

Historic Preservation in San Francisco

Making the Preservation Process Work for Everyone



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A Report by SPUR and San Francisco Architectural Heritage

The SPUR Board of Directors reviewed, debated and adopted this report as official policy on May 15, 2013.
The San Francisco Architectural Heritage Board of Directors reviewed, debated and adopted it on May 16, 2013.

Executive Summary

Historic Preservation in San Francisco

San Francisco is a city celebrated for its progressive history, distinctive architecture and phenomenal geography. It is also one of the major urban centers in the region. Home to roughly 800,000 people, it's expected to grow to nearly 1 million residents by 2035. To accommodate this growth, new homes and businesses will need to be built and existing buildings repurposed.

San Francisco Architectural Heritage and SPUR believe it is critical to protect the historic fabric of the city. We also believe it is critical to support growth and change in the right locations. Historic preservation is an effective tool for shaping growth in existing built environments; in fact it can assist in achieving the city's goals regarding growth. In this joint policy report, Heritage and SPUR examine the city's processes for preservation planning, project review and decision-making. We describe what is currently working well and what is not. We then recommend measures to more fully integrate preservation into land use planning, including improvements to the processes for conducting surveys, creating historic districts and reviewing proposed changes to historical resources. Our recommendations are intended to maximize sensitivity, transparency and efficiency in the preservation process.

Our Recommendations to improve the historic preservation process:

Historic Resource Surveys

1. Complete a citywide survey.
2. Conduct surveys early in the area plan process so that the survey results can be used to help inform planning activities.
3. Solicit public input in the development of context statements and themes.
4. Notify the public, district property owners, residents and business owners at the outset of the survey process. Explain why the survey is occurring, the potential benefits and impacts of being part of a survey area and how survey data will be used.
5. Publish community outreach standards and policies for historic resource surveys.
6. Develop a user-friendly grievance process.

Historic Districts

7. Publish planning department community engagement policies and procedures for historic districts in a new administrative bulletin.
8. Develop clear design guidelines that interpret how best to apply the Secretary of the Interior's Standards for the Treatment of Historic Properties to individual historic districts.
9. Provide a clear mechanism to enable project applicants to request advisory opinions from the San Francisco Historic Preservation Commission's Architectural Review Committee (ARC) in order to obtain the group's input on compliance with design guidelines early in the process.
10. Expand local access to historic preservation incentives, including state Mills Act property tax relief for historic property owners.

California Environmental Quality Act

11. Publish guidelines that identify significant historical themes, associated property types and thresholds of significance for the purpose of making CEQA determinations on individual buildings.
12. Revise Preservation Bulletin 16 to provide clear guidelines on how to evaluate the impacts of major alterations or demolition of contributors within historic districts.
13. Encourage collaboration between planning department staff and property owners (and their architects) so that compliance with the Secretary's Standards can be achieved more quickly and efficiently.
14. Provide a clear mechanism to enable project applicants to seek an advisory opinion from the ARC when they cannot reach agreement with planning department staff on interpretation of the Secretary's Standards.
15. Complete a citywide survey so that historical resources are identified systematically and prospectively, rather than on an ad hoc basis during CEQA review (as per Recommendation No. 1).
16. Develop a new administrative bulletin defining the process for conducting historic resource evaluations (HREs). This bulletin should include guidance on when HREs should or should not be required for projects in designated historic districts, in potential historic districts or adjacent to or within view of historic districts.
17. Clarify the conditions under which the planning department can require project sponsors to complete their own survey work in an unsurveyed area; define the appropriate geographic boundaries and level of detail.
18. Clarify how alteration and development projects that are adjacent to landmarks and to designated, identified and potential districts (but not actually within one of these districts) should be treated for the purposes of CEQA review.
19. Complete the development of local interpretations and design guidelines based on the Secretary's Standards per the recent update to Articles 10 and 11 of the San Francisco Planning Code.

Making the Preservation Process Work for Everyone

San Francisco is a city celebrated for its progressive history, distinctive architecture and phenomenal geography. Its buildings have been endlessly admired: the Painted Ladies of Alamo Square; the gracious Victorian and Edwardian structures that line the streets in so many of its neighborhoods; and City Hall, capped with its golden dome. It also is a city with a rich cultural history — home to waves of immigrants from Latin America, China, Japan, the Philippines and many other countries, a beacon for the gay rights movement and birthplace of the radical culture of the 1960s that put the corner of Haight and Ashbury on the map. The city has much to be proud of and much to preserve.

