File No. 120300 Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** April 30, 2012

Board of Supervisors Meeting **Date** _____

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☒	☐	Planning Commission Resolution No. 18531
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Completed by: Alisa Miller **Date** April 27, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Article 10, Landmarks Preservation]

Ordinance amending the San Francisco Planning Code, Article 10, entitled "Preservation of Historical Architectural and Aesthetic Landmarks," in its entirety; and making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1(b).

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

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On February 2, 2012, at a duly noticed public hearing, the Planning Commission in Resolution No. 18531 found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 120300 and is incorporated herein by reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in

Planning Commission Resolution No. 18531, which reasons are incorporated herein by reference as though fully set forth.

(b) Historic Preservation Commission Findings. On October 19, 2011 at a duly noticed public hearing, the Historic Preservation Commission in Resolution No. 666 reviewed the proposed Planning Code amendments and recommended that the Board of Supervisors adopt some of the proposed amendments. On February 1, 2012 at a duly noticed public hearing, the Historic Preservation Commission reviewed additional possible amendments to Article 10, some of which have been incorporated into the proposed Planning Code amendments, provided additional recommendations, and incorporated all of its prior recommendations in Resolution No. 672, which supersedes its Resolution No. 666. A copy of said Resolution 672 and any additional recommendations of the Historic Preservation Commission are on file with the Clerk of the Board of Supervisors in File No. 120300.

(c) Environmental Findings. The Planning Department has determined that the actions contemplated in this Ordinance are exempt from the California Environmental Quality Act (California Public Resources Code section 21000 et seq.) (CEQA) under Section 15060(c)(2) of the CEQA Guidelines to the California Environ. Said determination is on file with the Clerk of the Board of Supervisors in File No. 120300 and is incorporated herein by reference.

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

ARTICLE 10: PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS

Sec. 1001. Purposes.

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

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

Sec. 1004. Designation of Landmarks and Historic Districts.

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

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

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

Sec. ~~*1004.5*~~ *1004.4*. Appeal to Board of Supervisors.

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

Sec. ~~*1004.7*~~ *1004.6*. Notice of Amendment or Rescission of Designation.

Sec. 1005. Conformity and Permits.

Sec. 1006. Certificate of Appropriateness Required.

Sec. 1006.1. Applications for Certificate of Appropriateness.

Sec. 1006.2. Review by *Planning* Department ~~*of City Planning and City Planning Commission*~~.

Sec. 1006.3. Scheduling and Notice of Hearing.

Sec. 1006.4. ~~*Referral to Advisory Board Prior to Hearing. Sec. 1006.5.*~~ Conduct of Hearing; Decision.

Sec. ~~*1006.6*~~ *1006.5*. Nature of ~~*Planning*~~ *Historic Preservation* Commission Decision.

Sec. ~~*1006.7*~~ *1006.6*. Standards for Review of Applications.

Sec. ~~*1006.8*~~*1006.7*. Appeals ~~*from Planning Commission Decision*~~*of a Certificate of Appropriateness*.

Sec. 1007. Unsafe or Dangerous Conditions.

Sec. 1008. Compliance with Maintenance Requirements.

Sec. 1009. Advice and Guidance to Property Owners.

Sec. 1010. Property Owned by Public Agencies.

Sec. 1011. Recognition of Structures of Merit.

Sec. 1012. Referral of Certain Matters.

Sec. 1013. Enforcement and Penalties.

Sec. 1014. Applicability.

Sec. 1015. Severability.

Appendix A List of Designated Landmarks.

Appendix B Jackson Square Historic District.

Appendix C Webster Street Historic District.

Appendix D Northeast Waterfront Historic District.

Appendix E Alamo Square Historic District.

Appendix F Liberty-Hill Historic District.

Appendix G Telegraph Hill Historic District.

Appendix H Blackstone Court Historic District.

Appendix I South End Historic District.

Appendix J Civic Center Historic District.

Appendix K Bush Street-Cottage Row Historic District.

Appendix L Dogpatch Historic District.

SEC. 1001. PURPOSES.

It is hereby found that structures, sites and areas of special character or special historical, architectural or aesthetic interest or value have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving them. It is further found that the prevention of such needless destruction and impairment is essential to the

health, safety and general welfare of the public. The purpose of this legislation is to promote the health, safety and general welfare of the public through:

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

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

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

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

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

SEC. 1002. POWERS AND DUTIES OF *PLANNING* DEPARTMENT ~~*OF CITY PLANNING*~~ AND ~~*CITY PLANNING*~~ *HISTORIC PRESERVATION* COMMISSION.

The *Planning* Department ~~*of City Planning (hereinafter referred to as the "Department")*~~ and the ~~*Planning Commission*~~*Historic Preservation Commission ("HPC")* shall have and exercise the powers and shall perform the duties set forth in this Section and elsewhere in this Article 10 with respect to historical preservation. ~~*The Department and the Planning Commission shall be*~~

~~*advised in the exercise and performance of their powers and duties by the Landmarks Preservation Advisory Board hereinafter created.*~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) May disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and may encourage and advise property owners in the

protection, enhancement, perpetuation and use of landmarks, property in historic districts, and other officially recognized property of historical interest;

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

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

SEC. 1003. ~~*LANDMARKS PRESERVATION ADVISORY BOARD*~~ *HISTORIC PRESERVATION COMMISSION*.

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

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

In November of 2008, the electorate approved Charter Section 4.135, creating the HPC to advise the City on historic preservation matters, participate in processes involving historic and cultural resources, and take such other actions concerning historic preservation as may be prescribed by this Code and other ordinances. Charter Section 4.135 sets forth the requirements for membership to the

HPC, as well as applicable nomination procedures and term limits for Commissioners. Additionally, Charter Section 4.135 establishes staffing for the HPC and sets forth the HPC's role in the Planning Department's budget process and establishment of rates, fees, and similar charges. Additional requirements, including those related to the establishment of rules and regulations for the HPC's organization and procedure, are set forth in Charter Sections 4.100 through 4.104.

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

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

SEC. 1004. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

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

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

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

(b) Each such designating ordinance shall include, or shall incorporate by reference to the pertinent resolution of the ~~*Planning Commission*~~*HPC* then on file with the Clerk of the Board of Supervisors, as though fully set forth in such designating ordinance, the location and boundaries of the landmark site or historic district, a description of the characteristics of the landmark or historic district that justify its designation, and a description of the particular

features that should be preserved. Any such designation shall be in furtherance of and in conformance with the purposes of this Article 10 and the standards set forth herein.

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

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

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

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

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

(d) The Board of Supervisors may amend or rescind a designation at any time, subject to all of the procedures set forth in this Article 10 for an original designation; provided, however, that in the event that a landmark is accidentally destroyed or is demolished or removed in conformity with the provisions of Section 1007, or is legally demolished or relocated after compliance ~~*has been had*~~ with the provisions of ~~*Section 1006.2*~~*this Article 10*, the ~~*Director of*~~ Planning *Director* may request the ~~*Planning Commission*~~*HPC* to recommend to the Board of Supervisors that the designation be amended or rescinded, and in such case the

procedures for an original designation set forth in Sections 1004.1~~,~~ *and* 1004.2 ~~*and 1004.3*~~ hereof shall not apply.

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

(a) Nomination. The Department, or property owner(s) may request that the HPC initiate designation of a landmark site or historic district. When a nomination is submitted by a majority of property owners for designation of a historic district, the nomination must be considered by the HPC. A nomination for initiation shall be in the form prescribed by the HPC and shall contain supporting historic, architectural, and/or cultural documentation, as well as any additional information the HPC may require. The HPC shall hold a hearing to consider the nomination no later than 45 days from the receipt of the nomination request.

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

(1) by resolution of the Board of Supervisors;

(2) by resolution of the HPC; or

(3) upon adoption of a resolution by the HPC to confirm a nomination made pursuant to subsection (a) above, provided that the HPC may disapprove the nomination or may request further information and continue the matter as appropriate.

The Board of Supervisors and the HPC shall make findings in support of any initiation of designation of a landmark site or historic district. The Board of Supervisors shall promptly refer any initiation of designation to the HPC for its review and recommendation. ~~*Any such application shall be filed with the Department upon forms prescribed by the Planning Commission, and shall be accompanied by all data required by the Planning Commission. Where such an application is submitted*~~

~~*for designation of a historic district, the application must be subscribed by or on behalf of at least 66 percent of the property owners in the proposed district.*~~

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

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

~~*SEC. 1004.3. HEARING BY CITY PLANNING COMMISSION*~~ *DECISION BY THE HISTORIC PRESERVATION COMMISSION*.

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

(a) Notice of Hearing. Notice of the time, place and purpose of such hearing shall be given by at least one publication in a newspaper of general circulation in the City not less than 20 days prior to the date of hearing. Notice shall also be mailed not less than 10 days prior to the date of hearing to the owners of all property included in the proposed designation, using for this purpose the names and addresses of the last known owners as shown on the records of the ~~*Assessor*~~ *Tax Collector and to the applicant, if any*. Failure to send notice by mail to any such property owner where the address of such owner is not a matter of public record

shall not invalidate any proceedings in connection with the proposed designation. The Department may also give such other notice as it may deem desirable and practicable.

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

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

~~*(d) In the event that a proposed designation has been initiated prior to July 18, 2006, and the Planning Commission has failed to act upon such proposed designation as of the effective date of this ordinance, the Board of Supervisors may act on the proposed designation notwithstanding the Planning Commission failure to act on the proposed designation.*~~ *Referral of Proposed Designation. If the HPC recommends approval of a landmark designation, it shall send its recommendation to the Board of Supervisors, without referral to the Planning Commission. If the HPC recommends approval of a historic district designation, it shall refer its recommendation to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be sent by the Department to the Board of Supervisors with the HPC's recommendation. The Planning Commission's comments shall be transmitted to the Board of Supervisors as a resolution and shall (i)*

address the consistency of the proposed designation with the policies embodied in the General Plan and the priority policies of Section 101.1, particularly the provision of housing to meet the City's Regional Housing Needs Allocation, and the provision of housing near transit corridors; (ii) identify any amendments to the General Plan necessary to facilitate adoption of the proposed designation; and (iii) evaluate whether the district would conflict with the Sustainable Communities Strategy for the Bay Area. If the HPC disapproves designation of a landmark or historic district, that decision shall be final and shall not require referral unless appealed as set forth below.

