



SAN FRANCISCO PLANNING DEPARTMENT

DATE: August 26, 2010
TO: Historic Preservation Commission
FROM: Timothy Frye, Acting Preservation Coordinator, (415) 575-6822
RE: Identification and potential delegation of approvals
for work determined to be minor under Article 11 of the Planning
Code and in compliance with City Charter Section 4.135

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Since the effective date of Proposition J, January 2009, and until the current Articles 10 & 11 of the Planning Code are revised with new practices and procedures, the Planning Department (Department) refers to both City Charter Section 4.135 (Charter) and the existing Articles 10 and 11 of the Planning Code to provide rules for the regulation of historic buildings and areas throughout San Francisco. The procedures outlined in the Charter prevail where there is inconsistency between the documents.

With regard to Permits to Alter for buildings and districts identified in Article 11, the Charter states that the Historic Preservation Commission (HPC) has (1) the authority to determine if a proposed alteration (Permit to Alter) should be considered a Major or a Minor Alteration, (2) the authority to approve, modify, or disapprove applications for permits to alter or demolish Significant or Contributory buildings or any building within a Conservation District; and, (3) the authority to delegate this function to the Department for work determined to be Minor, whose decision is appealable to the HPC.

Pending the adoption of a revised Article 11, the Department has continued to process building permit applications for Major and Minor Alterations within the C-3 zoning districts using the existing Article 11 procedures. These procedures are in conflict with the Charter.

THE WAY IT WAS

Category I-IV (Significant and Contributory Buildings)

Prior to the HPC, the Department's procedure defined a Minor Alteration as work that did not impact any of the character-defining features of the Significant or Contributory building and (1) was considered maintenance & repair, or (2) was confined to the piers and lintels of the ground-floor of the building and met the Department's Storefront Replacement Standards, if applicable, or (3) was related to the installation of tenant signage and/or awnings and met the Department's Signage & Awning Standards, or (4) was related to the installation of rooftop mechanical equipment or wireless telecommunication antennae that did not result in a substantial addition of height above the height of the building.

Permit applications that met the above criteria were issued a Letter of Minor Alteration. Every Letter of Minor Alteration was sent to the HPC (and the former Landmarks Preservation Advisory Board) under the Department's standard 10-day appeal period. The Letter of Minor

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Alteration was also sent to all interested parties on file at the Department. To date, the interested parties include San Francisco Architectural Heritage and Sue Hestor. Since the effective date of Prop J, January 2009, the Department has not received a request to appeal any Letter of Minor Alteration to the HPC.

Category V and Unrated Buildings within a Conservation District

Under Article 11, work related to Category V or Unrated buildings within Conservation Districts do not require a Permit to Alter. Any new construction or façade alterations related to these buildings were approved by the Department or, if applicable, Section 309 design review by the Planning Commission. Since the effective date of Section 4.135 a number of sign, storefront, and awning permit applications were approved. To date, only two façade alteration permits for Category V buildings have been approved (39 Stockton Street BPA#2010.06.08.4082 and 290 Sutter Street BPA# 2009.06.29.1595) and no permits for new construction have been reviewed or approved.

Pursuant to the Article 11, façade alterations and new construction related to Category V or Unrated buildings are required to be found compatible with the character-defining features outlined in Section 6 of the Appendix related to each of the Conservation Districts. The Department believes that both projects cited above are compatible with the character-defining features of the Kearny-Market-Mason-Sutter Conservation District.

THE WAY IT WOULD BE

Under the City Charter, the HPC shall approve all exterior work for Category I-IV buildings and any building located within a Conservation District, regardless of its rating, and may delegate this function to the Department for work determined to be Minor, whose decision is appealable to the HPC. The Department requests that the HPC define work that would be considered a Minor Alteration and delegate the review and approval process under the following interim procedures.

Category I-IV & Category V and Unrated Buildings within a Conservation District

The identification and delegation of Minor Alteration Permits to Alter will allow the HPC and the Department flexibility in responding to the changing needs of owners and tenants regulated under Article 11. The Department has developed a draft list of scopes of work that could be determined to be a Minor Alteration and has also developed requirements that these scopes of work must meet in order to obtain a Permit to Alter for Minor Alteration. These requirements are based upon the requirements for Major Alteration Permits to Alter listed in Section 1111.6 of the Planning Code. The Department requests that the HPC review the draft requirements and definitions of Minor Alterations listed below. If the HPC determines that the definitions and requirements listed below are appropriate, the Department will prepare a Resolution for action at its September 15, 2010 hearing to delegate these approvals to the Department and that the delegation shall be for a limited time and adopted as interim procedures.

