Standards,” www.nps.gov/hps/tps/tax/ITS/itshome.htm.

its design review decisions with the *Secretary's Standards for Historic Preservation*.¹¹ By separate programmatic agreement, the city is required to apply the *Secretary's Standards* in its review and approval of federally-funded affordable housing projects.¹²

AMENDMENT #7

SECTION 1014. APPLICABILITY: (a)(2): *For historic districts: ~~1 year~~ 180 days after the date of initiation. The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to 90 days of either of the above-time periods. The Board of Supervisors may approve by resolution one further extension of up to 90 days of either of the above time periods. If final action on such designation has not been completed before the end of the relevant time period, the permit application may be approved.*

- **HERITAGE POSITION:** Heritage does not object to the proposed change as part of a comprehensive package amending Article 10 (or Planning Department Preservation Bulletins) to clarify the process for the nomination and designation of historic districts. If majority owner support is ultimately required (as proposed by Supervisor Wiener in Section 1004.4), the 180-day limit would be insufficient time for the Department to review the nomination, document owner consent, and schedule hearings before the HPC, Planning Commission and Board of Supervisors.

AMENDMENT #8

SECTION 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS: (e) *Designation by Board of Supervisors. The Board of Supervisors, or a committee thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of Supervisors may approve, modify and approve, or disapprove the designation or boundary change by a majority vote of all its members if a majority of the property owners in the proposed Conservation District or within the expanded boundaries consent in writing to the designation; if a majority of the property owners in the proposed Conservation District or within the expanded boundaries have not consented in writing to the designation, the Board of Supervisors may nonetheless designate and expand the boundaries of the Conservation District by a 2/3 vote of all its members.*

¹¹ *Certified Local Government Program Application and Procedures* (California State Office of Historic Preservation, 2007), pp.38-39.

¹² Programmatic Agreement By and Among the City and County of San Francisco, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Historic Properties Affected by Use of Revenue from the Department of Housing and Urban Development Part 58 Programs, January 19, 2007, at p.4.

- **HERITAGE POSITION:** Same as proposed amendment to Section 1004.4 (Amendment #3 above).

AMENDMENT #9

SECTION 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS: *(b) In addition to the contents specified for applications in (1) above, any application for a Permit to Demolish a Significant building or a Contributory building from which TDR have been transferred shall also contain the following information:*

- **HERITAGE POSITION:** First, we note that the September 7, 2011 memo submitted by Supervisor Wiener to the HPC failed to highlight all of the language proposed to be added to Section 1111(b). We have double-underlined the additional new text above.

The amended language would significantly narrow the scope of this section by exempting (1) all buildings that have not transferred TDR and (2) all Category V buildings. The proposed amendment would eliminate the ability of the HPC to consider “the amount and value of [available] untransferred TDR” when reviewing permits to demolish. In addition, Category V buildings not rated in Heritage’s original downtown survey may have acquired significance over time and should be re-evaluated in conjunction with applications for demolition.¹³ Accordingly, Heritage supports the Planning Department’s recommendation to leave this section unchanged.

AMENDMENT #10

SECTION 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS: *(c) The requirements (1)-(6) become (16) to (21) rather than a new subsection (c).*

- **HERITAGE POSITION:** For the reasons set forth above for Section 1111(b), Heritage believes that this section should remain unchanged. Section 1111(c) applies specifically to permits to demolish buildings that have already transferred TDR, whereas Section 1111(b) applies to all permits to demolish.

¹³ It has been over 25 years since the adoption of the Downtown Plan and nearly 35 years since Heritage’s downtown survey rated individual buildings.

AMENDMENT #11

SECTION 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

ALTERATIONS: *(b) The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, including any Guidelines, Interpretations, Bulletins, or other materials that the Historic Preservation Commission has adopted.*

- **HERITAGE POSITION:** Same as proposed amendment to Section 1006.7 (Amendment #6 above).

AMENDMENT #12

SECTION 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

DEMOLITION: *(a) For Significant Buildings (Category I and II), ~~contributory Buildings (Category III), and for Contributory Buildings in a Conservation District (Category III and IV)~~ from which TDR have been transferred:*

- **HERITAGE POSITION:** Heritage opposes the proposed amendment because it appears to exempt an entire class of buildings (Category III from which no TDR has been transferred) from this section. Section 1111.7(a) should be rewritten to clarify its meaning and intent. Proposed new language:

“(a) For Contributory Buildings in a Conservation District (Category IV) from which TDR have been transferred, and for Significant Buildings (Category I and II), Contributory Buildings (Category III):”

AMENDMENT #13

SECTION 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

DEMOLITION: *(b) For Contributory Buildings ~~in a Conservation District (Category IV)~~ from which no TDR has been transferred:*

- **HERITAGE POSITION:** It is unclear if the intent of the proposed amendment is to expand the scope of this section to include both Category III and Category IV buildings. Heritage recommends that Section 1111.7(b) be left unchanged or conformed to Section 1111.7(a).

AMENDMENT #14

SECTION 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

DEMOLITION: *(c)(i)(A) Based on new documentation presented, the building has not gained additional historical or architectural significance that may make it eligible for classification as a Category I, II, or IV building. Any determination that a Category V building may be eligible for reclassification shall be void if, within 180 days of such determination, the Board of Supervisors has not re-designated the building to a Category I, II or IV building;*

- **HERITAGE POSITION:** Heritage opposes the proposed amendment without further clarification. As set forth in Section 1106, the process for reclassification of Category V buildings involves several steps, including notice, referral to the HPC, action by the HPC, designation by the Board of Supervisors, and possible appeal to the Board of Supervisors. The amended language does not indicate when the 180-day clock would start, and Section 1106 does not currently include time limits to ensure speedy disposition. Heritage proposes the following alternative language as one possible option to address these concerns:

“Any determination by the HPC that a Category V building may be eligible for reclassification to a Category I, II or IV building shall be deemed approved unless the Board of Supervisors has disapproved the designation within 180 days of such determination;”

Heritage also supports the Planning Department’s recommendation that Section 1111.7(c)(A) be revised to cross-reference procedures for reclassification in Sections 1106 and 1107.