San Francisco is also one of the major urban centers in the region. Home to roughly 800,000 people, it's expected to grow to nearly 1 million residents by 2035. The Bay Area as a whole is expected to add roughly 1.5 million people over the same time frame. The question of where all these people will live is one we need to answer. New homes and businesses will need to be built — and existing buildings repurposed — to accommodate this growth. It is important to the economic and environmental health of the Bay Area that this growth be located in cities and neighborhoods with strong transit infrastructure and not at the fringe of the region.

Understanding San Francisco's development history, and its successes and failures, provides a valuable basis for the urban design and planning decisions we make today for the future. San Francisco Architectural Heritage and SPUR believe it is critical

to protect the historic fabric of San Francisco. We also believe it is critical to support growth and change in the right locations. Historic preservation is an effective tool for shaping growth in existing built environments; in fact it can assist in achieving the city's goals regarding growth. One example is San Francisco's 1985 Downtown Plan, which preserved many fine historic buildings and districts while allowing for transit-oriented development in the city's downtown core. The decision to produce this joint report, two years in the making, came about when the leaders of both Heritage and SPUR agreed that it was time to examine the city's processes for preservation planning, project review and decision-making and attempt to reach common ground on a series of joint policy recommendations.

In this report we discuss three aspects of historic preservation: surveys, which are used to identify historical resources; historic districts, which recognize and protect groupings of historical resources; and the California Environmental Quality Act (CEQA), which is used to identify environmental impacts, including impacts to historical resources. In each of these areas we describe what is currently working well and what is not working well. We then recommend measures to more fully integrate preservation into land use planning, including improvements to the processes for conducting surveys, creating historic districts and reviewing proposed changes to historical resources in existing and potential historic districts. The proposed changes are intended to maximize sensitivity, transparency and efficiency in the preservation process.

Historic Surveys: Identifying Historical Resources

A historic resource survey is a process of identifying, evaluating and documenting properties and places that reflect important themes in the city's history. Surveys comprise the "building blocks" of historic preservation. They serve as the foundation for local preservation efforts by providing for the systematic collection and organization of information on properties that are of local historical and cultural significance. Historical resources include individual buildings, landscapes (such as parks or plazas) or groupings of buildings that might collectively form a historic district. Once identified, a historical resource may qualify for regulatory incentives to encourage sensitive rehabilitation, as well as legal protections that limit demolition and inappropriate alterations. The process of surveying communities for potential historical resources and researching the significance of these resources contributes to the development of a powerful and useful database for both preservation advocacy and education on the one hand and for smoothing the development process for non-historic properties on the other.

Surveys are carried out through physical field work (including visual inspection and photographic documentation), archival research, and consultation with established local, state and federal standards. A survey may be conducted by the San Francisco Planning Department as part of an area plan or rezoning effort or by volunteers in a community. Whether department- or community-initiated, surveys used by the planning department must be prepared in accordance with professional standards outlined by the National Park Service. Since the late 1960s, both community-initiated and department-sponsored historic resource surveys have provided information to support the city's Historic Preservation Program. While many surveys have been completed to date, only a portion of the city's history has been documented.



Surveys help identify historical resources. One critical part of the survey process is physical field work, where resources are inspected and documented. Here, consultants conduct field work to support the Japantown historic survey process.

Why Do Historic Surveys?

Historical resources come in many forms. The most well-known landmarks are clearly significant in their own right. For example, the Capitol Building in Washington, D.C., is a National Historic Landmark that is worthy of special protection. San Francisco City Hall is also a National Historic Landmark, as are the Swedenborgian Church, the Old Mint and the S.S. Jeremiah O'Brien.

Other historical resources may not announce their importance in the same way as the Capitol Building and San Francisco City Hall. They may be significant not just because of the quality of their architecture but also because of their cultural associations. A building could be significant because it is the site of a famous writer's birth, a landmark civil rights demonstration or a place with cultural significance to a particular community. A grouping of buildings may have collective significance because they were constructed during a certain period, have not been substantially altered and/or reflect a similar architectural style or shared history. A community may want to preserve these buildings as an ensemble because the grouping itself possesses historical importance.



