File No. 120301 Committee Item No. 6
Board Item No. 23

COMMITTEE/BOARD OF SUPERVISORS

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

Board of Supervisors Meeting **Date** May 8, 2012

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☒	☒	Planning Commission Resolution No. 18531
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Completed by: Alisa Miller **Date** April 27, 2012
Completed by: Alisa Miller **Date** May 3, 2012

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 11 - Historic Preservation in the C-3 Districts]

Ordinance amending the San Francisco Planning Code, Article 11, entitled "Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts," 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. 120301 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 November 2, 2011 at a duly noticed public hearing, the Historic Preservation Commission in Resolution No. 667 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. 673, which supersedes its Resolution No. 667 as the Historic Preservation Commission's recommendations to this Board. A copy of Resolution 673 and additional recommendations of the Historic Preservation Commission are on file with the Clerk of the Board of Supervisors in File No. 120301.

(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. 120301 and is incorporated herein by reference.

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

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

Sec. 1101. Findings and Purposes.

Sec. 1102. Standards for Designation of Buildings.

Sec. 1102.1. Designation of Buildings.

Sec. 1103. Standards for Designation of Conservation Districts.

Sec. 1103.1. Conservation District Designations.

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

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

Sec. 1106. *Procedures for* Change of Designation~~:~~ *and* Designation of Additional *Significant and Contributory* Buildings.

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

Sec. 1108. Notice of Designation.

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

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

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

Sec. 1111.1. Determination of *Minor and* Major Alteration*s*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1115. Appeal.

Sec 1116. Unlawful Alteration or Demolition.

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

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

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

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

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

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

Sec. ~~1122~~*1123*. Notice Procedure.

Sec. ~~1123~~*1124*. Time Provisions.

Sec. ~~1124~~*1125*. Severability.

Appendix A Category I Buildings.

Appendix B Category II Buildings.

Appendix C Category III Buildings.

Appendix D Category IV Buildings.

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

Appendix F New Montgomery-Second Street Conservation District.

Appendix G Commercial-Leidesdorff Conservation District.

Appendix H Front-California Conservation District.

Appendix I Kearny-Belden Conservation District.

Appendix J Pine-Sansome Conservation District.

SEC. 1101. FINDINGS AND PURPOSES.

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

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

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

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

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

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

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

(d) It is further found that the use of Transferable Development Rights *("TDR")* as provided herein is necessary to promote the urban planning and design goals of the ~~*Master*~~ *General* Plan by:

(1) maintaining appropriate overall development capacities in each zoning district within the C-3 area, as defined by applicable floor area, height, bulk and other parameters;

(2) encouraging and directing development into the Special Development District in order to maintain a compact downtown financial district; and

(3) facilitating the retention of Significant Buildings~~,~~ and ~~*encouraging the retention of*~~ Contributory Buildings, and the compatible replacement or alteration of Unrated buildings in Conservation Districts, as defined ~~*herein*~~*in this Article*.

SEC. 1102. STANDARDS FOR DESIGNATION OF BUILDINGS.

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

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

(1) Are at least 40 years old; and

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

(3) Are rated Excellent in Architectural Design or are rated Very Good in both Architectural Design and Relationship to the Environment.

(b) Significant Buildings - Category II. Buildings:

(1) ~~*Which*~~ *That* meet the standards in Section 1102(a) above; and

(2) To which, because of their depth and relationship to other structures, it is feasible to add different and higher replacement structures or additions to height at the rear of the structure, even if visible when viewing the principal facades, without affecting their architectural quality or relationship to the environment and without affecting the appearance of the retained portions as separate structures when viewing the principal facades. The

designation of Category II Buildings shall identify for each building the portion of the building beyond which such additions may be permitted.

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

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

(2) Are at least 40 years old; and

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

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

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

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

(2) Are at least 40 years old; and

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

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

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

SEC. 1102.1. DESIGNATION OF BUILDINGS.

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

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

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

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

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

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

SEC. 1103. STANDARDS FOR DESIGNATION OF CONSERVATION DISTRICTS.

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

SEC. 1103.1. CONSERVATION DISTRICT DESIGNATIONS.

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

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

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

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

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

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

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

SEC. 1104. *INTENTIONALLY LEFT BLANK.* ~~*NOTICE OF DESIGNATION.*~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notice; ~~*Referral to the Landmarks Preservation Advisory Board;*~~ *Referral to the HPC;* Review by the *Planning* Department ~~*of City Planning*~~. Upon determination by the ~~*Zoning Administrator*~~*Department* that a verified application is complete and contains all necessary

information or upon receipt of the motion or resolution of one of the governmental bodies set forth in Subsection (a) above, the ~~*Zoning Administrator*~~*Department* shall: (1) *promptly schedule a hearing before the HPC on the proposed designation or change of designation; and (2)* send notice of the ~~*proposed designation or change of designation*~~*hearing* by mail *no less than 20 days prior to the date of the hearing* to the owner*(s)* of the affected property~~*, unless the application is that of the owner,*~~*; the applicant(s), if any, for the designation or change in designation; to the owners of all properties within 150 feet of the affected property; and to any interested parties who so request in writing to the Department.* ~~*and (2) promptly refer the matter to the Landmarks Preservation Advisory Board for review and the submittal of a recommendation. The Department of City Planning shall also undertake a study of the proposed designation or change of designation.*~~

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

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

(e) Appeal to Board of Supervisors. If the ~~*Planning Commission*~~ *HPC* disapproves the proposed designation or change of designation, such action shall be final except upon the

filing of a notice of appeal to the Board of Supervisors within 30 days by the applicant or any of the persons, organizations or groups listed in Section 1106(a); provided, however, that if the proposal was initiated by the Board of Supervisors, the Clerk of the ~~said~~ Board shall be notified immediately of the disapproval without the necessity for an appeal.

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

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

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

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

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

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

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

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

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

(c) ~~*Submittal to the Planning Commission. Submittal to and action by the Planning Commission shall be as set forth in Section 1106(c) of this Article.*~~ *Action by the HPC. The proposed designation or boundary change shall be placed on the agenda of the HPC for public hearing. If the HPC approves or modifies the proposed designation or boundary change in whole or in part, the Department shall transmit the HPC's recommendation together with a copy of the HPC's resolution*

and with any comments of the Planning Commission, as set forth in subsection (d) below, to the Clerk of the Board of Supervisors.

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

The Planning Commission's comments shall be transmitted to the Board of Supervisors as a resolution and shall (1) address the consistency of the proposed boundary change 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; (2) identify any amendments to the General Plan necessary to facilitate adoption of the proposed boundary change; and (3) evaluate whether the proposed boundary change would conflict with the Sustainable Communities Strategy for the Bay Area.

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

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 and half of all occupants *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' and the occupants' *votes, tallied separately and combined, shall be considered by the Board of Supervisors when taking action on the proposed boundary change.*

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

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

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

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

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

SEC. 1108. NOTICE OF DESIGNATION.

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

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

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

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

altered in conformance with the provisions of this Article retain eligibility for the transfer of TDR.

(b) Contributory Buildings. Lots on which are located buildings designated as Contributory Buildings - Category III or Category IV - are eligible to transfer the difference between the allowable gross floor area permitted on the lot by Section 124 of ~~*the*~~ *this* Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section 128 are met. Alteration or demolition of such a building in violation of Section 1110 ~~*or Section 1112*~~, or alterations *or demolitions* made without a permit issued pursuant to Sections 1111 through 1111.~~6~~*7*, eliminates eligibility for the transfer of TDR; provided, however, that such eligibility may nonetheless be retained or acquired again if, pursuant to Section ~~*1114(b)*~~*1116(b)*: the property owner demonstrates as to any alteration that it was ~~*not major, or if the property owner restores the demolished or altered building*~~ *a Minor Alteration as defined in this Article and has applied for a Permit for Minor Alteration pursuant to Section 1111.1; or that the property owner has obtained a Permit to Alter to restore the original distinguishing qualities and character-defining features that were altered*. Once any TDR have been transferred from a Contributory Building, the building is subject to the same restrictions on demolition and alteration as a Significant Building. These restrictions may not be removed by the transfer of TDR back to the building.