AMENDMENT #15

SECTION 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

DEMOLITION: *(d) The cumulative effects on the integrity of the Conservation District associated with demolition of the Contributory Building shall be considered and may be grounds for denial of the Permit to Demolish if the effects would materially impair the significance of the Conservation District.*

- **HERITAGE POSITION:** The proposed amendment seeks to introduce CEQA terminology (“materially impair”) to gauge the cumulative effects of demolition of a Category V building on the integrity of a Conservation District. CEQA Guidelines Section 15064.5(b)(1) define a significant effect as one that would “materially impair” the significance of an historical resource. Under Section 15064.5(b)(2), material impairment of a resource’s historic significance could result if the project would demolish or materially alter in an adverse manner those physical characteristics that convey its significance and justify its inclusion in the California Register, a local register of historical resources, or its identification in an historic resources survey. Because Article 11 Conservation Districts do not neatly fit within

this definition of historical resource, the use of “materially impair” is inappropriate and confusing for the evaluation of cumulative impacts pursuant to Section 1111.7(d).¹⁴

AMENDMENT #16

SECTION 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR

DEMOLITION: *(e) If a building located within a Conservation District (Category II, IV, and V) or a Category III Building located outside of a Conservation District is found to have gained significance pursuant (c)(i) above and the building has been re-classified by the Board of Supervisors within 180 days, then the Permit to Demolish will be reviewed under Subsection (a) or (b) above, and not under Subsection (c).*

- **HERITAGE POSITION:** Same as proposed amendment to Section 1111.7(c)(A) (Amendment #14 above). Heritage supports the Department’s recommendation that Section 1111.7(e) be revised to cross-reference procedures for reclassification in Sections 1106 and 1107.

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to comment on Supervisor Wiener’s proposed amendments to Articles 10 and 11. 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: Historic Preservation Commission
Supervisor Scott Wiener
John Rahaim, Director, San Francisco Planning Department
Tim Frye, Preservation Coordinator, San Francisco Planning Department
Sarah Karlinsky, Deputy Director, SPUR
Andrew Junius, Reuben & Junius LLP (Co-Chair, SPUR-Heritage Task Force)
Lucinda Woodward, CLG Coordinator, California State Office of Historic Preservation
Anthony Veerkamp, National Trust for Historic Preservation

¹⁴ “Unlike traditional historic districts, which recognize historic and cultural significance, Conservation Districts seek to designate and protect buildings based on architectural quality and contribution to the environment. These downtown districts contain concentrations of buildings that together create geographic areas of unique quality and thus facilitate preservation of the quality and character of the area as a whole.” San Francisco Preservation Bulletin No. 10, Historic and Conservation Districts.



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:16 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: SFHPC Ammendments to Arts. 10&11 (Hearing Today @ 12)

Linda D. Avery-Herbert

Director of Commission Affairs
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SAN FRANCISCO HISTORIC PRESERVATION COMMISSION
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:17 PM -----



Aaron Goodman
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10/05/2011 09:47 AM

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tim.frye@sfgov.org, linda.avery@sfgov.org,
marlena.byrne@sfgov.org
cc
Subject SFHPC Ammendments to Arts. 10&11 (Hearing Today @ 12)

San Francisco Historic
Preservation
Commissioners;
I am unable to attend
today's hearing but wish to
submit a memo of support
to the comments and
issues raised by the
organizations SF Heritage,
CSFN, Eileen Boken and
others against the
proposed ammendments.

***I am sending this email
Urging the Historic***

**Preservation Commission
to Strongly Oppose
Amendments to Articles
10 and 11 in Their
Entirety**

I have seen how very short-sighted the recently formed SFHPC has been in relation to modernism, cultural landscapes, and the targeting of buildings districts and areas by developers without true vision on how to promote PRESERVATION as the MOST SUSTAINABLE method of dealing with development density and infill opportunities. The efforts by developers in San Francisco are multi-layered and involve many aspects of both government and the ability to ascertain control of laws through their legal and financial wizardry. It is important to see how sites small and large are being targeted not just the buildings most of you may deem as cherishable, but those buildings typologies and sites be they landscapes, openspace, parks, urban essential housing, or a multitude of other concepts and ideas that should be relevant to preservation and what we try to protect or preserve. We do not win all the battles, and we may not win all the concerns raised. Yet it is obvious these amendments weaken

severley the ability to protect and promote educational informational issues in regards to preservation. It is astounding that we still do not have modern office buildings in San Francisco (many of them small medical office buildings in the western side of SF protected) many other sites and open-spaces are not deemed yet preservation worthy, and many examples of cultural sites ignored due to the lack of education and information to the general public controlled as we saw in Parkmerced by the developer to LIMIT public awareness and on site tours such as through the AIA-SF last two years of events.

THIS IS TROUBLING, and Mrs. Smolens a lobbyist along with Steve Vettels was noted as main contributors to Scott Wiener's and others funds. (Larry Bush article on citireport)

Pay attention or your commission will be reduced to meaninglessness....

I am urging the Historic Preservation Commission to strongly reject the proposed amendments to Articles 10 and 11 for the following reasons:

- The proposed

amendments are
inconsistent with
nationally-recognized
best practices

- The proposed amendments would dilute the US Secretary of the Interior standards.
- The proposed amendments would establish “San Francisco Standards” which would replace nationally-recognized standards.
- The proposed amendments would establish prohibitive standards to initiate historic resource surveys and designate historic districts.
- The proposed amendments have been referred to as “severe remedies to hypothetical problems” .
- The proposed amendments demonstrate a lack of good faith as they were not vetted by an historic preservation joint task force even though the author’s staff are members of that task force.

Historic preservation has
served San Francisco well

over the past decades. It has contributed both to the quality of life for San Francisco residents and to making San Francisco a world class tourist destination. San Francisco has learned from its past mistakes when entire neighborhoods eg the Western Addition were bulldozed in the name of “progress”. But, economic hard times may have made some forget these lessons. Although these attempts to amend Articles 10 and 11 may be well-intentioned, they are at best misguided. They would undermine decades of due diligence by many parties knowledgeable in the area of historic preservation.

Reasons to oppose:

1. The proposed amendments would undermine implementation of Proposition J. It would impose unprecedented procedural burdens on preservation planning efforts.
2. The proposed amendments would place a unique burden on historic preservation. The amendments would require majority owner consent to designate a historic district or even initiate a historic resource survey. Significantly, no other

zoning changes in San Francisco are subject to this requirement.

