



Scott Wiener

# memorandum

**to:** President Charles Chase, Historic Preservation Commission and Members

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**from:** Supervisor Scott Wiener

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**date:** September 7, 2011

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**re:** Amendments to Articles 10 and 11 of the Planning Code

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Dear Commissioners:

Please consider the following amendments to the amendments of Articles 10 and 11 that are currently before you. I am considering introducing similar amendments to the legislation, when it comes before the Board of Supervisors. I am submitting these to you in the hope that you can review and comment. I welcome any comments you may have.

Article 10:

- SECTION 1002: POWERS AND DUTIES OF THE PLANNING DEPARTMENT AND THE HISTORIC PRESERVATION COMMISSION, subsection (8), edit as follows: (8) Shall have the authority to oversee and direct the survey and inventory of historic properties provided that no such survey or inventory shall proceed unless one of the following two occur: (1) a majority of property owners in the proposed survey area agree to the survey's commencement and the Board of Supervisors, by majority vote of all members, approves the survey's commencement; or (2) the Board of Supervisors, by a 2/3 vote of all members, approves the survey's commencement;
- SEC. 1004.2: DECISION OF THE HISTORIC PRESERVATION COMMISSION, subsection (c), edit as follows: (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 an 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. Such comments shall be transmitted to the Board of Supervisors as a resolution and shall (i) address the consistency of the proposed designation with the General Plan and the priority policies of Section 101.1 and (ii) identify any amendments to the General Plan and to the priority policies of Section 101.1 necessary to facilitate adoption of the proposed designation. If the HPC disapproves designation of a landmark or historic district, that decision shall be final and shall not require referral unless appealed as set forth below.
- SEC. 1004.4: APPEAL TO THE BOARD OF SUPERVISORS, subsection (b), edit as follows: (b) Decision. The Board of Supervisors may overrule the HPC and approve, modify and approve the designation by a majority vote of all its members. The Board of Supervisors may designate an historic district by a majority vote of

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all its members if a majority of the property owners in the proposed historic district consent in writing to the designation; in the event a majority of the property owners in the proposed historic district have not consented in writing to the designation, the Board of Supervisors may nonetheless designate the historic district by a 2/3 vote of all its members.

- SEC. 1006.1. APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS, subsection (e), edit as follows: (e) Multiple Planning Approvals: For projects that require multiple planning approvals, the HPC must review and act on any Certificate of Appropriateness before any other planning approval action. For projects that (1) require a conditional use authorization or permit review under Section 309, et. seq. of the Code, and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions. For properties located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code and take into account all relevant General Plan and Planning Code policies, in addition to all applicable historic resources provisions.
- SEC. 1006.3. SCHEDULING AND NOTICE OF HEARING, subsection (a)(4), edit as follows: (4) For buildings located in historic districts: by mail not less than 20 days prior to the date of the hearing to all owners and occupants of the subject property and owners and occupants of properties within 300 150 feet of the subject property.
- SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS, subsection (b), edit as follows: (b) The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- SEC. 1014. APPLICABILITY, subsection (a)(2), edit as follows: (2) For historic districts: ~~4-year~~ 180 days after the date of initiation. The HPC or the Board of Supervisors may approve by resolution a one-time extension of up to 90 days of either of the above-time periods. The Board of Supervisors may approve by resolution one further extension of up to 90 days of either of the above time periods. If final action on such designation has not been completed before the end of the relevant time period, the permit application may be approved.

Article 11:

- SEC. 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS, subsection (e), edit as follows: (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 if a majority of the property owners in the proposed Conservation District or within the expanded boundaries consent in writing to the designation; if a

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majority of the property owners in the proposed Conservation District or within the expanded boundaries have not consented in writing to the designation, the Board of Supervisors may nonetheless designate and expand the boundaries of the Conservation District by a 2/3 vote of all its members.

- SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (b), edit as follows: (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:
- SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER, PERMITS TO DEMOLISH, AND PERMITS FOR NEW CONSTRUCTION IN CONSERVATION DISTRICTS, subsection (c), the requirements (1)-(6) become (16) to (21) rather than a new subsection (c).
- SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR ALTERATIONS, subsection (b), edit as follows: (b) The proposed work's compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as interpreted by the Planning Department for specific application in San Francisco, including any Guidelines, Interpretations, Bulletins, or other materials that the Planning Department or HPC has adopted (the "San Francisco Standards"), shall be considered. The San Francisco Standards shall be promulgated by the Planning Department following a public planning process, determination of conformance with the General Plan and Planning Code by the Planning Commission, and adoption by the HPC. ~~The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, including any Guidelines, Interpretations, Bulletins, or other materials that the Historic Preservation Commission has adopted.~~
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (a), edit as follows: (a) For Significant Buildings (Category I and II), ~~contributory Buildings (Category III), and for Contributory Buildings in a Conservation District (Category III and IV)~~ from which TDR have been transferred:
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (b), edit as follows: (b) For Contributory Buildings ~~in a Conservation District (Category IV)~~ from which no TDR has been transferred:
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (c)(A), edit as follows: (A) Based on new documentation presented, 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. 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;
- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (d), edit as follows: The cumulative effects on the integrity of the Conservation District associated with demolition of the Contributory Building shall be considered and may be grounds for denial of the Permit to Demolish if the effects would materially impair the significance of the Conservation District.

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- SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION, subsection (e), edit as follows: If a building located within a Conservation District (Category II, IV, and V) or a Category III Building located outside of a Conservation District is found to have gained significance pursuant (c)(i1) above and the building has been re-classified by the Board of Supervisors within 180 days, then the Permit to Demolish will be reviewed under Subsection (a) or (b) above, and not under Subsection (c).

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