Pursuant to the Charter, the Department has included an appeal or "Request for Hearing" process for the HPC and the public to ensure consistent application of the proposed requirements. This procedure will allow administrative review of work determined by the HPC

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to be Minor and will allow any interested party, including the HPC, an opportunity to request a hearing related to any Permit to Alter for Minor Alteration issued by the Department. The Department recommends that these interim procedures expire within one year. At that time, and pending the adoption of a revised Article 11, the effectiveness of the process can be evaluated and the HPC may decide revise its procedures as it deems appropriate.

The new procedure would be as follows. This procedure does not include any other entitlements that may be required as part of the proposal:

1. A building permit is filed for work within a Conservation District.
2. The Department reviews the proposed project to determine if it meets the HPC's definition of a Major or Minor alteration opens a Permit to Alter Case (an "H" case, e.g. 2010.0269H).
3. The proposed project meets the requirements set forth in HPC Resolution XXX for a Minor Alteration Permit to Alter.
4. The Department makes findings related to the proposed project and issues the Minor Alteration Permit to Alter.
5. The Minor Alteration Permit to Alter will be sent to the HPC and all interested parties on file with the Department.
6. Any member of the public or the HPC may file for a "Request for Hearing" within 15 calendar days of the issuance of the Permit to Alter for Minor Alteration.
7. If no request is received then the permit will be approved.
8. If a "Request for Hearing" is received by the Department, the hearing will be scheduled and noticed for a future hearing before the HPC. At that time the HPC may decide to uphold, modify or disapprove the issuance of the Permit to Alter for Minor Alteration.

Proposed Minor Alteration Permit to Alter Requirements

In reviewing a request for a Minor Alteration Permit to Alter, the Department, on behalf of the HPC, proposes that alterations to exterior features of Significant or Contributory buildings or any buildings within a Conservation District be compatible with the architectural character of the building and/or district, and shall comply with the following requirements, where applicable:

- A. The distinguishing historic qualities and character of the building may not be damaged or destroyed.
- B. The integrity of distinctive stylistic features or examples of skilled craftsmanship that characterize a building shall be preserved.
- C. Distinctive architectural features which are deteriorated shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material shall match the historic material in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be based on historic, physical or pictorial evidence, if available, rather than on conjectural

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designs or the availability of different architectural elements from other buildings or structures.

- D. Contemporary design of alterations may be permitted, provided that such alterations do not destroy significant exterior architectural materials and that the design is compatible with the size, scale, color, material and character of the building and/or District.
- E. All exterior alterations, including signage and awnings, shall be compatible with the character-defining features of the building and/or the District.

Proposed Minor Alteration Permit to Alter Scopes of Work

The following scopes of work could be considered Minor Alterations for the purpose of an Article 11 Permit to Alter:

- 1. Work determined to be ordinary maintenance & repair as defined by the HPC.
- 2. Installation of rooftop mechanical equipment that does result in a substantial addition of height above the height of the building.
- 3. Installation of wireless telecommunication antennae that does result in a substantial addition of height above the height of the building and is not attached to the exterior of the primary façade of the building.
- 4. Window repair or replacement.
- 5. New tenant signs & awnings.
- 6. Change of copy on existing signs & awnings.
- 7. Work confined to the ground-floor display areas within the architectural frame (piers and lintels) of the building to meet the needs of commercial tenants, including storefront system repair & replacement.

REQUIRED COMMISSION ACTION

The Department is requesting that the HPC review the definitions and procedures outlined in this memo and adopt a resolution at their September 15, 2010 hearing delegating this function to the Department as an interim measure.



SAN FRANCISCO PLANNING DEPARTMENT

Permit to Alter MINOR ALTERATION DRAFT EXAMPLE

Date: September 1, 2010
Case No. 2010.0000H
Permit Application No.: 2010.07.20.0695
Project Address: 33 Maiden Lane
Conservation District: Kearny-Market-Mason-S utter Conservation District
Category: Category IV - Contributing
Zoning: C-3-R (Downtown Retail)
80-130-F Height and Bulk District
Block/Lot: 0310/008
Applicant: Tristan Warren
Senior Associate
Zackl de Vito ARCHITECTURE
156 South Park
San Francisco, CA 94107
Staff Contact Timothy Frye - (415) 558-6625
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This is to notify you formally that pursuant to the process and procedures adopted by the Historic Preservation Commission (HPC) and authorized by City Charter Section 4.135, your request for a Permit to Alter at **ADDRESS** is determined to be a Minor Alteration to a **CATEGORY** Building within the **CONSERVATION DISTRICT** under the Downtown Plan.

Section 4.135 of the City Charter states that the HPC has (1) the authority to determine if a proposed alteration (Permit to Alter) should be considered a Major or a Minor Alteration, (2) the authority to approve, modify, or disapprove applications for permits to alter or demolish Significant or Contributory buildings or any building within a Conservation District; and, (3) the authority to delegate this function to the Planning Department (Department) for work determined to be Minor, whose decision is appealable to the HPC.

