



SAN FRANCISCO PLANNING DEPARTMENT

Memorandum

December 1, 2010

Project Name: **Planning Code Amendments: Articles 10 & 11, Section 309**
Case Number: 2010.0080T
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Dear Historic Preservation Commissioners,

Included in your packets for the December 1st hearing are:

- Revised Article 11 with revisions based on the November 18th hearing and public comment; and
- Draft Resolution, recommending approval to the Board of Supervisors with modifications to Article 11; and
- Revised Section 309 with revisions based on the November 3rd hearing; and
- Draft Resolution, recommending approval to the Board of Supervisors with modifications to Section 309.

Members of the public can view the original proposed legislation and additional materials at 1650 Mission Street Suite #400 or on the Planning Department website under PC Agenda's for July 8th and August 5th, and HPC Agendas on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th, 15th, and 21st, November 3rd and 17th under Planning Department Case No. 2010.0080T.

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Note: Additions are *single-underline italics Times New Roman*;
Deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined
Board amendment deletions are ~~strikethrough normal~~.

Section 70. The San Francisco Planning Code is hereby amended by amending Article 11, to read as follows:

SEC. 1101. FINDINGS AND PURPOSES.

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

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

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

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

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

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

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

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

24 SEC. 1102. STANDARDS FOR DESIGNATION OF BUILDINGS.
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1 The buildings in the C-3 Districts are divided into five categories according to the
2 Building Rating methodology as set forth and explained in the Preservation of the Past section
3 of the Downtown Plan, a component of the ~~Master~~ General Plan. Those categories are as
4 follows:

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

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

7 (2) Are judged to be Buildings of Individual Importance; and

8 (3) Are rated Excellent in Architectural Design or are rated Very Good in both

9 Architectural Design and Relationship to the Environment.

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

11 (1) Which meet the standards in Section 1102(a) above; and

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

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

20 (1) Are located outside a designated Conservation District; and

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

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

23 (4) Are rated either Very Good in Architectural Design or Excellent or Very Good in
24 Relationship to the Environment.

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

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- 1 (1) Are located in a designated Conservation District; and
- 2 (2) Are at least 40 years old; and
- 3 (3) Are judged to be Buildings of Individual Importance, and are rated either Very
- 4 Good in Architectural Design or Excellent or Very Good in Relationship to the Environment.
- 5 (4) Are judged to be Buildings of Contextual Importance and are rated Very Good in
- 6 Architectural Design and/or Excellent or Very Good in Relationship to the Environment.
- 7 (e) Unrated Buildings - Category V. Buildings which are not designated as
- 8 Significant or Contributory.

9 SEC. 1102.1.DESIGNATION OF BUILDINGS.

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

- 11 (a) Significant Buildings - Category I. The buildings listed in Appendix A to this
- 12 Article 11 are hereby designated as Significant Buildings - Category I.
- 13 (b) Significant Buildings - Category II. The buildings listed in Appendix B to this
- 14 Article 11 are hereby designated as Significant Buildings - Category II.
- 15 (c) Contributory Buildings - Category III. The buildings listed in Appendix C to this
- 16 Article 11 are hereby designated as Contributory Buildings - Category III.
- 17 (d) Contributory Buildings - Category IV. The buildings listed in Appendix D to this
- 18 Article 11 are hereby designated as Contributory Buildings - Category IV.
- 19 (e) Unrated Buildings - Category V. All buildings in the C-3 District not otherwise
- 20 designated in this Section are hereby designated as Unrated - Category V.

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

22 Portions of the C-3 District may be designated as Conservation Districts if they contain

23 substantial concentrations of buildings that together create subareas of special architectural

24 and aesthetic importance. Such areas shall contain substantial concentrations of Significant

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

3 SEC. 1103.1. CONSERVATION DISTRICT DESIGNATIONS.

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

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

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

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

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

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

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

18 SEC. 1104. INTENTIONALLY LEFT BLANK.—~~NOTICE OF DESIGNATION.~~

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

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

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

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

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

22 *(b) — Referral to the Landmarks Preservation Advisory Board; Review by the Department of*
23 *City Planning. Upon determination by the Zoning Administrator that an application is complete, the*
24 *Zoning Administrator shall promptly refer the matter to the Landmarks Preservation Advisory Board*
25 *for review and recommendation, and the Department of City Planning shall undertake a study of the*

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

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

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

21 SEC. 1106. PROCEDURES FOR CHANGE OF DESIGNATION; AND DESIGNATION
22 OF ADDITIONAL SIGNIFICANT AND CONTRIBUTORY BUILDINGS.

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

3 (a) Initiation. The designation or change of designation of a Significant or
4 Contributory building may be initiated by motion of the Board of Supervisors, by resolution of
5 the ~~Planning Commission or the Landmarks Preservation Advisory Board~~ HPC, by the verified
6 application of the owner or authorized agent of the affected property, by the application of any
7 organization or group which has historic preservation stated as one of its goals in its bylaws or
8 articles of incorporation, or by the application of at least 50 registered voters of the City.
9 Except in the case of initiation by governmental bodies, any such application shall contain
10 historic, architectural, and/or cultural documentation to support the initiation or change of designation
11 as well as any additional information which may be required by the application procedures and
12 policies established by the HPC. ~~be filed with the Department of City Planning upon forms prescribed~~
13 ~~by the Department of City Planning, and shall be accompanied by all data required by the Department.~~

14 (b) Notice; ~~Referral to the Landmarks Preservation Advisory Board;~~ Review by the
15 Planning Department of City Planning; Referral to HPC. Upon determination by the Zoning
16 ~~Administrator~~ Planning Department that a verified application is complete and contains all
17 necessary information or upon receipt of the motion or resolution of one of the governmental
18 bodies set forth in Subsection (a) above, the ~~Zoning Administrator~~ Department shall (1) promptly
19 schedule a hearing before the HPC on the proposed designation or change of designation; ~~Landmarks~~
20 ~~Preservation Advisory Board send notice of the proposed designation or change of designation by mail~~
21 ~~to the owner of the affected property, unless the application is that of the owner,~~ and (2) send notice of
22 the HPC hearing by mail no less than 20 days prior to the date of the hearing to the initiators of the
23 designation or change of designation, to the owner(s) of the affected property, unless the application is
24 that of the owner, to the owners of all properties within 150 feet of the affected property, and to any
25 interested parties who make a request in writing to the Department., promptly refer the matter to the

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1 ~~Landmarks Preservation Advisory Board for review and the submittal of a recommendation. The~~
2 ~~Department of City Planning shall also undertake a study of the proposed designation or change of~~
3 ~~designation.~~

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

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

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

23 (f) (g) Board of Supervisors Hearing and Decision of an Appeal of Designation or Change of
24 Designation. The Board of Supervisors, or a committee thereof, shall hold a public hearing on
25 any such proposal appealed to it ~~or initiated by it~~. The Board of Supervisors may uphold the

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1 ~~Planning Commission HPC~~, overrule the ~~Planning Commission HPC~~ and approve, or modify and
2 approve, the designation or change of designation by a majority vote of all its members.

3 ~~(g) (h)~~ Notice of Board of Supervisors Proceedings. Notice of the public hearing(s)
4 scheduled before the ~~Planning Commission and~~ Board of Supervisors pursuant to this Section
5 1106, and of the availability of applicable reports on the proposed designation or change of
6 designation, shall be given by mail no less than 20 days prior to the date of the hearing to the
7 initiators of the designation or change of designation, to the owners of any affected building, to
8 appellants, and to any other interested person or organization who request such notice in writing
9 to the Department requesting notice.