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

The Board of Supervisors shall hold a public hearing on any proposal so transmitted to it, after due notice to the owners of the property included in the proposal, and such other notice as the ~~said~~ Board may deem necessary. The Board of Supervisors may approve, ~~or~~ modify and approve, *or disapprove* the designation by a majority vote of all its members. *Prior to the Board of Supervisors' vote on a proposed historic district, the Planning Department shall conduct thorough outreach to affected property owners and occupants. The Planning Department shall invite all property owners and occupants in the proposed district area to express their opinion in writing on the proposed designation, be it in the form of a vote or a survey. Such invitation shall advise owners of the practical consequences of the adoption of the district, including the availability of preservation incentives, the types of work requiring a Certificate of Appropriateness, the process and fees for obtaining a Certificate of Appropriateness, and the types of work that is generally ineligible to receive a Certificate of Appropriateness. The Department's goal shall be to obtain the participation of at least half of all property owners in the proposed district. The property owners' vote shall be considered by the Board of Supervisors when taking action on the proposed district.*

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

If the ~~Planning Commission~~*HPC* disapproves the proposed designation, such action shall be final, except upon the filing of a valid appeal to the Board of Supervisors within 30 days by

a protest subscribed by the owners of at least 20 percent of the property proposed to be designated, or by any governmental body or agency, or by an organization with a recognized interest in historical preservation; provided, however, that if the proposal was initiated by the Board of Supervisors, the Clerk of the said Board shall be notified immediately of the disapproval without the necessity for an appeal.

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

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

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

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

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

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

When a landmark or historic district designation has been amended or rescinded, the Department shall promptly notify the owners of the property included therein, and shall cause

a copy of the appropriate ordinance, or notice thereof, to be recorded in the office of the County Recorder.

SEC. 1005. CONFORMITY AND PERMITS.

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

(b) (1) Installation of a new general advertising sign is prohibited in any ~~H~~*h*istoric ~~D~~*d*istrict or on any historic property regulated by this Article 10.

(2) The Central Permit Bureau shall not issue, and no other City department or agency shall issue, any permit for construction, alteration, removal or demolition of a structure or any permit for work involving a sign, awning, marquee, canopy, mural or other appendage on a landmark site or in a~~*n Historic District*~~ *historic district*, except in conformity with the provisions of this Article 10. In addition, no such permit shall be issued unless all other applicable laws and regulations have been complied with.

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

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

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

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

(e) After receiving a permit application from the Central Permit Bureau in accordance with the preceding subsection, the Department shall ascertain whether ~~*Section 1006 requires*~~ a Certificate of Appropriateness *is required or has been approved* for the work proposed in such permit application. If ~~*such*~~ *a* Certificate *of Appropriateness* is required and has been issued, and if the permit application conforms to ~~*such*~~ *the work approved in the* Certificate *of Appropriateness*, the permit application shall be processed without further reference to this Article 10. If ~~*such*~~ *a* Certificate *of Appropriateness* is required and has not been issued, or if ~~*in the sole judgment of the Department*~~ the permit application does not ~~*so*~~ conform *to what was approved*, the permit application shall be disapproved or held by the Department until such time as conformity does exist *either through modifications to the proposed work or through the issuance of an amended or new Certificate of Appropriateness*~~*; the decision and action of the*~~

~~*Department shall be final*~~. Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10:

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

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

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

(4) *When the application is for a permit to maintain, repair, rehabilitate, or improve streets and sidewalks, including sidewalk widening, accessibility, and bulb-outs, unless such streets and sidewalks have been explicitly called out in a landmark's or district's designating ordinance as character defining features of the landmark or district.* ~~*When the application is for a permit to comply with the UMB Seismic Retrofit Ordinances and the Zoning Administrator determines that the proposed work complies with the UMB Retrofit Architectural Design Guidelines, which guidelines shall be adopted by the Planning Commission.*~~

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

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

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

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

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

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

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

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

SEC. 1006. CERTIFICATE OF APPROPRIATENESS REQUIRED.

A Certificate of Appropriateness shall be required and shall govern review of permit applications as provided in Sections 1005(e) and 1005(g), except in the specific cases set forth in Section 1005(e), for the following types of work affecting the character-defining features as listed pursuant to Section 1004(b) of the Code: ~~*In the case of*~~:

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

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

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

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

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

SEC. 1006.1.APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS.

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

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

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

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

(e) ~~*Conditional Uses. In the case of any proposal for which the City Planning Code requires a conditional use authorization in addition to a Certificate of Appropriateness, the Department may combine the required applications, notices and hearings for administrative convenience and in the interests of the applicant and the public, to the extent deemed feasible and desirable by the Department.*~~ *Multiple Planning Approvals. For projects that require multiple planning approvals, the HPC shall review and act on any Certificate of Appropriateness before any other planning approval action. For*

projects that (1) require a conditional use authorization or permit review under Section 309, et. seq. of the Code, and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic preservation provisions. For projects located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic preservation provisions.

(f) Permit and Application Fee Waivers. In cases of economic hardship, an applicant may be partially or fully exempt from paying fees pursuant to Section 350(e)(2).

SEC. 1006.2.REVIEW BY *PLANNING* DEPARTMENT ~~*OF CITY PLANNING AND CITY PLANNING COMMISSION*~~.

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

~~*(1) In the case of any alteration of a structure or any work involving a sign, awning, marquee, canopy or other appendage, or exterior changes in a historic district visible from a public street or other public place, or alterations to a City-owned park, square, plaza or garden on a landmark site, where a Certificate of Appropriateness is required, the application for said Certificate shall be reviewed by the Department with the advice of the Advisory Board. The department, with the advice of the Advisory Board, shall determine within 20 days after the application is accepted for filing, whether or not the proposal would have a significant impact upon, or is potentially detrimental to, the landmark site or historic district; and the Department shall notify the applicant of the determination made. If it is determined that there would be no such significant impact or potential detriment, the Department shall issue a Certificate of Appropriateness to the applicant.*~~

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

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

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

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

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

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

(b) Administrative Certificates of Appropriateness. Upon receipt of a building permit application, an Administrative Certificate of Appropriateness for Minor Alteration work may be approved by the Department without a hearing before the HPC. The Department shall mail the Department's written decision on an Administrative Certificate of Appropriateness to the applicant and to any individuals or organizations who so request. Any Departmental decision on an Administrative Certificate of Appropriateness may be appealed to the HPC within 15 days of the date of the written

decision. The HPC may also request review of any Departmental decision on an Administrative Certificate of Appropriateness by its own motion within 20 days of the written decision.

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

SEC. 1006.3.SCHEDULING AND NOTICE OF HEARING.

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

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

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

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

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

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

(4) For buildings located in historic districts: by mail not less than 20 days prior to the date of the hearing to all owners and occupants of the subject property, all owners of properties within 300 feet of the subject property, and all occupants of properties within 150 feet of the subject property.

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

~~(d)~~*(6)*. Such other notice as the Department ~~shall~~ deems appropriate.

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

SEC. 1006.4.~~*REFERRAL TO ADVISORY BOARD PRIOR TO HEARING.*~~

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

~~*SEC. 1006.5*~~ CONDUCT OF HEARING; DECISION.

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

(a) Report and Recommendation. The Department shall make necessary investigations and studies prior to the hearing of the ~~*Planning Commission*~~*HPC*. The *Department*

shall provide its report and recommendation ~~*of the Director of Planning shall be submitted at the hearing*~~ *to the HPC*.

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

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

(d) Decision. *The HPC shall approve, disapprove, or approve with modifications Certificates of Appropriateness for work to designated landmarks or within historic districts, except where it delegates such decisions to Departmental staff under the provisions of Section 1006.2 above.* The decision of the ~~*Planning Commission*~~*HPC* shall be rendered within 30 days from the date of conclusion of the hearing; failure of the ~~*Commission*~~ *HPC* to act within the prescribed time shall be deemed to constitute disapproval of the application. The decision of the ~~*Planning Commission*~~*HPC*~~*, in either approving or, disapproving the application pursuant to Section 1006.6,*~~ shall be final except upon the filing of a valid appeal to the *Board of Appeals or* Board of Supervisors as provided in Section ~~*1006.8*~~*1006.7*. ~~*The decision of the Planning Commission, in suspending action on an application pursuant to Section 1006.6, shall be final.*~~ If the ~~*Planning Commission*~~*HPC*, or the *Board of Appeals or* Board of Supervisors on appeal, approves the application~~*, or after the expiration of any suspension period imposed by the Commission*~~, the Department shall issue a Certificate of Appropriateness to the applicant.

(e) Time Limit for Exercise. When approving an application for a Certificate of Appropriateness as provided herein, the ~~*Planning Commission*~~*HPC* may impose a time limit for

submission of a permit application conforming to the Certificate; otherwise, such permit application must be submitted within a reasonable time.

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

(g) Reconsideration. Whenever an application has been disapproved by the ~~*Planning Commission*~~*HPC*, or by the *Board of Appeals or* Board of Supervisors on appeal as described in Section ~~*1006.8*~~*1006.7*, no application, the same or substantially the same as that which was disapproved, shall be resubmitted to or reconsidered by the ~~*Planning Commission*~~*HPC* within a period of one year from the effective date of final action upon the earlier application.

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

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

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

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

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

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

SEC. ~~*1006.7*~~*1006.6*. STANDARDS FOR REVIEW OF APPLICATIONS.

The ~~*Planning Commission,*~~*HPC,* the Department~~*, and the Advisory Board*~~*, and, in the case of multiple approvals under Section 1006.1(f), the Planning Commission, and any other decisionmaking*

body shall be guided by the standards in this Section in their review of applications for Certificates of Appropriateness for proposed work on a landmark site or in a historic district. In appraising the effects and relationships mentioned herein, the ~~*Planning Commission, the Department and the Advisory Board*~~ *decisionmaking body* shall in all cases consider the factors of architectural style, design, arrangement, texture, materials, color, and any other pertinent factors.

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

(b) The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties for individual landmarks and contributors within historic districts, as well as any applicable guidelines, local interpretations, bulletins, or other policies. Development of local interpretations and guidelines based on the Secretary of the Interior's Standards shall be led by the Planning Department through a public participation process; such local interpretations and guidelines shall be found in conformance with the General Plan and Planning Code by the Planning Commission and shall be adopted by both the HPC and the Planning Commission. If either body fails to act on any such local interpretation or guideline within 180 days of either body's initial hearing where the matter was considered for approval, such failure to act shall constitute approval by that body. In the case of any apparent inconsistency among the requirements of this Section, compliance with the requirements of the designating ordinance shall prevail.