The scope of work identified in this Permit to Alter for a Minor Alteration has been delegated to the Department in accordance with HPC Resolution No. XXX and the Department grants APPROVAL in conformance with the architectural plans dated XXXXXXXX and labeled Exhibit A on file in the docket for Case No. 2010.0000H and associated with Permit Application No. 2010.07.20.0695

FINDINGS

The proposed scope of work includes (**INSERT SCOPE e.g. storefront replacement confined to the piers and lintels of the ground-floor commercial space**) and complies with the following requirements:

- a. The distinguishing historic qualities and character of the building may not be damaged or destroyed.

No historic fabric is proposed to be removed as part of this proposal.

- b. The integrity of distinctive stylistic features or examples of skilled craftsmanship that characterize a building shall be preserved.

The proposal will remove an existing non-historic storefront. All work is confined within the piers and lintels of the ground-floor commercial space and will not impact the integrity of any adjacent distinctive features or examples of skilled craftsmanship.

- c. Distinctive architectural features which are deteriorated shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material shall match the historic material in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be based on historic, physical or pictorial evidence, if available, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

N/A

- d. Contemporary design of alterations is permitted, provided that such alterations do not destroy significant exterior architectural materials and that such design is compatible with the size, scale, color, material and character of the building and its surroundings.

The proposal includes the removal of the existing non-historic storefront system and replacement with a new compatible storefront system. The overall exterior profiles and storefront arrangement meets the Department's Storefront Standards and is determined to be compatible with the character-defining features of the subject building and the Conservation District; a horizontal metal panel will separate the main storefront glazing from the transom area and will match the overall historic proportion, scale, and character of ground-floor storefronts within the district; all glazing shall be clear vision glass; intake louvers will be located above the transom area but will be incorporated into the overall storefront system and will be installed behind an architecturally finished grille to conceal their appearance from the public right-of-way. The storefront shall have a dark painted or powder coated finish. All new tenant signage shall be reviewed under a separate permit application.

- e. All exterior alterations, including signage and awnings, shall be compatible with the character-defining features of the building and/or the Conservation District.

The proposal is found to be compatible with Appendix E of the Planning Code in terms of Massing, Composition, Scale, Materials, Detailing, and Ornamentation.

For these reasons, the above-cited work is consistent with the intent and requirements outlined in HPC Resolution No. XXX and will not be detrimental to the subject building and/or the Conservation District.

Permit to Alter – Minor Alteration
DATE

Case No. 2010.0000H
Permit Application No. 2010.07.20.0695
33 Maiden Lane

REQUEST FOR HEARING: If you have substantial reason to believe that there was an error in the issuance of this Permit to Alter, or abuse of discretion on the part of the Planning Department, you may file for a Request for Hearing with the Historic Preservation Commission within 15 days of the date of this letter. Should you have any questions about the contents of this letter, please contact the Planning Department at 1650 Mission Street, 4th Floor or call 415-575-9121.

cc: Historic Preservation Commission, 1650 Mission Street
San Francisco Architectural Heritage, 2007 Franklin Street
Sue Hestor, Attorney, 870 Market Street
Other Interested Parties

1. **General Plan Compliance.** The proposed Permit to Alter is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. 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.

The goal of a Permit to Alter is to provide additional oversight for buildings and districts that are architecturally or culturally significant to the City in order to protect the qualities that are associated with that significance.

The proposed project qualifies for a Permit to Alter and therefore furthers these policies and objectives by maintaining and preserving the character-defining features of the subject building and/or Conservation District for the future enjoyment and education of San Francisco residents and visitors.

1. The proposed 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 project is not neighborhood-serving; however, its continued use maintains and strengthens the surrounding retail uses, many of them are locally-owned, by bringing visitors to the area.

- 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 project will strengthen neighborhood character by respecting the character-defining features of the subject building and/or Conservation District in conformance with the requirements set forth in HPC Resolution No. XXX and the Secretary of the Interior's Standards.

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

The proposed project will have no adverse effect on the City's supply of affordable housing.

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

The proposed project 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 project will not affect the City's diverse economic base and will not displace any business sectors due to commercial office development.

- 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. Any construction or alteration associated would be executed in compliance with all applicable construction and safety measures.

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

The proposed project respects the character-defining features of the subject building and/or Conservation District and is in conformance with the requirements set forth in HPC Resolution No. XXX and the Secretary of the Interior's Standards

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

The proposed Permit to Alter will not impact the City's parks and open space.

2. For these reasons, the proposal meets the provisions of City Charter Section 4.135 and HPC Resolution No. XXX regarding Permits to Alter.