San Francisco City Hall is a National Historic Landmark, a federal designation that recognizes exceptionally important cultural resources.

Surveys are an important tool to allow communities to better plan for preservation, adaptive reuse of historic buildings and new development. In order to evaluate whether or not a neighborhood includes a grouping of buildings that comprise a historic district, cities and communities can choose to conduct a historic resource survey. A survey may identify a potential historic district that could be nominated for local, state or federal designation and protection. It may also identify individual buildings that are worthy of protection for reasons other than their architectural significance. Conversely, surveys also map buildings and sites that are not historically important and are therefore probably more appropriate for more intensive new development.

How It Works Now

Many San Francisco neighborhoods have been surveyed over time, with some earlier surveys resulting in less detailed information than what is required in current practice. There has been an increase in the amount of survey work in recent years as a result of the planning department's large-scale neighborhood planning efforts, such as area plans in the Transbay, Market/Octavia and Eastern Neighborhoods districts. Although surveys should ideally inform the rezoning process beforehand, in most of these instances the survey work has come after the area plan development and adoption.

In San Francisco, surveys are most often initiated by the planning department, usually in coordination with a specific geographical initiative (such as a new planning area). In these cases, the department, often assisted by a historic preservation consultant, identifies a specific area to be studied. The boundaries of the survey area are determined by an overview of local history and development patterns, as well as available information about the people and events that have shaped the built environment. The concentration of a specific building type, a social or ethnic community or other physical factors also help shape the survey boundaries and findings of significance.

Historic resource surveys can be initiated by local community groups, the planning department or other city agencies. To ensure quality results, planning department preservation staff reviews and comments on the methodology and intended outcome of surveys proposed by community groups. Community-generated surveys are reviewed and verified by the planning department staff upon completion of the survey work. Some areas that have been surveyed by community groups include the Outer Sunset and Parkside neighborhoods, the Van Ness Corridor, South of Market, North of Market, Civic Center, Chinatown, the Northeast Waterfront, North Beach and the Inner Richmond.

The planning department and the historic preservation consultant first develop a historic context statement that identifies important historical themes and defines the "period of significance." (See

“Historic Resource Surveys: A Glossary” on page 11.) Themes can include social or economic issues, land use patterns, specific events, eras of activity and prevalent architectural styles. The context statement will usually examine a broader area than the survey study; for example, the Market and Octavia historic context statement covers a much larger area than the Hayes Valley survey area. The context statement is used to identify and organize all of the survey boundaries, phases and criteria for evaluating sites, buildings, landscapes and objects within the survey area. The context statement is reviewed by planning department staff and then brought to the San Francisco Historic Preservation Commission (HPC) for adoption.

While the context statement is being developed, the planning department and/or historic preservation consultant will conduct a field survey. The survey is conducted based on important themes and patterns described in the context statement, with sites, buildings, structures and landscapes assessed using an evaluative framework described in the context statement. The results of the field survey continue to inform the development of the context statement and may require an update to the context based on new information discovered during the survey process. In some instances, previously generated survey data or other recorded information is also captured and used, along with the field survey, to study the survey area.



Within a historic district, buildings that are representative of the district’s theme are considered “contributors” to the district. The Queen Anne style house on the left is a contributor to the Liberty Hill Historic District, while the midcentury apartment building on the right is a non-contributor.



Surveys identify historic resources such as the former Engine Company No. 1 firehouse, on the right, a contributor to the Jackson Square Historic District. The building on the left, although from 1916, has been altered to the extent that it would not be considered a contributor.

The field survey is used to produce an inventory — a compilation of information on all relevant resources within a survey area. Each property within the survey area is analyzed to determine whether or not it contributes to a potential historic district based on the theme or themes identified by the initial research and whether it has retained physical integrity. If there is a sufficient concentration of properties that reflect qualities identified in the context statement, then that grouping might form a potential historic district.¹ Each property within the historic district is evaluated not only to determine whether it is individually significant but also to decide whether or not it is a “contributor” to that district. The survey also may contain information that indicates whether a property could be eligible for individual designation as a local landmark or for listing in the California Register of Historical Resources.²