10 ~~(h) (i)~~ Grounds for Designation or Change of Designation. The designation of a
11 building may be changed if (1) changes in the area in the vicinity of a building located outside
12 a Conservation District warrant a change in the rating of the building with respect to its
13 relationship to the environment and therefore place it in a different category, pursuant to
14 Section 1102; or (2) changes in Conservation District boundaries make a building of
15 Contextual Importance fall outside a Conservation District and therefore no longer eligible for
16 designation as a Contributory building, or, conversely, make a building of Contextual
17 Importance fall within a Conservation District and therefore eligible for designation as a
18 Contributory Building; or (3) changes in the physical features of the building due to
19 circumstances beyond the control of the owner, or otherwise permitted by this Article, warrant
20 placing the building in a different category pursuant to the standards set forth in Section 1102;
21 or (4) restoration of the building to its original quality and character warrants placing the
22 building in a different category pursuant to the standards set forth in Section 1102; or (5) by
23 the passage of time, the building has become at least 40 years old, making it eligible to be
24 considered for designation as a Significant or Contributory building, pursuant to Section 1102;
25 or (6) the discovery of new factual information (for example, information about the history of

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1 the building) makes the building eligible for rating as a Building of Individual or Contextual
2 Importance and, therefore, eligible to be designated as a Significant or Contributory Building.

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

5 A Conservation District may be designated or its boundary changed through
6 amendment of Section 1103.1 of this Article 11. The HPC shall have the authority to recommend
7 approval, disapproval, or modification of Conservation District designations or boundary changes to
8 the Board of Supervisors. Such designation or boundary change shall be governed by the
9 following provisions in lieu of the provisions of Section 302.

10 (a) Initiation of Designation or Boundary Change. The designation of an area of the
11 C-3 District as a Conservation District or the change of District boundaries may be initiated by
12 motion of the Board of Supervisors, by resolution of the ~~Planning Commissioner the Landmarks~~
13 ~~Preservation Advisory Board~~ HPC, upon the verified application of the owners or other
14 authorized agents of greater than 25 percent of the structures in the area proposed for
15 designation (or, as to an alteration, 25 percent of the structures of the proposed new district
16 unless it would be an area smaller than the existing district, in which case it shall be 25
17 percent of the structures of the existing district), upon the verified application of any
18 organization or group which has historic preservation stated as one of its goals in its bylaws or
19 articles of incorporation, or upon the verified application of at least 150 registered voters of the
20 City. Except in case of an initiation by governmental bodies, any such application shall contain
21 historic, architectural, and/or cultural documentation to support the designation or boundary change
22 as well as any additional information which may be required by the application procedures and
23 policies established by the HPC. ~~be filed with the Department of City Planning upon forms prescribed~~
24 ~~by the Department of City Planning, and shall be accompanied by all data required by said~~
25 Department.

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1 (b) Notice; Review by the Planning Department; Referral to HPC. Upon determination by
2 the Planning Department that a verified application is complete and contains all necessary information
3 or upon receipt of a motion or resolution of one of the governmental agencies set forth in Subsection
4 (a), the Department shall (1) promptly schedule a hearing before the HPC on the proposed district or
5 boundary change; and (2) send notice of the HPC hearing by mail no less than 20 days prior to the
6 date of the hearing to the initiators of the designation or boundary change, to the owners of all lots
7 within the proposed new district or that portion of the district being modified, and to any interested
8 parties who make a request in writing to the Department. ~~Notice; Referral to the Landmarks~~
9 ~~Preservation Advisory Board; Review by the Department of City Planning. Notice, referral to the~~
10 ~~Landmarks Board and review by the Department of City Planning shall be as provided in Section~~
11 ~~1106(b) of this Article.~~

12 (c) Action by the HPC. Submittal to the Planning Commission. The proposed designation
13 or boundary change shall be placed on the agenda of the HPC for public hearing. The HPC shall
14 determine the appropriate designation or boundary change of the Conservation District. If the HPC
15 approves or modifies the proposed designation or boundary change in whole or in part, it shall
16 transmit its recommendation together with a copy of the resolution, to the Clerk of the Board of
17 Supervisors. ~~Submittal to and action by the Planning Commission HPC shall be as set forth in Section~~
18 ~~1106(e) of this Article.~~

19 (d) Review by the Planning Commission. ~~Submittal to and action by the Planning~~
20 ~~Commission shall be as set forth in Section 1106(d) of this Article~~ Following action by the HPC, the
21 Department shall promptly refer the HPC's recommendation on the proposed Conservation District
22 designation or boundary change to the Planning Commission, which shall have 45 days to review and
23 comment on the proposed designation or boundary change. The Planning Commission's comments, if
24 any, shall be forwarded to the Board of Supervisors together with the HPC's recommendation. Notice
25 of the Planning Commission hearing shall be given as provided in Section 1107(b) of this Article.

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

5 (f) Appeal to Board of Supervisors. If the ~~Planning Commission~~ HPC disapproves the
6 proposed designation or boundary change, such action shall be final except upon the filing of
7 a notice of appeal to the Board of Supervisors within 30 days by the applicant or any of the
8 persons, organizations, or groups listed in Section 1107(a); provided, however, that if the
9 proposal was initiated by the Board of Supervisors, the Clerk of the said board shall be
10 notified immediately of the disapproval without the necessity for an appeal.

11 (g) ~~Board of Supervisors~~ Hearing and Decision of an Appeal of a Conservation District
12 ~~Designation or Boundary Change~~. The Board of Supervisors, or a committee thereof, shall hold
13 a public hearing on any such proposal appealed to it ~~or initiated by it~~. The Board of
14 Supervisors may uphold the ~~Planning Commission HPC~~, overrule the ~~Planning Commission HPC~~
15 and approve, or modify and approve, the designation or boundary change by a majority vote
16 of all its members.

17 (h) Notice of ~~Board of Supervisors~~ Proceedings. Notice of the public hearing(s)
18 scheduled pursuant to this Section 1107, and of the availability of applicable reports on the proposed
19 designation or boundary change before the Planning Commission shall be given by mail no less than
20 20 days prior to the date of the hearing to the initiators of the designation or boundary change
21 ~~alteration~~, the owners of all lots within ~~300 feet of~~ the proposed new district or of that portion of
22 the district being ~~altered~~ modified, to appellants, as well as to interested individuals or
23 organizations who request such notice in writing to the Department.

24 (i) Standards Applicable to Designation or Boundary Change. The standards
25 governing the designation and change of District boundaries are those set forth in Section

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1 1103. Areas may be removed from Conservation Districts if the character of the area has
2 changed such that the area no longer qualifies under the standards set forth in Section 1103.

3 SEC. 1108. NOTICE OF DESIGNATION.

4 When a building has been designated Significant or Contributory or its designation is
5 changed pursuant to Section 1106, or when a new Conservation District is established or the
6 boundary of a Conservation District changed pursuant to Section 1107, the ~~Zoning~~
7 ~~Administrator~~ Planning Department shall notify each affected property owner by mail and shall
8 cause a copy of the ordinance, or notice thereof, to be recorded in the office of the County
9 Recorder. The Department shall file in its permanent records any new designation or change of
10 designation of a Significant or Contributory Building or a new Conservation District or change of a
11 Conservation District boundary and shall notify the Central Permit Bureau pursuant to Section 1117 of
12 this Article.

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

15 For the purpose of ~~T~~ransfer of ~~D~~evelopment ~~R~~ights (“TDR”) as provided in Section
16 128 of this Code, lots on which are located Significant or Contributory Buildings, or Category
17 V Buildings in those certain Conservation Districts and portions thereof as indicated in Section
18 8 of the Appendix relating to that District are eligible ~~P~~reservation ~~L~~ots as provided in this
19 Section:

20 (a) Significant Buildings. Lots on which are located buildings designated as
21 Significant Buildings - Category I or Category II - are eligible to transfer the difference between
22 the allowable gross floor area permitted on the lot by Section 124 of this Code and the gross
23 floor area of the development on the lot, if all the requirements for transfer set forth in Section
24 128 are met. Lots on which are located Significant Buildings which have been altered in
25 conformance with the provisions of this Article retain eligibility for the transfer of TDR.

