



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Historic Preservation Commission

HEARING DATE: SEPTEMBER 21, 2011

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: **Planning Code Amendments: Articles 10 & 11**
Case Number: 2011.0167I
Initiated by: John Rahaim, Director of Planning
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6372
Reviewed by: Tim Frye, Preservation Coordinator
tim.frye@sfgov.org, 415-575-6822

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

The proposed revisions to Planning Code Articles 10 and 11 were drafted by the Historic Preservation Commission (HPC) over the course of a series of hearings held between July and December, 2010. 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.

Included in today's packet are:

1. Historic Preservation Commission Resolution No. 657 (October 6, 2010), recommending that the Board of Supervisors adopt with modifications proposed amendments to Article 10 of the Planning Code;
2. Historic Preservation Commission Resolution 659 (December 1, 2010), recommending that the Board of Supervisors adopt with modifications proposed amendments to Article 11 of the Planning Code;
3. A Motion of Intent passed at the September 7, 2011 outlining the intention of the HPC to adopt the proposed modifications made by Deputy City Attorney Marlena Byrne to Article 10, with six additional changes;
4. Revisions to the HPC-amended Articles 10 and 11 recommended by the City Attorney's office in order to clarify the intent and to enable a legal, approved-to-form ordinance;
5. Draft Resolution recommending that the Board of Supervisors adopt with modifications an ordinance that would amend Article 11 of the Planning Code.

SUMMARY OF THE SEPTEMBER 7, 2011 HEARING

At the September 7, 2011 HPC hearing, the Historic Preservation Commission continued its review of the suggested edits made to the draft Ordinances by Deputy City Attorney Marlena Byrne; the review of Deputy City Attorney Byrne's comments was begun at the August 17, 2011 public hearing. The HPC took public comment, and unanimously passed a Motion of Intent to adopt the amendments proposed by the City Attorney's office, with six modifications:

- In reference to Section 1004.1(b)(iii) (MB Comments 9 and 10, Page 11): When considering landmark designation initiation, the HPC will adopt a policy directing staff to provide a draft

motion that includes an area for the HPC to fill-in with findings made at the public hearing. In addition, Section 1004.1(b)(iii) will be revised to read, "upon submittal of a complete nomination application, the Historic Preservation Commission shall hold a hearing to confirm the initiation of designation at a public hearing no later than 45 days from the date of submittal of the complete nomination application." Note that the timeline has been increased from 30 days to 45 days, and that the sentence that reads, "Failure to confirm initiation within 30 days from the date of submittal shall constitute disapproval action" has been deleted.

- In reference to Section 1005(e)(2) (MB Comment 18, Page 17): The HPC requested that language proposed by Deputy City Attorney Byrne in Line 19 be revised to include the phrase "requiring a permit," and to remove the word "significant" so that the sentence reads, "Notwithstanding the foregoing, if any proposed interior alteration requiring a permit would result in any visual or material impact to the exterior of the subject building, a Certificate of Appropriateness shall be required to address such exterior effects."
- In reference to Section 1005(e) (Page 17): The HPC agreed to re-insert subsection (3), which had been deleted. Section 1005(e)(3) reads, "When the application is for a permit to do ordinary maintenance and repairs only. For the purpose of this Article 10, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage, including repair of damage caused by fire or other disaster."
- In reference to Section 1005(g)(1) (Page 18): The HPC agreed that the 50 day time-frame for the HPC to provide advice and comment to the Art Commission is an anomalous number, and that HPC comment should be provided within 45 days in order to be consistent with other areas of Article 10.
- In reference to Section 1006.2(b) (MB Comment 29, Page 23): The HPC agreed to provide a 20 day time frame from the date of the issuance of the Administrative Certificate of Appropriateness for the HPC to request a review of a Departmental decision. In addition, a phrase will be inserted in sentence 1 of Section 1006.2(b) so that it reads, "Upon receipt of a building permit application, an Administrative Certificate of Appropriateness for Minor Alteration work may be approved by the Department without a hearing before the HPC."
- In reference to Section 1014 (MB Comment 43, Page 35): The HPC agreed to the Department's recommended clarification to note that work may commence on sites or in districts for which designation has been initiated, provided that a Certificate of Appropriateness is granted for the proposed work.

A copy of the Motion of Intent passed at the September 7, 2011 hearing is included in your case packet for reference. At the September 7 hearing, Deputy City Attorney Byrne agreed to provide a red-lined version of Article 10 that incorporates the modifications suggested by her office as well as the additional modifications outlined in the Resolution of Intent. That red-lined version will be included in case packets in advance of the HPC's adoption hearing, scheduled for early October, 2011.

ISSUES FOR CONSIDERATION AT THE SEPTEMBER 21, 2011 HEARING

The focus of the September 21, 2011 HPC hearing will be to review the suggested modifications to Article 11. As was the case at the August hearing and at the September 7, 2011 hearing, Deputy City Attorney

Marlena Byrne will be available to discuss the proposed amendments to Article 11, as well as to clarify any outstanding questions regarding Article 10.

RECOMMENDATION

The Department recommends that the Historic Preservation Commission adopt the attached draft resolution for Article 11.



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Resolution No. 657

Planning Code Text Changes: Article 10

HEARING DATE: OCTOBER 6, 2010

Project Name: 2010 Planning Code Amendments
Case Number: 2010.0080T
Initiated by: John Rahaim, Director of Planning
Initiated: July 8, 2010
Staff Contact: Tara Sullivan, Legislative Affairs
tara.sullivan@sfgov.org, 415-558-6257
Reviewed by: Tim Frye, Acting Preservation Coordinator
tim.frye@sfgov.org, 415-575-6822

Recommendation: **Approve Article 10 Amendments with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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415.558.6378

Fax:
415.558.6409

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Information:
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE PLANNING CODE ARTICLE 10 – PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS PER HPC DRAFT DATED OCTOBER 6, 2010; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

WHEREAS, on February 3, 2010, the Planning Director requested that amendments be made to the Planning Code under Case Number 2010.0080T; and

WHEREAS, the proposed Planning Code text changes would amend several sections of the Code and in particular, to Articles 10 and 11; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on July 8, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18133 initiating amendments to the Planning Code on July 8, 2010; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18157 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on August 5, 2010; and

WHEREAS, pursuant to Charter Section 4.135, any proposed ordinance concerning historic preservation issues must be submitted to the Historic Preservation Commission (“HPC”) for review and recommendation to the Board of Supervisors; and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, and October 6th, 2010; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance for Article 10 as detailed in the draft dated October 6, 2010.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. This Historic Preservation Commission was created in the fall of 2008 when the voters passed amendments to the San Francisco Charter establishing Section 4.135.
2. Article 10 (Preservation of Historical and Architectural and Aesthetic Landmarks) and Article 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) are the Planning Code chapters that outline the designation and permit review processes for historic buildings.
3. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will make them consistent with Charter Section 4.135.
4. The additional changes proposed to Articles 10 and 11 will update preservation practices and policies and help streamline the designation and permit review processes.

5. Therefore, the HPC recommends *approval of Article 10 with modifications in the draft dated October 6, 2010 of the proposed Ordinance.*
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

POLICY 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.8

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

II. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7

Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

III. DOWNTOWN ELEMENT

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN — AND OF

THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

OBJECTIVE 12

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

Policy 12.1

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The goal of the proposed Ordinance is to make typographical and clerical errors to the Planning Code, as well as to update Articles 10 and 11 to make it conform to Charter Section 4.135.

7. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will not impact existing housing and neighborhood character.

C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will not impact the supply of affordable housing.

D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on October 6, 2010.

Linda D. Avery
Commission Secretary

AYES: Chase, Damkroger, Hasz, Martinez, Wolfram

NOES:

ABSENT: Buckley, Matsuda

ADOPTED: October 6, 2010

Exhibit A: Draft Ordinance with October 21, 2010 amendments to Article 10



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Resolution No. 659

Planning Code Text Changes: Article 11

HEARING DATE: DECEMBER 1, 2010

Project Name: 2010 Planning Code Amendments
Case Number: 2010.0080T
Initiated by: John Rahaim, Director of Planning
Initiated: July 8, 2010
Staff Contact: Tara Sullivan, Legislative Affairs
tara.sullivan@sfgov.org, 415-558-6257
Reviewed by: Tim Frye, Acting Preservation Coordinator
tim.frye@sfgov.org, 415-575-6822

Recommendation: **Approve Article 11 Amendments with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE PLANNING CODE ARTICLE 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORIC, AND AESTHETIC IMPORTANCE IN C-3 DISTRICTS PER HPC DRAFT DATED DECEMBER 1, 2010; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

WHEREAS, on February 3, 2010, the Planning Director requested that amendments be made to the Planning Code under Case Number 2010.0080T; and

WHEREAS, the proposed Planning Code text changes would amend several sections of the Code and in particular, to Articles 10 and 11; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on July 8, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18133 initiating amendments to the Planning Code on July 8, 2010; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18157 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on August 5, 2010; and

WHEREAS, pursuant to Charter Section 4.135, any proposed ordinance concerning historic preservation issues must be submitted to the Historic Preservation Commission (“HPC”) for review and recommendation to the Board of Supervisors; and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th, 15th November 3rd and 17th and December 1st 2010; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance for Article 11 as detailed in the draft dated December 1, 2010.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. This Historic Preservation Commission was created in the fall of 2008 when the voters passed amendments to the San Francisco Charter establishing Section 4.135.
2. Article 10 (Preservation of Historical and Architectural and Aesthetic Landmarks) and Article 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) are the Planning Code chapters that outline the designation and permit review processes for historic buildings.
3. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will simply make them consistent with Charter Section 4.135.

4. The additional changes proposed to Articles 10 and 11 will update preservation practices and policies and help streamline the designation and permit review processes.
5. Therefore, the HPC recommends *approval of Article 11 with modifications in the draft dated December 1, 2010 of the proposed Ordinance.*
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

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Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

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POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

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Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

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Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The goal of the proposed Ordinance is to make typographical and clerical errors to the Planning Code, as well as to update Articles 10 and 11 to make it conform to Charter Section 4.135.

7. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will not impact existing housing and neighborhood character.

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The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on December 1, 2010.

Linda D. Avery
Commission Secretary

AYES: Chase, Damkroger, Hasz, Matsuda, Martinez, Wolfram, Buckley

NOES:

ABSENT:

ADOPTED: December 1, 2010

Exhibit A: Draft Ordinance with December 1, 2010 amendments to Article 11

FILE NO.

ORDINANCE NO.

[Planning Code—Article 10]

Comment [MB1]: Global Comment: Wherever a change has been made from the version proposed by the HPC, that change has been called out and discussed in a comment here in the margin.

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

Comment [MB2]: Global Comment: wherever possible, changes have been made to shorten language and remove unnecessary wording for clarity and readability, as well as to remove overly legalistic sounding language and to use plain language, per the City Attorney's requirements for legislative drafting.

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
15 SEC. 1001. PURPOSES.