~~*(b)*~~*(c)* For applications pertaining to landmark sites, the proposed work shall preserve, enhance or restore, and shall not damage or destroy, the exterior architectural features of the landmark and, where specified in the designating ordinance pursuant to Section 1004(c), its major interior architectural features. The proposed work shall not adversely affect the special character or special historical, architectural or aesthetic interest or value of the landmark and

its site, as viewed both in themselves and in their setting, nor of the historic district in applicable cases.

~~(c)~~*(d)* For applications pertaining to property in historic districts, other than on a designated landmark site, any new construction, addition or exterior change shall be compatible with the character of the historic district as described in the designating ordinance; and, in any exterior change, reasonable efforts shall be made to preserve, enhance or restore, and not to damage or destroy, the exterior architectural features of the subject property which are compatible with the character of the historic district. Notwithstanding the foregoing, for any exterior change where the subject property is not already compatible with the character of the historic district, reasonable efforts shall be made to produce compatibility, and in no event shall there be a greater deviation from compatibility. Where the required compatibility exists, the application for a Certificate of Appropriateness shall be approved.

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

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

(g) For applications pertaining to property in a historic district in a RH, RM, RTO, NC or UMU district, the HPC, or the Planning Department if the scope of work has been delegated pursuant to Section 1006.2(a), shall exempt such applications from the requirements of Section 1006.6 when compliance would create a significant economic hardship for the applicant, provided that:

(1) The scope of the work does not constitute a demolition pursuant to Section 1005(f);

(2) The Planning Department has determined that the applicant meets the requirement for economic hardship, such that the fees have been fully or partially waived pursuant to Section 1006.1 of this Code;

(3) The Zoning Administrator has determined that in all other aspects the project is in conformance with the requirements of the Planning Code;

(4) The applicant and the Department have demonstrated that the project utilizes materials, construction techniques, and regulations, such as the California Historic Building Code, to best achieve the goal of protecting the integrity of the district, while reducing costs to the applicant; and

(5) The HPC, or the Planning Department if the scope of work has been delegated pursuant to Section 1006.2(a), has confirmed that all requirements listed herein have been met, and has determined, pursuant to Section 1006.4, that issuance of a Certificate of Appropriateness that fully or partially waives the requirements of Section 1006.6 will not be detrimental to the integrity of the district.

(h) For applications pertaining to residential projects within historic districts that are receiving a direct financial contribution or funding from local, state, or federal sources for the purpose of providing a subsidized for-sale or rental housing unit, the HPC shall exempt such applications from the requirements of Section 1006.6 provided that:

(1) The scope of the work does not constitute a demolition pursuant to Section 1005(f);

(2) The applicant and the Department have demonstrated that the project utilizes materials, construction techniques, and regulations, such as the California Historic Building Code, to best achieve the goal of protecting the integrity of the district;

(3) The applicant has demonstrated that the project has considered all local, state, and federal rehabilitation incentives and taken advantage of those incentives as part of the project, when possible and practical; and

(4) The HPC has confirmed that all requirements listed herein have been met, and has determined, pursuant to Section 1006.4 of this Code, that issuance of a Certificate of Appropriateness that fully or partially waives the requirements of Section 1006.6 will not be detrimental to the integrity of the district and furthers the City's housing goals.

SEC. ~~1006.8~~*1006.7*. APPEALS ~~*FROM PLANNING COMMISSION DECISION*~~*OF A CERTIFICATE OF APPROPRIATENESS*.

(a) Right of Appeal. *The HPC's or the Planning Commission's decision on a Certificate of Appropriateness shall be final unless appealed to the Board of Appeals, which may modify the decision by a 4/5 vote; provided however, that if the project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use authorization, the decision shall not be appealed to the Board of Appeals but rather to the Board of Supervisors, which may modify the decision by a majority vote.* ~~*The action of the Planning Commission in approving or disapproving in whole or in part an application for a Certificate of Appropriateness shall be subject to appeal to the Board of Supervisors in accordance with this Section. An action of the Commission*~~ *Any Certificate of Appropriateness* so appealed ~~*from*~~ shall not become effective unless and until approved by the *Board of Appeals or* Board of Supervisors in accordance with this Section. Nothing in this Section shall be construed to authorize the appeal of any decision under Section ~~*1006.6*~~*1006.5* of this Article 10 to suspend action on an application.

(b) Notice of Appeal. Any appeal under this Section shall be taken by filing written notice of appeal with the *Board of Appeals or Clerk of the* Board of Supervisors*, whichever entity is appropriate under the requirements of subsection (a),* within 30 days after the date of action by the ~~*Planning Commission*~~*HPC or Planning Commission*. ~~*In the case of a historic district, the notice of appeal shall be subscribed by the owners of at least 20 percent of the property affected by the proposed Certificate of Appropriateness; for the purposes of this calculation, the property affected shall be deemed to be all property within the historic district. In the case of a landmark not in a historic district,*~~

~~*the notice of appeal shall be subscribed by the property owner, or by any governmental body or agency, or by an organization with a recognized interest in historical preservation.*~~

(c) Hearing. ~~*Upon the filing of such written notice of appeal so subscribed, t*~~*T*he Board of Supervisors, *the Board of Appeals* or the Clerk*(s)* thereof shall set a time and place for hearing such appeal, which shall be not less than 10 nor more than 30 days after such filing. The *Board of Appeals or the* Board of Supervisors must decide such appeal within 30 days of the time set for the hearing thereon; provided that, if the full membership of the ~~*Board*~~*board hearing the appeal* is not present on the last day on which ~~*said*~~ *the* appeal is set or continued for hearing within said period, the ~~*Board*~~*board* may postpone ~~*said*~~ *the* hearing and decision thereon until, but not later than, the full membership of the ~~*Board*~~*board* is present; provided, further, that the latest date to which said hearing and decision may be so postponed shall be not more than 90 days from the date of filing of the appeal. Failure of the *Board of Appeals or the* Board of Supervisors to act within such time limit shall be deemed to constitute approval by the Board of the ~~*action*~~*decision* of the *HPC or* Planning Commission.

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

~~*(e)*~~ Decisions Affecting City Hall. The provisions of this Subsection shall govern decisions by the ~~*City Planning Commission*~~*HPC* on a Certificate of Appropriateness for alteration work to be done at City Hall, in lieu of any other provision set forth above. Upon the approval or disapproval by the ~~*City Planning Commission*~~*HPC* of a Certificate of Appropriateness for alteration of City Hall, the Secretary of the ~~*City Planning Commission*~~*HPC* shall transmit to the Clerk of the Board of Supervisors written notification of the ~~*Commission*~~*HPC*'s decision. The Clerk shall set a time and place for hearing on the decision, which shall be not less than 10 nor more than 30 days after receipt of such notification. The Board of Supervisors may ~~*either*~~ approve, disapprove, or modify the ~~*Commission's*~~ *HPC's*

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

SEC. 1007. UNSAFE OR DANGEROUS CONDITIONS.

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

SEC. 1008. COMPLIANCE WITH MAINTENANCE REQUIREMENTS.

The owner, lessee or other person in actual charge of a landmark, or of a structure in a~~n~~ historic district, shall comply with all applicable codes, laws and regulations governing the maintenance of the property. It is the intent of this Section to preserve from deliberate or

inadvertent neglect the exterior portions of such landmark or structure, the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior portion. *Failure to comply with this Section shall be subject to enforcement and penalties pursuant to Section 1013 below.*

SEC. 1009. ADVICE AND GUIDANCE TO PROPERTY OWNERS.

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

SEC. 1010. PROPERTY OWNED BY PUBLIC AGENCIES.

(a) The Department shall take appropriate steps to notify all public agencies ~~*which*~~*that* own or may acquire property in the City~~,~~ about the existence and character of designated landmarks and historic districts; if possible, the Department shall cause a current record of such landmarks and *historic* districts to be maintained in each such public agency. In the case of any publicly owned property on a landmark site or in a historic district which is not subject to the permit review procedures of the City, the agency owning the said property shall seek the advice of the ~~*Planning Commission*~~*HPC* prior to approval or authorization of any construction, alteration or demolition thereon; and the ~~*Planning Commission, with the aid of the Advisory Board and*~~*HPC,* in consultation with the Art Commission in appropriate cases, shall render a report to the owner as expeditiously as possible, based on the purposes and standards in this Article 10. ~~*If Planning Commission review of a public project involving*~~ *In the case of any publicly owned property on a landmark site or in a historic district that is subject to the permit*

review procedures of the City under any other law or under the Charter, the agency owning the property shall be subject to the provisions of this Article 10, and if the project involves construction, alteration or demolition on a landmark site or in a historic district ~~*is required under any other law, or under the Charter, the Planning Commission shall render the report referred to in this Section to such public agency without specific request therefor*~~ *a Certificate of Appropriateness shall be required subject to the procedures set forth in this Article 10*.

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

(c) Nothing in this Article 10 shall be construed to impose~~*d*~~ any regulations or controls upon designated landmarks owned or controlled by the Golden Gate Bridge Highway and Transportation District.

SEC. 1011. RECOGNITION OF STRUCTURES OF MERIT.

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

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

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

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

SEC. 1012. Referral of Certain Matters.

Prior to passage by the Board of Supervisors, the following matters shall be submitted to the HPC for its written report regarding effects upon historic or cultural resources: ordinances and resolutions concerning historic preservation issues and historic resources; redevelopment project plans; and waterfront land use and project plans.

(a) Time Period for Review. The HPC shall submit any written report to the Board of Supervisors within 90 days of the date of referral. Failure of the HPC to act within the prescribed time shall be deemed to constitute a recommendation of disapproval, except that the Board of Supervisors may, by resolution, extend the prescribed time within which the HPC is to render its report.

(b) Report to Planning Commission. If the Planning Commission is required to take action on the matter, the HPC shall submit any report to the Planning Commission as well as to the Board of Supervisors.

(c) Referral Back of Proposed Amendments to the Municipal Code. In acting upon any proposed amendment to the Municipal Code concerning historic preservation issues and historic

resources, the Board of Supervisors may modify said amendment but shall not take final action upon any material modification that has not been referred to the HPC for its written report. Should the Board of Supervisors adopt a motion proposing to modify the amendment while it is before the Board, the amendment and the motion proposing modification shall be referred back to the HPC for its written report. In all such cases of referral back, the amendment and the proposed modification shall be heard by the HPC according to the requirement for a new proposal.

SEC. 1013. ENFORCEMENT AND PENALTIES.

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

SEC. 1014. APPLICABILITY.