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1 (b) Contributory Buildings. Lots on which are located buildings designated as
2 Contributory Buildings - Category III or Category IV - are eligible to transfer the difference
3 between the allowable gross floor area permitted on the lot by Section 124 of the Code and
4 the gross floor area of the development on the lot, if all the requirements for transfer set forth
5 in Section 128 are met. Alteration or demolition of such a building in violation of Section 1110
6 ~~or Section 1112~~, or alterations or demolitions made without a permit issued pursuant to Sections
7 1111 through 1111.86, eliminates eligibility for the transfer of TDR; provided, however, that
8 such eligibility may nonetheless be retained or acquired again if, pursuant to Section
9 11164(b), 1) the property owner demonstrates as to any alteration that it was ~~not~~ a Minor
10 Alteration as defined herein and has applied for a Permit for Minor Alteration pursuant to Section
11 1111.1; and 2) that the property owner has obtained a Permit to Alter to restore the original
12 distinguishing qualities and character-defining features that were altered. ~~major, or if the property~~
13 owner restores the demolished or altered building. Once any TDR have been transferred from a
14 Contributory Building, the building is subject to the same restrictions on demolition and
15 alteration as a Significant Building. These restrictions may not be removed by the transfer of
16 TDR back to the building.

17 (c) Category V Buildings in Conservation Districts. Where explicitly permitted in
18 Section 8 of the Appendix establishing a Conservation District, lots located in such a District
19 on which are located Category V Buildings (designated as neither Significant nor Contributory)
20 are eligible to transfer the difference between the allowable gross floor area permitted on the
21 lot under Section 124 of the Code and the gross floor area of the development on the lot, if all
22 the requirements for transfer set forth in Section 128 are met; provided, however, that a lot is
23 eligible as a Preservation Lot pursuant to this Section only if (1) the exterior of the building is
24 substantially altered so as to make it compatible with the scale and character of the Significant
25 and Contributory Buildings in the district, including those features described in Sections 6 and

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1 7 of the Appendix to Article 11 describing the relevant district, and has thus been determined
2 by the HPC to be a Compatible Rehabilitation, and the building meets or has been reinforced to
3 meet the standards for seismic loads and forces of the ~~1975~~-Building Code or (2) the building
4 on the lot is new, having replaced a Category V Building, and has received approval by the
5 HPC that such new construction constitutes ~~as~~ a Compatible Replacement Building, pursuant to
6 Section 1113. ~~The procedures governing these determinations are set forth in Section 309. The~~
7 ~~determination under this Subsection (c) that a building qualifies or fails to qualify as a Compatible~~
8 ~~Replacement Building is a final administrative decision.~~

9 SEC. 1110. PERMITS REQUIRED FOR CONSTRUCTION, ALTERATION ~~OR AND~~
10 DEMOLITION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN
11 CONSERVATION DISTRICTS.

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

18 (b) The HPC shall have the authority to approve, disapprove, or modify all applications for
19 permits to alter or demolish any Significant or Contributory Buildings or buildings within Conservation
20 Districts, and permits for any new and replacement construction within Conservation Districts, subject
21 to appeal as provided in Section 1115 of this Article 11. The HPC must review and act on such permits
22 prior to any other planning approval action. Buildings or areas within the C-3 District designated
23 pursuant to the provisions of both Article 10 and Article 11 shall be regulated pursuant to the
24 procedures of both Articles. In case of conflict, the more restrictive provisions shall apply.

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1 (c) If the proposed work would constitute a demolition as defined in Section 1005(f) of this
2 Code, such work shall be subject to the provisions of this Article 11 governing demolitions and shall
3 require a “Permit to Demolish.” All other proposed construction or alteration of a structure, including
4 any new or replacement construction, or any work involving a sign, awning, marquee, canopy, mural,
5 or other appendage work shall require a “Permit to Alter.”

6 (d) No person shall demolish or cause to be demolished or cause to be demolished a
7 Significant or Contributory Building or any building in a Conservation District without obtaining a
8 Permit to Demolish and, as to any building located within a Conservation District, a permit for a
9 Compatible Replacement Building pursuant to the provisions of this Article.

10 (e) If at any time following the approval of a Permit to Alter and prior to completion of the
11 proposed work, due to a change in the scope of work or for any other reason, the work would constitute
12 a demolition as defined herein, the owner shall be required to file a new application for a Permit to
13 Demolish. Failure to do so is a violation of this Article 11.

14 (f) A building permit application or amendment for any work that exceeds the scope of
15 work of an approved Permit to Alter or Permit to Demolish shall be referred back to the Planning
16 Department by the Central Permit Bureau for the HPC’s review and approval pursuant to Article 11
17 before the permit may be approved or issued.

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

20 (1) When the application is for a permit to construct any new or replacement structures on a
21 site where a Significant or Contributory Building has been lawfully demolished pursuant to this Article
22 11 and the site is not within a designated Conservation District; and

23 (2) When the application is for a permit to make interior alterations only on a privately-
24 owned structure or on a publically-owned structure and does not constitute a demolition as defined
25 herein, unless the Department has determined that the proposed interior alterations may result in any

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1 visual or material impact to the exterior of the building, or when the designating ordinance or
2 applicable Appendix in this Article requires review of such interior alterations.

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

22 Upon receipt of any application for a building permit, demolition permit, site permit, alteration
23 permit, or any other permit relating to a Significant or Contributory Building or a building within a
24 Conservation District, the Central Permit Bureau shall forward such application to the Planning

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1 Department. If the Planning Department determines that the application is subject to the provisions of
2 this Article, processing shall proceed under the provisions of this Article.

3 (a) Who May Apply. An application for a Permit to Alter or Permit to Demolish or for new
4 and replacement construction in any Conservation District may be filed by the owner or authorized
5 agent for the owner of the property for which the permit is sought.

6 (b) Where to File. Applications shall be filed in the office of the Planning Department.

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

10 (d) Content of Applications. The content of applications shall be in accordance with the
11 policies, rules and regulations of the Department and the HPC. All applications shall be upon forms
12 prescribed therefore, and shall contain or be accompanied by all information required to assure the
13 presentation of all pertinent facts for proper consideration of the case and for the permanent record.

14 (i) All applications shall contain the following information:

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

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

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

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

24 (5) Any other information that may be necessary for the particular scope of work proposed;

25 and

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1 (6) Information needed for the preparation and mailing of notices as specified in Section
2 1111.4.

3 (ii) In addition to the contents specified for applications in (i) above, any application for a
4 Permit to Demolish shall contain the following information:

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

8 (2) The amount paid for the property;

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

12 (4) The cost of any improvements since purchase by the applicant and date the
13 improvements were made;

14 (5) The assessed value of the land, and improvements thereon, according to the most recent
15 assessments;

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

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

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

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

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

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

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

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

2 (14) Annual cash flow for the previous four years.

3 (iii) For Permits to Demolish buildings from which TDR have been transferred the
4 application shall contain the following additional information:

5 (1) The Statement of Eligibility;

6 (2) An itemized list of the amount of TDR which 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 (iv) All applications for Permits to Demolish any buildings located in any Conservation
12 District or applications for new construction on vacant lots shall include plans, specifications and
13 elevations showing the proposed exterior appearance, including but not limited to color, texture of
14 materials, and architectural design and detail, for the replacement construction.