(c) Category V Buildings in Conservation Districts. Where explicitly permitted in Section 8 of the Appendix establishing a Conservation District, lots located in such a District on which are located Category V Buildings (designated as neither Significant nor Contributory) are eligible to transfer the difference between the allowable gross floor area permitted on the lot under Section 124 of the Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section 128 are met; provided, however, that a lot is eligible as a Preservation Lot pursuant to this Section only if: (1) the exterior of the building is

substantially altered so as to make it compatible with the scale and character of the Significant and Contributory Buildings in the district, including those features described in Sections 6 and 7 of the Appendix to Article 11 describing the relevant district, and has thus been determined *by the HPC to be* a Compatible Rehabilitation, and the building meets or has been reinforced to meet the standards for seismic loads and forces of the ~~*1975*~~ Building Code; or (2) the building on the lot is new, having replaced a Category V Building, and has received approval *by the HPC* as a Compatible Replacement Building, pursuant to Section 1113. ~~*The procedures governing these determinations are set forth in Section 309.*~~

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

~~*With respect to a designated Significant or Contributory Building or any Category V Building in a Conservation District, no person shall carry out or cause to be carried out any alteration to the exterior of a building for which a permit is required pursuant to the Building Code unless the permit is approved pursuant to the provisions of Sections 1111 through 1111.6 of this Article; provided, however, that this approval is not required with respect to the owner of a Contributory Building of Category III who has not transferred any TDR and who elects to proceed with a major alteration without reference to Sections 1111 through 1111.6. Election to proceed without a permit pursuant to this Section may be made at the time that the Zoning Administrator determines that the proposed alteration is major pursuant to Section 1111.1. If no election is made at the time of the Zoning Administrator's determination that an alteration is major, the applicant may make such election at any time thereafter. Review under Sections 1111 through 1111.6 shall cease after such election has been made and the permit shall be processed without regard to the requirements of that Section. Election shall be made in writing on a form provided by the Zoning Administrator. Where an owner elects not to proceed pursuant to Sections 1111 through 1111.6, the proposed alteration for which the application is filed shall be deemed not to meet the requirements of Section 1111.6, and if the alteration permit is*~~

~~issued and work commenced thereunder, the Zoning Administrator shall not issue a Statement of Eligibility for the lot on which the building is located.~~

(a) No person shall carry out or cause to be carried out any construction, alteration, removal or demolition of a structure or any work involving a sign, awning, marquee, canopy, mural, or other appendage, or any new or replacement construction for which a permit is required pursuant to the Building Code, on any designated Significant or Contributory Building or any building in a Conservation District unless a permit for such work has been approved pursuant to the provisions of this Article 11. Notwithstanding the foregoing, when the application is for a permit to maintain, repair, rehabilitate, or improve streets and sidewalks, including sidewalk widening, accessibility, and bulb-outs, the Planning Department shall process the permit without further reference to this Article 11, unless such streets and sidewalks have been explicitly called out in a conservation district's designating ordinance as character-defining features of the district.

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

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

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

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

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

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

(1) When the application is for a permit for ordinary maintenance and repairs only. For the purpose of this Article 11, "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.

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

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

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

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

Upon receipt of any application for a building permit, demolition permit, site permit, alteration permit, or any other permit relating to a Significant or Contributory Building or a building within a Conservation District, the Central Permit Bureau shall forward such application to the Planning Department for determination as to whether the application is subject to the provisions of this Article and, if so, for approval under this Article. An application for a Permit to Alter or Permit to Demolish or for new and replacement construction in any Conservation District shall be filed by the owner or authorized agent for the owner of the property for which the permit is sought with the Planning Department. Each application shall be verified by at least one property owner or his or her authorized agent attesting to the truth and correctness of all facts, statements and information presented.

(a) Content of Applications. The content of applications shall be in accordance with the policies, rules and regulations of the Department and the HPC. All applications shall be on forms prescribed therefore and shall contain or be accompanied by all information required to assure the

presentation of all pertinent facts for proper consideration of the case and for the permanent record. Applications shall include the following information:

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

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

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

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

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

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

(b) In addition to the contents specified for applications in (1) above, any application for a Permit to Demolish a Significant Building or a Contributory Building from which TDR have been transferred shall also contain the following information:

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

(2) The amount paid for the property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) The amount received for rights transferred;

(19) The transferee(s); and

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

(c) An application for a Permit to Demolish any building located in a Conservation District or an application for new construction on vacant lots shall include plans, specifications and elevations

showing the proposed exterior appearance, including but not limited to color, texture of materials, and architectural design and detail, for the replacement construction.

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

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

(2) Compatible Replacement Building. An applicant for new construction in a Conservation District on a lot where a Category V Building (Unrated) has been lawfully demolished may request on the application a determination by the HPC that if the proposed new construction is completed as approved, the new building will be deemed a Compatible Replacement Building under Section 1109(c) so that the lot on which the building is located becomes eligible as a Preservation Lot for the transfer of TDR.

(e) 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. 1111.1. DETERMINATION OF *MINOR AND* MAJOR ALTERATION*S*.

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

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

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

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

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

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

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

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

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

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

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

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

(c) All applications for a Permit to Alter that are not Minor Alterations delegated to Department staff shall be approved, approved with modifications, or disapproved by the HPC pursuant to the procedures in Section 1111.4 and 1111.5 below.

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

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

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

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

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

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

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

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

(c) In addition to the requirements of Article 6, an application for a business sign, general advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building or any building in a Conservation District shall be subject to review by the HPC pursuant to the provisions of this Article. The HPC shall disapprove the application or approve it with modifications if the proposed location, materials, typeset, size of lettering, means of illumination, method of replacement, or the attachment would adversely affect the special architectural, historical or aesthetic significance of the subject building or the Conservation District. No application shall be denied on the basis of the content of the sign.

SEC. 1111.3. ~~*RECOMMENDATION BY THE DIRECTOR OF PLANNING.*~~

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

The Department shall review all applications and shall determine within 30 days after the application is filed whether the application is complete. Applications for Minor Alterations that have been delegated to Department staff may be approved by the Department pursuant to Section 1111.1 without a hearing before the HPC. Upon acceptance as complete of an application that is not a Minor Alteration or upon appeal to or a request by the HPC to exercise its review powers over a Minor Alteration as set forth in 1111.1, the HPC shall hold a hearing and approve, approve with modifications, or disapprove the application in accordance with the procedures set forth in this Section 1111.

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

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

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

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

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

(a) If a public hearing before the HPC is required under this Section 1111, the Department shall set a time and place for the hearing within a reasonable period. Notice of the time, place, and

purpose of the hearing shall be given by the Department not less than 20 days prior to the date of the hearing as follows:

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

(2) By mail to the applicant;

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

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

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

(6) By posting notice on the site; and

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

(b) Notice for HPC review of Minor Permits to Alter. A hearing for the HPC to exercise its review powers over a Minor Permit to Alter shall be noticed:

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

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

SEC. 1111.5. DECISION BY THE ~~*CITY PLANNING*~~ *HISTORIC PRESERVATION* COMMISSION.

(a) The ~~*Planning Commission*~~*HPC* may approve, disapprove, or approve with conditions an application for ~~*an alteration permit*~~ *a Permit to Alter or a Permit to Demolish* and, where applicable *for new or replacement construction*, for a determination that the building is a Compatible Rehabilitation *under Section 1113 or a Compatible Replacement Building under Section 1109(c)*, and shall make findings in support of its decision. ~~*If the Planning Commission approves the recommendation of the Director of Planning, it may adopt or modify the findings of the Director of*~~

~~*Planning as appropriate. Where the Planning Commission disapproves the recommendations of the Director of Planning, it shall make findings supporting its decision. If the Commission disapproves the application for a permit to alter, it shall recommend disapproval to the Central Permit Bureau which shall deny the application. The Planning Commission's determination that a building qualifies or fails to qualify as a Compatible Rehabilitation is a final administrative decision. Any decision of the Planning Commission rendered pursuant to this Section shall be rendered within 30 days from the date of conclusion of the hearing.*~~

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

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

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

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

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

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

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

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

(3) Distinctive architectural features which are to be retained pursuant to Paragraph (1) but which are deteriorated shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material shall match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

Replacement of nonvisible structural elements need not match or duplicate the material being replaced.