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

The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to 90 days of the above-time period. The Board of Supervisors may approve by resolution one further extension of up to 90 days. If final action on such designation has not been completed before the end of the relevant time period, the permit application may be approved.

Notwithstanding the above, the Department may approve a permit to construct, alter, or demolish a structure or other feature on a proposed landmark site or in a proposed historic district

while proceedings are pending on a proposed designation if the property owner or authorized agent of the property owner applies for and is granted approval of a Certificate of Appropriateness for such work pursuant to the requirements of this Article 10.

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

SEC. 1015. - SEVERABILITY.

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

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

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

Section 5. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: _____
Marlena G. Byrne
Deputy City Attorney

FILE NO. 120300

LEGISLATIVE DIGEST

[Planning Code - Article 10, Landmarks Preservation]

Ordinance amending the San Francisco Planning Code, Article 10, entitled "Preservation of Historical Architectural and Aesthetic Landmarks," in its entirety; and making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1(b).

Existing Law

Article 10 of the Planning Code, entitled "Preservation of Historical Architectural and Aesthetic Landmarks," sets forth the requirements, procedures, and standards for designating and approving alterations and additions to and demolition of locally designated landmarks and historic districts. Article 10 establishes the various roles of the Landmarks Preservation Advisory Board (LPAB), the Planning Commission, and the Board of Supervisors, as well as the Planning Department, with regard to City-designated landmarks and historic districts. In addition to designating many individual landmarks, Article 10 includes designation of 12 local historic districts.

Once a property has been designated, either individually or as a property within a historic district, the procedures set forth in Article 10 apply to applications for permits to alter, add an addition to, or demolish designated properties, generally requiring a Certificate of Appropriateness be approved by the Planning Department or Planning Commission, with the advice of the LPAB, for such work. Article 10 includes noticing and public hearing procedures, and specific requirements for work to publicly owned structures, including City Hall.

Amendments to Current Law

The proposed ordinance would comprehensively amend Article 10 to remove reference to the former LPAB, remove most references to the Planning Commission, and add appropriate reference to the Historic Preservation Commission (HPC) to reflect that the LPAB no longer exists and that Charter Section 4.135 delegates all of the LPAB's and much of the Planning Commission's former responsibilities to the HPC.

The proposed ordinance would also make a number of changes to the procedures for designating City landmarks and historic districts and for approving Certificates of Appropriateness for designated properties, including, among others, the following:

- Only the Board of Supervisors or the HPC may initiate designation of a landmark or historic district. Under the current Code, these bodies, as well as the Planning Commission and the Art Commission may do so. (*See* new Section 1004.1(b).)
- The Planning Department must conduct certain types of outreach to any area proposed to be designated as a new historic district, and the property owners' opinion on the proposed designation shall be considered by the Board of Supervisors in its decision on whether to designate the district. (*See* new Section 1004.3.)
- The Planning Department may approve "Administrative Certificates of Appropriateness" for work to designated landmarks or properties within historic district where the work proposed is considered a "Minor Alteration," as defined by the HPC. Such work would not require the approval of the HPC unless the Department's decision is appealed to the HPC. (*See* new Section 1006.2.)
- In order to receive a Certificate of Appropriateness for work to a designated landmark or a contributor to a historic district, the work must comply with the *Secretary of the Interior's Standards for Treatment of Historic Properties* ("Secretary's Standards"). The Planning Department will develop local interpretations and guidelines based on the Secretary's Standards, which interpretations and guidelines shall be adopted by both the HPC and the Planning Commission. (*See* new Section 1006.6(b).)
- For property within a historic district in certain zoning districts, compliance with the standards for review of Certificates of Appropriateness, including the Secretary's Standards, shall not be required when it would result in a significant economic hardship, subject to certain conditions. (*See* new Section 1006.6(g).)
- For residential properties within a historic district that are providing government subsidized for-sale or rental housing, compliance with the standards for review of Certificates of Appropriateness, including the Secretary's Standards, shall not be required subject to certain conditions. (*See* new Section 1006.6(h).)
- Publicly-owed properties designated as landmarks or historic districts under Article 10 and subject to the permit review procedures of the City shall comply with the Certificate of Appropriateness procedures. (*See* Section 1010.)
- Once landmark or historic district designation has been initiated by the Board of Supervisors or the HPC, no permit for work to such property may be approved for 180 days or until the designation is approved or denied, whichever comes first, unless the project receives a Certificate of Appropriateness. (*See* Section 1014.)

Background Information

Article 10 has not been amended since the voter-approved passage of San Francisco Charter Section 4.135 in November of 2008, which abolished the LPAB, created the HPC, and removed the Planning Commission and Department from much of their prior roles in approving landmark and historic district designations and approving Certificates of Appropriateness. Because the LPAB ceased to exist on December 31, 2008, the Code has been interpreted since then as referring to the HPC whenever the LPAB is mentioned.

SAN FRANCISCO
PLANNING DEPARTMENT

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March 22, 2012

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2011.0167T: Planning Commission Recommendations Regarding Articles 10 and 11 of the Planning Code**

BOS File No: 120300 **(pending)**
Planning Commission Recommendation: ***Approval***

Dear Ms. Calvillo,

Attached are recommendations made by the Planning Commission to the Board of Supervisors regarding proposed amendments to Articles 10 and 11 of the Planning Code.

On July 8, 2010 the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the initiation of a proposed Ordinance. As originally proposed, this ordinance was a Planning Code "Clean Up" amendment proposed by Department Staff.

At the request of the Planning Commission, the portions of the proposed amendment that dealt with Articles 10 and 11 were severed; the Planning Commission asked the Historic Preservation Commission (HPC) to review the amendments to Articles 10 and 11 and to provide a recommendation to both the Planning Commission and to the Board of Supervisors. This request was made pursuant to Charter Section 4.135, which states that any proposed ordinance concerning historic preservation must be submitted to the HPC for its review and recommendation to the Board of Supervisors.

The Planning Commission conducted duly noticed public hearings to consider adopting the amendments, as well as further modifications recommended by Supervisor Wiener on August 5, 2010, October 27, 2011, and February 2, 2012.

The proposed Ordinance initiated by the Planning Commission would significantly amend Articles 10 and 11 of the Planning Code (hereafter referred to as "Code") in order to conform to Charter Section 4.135, which established the Historic Preservation Commission. The proposed Ordinance would replace all references to the former Landmarks Preservation Advisory Board (LPAB) with the Historic Preservation Commission, would amend procedures such as noticing,

recommendations to the Board of Supervisors, and landmark and landmark district designation processes, as well as re-classification of buildings subject to Article 11. Below is a summary of the primary topics proposed for amendment, which includes:

- Designations, review of applications, scheduling and notice, appeals, and applicability;
- Economic hardship and fee waivers for Certificates of Appropriateness;
- Community input for historic district designations;
- Local interpretations of the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

The full extent of the proposed changes is included in the attached proposed Ordinances for Articles 10 and 11.

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c).

At the February 2 hearing, the Commission voted to recommend **approval** of the proposed Ordinance. Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Mayor's Office, Jason Elliot
Supervisor Scott Wiener
Supervisor Christina Olague
Deputy City Attorney, Marlena Byrne

Attachments (one copy of the following):
Planning Commission Resolution 18531
Planning Commission Executive Summary for Case No. 2011.0167T
Draft Ordinances for Articles 10 and 11

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PLANNING DEPARTMENT

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Planning Commission Resolution 18531

Planning Code Text Changes: Articles 10 and 11

HEARING DATE: FEBRUARY 2, 2012

Project Name:	**Proposed Amendments to Article 10 and to Article 11**
Case Number:	2011.0167T
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6257
Reviewed by:	Tim Frye, Preservation Coordinator tim.frye@sfgov.org, 415-575-6822
Recommendation:	**Approve Article 10 and 11 Amendments**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND PLANNING CODE ARTICLE 10 – PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS – AND ARTICLE 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORICAL, AND AESTHETIC IMPORTANCE IN THE C-3 DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

PREAMBLE

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

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

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

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

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

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010, October 27, 2011, and February 2, 2012; and

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

WHEREAS, the Historic Preservation Commission conducted duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th and 15th, November 3rd and 17th, and December 1 2010 and August 17, 2011 and September 7, 2011, September 21st, 2011, October 5th, October 19, 2011, November 2, November 16th 2011, January 18, 2012, and February 1, 2012;

WHEREAS, the Historic Preservation Commission will transmit its recommendation to the Board of Supervisor's for its review; and

WHEREAS, the Planning Commission 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 Planning Commission has reviewed the proposed Ordinances; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors ***approve*** the proposed Ordinance for Article 10 and the Ordinance for Article 11 detailed in the drafts dated March 21, 2012.

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 make them consistent with Charter Section 4.135. In addition, substantive amendments have been made based on an extensive review process.

4. Therefore, the Planning Commission recommends ***approval of the proposed Ordinances amending Articles 10 and 11.***

5. **General Plan Compliance.** The proposed Ordinances are, 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 6

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

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 Ordinances is to correct 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, and to make substantive changes.

6. The proposed Ordinances are 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 Ordinances 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 Ordinances will not impact existing housing and neighborhood character.

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

   The proposed Ordinances 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 Ordinances 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 Ordinances 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 Ordinances will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission, and make other significant amendments with the intention of preserving landmark and historical buildings.

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

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

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Historic Preservation Commission on February 2, 2012.

Linda D. Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel, Moore, Sugaya

NOES: None

ABSENT: None

ADOPTED: February 2, 2012

Exhibit A: Draft Ordinance with amendments to Article 10 and Draft Ordinance with amendments to Article 11.

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Proposed Planning Code Amendments to Articles 10 and 11

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HEARING DATE: FEBRUARY 2, 2011
(Continued from the December 8, 2011 Public Hearing)

Project Name:	**Planning Code Amendments: Articles 10 & 11**
Case Number:	2011.0167T
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org
Reviewed by:	Tim Frye, Preservation Coordinator tim.frye@sfgov.org, 415-575-6822
Recommendation:	**Recommend Approval**

Please Note: The Historic Preservation Commission (HPC) will consider the same item at their February 1, 2012 hearing. Any action taken by the HPC will be transmitted to the Board of Supervisors, and will be relayed to this commission on the date of the February 2, 2012 hearing.