15 (e) Category V Buildings (Unrated). Any Category V building located in a Conservation
16 District may apply for one of the following:

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

22 (ii) 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 HPC that if the proposed new construction is completed as
25 approved by the HPC, the new building will be deemed a Compatible Replacement Building under

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

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

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

14 ~~Within 10 days after referral by the Central Permit Bureau, the Zoning Administrator shall~~
15 ~~determine in writing if the proposed alteration is a Major Alteration or a Minor Alteration. The HPC~~
16 ~~shall have the authority to determine if a proposed alteration is a Major Alteration or a Minor~~
17 ~~Alterations and may delegate the authority to approve applications for Minor Alterations to~~
18 ~~Department staff, whose decisions may be appealed to the HPC pursuant to subsection 1111.1(c) of this~~
19 ~~Article. All categories of work not determined to be Minor Alterations shall be determined to be Major~~
20 ~~Alterations under this Article 11 and shall be subject to HPC review. If delegated to Department staff,~~
21 ~~the categories of Minor Alterations shall include but are not limited to the following:~~

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

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

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

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

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

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

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

9 (1) Work to perform “ordinary maintenance and repairs” which for the purpose of this
10 Article 11 shall mean any work, the sole purpose and effect of which is to correct deterioration, decay,
11 or damage; and

12 (2) ³ The sole purpose and effect of the alteration is to comply with the UMB Seismic
13 Retrofit Ordinances and the ~~Zoning Administrator determines that the~~ proposed work complies
14 with the UMB Retrofit Architectural Design Guidelines, ~~which guidelines shall be~~ adopted by the
15 ~~Planning Commission HPC; and~~

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

17 (a) If the application has been determined to be a Minor Alteration which has been
18 delegated to the Department staff for approval, then the application may be approved as a Permit for
19 Minor Alteration by the Department without a hearing before the HPC. The Department shall mail its
20 written decisions approving Permits for Minor Alteration to the applicant and any individuals or
21 organizations who have made a request in writing to the Department to receive such decisions. Such
22 decisions of the Department may be appealed to the HPC within 15 days of the date of the written
23 decision. The HPC may also review the decisions of the Department by its own motion.

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1 **(b) If the application for a Permit to Alter is not for a Minor Alteration that has been**
2 **delegated to Department staff, then it shall be scheduled for a hearing by the HPC pursuant to the**
3 **procedures in Section 1111.4 below.**

4 ~~(c) — The Zoning Administrator shall mail to the applicant and any individuals or~~
5 ~~organizations who so request the written determination as to the category of the proposed alteration.~~
6 ~~Decisions of the Zoning Administrator may be appealed to the Board of Permit Appeals HPC within 10~~
7 ~~days of the written determination in the manner provided in Section 308.2.~~

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

11 **SEC. 1111.2. PERMITS FOR SIGNS -REFERRAL OF APPLICATIONS FOR MAJOR**
12 **ALTERATIONS TO LANDMARKS PRESERVATION ADVISORY BOARD: REVIEW BY THE**
13 **DEPARTMENT OF CITY PLANNING.**

14 **(a) Installation of a new general advertising sign is prohibited in any Historic District or**
15 **Conservation District or on any historic property regulated by this Article 11.**

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

19 **(c) Apart from and in addition to any grounds for approval or disapproval of the**
20 **application under Article 6, an application involving a permit for a business sign, or general**
21 **advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building**
22 **or any building in a Conservation District shall be subject to review by the HPC pursuant to the**
23 **provisions of this Article, and the HPC may disapprove; the application or approve it subject to**
24 **conditions if the proposed location, materials, typeset, size of lettering, means of illumination or**
25 **method or replacement or the attachment would adversely affect the special architectural, historical or**

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1 aesthetic significance of the building or the Conservation District. No application shall be denied on
2 the basis of the content of the sign.

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

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

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

16 SEC. 1111.3. REVIEW BY THE PLANNING DEPARTMENT. RECOMMENDATION BY THE
17 DIRECTOR OF PLANNING.

18 Applications shall be reviewed by the Department, which shall determine within 30 days after
19 the application is filed whether or not the application is complete. Applications for Minor Alterations
20 which have been delegated to the Department staff for approval may be approved by the Department
21 pursuant to Section 1111.1 without a hearing before the HPC. Upon acceptance as a complete
22 application for a Permit to Alter or a Permit to Demolish a Significant or Contributory Building or a
23 building in a Conservation District, or an application for a permit to undertake new or replacement
24 construction in a Conservation District, or upon a request for the HPC to exercise its review powers
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1 over a Minor Permit to Alter as outlined in 1111.1, the application shall be placed on the agenda of the
2 HPC for a public hearing and decision.

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

11 SEC. 1111.4. SCHEDULING AND NOTICE OF HPC HEARINGS ~~CONSIDERATION AND~~
12 ~~DECISION BY THE CITY PLANNING COMMISSION.~~

13 When a public hearing before the HPC is required, the Department shall set a time and place
14 for said hearing within a reasonable period.

15 (a) Notice of the time, place, and purpose of the hearing shall be given by the Department
16 not less than 20 days prior to the date of the hearing as follows:

17 (1) By mail to the owner of the subject property; and

18 (2) By mail to the applicant; and

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

20 (4) For applications for a building located in a Conservation District to the owners of all
21 real property within 300 feet of the subject property; and

22 (5) For applications for a building not located in a Conservation District, by mail to the
23 owners of all real property within 150 feet of the subject property; and

24 (6) By posting notice on the site; and

25 (7) Any other notice as the Department shall deem appropriate.

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1 **(b) Notice for HPC review of Minor Permits to Alter. For all requests of the HPC to**
2 **exercise its review powers over a Minor Permit to Alter as outlined in Section 1111.1, the following**
3 **notification procedures shall be used:**

4 **(1) Mailed notice not less than 10 days prior to the date of the hearing to the applicant, all**
5 **owners within 150 feet of the subject property, as well as to any other interested parties who make a**
6 **request in writing; and**

7 **(2) Posted notice on the site not less than 10 days prior to the date of the hearing.**

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

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

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

17 ~~**(2) When the application is for alteration of a building located in a Conservation District,**~~
18 ~~**by mail not less than 10 days prior to the date of the hearing to the owners of all real property within**~~
19 ~~**300 feet of property that is the subject of the application.**~~

20 **SEC. 1111.5.DECISION BY THE HPC-CITY PLANNING COMMISSION.**

21 **(a) The ~~Planning Commission~~ HPC may approve, disapprove or approve with**
22 **conditions an application for a Permit to Alter or a Permit to Demolish an alteration permit and,**
23 **where applicable, for new or replacement construction, for a determination that the building is a**
24 **Compatible Rehabilitation pursuant to Section 1113 of this Article or a Compatible Replacement**
25 **Building under Section 1109(c) of this Article, and shall make findings in support of its decision.**

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

3 **(c)** The decisions of the HPC shall be final except upon the valid modification of the HPC's
4 decision by the Planning Commission as provided in 1114 of this Article or upon the filing of a valid
5 appeal to the Board of Appeals or Board of Supervisors as provided in Section 1115 of this Article. ~~If~~
6 the Planning Commission approves the recommendation of the Director of Planning, it may adopt or
7 modify the findings of the Director of Planning as appropriate. ~~Where the Planning Commission~~
8 disapproves the recommendations of the Director of Planning, it shall make findings supporting its
9 decision. ~~If the Commission disapproves the application for a permit to alter, it shall recommend~~
10 disapproval to the Central Permit Bureau which shall deny the application. ~~The Planning~~
11 Commission's determination that a building qualifies or fails to qualify as a Compatible Rehabilitation
12 is a final administrative decision. Any decision of the Planning Commission ~~HPC~~ rendered pursuant to
13 this Section shall be rendered within 30 days from the date of conclusion of the hearing.