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

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

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

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

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

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

SEC. 1111.7. ~~*PERMITS FOR SIGNS.*~~

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

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

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

~~*(d) The Director of Planning shall make the determination required pursuant to Subsection (b). Any permit applicant may appeal the determination of the Director of Planning to the City Planning Commission by filing a notice of appeal with the Secretary of the Commission within 10 days of the determination. The City Planning Commission shall hear the appeal and make its determination within 30 days of the filing of the notice of appeal.*~~ *STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION.*

(a) The HPC, Planning Commission, Board of Appeals, and the Board of Supervisors (each referred to as a "Decisionmaker" for the purposes of this Section) shall apply the following standards

in their review of applications for a Permit to Demolish a Significant or Contributory Building or building within a Conservation District. No demolition permit may be approved unless:

(1) For Significant Buildings (Categories I and II); and Contributory Buildings (Categories 111 and IV) from which TDR have been transferred:

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

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

(2) For Contributory Buildings from which no TDR has been transferred:

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

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

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

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

(i) The rehabilitation and reuse of the building will not meet most of the goals and objectives of the proposed replacement project;

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

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

(3) For Category V Buildings (Not Rated) in Conservation Districts: The Decisionmaker determines that: (A) the building has not gained additional historical or architectural significance that may make it eligible for classification as a Category I, II, or IV Building; and (B) the proposed Replacement Building is compatible with the Conservation District in which the property is located. If the Decisionmaker determines based on new documentation presented that a Category V Building has gained significance such that it is eligible for classification as a Category I, II, or IV Building and reclassification of the Category V Building is initiated as provided in Section 1106 , the Permit to Demolish shall be reviewed under Subsection (a)(1) or (a)(2) above, and not under this Subsection (a)(3). Additionally, if the building has completed a Compatible Rehabilitation pursuant to Section 1109(c), and has transferred development rights from the property, then the building shall be treated as a Significant Building (Category I or II). Any determination that a Category V Building may be eligible for reclassification shall be void if, within 180 days of such determination, the Board of Supervisors has not re-designated the building to a Category I, II, or IV Building.

(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.

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

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

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

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

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

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

~~*(a) For all property:*~~

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

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

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

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

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

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

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

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

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

~~*(b) For income producing property:*~~

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

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

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

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

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

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

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

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

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

~~*(d) The Zoning Administrator shall approve applications to permit demolition of a Contributory Building – Category III from which no TDR have been transferred only if a building or site permit for a replacement building on the same site has been approved, and it has been found, pursuant to review under the procedural provisions of Section 309, that the proposed replacement will not adversely affect the character, scale or design qualities of the general area in which it is located, either by reason of the quality of the proposed design or by virtue of the relation of the replacement structure or structures to their setting. Notwithstanding the preceding sentence, the Zoning*~~

~~*Administrator shall approve any such demolition permit application if the standards of Section 1112.7 for allowing demolition of a Significant Building are met.*~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Applications for a building or site permit to construct or add to a structure in any Conservation District shall be reviewed *and approved, approved with modifications, or disapproved*

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

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

SEC. 1114. *MODIFICATION OF A DECISION OF THE HISTORIC PRESERVATION COMMISSION.*

For projects that require multiple planning approvals, the HPC shall review and act on any Permit to Alter or Permit to Demolish before any other Planning approval action.

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

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

SEC. 1115. APPEAL.

The HPC's or the Planning Commission's decision on a Permit to Alter or a Permit to Demolish shall be final unless appealed to the Board of Appeals, which may modify the decision by a four-fifths 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. Any appeal must be made within 30 days after the date of the final action by the HPC or Planning Commission.

SEC. 1116. UNLAWFUL ALTERATION OR DEMOLITION.

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

(b) A property owner may be relieved of the penalties provided in Subsection (a) if:

(1) as to an unlawful alteration~~ or demolition~~, the owner can demonstrate to the ~~Zoning Administrator~~*HPC* that the violation *would have constituted a Minor Alteration and has applied for a Permit for Minor Alteration to legalize the violation~~ did not constitute a major alteration as defined in Section 1111.1~~*; or

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

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

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

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

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

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

SEC. ~~*1116*~~*1118*. UNSAFE OR DANGEROUS CONDITIONS.

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

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

SEC. ~~1117~~*1119*. MAINTENANCE REQUIREMENTS AND ENFORCEMENT THEREOF.

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

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

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

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

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

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

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

(b) Enforcement Procedures. The procedures set forth in Building Code Sections ~~203~~*114 through 116* governing unsafe buildings or property shall be applicable to any violations of this Section.

SEC. ~~1119~~*1120*. ENFORCEMENT AND PENALTIES.

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

SEC. ~~1120~~*1121*. RELATIONSHIP TO ARTICLE 10.

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

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

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

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

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

SEC. ~~1122~~*1123*. NOTICE PROCEDURE.

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

SEC. ~~1123~~1124. TIME PROVISIONS.

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

SEC. ~~1124~~1125. SEVERABILITY.

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

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. 120301

LEGISLATIVE DIGEST

[Planning Code - Article 11, Historic Preservation in the C-3 Districts]

Ordinance amending the San Francisco Planning Code, Article 11, entitled "Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts," 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 11 of the Planning Code, entitled "Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts," sets forth the requirements, procedures, and standards for designating and approving alterations and additions to and demolition of properties designated as "Significant" or "Contributory" or within Conservation Districts within the C-3 zoning districts, which are generally located in the City's downtown financial district. Article 11 establishes the various roles of the Landmarks Preservation Advisory Board (LPAB), the Planning Commission, and the Board of Supervisors, as well as the Zoning Administrator and the Planning Department, with regard to City-designated historic properties within these downtown areas. In addition to designating individual properties, Article 11 includes designation of six Conservation Districts.

Once a property has been designated, either individually or as a property within a Conservation District, under Article 11, the procedures set forth in Article 11 apply to applications for permits to alter or demolish designated properties, generally requiring a approval by the Zoning Administrator or Planning Commission, with the advice of the LPAB, for such work. Article 11 includes noticing and public hearing procedures both for designation and for permit approval.

Amendments to Current Law

The proposed ordinance would comprehensively amend Article 11 to remove reference to the former LPAB, remove most references to the Planning Commission and the Zoning Administrator, 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 and Zoning Administrator's former responsibilities to the HPC.

The proposed ordinance would also make a number of changes to the procedures for designating properties under Article 11, including designating or altering designations of Conservation Districts, and for approving permits to alter or demolish, including, among others, the following:

- Only the Board of Supervisors and the HPC may initiate designation of a property under Article 11. Under the current Code, these bodies, as well as the Planning Commission, may do so. (*See* new Section 1106(a).)
- The Planning Department must conduct certain types of outreach to any area proposed to be designated as a new Conservation District or where a district boundary is proposed to be altered, 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 1107(e).)
- Specific requirements for applications for permits to alter or demolish are set forth in Section 1111, and include specific additional requirements for applications for permits to demolish.
- The Planning Department may approve "Minor Alteration" permits for work to Article 11 properties, where the work meets certain requirements 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 1111.1.)
- In order to receive a permit to alter, the proposed 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 1111.6(b).)
- Standards and requirements for permits to demolish are set forth in new Section 1111.7, and include more stringent requirements for approving a demolition than in the current Code. Under the proposed legislation:
    - An application to demolish a significant building or a contributory building that has sold TDR may be approved if the property retains no substantial market value or reasonable use or if an imminent safety hazard exists.
    - For contributory buildings that have not sold TDR, an application to demolish may be approved for the previous two reasons, or additionally if the physical condition of the structure means that rehabilitation and reuse of the structure would not meet the proposed project's goals and specific economic, social, or other benefits outweigh the benefit conferred by preserving the building.
    - For unrated buildings within a Conservation District, demolition may be approved under the proposed legislation if the building has not gained historic significance since it was rated and the proposed replacement building is compatible with the district.

Background Information

Article 11 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 Zoning Administrator from much of their prior roles in approving designations under Article 11 and approving permits to alter and demolish. 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: 120301 (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 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: 120301 (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. 673

Planning Code Text Changes: Article 11

HEARING DATE: FEBRUARY 1, 2012

Project Name:	**Proposed Amendments to Article 11**
Case Number:	2011.0167T
Initiated by:	John Rahaim, Director of Planning
Initiated:	July 8, 2010
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6257
Reviewed by:	Tim Frye, Preservation Coordinator tim.frye@sfgov.org, 415-575-6822
Recommendation:	**Approve Article 11 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 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORIC, AND AESTHETIC IMPORTANCE IN 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 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:

a. 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.

b. 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.

c. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will both update Article 11 to make it consistent with Charter Section 4.135, and provide additional proposed amendments to procedures for designating buildings and districts, and permitting procedures, among other changes.

d. Therefore, the HPC recommends ***approval of Article 11 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 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.**~~

b. *Supervisor Wiener has proposed adding Section 1111(g) which would provide an exemption from fees and certain requirements 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.*

c. ***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.

e. ***Section 1111.7(a)(3):*** *Supervisor Wiener has proposed adding language to Section 1111.7(a)(3) that would render void a reclassification of a Category V building if the Board of Supervisors does not act on*

the redesignation within 180 days. The HPC does not recommend including this provision in Article 11.

f. ***Section 1111.7(b):*** *Supervisor Wiener has proposed limiting the consideration of effects to a conservation district's integrity as grounds for denial for applications to demolish Contributory Buildings to instances when demolition would substantially diminish the integrity of the Conservation District. The HPC does not recommend including the language that reads, "* ~~**if it is found that the demolition would substantially diminish the integrity of the Conservation District**~~*."*

g. **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.

h. 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

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.