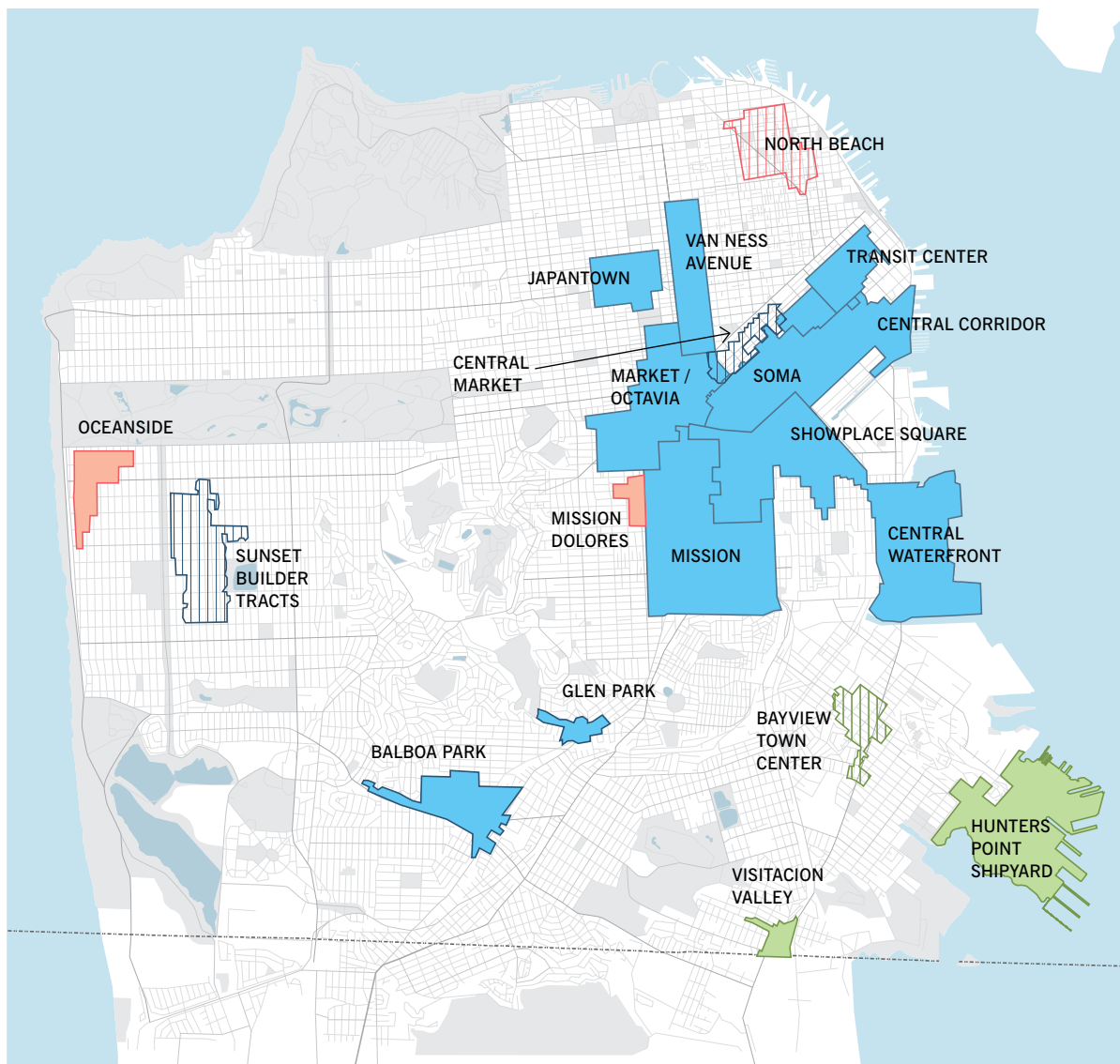
An ad hoc survey advisory group, typically made up of three or four preservation professionals, then reviews the preliminary survey results for accuracy, thoroughness and compliance with professional standards. This is followed by internal planning department presentations of the historic resource survey data findings to the planning director and senior managers. After the survey is complete and reviewed by the survey advisory group, it is presented to the HPC for adoption. The HPC, in turn, holds at least one public hearing on the information and may amend, adopt or reject the survey results.