14 SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF
15 APPLICATIONS FOR ALTERATIONS.

16 The HPC, the Board of Permit Appeals, the Board of Supervisors, the City Planning
17 Commission and the Planning Department ~~the Director of Planning, and the Landmarks Board~~ shall
18 be governed by the following standards in the review of applications for Permits to Alter major
19 alteration permits. In the case of conflict, the more restrictive standards shall apply.

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

22 **(b)** The proposed work shall comply with the Secretary of the Interior's Standards for the
23 Treatment of Historic Properties as interpreted by the Historic Preservation Commission, including
24 any Guidelines, Interpretations, Bulletins, or other materials that the HPC has adopted.

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1 (c) For Significant Buildings - Categories I and II, and for Contributory Buildings -
2 Categories III and IV, proposed alterations of structural elements and exterior features shall
3 be consistent with the architectural character of the building, and shall comply with the
4 following specific requirements:

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

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

11 (3) Distinctive architectural features which are to be retained pursuant to Paragraph
12 (1) but which are deteriorated shall be repaired rather than replaced, whenever possible. In
13 the event replacement is necessary, the new material shall match the material being replaced
14 in composition, design, color, texture and other visual qualities. Repair or replacement of
15 missing architectural features shall be based on accurate duplication of features,
16 substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural
17 designs or the availability of different architectural elements from other buildings or structures.
18 Replacement of nonvisible structural elements need not match or duplicate the material being
19 replaced.

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

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

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

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

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

16 (e) If TDR have been transferred from any Contributory Building, the building is subject to
17 the same restrictions on alterations as a Significant Building. These restrictions may not be removed
18 by the transfer of TDR back to the building.

19 SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS
20 FOR DEMOLITION.

21 The HPC, Planning Commission, Board of Appeals, and the Board of Supervisors shall follow
22 the standards in this Section in their review of applications for a Permit to Demolish any Significant or
23 Contributory Building or building within a Conservation District. No demolition permit may be
24 approved unless:

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1 (a) For Significant Buildings (Category I and II), Contributory Buildings (Category III),
2 and Contributory Buildings in a Conservation District (Category IV) from which TDR has been
3 transferred:

4 (i) It is determined that, upon written findings based on substantial evidence in the record,
5 that the property retains no substantial remaining market value or reasonable use, taking into account
6 the value of any TDR that have been transferred or which may be available to transfer from the
7 property and costs of rehabilitation to meet the requirements of the Building Code or City, State and
8 federal laws. Costs necessitated by alterations or demolition made in violation of Article 10 or 11, or
9 by failure to maintain the property in violation of Section 1119.7, may not be included in the
10 calculation of rehabilitation costs; or

11 (ii) The Director of the Department of Building Inspection or the Chief of the Bureau of Fire
12 Prevention and Public Safety determines, after consultation, to the extent feasible, with the HPC and
13 the Planning Department, that an imminent safety hazard exists and that demolition of the structure is
14 the only feasible means to secure the public safety.

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

17 (i) It is determined that, upon written findings based on substantial evidence in the record,
18 that the property retains no substantial remaining market value or reasonable use, taking into account
19 the value of any TDR which may be available to transfer from the property and costs of rehabilitation
20 to meet the requirements of the Building Code or City, State and federal laws. Costs necessitated by
21 alterations or demolition made in violation of Article 10 or 11, or by failure to maintain the property in
22 violation of Section 1119.7, may not be included in the calculation of rehabilitation costs; or

23 (ii) The Director of the Department of Building Inspection or the Chief of the Bureau of Fire
24 Prevention and Public Safety determines, after consultation, to the extent feasible, with the HPC and

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1 the Planning Department, that an imminent safety hazard exists and that demolition of the structure is
2 the only feasible means to secure the public safety; or

3 (iii) It is determined, based on substantial evidence in the record, that:

4 (A) Because of physical conditions specific to the Contributory Building or site, the
5 rehabilitation and reuse of the building will not meet most of the goals and objectives of the proposed
6 replacement project; and

7 (B) The HPC finds that the proposed replacement project is compatible with the
8 Conservation District in which the property is located; and

9 (C) The specific economic, social, or other benefits of the proposed replacement project
10 significantly outweigh the benefit conferred from the historic preservation of the particular structure or
11 feature.

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

13 (i) It is determined that, based on new documentation presented, that the building has not
14 gained additional historical or architectural significance that may make it eligible for classification as
15 a Category I, II, or IV building; and

16 (ii) The HPC finds that the proposed Replacement Building is compatible with the
17 Conservation District in which the property is located; and

18 (iii) If the building has completed a Compatible Rehabilitation pursuant to Section 1109(c),
19 and has transferred development rights from the property, then the building shall be treated as a
20 Significant Building (Category I and II).

21 (d) Notwithstanding the above, the HPC shall consider the cumulative effects on the
22 integrity of the Conservation District associated with demolition of the Contributory Building. If these
23 cumulative impacts are found to be adverse they shall be grounds for denial of the Permit to Demolish.

24 (e) Except for demolitions pursuant to Subsection 1111.7(a), (b), and (c) above, no
25 demolition permit shall be issued by the Department of Building Inspection or any other Agency for any

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1 building located in a Conservation District until an application for the new or replacement building
2 has been approved in accordance with the standards for new construction in a Conservation Districts
3 as provided in this Article, and the building or site permit conforming to such approval has been
4 lawfully issued.

5 SEC. 1111.8 ~~7.~~ INTENTIONALLY LEFT BLANK PERMITS FOR SIGNS.

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

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

11 (c) ~~Apart from and in addition to any grounds for approval or disapproval of the~~
12 ~~application under Article 6, an application involving a permit for a business sign, or general~~
13 ~~advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building~~
14 ~~or any building in a Conservation District may be disapproved, or approved it subject to conditions if~~
15 ~~the proposed location, materials, means of illumination or method or replacement of attachment would~~
16 ~~adversely affect the special architectural, historical or aesthetic significance of the building or the~~
17 ~~Conservation District. No application shall be denied on the basis of the content of the sign.~~

18 (d) ~~The Director of Planning shall make the determination required pursuant to Subsection~~
19 ~~(b). Any permit applicant may appeal the determination of the Director of Planning to the City~~
20 ~~Planning Commission by filing a notice of appeal with the Secretary of the Commission within 10 days~~
21 ~~of the determination. The City Planning Commission shall hear the appeal and make its determination~~
22 ~~within 30 days of the filing of the notice of appeal.~~

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

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

6 SEC. 1112.1. INTENTIONALLY LEFT BLANK. APPLICATIONS FOR A PERMIT TO
7 ~~DEMOLISH.~~

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

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

14 ~~(a) — For all property:~~

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

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

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

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

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

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

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

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

2 ~~(9) — Any consideration by the owner for profitable and adaptive uses for the property;~~

3 ~~including renovation studies, plans, and bids, if any; and~~

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

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

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

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

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

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

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

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

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

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1 ~~approve an application for demolition of a Significant Building—Category II if a building or site permit~~
2 ~~has been lawfully issued for an alteration or replacement structure on the portion of the site which~~
3 ~~would be affected by the demolition, in compliance with Section 111.6(b)(7).~~

4 ~~The Zoning Administrator shall disapprove any application for a demolition permit where the~~
5 ~~foregoing requirement has not been met; provided, however, that the Zoning Administrator shall~~
6 ~~approve any otherwise satisfactory application for such a permit notwithstanding the fact that no~~
7 ~~permit has been obtained for a replacement structure if the standards of Section 112.7 for allowing~~
8 ~~demolition of a Significant Building are met.~~