3. Historic resource surveys are widely recognized as model planning policy: Historic surveys serve as the foundation for local preservation efforts by providing for the systematic collection and organization of information on buildings, structures and sites that are of local significance. They provide greater predictability for property owners and provide planners with a database from which to channel new development.

4. The proposed owner consent requirement is a severe remedy to a hypothetical problem: Over the past 45 years, only 11 local historic districts have been designated in San Francisco.

5. There is no need for an alternative to the Secretary of the Interior's Standards. The Secretary's of the Interior's Standards already provide detailed guidance on urban design and planning in regards to preservation.

I urge the Commission to strongly oppose these proposed amendments in their entirety; both in spirit and in substance. These proposed amendments are both short sighted and lacking in vision. We can do better, and I request that

you try.....

Sincerely

Aaron Goodman
District 11 Resident



ommentsreamendmentstoArts.10&11



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:11 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: In opposition to Articles 10 and 11 amendments from Supervisor Wiener

Linda D. Avery-Herbert

Director of Commission Affairs
SAN FRANCISCO PLANNING COMMISSION &
SAN FRANCISCO HISTORIC PRESERVATION COMMISSION
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:08 PM -----



"Golden Gate Park
Preservation Alliance"
<ggppa@earthlink.net>
10/05/2011 11:33 AM

To <awmartinez@earthlink.net>, <andrew.wolfram@perkinswill.com>, "Charles Chase" <c.chase@argsf.com>, "Courtney Damkroger" <cdamkroger@hotmail.com>, <diane@JohnBurtonFoundation.org>, <karlhasz@gmail.com>, <Matthew.Goudeau@SFGOV.ORG>, <RSEJohns@yahoo.com>, <tim.frye@sfgov.org>, <linda.avery@sfgov.org>
cc "Mike Buhler" <MBuhler@sfheritage.org>
Subject In opposition to Articles 10 and 11 amendments from Supervisor Wiener

Commissioners,

We oppose the proposed amendments to Articles 10 and 11 from Supervisor Wiener. We support SF Architectural Heritage’s position on these amendments.

We are particularly concerned about the proposal to create a Secretary of the Interior Standards –“ lite .” We are concerned about the negative impact that this will have on properties such as Golden Gate Park, which is now listed on the National Register of Historic Places (2004), and that these changes could open up Golden Gate Park and our other historic landscapes to further development, resulting in more commercialization and privatization of our precious open space.

Thank you for your consideration.

Katherine Howard
Member, Steering Committee
Golden Gate Park Preservation Alliance



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:27 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: Comment Re: Amendments to Article 10 and 11

Linda D. Avery-Herbert

Director of Commission Affairs
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SAN FRANCISCO HISTORIC PRESERVATION COMMISSION
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:27 PM -----



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10/04/2011 05:16 PM

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ashepard@well.com, sullam@aol.com, mmward@mac.com,
mother_ed@bigeds.com

Subject Comment Re: Amendments to Article 10 and 11

I support Heritage's opposition to the proposed amendments to Articles 10 and 11. The intent of the amendments are to only weaken and destroy the City's Historic Preservation program. The only winner will be the development community. If history is not preserved or learned, the mistakes of the past will be repeated.

San Francisco is a great City because it remembers and preserves its past. High rises provides a lot on housing, but it is the neighborhoods that provides the City with its character and soul.

Hiroshi Fukuda, Chair
CSFN Land Use and Housing Committee

Reasons to oppose:

1. The proposed amendments would undermine implementation of Proposition J. It would impose unprecedented procedural burdens on preservation planning efforts.
2. The proposed amendments would place a unique burden on historic preservation. The amendments would require majority owner consent to designate a historic district or even initiate a historic resource survey. Significantly, no other zoning changes in San Francisco are subject to this requirement.
3. Historic resource surveys are widely recognized as model planning policy: Historic surveys serve as the foundation for local preservation efforts by providing for the systematic collection and organization of information on buildings, structures and sites that are of local significance. They provide greater predictability for property owners and provide planners with a database from which to channel new development.
4. The proposed owner consent requirement is a severe remedy to a hypothetical problem: Over the past 45 years, only 11 local historic districts have been designated in San Francisco.
5. There is no need for an alternative to the Secretary of the Interior's Standards. The Secretary's of the Interior's Standards already provide detailed guidance on urban

**STRONGLY URGING THE HISTORIC PRESERVATION COMMISSION TO OPPOSE AMENDMENTS TO
ARTICLES 10 AND 11 IN THEIR ENTIRETY**

I am urging the Historic Preservation Commission to strongly reject the proposed amendments to Articles 10 and 11 for the following reasons:

- The proposed amendments are inconsistent with nationally-recognized best practices.
- The proposed amendments would dilute the US Secretary of the Interior standards.
- The proposed amendments would establish “San Francisco Standards” which would replace nationally-recognized standards.
- The proposed amendments would establish prohibitive standards to initiate historic resource surveys and designate historic districts.
- The proposed amendments have been referred to as “severe remedies to hypothetical problems” .
- The proposed amendments demonstrate a lack of good faith as they were not vetted by an historic preservation joint task force even though the author’s staff are members of that task force.

Historic preservation has served San Francisco well over the past decades. It has contributed both to the quality of life for San Francisco residents and to making San Francisco a world class tourist destination.

San Francisco has learned from its past mistakes when entire neighborhoods eg the Western Addition were bulldozed in the name of “progress”. But, economic hard times may have made some forget these lessons.

Although these attempts to amend Articles 10 and 11 may be well-intentioned, they are at best misguided. They would undermine decades of due diligence by many parties knowledgeable in the area of historic preservation.

I urge the Commission to strongly oppose these proposed amendments in their entirety; both in spirit and in substance. These proposed amendments are both short sighted and lacking in vision.