PLANNING CODE AMENDMENT

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

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

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

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

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

A parallel review process was initiated by the Historic Preservation Commission (HPC) in July, 2010. During a series of public hearings between July and December, 2010, the HPC drafted revisions to Planning Code Articles 10 and 11. The City Attorney's office has reviewed the amendments to both Articles 10 and 11 as drafted by the HPC and has made suggested revisions on the drafts in order to approve them as-to-form. At its October 19, 2011 hearing, the HPC passed Resolution Number 666 recommending approval of Article 10 as amended. At its November 2, 2011 hearing, the HPC passed Resolution Number 667 recommending approval of Article 11 as amended. In addition, Supervisor Wiener has proposed additional amendments – not all of which have been reviewed by the HPC at this time – to Articles 10 and 11.

The Way It Is Now:

The proposed Ordinance would significantly amend Articles 10 and 11 of the Planning Code (hereafter referred to as "Code") in order to conform to Charter Section 4.135, which established the Historic Preservation Commission. The proposed Ordinance would replace all references to the former Landmarks Preservation Advisory Board (LPAB) with the Historic Preservation Commission, would amend procedures such as noticing, recommendations to the Board of Supervisors, and landmark and landmark district designation processes, as well as re-classification of buildings subject to Article 11. Below is a summary of the primary topics proposed for amendment, which includes:

- Designations, review of applications, scheduling and notice, appeals, and applicability;
- Economic hardship and fee waivers for Certificates of Appropriateness;
- Community input for historic district designations;
- Local interpretations of the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

The full extent of the proposed changes is included in the attached redlined draft Ordinances for Articles 10 and 11. The attached draft Ordinances show both the amendments proposed by the HPC, and the additional amendments proposed by Supervisor Wiener. Please note that for the most part, when changes have been made to Article 10 that are also applicable to Article 11.

- **Section 1004.1 – Initiation of Designation, Section 1004.2 Referral Landmarks Preservation Advisory Board, Section 1004.3 – Hearing by the City Planning Commission, Section 1004.4 – Designation by the Board of Supervisors.**

  The existing Article 10 allows for the initiation of an individual landmark by five bodies: the Board of Supervisors, the Planning Commission, the Arts Commission, the Landmarks Preservation Advisory Board, or the individual property owner. Historic districts may be initiated by a similar list of sponsors: the Board of Supervisors, the Planning Commission, the Arts Commission, the Landmarks Preservation Advisory Board, or 66% of property owners in the proposed district. Any initiation is forwarded to the LPAB for their recommendation, which is

then forwarded to the Planning Commission for its recommendation to the Board of Supervisors. The Board of Supervisors may approve or modify and approve the designation.

- **Section 1006.1 – Applications for Certificate of Appropriateness**

  The existing Section 1006.1(e) allows the Department to combine applications, notices, and hearings for projects that require both Conditional Use Authorization and a Certificate of Appropriateness. These projects are to be heard by the Planning Commission.

- **Section 1006.2 – Review by Department of City Planning and City Planning Commission**

  Under the current Article 10, the Department reviews with the LPAB applications for alterations to individual landmarks or to buildings within historic districts. If the LPAB finds that the proposal would be a significant impact, it refers the permit to the Planning Commission for its review. For applications for demolition or new construction, the permit is referred to the Planning Commission.

- **Section 1006.3 – Scheduling and Notice of Hearing**

  Currently, no notice is required, except for applications for Certificates of Appropriateness that are referred to the Planning Commission. In those cases, a 20-day newspaper ad is required, as is a mailed notice to owners 10-days prior to the hearing.

- **Section 1006.7 – Standards for Review of Applications**

  The current version of Article 10 requires that the Planning Commission and the Department, in their consideration of applications for Certificates of Appropriateness, be guided by standards that are outlined in this section, that focus on compatibility. There is no explicit reference to the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

- **Section 1006.8 – Appeals from Planning Commission Decision**

  Decisions made by the Planning Commission regarding Certificates of Appropriateness may be appealed to the Board of Supervisors within 30 days of the date of action.

- **Section 1014 – Applicability**

  In the existing Article 10, no application for a permit to construct, alter, or demolish any structure on a proposed landmark site may be approved once an application has been filed to designated the site or district in which it is located.

- **Section 1111.7 – Permits for Signs**

  In the existing Article 11, this Section relates to permits for new signs. The HPC has proposed modifications that would re-write this Section so that it addresses applications for demolition.

The Way It Would Be:

Below is a summary of how the proposed Ordinance would amend the following major Sections within the Code:

- **Section 1004.1 – Nomination and Initiation of Designation Landmark and Historic District Designation, 1004.2 – Decision by the Historic Preservation Commission, and 1004.3 – Designation by the Board of Supervisors.**

The HPC-proposed amendment would allow the Planning Department, property owner, or any member of the public to request that the HPC vote to initiate landmark designation. Supervisor Wiener's proposed amendment would retain the requirement outlined in the existing Article 10, which requires, in the case of a proposed historic district designation, that the nomination be subscribed by 66% of the property owners in the proposed historic district. As outlined in the HPC-proposed amendment, the initiation of a designation may be made by resolution of the Board of Supervisors or by resolution of the HPC.

If the HPC, at its initiation hearing, recommends approval of an **individual landmark designation**, that recommendation will be forwarded directly to the Board of Supervisors for its consideration, and will not be forwarded to the Planning Commission. If the HPC, at its initiation hearing, recommends approval of an **historic district designation**, that recommendation will be forwarded first to the Planning Commission for its recommendation, and then on to the Board of Supervisors for its consideration.

Supervisor Wiener has proposed an additional modification, which would require that in its review of an historic district designation, the Planning Commission's recommendation will include findings regarding the district's consistency with the General Plan, and specifically policies that encourage the production of housing and transit-oriented development.

If the HPC, at its initiation hearing, disapproves designation of an individual landmark or historic district, that decision is final unless it is appealed.

The Board of Supervisors will consider any initiated designation of an individual landmark or historic district, and may approve, modify and approve, or disapprove the designation. Supervisor Wiener has recommended a modification that would require, in the case of proposed historic districts that the Planning Department conduct outreach to invite all property owners to express their opinion on the nomination, with a goal of obtaining the participation of at least 50% of property owners within the proposed district.

- **Section 1005(e)(4)**

This is a new subsection proposed by Supervisor Wiener, which states that when an application is made for a permit for work on a sidewalk or street within a designated historic district, the processes outlined in Article 10 do not apply unless the streets and sidewalks of the district have been explicitly called out as character-defining features in the designating ordinance.

- **Section 1006.1 – Applications for Certificate of Appropriateness**

As amended by the HPC, Section 1006.1(e) would require that for projects that require multiple approvals in addition to the Certificate of Appropriateness, the HPC would first review and act on the Certificate of Appropriateness prior to any other planning approval. For projects that require Conditional Use Authorization or permit review under Section 309, and that do **not** concern individually designated structures (i.e., for projects that are located within historic districts), the Planning Commission may modify the decision of the HPC on the Certificate of Appropriateness with a 2/3 vote.

Supervisor Wiener has proposed a further amendment that would require that, when the Planning Commission modifies decisions by the HPC in the cases outlined above, the Planning

Commission takes into account all relevant General Plan and Planning Code policies in addition to all applicable historic resource provisions of the Code.

In addition, Supervisor Wiener has proposed a new subsection 1006.1(f) that would establish Permit and Application Fee Waivers to waive all or part of fees associated with Certificates of Appropriateness in cases of economic hardship. In addition, fees for Certificates of Appropriateness would be waived for permit applications for City-owned properties.

- **Section 1006.2 – Review by Planning Department**

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

- **Section 1006.3 – Scheduling and Notice of Hearing**

  The revised Article 10, as outlined above, eliminates the requirement that Certificates of Appropriateness for alteration permits be referred to the Planning Commission. In addition, the revised Article 10 consolidates the notification procedures and timeline for HPC hearings for Certificates of Appropriateness, and eliminates the requirement for notice in the newspaper.

  The HPC-proposed amendments would provide mailed notice for applications within historic districts to owners and occupants within 300 feet of the subject property. Supervisor Wiener's proposed amendment would reduce that radius to within 150 feet of the subject property.

- **Section 1006.6 Standards for Review of Applications.**
  This section has been re-numbered from 1006.7 to 1006.6. The HPC-proposed amendments require that the HPC, the Department, and in the case of multiple approvals, the Planning Commission, shall be ensure that applications for proposed work are consistent with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties*.

  Supervisor Wiener has recommended alternative language that would require that the HPC or Planning Commission shall consider whether the proposed work is consistent with the *Standards*, as interpreted by the Department in Guidelines, Interpretations, or Bulletins adopted by the HPC and the Planning Commission. Development of these local interpretations of the *Standards* would be a public process led by the Planning Department.

  In addition, Supervisor Wiener has proposed the addition of new subsections 1006.6(g) and (h), which would further address economic hardship. The proposed new subsection 1006.6(g) would require that, for projects proposed by public agencies or for City-owned properties, the Department and the HPC shall consider the relevant public agency's mission and constraints in considering the application. The new subsection 1006.6(h) would apply to applications for permits win RH, RM, RTO and NC districts, and would allow an exemption from the requirements of Section 1006.6 (conformance with the *Standards*) when conformance would create a significant economic hardship, provided that the scope of the project does not include demolition, fees have been waived pursuant to Section 1006.1, and the Zoning Administrator has determined that all other aspects of the project are Code-complying. Finally, for undeveloped or

vacant lots, or non-contributors within historic districts, an exemption from the requirements of 1006.6 (conformance with the *Standards*) is also available.

- **Section 1006.7 – Appeals of a Certificate of Appropriateness**

  This section has been renumbered from 1006.8 to 1006.7. The HPC has proposed modifying this section such that decisions on Certificates of Appropriateness may be appealed to the Board of Appeals rather than the Board of Supervisors. In cases that include Conditional Use Authorizations or approval by the Board of Supervisors, the decision may be appealed to the Board of Supervisors, which may modify the decision by a majority vote.

- **Section 1014 – Applicability**

  As revised by the HPC, no permit may be approved for one year after a resolution is passed initiating designation or confirming nomination of a proposed landmark or district. The HPC or the Board of Supervisors may further extend this time period for up to 180 days. However, work may be approved on such sites with pending designations, provided a Certificate of Appropriateness is granted for the work.

  Supervisor Wiener has proposed an amendment to the changes recommended by the HPC, which would prohibit work on sites with pending designations for 180 days, rather than one year. His amendments would allow the Board of Supervisors to extend this period for up to 90 days.