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

22 (a) The protection, enhancement, perpetuation and use of structures, sites and
23 areas that are reminders of past eras, events and persons important in local, State or national
24 history, or which provide significant examples of architectural styles of the past or are
25 landmarks in the history of architecture, or which are unique and irreplaceable assets to the

1 City and its neighborhoods, or which provide for this and future generations examples of the
2 physical surroundings in which past generations lived;

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

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

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

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

14
15 SEC. 1002. POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE
16 HISTORIC PRESERVATION COMMISSION OF CITY PLANNING AND CITY PLANNING
17 COMMISSION.

18 The ~~Planning Department of City Planning~~ (hereinafter referred to as the "Department")
19 and the ~~Planning Commission~~ Historic Preservation Commission ("HPC") shall have and exercise
20 the powers and shall perform the duties set forth in this Section and elsewhere in this Article
21 10 with respect to historical preservation. ~~The Department and the Planning Commission shall be~~
22 ~~advised in the exercise and performance of their powers and duties by the Landmarks Preservation~~
23 ~~Advisory Board hereinafter created.~~

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

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

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

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

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

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

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

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

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

24 (9) Shall review and provide written reports to the Planning Commission and Board of
25 Supervisors on ordinances and resolutions concerning historic preservation issues and historic

1 resources; redevelopment project plans; waterfront land use and project plans; and such other matters
2 as may be prescribed by ordinance;

3 (10) Shall have the authority to recommend approval, disapproval, or modification of
4 historical property contracts pursuant to the Mills Act (Cal. Govt. Code Section 50280 et seq.) to the
5 Board of Supervisors, without referral or recommendation of the Planning Commission; and

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

13 (b) The Department and the ~~Planning Commission~~HPC:

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

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

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

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

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

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

7 SEC. 1003. LANDMARKS PRESERVATION ADVISORY BOARD HISTORIC
8 PRESERVATION COMMISSION.

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

16 (a) *In making appointments, the Mayor may consult persons and organizations interested in*
17 *historical preservation. Appointees to the Advisory board shall be persons specially qualified by reason*
18 *of training or experience in the historic and cultural traditions of the City, and interested in the*
19 *preservation of its historic structures, sites and areas. The voting members shall be residents of the*
20 *City.*

21 Charter Section 4.135 created the HPC, which shall advise the City on historic preservation
22 matters, participate in processes that involve historic or cultural resources, and take such other actions
23 concerning historic preservation as may be prescribed by ordinance. The HPC shall consist of seven
24 members nominated by the Mayor and subject to approval by a majority of the Board of Supervisors.
25 Of the original appointments to the HPC, four shall be for a four-year term and three for a two-year

1 term as follows: the odd-numbered seats shall be for four-year terms and the even-numbered seats shall
2 be for two-year terms. After the expiration of the original terms, all appointments shall be for four-
3 year terms, provided however, that a member may holdover until a successor has been nominated by
4 the Mayor and approved by the Board of Supervisors. There shall be no limit on the number of terms a
5 member may serve. Members may be removed by the appointing officer only pursuant to Charter
6 Section 15.105.

7 Within 60 days of the expiration of a term or other vacancy the Mayor shall nominate a
8 qualified person to fill the vacant seat for the term, or the remainder of the term, subject to approval by
9 a majority of the Board of Supervisors who shall hold a public hearing and vote on the nomination
10 within 60 days of the Mayor's transmittal of the nomination to the Clerk of the Board of Supervisors. If
11 the Mayor fails to make such nomination within 60 days, the nomination may be made by the President
12 of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors. The
13 appointment shall become effective on the date the Board of Supervisors adopts a motion approving the
14 nomination or after 60 days from the date the Mayor transmits the nomination to the Clerk of the Board
15 of Supervisors if the Board of Supervisors fails to act.

16 (a) In addition to the specific requirements set forth below, members of the HPC shall be
17 persons specially qualified by reason of interest, competence, knowledge, training and experience in
18 the historic, architectural, aesthetic, and cultural traditions of the City, interested in the preservation of
19 its historic structures, sites and areas, and residents of the City. Six of the members of the HPC shall
20 be specifically qualified in the following fields:

21 (1) Seats 1 and 2: licensed architects meeting the Secretary of the Interior's Professional
22 Qualifications Standards for historic architecture;

23 (2) Seat 3: an architectural historian meeting the Secretary of the Interior's Professional
24 Qualifications Standards for architectural history with specialized training and/or demonstrable
25 experience in North American or Bay Area architectural history;

1 (3) Seat 4: an historian meeting the Secretary of the Interior's Professional Qualifications
2 Standards for history with specialized training and/or demonstrable experience in North American or
3 Bay Area history;

4 (4) Seat 5: an historic preservation professional or professional in a field such as law, land
5 use, community planning or urban design with specialized training and/or demonstrable experience in
6 historic preservation or historic preservation planning.

7 (5) Seat 6 shall be specially qualified in one of the following fields or in one of the fields set
8 forth for Seats 1, 2, or 3:

9 (i) A professional archeologist meeting the Secretary of the Interior's Professional
10 Qualification Standards for Archeology;

11 (ii) A real estate professional or contractor who has demonstrated a special interest,
12 competence, experience, and knowledge in historic preservation;

13 (iii) A licensed structural engineer with at least four years of experience in seismic and
14 structural engineering principals applied to historic structures; or

15 (iv) A person with training and professional experience with materials conservation.

16 (6) Seat 7 shall be an at large seat subject to the minimum qualifications set forth above.

17 (b) The Planning Director of City Planning, or his delegate, shall assume the powers and
18 duties that would otherwise be executed by an HPC department head serve as Secretary of the Advisory
19 Board, without vote. The Department shall render staff assistance to the Advisory Board HPC.
20 The HPC may review and make recommendations on the Department budget and on any rates, fees,
21 and similar charges with respect to appropriate items coming within the HPC's jurisdiction to the
22 Director of Planning or the Planning Commission

23 (c) The Advisory Board HPC shall elect a Chairman President from among its voting
24 members, and shall establish rules and regulations for its own organization and procedure.

Comment [MB3]: HPC version used "the Director of City Planning". A global change was made throughout this Article to conform to current use of "Planning Director."

Comment [MB4]: I deleted "voting" here because, unlike the LPAB, the HPC has no non-voting members.

Comment [MB5]: This comment applies to this entire section 1003: It is not necessary to include this language here and doing so does not conform to the standards used in other sections of the Municipal Code. The Charter, which is the controlling legislation, establishes these exact requirements and the Charter is the appropriate place for such requirements. Adding it here as well is repetitive and could create confusion. I would recommend instead adding a short cross-reference to Charter Section 4.125.

1 SEC. 1004. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

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

Comment [MB6]: HPC version said "under the Planning Code".

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

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

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

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

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

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

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

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

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

19
20 SEC. 1004.1. NOMINATION AND INITIATION OF LANDMARK AND HISTORIC DISTRICT
21 DESIGNATION.

22 (a) Nomination. the Department, property owner(s), or member of the public may request
23 the HPC initiate designation of a property as a landmark site or historic district. A nomination for
24 initiation shall contain supporting historic, architectural, and/or cultural documentation, as well as any
25 additional information the HPC may require. For the nomination of a landmark site, the Department

1 shall schedule a hearing before the HPC no later than 30 days from the date a completed nomination
2 application, as determined by the Department, has been submitted by the applicant.

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) *upon submittal of a complete nomination application pursuant to subsection (a) above.*

11 The HPC shall confirm the imitation of designation at a public hearing no later than 30 days from the
12 date of submittal of the complete nomination application. Failure to confirm initiation within 30 days
13 from the date of submittal shall constitute disapproval of initiation.

14 (2) *For an Historic District:*

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

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

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

24
25 **SEC. 1004.2. ~~REFERRAL TO LANDMARKS PRESERVATION ADVISORY BOARD.~~**

Comment [MB7]: Thought this should be added to make clear that it's the Dept, not the applicant, that determines when the application is complete, and thus starts the clock ticking on the permit holds.

Comment [MB8]: This subsection (a) was edited and shortened for readability and clarity. With the exception of the change referenced immediately above, none of these changes were substantive.

Comment [MB9]: This language was changed to "by resolution". A resolution of intention is not legally effective, thus to have legal effect (i.e. to start the 180-day permit hold running) this action must be made by resolution.

Comment [MB10]: This language was edited to make it clear that the HPC had to make a decision to confirm within 30 days, not just conduct the hearing, without making a decision.

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

8
9 ~~SEC. 1004.3. HEARING BY CITY PLANNING COMMISSION DECISION BY THE HISTORIC~~
10 ~~PRESERVATION COMMISSION.~~

Comment [MB11]: Global Edit:
HPC version used "HPC" here, but
should be spelled out in all subheadings.

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

Comment [MB12]: Language deleted
as unnecessary. The HPC already sets
time and place for its public hearing
under its rules, so this isn't needed here.
And, City and state laws, (e.g. Brown
Act, Sunshine Ord) require that any
meeting of the HPC be at a public
hearing, with notice, etc...

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

Comment [MB13]: This highlighted
phrase was edited for clarity and to
shorten

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.

Comment [MB14]: As currently drafted here, there is no time limit for a hearing when the initiation is not made by the BOS. Does the HPC/Department want to add one?

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 an 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.~~

Comment [MB15]: This subsection (d) was edited for clarity regarding the following points:
1. Landmark and district designations would only be referred on from the HPC if the HPC recommends "approval". Otherwise, the HPC's decision is final (under the Charter) and thus does not get referred to any other body.
2. It's the Dept's responsibility to make sure both the HPC and CPC review the district approval recommendations and to send them to the BOS together.

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

Comment [MB16]: The numbering was redone to eliminate use of "Intentionally Left Blank" wherever possible.

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, 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.

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

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

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

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

SEC. 1005. CONFORMITY AND PERMITS.

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

(b)

(1) Installation of a new general advertising sign is prohibited in any ~~H~~historic ~~D~~district or on any historic property regulated by this Article 10.

(2) The Central Permit Bureau shall not issue, and no other City department or agency shall issue, any permit for construction, alteration, removal or demolition of a structure

1 or any permit for work involving a sign, awning, marquee, canopy, mural or other appendage
2 on a landmark site or in an ~~Historic District~~ *historic district*, except in conformity with the
3 provisions of this Article 10. In addition, no such permit shall be issued unless all other
4 applicable laws and regulations have been complied with.

5 (c)

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

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

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

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

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

Comment [MB17]: This phrase was added to indicate of how "conformity" would be achieved, which was ambiguous.

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

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

Comment [MB18]: This sentence was edited for clarity and readability, however the substance was not changed.

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

1 (4) ~~When the application is for a permit to comply with the UMB Seismic Retrofit~~
2 ~~Ordinances and the Zoning Administrator determines that the proposed work complies with the UMB~~
3 ~~Retrofit Architectural Design Guidelines, which guidelines shall be adopted by the Planning~~
4 ~~Commission.~~

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

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

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

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

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

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

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

1 (2) Where the mural is proposed to be added to a landmark or contributory structure
2 in a historic district, located on property that is not owned by the City, a Certificate of
3 Appropriateness shall be required. The ~~Advisory Board~~HPC shall not act on the Certificate of
4 Appropriateness until the Art Commission has provided advice to the ~~Advisory Board~~HPC on
5 the mural. The Art Commission shall provide advice to the ~~Advisory Board~~HPC within 50 days
6 of receipt of a written request for advice and information regarding the proposed mural.