Eileen Boken

District 4 resident



Linda Avery/CTYPLN/SFGOV
10/05/2011 06:23 PM

To Sophie Hayward/CTYPLN/SFGOV@SFGOV
cc Margaret Yuen/CTYPLN/SFGOV@SFGOV
bcc
Subject Fw: Urging Opposition to Proposed Amendments to Articles
10 & 11

Linda D. Avery-Herbert

Director of Commission Affairs
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----- Forwarded by Linda Avery/CTYPLN/SFGOV on 10/05/2011 06:23 PM -----



Judith Berkowitz
<sfjberk@mac.com>
10/05/2011 12:11 AM

To tim.frye@sfgov.org, Linda Avery <linda.avery@sfgov.org>, marlena.byrne@sfgov.org
cc
Subject Urging Opposition to Proposed Amendments to Articles 10 &
11

From: Judith Berkowitz <sfjberk@mac.com>
Date: October 5, 2011 12:07:58 AM PDT
To: c.chase@argsf.com, cdamkroger@hotmail.com, Alan Martinez <awmartinez@earthlink.net>, andrew.wolfram@perkinswill.com, RSEJohns@yahoo.com, karlhasz@gmail.com, diane@johnburtonfoundation.org
Subject: Urging Opposition to Proposed Amendments to Articles 10 & 11

President Chase, Commissioners

I strongly urge the Historic Preservation Commission to **reject** the proposed amendments to Articles 10 and 11 for the following reasons:

- The proposed amendments are inconsistent with nationally-recognized best practices.
- The proposed amendments would dilute the US Secretary of the Interior standards.
- The proposed amendments would establish "San Francisco Standards" which would replace nationally-recognized standards.
- The proposed amendments would establish prohibitive standards to initiate historic resource surveys and designate historic districts.

- The proposed amendments have been referred to as "severe remedies to hypothetical problems."

- The proposed amendments demonstrate a lack of good faith because they were not vetted by an historic preservation joint task force even though the author's staff are members of that task force.

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San Francisco has learned from its past mistakes when entire neighborhoods eg the Western Addition were bulldozed in the name of "progress." But economic hard times may have made some forget these lessons.

Although these attempts to amend Articles 10 and 11 may be well-intentioned, they are at best misguided. They would undermine decades of due diligence by many parties knowledgeable in the area of historic preservation.

I urge the Commission to strongly **oppose these proposed amendments in their entirety**; both in spirit and in substance. These proposed amendments are both short-sighted and lacking in vision.

Thank you for your consideration.

- Judith Berkowitz,
President, Coalition for San Francisco Neighborhoods (CSFN)
46 neighborhood organizations citywide
Founded 1972



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Linda Jo Fitz
Lee Blitch

October 4, 2011

Executive Director

Gabriel Metcalf

Hon. Charles Chase, President
Historic Preservation Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Vice Chairs

Emilio Cruz
David Friedman
Mary McCue
Bill Rosetti
V. Fei Tsen

Treasurer

Bob Gamble

Secretary

Tomiqua Moss

Immediate Past Chair

Andy Barnes

Advisory Council

Co-Chairs

Michael Alexander
Paul Sedway

Board Members

Carl Anthony
Alexa Arena
Fred Blackwell
Chris Block
Larry Burnett
Michaela Cassidy
Michael Cohen
Madeline Chun
Charmaine Curtis
Gia Daniller-Katz
Oscar De La Torre
Kelly Dearman
Shelley Doran
Oz Erickson
Manny Flores
Norman Fong
Gillian Gillett
Chris Gruwell
Anne Halsted
Dave Hartley
Mary Huss
Chris Iglesias
Laurie Johnson
Ken Kirkey
Florence Kong
Dick Lonergan
Ellen Lou
Janis MacKenzie
John Madden
Gordon Mar
Jacinta McCann
Chris Meany
Ezra Mersey
Terry Micheau
Jeanne Myerson
Mary Murphy
Brad Paul
Chris Poland
Teresa Rea
Byron Rhett
Wade Rose
Victor Seeto
Elizabeth Seifel
Chi-Hsin Shao
Ontario Smith
Bill Stotler
Stuart Sunshine
Michael Teitz
James Tracy
Will Travis
Steve Vettel
Debra Walker
Cynthia Wilusz-Lovell
Cindy Wu

Dear President Chase and Commissioners,

Thank you for your diligence in reviewing Articles 10 and 11 of the Planning Code. We wish to offer our comments on the amendments to Articles 10 and 11 that may be introduced by Supervisor Wiener.

As you may know, SPUR is currently working with San Francisco Architectural Heritage to develop a joint policy report on substantive issues related to survey work, the process for adoption of and the definition of rules within historic districts and the role of CEQA relative to historic preservation. We look forward to presenting our ideas to you once they have been developed further.

The SPUR/Heritage Task Force has not reviewed Supervisor Weiner's proposed amendments to Articles 10 and 11 as part of our Task Force work plan. The comments contained in this letter reflect SPUR's position, not the position of the Task Force.

We understand that the Article 10 and 11 legislation before you is largely "clean up" legislation and that there may be opportunities to revisit some of the more substantive issues in the future. We have grouped our comments as follows: 1. Those amendments we support, 2. Those amendments we would like to continue to analyze, and 3. Those amendments we do not support.

Support

1. Section 1004.2 (c) and Section 1006.1: consistency with the General Plan

We support Supervisor Weiner's proposed language to ensure consistency of comments and findings with the General Plan, so that all relevant planning policies are considered during the decision making process.

2. Section 1006.3 – Scheduling and notice of hearing

The HPC has recommended that all occupants within 300 feet of a property seeking a Certificate of Appropriateness be noticed 20 days prior to the hearing. This change is very expensive for sponsors because there is no readily available inventory of occupants (rather, someone needs to walk the neighborhood and write down each doorbell and there are 4 times as many properties within 300 feet as there are within 150 feet). Moreover, we feel that the stringency of the noticing requirements should be proportional to the significance of the land use decision. It does not make sense to us

that such a stringent noticing requirement be adopted for a Certificates of Appropriateness when Article 10 and 11 are currently silent on the matter of noticing requirements for the designation of an historic district.

We recommend that the occupant radius be reduced to 150 feet to conform to sections 311 and 312.

3. Sections 1006.7 and 1111.6 - Standards for Review of Applications

The Secretary of the Interior's Standards must be met for federal tax credits to be awarded, but they may in many cases be too strict for non-tax credit projects that may be beneficial and worthy of approval. For that reason, we support Supervisor Wiener's suggestion that the Standards be "considered" but that "compliance" with every one of the 10 standard not be mandatory for every Certificate of Appropriateness or Permit to Alter. Additionally, we feel that the development and adoption of a local interpretation of the Secretary of Interior Standards could help to clarify the standard of review and create more consistency in review.