NEPA and CEQA Review of: 1) Proposed Amend. to Articles 10 & 11; and 2) 55 Laguna Mixed Use Project [BOS Files 120300 & 120301 and Planning Case 2011.0450C]

Cynthia Servetnick to: Supervisor Eric L. Mar, Malia.Cohen, scott.wiener, Supervisor David Chiu, Christina.Olague, Mark.Farrell, 05/03/2012 03:14 AM

Cc: awmartinez, andrew.wolfram, c.chase, RSEJohns, cdamkroger, karlhasz, diane, planning, cwu.planning, rm, wordweaver21, plangsf, mooreurban, hs.commish, Linda Avery, Board.of.Supervisors,

Dear Chair Chiu and Members of the Board:

Save the Laguna Street Campus (StLSC) is concerned that the potential adverse impacts of Supervisor Wiener's proposed amendments to Articles 10 and 11 of the Planning Code (Amendments) on historical resources have not been adequately analyzed under the National Environmental Policy Act (NEPA) and the California Environmental Policy Act (CEQA).

The State Historic Preservation Officer (SHPO) has not reviewed the April 24, 2012 version of the proposed Amendments. The City participates in the National Park Service's Certified Local Government (CLG) Program through a Programmatic Agreement (PA) for U.S. Department of Housing and Development (HUD)-assisted undertakings that delegates most federal review responsibilities back to the City. The City's CLG Certificate of Agreement requires it to obtain the approval of the SHPO prior to adoption of the proposed Amendments.

Decisions regarding the proposed Amendments could affect the City's CLG status and the continuation of the PA which could affect the City's ability to receive and expend HUD monies on affordable housing and community development projects thereby potentially causing indirect adverse physical impacts on the environment subject to analysis under NEPA and CEQA.

The proposed Amendments would require the Planning Commission to approve local interpretations of the Secretary of the Interior's Standards (Standards). As a CLG, the City has committed to best practices in the field of historic preservation which include the adoption and implementation of Standards. The rehabilitation standards are broad and flexible-to make their use optional would effectively eliminate their use. The SHPO has recommended maintaining compliance with the Standards and considering the preparation of design guidelines for particular neighborhoods or property types.

The SHPO also raised concerns regarding the Planning Commission's making specific findings about historic district nominations that address the consistency of the proposed designation with the Regional Housing Needs Allocation, Sustainable Communities Strategy and the provision for housing near transit corridors. The provisions in the General Plan that address housing appear to carry more weight than historic preservation, a policy which seems inconsistent with the State requirement that all elements of the General Plan have equal legal status-no one element takes precedence.

The proposed Amendments would "exempt" residential projects within historic districts receiving a direct financial contribution of funding from local, state or federal sources for the purpose of providing subsidized for-sale or rental housing. For example, the adaptive reuse of the San Francisco State Teacher's College National Register Historic District (District) - 55 Laguna Mixed Use Project (Project) is presently undergoing environmental review under NEPA. The Project will construct approximately 450 rental housing units with

federal and other funds. Design alternatives have been proposed that would eliminate the need to demolish two of the five contributory buildings to the District. Under the proposed Amendments, the Project would not be subject to the same standards for the review of applications for Certificates of Appropriateness as non-publicly financed housing projects. This "double standard" unnecessarily provides less protection for publicly funded housing projects causing indirect adverse physical impacts on historical resources subject to analysis under NEPA and CEQA. Further, the proposed Amendments substitute an entirely new definition for "affordable housing" that has not been considered by the Historic Preservation Commission (HPC) or the Planning Commission and does not require a showing of economic hardship.

We urge you to 1) eliminate the requirement for the Planning Department to develop, and the Planning Commission to adopt, "local interpretations" of the Standards; 2) delete the proposed "exemption" from preservation requirements for affordable housing projects; 3) remove proposed new limitations on the authority of the HPC to review proposed alterations in historic districts and conservation districts; 4) eliminate the requirement for a written vote of owners before the Board of Supervisors can take action on proposed historic districts; 5) allow members of the public to nominate landmarks and historic districts for consideration; and 6) delete the proposed "exemption" from review for streets and sidewalks. We strongly encourage you to solicit comments on the finally-revised Amendments from the SHPO, and ensure they have been adequately reviewed under NEPA and CEQA, prior to adoption.

Sincerely,

Cynthia Servetnick, Director
Save the Laguna Street Campus

Links: Planning Code Article 10 (Wiener Version updated 4-24-12)

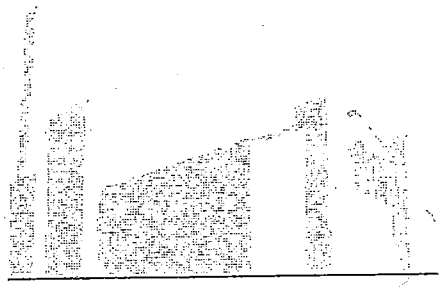
https://www.box.com/shared/static/efc3d9b4c2cd97e10945.pdf

Planning Code Article 11 (Wiener Version updated 4-24-12)

https://www.box.com/shared/static/54f61d5f483f677b6f6e.pdf

Cc: Historic Preservation Commission
Planning Commission
Mayor's Office of Housing
Angela Calvillo, Clerk, Board of Supervisors
Rick Caldeira, Legislative Deputy Director, Board of Supervisors
Alisa Miller, Assistant Clerk, Board of Supervisors
Andrea Ausberry, Administrator, Sunshine Ordinance Task Force
Marlena Byrne, Deputy City Attorney
John Rahaim, Director, Planning Department
Bill Wycko, Environmental Review Officer, Planning Department
Tina Tam, Senior Environmental Planner, Planning Department
Tim Frye, Preservation Coordinator, Planning Department
Shelley Caltagirone, Senior Planner, Planning Department
State Office of Historic Preservation
National Trust for Historic Preservation
California Preservation Foundation
San Francisco Architectural Heritage
San Francisco Preservation Consortium

StLSC Art 10 + 11 NEPA Review 5-3-12.pdf



Save the Laguna Street Campus

Board of Directors

Warren Dewar
Attorney (Retired)

Vincent Marsh
Architectural Historian

Cynthia Servetnick
Urban Planner

Lavon Taback
Writer, Community Organizer

Horus Tolson
Musician, Educator

Helene Whitson
Archivist Emeritus
San Francisco State University

Save the Laguna Street Campus is dedicated to preserving the public use and historical resources of the San Francisco State Teacher's College National Register Historic District.

Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

May 3, 2012

Subjects: 1) National Environmental Policy Act (NEPA) and California Environmental Policy Act (CEQA) Compliance – Proposed Amendments to Articles 10 and 11 of the Planning Code [BOS File Nos. 120300 & 120301]

2) Adaptive Reuse of the San Francisco State Teacher's College National Register Historic District – 55 Laguna Mixed Use Project [Planning Department Case No. 2011.0450C]

Dear Chair Chiu and Members of the Board:

Save the Laguna Street Campus (StLSC) is concerned that the potential adverse impacts of Supervisor Wiener's proposed amendments to Articles 10 and 11 of the Planning Code (Amendments) on historical resources have not been adequately analyzed under the National Environmental Policy Act (NEPA) and the California Environmental Policy Act (CEQA).

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We urge you to 1) eliminate the requirement for the Planning Department to develop, and the Planning Commission to adopt, "local interpretations" of the Standards; 2) delete the proposed "exemption" from preservation requirements for affordable housing projects; 3) remove proposed new limitations on the authority of the HPC to review proposed alterations in historic districts and conservation districts; 4) eliminate the requirement for a written vote of owners before the Board of Supervisors can take action on proposed historic districts; 5) allow members of the public to nominate landmarks and historic districts for consideration; and 6) delete the proposed "exemption" from review for streets and sidewalks. We strongly encourage you to solicit comments on the finally-revised Amendments from the SHPO, and ensure they have been adequately reviewed under NEPA and CEQA, prior to adoption.