7
8 SEC. 1006. CERTIFICATE OF APPROPRIATENESS REQUIRED.

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

Comment [MB19]: This sentence was moved up from the end of this section for clarity and readability.

12 (1) Any construction, alteration, removal or demolition of a structure or any work
13 involving a sign, awning, marquee, canopy, mural (as set forth in Planning Code Section
14 1005(g), or other appendage, for which a City permit is required, on a landmark site or in a
15 historic district;

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

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

Comment [MB20]: This list is in the alternative, not conjunctive.

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

1 ~~A Certificate of Appropriateness shall be required and shall govern review of permit~~
2 ~~applications as provided in Sections 1005(e) and 1005(g), except in the specific cases set forth in~~
3 ~~Section 1005(e).~~ The procedures, requirements, controls and standards in Sections 1006
4 through 1006.8 shall apply to all applications for Certificates of Appropriateness; provided,
5 however, that the designating ordinance for a historic district, or for a City-owned park,
6 square, plaza or garden on a landmark site, may modify or add to these procedures,
7 requirements, controls and standards.

8
9 SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS.

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

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

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

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

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

17
18 SEC. 1006.2. REVIEW BY PLANNING DEPARTMENT OF CITY PLANNING AND CITY
19 PLANNING COMMISSION.

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

21 (1) ~~In the case of any alteration of a structure or any work involving a sign, awning,~~
22 ~~marquee, canopy or other appendage, or exterior changes in a historic district visible from a public~~
23 ~~street or other public place, or alterations to a City owned park, square, plaza or garden on a~~
24 ~~landmark site, where a Certificate of Appropriateness is required, the application for said Certificate~~
25 ~~shall be reviewed by the Department with the advice of the Advisory Board. The department, with the~~

1 ~~advice of the Advisory Board, shall determine within 20 days after the application is accepted for filing,~~
2 ~~whether or not the proposal would have a significant impact upon, or is potentially detrimental to, the~~
3 ~~landmark site or historic district; and the Department shall notify the applicant of the determination~~
4 ~~made. If it is determined that there would be no such significant impact or potential detriment, the~~
5 ~~Department shall issue a Certificate of Appropriateness to the applicant.~~

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

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

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

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

20 (1) Work to perform ordinary maintenance and repairs, which for the purpose of this Article
21 10 shall mean any work the sole purpose and effect of which is to correct deterioration, decay, or
22 damage;

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

Comment [MB21]: HPC version had indicated this deletion at the end of the new language. For readability and clarity, the deletion was moved to the beginning; however, this is the same deletion.

Comment [MB22]: This sentence was edited to remove passive voice.

Comment [MB23]: The subheading "Minor Alterations" was deleted because several of these subheadings address this topic, not just (a).

Comment [MB24]: Reference to the appeal process was deleted here as unnecessary because the appeal process is described in this same section.

Comment [MB25]: The language regarding "but not limited to" was deleted here because it is not necessary if (3) is here because (3) is a catch-all that means the HPC can delegate anything else it sees fit.

Comment [MB26]: HPC version used "and" here however this list is not conjunctive, but rather in the alternative, thus "or" is appropriate. Otherwise, the project would have to meet all three criteria.

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

2 (b) An Administrative Certificate of Appropriateness for Minor Alteration work may be
3 approved by the Department without a hearing before the HPC. The Department shall mail the
4 Department's written decision on an Administrative Certificate of Appropriateness to the applicant and
5 to any individuals or organizations who so request. Any Departmental decision on an Administrative
6 Certificate of Appropriateness may be appealed to the HPC within 15 days of the date of the written
7 decision. The HPC may also request review of any Departmental decision on an Administrative
8 Certificate of Appropriateness by its own motion within 30 days of the written decision.

9 (c) Applications for a Certificate of Appropriateness that are not Minor Alterations
10 delegated to Department staff shall be scheduled for hearing by the HPC pursuant to Sections 1006.3
11 and 1006.5 below.

12 SEC. 1006.3. SCHEDULING AND NOTICE OF HEARING.

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

20 ~~(a)~~ (1) By mail to the applicant not less than 20 days prior to the date of the hearing;

21 (b) By mail not less than 10 days prior to the date of the hearing to the owners of all real
22 property that is the subject of the application and, if said property is in a historic district, to the owners
23 of all real property within the historic district, using for this purpose the names and addresses of the
24 owners as shown on the latest citywide assessment roll in the office of the Tax Collector. Failure to
25

Comment [MB27]: The language regarding delegation was deleted here because the term "Administrative Certificate of Appropriateness" is a defined term that only including Minor Alterations that have been delegated by HPC to staff.

Comment [MB28]: took out "approving" because the Dept could deny.

Comment [MB29]: This section was edited to add a 30-day time limit on when the HPC can request review of the Department's written decision to provide some certainty for the applicant and for other City decisionmakers. If 30 days isn't long enough, a longer time may be appropriate.

Comment [MB30]: This subsection (c) was edited for clarity, but not substance.

Comment [MB31]: This highlighted section was added to provide for only one noticing procedure for any HPC hearing on a C of A. The HPC's version had two different noticing procedures—one for "required" hearings and one for appeals of Admin C of A's. It seemed unnecessary to have two different noticing procedures for hearings before the HPC, so this was consolidated into one noticing requirement for all types of hearings.

1 *send notice by mail to any such property owner where the address of such owner is not shown on such*
2 *assessment roll shall not invalidate any proceedings in connection with such action;*

3 *(c) — By publication at least once in a newspaper of general circulation in the City not less*
4 *than 20 days prior to the date of the hearing;*

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

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

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

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

13 *~~(4)~~(6) Such other notice as the Department shall deem appropriate.*

14 *(b) For the purposes of mailed notice, the latest citywide assessment roll for names and*
15 *addresses of owners shall be used, and all efforts shall be made to the extent practical, to notify*
16 *occupants of properties in the notification area.*

Comment [MB32]: The HPC version included a sentence here that stated that failure to send notice to a property owner whose address is not on the assessment roll would not invalidate any procedures was deleted. This language was not necessary and could be read as overly constraining on the City's authority. Case law has held that even if the City failed to send notice to people whose correct address the City did have, that would still not necessarily invalidate any proceeding. Courts have held that notice does not have to be perfect.

17
18 **SEC. 1006.4. ~~INTENTIONALLY LEFT BLANK. REFERRAL TO ADVISORY BOARD PRIOR~~**
19 **~~TO HEARING.~~**

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

1
2 SEC. 1006.5.CONDUCT OF HEARING; DECISION.

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

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

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

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

16 (d) Decision. ~~The HPC shall approve, disapprove, or~~ approve with modifications
17 ~~Certificates of Appropriateness for work to designated landmarks or within historic districts, except~~
18 ~~where it delegates such decisions to Departmental staff under the provisions of Section 1006.2 above.~~
19 The decision of the ~~Planning Commission~~HPC shall be rendered within 30 days from the date of
20 conclusion of the hearing; failure of the ~~Commission~~ HPC to act within the prescribed time shall
21 be deemed to constitute disapproval of the application. The decision of the ~~Planning~~
22 ~~Commission~~HPC ~~in either approving or, disapproving the application pursuant to Section 1006.6,~~
23 shall be final except upon the filing of a valid appeal to the Board of Appeals or Board of
24 Supervisors as provided in Section 1006.8. ~~The decision of the Planning Commission, in~~
25 ~~suspending action on an application pursuant to Section 1006.6, shall be final.~~ If the ~~Planning~~

Comment [MB33]: Changed from "modify" to approve with modifications". "Modify" made sense when this section concerned the Planning Commission modifying a Certificate of Appropriateness the HPC had already acted on. Now, the HPC is the first entity to approve, so "approve with modifications" is appropriate.

Comment [MB34]: highlighted language added for consistency.

Comment [MB35]: Highlighted language deleted as unnecessary because the first line of this subsection (d) defines what type of decision the HPC is making.

1 ~~Commission~~HPC, or the *Board of Appeals or* Board of Supervisors on appeal, approves the
2 application, ~~or after the expiration of any suspension period imposed by the Commission~~, the
3 Department shall issue a Certificate of Appropriateness to the applicant.

Comment [MB36]: The HPC should be retained here so that it's clear that the Department has to issue to Certificate of Appropriateness once the HPC make a non-appealed decision.

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

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

15 (g) Reconsideration. Whenever an application has been disapproved by the
16 ~~Planning Commission~~HPC, or by the *Board of Appeals or* Board of Supervisors on appeal as
17 described in Section 1006.8, no application, the same or substantially the same as that which
18 was disapproved, shall be resubmitted to or reconsidered by the ~~Planning Commission~~HPC
19 within a period of one year from the effective date of final action upon the earlier application.
20

21 SEC. 1006.6. NATURE OF ~~PLANNING COMMISSION~~THE HPC'S DECISION.

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

24 (a) If the application for a Certificate of Appropriateness proposes construction or
25 alteration of a structure or any work involving a sign, awning, marquee, canopy, mural or other

1 appendage, or exterior changes in a historic district visible from a public street or other public
2 place, the ~~Planning Commission~~HPC shall approve ~~or~~, disapprove, or modify the application in
3 whole or in part.

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

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

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

1
2 SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS.

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

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

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

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

22 ~~(c)(d)~~ For applications pertaining to property in historic districts, other than on a
23 designated landmark site, any new construction, addition or exterior change shall be
24 compatible with the character of the historic district as described in the designating ordinance;
25 and, in any exterior change, reasonable efforts shall be made to preserve, enhance or restore,

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

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

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

16
17 SEC. 1006.8. APPEALS ~~FROM PLANNING COMMISSION DECISION~~ OF A CERTIFICATE
18 OF APPROPRIATENESS.

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

1 ~~Board of Supervisors in accordance with this Section. An action of the Commission on a~~ Any
2 Certificate of Appropriateness so appealed ~~from~~ shall not become effective unless and until
3 approved by the Board of Appeals or Board of Supervisors in accordance with this Section.
4 Nothing in this Section shall be construed to authorize the appeal of any decision under
5 Section 1006.6 of this Article 10 to suspend action on an application.

6 (b) Notice of Appeal. Any appeal under this Section shall be taken by filing written
7 notice of appeal with the Board of Appeals or Clerk of the Board of Supervisors, whichever entity
8 is appropriate under the requirements of subsection 1006.8(a), within 30 days after the date of
9 action by the ~~Planning Commission~~ HPC or Planning Commission. ~~In the case of a historic district,~~
10 ~~the notice of appeal shall be subscribed by the owners of at least 20 percent of the property affected by~~
11 ~~the proposed Certificate of Appropriateness; for the purposes of this calculation, the property affected~~
12 ~~shall be deemed to be all property within the historic district. In the case of a landmark not in a historic~~
13 ~~district, the notice of appeal shall be subscribed by the property owner, or by any governmental body~~
14 ~~or agency, or by an organization with a recognized interest in historical preservation.~~

Comment [MB37]: The CPC was added here because to clarify that the CPC's decision would also be appealable to the BOS or BOA if the CPC modifies the HPC's decision under the multiple Planning approvals provisions.