4. Section 1014(a)(2) – Applicability

Under the current Articles 10 and 11, the interim control period is 180 days and cannot be extended. Supervisor Weiner's amendments represent an appropriate compromise.

5. Sections 1111(b), 1111.6, 1111.7(a) and (b) – Applications for Permits to Demolish

Under the current Article 11, all Significant Buildings but only Contributory Buildings from which TDR have been transferred are subject to stringent demolition controls. This was the "grand compromise" arrived at after much debate and consideration in the 1980's when the Downtown Plan was enacted. We do not believe the case has been made to abandon this distinction now, with no notice to property owners and no indication that the compromise is not working as intended, and impose the same stringent demolition controls (along with detailed application information) that apply to Significant Buildings on all Contributory Buildings (regardless of whether TDR have been sold) and even on all Unrated Category V buildings. At minimum, affected property owners should be noticed to be made aware of these proposed changes.

6. Sections 1111.7(c)(A) Timeline for the Reclassification of Category V Buildings

We agree that if a demolition permit for an Unrated Category V Building is delayed so that the HPC can consider whether to initiate redesignation of that building, there needs to be a tight timeline for consideration of that reclassification. Otherwise, there could be an indefinite delay of any decision on an Unrated Building at the request of the HPC. If 180 days is insufficient for this process to reach completion, at the least the HPC must initiate redesignation within a short period of time (perhaps 60 days) if it wishes to deny a demolition permit on the basis of a potential for redesignation.

7. Sections 1111.7(d) Standard for Denial of Demolition Based on Cumulative Impact to Conservation District

We agree that there needs to be some standard for what constitutes a cumulative impact on the integrity of a Conservation District. The CEQA definition of a significant adverse effect to a historic resource appears a well-understood standard that would work well

here. If it is problematic for that definition to be included in the planning code, then an administrative bulletin or other form of guidance should be developed.

8. Economic Hardship Opt Out Provision

We support Supervisor Wiener's request that an economic hardship opt out provision be included in Articles 10 and 11. This is a sensible way to encourage economic diversity within our city.

Requires more analysis

Section 1004.3 - Appeals to the Board of Supervisors and Section 1107 – Procedures for Designation of Additional Historic Districts or Boundary Change of Historic Districts

These amendments would require that a majority of property owners consent in writing to the designation or boundary expansion of a Historic District or that the Board of Supervisors designate and expand the boundaries of a Historic District by a 2/3^{rds} majority vote.

There are pros and cons to this approach. Requiring written consent for inclusion within a Historic District would ensure that a majority of owners are both aware of the creation of the district and support the designation. This high bar would also ensure that the most important historic districts would be adopted while potentially helping to combat the use of historic district designation as a tool simply to stop growth unwanted by some group. We understand that some other cities take a version of this approach. On the other hand, property owners don't usually vote on land use changes in San Francisco, and we want to make sure that professional planning staff judgment is adequately represented in the decision-making process.

SPUR believes that there should be a high bar for demonstrating resident awareness of and support for Historic District designations. We also believe that Historic District designations should be reserved for the most important districts (those collection of buildings that, because of their architectural merit or cultural significance, are worthy of preservation) and not used as a tool to stop unwanted growth or change (i.e. buildings that, because of their height or bulk, some group doesn't like or alterations that some might find aesthetically unpleasing). We are not sure if the amendments offered as part of Section 1004.3 and Section 1107 are the best way to ensure this outcome, but we do feel that a robust public process should be developed to ensure that the majority of stakeholders are both aware of the district and support its designation. We will continue to review the procedures for designating districts as part of our task force work.

Do not support

Section 1002 – Powers and duties of the Planning Department and Historic Preservation Commission

This amendment would require that, in order to initiate a survey, the majority of property owners in the proposed survey area would agree to the survey or that the Board of Supervisors would authorize the survey by a 2/3^{rds} vote.

As with the previous amendments, there are pros and cons to this approach. Requiring written consent for commencement of a survey would ensure that a majority of owners are both aware of the survey and support survey work.

However, we are concerned about setting a precedent where property owners or the Board of Supervisors vote on an aspect of the Planning Department's work plan. We are not aware of another instance in which this has occurred. We are also concerned that this high bar may have the unintended consequence of resulting in a proliferation of non-Planning Department initiated survey work which would occur outside of the public planning process.

We believe that surveys benefit from substantial oversight and input. Public consultation and professional peer review are essential for producing high quality surveys. In its October 5th, 2011 Memo to the HPC, the Planning Department proposed a interim policy regarding comprehensive public outreach for historic resource surveys. We urge the HPC to adopt this interim policy and work with Supervisor Weiner's Office and other stakeholders to develop very robust noticing and public outreach procedures as part of the survey process.

Thank you for your consideration of our position. Should you have any questions, please do not hesitate to contact me at 415-644-4292.

Sincerely,

Sarah Karlinsky
Deputy Director

Cc: SPUR Board of Directors
Supervisor Scott Wiener
John Rahaim, Director, San Francisco Planning Department
Tim Frye, Preservation Coordinator, San Francisco Planning Department
Mike Buhler, Executive Director, Architectural Heritage
San Francisco Planning Commission



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October 18, 2011

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**RE: Further Responses to Proposed Amendments to Articles 10 & 11 Submitted by
Supervisor Scott Wiener (October 3, October 13, and October 17, 2011 Memos)**

Dear President Chase and Members of the Commission:

On behalf of San Francisco Architectural Heritage (Heritage), thank you for the opportunity to further comment on additional amendments to Articles 10 and 11 put forward by Supervisor Scott Wiener. These responses augment—and should be read in conjunction with—Heritage’s previous comment letter submitted on October 3, 2011, attached. We appreciate that some of the more objectionable amendments originally proposed by Supervisor Wiener have been abandoned or moderated in response to comments from the Planning Department, Historic Preservation Commission (HPC), and members of the public. In concept, Heritage also supports the proposal to add a narrowly drawn economic hardship provision to Article 10. However, we continue to oppose revisions that are contrary to best practices and/or would single out historic preservation initiatives for disparate treatment compared to other neighborhood planning and zoning changes.