Sincerely,

Cynthia Servetnick

Cynthia Servetnick, Director
Save the Laguna Street Campus

Links: Planning Code Article 10 (Wiener Version updated 4-24-12)
https://www.box.com/shared/static/efc3d9b4c2cd97e10945.pdf

Planning Code Article 11 (Wiener Version updated 4-24-12)
https://www.box.com/shared/static/54f61d5f483f677b6f6e.pdf

Cc: Historic Preservation Commission
Planning Commission
Mayor's Office of Housing
Angela Calvillo, Clerk, Board of Supervisors
Rick Caldeira, Legislative Deputy Director, Board of Supervisors
Alisa Miller, Assistant Clerk, Board of Supervisors
Andrea Ausberry, Administrator, Sunshine Ordinance Task Force
Marlena Byrne, Deputy City Attorney
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Bill Wycko, Environmental Review Officer, Planning Department
Tina Tam, Senior Environmental Planner, Planning Department
Tim Frye, Preservation Coordinator, Planning Department
Shelley Caltagirone, Senior Planner, Planning Department
State Office of Historic Preservation
National Trust for Historic Preservation
California Preservation Foundation
San Francisco Architectural Heritage
San Francisco Preservation Consortium

From:	Library Users Association <libraryusers2004@yahoo.com>
To:	Scott.Wiener@sfgov.org, Eric.L.Mar@sfgov.org, Malia.Cohen@sfgov.org, Christina.Olague@sfgov.org, board.of.supervisors@sfgov.org,
Cc:	sruecker@gmail.com, dsmith@sfheritage.org
Date:	04/30/2012 01:53 PM
Subject:	Concerning Articles 10 and 11 on Today's Agenda, 4-30-12

Dear Supervisors:

With respect to your consideration of changes to Articles 10 and 11 of the Planning Code, we support the HPC-approved version, as set forth by SF Heritage.

The version before you places unnecessary and inappropriate obstacles to protection and disenfranchises occupants compared with owners in considering a proposed historic district. Those who do not own property are people and citizens, too (although some owners are not citizens or even residents of the City) and their voices should be considered equally.

Would you allow only property owners to receive library cards and use library facilities? We certainly hope not. And the library's slogan, "Free and Equal Access..." is a good guide for other things in the City, such as noted above.

The main concerns of SF Heritage are summarized below, and we ask you to follow these recommendations.

Thank you.

Sincerely yours,

Peter Warfield
Executive Director
Library Users Association
415/7 5 3 - 2 1 8 0

SF Heritage's key concerns:
with regard to Articles 10 & 11:
–Eliminate the requirement for a written vote before the BOS can take action on proposed historic districts;
–Require the Board of Supervisors to consider the views of both owners and occupants within a proposed historic district;
–Delete the proposed exemption for affordable housing projects until it can be further studied;
–Eliminate the requirement for the Planning Commission to approve local interpretations of the Secretary of the Interior's Standards adopted by the HPC.

Public Records Act Request (Immediate Disclosure) Re: Amendments to Articles 10 & 11 of the Planning Code [BOS File Nos. 120300 & 120301]

Cynthia Servetnick to: Board.of.Supervisors, Rick.Caldeira@sfgov.org, Alisa.Miller, marlena.byrne 05/01/2012 11:50 PM

Cc: Andrea.Ausberry, hopeannette

History: This message has been replied to.

Public Records Act Request (Immediate Disclosure)
Re: Amendments to Articles 10 & 11 of the Planning Code
[BOS File Nos. 120300 & 120301]

To Whom It May Concern:

Kindly provide the following documents via email:

1) CEQA Exemption for the proposed Amendments to Articles 10 & 11 of the Planning Code [BOS File Nos. 120300 & 120301], and

2) A "Red-line/Strike-out" version of the proposed Amendments to Articles 10 & 11 of the Planning Code [BOS File Nos. 120300 & 120301] that compares the March 22, 2012 versions with the April 24, 2012 versions.

Thank you.

Cynthia Servetnick, eGroup Moderator
San Francisco Preservation Consortium

4/30/12
Received in
Committee

STATE OF CALIFORNIA – THE NATURAL RESOURCES AGENCY
EDMUND G. BROWN, JR., Governor

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
1725 23rd Street, Suite 100
SACRAMENTO, CA 95816-7100
(916) 445-7000 Fax: (916) 445-7053
calshpo@parks.ca.gov
www.ohp.parks.ca.gov

April 13, 2012

Timothy Frye
Preservation Coordinator
City and County of San Francisco
Department of Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Dear Mr. Frye:

RE: **PROPOSED AMENDMENTS TO ARTICLES 10 AND 11 OF THE PLANNING CODE**

Thank you for forwarding the proposed amendments to Articles 10 and 11 of the Planning Code pursuant to your Certified Local Government Agreement.

I have had the opportunity to review Article 10 (updates through March 30) and Article 11 (updated through March 22). Based on that review and on our meeting with Supervisor Scott Wiener, Historic Preservation Commission President Charles Chase, and the Planning Department February 16, 2012, I believe the content of the amendments is consistent with the Certified Local Government program.

If you have additional comments or questions, please do not hesitate to contact Lucinda Woodward, Supervisor of the Local Government Program, at (916) 445-7028 or at lwoodward@parks.ca.gov.

Sincerely,

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

4/30 BOS LU Hearing on Wiener Amendments to Planning Code Articles 10 and 11 [BOS Files 120300 & 120301] [1 Attachment]
Board of Supervisors to: Rick Caldeira, Alisa Miller 04/30/2012 12:18 PM

---- Forwarded by Board of Supervisors/BOS/SFGOV on 04/30/2012 12:18 PM ----

From:	David Tornheim <DavidTornheim@hotmail.com>
To:	"Supervisor Eric L. Mar" <Eric.L.Mar@sfgov.org>, Malia.Cohen@sfgov.org, scott.wiener@sfgov.org,
Cc:	NINERSAM@aol.com, Cynthia Servetnick <Cynthia.Servetnick@gmail.com>, mayoredwinlee@sfgov.org, Supervisor David Chiu <David.Chiu@sfgov.org>, Christina.Olague@sfgov.org, Mark.Farrell@sfgov.org, "Carmen.Chu" <Carmen.Chu@sfgov.org>, jane.kim@sfgov.org, "Sean.Elsbernd" <Sean.Elsbernd@sfgov.org>, Supervisor David Campos <david.campos@sfgov.org>, Supervisor John Avalos <John.Avalos@sfgov.org>, board.of.supervisors@sfgov.org, awmartinez@earthlink.net, andrew.wolfram@perkinswill.com, c.chase@argsf.com, RSEJohns@yahoo.com, cdamkroger@hotmail.com, karlhasz@gmail.com, planning@rodneyfong.com, cwu.planning@gmail.com, rm@well.com, wordweaver21@aol.com, plangsf@gmail.com, mooreurban@aol.com, hs.commish@yahoo.com, Linda Avery <Linda.Avery@sfgov.org>, "john.rahaim" <john.rahaim@sfgov.org>, Tim Frye <Tim.Frye@sfgov.org>, bill.wycko@sfgov.org, Tina Tam <Tina.Tam@sfgov.org>, "marlena.byrne" <marlena.byrne@sfgov.org>
Date:	04/30/2012 11:53 AM
Subject:	Re: 4/30 BOS LU Hearing on Wiener Amendments to Planning Code Articles 10 and 11 [BOS Files 120300 & 120301] [1 Attachment]

Dear Supervisors:

I agree with the below two positions sent to you via e-mail by the San Francisco Preservation Consortium and CSFN Land Use and Housing Committee. I also urge the Land Use Committee to continue the hearing on changes to Articles 10 and 11 of the Planning Code, and in the alternative to make these four changes to the proposed legislation:

1. Eliminate the requirement for a written vote before the BOS can take action on proposed historic districts;
2. Require the BOS to consider the views of both owners and occupants within a proposed historic district;
3. Delete the proposed exemption from preservation requirements for affordable housing projects until it can be further studied;
4. Eliminate the requirement for the Planning Commission to approve local interpretations of the Secretary of the Interior's Standards adopted by the HPC.

-David Tornheim

Cynthia Servetnick wrote, On 4/30/2012 1:05 PM:

[Attachment(s) from Cynthia Servetnick included below]

Dear Chair Mar, Vice Chair Cohen and Supervisor Wiener:

On behalf of the San Francisco Preservation Consortium (Consortium), a grassroots education and advocacy group comprised of individuals and member organizations, we

4/30 BOS LU Hearing on Wiener Amendments to Planning Code Articles 10 and 11 [BOS Files 120300 & 120301]

Cynthia Servetnick to: Supervisor Eric L. Mar, Malia.Cohen, scott.wiener 04/30/2012 10:04 AM

Cc: mayoredwinlee, Supervisor David Chiu, Christina.Olague, Mark.Farrell, "Carmen.Chu", jane.kim, "Sean.Elsbernd", Supervisor David Campos, Supervisor John Avalos,

1 attachment

Art 10+11 4-30-12.pdf

Dear Chair Mar, Vice Chair Cohen and Supervisor Wiener:

On behalf of the San Francisco Preservation Consortium (Consortium), a grassroots education and advocacy group comprised of individuals and member organizations, we are concerned that Supervisor Wiener's proposed amendments to Articles 10 and 11 of the Planning Code (Amendments) unnecessarily water-down our existing historic preservation laws.