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

Comment [MB38]: Added for clarity.

1 such time limit shall be deemed to constitute approval by the Board of the ~~action~~decision of the
2 HPC or Planning Commission.

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

5 (e) —Decisions Affecting City Hall. The provisions of this Subsection shall govern
6 decisions by the ~~City Planning Commission~~HPC on a Certificate of Appropriateness for
7 alteration work to be done at City Hall, in lieu of any other provision set forth above. Upon the
8 approval or disapproval by the ~~City Planning Commission~~HPC of a Certificate of
9 Appropriateness for alteration of City Hall, the Secretary of the ~~City Planning Commission~~HPC

10 shall transmit to the Clerk of the Board of Supervisors written notification of the
11 ~~Commission~~HPC's decision. The Clerk shall set a time and place for hearing on the decision,
12 which shall be not less than 10 nor more than 30 days after receipt of such notification. The
13 Board of Supervisors may ~~either~~ approve, disapprove, or ~~modify~~ the ~~Commission's~~ HPC's

14 decision by majority vote. The Board of Supervisors must take this action within 30 days of the
15 time set for the hearing thereon, provided that, if the full membership of the Board is not
16 present on the last day on which said hearing is set or continued within said period, the Board
17 may postpone said hearing and decision thereon until, but not later than, the full membership
18 of the Board is present; provided further, that the latest date to which said hearing and
19 decision may be so postponed shall be not more than 90 days from the date of the receipt of
20 written notification. Failure of the Board of Supervisors to act within such time limit shall be
21 deemed to constitute approval by the Board of the action of the ~~City Planning Commission~~HPC.

Comment [MB39]: "Either" was deleted because there are 3 possible choices, not 2.

Comment [MB40]: Edited to add back "modify" per Charter Section 4.125. The BOS had the authority to modify the HPC's decision under the Charter.

22
23 SEC. 1007. UNSAFE OR DANGEROUS CONDITIONS.

24 None of the provisions of this Article 10 shall be construed to prevent any measures of
25 construction, alteration, or demolition necessary to correct the unsafe or dangerous condition

1 of any structure, other feature, or part thereof, where such condition has been declared
2 unsafe or dangerous by the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building
3 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety, and where the
4 proposed measures have been declared necessary, by such official, to correct the said
5 condition; provided, however, that only such work as is absolutely necessary to correct the
6 unsafe or dangerous condition may be performed pursuant to this Section. In the event any
7 structure or other feature shall be damaged by fire, or other calamity, or by Act of God or by
8 the public enemy, to such an extent that in the opinion of the aforesaid officials it cannot
9 reasonably be repaired and restored, it may be removed in conformity with normal permit
10 procedures and applicable laws.

11

12 SEC. 1008. COMPLIANCE WITH MAINTENANCE REQUIREMENTS.

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

21

22 SEC. 1009. ADVICE AND GUIDANCE TO PROPERTY OWNERS.

23 The ~~Advisory Board~~ HPC may, upon request of the property owner, render advice and
24 guidance with respect to any proposed work for which a Certificate of Appropriateness is not
25 required, on a designated landmark site or in a designated historic district. In rendering such

1 advice and guidance, the ~~Advisory Board~~HPC shall be guided by the purposes and standards
2 in this Article 10. This Section shall not be construed to impose any regulations or controls
3 upon any property.

4
5 SEC. 1010. PROPERTY OWNED BY PUBLIC AGENCIES.

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

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

Comment [MB41]: This final phrase was edited to clarify that the procedures of this Article need to be followed. Using "pursuant to" here would mean that the Certificate of Appropriateness would only be required if this Article required it, which is circular.

Comment [MB42]: This sentence was edited to clarify that, if a permit is required for the work, that permit must get a Certificate of Appropriateness.

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

5 SEC. 1011. RECOGNITION OF STRUCTURES OF MERIT.

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

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

17 (c) The ~~Planning Commission, with the advice of the Advisory Board,~~HPC may authorize
18 such steps as it deems desirable to recognize the merit of, and to encourage the protection,
19 enhancement, perpetuation and use of any such listed structure, or of any designated
20 landmark or any structure in a designated historic district, including but not limited to the
21 issuance of a certificate of recognition and the authorization of a plaque to be affixed to the
22 exterior of the structure; and the ~~Planning Commission~~HPC shall cooperate with appropriate
23 State and federal agencies in such efforts.

24 (d) The ~~Planning Commission, with the advice of the Advisory Board,~~HPC may make
25 recommendations to the Board of Supervisors and to any other body or agency responsible,

1 to encourage giving names pertaining to San Francisco history to streets, squares, walks,
2 plazas and other public places.

3

4 SEC. 1013. ENFORCEMENT AND PENALTIES.

5 Enforcement and Penalties shall be as provided in Sections 176 and 176.1 of this
6 Code.

7

8 SEC. 1014. APPLICABILITY.

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

16 (1) For proposed landmark sites: 180 days after the date of initiation;

17 (2) For historic districts: 1 year after the date of initiation.

18 The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to
19 180 days of either of the above-time periods. If final action on such designation has not been
20 completed before the end of the relevant time period, the permit application may be approved.

21 (b) The provisions of this Article 10 shall be inapplicable to the construction,
22 alteration or demolition of any structure or other feature on a landmark site or in a historic
23 district, where a permit for the performance of such work was issued prior to the effective date
24 of the designation of the said landmark site or historic district, and where such permit has not

25

Comment [MB43]: The HPC's version stated that "on initiation" the 180 day permit hold would apply. This raises an unlawful delegation issue. One of the ways "initiation" is defined above is upon the completed application by a private party. Thus, as previously drafted, this would have allowed a private party to file an application for landmarking and, once the application is deemed complete, a 180 day permit hold would commence. The City can not allow a non-City entity to bind its regulatory and decision-making authority in that way.

1 expired or been cancelled or revoked, provided that construction is started and diligently
2 prosecuted to completion in accordance with the Building Code.

3 (c) Notwithstanding subsection (a) above, the Department may approve a permit to
4 construct, alter, or demolish a structure or other feature on a proposed landmark site or in a proposed
5 historic district during the pendency of a proposed designation if the property owner or authorized
6 agent of the property owner applies for and is granted approval of a Certificate of Appropriateness for
7 such work pursuant to the requirements of this Article 10.

Comment [MB44]: This subsection (c) was edited for clarity and to more closely follow subsection (a).

8
9 SEC. 1015. - SEVERABILITY.

10 If any Section, Subsection, Subdivision, Paragraph, sentence, clause or phrase of this
11 Article 10 or any part thereof, is for any reason held to be unconstitutional or invalid, such
12 decision shall not affect the validity of the remaining portions of this Article 10 or any part
13 thereof. The Board of Supervisors hereby declares that it would have passed each Section,
14 Subsection, Subdivision, Paragraph, sentence, clause or phrase thereof, irrespective of the
15 fact that any one or more Sections, Subsections, Subdivisions, Paragraphs, sentences,
16 clauses or phrases be declared unconstitutional.

17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 Marlena G. Byrne
21 Deputy City Attorney

FILE NO.

ORDINANCE NO.

[Planning Code—Article 11]

Comment [MB1]: Global Comment: Wherever a change has been made from the version proposed by the HPC, that change has been called out and discussed in a comment here in the margin.

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

Comment [MB2]: Global Comment: wherever possible, changes have been made to shorten language and remove unnecessary wording for clarity and readability, as well as to remove overly legalistic sounding language and to use plain language, per the City Attorney's requirements for legislative drafting.

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 Section 1. The San Francisco Planning Code is hereby amended by amending Article
12 11, to read as follows:

13
14 SEC. 1101. FINDINGS AND PURPOSES.

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

22 (b) It is further found that distinct and definable subareas within the C-3 District
23 possess concentrations of buildings that together create a unique historic, architectural, and
24 aesthetic character which contributes to the beauty and attractiveness of the City. The quality
25

1 of these geographic areas has been and continues to be degraded by the unnecessary
2 demolition of buildings of substantial architectural and aesthetic merit, by their replacement
3 with buildings which conflict with the character and scale of the area, and by alteration of
4 buildings in a manner which conflicts with the character and scale of the area.

5 (c) It is therefore declared that the protection, enhancement, and perpetuation of
6 buildings and definable subareas of special architectural, historical, and aesthetic interest is
7 necessary to promote the health, safety, prosperity and welfare of the people of the City.
8 Accordingly, the purposes of this Article are:

9 (1) The protection, enhancement, and perpetuation of structures and subareas of
10 special architectural, historical, and aesthetic character which contribute to the urban
11 environment;

12 (2) The maintenance and improvement of a healthy economy for the City by
13 enhancing both property values and the City's attractiveness as a place to do business;

14 (3) The protection and improvement of the City's attractiveness to tourists and other
15 visitors, and the stimulus to business provided thereby;

16 (4) The enrichment of the educational, cultural, aesthetic and spiritual life of the
17 inhabitants of the City by fostering knowledge of the heritage of the City's past and retaining
18 the quality of the City's urban environment.

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

1 compatible replacement or alteration of Unrated buildings in Conservation Districts, as defined
2 herein.

3 SEC. 1102. STANDARDS FOR DESIGNATION OF BUILDINGS.

4 The buildings in the C-3 Districts are divided into five categories according to the
5 Building Rating methodology as set forth and explained in the Preservation of the Past section
6 of the Downtown Plan, a component of the ~~Master~~ General Plan. Those categories are as
7 follows:

8 (a) Significant Buildings - Category I. Buildings which:

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

12 Architectural Design and Relationship to the Environment.

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

- 14 (1) Which meet the standards in Section 1102(a) above; and
15 (2) To which, because of their depth and relationship to other structures, it is
16 feasible to add different and higher replacement structures or additions to height at the rear of
17 the structure, even if visible when viewing the principal facades, without affecting their
18 architectural quality or relationship to the environment and without affecting the appearance of
19 the retained portions as separate structures when viewing the principal facades. The
20 designation of Category II Buildings shall identify for each building the portion of the building
21 beyond which such additions may be permitted.

22 (c) Contributory Buildings - Category III. Buildings which:

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

1 (3) Are judged to be Buildings of Individual Importance; and

2 (4) Are rated either Very Good in Architectural Design or Excellent or Very Good in

3 Relationship to the Environment.

4 (d) Contributory Buildings - Category IV. Buildings which:

5 (1) Are located in a designated Conservation District; and

6 (2) Are at least 40 years old; and

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

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

11 (e) Unrated Buildings - Category V. Buildings which are not designated as
12 Significant or Contributory.