**I. HERITAGE RESPONSE TO OCTOBER 3, 2011 MEMO RE: “ECONOMIC HARDSHIP
OPT-OUT” PROVISION**

Supervisor Wiener has proposed an “economic hardship opt-out” provision aimed at protecting low income property owners in historic districts. According to his October 3, 2011 memo, the proposed opt-out provision would target “property owners who want to make changes to their buildings but who do not have the economic means to do so in compliance with historic preservation standards or to pay Certificates of Appropriateness.”¹ In his October 13, 2011 memo, Supervisor Wiener clarified that his “intention is to include Affordable Housing projects, regardless of income level, and

¹ Memo from Supervisor Scott Wiener to the Historic Preservation Commission, October 3, 2011.

mixed-use and commercial properties as part of this Exemption/Opt-Out.”² We agree with Supervisor Wiener that any economic hardship provision should be “drafted as a narrow exemption that avoids abuse.”³

As a threshold matter, federal regulations already explicitly require that the *Secretary of the Interior’s Standards for Rehabilitation* be applied in a reasonable manner, taking into account economic and technical feasibility.⁴ As recognized by the California Office of Historic Preservation, it is both common and considered best practice to include economic hardship provisions in local historic preservation ordinances:

To ensure compliance with federal and state constitutional requirements, the ordinance should include a procedure allowing a property owner to make the case that, in some situations, enforcement of the ordinance will cause unusual and extreme economic hardship.⁵

Municipalities throughout the country have adopted a range of economic hardship provisions in local historic preservation ordinances. Most economic hardship provisions reflect the constitutional takings standard by requiring those seeking an exemption to demonstrate that they will be denied “all reasonable beneficial use of, or return on, the property.”⁶ Some provisions specifically target low income residents, enabling qualifying applicants to be exempted from preservation requirements that would result in immediate and extreme financial hardship.⁷

HERITAGE POSITION: In concept, Heritage supports Supervisor Wiener’s proposal for a “narrow” economic hardship exemption aimed at protecting low income property owners to avoid gentrification of historic districts. However, as demonstrated by the numerous

² Memo from Supervisor Scott Wiener to the Historic Preservation Commission, Amendments to Articles 10 and 11 of the Planning Code, October 13, 2011. It should be emphasized that nearly all of San Francisco’s affordable housing projects receive federal funding and are therefore subject to review by the California Office of Historic Preservation to ensure full compliance with the *Secretary of the Interior’s Standards for Rehabilitation*. Consequently, the City has very limited jurisdiction to relax or exempt these projects from federal preservation standards.

³ Memo from Supervisor Scott Wiener to the Historic Preservation Commission, October 3, 2011.

⁴ 36 C.F.R. § 67.7(b).

⁵ California Office of Historic Preservation, “Drafting Effective Historic Preservation Ordinances,” California Office of Historic Preservation Technical Assistance Series, p.70. See www.parks.ca.gov/pages/1072/files/tab14hpordinances.pdf.

⁶ “Under takings law, government is not required to compensate owners for bad business decisions. Nor is the government required to guarantee a return on a speculative investment.” “Assessing Economic Hardship Claims Under Historic Preservation Ordinances,” National Trust for Historic Preservation (2009), p.2.

⁷ Nicholas L. Bozen and Dragomir Cosanici, “Economic Hardship, Feasibility and Related Standards in Historic Preservation Law,” Michigan State Historic Preservation Office, p.4.

examples cited below, there are many different options for economic hardship language that serve very different purposes.

In order to benefit low-income property owners, for example, the process should be relatively straightforward and not unduly burdensome to the applicant. Supervisor Wiener’s intention to allow other classes of projects—“regardless of income level”—to qualify for economic hardship implicates a complex array of issues that need to be carefully considered separate from the current set of “clean-up” amendments to Articles 10 and 11. Heritage recommends that the proposed economic hardship provision be developed in an independent process with input from all affected parties. In conjunction with crafting economic hardship language, it will be important for the City to simultaneously pursue policy changes that would broaden access to existing financial incentives, such as Mills Act property tax abatement.

For future discussions regarding appropriate economic hardship language, Heritage believes that any such provision should include the following key components:

- (1) The exemption should be strategically drawn to focus on very-low and low income residents;
- (2) It should require substantial evidence of extreme and immediate economic hardship, especially for larger projects;
- (3) It should confer discretion on the City to impose conditions that minimize harm on historic resources; and
- (4) It should require the applicant to take advantage of all available incentives, including permit fee waivers, Mills Act property tax abatement, and cost-saving alternatives available under the State Historical Building Code.⁸

Each of these provisions is explained in greater detail below, including sample language drawn from economic hardship provisions in other local ordinances.

- (1) Focused on very-low and low income residents:** The economic hardship provision should be strategically drawn to protect very-low and low income residents, such as that provided by the City of Pasadena Zoning Code:

The approval of an Economic Hardship Variance shall be based on findings that:
(a) The owner of the property is qualified as very-low or low income; and
(b) If the Certificate of Appropriateness is for an income-producing property, the property is not in a state caused by demolition by neglect.⁹

⁸ In conjunction with broadening access to preservation incentives, the City will need to allocate resources to the various departments responsible for administering these programs to ensure that they are adequately prepared to encourage and assist the uninitiated permit applicant in making successful and unimpeded use of these incentives.

⁹ City of Pasadena Zoning Code, Article 6, §17.62.090.