9 ~~(d)—The Zoning Administrator shall approve applications to permit demolition of a~~
10 ~~Contributory Building—Category III from which no TDR have been transferred only if a building or~~
11 ~~site permit for a replacement building on the same site has been approved, and it has been found,~~
12 ~~pursuant to review under the procedural provisions of Section 309, that the proposed replacement will~~
13 ~~not adversely affect the character, scale or design qualities of the general area in which it is located,~~
14 ~~either by reason of the quality of the proposed design or by virtue of the relation of the replacement~~
15 ~~structure or structures to their setting. Notwithstanding the preceding sentence, the Zoning~~
16 ~~Administrator shall approve any such demolition permit application if the standards of Section 112.7~~
17 ~~for allowing demolition of a Significant Building are met.~~

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

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

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

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

10 SEC. 1112.5. INTENTIONALLY LEFT BLANK. ~~PLANNING COMMISSION HEARING AND~~
11 ~~DECISION.~~

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

16 SEC. 1112.6. INTENTIONALLY LEFT BLANK. ~~DECISION OF THE PLANNING~~
17 ~~COMMISSION.~~

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

22 SEC. 1112.7. INTENTIONALLY LEFT BLANK. ~~STANDARDS AND REVIEW OF~~
23 ~~APPLICATIONS TO DEMOLISH.~~

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

4 ~~No demolition permit may be approved unless:~~

5 ~~(1) it is determined that under the designation, taking into account the value of Transferable~~
6 ~~Development Rights and costs of rehabilitation to meet the requirements of the Building Code or other~~
7 ~~City, State or federal laws, the property retains no substantial remaining market value or reasonable~~
8 ~~use; or~~

9 ~~(2) the Superintendent of the Bureau of Building Inspection or the Chief of the Bureau of Fire~~
10 ~~Prevention and Public Safety determines, after consultation, to the extent feasible, with the Department~~
11 ~~of City Planning, that an imminent safety hazard exists and that demolition of the structure is the only~~
12 ~~feasible means to secure the public safety. Costs of rehabilitation necessitated by alterations made in~~
13 ~~violation of Section 1110, by demolition in violation of Section 1112, or by failure to maintain the~~
14 ~~property in violation of Section 111.7, may not be included in the calculation of rehabilitation costs~~
15 ~~under Subsection (1).~~

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

18 ~~The HPC, Planning Commission, Board of Appeals, and the Board of Supervisors shall follow~~
19 ~~the standards in this Section in their review of applications for~~ No person shall construct or cause to be
20 ~~constructed~~ any new or replacement structure or an addition to any existing structure in a
21 Conservation District: ~~unless it is found that~~

22 ~~(a) Such construction shall be~~ is compatible in scale and design with the District as
23 set forth in Sections 6 and 7 of the Appendix which describes the District.

24 ~~(b) Applications for a building or site permit to construct or add to a structure in any~~
25 Conservation District shall be ~~reviewed~~ subject to review and determination by the HPC before any

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1 other planning approval action that may be required, including any review by the Planning
2 Commission, if applicable pursuant to the procedures set forth in Section 309 and shall only be
3 approved pursuant to Section 309~~0~~ if they meet the standards set forth herein. For projects
4 that require Section 309 review, the Planning Commission may modify the decision of the HPC
5 pursuant to Section 1114, provided that the project does not concern a designated Significant
6 (Categories I and II) or a Contributory (Category III) building.

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

14 SEC. 1114. RIGHT TO MODIFY A DECISION OF THE HPC WHERE THERE ARE
15 MULTIPLE PLANNING APPROVALS.

16 For projects that require multiple planning approvals, the HPC must review and act on any
17 Permit to Alter or Permit to Demolish before any other planning approval action. For projects that (1)
18 require a Conditional Use Authorization or Permit Review under Section 309, et. seq. of the Code, and
19 (2) do not concern a Significant Building (Categories I & II) or a Contributory Building (Category III
20 only), the Planning Commission may modify any decision on a Permit to Alter or Permit to Demolish
21 by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic
22 resources provisions of the Code.

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

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1 SEC. 1115. RIGHT OF APPEAL.

2 The HPC's or the Planning Commission's decision on a Permit to Alter or a Permit to
3 Demolish shall be final unless appealed to the Board of Appeals, which may modify the decision by a
4 4/5 vote; provided however, that if the project requires Board of Supervisors approval or is appealed to
5 the Board of Supervisors as a Conditional Use Authorization, the decision shall not be appealed to the
6 Board of Appeals but rather to the Board of Supervisors, which may modify the decision by a majority
7 vote. Any appeal must be made within 30 days after the date of the final action by the HPC or
8 Planning Commission. An action on a Permit to Alter or a Permit to Demolish so appealed from shall
9 not become effective unless and until approved by the Board of Appeals or the Board of Supervisors in
10 accordance with this Section.

11 SEC. 11164. UNLAWFUL ALTERATION OR DEMOLITION.

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

22 (b) A property owner may be relieved of the penalties provided in Subsection (a) if:
23 (1) as to an unlawful alteration ~~or demolition~~, the owner can demonstrate to the Zoning
24 ~~Administrator~~ HPC that the violation was a Minor Alteration as defined herein and has applied for a
25 Permit for Minor Alteration pursuant to Section 1111.1 ~~did not constitute a major alteration as defined~~

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

14 SEC. 1117.5. CONFORMITY WITH OTHER CITY PERMIT PROCESSES.

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

19 (a) Upon the designation of a building as a Significant or Contributory Building, or
20 upon the designation of the Conservation District, the ~~Zoning Administrator~~ Planning Department
21 shall inform the Central Permit Bureau of said designation or, in the case of a Conservation
22 District, of the boundaries of said District and a complete list of all the buildings within said
23 District and their designations. The Central Permit Bureau shall maintain a current record of
24 such Buildings and Conservation Districts.

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

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

21 SEC. 111~~8.6~~ UNSAFE OR DANGEROUS CONDITIONS.

22 Where the Director ~~Superintendent~~ of the Department ~~Bureau~~ of Building Inspection or the
23 Chief of the Bureau of Fire Prevention and Public Safety determines that a condition on or
24 within a Significant or Contributory Building is unsafe or dangerous and determines further
25 that repair or other work rather than demolition will not threaten the public safety, said official

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1 shall, after consulting with the Planning Department ~~of City Planning and the HPC~~, to the extent
2 feasible, determine the measures of repair or other work necessary to correct the condition in
3 a manner which, insofar as it does not conflict with State or local requirements, is consistent
4 with the purposes and standards set forth in this Article.

5 SEC. 1119~~7~~. MAINTENANCE REQUIREMENTS AND ENFORCEMENT THEREOF.

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

- 14 (1) Facades which may fall and injure members of the public or property;
- 15 (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor
16 supports, deteriorated walls or other vertical structural supports;
- 17 (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal
18 members which sag, split or buckle due to defective material or deterioration;
- 19 (4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or
20 floors, including broken windows or doors;
- 21 (5) Defective or insufficient weather protection for exterior wall covering, including
22 lack of paint or weathering due to lack of paint or other protective covering;
- 23 (6) Any fault or defect in the building which renders it not properly watertight or
24 structurally unsafe.

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

3 SEC. 1120~~19~~. ENFORCEMENT AND PENALTIES.

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

6 SEC. 1121~~0~~. RELATIONSHIP TO ARTICLE 10.

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

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

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

15 SEC. 1122~~1~~. NOTICE OF AMENDMENT.

16 Notice of ~~the any~~ hearing before the ~~City Planning Commission HPC, and -or, if no hearing,~~
17 notice of the first hearing before the Board of Supervisors, of a proposed amendment to this
18 Article which materially alters the limitations and requirements applicable to any building or
19 class of buildings shall be given to the owners of such buildings by mail.

20 SEC. 1123~~2~~. NOTICE PROCEDURE.

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

24 SEC. 1124~~3~~. TIME PROVISIONS.

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

3 SEC. 1125_4. SEVERABILITY.

4 If any part of this Article 11 is held to be unconstitutional or invalid, such decision shall
5 not affect the validity of the remaining portions of this Article 11 or any part thereof. The Board
6 of Supervisors hereby declares that it would have passed all portions of this Article
7 irrespective of the fact that any one or more portions be declared unconstitutional or invalid.