13 SEC. 1102.1. DESIGNATION OF BUILDINGS.

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

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

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

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

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

23 (e) Unrated Buildings - Category V. All buildings in the C-3 District not otherwise
24 designated in this Section are hereby designated as Unrated - Category V.
25

1 SEC. 1103. STANDARDS FOR DESIGNATION OF CONSERVATION DISTRICTS.

2 Portions of the C-3 District may be designated as Conservation Districts if they contain
3 substantial concentrations of buildings that together create subareas of special architectural
4 and aesthetic importance. Such areas shall contain substantial concentrations of Significant
5 and Contributory Buildings and possess substantial overall architectural, aesthetic or historic
6 qualities justifying additional controls in order to protect and promote those qualities.
7

8 SEC. 1103.1. CONSERVATION DISTRICT DESIGNATIONS.

9 The following Conservation Districts are hereby designated for the reasons indicated in
10 the appropriate Appendix:

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

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

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

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

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

21 (f) The Pine-Sansome Conservation District is hereby designated as set forth in
22 Appendix J.
23

24 SEC. 1104. INTENTIONALLY LEFT BLANK. NOTICE OF DESIGNATION.
25

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

4 (b) ~~— With respect to buildings designated Significant or Contributory by this ordinance,~~
5 ~~notice shall also be given by posting each such building in a conspicuous place as well as by~~
6 ~~publication pursuant to the provisions of California Government Code Section 6064. The notice shall~~
7 ~~state that the owner of every building so designated has the right to request a change of designation~~
8 ~~and the time permitted for making such a request.~~

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

12 SEC. 1105. ~~INTENTIONALLY LEFT BLANK. RECONSIDERATION OF DESIGNATION.~~

13 (a) ~~— Request for Reconsideration. Within 45 days of the effective date of this ordinance, a~~
14 ~~request for reconsideration and change of a designation may be filed by any affected property owner,~~
15 ~~by any organization or group which has historic preservation stated as one of its goals in its bylaws or~~
16 ~~articles of incorporation, or the application of at least 50 registered voters of the City, based on the~~
17 ~~grounds that under the standards contained in Section 1102 the designation set forth in this ordinance~~
18 ~~is incorrect. Such a request shall be filed with the Department of City Planning on forms provided for~~
19 ~~that purpose. The Department of City Planning shall not accept or act upon any application filed after~~
20 ~~45 days have passed. Once a request for reconsideration has been made as to any building, no~~
21 ~~additional requests shall be accepted as to that building; however, another applicant may seek a~~
22 ~~change of designation different from that sought in the original reconsideration request. Any property~~
23 ~~owner who contends that the designation applicable to its property deprives the owner of a~~
24 ~~constitutionally protected property right, or that, by reason of such application, the property owner is~~
25

1 *entitled to compensation, shall assert such argument in connection with and in aid of the application*
2 *filed under this Section and provide all evidence in the property owner's possession in support of such*
3 *contention.*

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

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

23 *(d) — City Planning Commission Decision. The Planning Commission may approve,*
24 *disapprove, or approve with modifications the reconsideration application. The building shall be*
25 *deemed to be designated according to the decision of the Planning Commission and the provisions of*

this Article 11 applicable to that designation shall apply to the building notwithstanding another designation of the building in Appendices A, B, C or D to this Article.

SEC. 1106. PROCEDURES FOR CHANGE OF DESIGNATION~~AND~~ DESIGNATION OF ADDITIONAL SIGNIFICANT AND CONTRIBUTORY BUILDINGS.

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

Comment [MB3]: Word "Structures" deleted here because designated properties are not referred to that way any where else. Also, the sentence remains grammatically correct without that word.

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

Comment [MB4]: This concept (that there is no referral to the CPC on individual designations) was moved here from below because the BOS needs to know that it would not be referring the matter to the CPC. This concept was in section (c) below, which made it seem like it was the Historic Preservation Commission that did the referring in all instances instead of also the BOS when the designation is initiated by that body.

1 (b) Notice; ~~Referral to the Landmarks Preservation Advisory Board; Referral to the~~
 2 ~~Historic Preservation Commission; Review by the Planning Department of City Planning.~~ Upon
 3 determination by the ~~Zoning Administrator~~Department that a verified application is complete and
 4 contains all necessary information or upon receipt of the motion or resolution of one of the
 5 governmental bodies set forth in Subsection (a) above, the ~~Zoning Administrator~~Department
 6 shall: (1) ~~promptly schedule a hearing before the Historic Preservation Commission on the proposed~~
 7 ~~designation or change of designation; and (2) send notice of the proposed designation or change of~~
 8 ~~designation~~hearing by mail ~~no less than 20 days prior to the date of the hearing~~ to the owner(s) of
 9 the affected property; ~~unless the application is that of the owner; the applicant(s), if any, for the~~
 10 ~~designation or change in designation; to the owners of all properties within 150 feet of the affected~~
 11 ~~property; and to any interested parties who so request in writing to the Department. and (2) promptly~~
 12 ~~refer the matter to the Landmarks Preservation Advisory Board for review and the submittal of a~~
 13 ~~recommendation. The Department of City Planning shall also undertake a study of the proposed~~
 14 ~~designation or change of designation.~~

Comment [MB5]: Deleted this phrase because is a good idea to provide the same notice to the owner as well. Although the owner would presumably know when the hearing is to be scheduled, it is better policy to provide them with the actual hearing notice as well.

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

24 (d) Designation by Board of Supervisors. The Board of Supervisors, or a committee
 25 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 change of designation by a majority vote of all its members.

(e) Appeal to Board of Supervisors. If the ~~Planning~~ Historic Preservation Commission disapproves the proposed designation or change of designation, such action shall be final except upon the filing of a notice of appeal to the Board of Supervisors within 30 days by the applicant or any of the persons, organizations or groups listed in Section 1106(a); provided, however, that if the proposal was initiated by the Board of Supervisors, the Clerk of the ~~said~~ Board shall be notified immediately of the disapproval without the necessity for an appeal.

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

Comment [MB6]: Added "or disapprove" per Charter Section 4.135 and state law requirements regarding the powers of the BOS in approving or disapproving local landmark designations.

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

Comment [MB7]: I did not add the word "public" in front of "hearing" or the language regarding "proposed designation" or change of designation", both of which were in the final HPC version, because those phrases are superfluous—all hearings must be public as required by law; and all "applicable" reports are already required thus it is not necessary to specifically mention that the reports need to concern the proposed designation or change in designation.

(h) Grounds for Designation or Change of Designation. The designation of a building may be changed if (1) changes in the area in the vicinity of a building located outside a Conservation District warrant a change in the rating of the building with respect to its relationship to the environment and therefore place it in a different category, pursuant to Section 1102; or (2) changes in Conservation District boundaries make a building of

Contextual Importance fall outside a Conservation District and therefore no longer eligible for designation as a Contributory building, or, conversely, make a building of Contextual Importance fall within a Conservation District and therefore eligible for designation as a Contributory Building; or (3) changes in the physical features of the building due to circumstances beyond the control of the owner, or otherwise permitted by this Article, warrant placing the building in a different category pursuant to the standards set forth in Section 1102; or (4) restoration of the building to its original quality and character warrants placing the building in a different category pursuant to the standards set forth in Section 1102; or (5) by the passage of time, the building has become at least 40 years old, making it eligible to be considered for designation as a Significant or Contributory building, pursuant to Section 1102; or (6) the discovery of new factual information (for example, information about the history of the building) makes the building eligible for rating as a Building of Individual or Contextual Importance and, therefore, eligible to be designated as a Significant or Contributory Building.

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

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

(a) Initiation of Designation or Boundary Change. The designation of an area of the C-3 District as a Conservation District or the change of District boundaries may be initiated by motion of the Board of Supervisors, by resolution of the ~~Planning~~*Historic Preservation* Commissioner ~~or the Landmarks Preservation Advisory Board~~, upon the verified application of the

Comment [MB8]: The word "may" is more appropriate here (rather than "shall"). "May" indicates that the HPC has this authority (which is created by the Charter, not this Code) and may, of its own accord, choose whether to exercise it or not. Using "shall" here makes it sound like the BOS is ordering the HPC to do this—under the Charter the BOS does not have the authority to order the HPC to do this—rather it's the HPC's decision whether to exercise this authority or not.

1 owners or other authorized agents of greater than 25 percent of the structures in the area
 2 proposed for designation (or, as to an alteration, 25 percent of the structures of the proposed
 3 new district unless it would be an area smaller than the existing district, in which case it shall
 4 be 25 percent of the structures of the existing district), upon the verified application of any
 5 organization or group ~~which~~that has historic preservation stated as one of its goals in its
 6 bylaws or articles of incorporation, or upon the verified application of at least 150 registered
 7 voters of the City. Except in case of an initiation by governmental bodies, any such application
 8 shall contain historic, architectural, and/or cultural documentation to support the designation or
 9 boundary change as well as any additional information that may be required by the application
 10 procedures and policies established by the Historic Preservation Commission be filed with the
 11 Department of City Planning upon forms prescribed by the Department of City Planning, and shall be
 12 accompanied by all data required by said Department.

13 (b) Notice; Referral to the ~~Landmarks Preservation Advisory Board~~Historic Preservation
 14 Commission; Review by the Planning Department of City Planning. ~~Notice, referral to the~~
 15 ~~Landmarks Board and review by the Department of City Planning shall be as provided in Section~~
 16 ~~1106(b) of this Article.~~ If a proposed Conservation District designation or boundary change is initiated
 17 by the Board of Supervisors, the Clerk of the Board shall refer the matter to the Historic Preservation
 18 Commission for its review and recommendation. Upon determination by the Planning Department that
 19 a verified application is complete and contains all necessary information or upon receipt of a motion or
 20 resolution by the Board of Supervisors or the Historic Preservation Commission initiating designation
 21 or a change in designation, the Department shall (1) promptly schedule a hearing before the Historic
 22 Preservation Commission on the proposed district or boundary change; and (2) send notice of the
 23 Historic Preservation Commission hearing by mail no less than 20 days prior to the date of the hearing
 24 to the initiators of the designation or boundary change, to the owners of all lots within the proposed
 25

Comment [MB9]: Added this language per Charter requirement that BOS refer such matters to HPC.

Comment [MB10]: Added a specific reference to exactly which "governmental agencies" can initiate rather than using the generic language.

1 new district or ~~the~~ district being modified, and to any interested parties who make a request in writing
2 to the Department.

Comment [MB11]: I recommend providing notice of any changes to the entire district and not merely the "portion of the district" being modified (which was the limitation in the HPC's prior version).

3 (c) ~~Submittal to the Planning Commission. Submittal to and action by the Planning~~
4 ~~Commission shall be as set forth in Section 1106(e) of this Article. Action by the Historic Preservation~~
5 ~~Commission. The proposed designation or boundary change shall be placed on the agenda of the~~
6 ~~Historic Preservation Commission for public hearing. If the Historic Preservation Commission~~
7 ~~approves or modifies the proposed designation or boundary change in whole or in part, the~~
8 ~~Department shall transmit the Historic Preservation Commission's recommendation together with a~~
9 ~~copy of the Historic Preservation Commission's resolution and with any comments of the Planning~~
10 ~~Commission, as set forth in subsection (d) below, to the Clerk of the Board of Supervisors.~~

Comment [MB12]: I deleted "The Historic Preservation Commission shall determine the appropriate designation or boundary change of the Conservation District." because it's unnecessary language and could also be incorrect if construed to narrowly. The subject of any designation hearing for a district will naturally include recommendations regarding the appropriate boundaries and the HPC had the authority under the Charter to recommend to the BOS approval, approval with modifications, or disapproval of any boundary changes (This is in fact stated in the very next sentence here). However, under both state law requirements and Charter section 4.135, it is up to the BOS to make the ultimate determination regarding the boundaries of any locally designated historic district.