The District of Columbia also includes protections specifically targeting low income residents. In the D.C. Code, “unreasonable economic hardship” is defined as:

*That failure to issue a permit would amount to a taking of the owner's property without just compensation or, in the case of a low income owner(s) as determined by the Mayor, failure to issue a permit would place an onerous and excessive financial burden upon such owner(s).*¹⁰

(2) Requires substantial evidence of economic hardship: The provision should authorize the HPC to require documentation or testimony in order to substantiate any claim of economic hardship. Several cities in California, including Davis, Pasadena, Pomona, Santa Clara, Santa Monica, and South Pasadena, among many others, require specific documentation in order to substantiate claims of economic hardship.¹¹ For larger projects, local preservation commissions are typically authorized to require the following types of information, at their discretion, when determining whether an applicant qualifies for an economic hardship exemption: the amount paid for the property; real estate taxes over several years; mortgage balance, appraisals, and available financial resources; an estimated cost of the proposed construction, alteration, or demolition; and/or report(s) from a licensed engineer and/or architect. Oftentimes, the applicant must also demonstrate that they have exhausted all possible options in order to eliminate the hardship, such as less-costly alternatives under the State Historical Building Code, Mills Act property tax abatement, and/or bank financing.¹²

(3) Authorizes the HPC to impose conditions: In an instance of economic hardship, the HPC should be able to impose conditions on a finding of economic hardship in order to minimize adverse impacts on the historic resource. Accordingly, we support the Planning Department’s recommended language requiring the HPC to determine that the scope of work “does not constitute a demolition” and “will not be detrimental to the integrity of the district” before issuing an economic hardship exemption.¹³

The County of Santa Clara includes a provision allowing the County to recommend relevant conditions be placed on the issuance of the related permit.”¹⁴ The City of Santa Monica contains a similar provision, allowing commissioners to impose conditions such as relaxing ordinance provisions that are normally adhered to or modifying the building code:

¹⁰ D.C. Code §6-1105.

¹¹ A corollary already exists in San Francisco for demolition review under Article 11 at Section 1110.

¹² Nicholas L. Bozen and Dragomir Cosanici, “Economic Hardship, Feasibility and Related Standards in Historic Preservation Law,” Michigan State Historic Preservation Office, p.4.

¹³ Memo from Planning Department to Historic Preservation Commission, “Planning Code Amendments: Articles 10 &11,” October 19, 2011 hearing date, at p.3.

¹⁴ County of Santa Clara Municipal Code, Division C-17, Article III-Landmark Alteration Permit, www.sccgov.org/scc_ordinance/TOC094.HTM.

Upon a finding by the Commission that without approval of the proposed work, all reasonable use of or return from a designated landmark or property within a historic district will be denied a property owner, then the application shall be delayed for a period not to exceed one hundred twenty days. During this period of delay, the Commission shall investigate plans and make recommendations to the City Council to allow for a reasonable use of, or return from, the property, or to otherwise preserve the subject property. Such plans and recommendations may include, but are not limited to, provisions for relocating the structure, a relaxation of the provisions of the ordinance, a reduction in real property taxes, financial assistance, building code modifications and/or changes in zoning regulations.¹⁵

(4) Requires the applicant to first explore economic and regulatory incentives: The proposed economic hardship exemption should be predicated on the use of all applicable economic and regulatory incentives, including the State Historical Building Code, Mills Act property tax abatement, and/or waiver of permit fees. For example, the City of Pomona requires that available economic incentives be explored prior to determining whether an economic hardship is present:

*All means involving City sponsored incentives such as tax abatements, financial assistance, building code modifications, amendments to the zoning ordinance, loans, grants, and reimbursements have been explored to relieve possible Economic Hardship.*¹⁶

The City of Glendale’s ordinance includes a similar prerequisite, stating that the “Council shall consider the value of property tax incentives allowed by the historic preservation ordinance and other benefits as may be available for historic preservation or stabilization in determining if economic hardship” exists.¹⁷ To this end, Heritage supports the Planning Department’s recommendation to cross-reference the Planning Code’s existing fee waiver provisions in Section 1005(f) of the Planning Code.¹⁸

We also urge Supervisor Wiener, the HPC and the Planning Department to take meaningful steps to broaden access to the Mills Act among low income property owners. The Mills Act is state legislation that authorizes local jurisdictions to enter into individual contracts with historic property owners to enable them to qualify for a significant reduction in property taxes. Owners typically save 50 percent or more in

¹⁵ City of Santa Monica Municipal Code, Article 9, Chapter 9.36 (emphasis added), http://qcode.us/codes/santamonica/view.php?topic=9-9_36-9_36_160&frames=on.

¹⁶ City of Pomona Municipal Code, §5809-13, <http://library.municode.com/index.aspx?clientID=13712&stateID=5&statename=California>.

¹⁷ City of Glendale Municipal Code, Chapter 15, §15.20.055, www.ci.glendale.ca.us/gmc/15.20.asp.

¹⁸ Memo from Planning Department to Historic Preservation Commission, “Planning Code Amendments: Articles 10 &11,” October 19, 2011 hearing date, at p.3.

taxes for agreeing to maintain and improve their property over a 10-year period. The enabling legislation allows the local jurisdiction to tailor its Mills Act program to target certain types of property owners (for example, single family homes under \$500,000), waive applicant fees for low-income residents, limit the number of contracts entered into each year, and/or place a cap on annual tax revenue losses.

Whereas San Francisco has only a handful of Mills Acts contracts in place (mostly commercial and high-end residential properties), Los Angeles and San Diego have several hundred each spanning a wide range of property types and demographics. Accordingly, we urge Supervisor Wiener and the HPC to champion legislation in conjunction with any economic hardship provision that would enable the city's low income residents to readily access property tax savings under the city's Mills Act program.

II. HERITAGE RESPONSE TO OCTOBER 13, 2011 MEMO RE: "AMENDMENTS TO ARTICLES 10 AND 11 OF THE PLANNING CODE"

A. ARTICLE 10

1. SECTION 1002. POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION COMMISSION

In lieu of requiring majority owner support for initiation of a historic resource survey, Supervisor Wiener is now proposing that community engagement policies and procedures be set forth in administrative bulletins (instead of the Preservation Element).

HERITAGE POSITION: Heritage supports the development of Department-wide policies and procedures to ensure community participation in the historic survey process as well as other community planning efforts. Although the Planning Department already follows a range of community engagement strategies, we understand that the proposed administrative bulletins are intended to list the full menu of outreach tools all in one place, for broad application to historic resource surveys and other neighborhood planning initiatives.

2. SECTION 1004.4. DESIGNATION BY BOARD OF SUPERVISORS

In lieu of requiring majority owner support or a super-majority of the Board of Supervisors to designate a historic district, Supervisor Wiener is now proposing that an "informational vote from a majority of property owners prior to a simple majority vote of the Board of Supervisors." The Department would be required to obtain the vote of a majority of property owners before designation can be brought to the Board for a vote.