1 A district must possess a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

2 All surveys conducted in San Francisco over the past 10 to 15 years use status codes from the California Office of Historic Preservation to indicate whether a property is eligible or ineligible.

Figure 1: Historic Resource Surveys in San Francisco

Many of San Francisco's neighborhoods have been surveyed by the planning department or by other groups. However, much of the city, particularly the western neighborhoods, remains unsurveyed.



- SF Planning Department survey, adopted
- SF Planning Department survey, in progress
- SF Redevelopment Agency survey, adopted
- SF Redevelopment Agency survey, in progress
- Community survey, adopted
- Community survey, in progress

Historic Resource Surveys: A Glossary

Significance: Both structures and landscapes are evaluated for historic significance through a specific set of criteria: association with significant specific events (e.g., San Francisco’s 1934 Labor Strike) or events that contribute to broad patterns of history (e.g., firehouses of San Francisco, including the National Register–listed Engine Company No. 31 at 1088 Green Street); association with significant people (e.g., Madame C.J. Walker House, 2066 Pine Street); the significance of the design and/or the architect (e.g., Jessie Street Substation, now the Contemporary Jewish Museum, by architect Willis Polk); association with significant architectural periods (e.g., Jackson Square Historic District), construction techniques (e.g., adobe construction at Mission Dolores), innovative engineering design (e.g., Alcatraz), craftsmanship (e.g., the Swedenborgian Church of San Francisco); or association with pre-history (e.g., native American burial mounds).

Integrity: Integrity is defined as the authenticity of physical characteristics from which resources obtain their significance. Preservation professionals use seven criteria to evaluate integrity: location, design, setting, materials, workmanship, feeling and association. A historic property can retain its historic integrity even if changes have occurred over time; one example is San Francisco’s Ferry Building, which, despite major renovations, is still able to convey its significance and its association with events, people and designs from the past. On the other hand, if a resource has been substantially altered (i.e., with a new façade or significant changes to the roofline), the building may no longer possess integrity.

Context Statement: This document, developed in the early part of the historic resource survey process, helps to organize historical information for a particular geographic area. A context statement will include a broad discussion of historical themes and periods of significance to guide survey work. It will also provide an evaluative framework that can be used to identify individually significant and/or contributing properties to a potential historic district.

Themes: Themes are historical patterns (physical, social, political, etc.) that are readily apparent in the survey area. The National Register of Historic Places defines a theme as “a means of organizing properties into coherent patterns based on elements such as environment, social/ethnic groups, transportation networks, technology, or political developments that have influenced the development of an area during one or more periods of prehistory or history.”³ For example, the historic context statement for San Francisco’s Mission District draws on several themes, including “Peopling Places,” “Creating Social Institutions and Movements,” “Expressing Cultural Values,” “Developing the American Economy” and “Transforming the Environment.”⁴

Period of Significance: The period of significance is the time period within which a theme or context was developed or became important for a specific historical resource (including structures, landscapes and districts). For example, in the Mission District survey, the periods of significance include “Spanish Mission: 1776–1834,” “Mexican Ranchos: 1834–1848,” “Pioneer Settlement: 1848–1864,” “Gilded Age: 1864–1906,” “Disaster and Reconstruction: 1906–1915,” “Modern City Building: 1915–1943,” “Repopulation and Renewal: 1943–1972” and “Metropolitan Crossroads: 1972–Present.”⁵

3 See National Register Bulletin 15, “How to Apply the National Register Criteria for Evaluation,” available at www.nps.gov/nr/publications/bulletins/nrb15/

4 See “City Within a City: Historic Context Statement for San Francisco’s Mission District,” p.55, available at ohp.parks.ca.gov/pages/1054/files/mission%20district%20nov07.pdf

5 See “City Within a City: Historic Context Statement for San Francisco’s Mission District,” p.1313, available at ohp.parks.ca.gov/pages/1054/files/mission%20district%20nov07.pdf

What's Working Well

San Francisco is currently in the process of surveying a number of its neighborhoods and has recently completed several large surveys (see Figure 1, "Historic Resource Surveys in San Francisco," on page 10). These surveys provide valuable information to planners, residents, property owners and developers. Planners can use this information to help inform neighborhood planning processes. Individual property owners can reference survey results to determine whether their property is located within a potential historic district, as opposed to trying to obtain this information on an ad hoc basis through historic resource evaluations (HREs) for CEQA purposes (see page 25). The planning department's approach to community involvement has continued to evolve and expand opportunities for public education, process definition and input. Public outreach strategies employed for recent survey work in the Sunset District, described in Recommendation No. 4, provide an excellent model for early and effective community engagement. The department's outreach approach can be tailored to meet the needs of different communities.