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

Comment [MB13]: This was changed from the HPC version to indicate that the obligation is on the Department to transmit the recommendation because the Department serves both Commissions and the obligation is to both Commissions here and in the Charter.

18 (e) 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 boundary
21 change by a majority vote of all its members.

22 (f) Appeal to Board of Supervisors. If the ~~Planning~~ Historic Preservation Commission
23 disapproves the proposed designation or boundary change, such action shall be final except
24 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 1107(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)(g)~~ Hearing and Decision by the Board of Supervisors. The Board of Supervisors, or a
4 committee thereof, shall hold a public hearing on any such proposal appealed to it ~~or initiated~~
5 ~~by it~~. The Board of Supervisors may uphold the ~~Planning~~ Historic Preservation Commission,
6 overrule the ~~Planning~~ Historic Preservation Commission and approve, ~~or~~ modify and approve,
7 ~~or disapprove~~ the designation or boundary change by a majority vote of all its members.

Comment [MB14]: added "and disapprove" per Charter and state law.

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

Comment [MB15]: The plural for hearing was removed here. As is the custom and practice with all hearings before the HPC, CPC, and BOS, only the first hearing gets the more extensive notice (e.g. mailed notice, posting). Subsequent hearings are noticed only through the meeting agendas because it is understood that if there are continuances or other hearings, everyone noticed will know about it because they have been made aware of the first hearing and will be able to rely on the regular agendas for later notice. Also reference to the report being available was removed because that could establish a requirement that the staff reports, etc would have to be complete 20 days before the hearing, when generally they go out with the packet a week or so ahead of time.

14 ~~(h)(i)~~ Standards Applicable to Designation or Boundary Change. The standards
15 governing the designation and change of District boundaries are those set forth in Section
16 1103. Areas may be removed from Conservation Districts if the character of the area has
17 changed such that the area no longer qualifies under the standards set forth in Section 1103.

Comment [MB16]: This was changed from initiator to applicants because that seemed to be an error. It would be odd to provide notice to the initiators since they are either the BOS or the HPC, neither of which would need notice. However, any private applicants would need this notice.

18 SEC. 1108. NOTICE OF DESIGNATION.

19 When a building has been designated Significant or Contributory or its designation is
20 changed pursuant to Section 1106, or when a new Conservation District is established or the
21 boundary of a Conservation District changed pursuant to Section 1107, the ~~Zoning~~
22 ~~Administrator~~ Planning Department shall notify each affected property owner by mail and shall
23 cause a copy of the ordinance, or notice thereof, to be recorded ~~in the office of with~~ the County
24 Recorder. The Department shall file in its permanent records any new designation or change of
25

Comment [MB17]: This phrase was deleted because (as noted above) I recommend notice be provided to the whole district of any boundary change of an existing district, rather than just those portions that are being added/subtracted.

Comment [MB18]: edit for clarity/language.

designation of a Significant or Contributory Building or a new Conservation District or change of a Conservation District boundary and shall notify the Central Permit Bureau pursuant to Section 1117 of this Article.

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

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

Comment [MB19]: Edits were made to this highlighted section for clarity/grammar. The substance and meaning have not been changed.

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

(b) Contributory Buildings. Lots on which are located buildings designated as Contributory Buildings - Category III or Category IV - are eligible to transfer the difference between the allowable gross floor area permitted on the lot by Section 124 of ~~the~~ this Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section 128 are met. Alteration or demolition of such a building in violation of Section 1110 ~~or Section 1112~~, or alterations or demolitions made without a permit issued pursuant to Sections 1111 through 1111.68, eliminates eligibility for the transfer of TDR; provided,

1 however, that such eligibility may nonetheless be retained or acquired again if, pursuant to
2 Section ~~1114(b)~~1116(b): the property owner demonstrates as to any alteration that it was ~~not~~
3 ~~major, or if the property owner restores the demolished or altered building a Minor Alteration as~~
4 defined herein and has applied for a Permit for Minor Alteration pursuant to Section 1111.1; or that
5 the property owner has obtained a Permit to Alter to restore the original distinguishing qualities and
6 character-defining features that were altered. Once any TDR have been transferred from a
7 Contributory Building, the building is subject to the same restrictions on demolition and
8 alteration as a Significant Building. These restrictions may not be removed by the transfer of
9 TDR back to the building.

Comment [MB20]: I think this conjunction is supposed to be an "or" (the word 'and' appeared the Historic Preservation Commission version). It seems that it would either be one of these two things in the alternative.

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

Comment [MB21]: I recommend having some standards for making this determination regarding whether a building is a "Compatible Replacement" given that it would allow the property owner to sell TDR (per Section 1113).

Comment [MB22]: I deleted language here regarding this determination being a "final administrative decision". The reasons for adding such language are unclear and it does not appear to have any legal effect.

1 SEC. 1110. CONSTRUCTION, ALTERATION OR DEMOLITION OF SIGNIFICANT OR
2 CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

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

20 (a) No person shall carry out or cause to be carried out any construction, alteration,
21 removal or demolition of a structure or any work involving a sign, awning, marquee, canopy, mural, or
22 other appendage, or any new or replacement construction for which a permit is required pursuant to
23 the Building Code, on any designated Significant or Contributory Building or any building in a
24

Comment [MB23]: The words "Permits Required for" was deleted because it could be read as indicating that this section describes all of the permits required for such work. Instead, this section is in addition to whatever other permits may be required in other sections of the Municipal Code, including the Building Code and maybe other Planning Permits, etc.

1 Conservation District unless a permit for such work has been approved pursuant to the provisions of
2 this Article 11.

3 (b) The Historic Preservation Commission shall approve, disapprove, or modify all
4 applications for permits to alter or demolish any Significant or Contributory Buildings or buildings
5 within Conservation Districts, and permits for any new and replacement construction within
6 Conservation Districts, subject to appeal as provided in Section 1115 of this Article 11. The Historic
7 Preservation Commission shall review and act on such permits prior to any other Planning approval
8 action(s). Buildings or areas within the C-3 District designated pursuant to the provisions of both
9 Article 10 and Article 11 shall be regulated pursuant to the procedures of both Articles. In case of
10 conflict, the more restrictive provisions shall apply.

Comment [MB24]: The phrase "have the authority to" was deleted here and throughout because that is the language that grants the authority, which is in the Charter. This Code can not grant the authority (which is already done by the Charter); rather this Code should say that they shall do it.

11 (c) If the proposed work would constitute a demolition as defined in Section 1005(f) of this
12 Code, such work shall, in addition to any other requirements, be subject to the provisions of this Article
13 11 governing demolitions and shall require a "Permit to Demolish." All other proposed construction
14 or alteration of a structure, including any new or replacement construction, or any work involving a
15 sign, awning, marquee, canopy, mural, or other appendage work shall require a "Permit to Alter."

Comment [MB25]: This phrase was added to make clear that an applicant would need to comply with Article 11 AND any other provisions of the Code, not just Article 11.

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

Comment [MB26]: Changed "as to any building" to "if". Also deleted "pursuant to the provisions of this Article" for clarity and because the wording was unnecessary.

19 (e) If at any time following the approval of a Permit to Alter and prior to completion of the
20 proposed work, due to a change in the scope of work or for any other reason, the work would constitute
21 a demolition as defined herein, the owner shall file a new application for a Permit to Demolish.

Comment [MB27]: "Failure to do so is a violation of this Article 11" was deleted here. This language is not necessary because the sentence uses the word "shall", which, legally, is directive and means that it is a mandatory requirement. Additionally, this requirement should not be called out any more than any other mandatory requirement on an applicant – to do so could make it read as if failure to comply with the other mandatory requirements of the Code are not violations of Article 11 if it is not said specifically.

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

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

3 (1) 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; and

6 (2) 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.

Comment [MB28]: The language "on a privately-owned structure or on a publically-owned structure" was deleted because it this includes both private and public, then that includes everything and there's no need to say so.

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.

Comment [MB29]: The language was condensed here into one paragraph for clarity, brevity, and readability. The substance of these requirements was not changed.

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;

Comment [MB30]: Capitalization of this phrase was removed. Capitalization is only used for defined terms, which this is not.

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;

Comment [MB31]: Where did this language come from and what is the rationale for requesting this information?

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:

Comment [MB32]: added this phrase for clarity.

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

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

Comment [MB33]: Confirming that the intent here is to allow newly constructed buildings to sell TDR. Under what circumstances would this determination be made?

SEC. 1111.1. DETERMINATION OF MINOR AND MAJOR ALTERATIONS.

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

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

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

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

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

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

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

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

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

Comment [MB34]: "May" used instead of "shall have the authority to." The Charter, not this Code, grants the HPC this authority. "May" is more appropriate here because the HPC may choose to exercise this authority at its own discretion—i.e., the HPC doesn't have to define major versus minor if it doesn't want to, but only if it wants to delegate the Minor to staff. The HPC could choose to retain approval authority over all Permits to Alter, and that decision is up to the HPC. Thus, "may" is the appropriate word for this Code section.

(1) "Ordinary maintenance and repairs," which for the purpose of this Article shall mean

any work, the sole purpose and effect of which is to correct deterioration, decay, or damage;

Comment [MB35]: changed from "review"—the HPC must approve, not just review. Additional edits were made to this subsection to shorten it but not change substance.

Comment [MB36]: deleted the "and" here and instead used "or". It appears these 3 items are in the alternative, not collective.

1 ~~(3)(2)~~ *The Alterations whose sole purpose and effect of the alteration is to comply with the*
2 *UMB Seismic Retrofit Ordinances and the Zoning Administrator determines that the proposed work*
3 *that complies with the UMB Retrofit Architectural Design Guidelines, which guidelines shall be*
4 *adopted by the ~~Planning~~Historic Preservation Commission; or*

5 *(3) Any other work so delegated to the Department by the Historic Preservation*
6 *Commission.*

7 *(b) Minor Alterations delegated to Department staff shall be approved, approved with*
8 *modifications, or disapproved as a Permit for Minor Alteration by the Department without a hearing*
9 *before the Historic Preservation Commission. The Department shall mail its written decision*
10 *approving a Permit for Minor Alteration to the applicant and any individuals or organizations who*
11 *have so requested in writing to the Department. The Department's decision may be appealed to the*
12 *Historic Preservation Commission within 15 days of the date of the written decision. The Historic*
13 *Preservation Commission may also review the decisions of the Department by its own motion if such*
14 *motion is made within 30 days of the date of the written decision.*

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

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

22 *(d) Permits determined to be for minor alterations shall be returned, with that*
23 *determination noted, to the Central Permit Bureau for further processing; provided, however, that the*
24 *Zoning Administrator may take any action with respect to the application otherwise authorized.*
25

Comment [MB37]: Highlighted language added, imposing a 30 day timeline for the HPC to make a motion to review a Minor Permit to Alter. For due process purposes, it's important to have a timeline for the HPC to review. If 30 days is too short, a longer time period could be used, but there should be some time limit. Additionally, other minor edits were made to this section to shorten it, but they are not substantive.