The Amendments would potentially exempt subsidized housing projects in designated historic districts from preservation requirements and may not be consistent with the Programmatic Agreement by and amongst the City and County of San Francisco, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation. The Amendments could jeopardize the City's Certified Local Government status and adversely impact the development of affordable housing using Federal monies. We encourage the City to solicit comments on the Amendments from the State Office of Historic Preservation before forwarding them to the full Board of Supervisors (BOS) for adoption.

We urge you to make the following revisions to the Amendments, as recommended by the Historic Preservation Commission (HPC): 1) Eliminate the requirement for a written vote before the BOS can take action on proposed historic districts; 2) Require the BOS to consider the views of both owners and occupants within a proposed historic district; 3) Delete the proposed exemption from preservation requirements for affordable housing projects until it

can be further studied; and 4) Eliminate the requirement for the Planning Commission to approve local interpretations of the Secretary of the Interior's Standards adopted by the HPC. Additional unresolved issues are outlined in the below-linked chart.

With the passage of Proposition J in November 2008, San Franciscans expressed their desire to elevate the role of historic preservation in the City's planning processes. Approved by 57 percent of voters, the measure called for a comprehensive overhaul of our preservation program. The preservation community has advocated for incorporating best practices and national standards into the Amendments since early 2009. Let's make sure we get this right for the benefit of our collective cultural heritage. Please continue Items 5 and 6 on today's agenda until the substantive issues raised herein are resolved.

Yours truly,

Stewart Morton, Acting Chair

Links: Articles 10 and 11 Chart: Current Status of Amendments

Proposed by Supervisor Wiener (Preservation Community Version, 4-29-12)

https://www.box.com/shared/static/5b56b0fcce68cff2b5cf.pdf

Article 10 (Wiener Version, 4-24-12)

https://www.box.com/shared/static/efc3d9b4c2cd97e10945.pdf

Article 11 (Wiener Version, 4-24-12)

https://www.box.com/shared/static/54f61d5f483f677b6f6e.pdf

Cc: Mayor Edwin M. Lee

Board of Supervisors

Historic Preservation Commission

Planning Commission

Olson Lee, Director, Mayor's Office of Housing

John Rahaim, Planning Director

Tim Frye, Preservation Coordinator

Bill Wycko, Environmental Review Officer

Tina Tam, Senior Preservation Planner

Marlena Byrne, Deputy City Attorney

State Office of Historic Preservation

National Trust for Historic Preservation, Western Office

California Preservation Foundation

San Francisco Architectural Heritage

San Francisco Preservation Consortium

SPUR

THE SAN FRANCISCO PRESERVATION CONSORTIUM

P.O. Box 330339
San Francisco, CA 94133-0339

April 30, 2012

Stewart Morton
Acting Chair and Treasurer

Don Andreini
Secretary

Judith Hoyem
Government Liaison

Cynthia Servetnick
eGroup Moderator

Board of Supervisors
Land Use and Economic Development Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Item 5) Amendments to Planning Code Article 10 – Landmarks Preservation (Supervisor Scott Wiener) and Item 6) Amendments to Planning Code Article 11 – Historic Preservation in C-3 Districts (Supervisor Scott Wiener), [BOS File Nos. 120300 & 120301]

The San Francisco Preservation Consortium is a nonprofit organization that works in partnership with neighborhood groups and other organizations to advocate for effective land use legislation and responsible historic architectural preservation practice in accordance with accepted professional standards to ensure that, as they continue to evolve, the city and its neighborhoods retain their historic character.

Dear Chair Mar, Vice Chair Cohen and Supervisor Wiener:

On behalf of the San Francisco Preservation Consortium (Consortium), a grassroots education and advocacy group comprised of individuals and member organizations, we are concerned that Supervisor Wiener's proposed amendments to Articles 10 and 11 of the Planning Code (Amendments) unnecessarily water-down our existing historic preservation laws.

The Amendments would potentially exempt subsidized housing projects in designated historic districts from preservation requirements and may not be consistent with the Programmatic Agreement by and amongst the City and County of San Francisco, the California State Historic Preservation Officer and the Advisory Council on Historic Preservation. The Amendments could jeopardize the City's Certified Local Government status and adversely impact the development of affordable housing using Federal monies. We encourage the City to solicit comments on the Amendments from the State Office of Historic Preservation before forwarding them to the full Board of Supervisors (BOS) for adoption.

We urge you to make the following revisions to the Amendments, as recommended by the Historic Preservation Commission (HPC): 1) Eliminate the requirement for a written vote before the BOS can take action on proposed historic districts; 2) Require the BOS to consider the views of both owners and occupants within a proposed historic district; 3) Delete the proposed exemption from preservation requirements for affordable housing projects until it

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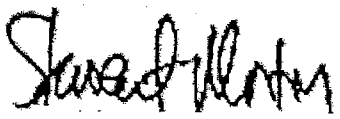

Stewart Morton, Acting Chair

Links: Articles 10 and 11 Chart: Current Status of Amendments Proposed by Supervisor Wiener (Preservation Community Version, 4-29-12)
https://www.box.com/shared/static/5b56b0fcce68cff2b5cf.pdf

Article 10 (Wiener Version, 4-24-12)
https://www.box.com/shared/static/efc3d9b4c2cd97e10945.pdf

Article 11 (Wiener Version, 4-24-12)
https://www.box.com/shared/static/54f61d5f483f677b6f6e.pdf

Cc: Mayor Edwin M. Lee
Board of Supervisors
Historic Preservation Commission
Planning Commission
Olson Lee, Director, Mayor's Office of Housing
John Rahaim, Planning Director
Tim Frye, Preservation Coordinator
Bill Wycko, Environmental Review Officer
Tina Tam, Senior Preservation Planner
Marlena Byrne, Deputy City Attorney
State Office of Historic Preservation
National Trust for Historic Preservation, Western Office
California Preservation Foundation
San Francisco Architectural Heritage
San Francisco Preservation Consortium
SPUR

Land Use Committee - SFAH Comments re Article 10 & 11 (Agenda Items 5 & 6)
Mike Buhler
to:
Alisa.Miller@sfgov.org
04/30/2012 09:37 AM
Cc:
"scott.wiener@sfgov.org", "andres.power@sfgov.org", "Eric.L.Mar@sfgov.org", "Nickolas.pagoulatos@sfgov.org", "Malia.Cohen@sfgov.org", "john.rahaim@sfgov.org", "Tim.Frye@sfgov.org", "sophie.hayward@sfgov.org", "mwdonaldson@parks.ca.gov", "Woodward, Lucinda", "rm@well.com", "Wordweaver21@aol.com", "plangsf@gmail.com", "mooreurban@aol.com", "rodney@waxmuseum.com", "bill@careyco.com", "c.chase@argsf.com", Courtney Damkroger, "awmarch@mac.com", "Wolfram, Andrew", "karlhasz@gmail.com", "rsejohns@yahoo.com", "diane@johnburtonfoundation.org", "mwdonaldson@parks.ca.gov", "lwoodward@parks.ca.gov", Sarah Karlinsky, "Eugene.Flannery@sfgov.org", "David.Chiu@sfgov.org", "Carmen.Chu@sfgov.org", "Christina.Olague@sfgov.org", "david.campos@sfgov.org", "jane.kim@sfgov.org", "John.Avalos@sfgov.org", "Mark.Farrell@sfgov.org", "Rick.Caldeira@sfgov.org", "Sean.Elsbernd@sfgov.org"
Show Details

1 Attachment

Land Use Committee - SFAH comments re Arts. 10 & 11 (4.30.12).pdf

Good morning Alisa – Attached please find San Francisco Architectural Heritage's comments on proposed amendments to Articles 10 and 11 of the Planning Code, which is scheduled for review by the Land Use Committee this afternoon. Please forward these comments to members of the committee. Thanks for your consideration.