8

9

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

12

By: _____
13 JUDITH A. BOYAJIAN
14 Deputy City Attorney

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SAN FRANCISCO PLANNING DEPARTMENT

Draft Historic Preservation Commission Resolution

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**

1650 Mission St.
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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 November 17, 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.

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 December 1, 2010.

Linda D. Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: December 1, 2010

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

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike-through italics Times New Roman*~~.

Sec. 309 – Permit Review in C-3 Districts

The provisions and procedures set forth in this Section shall govern the review of project authorization and building and site permit applications for 1) the construction or substantial alteration of structures in C-3 Districts, 2) the granting of exceptions to certain requirements of this Code where the provisions of this Section are invoked, and 3) approval of open space and streetscape requirements of the Planning Code including ~~the approval of open space provided in~~ compliance with Section 138, and the streetscape improvements in compliance with Section 138.1.*The categories of alterations deemed to be substantial shall be established by the City Planning Commission after a public hearing.* When any action authorized by this Section is taken, any determination with respect to the proposed project required or authorized pursuant to CEQA ~~may~~ shall also be considered. This Section shall not require additional review in connection with a site or building permit application if review hereunder was completed with respect to the same proposed structure or alteration in connection with a project authorization application pursuant to Section 322.

Applications for building permits, demolition permits, alteration permits, or any other permit relating to a building that is subject to the provisions of Article 11 shall first be referred to and reviewed by the Historic Preservation Commission before any review by the Zoning Administrator, Planning Director, or Planning Commission.

(a) **Exceptions.** *A project applicant seeking an exception shall file a 309 Authorization Application on a form provided by the Zoning Administrator, which shall be in addition to any other application(s) required and a Planning Commission hearing on the exception shall be held pursuant to Subsection (e) below.* Exceptions to the following provisions of this Code may be granted as provided in the code sections referred to below: _____

- (1) Exceptions to the setback and rear yard requirements as permitted in Sections 132.1 and 134(d);
- (2) Exceptions to the ground-level wind current requirements as permitted in Section 148;
- (3) Exceptions to the sunlight to public sidewalk requirement as permitted in Section 146;
- (4) Exceptions to the limitation on residential accessory parking as permitted in Section 151.1(e);
- (5) ~~Exceptions to the requirement of independently accessible parking spaces as permitted in Section 155(c);~~
- (6) ~~Exceptions to the limitation on curb cuts for parking access as permitted in Section 155(r);~~
- (7) Exceptions to the limitations on above-grade residential accessory parking as permitted in Section 155(s);
- (8) Exceptions to the freight loading and service vehicle space requirements as permitted in Section 161(h);
- (9) Exceptions to the off-street tour bus loading space requirements as permitted in Section 162;
- (10) Exceptions to the height limits for vertical extensions as permitted in Section 260(b)(1)(G) and for upper tower extensions as permitted in Section 263.7;
- (11) Exceptions to the height limits in the 80-130F and 80-130X Height and Bulk Districts as permitted in Section 263.6 and in the 200-400S Height and Bulk District as permitted in Section 263.8;

(12) Exceptions to the bulk requirements as permitted in Sections 270 and 272.

~~*A project applicant seeking an exception shall file an application on a form provided by the Zoning Administrator.*~~

(b) **Additional Project Review. Additional Requirements.** In addition to the requirements set forth in this Code, additional requirements and limitations (hereafter referred to as modifications) may be imposed on the following aspects of a proposed project, through the imposition of conditions, in order to achieve the objectives and policies of the *Master General Plan* or the purposes of this Code:

(1) Building siting, orientation, massing and facade treatment, including proportion, scale, setbacks, materials, cornice, parapet and fenestration treatment, and design of building tops;

(2) Aspects of the project affecting views and view corridors, shadowing of sidewalks and open spaces, openness of the street to the sky, ground-level wind current, and maintenance of predominant streetwalls in the immediate vicinity;

(3) Aspects of the project affecting parking, traffic circulation and transit operation and loading points;

(4) Aspects of the project affecting its energy consumption;

(5) Aspects of the project related to pedestrian activity, such as placement of entrances, street scale, visual richness, location of retail uses, and pedestrian circulation, and location and design of open space features;

(6) Aspects of the project affecting public spaces adjacent to the project, such as the location and type of street trees and landscaping, sidewalk paving material, and the design and location of street furniture as required by Section 138.1;

(7) Aspects of the project relating to quality of the living environment of residential units, including housing unit size and the provisions of open space for residents;

(8) Aspects of the design of the project which have significant adverse environmental consequences;

(9) *Aspects of the project that affect its compliance with the provisions of Sections 1109(e), 1111.2(e), 1111.6(e), and 1113 regarding new construction and alterations in conservation districts; All conditions and limitations of approval imposed upon the project by the Historic Preservation Commission pursuant to its review of the project under Article 11 of this Code shall be imposed as project modifications and conditions of approval on any new construction or alteration(s) to a Significant or Contributory Building or any building in a Conservation District, unless modified pursuant to (h) below.*

(10) Other aspects of the project for which modifications are justified because of its unique or unusual location, environment, topography or other circumstances.

(c) ~~Notice~~ **Review of a Section 309 Authorization Application for or a Building or Site Permit.** *Review subject to this Section will be triggered by submittal of a Section 309 Authorization Application or submittal of a building or site permit. After receipt of an application for a Section 309 project a Authorization Application or a building or site permit, for new construction or substantial alteration of a structure in a C-3 District, the Zoning Administrator shall review the proposed work to determine if the following requirements are met: (1) the application and/or permit complies with the provisions of this Code, and (2) no exception is sought as provided in Subsection (a); and (3) the project is not subject to review by the Historic Preservation Commission under Article 11 of this Code; and (4) the Planning Director has determined that no additional modifications are warranted as provided in Subsection (b); and (5) the project complies with all open space and streetscape requirements of the Code. ~~mail notice of the application to all owners of property immediately adjacent to the property that is the subject of the application, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and, in addition, shall publish notice at least once in an official newspaper of general circulation.~~*

(d) **Notice of Proposed Approval.** If, after a review of ~~the Application for a 309 Authorization Application or a building or site permit, a project authorization or permit application, and 1)~~ the Zoning Administrator determines that the application and/or permit meets all of the requirements listed in Subsection (c) above and that no further review or hearing is required, the Zoning Administrator shall provide notice of the proposed approval no less than 20 days before final approval by mail to all owners of property immediately adjacent to the property that is the subject of the application and/or permit, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice in writing. ~~an application complies with the provisions of this Code and that no exception is sought as provided in Subsection (a), and 2) the Director of Planning determines that no additional modifications are warranted as provided in Subsection (b), and that the open space requirements of Section 138 and the streetscape requirements of Section 138.1 have been complied with, the Zoning Administrator shall provide notice of the proposed approval of the application in the manner set forth in Subsection (c) and, in addition, to any person who has requested such notice in writing.~~ If no request for City Planning Commission review pursuant to Subsection (g) is made within ~~120~~ 20 days of such notice, the Zoning Administrator shall approve the application.

(e) **Hearing and Determination of Applications for Exceptions.**

(1) **Hearing.** The ~~City~~ Planning Commission shall hold a public hearing on ~~an~~ all applications g for an exception as provided in Subsection (a).

(2) **Notice of Hearing.** Notice of such hearing shall be **mailed** not less than ~~120~~ **20 days** prior to the date of the hearing to the project applicant, to property owners within 300 feet of the project that is the subject of the application, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice. The notice shall state that the written recommendation of the ~~Director of Planning~~ Director regarding the request for an exception will be ~~is~~ available for public review at the office of the Planning Department ~~of City Planning~~.