Comment [MB38]: This language in subsection (c) was rephrased to provide greater clarity, but these edits do not change the substance of the section.

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 Historic District or Conservation*
18 *District or on any 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,*

Comment [MB39]: deleted "installation of". It's the signs that are prohibited, not just their installation.

Comment [MB40]: I recommend deleting the phrase "Historic Districts" here because historic districts are addressed in Article 10, not here. If the HPC wants to address historic districts, then similar language should be included in Article 10.

Comment [MB41]: These subsections (b) and (c) were edited for clarity. Their substance has not been altered.

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

SEC. 1111.3. RECOMMENDATION BY THE DIRECTOR OF PLANNING.

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

REVIEW BY THE PLANNING

DEPARTMENT.

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

Comment [MB42]: This sentence was changed from the passive voice to active.

Comment [MB43]: Rather than list all the types of applications (as in the Historic Preservation Commission version) I changed it to "any other application under this Article"

Comment [MB44]: This highlighted language was edited to track the Charter language more closely and for clarity.

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;

Comment [MB45]: This section was shortened for clarity. The substance has not been altered

Comment [MB46]: added "by mail".

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 113 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

Comment [MB47]: removed references to this "Article" as unnecessary.

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.*

Comment [MB48]: This subsection (c) was edited for clarity and to shorten. The substance was not altered.

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

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

Comment [MB49]: This language was changed add a specific reference to Article 10.

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

17 (b) *The proposed work shall comply with the Secretary of the Interior's Standards for the*
18 *Treatment of Historic Properties, including any Guidelines, Interpretations, Bulletins, or other*
19 *materials that the Historic Preservation Commission has adopted.*

Comment [MB50]: deleted the language "as interpreted by the Historic Preservation Commission" because the Charter provides for appeal to the BOS and the BOA, as well as the CPC in some cases. These bodies have their own authority under the Charter to interpret the Standards upon appeal and can not be bound by the HPC's interpretation.

20 ~~(b)(c)~~ For Significant Buildings - Categories I and II, and for Contributory Buildings -
21 Categories III and IV, proposed alterations of structural elements and exterior features shall
22 be consistent with the architectural character of the building, and shall comply with the
23 following specific requirements:
24
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 is subject to~~
13 ~~the same restrictions on alterations as a Significant Building. These restrictions may not be removed~~
14 ~~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 *The Historic Preservation Commission, Planning Commission, Board of Appeals, and the*
12 *Board of Supervisors (referred to as "Decisionmakers" for the purposes of this Section) shall apply the*
13 *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 *(a) 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 *(i) 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 1119.7, may not be*
25 *included in the calculation of rehabilitation costs; or*

Comment [MB51]: This highlighted section was edited for clarity. Also, the term "Decisionmaker" was added and defined to clarify who/what is making the determinations in the following list.

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

7 (i) The Decisionmaker determine and makes written findings based on substantial evidence
8 in the record that the property retains no substantial remaining market value or reasonable use, taking
9 into account the value of any TDR that may be available to transfer from the property and costs of
10 rehabilitation to meet the requirements of the Building Code or City, State and federal laws. Costs
11 necessitated by alterations or demolition made in violation of Article 10 or 11, or by failure to maintain
12 the property in violation of Section 1119.7, may not be included in the calculation of rehabilitation
13 costs:

14 (ii) 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 (iii) The Decisionmaker determines based on substantial evidence in the record that:

19 (A) 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 (B) The proposed replacement project is compatible with the Conservation District in which
23 the property is located; and

Comment [MB52]: Deleted the phrase "It is found" because it was redundant to the "decisionmaker determining", which is in the lead in section.

1 (C) 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 (c) For Category V Buildings (Not Rated) in Conservation Districts:

5 (i) The Decisionmaker determines that:

6 (A) Based on new documentation presented, the building has not gained additional
7 historical or architectural significance that may make it eligible for classification as a Category I, II,
8 or IV building;

9 (B) The proposed Replacement Building is compatible with the Conservation District in
10 which the property is located; and

11 (ii) Notwithstanding the above, if the building has completed a Compatible Rehabilitation
12 pursuant to Section 1109(c), and has transferred development rights from the property, then the
13 building shall be treated as a Significant Building (Category I and II).

Comment [MB53]: The phrase "notwithstanding the above," added for clarity.

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

Comment [MB54]: Changed to "may" to indicate that the decisionmaker may use this as grounds to deny even if other requirements are met, but they don't have to if there are other considerations.

17 (e) If a building located within a Conservation District (Category II, IV, and V) or a
18 Category III Building located outside of a Conservation District is found to have gained significance
19 pursuant (c)(1) above, then the Permit to Demolish will be reviewed under Subsection (a) or (b) above,
20 and not under Subsection (c).

Comment [MB55]: This highlighted language was edited for clarity, not content.

21 (f) Except for demolitions pursuant to Subsection 1111.7(a), (b), or (c) above, no
22 demolition permit shall be issued by the Department of Building Inspection or any other agency for any
23 building located in a Conservation District until an application for the new or replacement building
24 has been approved in accordance with the standards for new construction in a Conservation Districts

as provided in this Article, and the building or site permit conforming to such approval has been lawfully issued.

SEC. 1112. ~~INTENTIONALLY LEFT BLANK. DEMOLITION OF SIGNIFICANT AND CONTRIBUTORY BUILDINGS AND BUILDINGS IN CONSERVATION DISTRICTS.~~

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

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

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

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

~~(a) For all property:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) ~~— The Zoning Administrator shall approve any application for demolition of a~~
5 ~~Contributory Building in a Conservation District from which no TDR have been transferred, or an~~
6 ~~Unrated Building located in a Conservation District, if a building or site permit has been lawfully~~
7 ~~issued for a replacement structure on the site, in compliance with Section 1113. The Zoning~~
8 ~~Administrator shall approve an application for demolition of a Significant Building—Category II if a~~
9 ~~building or site permit has been lawfully issued for an alteration or replacement structure on the~~
10 ~~portion of the site which would be affected by the demolition, in compliance with Section 1111.6(b)(7).~~

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

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

1 ~~SEC. 1112.3. APPLICATIONS TO DEMOLISH SIGNIFICANT BUILDINGS OR~~
2 ~~CONTRIBUTORY BUILDINGS FROM WHICH TDR HAVE BEEN TRANSFERRED; ACCEPTANCE~~
3 ~~AND NOTICE.~~

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

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

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

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

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

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

21 ~~The Planning Commission may approve, disapprove or approve with conditions, the~~
22 ~~application, and shall make findings relating its decision to the standards set forth in Section 1112.7.~~

The decision of the Planning Commission shall be rendered within 30 days from the date of conclusion of the hearing.

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

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

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

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

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

Comment [MB56]: Rather than say they have to follow the following standards (there is only one), this was edited to clearly indicate what the standard is. This seems cleaner and is still directive on these decisionmakers.

1 (b) Applications for a building or site permit to construct or add to a structure in any
2 Conservation District shall be reviewed and approved or approved with modifications by the
3 Historic Preservation Commission before any other Planning approval action that may be required,
4 including review by the Planning Commission pursuant to the procedures set forth in Section 309
5 and shall only be approved pursuant to Section 309 if they meet the standards set forth
6 herein. For projects that require Section 309 review, the Planning Commission may modify the
7 decision of the Historic Preservation Commission pursuant to Section 1114, provided that the project
8 does not concern a designated Significant (Categories I and II) or a Contributory (Category III)
9 building.

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

18 SEC. 1114. MODIFICATION OF A DECISION OF THE HISTORIC PRESERVATION
19 COMMISSION.

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

23 (a) For projects that require a Conditional Use Authorization or Permit Review under
24 Section 309 and do not concern a Significant Building (Categories I & II) or a Contributory Building
25

Comment [MB57]: The section heading was shortened for clarity.

Comment [MB58]: The word "must" was changed to "shall" here, which is a legal term of art. "Must" has no legal effect, whereas "shall" has specific legal meaning indicating that the requirement is mandatory (which is what I assume is the intent here, per the Charter requirements).

Comment [MB59]: Changed the formatting of this section for clarity.

1 (Category III only), the Planning Commission may modify any decision on a Permit to Alter or Permit
2 to Demolish by a two-thirds vote, provided that the Planning Commission shall apply all applicable
3 historic resources provisions of this Code.

4 (b) For properties located on vacant lots, the Planning Commission may modify any
5 decision on a Permit to Alter by a two-thirds vote, provided that the Planning Commission shall apply
6 all applicable historic resources provisions of this Code.

7 SEC. 1115. APPEAL.

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

Comment [MB60]: The phrase "An action on a Permit to Alter or a Permit to Demolish so appealed from shall not become effective unless and until approved by the Board of Appeals or the Board of Supervisors in accordance with this Section." was deleted here as unnecessary. Under legal requirements and governmental law, decisions on permits are not final as long as an appeal period is running and/or as long as an appeal is pending. Thus this phrase was unnecessary because this is the law anyway.

15 SEC. 1116. UNLAWFUL ALTERATION OR DEMOLITION.

16 (a) In addition to any other penalties provided in Section ~~1119~~1120 or elsewhere,
17 alteration or demolition of a Significant or Contributory Building or any building within a
18 Conservation District in violation of the provisions of this Article shall eliminate the eligibility of
19 the building's lot as a Preservation Lot, ~~and such~~ Such a lot, if it is the site of an unlawfully
20 demolished Significant Building, or Contributory Building from which TDR have been transferred,
21 may not be developed in excess of the floor area ratio of the demolished building for a period
22 of 20 years from the unlawful demolition, if it is the site of an unlawfully demolished Significant
23 Building (Category I or II), or Contributory Building (Category III) or the site of an unlawfully
24 demolished Significant Building (Category I or II), or Contributory Building (Category III) or the site of an unlawfully
25 demolished Significant Building (Category I or II), or Contributory Building (Category III) or the site of an unlawfully

1 ~~demolished Contributory Building (Category IV) from which TDR have been transferred.~~ No
2 department shall approve or issue a permit that would authorize construction of a structure
3 contrary to the provisions of this Section.

Comment [MB61]: This subsection (a) was edited for clarity and to shorten. Substantive changes were not made.

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

Comment [MB62]: Slight language change for clarity and to shorten. Substantive changes were not made..

Comment [MB63]: Edited to remove passive voice.

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

23 Except where explicitly so stated, nothing in this Article shall be construed as relieving
24 any person from other applicable permit requirements. The following requirements are
25

1 intended to insure conformity between existing City permit processes and the provisions of
2 this Article:

3 (a) Upon the designation of a building as a Significant or Contributory Building, or
4 upon the designation of the Conservation District, the ~~Zoning Administrator~~Planning Department
5 shall inform the Central Permit Bureau of said designation or, in the case of a Conservation
6 District, of the boundaries of said District and a complete list of all the buildings within said
7 District and their designations. The Central Permit Bureau shall maintain a current record of
8 such Buildings and Conservation Districts.