HERITAGE POSITION: Although Heritage appreciates that Supervisor Wiener has moderated his stance by merely requiring an "informational vote," we remain concerned that the proposed amendment would impose a unique and costly burden on historic district designation. Indeed, no other zoning changes in San Francisco are subject to this requirement. As noted by the Planning Department, the proposed amendment raises other

policy and procedural issues regarding how the vote would be conducted, where the funding would come from, the exclusion from participation of the local resident renter community, how the Department would treat non-responses, and the legitimacy of community-sponsored petitions in gauging support.

Heritage agrees with the Department's recommendation that this topic warrants further discussion by a broad range of interest groups, including the preservation and development communities, and neighborhood groups representing owners and renters alike.¹⁹ Policies and procedures for measuring community support (or opposition) should be developed separate from the current set of proposed amendments to Articles 10 and 11, as part of a comprehensive package defining the nomination, initiation and designation process for historic districts.

3. SECTION 1006.3. SCHEDULING AND NOTICE OF HEARING

This proposed amendment is addressed in Heritage's previous position paper submitted to the HPC on October 3, 2011.

4. SECTION 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS

The October 13, 2011 memo from Supervisor Wiener clarifies the process he envisions for development of "San Francisco Standards" to require adoption by the HPC. Rather than create a second level of review, the stated purpose of the "San Francisco Standards" is to "inform and improve review of historic projects under CEQA." Pending completion of the "San Francisco Standards," Supervisor Wiener would eliminate mandatory compliance with the *Secretary of the Interior's Standards* for projects involving contributors to historic districts.

HERITAGE POSITION: Heritage feels that the proposal to develop an alternative to the *Secretary of the Interior's Standards* "for specific application in San Francisco" is simply unnecessary. The *Secretary's Standards* already provide detailed guidance on urban design issues and the HPC has traditionally applied these standards quite flexibly. However, we acknowledge that other cities have successfully developed design guidelines that interpret—and are equivalent to—the *Secretary's Standards*. The City of Los Angeles, for example, requires design guidelines to be developed in conjunction with any new historic district designation. Given the diversity of development patterns, density, architectural styles, and neighborhood character across San Francisco, Heritage favors district-by-district design guidelines over uniform citywide standards.

Equally important to the approval process for new projects perceived to be inhibited by preservation procedures, San Francisco's 1995 Certified Local Government agreement—like all other California CLG agreements—states "the Participant [City and County of San Francisco] shall obtain the prior approval of the SHPO for any amendments to said

¹⁹ Memo from Planning Department to Historic Preservation Commission, "Planning Code Amendments: Articles 10 & 11," October 19, 2011 hearing date, at p.4.

ordinances.” As noted by the California Office of Historic Preservation, “The reason for this, of course, is to ensure that proposed changes are in conformance with the Certified Local Government program; if they do not, decertification could result.”²⁰ Accordingly, the proposed “San Francisco Standards,” or individual historic district design guidelines, would be subject to review and approval by the SHPO.

Finally, we strongly oppose the new proposal to exempt contributors to historic districts from compliance with the *Secretary’s Standards* pending development of “San Francisco Standards.” This interim exemption would imperil historic resources by creating different levels of project review depending on the type of designation, even though individual landmarks and contributors are accorded the same level of protection under CEQA. Moreover, the proposed exemption might create an incentive for some owners to seek demolition pending completion of the “San Francisco Standards” and potentially slow completion of the standards themselves.

5. SECTION 1014. APPLICABILITY

As clarified in his October 17, 2011 memo to the HPC, Supervisor Wiener is proposing to create a “uniform standard” for all historic districts and private landmarks “establishing that only exterior character-defining features, or interior character defining architectural features that are or historically have been visible or accessible from the public right of way or public space can be protected by a designating ordinance.”²¹

HERITAGE POSITION: Heritage strongly opposes a blanket exemption of all private or non-visible spaces from designation. If a property owner wishes to protect a significant private space—whether it be a wood-paneled executive board room, mural, rear courtyard, or façade obscured by a wall or landscaping—he or she should be able to do so. As an alternative, Heritage suggests that language be added to Article 10 requiring any future designating ordinance to explicitly call out any private or non-visible features to be protected prior to full review of the ordinance by the HPC, Planning Commission, or Board of Supervisors. Those features that are not listed in subsequent nominations (but not in those that have already been adopted) would be presumed to not be character-defining.

²⁰ Email from Lucinda Woodward, Supervisor, Local Government Unit, California Office of Historic Preservation, to Tim Frye and Charles Chase, October 3, 2011.

²¹ Memo from Supervisor Scott Wiener to the Historic Preservation Commission, Amendments to Articles 10 and 11 of the Planning Code, October 17, 2011.

B. ARTICLE 11

1. SECTION 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS

HERITAGE POSITION: See comments regarding Section 1004.3 above.

2. SECTIONS 1111(b), 1111.6, 1111.7(a) and (b)

HERITAGE POSITION: Heritage does not oppose Supervisor Wiener's proposal to provide notice to owners of properties for which TDR has not been transferred to receive notice of proposed changes in the demolition review process in Article 11.

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to further comment on Supervisor Wiener's proposed amendments to Articles 10 and 11. Please do not hesitate to contact me at mbuhler@sfheritage.org or (415) 441-3000x15 should you have any questions or need additional information. At the time of the October 19th HPC hearing, I will also be available by email or by phone at (510) 282-1290.

Sincerely,



Mike Buhler
Executive Director

Attachment:

Letter from San Francisco Architectural Heritage to Historic Preservation Commission re Amendments to Articles 10 & 11 (Supervisor Scott Wiener), October 3, 2011

cc: Historic Preservation Commission

Supervisor Scott Wiener

Gillian Gillett, Legislative Aide, Supervisor Scott Wiener

John Rahaim, Director, San Francisco Planning Department

Tim Frye, Preservation Coordinator, San Francisco Planning Department

Sophie Hayward, Legislative Affairs, San Francisco Planning Department

Sarah Karlinsky, Deputy Director, SPUR

Andrew Junius, Reuben & Junius LLP (Co-Chair, SPUR-Heritage Task Force)

Lucinda Woodward, CLG Coordinator, California State Office of Historic Preservation

Anthony Veerkamp, Director of Programs, National Trust for Historic Preservation