- **Section 1111.7 – Standards and Requirements for Review of Applications for Demolition**

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

  The HPC has proposed modifications that would change the criteria for evaluation of permits to demolish. For Significant Buildings (Categories I and II) and for Contributory Buildings (Categories III and IV) that have sold their TDR, the HPC may approve the demolition provided it makes findings that the property retains no substantial market or reasonable use, or if an imminent safety hazard has been identified with demolition as the only feasible means to secure public safety. For Contributory Buildings (Categories III and IV) from which no TDR has been transferred, a demolition may be approved using the same findings as those listed above, or findings that because of the physical condition of the structure, rehabilitation and reuse will not meet the goals and objectives of the project, that the replacement building is compatible with the district in which the structure is located, and that specific economic, social, and other benefits of the replacement building outweigh the benefit conferred through the historic preservation of the structure. Finally, for any Category V (Not Rated) building within a conservation district, demolition may be approved if the building has not gained historic significance since the time of its rating and that the proposed replacement building is compatible with the district.

REQUIRED COMMISSION ACTIONS

The proposed Ordinance is before the Commission so that it may approve or disapprove the proposed Planning Code Amendments, and forward its recommendation on to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend ***approval*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

Since the distribution of correspondence with the October 27, 2011 informational hearing packets, the Department has received two additional letters, one from San Francisco Architectural Heritage, and one from SPUR.

RECOMMENDATION:	**Recommendation of Approval to forward to the Board of Supervisors**

Attachments:

Exhibit A: Draft Ordinances for Articles 10 and 11

Exhibit B: Draft Planning Commission Resolutions: Recommending Approval of Amendments to the Planning Code Articles 10 and 11

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March 26, 2012

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2011.0167T: Historic Preservation Commission Recommendations Regarding Articles 10 and 11 of the Planning Code**

BOS File No: 120300 **(pending)**
Historic Preservation Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo,

Attached are recommendations made by the Historic Preservation Commission (HPC) to the Board of Supervisors regarding proposed amendments to Articles 10 and 11 of the Planning Code. A recommendation on the same Articles by the Planning Commission has also been transmitted to you under separate cover. Please include these recommendations by the HPC as a report in your file for the Planning Commission-initiated legislation.

On July 8, 2010 the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the initiation of a proposed Ordinance. As originally proposed, this Ordinance was a Planning Code "Clean Up" amendment proposed by Department Staff.

At the request of the Planning Commission, the portions of the proposed amendment that dealt with Articles 10 and 11 were severed; the Planning Commission asked the Historic Preservation Commission (HPC) to review the amendments to Articles 10 and 11 and to provide a recommendation to both the Planning Commission and to the Board of Supervisors. This request was made pursuant to Charter Section 4.135, which states that any proposed Ordinance concerning historic preservation must be submitted to the HPC for its review and recommendation to the Board of Supervisors.

The HPC conducted duly noticed public hearings to consider the Planning Commission-initiated amendments, as well as further modifications recommended by Supervisor Wiener on the following dates:

- **2010**: July 21st, August 4th and 18th, September 1st, 15th and 29th, October 6th, and 15th, November 3rd and 17th, and December 1st;

- **2011:** August 17th, September 7th and 21st, October 5th and October 19th, November 2nd and 16th;
- **2012:** January 18th and February 1st, 2012.

The HPC passed **Resolution 672**, which addresses proposed amendments to Article 10, as well as **Resolution 673**, which addresses proposed amendments to Article 11. The Resolutions recommend specific changes to the language of Articles 10 and 11 drafted by the HPC, and also incorporate some of the additional changes proposed by Supervisor Wiener. The final set of recommendations by the HPC does not include all of the proposed amendments by Supervisor Wiener, as outlined below and in the attached motions:

a. ***Section 1004.1(a) shall read:*** *(a) Nomination. The Department*~~,~~ or *property owner(s),* ~~or member(s) of the public~~ *may request that the HPC initiate designation of a landmark site or historic district.* When a nomination is submitted by a majority of property owners for designation of a historic district, the nomination must be ~~**subscribed by or on behalf of at least 66 percent of the property owners in the proposed district**~~ considered by the HPC. *A nomination for initiation shall be in the form prescribed by the HPC and shall contain supporting historic, architectural, and/or cultural documentation, as well as any additional information the HPC may require. The HPC shall hold a hearing to consider the nomination no later than 45 days from the receipt of the nomination request.* (Please note, the HPC voted +6,-0 on this modification.)

b. ***Section 1004.3 shall read:*** Prior to the Board of Supervisors' vote on a proposed historic district, the Planning Department shall conduct thorough outreach to affected property owners and occupants. The Planning Department shall invite all property owners and occupants in the proposed district area to express their opinion ~~in writing~~ on the proposed designation. ~~**be it in the form of a vote or a survey.**~~ Such invitation shall advise owners of the practical consequences of the adoption of the district, including the availability of preservation incentives, the types of work requiring a Certificate of Appropriateness, the process and fees for obtaining a Certificate of Appropriateness, and the types of work that is generally ineligible to receive a Certificate of Appropriateness. ~~**The Department's goal shall be to obtain the participation of at least half of all property owners in the proposed district. The property owners' vote shall be considered by the Board of Supervisors when taking action on the proposed district.**~~ (Please note, the HPC voted +4,-2 on this modification. Hasz and Damkroger voted against.)

c. ***Section 1006.6 shall read:*** *The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties* for individual Landmarks and contributors within historic districts, as well as any applicable guidelines, local interpretations, bulletins, or other policies. Development of local interpretations and guidelines based on the Secretary of the Interior's Standards shall be led by the Planning Department, through a public participation process, shall be found to be in conformance with the General Plan and Planning Code by the Planning Commission, and shall be adopted by ~~both~~ the HPC ~~and the Planning Commission.~~

In the case of any apparent inconsistency among the requirements of this Section, compliance with the requirements of the Designating Ordinance shall prevail. (Please note, the HPC voted +4,-2 on this modification. Hasz and Martinez voted against.)

d. *Supervisor Wiener has proposed adding Section **1006.6(g)**, which would require that, for applications pertaining to City-owned property, the HPC and the Planning Department consider the relevant public agency's mission and operational needs. The HPC does not recommend including the added language at this time.* (Please note, the HPC voted +6,-0 on this modification.)

e. *Supervisor Wiener has proposed adding **Section 1006.6(h)**, which would provide an exemption from the requirements of Section 1006.6 when doing so would create an economic hardship for the applicant, provided specific criteria are met. The HPC does not recommend including the added language at this time; however, the HPC would encourage further study to better understand the housing shortage that the Supervisor has referred to, as well as the most appropriate solution.* (Please note, the HPC voted +6,-0 on this modification.)

f. ***Section 1107(e) shall read:*** Prior to the Board of Supervisors' vote on a proposed boundary change, the Planning Department shall conduct thorough outreach to affected property owners **and occupants**. The Planning Department shall invite all property owners **and occupants** in the area covered by the proposed boundary change to express their opinion ~~**in writing**~~ on the proposed boundary change. ~~**be it in the form of a vote or a survey with the goal of obtaining the participation of at least half of all property owners in the area.**~~ Such invitation shall advise owners of the practical consequences of the adoption of the proposed boundary change, including the availability of preservation incentives, the types of work requiring a Permit to Alter, the process and fees for obtaining a Permit to Alter, and the types of work that is generally ineligible to receive a Permit to Alter. ~~**The property owners' vote shall be considered by the Board of Supervisors when taking action on the proposed boundary change.**~~

g. *Supervisor Wiener has proposed adding **Sections 1111 (f) and (g)**, which would provide an exemption from the requirements of Section 1006.6 when doing so would create an economic hardship for the applicant, provided specific criteria are met. The HPC does not recommend including the added language at this time; however, the HPC would encourage further study to better understand the housing shortage that the Supervisor has referred to, as well as the most appropriate solution.*

h. ***Section 1111.6 shall read:*** *The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties* for significant and contributory buildings, as well as any applicable guidelines, local interpretations, bulletins, or other policies. Development of local interpretations and guidelines based on the Secretary of the Interior's Standards shall be led by the Planning Department, through a public participation process, shall be found to be in conformance with the General Plan and Planning Code by the Planning Commission, and shall be adopted by ~~**both**~~ the HPC ~~**and the Planning Commission**~~.

In the case of any apparent inconsistency among the requirements of this Section, compliance with the requirements of the Designating Ordinance shall prevail.

i. *Section 1111.7(a)(3): Supervisor Wiener recommended that language be added that would modify the timeframe for reclassification of Category V buildings, and that would make denials of applications for demolition of Category V buildings subject to a finding that the demolition*

would substantially diminish the integrity of the conservation district. The HPC does not recommend including the added language.

j. ***Section 1111.7(b) shall read:*** *(b) The cumulative effects on the integrity of the Conservation District associated with demolition of a Contributory Building shall be considered and may be grounds for denial of the Permit to Demolish,* ~~if it is found that the demolition would substantially diminish the integrity of the Conservation District.~~

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the February 1 hearing, the HPC voted to recommend **approval with modifications** of the proposed Ordinances. Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim
Director of Planning

cc:
Deputy City Attorney, Marlena Byrne

Attachments (one copy of the following):
Historic Preservation Resolution Nos. 672 and 673
Historic Preservation Commission Executive Summary for Case No. 2011.0167T

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Historic Preservation Commission
Resolution No. 672

Planning Code Text Changes: Article 10
HEARING DATE: FEBRUARY 1, 2012

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

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

PREAMBLE

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

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

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

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

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

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on February 2, 2012; and

WHEREAS the Planning Commission adopted Resolution No. 18531 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on February 2, 2012; and

WHEREAS, the proposed Ordinance has been determined to be a non-physical activity not subject to CEQA review under the California Environmental Quality Act Section 15060(c)(2) of the CEQA guidelines; and

WHEREAS, the Historic Preservation Commission conducted duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21st, August 4th, 18th, September 1st, 15th, 29th, October 6th and 15th, November 3rd and 17th, and December 1st 2010 and August 17, 2011, September 7, 2011 and September 21st, 2011, October 5th and October 19, 2011, November 2, 2011 and November 16, 2011; and

WHEREAS, Supervisor Wiener transmitted to the HPC and the Planning Department five memoranda (dated September 7th, October 3rd, 13th, 17th and 27th, 2011) in which he proposed additional amendments to Articles 10 and 11; and

WHEREAS, the HPC conducted duly noticed public hearing to consider Supervisor Wiener's additional proposed amendments to Articles 10 and 11 on January 18, 2012 and February 1, 2012; 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*** amendments to Articles 10 and 11, including those proposed amendments by Supervisor Wiener as outlined in the draft dated March 21, 2012, with the modifications outlined below.