9 (b) Upon receipt of any application for a building permit, demolition permit, site
10 permit, alteration permit, or any other permit relating to a Significant or Contributory Building
11 or a building within a designated Conservation District, the Central Permit Bureau shall
12 forward such application to the ~~Planning Department of City Planning, except as provided in~~
13 ~~Section 1111.~~ Planning Department determines that the application is
14 subject to provisions of this Article, processing shall proceed under the provisions of this
15 Article. The Central Permit Bureau shall not issue any permit for construction, alteration,
16 removal or demolition of any structure, or for any work involving a Significant or Contributory
17 Building or a building within a Conservation District unless either the ~~Zoning~~
18 ~~Administrator~~Planning Department has determined that such application is exempt from the
19 provisions of this Article, or processing under this Article is complete and necessary approvals
20 under this Article have been obtained. The issuance of any permit by a City department or
21 agency that is inconsistent with any provision of this Article may be revoked by the
22 ~~Superintendent of the Bureau~~Director of the Department of Building Inspection pursuant to Section
23 ~~303(e)~~106A.4.5 of the San Francisco Building Code.

24 (c) No abatement proceedings or enforcement proceedings shall be undertaken by
25 any department of the City for a Significant or Contributory building or a building within a

1 Conservation District without, to the extent feasible, prior notification of the *Department of City*
2 Planning *Department and the Historic Preservation Commission*. Such proceedings shall comply
3 with the provisions of this Article where feasible.

4 SEC. ~~116~~1118. UNSAFE OR DANGEROUS CONDITIONS.

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

14 SEC. ~~117~~1119. MAINTENANCE REQUIREMENTS AND ENFORCEMENT
15 THEREOF.

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

- 24 (1) Facades which may fall and injure members of the public or property;
25

1 (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor
2 supports, deteriorated walls or other vertical structural supports;

3 (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal
4 members which sag, split or buckle due to defective material or deterioration;

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

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

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

11 (b) Enforcement Procedures. The procedures set forth in Building Code Section 203
12 governing unsafe buildings or property shall be applicable to any violations of this Section.

Comment [MB64]: To Planning Staff: Please confirm that this is still the correct Building Code reference.

13 SEC. ~~119~~120. ENFORCEMENT AND PENALTIES.

14 Enforcement and Penalties shall be as provided in Sections 176 and 176.1 of this
15 Code.

16 SEC. ~~120~~121. RELATIONSHIP TO ARTICLE 10.

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

20 Notwithstanding the rating of a building in a C-3 District pursuant to the provisions of
21 Article 11, buildings may be designated as landmarks according to the provisions of Article 10.
22
23
24
25

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

4 SEC. ~~1121~~1122. NOTICE OF AMENDMENT.

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

9
10 SEC. ~~1122~~1123. NOTICE PROCEDURE.

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

14
15 SEC. ~~1123~~1124. TIME PROVISIONS.

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

18
19 SEC. ~~1124~~1125. SEVERABILITY.

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

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

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

By: _____
MARLENA G. BYRNE
Deputy City Attorney



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Motion of Intent

Planning Code Text Changes: Article 10

HEARING DATE: SEPTEMBER 7, 2011

Project Name: **Proposed Amendments to Article 10**
Case Number: 2011.0167T
Initiated by: John Rahaim, Director of Planning
Initiated: July 8, 2010
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6257
Reviewed by: Tim Frye, Acting Preservation Coordinator
tim.frye@sfgov.org, 415-575-6822

Recommendation: **Approve Article 10 Amendments with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE PLANNING CODE ARTICLE 10 – PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

Whereas, on February 3, 2010, the Planning Director requested that amendments be made to the Planning Code under Case Number 2010.0080T; and

Whereas, the proposed Planning Code text changes would amend several sections of the Code and in particular, to Articles 10 and 11; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on July 8, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18133 initiating amendments to the Planning Code on July 8, 2010; and

WHEREAS, pursuant to Charter Section 4.135, any proposed ordinance concerning historic preservation issues must be submitted to the Historic Preservation Commission (“HPC”) for review and recommendation to the Board of Supervisors; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18157 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on August 5, 2010; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th and 15th, November 3rd and 17th, and December 1 2010 and August 17, 2011, and September 7, 2011; and

WHEREAS, the Historic Preservation Commission will adopt a Final Motion and transmit the draft Ordinance to the Planning Commission for their re-review; and

WHEREAS, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby intends to adopt a Motion that recommends that the Board of Supervisors *approve with modifications* the proposed ordinance as discussed at the September 7, 2011 public hearing of the HPC.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. This Historic Preservation Commission was created in the fall of 2008 when the voters passed amendments to the San Francisco Charter establishing Section 4.135.
2. Article 10 (Preservation of Historical and Architectural and Aesthetic Landmarks) and Article 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) are the Planning Code chapters that outline the designation and permit review processes for historic buildings.
3. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will simply make them consistent with Charter Section 4.135.

4. Therefore, the HPC intends to pass a Motion that recommends *approval of Article 10 with modifications of the proposed Ordinance, which includes edits recommended by the City Attorney in order to approve the proposed Ordinance as-to-form as well as modifications recommended by the Department. The HPC recommends that the following modifications be made in addition to the edits recommended by the City Attorney:*
 - a. In reference to Section 1004.1(b)(iii): When considering landmark designation initiation, the HPC will adopt a policy directing staff to provide a draft motion that includes an area for the HPC to fill-in with findings made at the public hearing. In addition, Section 1004.1(b)(iii) will be revised to read, “upon submittal of a complete nomination application, the Historic Preservation Commission shall hold a hearing to confirm the initiation of designation at a public hearing no later than 45 days from the date of submittal of the complete nomination application.” Note that the timeline has been increased from 30 days to 45 days, and that the sentence that reads, “Failure to confirm initiation within 30 days from the date of submittal shall constitute disapproval action” has been deleted.
 - b. In reference to Section 1006.2(b): The HPC agreed to provide a 20 day time frame from the date of the issuance of the Administrative Certificate of Appropriateness for the HPC to request a review of a Departmental decision. In addition, a phrase will be inserted in sentence 1 of Section 1006.2(b) so that it reads, “Upon receipt of a building permit application, an Administrative Certificate of Appropriateness for Minor Alteration work may be approved by the Department without a hearing before the HPC.”
 - c. In reference to Section 1014: The HPC agreed to the Department’s recommended clarification to note that work may commence on sites or in districts for which designation has been initiated, provided that a Certificate of Appropriateness is granted for the proposed work.
 - d. In reference to Section 1005(g)(1): The HPC agreed that the 50 day time-frame for the HPC to provide advice and comment to the Art Commission is an anomalous number, and that HPC comment should be provided within 45 days in order to be consistent with other areas of Article 10.
 - e. In reference to Section 1005(e)(2): The HPC requested that language proposed by Deputy City Attorney Byrne in Line 19 be revised to include the phrase “requiring a permit,” and to remove the word “significant” so that the sentence reads, “Notwithstanding the foregoing, if any proposed interior alteration requiring a permit would result in any visual or material impact to the exterior of the subject building, a Certificate of Appropriateness shall be required to address such exterior effects.”
 - f. In reference to Section 1005(e): The HPC agreed to re-insert subsection (3), which had been deleted. Section 1005(e)(3) reads, “When the application is for a permit to do ordinary maintenance and repairs only. For the purpose of this Article 10, “ordinary maintenance and repairs” shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage, including repair of damage caused by fire or other disaster.”
5. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

POLICY 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.8

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

II. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7

Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

III. DOWNTOWN ELEMENT

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN — AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

OBJECTIVE 12

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

Policy 12.1

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The goal of the proposed Ordinance is to make typographical and clerical errors to the Planning Code, as well as to update Articles 10 and 11 to make it conform to Charter Section 4.135.

6. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will not impact existing housing and neighborhood character.

C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will not impact the supply of affordable housing.

D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the foregoing Motion of Intent was ADOPTED by the San Francisco Historic Preservation Commission on September 7, 2011.

Linda D. Avery
Commission Secretary

AYES: Chase, Damkroger, Martinez, Matsuda, Wolfram

NOES:

ABSENT: Hasz, Johns

ADOPTED: September 7, 2011

Exhibit A: Draft Ordinance with August 17, 2011 amendments to Article 10



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Draft Resolution

Planning Code Text Changes: Article 11

HEARING DATE: SEPTEMBER 21, 2011

Project Name: **Proposed Amendments to Article 11**
Case Number: 2011.0167T
Initiated by: John Rahaim, Director of Planning
Initiated: July 8, 2010
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6257
Reviewed by: Tim Frye, Acting Preservation Coordinator
tim.frye@sfgov.org, 415-575-6822

Recommendation: **Approve Article 11 Amendments with Modifications**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE PLANNING CODE ARTICLE 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORIC, AND AESTHETIC IMPORTANCE IN C-3 DISTRICTS PER HPC DRAFT DATED SEPTEMBER 21, 2011; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

WHEREAS, on February 3, 2010, the Planning Director requested that amendments be made to the Planning Code under Case Number 2010.0080T; and

WHEREAS, the proposed Planning Code text changes would amend several sections of the Code and in particular, to Articles 10 and 11; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on July 8, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18133 initiating amendments to the Planning Code on July 8, 2010; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18157 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on August 5, 2010; and

WHEREAS, pursuant to Charter Section 4.135, any proposed ordinance concerning historic preservation issues must be submitted to the Historic Preservation Commission (“HPC”) for review and recommendation to the Board of Supervisors; and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th, 15th November 3rd and 17th and December 1st 2010 and August 17, 2011, September 7, 2011 and September 21, 2011; and

WHEREAS, the Historic Preservation Commission will transmit the September 21, 2011 draft Ordinance to the Planning Commission for its re-review; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the HPC has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the HPC has reviewed the proposed Ordinance; and

MOVED, that the HPC hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance for Article 11 as detailed in the draft dated September 21, 2011.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. This Historic Preservation Commission was created in the fall of 2008 when the voters passed amendments to the San Francisco Charter establishing Section 4.135.
2. Article 10 (Preservation of Historical and Architectural and Aesthetic Landmarks) and Article 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) are the Planning Code chapters that outline the designation and permit review processes for historic buildings.
3. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will simply make them consistent with Charter Section 4.135.

4. The additional changes proposed to Articles 10 and 11 will update preservation practices and policies and help streamline the designation and permit review processes.
5. Therefore, the HPC recommends *approval of Article 11 with modifications in the draft dated September 7, 2011 of the proposed Ordinance, which include edits recommended by the City Attorney in order to approve the proposed Ordinance as-to-form.*
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

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Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 6

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POLICY 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

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Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

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THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

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The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.

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POLICY 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

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Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

III. DOWNTOWN ELEMENT

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN – AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

OBJECTIVE 12

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

Policy 12.1

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The goal of the proposed Ordinance is to update Articles 10 and 11 to make it conform to Charter Section 4.135.

7. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will not impact existing housing and neighborhood character.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will not impact the supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments.

- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Historic Preservation Commission on September 21, 2011.

Linda D. Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 21, 2011

Exhibit A: Draft Ordinance for Amendments to Article 11 with comments from City Attorney's office