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April 30, 2012

Supervisor Eric Mar, Chair
Land Use and Development Committee
Attn: Alisa Miller, Clerk
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Amendments to Article 10 (Landmarks Preservation) and Article 11 (Historic Preservation in C-3 Districts), BOS File Nos. 120300 & 120301

Dear Chair Mar, Vice Chair Cohen and Supervisor Wiener:

On behalf of San Francisco Architectural Heritage (Heritage), thank you for the opportunity to comment on proposed amendments to Articles 10 and 11 introduced by Supervisor Scott Wiener. The proposed legislation is the culmination of months of public hearings and negotiations, with significant compromises made on all sides. Despite this progress, Heritage believes that further refinements are necessary to conform Articles 10 and 11 to the HPC's recommendations, City Charter Section 4.135 and the City's Certified Local Government responsibilities.[1] As explained in detail below, we urge the Land Use Committee to consider the following targeted revisions:

1) **Section 1004.2:** Delete the requirement for the Planning Commission to comment on the consistency of any proposed historic district with "the provision of housing to meet the City's Regional Housing Needs Allocation," "the provision of housing near transit corridors," and "the Sustainable Communities Strategy for the Bay Area."
2) **Sections 1004.3 and 1107(e):** Eliminate the requirement for a written vote before the Board of Supervisors can take action on proposed historic districts and conservation districts. Require the Board of Supervisors to consider the views of both owners and occupants when taking action on proposed districts.
3) **Section 1006.6(h):** Delete the proposed exemption for affordable housing projects until its potential scope and adverse impacts can be studied.
4) **Sections 1006.6(b) and 1111.6(b):** Eliminate the requirement for the Planning Commission to approve local interpretations of the *Secretary of the Interior's Standards* adopted by the HPC.

A detailed explanation of the need for each of these revisions follows:

[1] Certified Local Government status enables the City to apply for federal grants, formally comment on National Register nominations, and administer Section 106 review under the National Historic Preservation Act, including streamlined review authority for federally-funded affordable housing projects involving historic resources.

SECTION 1004.2. For historic district nominations, the proposed legislation would require the Planning Commission to make findings that "(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."

- **HERITAGE POSITION:** The proposed language improperly elevates the Regional Housing Needs Allocation, Sustainable Communities Strategy, and "the provision of housing near transit corridors" over other General Plan polices, including Priority Policy 7 (stating "that landmarks and historic buildings be preserved"). As previously noted by State Historic Preservation Officer Milford Wayne Donaldson:

> Several things about this proposal are disturbing: 1) the assumption that historic preservation and housing needs are mutually exclusive; 2) that provisions in the General Plan that address housing appear to carry more weight than historic preservation, a policy which seems inconsistent with the State requirement that all elements of the General Plan have equal legal status; no one element takes precedence over any other; and 3) that historic preservation is singled out and treated differently than other land use policies.[2]

There has been no justification provided for the proposed amendment and no analysis by the Planning Department of the potential adverse impacts on historic resources. Heritage opposes the amended language because it singles out proposed historic districts for disparate treatment. Indeed, no other zoning changes are subject to such rigorous review against vague regional planning goals.

SECTIONS 1004.3 and 1107(e). Before the Board of Supervisors can vote on a proposed historic district, these amendments would require the Planning Department to "invite all property owners 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." Citing prohibitive costs and the administrative burden, the HPC deleted the requirement to conduct a written vote at its hearing on February 1, 2012. The current legislation reinstates the written vote requirement for owners and occupants, but would only require the Board of Supervisors to consider the votes of owners.

- **HERITAGE POSITION:** Heritage has consistently opposed any amendments that would impose unique procedural hurdles on the designation of historic districts. Heritage joins the HPC in opposing the requirement for a vote in writing as no other zoning changes are subject to this requirement. This voting requirement would impose a significant and unnecessary procedural hurdle on any new proposed historic district. The BOS should be required to consider the views of owners *and* occupants within a proposed historic district.

[2] Letter from Milford Wayne Donaldson, FAIA, State Historic Preservation Officer, to President Christina Olague, San Francisco Planning Commission, December 7, 2011.

SECTION 1006.6(h). This new subsection would potentially exempt "residential projects within historic districts receiving a direct financial contribution for funding from local, state, or federal sources for the purpose of providing a subsidized for-sale or rental housing." The original version of the affordable housing exemption was stricken by the HPC and Planning Commission; neither commission has reviewed the new substitute language in the current legislation. The HPC questioned the need to exempt "affordable housing" projects in historic districts—approximately 1 percent of all parcels in the city—and recommended that this issue be studied as part of an independent process. The HPC's concerns were echoed by members of the Planning Commission, with Commissioner Antonini stating, "I'm concerned that if...because of the affordable component, the standards are lessened to a significant degree it defeats the purpose of what we're trying to do in the first place."[3]

- **HERITAGE POSITION:** Heritage joins the HPC in recommending that the proposed affordable housing exemption be deleted until its potential scope and impacts can be studied.[4] The exemption could have potentially far-reaching impacts in the city's existing 11 historic districts, especially when applied in conjunction with Section 1004.2's prioritization of regional housing goals over other General Plan policies. Moreover, the proposed exemption from Certificate of Appropriateness review seemingly conflicts with the City's delegated Section 106 review authority for federally-funded affordable housing projects: The Programmatic Agreement between the City and County of San Francisco, the California State Historic Preservation Officer, and the federal Advisory Council on Historic Preservation requires the City to assure compliance with the *Secretary of the Interior's Standards* for all projects using HUD funding.[5]

SECTIONS 1006.6(b) and 1111.6(b): The language approved by the HPC and Planning Commission mandates compliance with the *Secretary of the Interior's Standards* "as well as any applicable guidelines, local interpretations, bulletins, or other policies." Against the advice of the HPC, the current legislation would require both the HPC and the Planning Commission to approve local interpretations of the *Secretary's Standards*.

- **HERITAGE POSITION:** Because the City Charter (Section 4.135) and the City's Certified Local Government status reserve authority to the HPC to interpret the *Secretary's Standards*, the Planning Commission should not be required to approve local interpretations thereof. In addition, alternative language should be added to provide that the HPC may develop "district-by-district" design guidelines meeting the *Secretary's Standards* adopted by the HPC, with comments by the Planning Commission. The unique

[3] Transcription of February 2, 2012 Planning Commission hearing.

[4] "The HPC feels that substantive topics, such as language that addresses economic hardship ...merit additional research and further discussion prior to adoption." Letter from Charles Chase, President, Historic Preservation Commission, to Supervisor Scott Wiener, December 1, 2011.

[5] Programmatic Agreement By and Among the City and County of San Francisco, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Historic Properties Affected by Use of Revenue from the Department of Housing and Urban Development Part 58 Programs, January 19, 2007..

character of each district must be taken into consideration.

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to comment on proposed revisions to Articles 10 and 11 recommended by the Historic Preservation Commission (HPC) and amendments introduced by Supervisor Scott Wiener. Please do not hesitate to contact me at mbuhler@sfheritage.org or (415) 441-3000 x15 should you have any questions or need additional information.

Sincerely,

Mike Buhler
Executive Director

cc: Board of Supervisors
Historic Preservation Commission
Planning Commission
John Rahaim, Director of Planning
Milford Wayne Donaldson, FAIA, State Historic Preservation Officer
Eugene Flannery, Mayor's Office of Housing
Sarah Karlinksy, SPUR

ARTICLES 10 & 11

Current Status of Amendments Proposed by Supervisor Wiener which remain unacceptable and need to be resolved

4/30/12
Received in Committee

Land Use and Economic Development Committee
Board of Supervisors, April 30, 2012, 1:00 pm