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 both update Article 10 to make it consistent with Charter Section 4.135 and provide additional amendments to procedures for designating buildings and districts, as well as permitting procedures, among other changes.

4. Therefore, the HPC recommends ***approval of Article 10 with modifications*** to the draft dated March 21, 2012 of the proposed Ordinance, as outlined below. The following proposed changes are not reflected in the Ordinance recommended for approval by the Planning Commission, but rather are additional modifications the HPC recommends:

   a. ***Section 1004.1(a) shall read:*** *(a) Nomination. The Department*~~,~~ or *property owner(s),* ~~or member(s) of the public~~ *may request that the HPC initiate designation of a landmark site or historic district.* When a nomination is submitted by a majority of property owners for designation of a historic district, the nomination must be ~~subscribed by or on behalf of at least 66 percent of the property owners in the proposed district~~ considered by the HPC. *A nomination for initiation shall be in the form prescribed by the HPC and shall contain supporting historic, architectural, and/or cultural documentation, as well as any additional information the HPC may require. The HPC shall hold a hearing to consider the nomination no later than 45 days from the receipt of the nomination request.* Please note, the HPC voted +6,-0 on this modification.

   b. ***Section 1004.3 shall read:*** Prior to the Board of Supervisors' vote on a proposed historic district, the Planning Department shall conduct thorough outreach to affected property owners and occupants. The Planning Department shall invite all property owners and occupants in the proposed district area to express their opinion ~~in writing~~ on the proposed designation. ~~be it in the form of a vote or a survey.~~ Such invitation shall advise owners of the practical consequences of the adoption of the district, including the availability of preservation incentives, the types of work requiring a Certificate of Appropriateness, the process and fees for obtaining a Certificate of Appropriateness, and the types of work that is generally ineligible to receive a Certificate of Appropriateness. ~~The Department's goal shall be to obtain the participation of at least half of all property owners in the proposed district. The property owners' vote shall be considered by the Board of Supervisors when taking action on the proposed district.~~ Please note, the HPC voted +4,-2 on this modification. (Hasz and Damkroger voted against.)

   c. ***Section 1006.6 shall read:*** *The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties* for individual Landmarks and contributors within historic districts, as well as any applicable guidelines, local interpretations, bulletins, or other policies. Development of local interpretations and guidelines based on the Secretary of the Interior's Standards shall be led by the Planning Department, through a public participation process, shall be found to be in conformance with the General Plan and Planning Code by the Planning Commission, and shall be adopted by ~~both~~ the HPC ~~and the Planning Commission.~~

   In the case of any apparent inconsistency among the requirements of this Section, compliance with the requirements of the Designating Ordinance shall prevail. Please note, the HPC voted +4,-2 on this modification. (Hasz and Martinez voted against.)

d. *Supervisor Wiener has proposed adding Section 1006.6(g), which would require that, for applications pertaining to City-owned property, the HPC and the Planning Department consider the relevant public agency's mission and operational needs. The HPC does not recommend including the added language at this time.* Please note, the HPC voted +6,-0 on this modification

e. *Supervisor Wiener has proposed adding Section 1006.6(h), which would provide an exemption from the requirements of Section 1006.6 when doing so would create an economic hardship for the applicant, provided specific criteria are met. The HPC does not recommend including the added language at this time; however, the HPC would encourage further study to better understand the housing shortage that the Supervisor has referred to, as well as the most appropriate solution.* Please note, the HPC voted +6,-0 on this modification

5. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

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

GOALS

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

OBJECTIVE 6

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

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 correct typographical and clerical errors in the Planning Code, as well as to update Articles 10 and 11 to make it conform to Charter Section 4.135 and to improve processes.

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

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

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

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

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

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

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

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

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

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

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

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

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

G) That landmark and historic buildings will be preserved:

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

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

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

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Historic Preservation Commission on February 1, 2012.

Linda D. Avery
Commission Secretary

AYES: Damkroger, Hasz, Johns, Martinez, Matsuda, Wolfram

NOES: None

ABSENT: Chase

ADOPTED: February 1, 2012

Exhibit A: Draft Ordinance with proposed amendments to Article 10

SAN FRANCISCO
PLANNING DEPARTMENT

Memo to the Historic Preservation Commission

HEARING DATE: JANUARY 18, 2012

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

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

The proposed revisions to Planning Code Articles 10 and 11 were drafted by the Historic Preservation Commission (HPC) over the course of a series of hearings held between July and December, 2010. The City Attorney's office has reviewed the amendments to both Articles 10 and 11 as drafted by the HPC and has suggested revisions to the drafts in order to approve them as-to-form. In addition, on September 7, October 3, October 13, October 17, and October 27, 2011, Supervisor Wiener circulated five Memoranda to the Historic Preservation Commission with proposed further amendments to Articles 10 and 11. On December 1, 2011, the Department received a set of proposed amendments by Supervisor Wiener in draft Ordinance-form that incorporated much of what the five memos had proposed. The Planning Commission considered these amendments as an informational item at their December 8, 2011 public hearing, and is scheduled to make a formal recommendation to the Board of Supervisors at the February 2, 2012 hearing. The HPC has not yet considered the proposed amendments transmitted to the Department by Supervisor Wiener on December 1, 2011.

Included as attachments in today's packet are:

1. A clean copy of Article 10 that reflects the changes incorporated through the adopted Resolution 666 passed on October 19, 2011 and a clean copy of Article 11 that reflects the changes incorporated through the adopted Resolution 667 passed on November 2, 2011;
2. A copy of Article 10 and a copy of Article 11 that show the further amendments proposed by Supervisor Wiener.

SUMMARY OF AUGUST 17, 2011-NOVEMBER 16, 2011 HPC HEARINGS

Beginning in August, 2011, the HPC began a review of proposed edits to Articles 10 and 11 suggested by Deputy City Attorney Marlena Byrne intended to clarify the language and to approve the two ordinances as-to-form.

At the October 19, 2011 public hearing, the HPC adopted Resolution Number 666 recommending that the Planning Commission recommend that the Board of Supervisors adopt an Ordinance that would amend Article 10. At the November 2, 2011 hearing, the HPC passed Resolution Number 667 recommending that the Planning Commission recommend approval to the Board of Supervisors of an Ordinance that would amend Article 11.

In addition, at the October 27, November 2, and November 16th hearings the Commission discussed proposed amendments to Articles 10 and 11 made by Supervisor Wiener in five memos addressed to the Commission, dated September 7, October 3, October 13, October 17, and October 27, 2011.

SUMMARY OF THE DECEMBER 8, 2011 PLANNING COMMISSION HEARING

At the December 8, 2011 Planning Commission hearing, the Commission held an informational hearing to consider the proposed amendments by Supervisor Wiener to the versions of Articles 10 and 11 as drafted by the HPC. At the hearing, Staff provided an overview presentation about the existing versions of Articles 10 and 11, proposed changes by the HPC, and additional modifications recommended by Supervisor Wiener.

No action was taken at the hearing; the item is scheduled for action by the Planning Commission at the February 2, 2012 public hearing.

ISSUES FOR DISCUSSION AT THE JANUARY 18, 2012 HPC HEARING

Due to the timing of the Department's receipt of the proposed amendments to Articles 10 and 11 by Supervisor Wiener on December 1, 2011, the HPC has not considered the full amendments in Ordinance form. The primary issue for consideration at the January 18, 2011 public hearing is the draft Ordinance with the amendments proposed by Supervisor Wiener. The full text is included with your packets as Exhibit C. Below is a summary that outlines "The Way it is Now," and the "The Way it Would Be," highlighting differences between the proposed amendments proposed by the HPC and by Supervisor Wiener.

Please note that the proposed amendments by Supervisor Wiener are in draft form at this time, and have not been formally introduced at the Board of Supervisors. If further amendments are introduced by Supervisor Wiener that have not been considered by the HPC, the Ordinance will be re-referred to the HPC for its review.

The recommendation of the HPC will be forwarded to the Board of Supervisors for its consideration.

The proposed Ordinance would significantly amend Articles 10 and 11 of the Planning Code (hereafter referred to as "Code") in order to conform to Charter Section 4.135, which established the Historic Preservation Commission. The proposed Ordinance would replace all references to the former Landmarks Preservation Advisory Board (LPAB) with the Historic Preservation Commission, would amend procedures such as noticing, recommendations to the Board of Supervisors, and landmark and landmark district designation processes, as well as re-classification of buildings subject to Article 11. Below is a summary of the primary topics proposed for amendments, which include:

- Designations, review of applications, scheduling and notice, appeals, and applicability;
- Economic hardship and fee waivers for Certificates of Appropriateness;
- Community input for historic district designations;
- Local interpretations of the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

The full extent of the proposed changes is included in the attached redlined draft Ordinances for Articles 10 and 11 attached as Exhibit C. The attached draft Ordinances show both the amendments proposed by

the HPC, and the additional amendments proposed by Supervisor Wiener. Please note that for the most part, when changes have been made to Article 10 they are also applicable to Article 11.

The Way It Is Now:

Below is a summary of relevant sections of the existing Planning Code Articles 10 and 11:

- **Section 1004.1 – Initiation of Designation, Section 1004.2 Referral Landmarks Preservation Advisory Board, Section 1004.3 – Hearing by the City Planning Commission, Section 1004.4 – Designation by the Board of Supervisors.**

  The existing Article 10 allows for the initiation of an individual landmark designation by five bodies: the Board of Supervisors, the Planning Commission, the Arts Commission, the Landmarks Preservation Advisory Board, or the individual property owner. Historic districts may be initiated by a similar list of sponsors: the Board of Supervisors, the Planning Commission, the Arts Commission, the Landmarks Preservation Advisory Board, or 66% of property owners in the proposed district. Any initiation is forwarded to the LPAB for their recommendation, which is then forwarded to the Planning Commission for its recommendation to the Board of Supervisors. The Board of Supervisors may approve or modify and approve the designation.

- **Section 1006.1 – Applications for Certificate of Appropriateness**

  The existing Section 1006.1(e) allows the Department to combine applications, notices, and hearings for projects that require both Conditional Use Authorization and a Certificate of Appropriateness. These projects are to be heard by the Planning Commission.

- **Section 1006.2 – Review by Department of City Planning and City Planning Commission**

  Under the current Article 10, the Department reviews with the LPAB applications for alterations to individual landmarks or to buildings within historic districts. If the LPAB finds that the proposal would be a significant impact, it refers the permit to the Planning Commission for its review. For applications for demolition or new construction, the permit is referred to the Planning Commission.