What's Not Working Well

The survey process is very complex, and the outcomes and impacts are not always clear to members of the public who may be affected by survey results. The development of historic contexts and themes is done almost exclusively by historic preservation professionals with some opportunities for review by stakeholders in the planning process and the broader community. While the development of themes is based on detailed research and analysis following federal standards, some perceive the process for identifying themes worthy of historical recognition as too subjective. Once potential districts have been identified in a survey, the current process for property owners or the public to challenge survey findings — and the standards for doing so — is not well understood and can be expensive and time-consuming.

At the same time, surveys provide valuable information that sometimes comes too late in a planning process. Completing survey work early on in neighborhood planning processes will enable survey results to meaningfully inform planning decisions. It will also apprise stakeholders of the survey process and its implications for rezoning and other planning decisions.

Recommendations for Historic Resource Surveys

1. Complete a citywide survey.

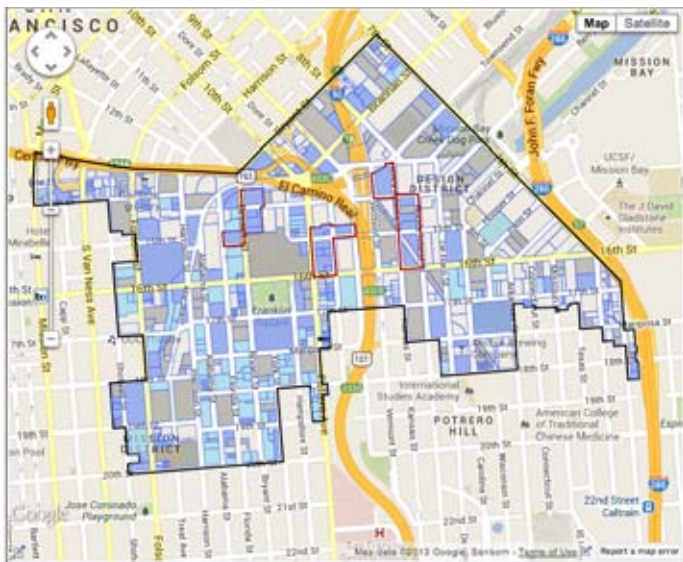
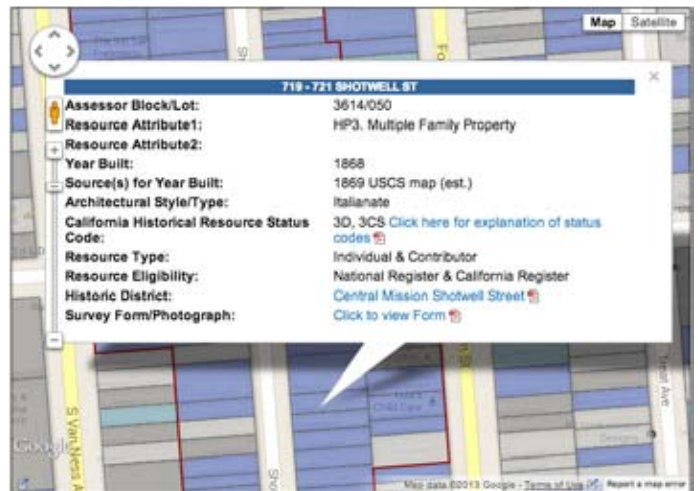
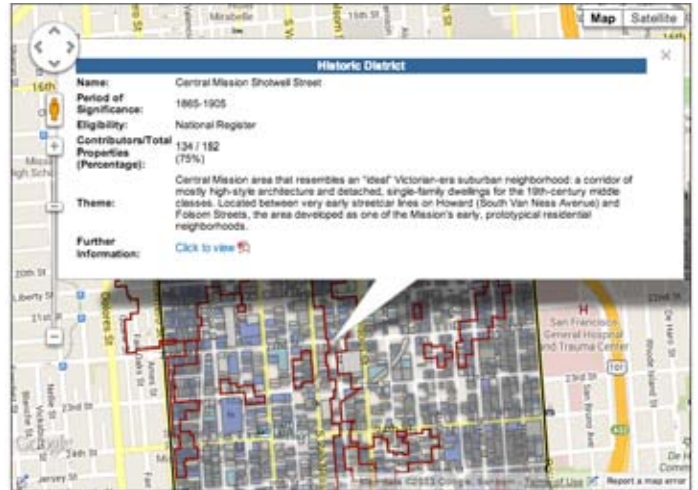
SPUR and Heritage believe that one of the best ways to address some of the CEQA challenges outlined later in this report is to survey the entire city. Historical resources can be identified and protected, while non-resources can be designated as appropriate for alteration or replacement. If a citywide survey is undertaken, the process improvements described herein need to be implemented, including the soliciting of public input on context statements and themes, robust peer review procedures, early and ongoing property owner notification and the development of a user-friendly grievance process for survey findings.