Section(s)	Proposed Amendment	Historic Preservation Commission Position	Preservation Position
1004.1	**Historic district nominations:** The current version deletes prior language allowing members of the public to nominate landmarks and historic districts. Only property owners and the Planning Department can nominate properties for listing.	Was included in the HPC version of Article 10 that was formally approved on 10/26/11.	**Urge the Supervisors to add this back:** Add back prior language in Section 1004.1 to allow members of the public to nominate landmarks and historic districts for consideration by the HPC. This discourages participation by members of the public in participating in the protection of the City's important historic resources.
1004.2(c) 1107(d)	**Planning Commission required review of Historic Districts and Conservation Districts:** Supervisor Wiener's proposal requires the Planning Commission to comment on the consistency of any proposed historic district with "the provision of housing to meet the City's Regional Housing Needs Allocation," "the provision of housing near transit corridors," and "the Sustainable Communities Strategy for the Bay Area."	The HPC did not include this provision in the version of Article 10 formally approved on 10/26/11.	**Oppose:** The proposed amendment singles out historic districts for disparate treatment. No other zoning changes are subject to rigorous review against vague regional planning goals. Although the City Charter authorizes the Planning Commission to comment on any aspect of a proposed historic district, the proposed language improperly elevates the Regional Housing Needs Allocation, Sustainable Communities Strategy and "the provision of housing near transit corridors" over other General Plan polices and the priority planning policies.
1004.3, 1107(e)	**Majority owner support for Historic Districts & Conservation Districts:** Supervisor Wiener's proposal requires the Planning Department to conduct a written vote or survey of all owners and occupants in a proposed historic district (Art. 10) or conservation district (Art. 11) and requires the Board of Supervisors to consider the only the votes of property owners when acting on the district.	The HPC opposed these requirements proposed by Supervisor Weiner. Citing prohibitive costs and the administrative burden, the HPC rejected this proposal and deleted the requirement to conduct a written vote or survey.	**Oppose:** Support the HPC and Heritage in opposing the requirement for a survey or vote in writing. • No other zoning changes are subject to this requirement. • This voting requirement would impose a significant procedural hurdle on any new proposed historic/conservation district. • The BOS should be required to consider the views of owners *and* occupants within a proposed historic/ conservation district.
1005(e)(4) 1110(a)	**Exempting streets and sidewalks from protection:** Supervisor Wiener's proposal would exempt all sidewalks and streets in historic districts from protection, unless specifically called out as character-defining features in the designating ordinance.	The HPC did not include this provision in the version of Article 10 formally approved on 10/26/11.	**Oppose:** Join with Heritage in opposing the exemption of streets and sidewalks from protection without first analyzing the potential adverse impacts on the integrity of the historic district.

1006.6(h)	**Exemption provisions**: Supervisor Wiener's proposal inserts new language as Section 1006.6(h), which would exempt "residential projects within historic districts receiving a direct financial contribution for funding from local, state, or federal sources for the purpose of providing a subsidized for-sale or rental housing unit."	The HPC opposed the provisions proposed by Supervisor Weiner on a 6-0 vote. Questioning the need to exempt "affordable housing" projects in historic districts, the HPC recommended that this issue be studied in a separate process. The HPC stated that it "would encourage further study to better understand the housing shortage that Supervisor Weiner is referring to, as well as the most appropriate solution." The Planning Commission did not include this language in the version it approved on 2/2/12.	**Oppose**: Support the HPC and Heritage in opposing the proposed exemption for residential projects in Section 1006.6(h). The current legislation substitutes an entirely new definition for "affordable housing" that has not been considered by the HPC or the Planning Commission and does not require a showing of economic hardship.
1006.6(b), 1111.6 (b)	**"Local interpretations" of the Secretary of the Interior's Standards**: Supervisor Wiener's proposal requires that the development of local interpretations and guidelines shall be led by the Planning Department and shall be adopted by both the HPC and the Planning Commission, and further that if either body fails to act within 180 days, its failure to act is deemed approval.	The language approved by the HPC and Planning Commission mandates compliance with the Secretary's Standards "as well as any applicable guidelines, local interpretations, bulletins, or other policies," however, the HPC specifically opposed any requirement for the Planning Commission to approve any such local interpretations or guidelines and rejected the language regarding failure to act.	**Oppose**: Alternative language should be added provide that the HPC may develop "district-by-district" design guidelines meeting the Secretary's Standards to be adopted by the HPC, with comments by the Planning Commission. The unique character of each district must be taken into consideration. • Because the City Charter (Section 4.135) and the City's Certified Local Government status reserve authority to the HPC to interpret the Secretary's Standards, the Planning Commission should not be required to approve local interpretations of the Secretary's Standards.
1111.7(a)(3)	**Reducing protections for Category V Buildings proposed for demolition**. Supervisor Wiener has added language to reduce the timeframe allowed for the HPC to review for reclassification any Category V Building that has been proposed for demolition.	The HPC opposed the addition of provision.	**Oppose**: Support the HPC in opposing this provision. Section 1111.7(a)(3) provides that when a Category V (Unrated) Building is proposed for demolition, the HPC may consider whether it has gained significance such that it should be reclassified as a more significant building entitled to protections. Supervisor Weiner's proposal would limit the time for the Planning Department and HPC to conduct the study and reclassify the structure.
1111.7(b)	**Reducing protections for Contributory Buildings proposed for demolition.** Supervisor Wiener has added language to provide, as to Contributory Buildings from which no TDR have been transferred, that the cumulative impact on the District of its demolition can only be considered if the demolition would substantially diminish the district's integrity.	The HPC opposed the addition of provision and specifically struck it.	**Oppose**: Support the HPC in opposing this provision which weakens existing preservation protections that have been law for over 25 years. The voters of San Francisco approved Proposition J in 2008 to strengthen preservation protections.

PROPOSED AMENDMENTS TO ARTICLE 10

#1 – Add back language approved by the HPC allowing members of the public to submit nominations for landmarks and historic districts to the HPC on page 11 (at line 5).

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

(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. 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.*

#2 -- Delete the following language from Section 1004.2(c) beginning on page 13 (at line 24) through page 14 (at line 6), as shown in strikethrough below:

(c) *Referral of Proposed Designation. If the HPC recommends approval of a landmark designation, it shall send its recommendation to the Board of Supervisors, without referral to the Planning Commission. If the HPC recommends approval of 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.*

#3 -- Delete the following language from Section 1004.3 on page 14 (at line 6 and at lines 20 through 22, as shown in strikethrough below (Note: HPC voted to support this change by 4-2 vote):

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.~~

#4 – Delete proposed new Section 1005(e)(4) on page 18 (at lines 15 through 18), which would exempt streets and sidewalks from protection:

~~(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.~~

#5 – Make the following additions and deletions in Section 1006.6(b) on page 29 (at lines 11 through 19):

(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.* The HPC may develop district-by-district design guidelines that meet the Secretary's Standards to be adopted by the HPC, with comments by the Planning Commission. ~~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 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. 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.

#6 – Keep proposed new Section 1006.6(g) that constitutes a true hardship provision, but delete the proposed new Section 1006.6(h) on pages 31 (beginning at line 1) through line 4 on page 32, which exempts a potentially large class of projects HPC review given to it by the Charter.

~~(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.~~

PROPOSED AMENDMENTS TO ARTICLE 11

#1 -- Delete the following language from Section 1107(d) on page 17 (lines 9 through 15), as shown in strikethrough below:

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

~~The Planning Commission's comments shall be transmitted to the Board of Supervisors as a resolution and shall (1) address the consistency of the proposed boundary change 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; (2) identify any amendments to the General Plan necessary to~~

~~facilitate adoption of the proposed, boundary change; and (3) evaluate whether the proposed boundary change would conflict with the Sustainable Communities Strategy for the Bay Area.~~

#2 -- Delete the following language from Section 1107(e) on page 17 (at lines 23 and 25) and on page 18 (at lines 3 and 4), as shown in strikethrough below (Note: HPC voted to support this change by 4-2 vote):

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

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.~~

#3 -- Delete the last sentence of Section 1110(a) on page 22 (lines 6 through 10), which would exempt streets and sidewalks from protection:

(a) No person shall carry out or cause to be carried out any construction, alteration, removal or demolition of a structure or any work involving a sign, awning, marquee, canopy, mural, or other appendage, or any new or replacement construction for which a permit is required pursuant to the Building Code, on any designated Significant or Contributory Building or any building in a Conservation District unless a permit for such work has been approved pursuant to the provisions of this Article 11. ~~Notwithstanding the foregoing, when the application is for a permit to maintain, repair, rehabilitate, or improve streets and sidewalks, including sidewalk widening, accessibility, and bulb-outs, the Planning Department shall process the permit without further reference to this Article 11 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 district.~~

#4 – Make the following addition and deletion to Section 1111.6(b) on page 33 (lines 24 and 25) and page 34 (lines 1 through 5):

(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.* The HPC may develop district-by-district design guidelines that meet the Secretary's Standards to be adopted by the HPC, with comments by the Planning Commission. ~~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 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. 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.

#5 -- Delete the following sentence from Section 1111.7(a)(3) on page 38 (lines 21-23):

~~"Any determination that a Category V Building may be eligible for reclassification shall be void if, within 180 days of such determination, the Board of Supervisors has not re-designated the building to a Category I, II, of IV Building."~~

#6 -- Delete the following phrase at the end of Section 1111.7(b) on page 39 (lines 1-2):

~~"...if it is found that the demolition would substantially diminish the Integrity of the Conservation District."~~