- **Section 1006.3 – Scheduling and Notice of Hearing**

  Currently, no notice is required, except for applications for Certificates of Appropriateness that are referred to the Planning Commission. In those cases, a 20-day newspaper ad is required, as is a mailed notice to owners 10-days prior to the hearing.

- **Section 1006.7 – Standards for Review of Applications**

  The current version of Article 10 requires that the Planning Commission and the Department, in their consideration of applications for Certificates of Appropriateness, be guided by standards that are outlined in this section that focus on compatibility. There is no explicit reference to the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

- **Section 1006.8 – Appeals from Planning Commission Decision**

  Decisions made by the Planning Commission regarding Certificates of Appropriateness may be appealed to the Board of Supervisors within 30 days of the date of action.

- **Section 1014 – Applicability**

In the existing Article 10, no application for a permit to construct, alter, or demolish any structure on a proposed landmark site may be approved once an application has been filed to designated the site or district in which it is located.

- **Section 1111.7 – Permits for Signs**

  In the existing Article 11, this Section relates to permits for new signs. The HPC has proposed modifications that would re-write this Section so that it addresses applications for demolition.

The Way It Would Be:

Below is a summary of how the proposed Ordinance would amend the following major Sections within the Code:

- **Section 1004.1 – Nomination and Initiation of Designation Landmark and Historic District Designation, 1004.2 – Decision by the Historic Preservation Commission, and 1004.3 – Designation by the Board of Supervisors.**

  Pursuant to the Prop J Charter Amendment, the HPC and the Board of Supervisors have the authority to nominate historic landmark and historic district designations. The HPC-proposed amendment would allow a property owner or any member of the public to request that the HPC vote to initiate landmark designation. Supervisor Wiener's proposed amendment would **retain** the requirement outlined in the existing Article 10 that requires, in the case of member of the public requesting nomination of a historic district, that the nomination be subscribed by 66% of the property owners in the proposed historic district. As outlined in the HPC-proposed amendment, the initiation of a designation may be made by resolution of the Board of Supervisors or by resolution of the HPC.

  If the HPC, at its initiation hearing, recommends approval of an **individual landmark designation**, that recommendation will be forwarded directly to the Board of Supervisors for its consideration, and will not be forwarded to the Planning Commission. If the HPC, at its initiation hearing, recommends approval of an **historic district designation**, that recommendation will be forwarded first to the Planning Commission for its recommendation, and then on to the Board of Supervisors for its consideration.

  Supervisor Wiener has proposed an additional modification, which would require that in its review of an historic district designation, the Planning Commission's recommendation will include findings regarding the district's consistency with the General Plan, and specifically policies that encourage the production of housing and transit-oriented development.

  If the HPC, at its initiation hearing, disapproves designation of an individual landmark or historic district, that decision is final unless it is appealed.

  The Board of Supervisors will consider any initiated designation of an individual landmark or historic district, and may approve, modify and approve, or disapprove the designation. Supervisor Wiener has recommended a modification that would require, in the case of proposed historic districts that the Planning Department conduct outreach to invite all property owners to express their opinion on the nomination, with a goal of obtaining the participation of at least 50% of property owners within the proposed district.

- **Section 1005(e)(4)**

This is a new subsection proposed by Supervisor Wiener, which states that when an application is made for a permit for work on a sidewalk or street within a designated historic district, the processes outlined in Article 10 do not apply unless the streets and sidewalks of the district have been explicitly called out as character-defining features in the designating ordinance.

- **Section 1006.1 – Applications for Certificate of Appropriateness**

  As amended by the HPC, Section 1006.1(e) would require that for projects that require multiple approvals in addition to the Certificate of Appropriateness, the HPC would first review and act on the Certificate of Appropriateness prior to any other planning approval. For projects that require Conditional Use Authorization or permit review under Section 309, and that do **not** concern individually designated structures (i.e., for projects that are located within historic districts), the Planning Commission may modify the decision of the HPC on the Certificate of Appropriateness with a 2/3 vote.

  Supervisor Wiener has proposed a further amendment that would require that, when the Planning Commission modifies decisions by the HPC in the cases outlined above, the Planning Commission takes into account all relevant General Plan and Planning Code policies in addition to all applicable historic resource provisions of the Code.

  In addition, Supervisor Wiener has proposed a new subsection 1006.1(f) that would establish Permit and Application Fee Waivers to waive all or part of fees associated with Certificates of Appropriateness in cases of economic hardship. In addition, fees for Certificates of Appropriateness would be waived for permit applications for City-owned properties.

- **Section 1006.2 – Review by Planning Department**

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

- **Section 1006.3 – Scheduling and Notice of Hearing**

  The revised Article 10, as outlined above, eliminates the requirement that Certificates of Appropriateness for alteration permits be referred to the Planning Commission. In addition, the revised Article 10 consolidates the notification procedures and timeline for HPC hearings for Certificates of Appropriateness, and eliminates the requirement for notice in the newspaper.

  The HPC-proposed amendments would provide mailed notice for applications within historic districts to owners and occupants within 300 feet of the subject property. Supervisor Wiener's proposed amendment would reduce that radius to within 150 feet of the subject property.

- **Section 1006.6 Standards for Review of Applications.**
  This section has been re-numbered from 1006.7 to 1006.6. The HPC-proposed amendments require that the HPC, the Department, and in the case of multiple approvals, the Planning Commission, shall be ensure that applications for proposed work are consistent with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.*

Supervisor Wiener has recommended alternative language that would require that the HPC or Planning Commission shall consider whether the proposed work is consistent with the *Standards*, as interpreted by the Department in Guidelines, Interpretations, or Bulletins adopted by the HPC and the Planning Commission. Development of these local interpretations of the *Standards* would be a public process led by the Planning Department.

In addition, Supervisor Wiener has proposed the addition of new subsections 1006.6(g) and (h), which would further address economic hardship. The proposed new subsection 1006.6(g) would require that, for projects proposed by public agencies or for City-owned properties, the Department and the HPC shall consider the relevant public agency's mission and constraints in considering the application. The new subsection 1006.6(h) would apply to applications for permits win RH, RM, RTO and NC districts, and would allow an exemption from the requirements of Section 1006.6 (conformance with the *Standards*) when conformance would create a significant economic hardship, provided that the scope of the project does not include demolition, fees have been waived pursuant to Section 1006.1, and the Zoning Administrator has determined that all other aspects of the project are Code-complying.

- **Section 1006.7 – Appeals of a Certificate of Appropriateness**

  This section has been renumbered from 1006.8 to 1006.7. The HPC has proposed modifying this section such that decisions on Certificates of Appropriateness may be appealed to the Board of Appeals rather than the Board of Supervisors. In cases that include Conditional Use Authorizations or approval by the Board of Supervisors, the decision may be appealed to the Board of Supervisors, which may modify the decision by a majority vote.

- **Section 1014 – Applicability**

  As revised by the HPC, while a designation is pending and under consideration, no permit may be approved for up to 180 days for landmark sites and up to 1year for historic districts.. The HPC or the Board of Supervisors may further extend this time period for an additional to 180 days. However, work may be approved on such sites with pending designations, provided a Certificate of Appropriateness is granted for the work.

  Supervisor Wiener has proposed an amendment to the changes recommended by the HPC, which would prohibit work on sites with pending designations for 180 days for both proposed landmark sites and historic districts, rather than up to one year for historic districts. His amendments would allow the HPC and Board of Supervisors to extend this period for up to 90 days and the Board of Supervisors only to allow for a final additional 90-day extension.

- **Section 1111.7 – Standards and Requirements for Review of Applications for Demolition**

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

  The HPC has proposed modifications that would change the criteria for evaluation of permits to demolish. For Significant Buildings (Categories I and II) and for Contributory Buildings

(Categories III and IV) that have sold their TDR, the HPC may approve the demolition provided it makes findings that the property retains no substantial market or reasonable use, or if an imminent safety hazard has been identified with demolition as the only feasible means to secure public safety. For Contributory Buildings (Categories III and IV) from which no TDR has been transferred, a demolition may be approved using the same findings as those listed above, or findings that because of the physical condition of the structure, rehabilitation and reuse will not meet the goals and objectives of the project, that the replacement building is compatible with the district in which the structure is located, and that specific economic, social, and other benefits of the replacement building outweigh the benefit conferred through the historic preservation of the structure. Finally, for any Category V (Not Rated) building within a conservation district, demolition may be approved if the building has not gained historic significance since the time of its rating and that the proposed replacement building is compatible with the district.

ENVIRONMENTAL REVIEW

The proposed amendment is considered a non-physical activity not subject to CEQA review under Section 15060(c)(2) of the CEQA Guidelines.

RECOMMENDATION

The Department recommends two modifications to the proposed Ordinance as amended by Supervisor Wiener. The first is substantive, while the second is typographical.

Compliance with the Secretary of the Interior's *Standards and Guidelines for the Treatment of Historic Properties.* Supervisor Wiener has added language in Section 1006.6 of Article 10 (Pages 29-30 of the Draft Ordinance for Article 10) and to Section 1111.6 (Pages 35-36 of the Draft Ordinance for Article 11) that would strike the language added by the HPC that calls for proposed work being evaluated for Certificates of Appropriateness to comply with the Secretary of the Interior's *Standards and Guidelines for the Treatment of Historic Properties* (the *Standards*). The Supervisor has replaced the language with a requirement that the *Standards*, as interpreted for San Francisco, be considered. **The Department recommends that compliance with the Secretary of the Interior's Standards be retained. The Department will present revised language for discussion at the January 18, 2012 hearing for discussion.**

Typographical Errors. Language add to Section 1111 on Page 29 of the Draft Ordinance that reads, "Residential projects where 80% or more of the units are designated for household with an income of 150% or less than the area median income shall be exempt from the requirements of Section 1111" is redundant, and has been moved to subsection (g) on Page 28. The language on Page 28 of Section 1111(g) should refer to Section 1111(g), and not to Section 1006.6, which is in Article 10.

In sum, the Department recommends that the Commission recommend ***approval with modifications*** of the proposed Ordinance with amendments by Supervisor Wiener and adopt the attached Draft Resolution to that effect.

Attachments:

Exhibit A: HPC-adopted amendments to Article 10

Exhibit B: HPC-adopted amendments to Article 11

Exhibit C: Draft Ordinances showing Supervisor Wiener's proposed changes to Articles 10 and 11

Exhibit D: Draft Resolutions Recommending Adoption with Modifications to the Board of Supervisors for amendments to Articles 10 and 11.