(3) **Decision and Appeal.** The Planning Commission may, after public hearing and after making appropriate findings, approve, disapprove or approve subject to conditions, the application for an exception. The decision of the ~~City~~ Planning Commission may be appealed to the Board of ~~Permit~~ Appeals by any person aggrieved within 15 days after the date of the decision by filing a written notice of appeal with that Body, setting forth wherein it is alleged that there was an error in the interpretation of the provisions of this Code or abuse of discretion on the part of the ~~City~~ Planning Commission.

(4) **Decision on Appeal.** Upon the hearing of an appeal, the Board of ~~Permit~~ Appeals may, subject to the same limitations as are placed on the ~~City~~ Planning Commission and the Historic Preservation Commission by Charter or by this Code, approve, disapprove or modify the decision appealed from. If the determination of the Board differs from that of the Planning Commission it shall, in a written decision, specify the error in interpretation or abuse of discretion on the part of the Planning Commission and shall specify in the findings, as part of the written decision, the facts relied upon in arriving at its determination.

(f) **Administrative Approval Director's Recommendations.**

(1) **Director's Recommendations.** If the Planning Director ~~of Planning~~ determines that modifications through the imposition of conditions are warranted as provided in Subsection (b), or that the open space ~~requirements of Section 138 or~~ and the streetscape requirements ~~of this Code of Section 138.1~~ have not been complied with, the matter shall be scheduled for hearing before the ~~City~~ Planning Commission, ~~; provided, however, that i~~ If the Director determines that the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 have been complied with and the applicant does not oppose the imposition of conditions which the Director has determined are warranted, the applicant may waive the right to a hearing before the Planning Commission in writing and agree to the conditions, ~~in which case~~ The Zoning Administrator shall provide notice of the proposed approval of the application with such conditions ~~such fact~~ according to the notice given for applications governed by Subsection (d), so that any person

seeking additional modifications or objecting to *the open space or streetscape requirements Section 138 or Section 138.1* determination may make such a request *for Planning Commission review* as provided in Subsection (g). If no request is made within ~~120~~ days of such notice, the Zoning Administrator shall approve the application subject to the conditions.

(2) **Notice.** *If the proposed application will be heard by the Planning Commission, notice of such hearing, Notice of any meeting of the City Planning Commission pursuant to this subsection shall be provided no less than 20 days before the hearing by mailed* to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice. The notice shall state that the Director's written recommendation *will be* ~~is~~ available for public review at the *Planning* Department ~~of City Planning~~.

(3) **Planning Commission Action.** The ~~City~~ Planning Commission may, after public hearing and after making appropriate findings, approve, disapprove or approve subject to conditions applications considered pursuant to Subsection (b) or for compliance with *the open space and streetscape requirements of the Planning Code Section 138 or Section 138.1*.

(g) ~~City~~ **Planning Commission Review Upon Request.**

(1) **Requests for Hearing.** Within ~~120~~ days after notice of the proposed approval has been given, as provided in Subsection (d), *or Subsection (f)(1) above,* any person may request in writing that the ~~City~~ Planning Commission impose additional modifications on the project as provided in Subsection (b) or consider the application for compliance with *the open space and streetscape requirements of the Planning Code Section 138 or Section 138.1*. ~~Said~~ The written request shall state why additional modifications should be imposed notwithstanding its compliance with the requirements of this Code and shall identify the policies or objectives that would be promoted by the imposition of conditions, or shall state why *the open space and streetscape requirements Section 138 has* have not been complied with.

(2) **Planning Commission Consideration.** The ~~City~~ Planning Commission shall consider at a public ~~hearing meeting~~ each written request for additional modifications and for consideration of the application's compliance with the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 compliance and may, by majority vote, direct that a hearing be conducted to consider such modifications or compliance, which hearing may be conducted at the same meeting that the written request is considered and decided. Notice of such ~~hearing meeting~~ shall be mailed to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the Citywide Assessment Roll in the Assessor's Office, to any person who has requested such notice, and to any person who has submitted a request for additional requirements. In determining whether to conduct such a hearing, the Planning Commission shall determine whether, based upon a review of the project, reasonable grounds exist justifying a public hearing in order to consider the proposed additional modifications and the application's compliance with the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 compliance.

(3) **Planning Commission Action.** If the Planning Commission determines to conduct a hearing to consider the imposition of additional modifications or the application's compliance with the open space and streetscape requirements Section 138 and Section 138.1 compliance, it may, after such hearing and after making appropriate findings, approve, disapprove, or approve subject to conditions the building or site permit or project authorization application. If the Commission determines not to conduct a hearing, the Zoning Administrator shall approve the application subject to any conditions imposed by the ~~Director of Planning~~ Director to which the applicant has consented and any conditions imposed by the Historic Preservation Commission.

(h) Right to Modify a Decision by the Historic Preservation Commission.

For projects that require multiple planning approvals, the Historic Preservation Commission must review and act on any Permit to Alter or Permit to Demolish before any other

planning approval action. For projects that (1) require Permit Review under Section 309, et. seq. of the Code, and (2) do not concern a Significant Building (Categories I & II) or a Contributory Building (Category III only), the Planning Commission may modify any decision on a Permit to Alter or Permit to Demolish by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code.

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

(h i) Mandatory Planning Commission Hearing for ~~Hearings on~~ Projects Over 50,000 Square Feet of Gross Floor Area or Over 75 Feet in Height . The ~~City~~ Planning Commission shall hold a public hearing not otherwise required by this Section on all building and site permit ~~and Section 309 project authorization~~ ~~a~~Applications for projects which will result in a net addition of more than 50,000 square feet of gross floor area of space or which will result in a building that is greater than 75 feet in height. Notice of such hearing shall be mailed not less than ~~120~~ 20 days prior to the date of the hearing to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice.

(i j) Imposition of Conditions, General. If, pursuant to the provisions of this Section, the ~~City~~ Planning Commission determines that conditions should be imposed on the approval of a building or site permit application, ~~or Section 309 project a~~Authorization ~~a~~Application ~~or an application for exceptions~~ and the applicant agrees to comply, the Planning Commission may approve the application subject to those conditions, and if the applicant refuses to so agree, the Commission may disapprove the application. Any conditions imposed by the Historic Preservation Commission pursuant to Article 11 shall be imposed as conditions of approval on such building or site permit or Section 309 Application.

(~~j~~ k) **Change of Conditions.** Authorization of a change in any condition previously imposed pursuant to this Section shall require an application for a change in conditions, which application shall be subject to the procedures set forth in this Section.



SAN FRANCISCO PLANNING DEPARTMENT

Draft Historic Preservation Commission Resolution

Planning Code Text Changes: Section 309

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 309 Amendments**

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

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Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT 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 Section 309; 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, Planning Code Section 309 regulates the Permit Review in Downtown Residential Districts, many of which are also regulated under Article 11 as Significant or Contributory Buildings or Buildings in Conservation Districts; and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 and Section 309 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th, 15th and November 3rd, 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* the proposed ordinance amending Section 309 as proposed in the draft Ordinance.

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 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) is the Planning Code chapter that outline the designation and permit review processes for buildings in the Downtown C-3 Districts.

3. Planning Code Section 309 regulates the Permit Review in Downtown Residential Districts, many of which are also regulated under Article 11 as Significant or Contributory Buildings or Buildings in Conservation Districts.
4. The changes proposed to Section 309 will clarify, update, and streamline the Section 309 permit review process.
5. Therefore, the HPC recommends *approval of Section 309 amendments as drafted in 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.

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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.

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.

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

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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, streamline, and clarify Section 309.

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 December 1, 2010.

Linda D. Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: December 1, 2010

Exhibit A: Draft Section 309 Amendments, dated December 1, 2010