2. Conduct surveys early in the area plan process so that survey results can be used to help inform planning activities.

Survey findings should be incorporated into the area plan process so that policy decisions can be made regarding which resources are worthy of preservation and which may be altered or removed (the Rincon Hill Plan is an example of this strategy). The area plan environmental impact report can then analyze the impacts of the plan's implementation on survey-identified historical resources and identify provisions for implementation.

3. Solicit public input in the development of context statements and themes.

Survey context statements need to be carefully researched and subject to rigorous review within the planning department, including by long-range planning staff, to vet the significance of events, persons and architecture identified therein. Just as the San Francisco Planning Commission has jurisdiction to comment on proposed Article 10 and 11 historic districts (see page 18 for an explanation of these districts), draft context statements should be presented to the planning commission as an informational item for review and comment before being considered by the HPC for ultimate adoption. The public hearing process would provide an opportunity to solicit input from property owners, renters, business owners and those with district-based or citywide planning perspectives and historical knowledge. In addition, each survey advisory group should include a member of the public to help ensure continuous community participation throughout the survey process.



- Historic Resource
- Potential Historic Resource (requires further research)
- Not a Historic Resource
- Not Evaluated (less than 50 years old)
- Historic District Boundary
- Survey Area

Source: San Francisco Planning Department Historic Resources Survey Program. Maps available under "Current and Upcoming Surveys" at www.sf-planning.org/index.aspx?page=1826

The San Francisco Planning Department has made detailed survey information available to the public on its website, www.sf-planning.org. These interactive maps allow the public to access information about survey areas, historic districts and individual properties, including their historical resource status.

4. Notify the public, district property owners, residents and business owners at the outset of the survey process. Explain why the survey is occurring, the potential benefits and impacts of being part of a survey area and how survey data will be used.

In the past, planning department notices to district residents and property owners have not clearly explained the potential benefits and implications of historical resource identification through a survey. However, the department's public outreach policies have evolved and improved in recent years. The approach used for ongoing survey work in the Sunset District provides an excellent model for early and continuous community engagement. Among other activities, the department created a project website with Chinese translation, mailed survey announcements to all 2,800 property owners within the survey area and hosted two neighborhood history walking tours. Future outreach plans include a community meeting to present survey findings, a second property owner notification mailing, uploading survey findings to a Google map and an "Ask a Planner" night. While these measures have been effective, different strategies may be required for different neighborhoods. Ultimately, it is the responsibility of those conducting the survey to ensure that the affected community is fully informed and aware that their participation is crucial.

5. Publish community outreach standards and policies for historic resource surveys.

Property owners should be notified as soon as their buildings are identified as potential historical resources and should be given the opportunity to provide data to assist in the analysis and preliminary conclusions of the evaluator. In recent years, it has been the practice of the planning department to provide early notice that a survey will occur, circulate draft survey findings for community feedback and hold one or more public meetings to discuss the survey results and correct any inaccuracies. For example, early, bilingual notification of preliminary survey findings was mailed to all property owners within the Sunset District survey area. These internal community outreach standards and policies should be published by the department in an administrative bulletin.

6. Develop a user-friendly grievance process.

The current grievance process to challenge survey findings — which often requires hiring an expert consultant — can be expensive and time-consuming. Following notification of draft survey findings, property owners or members of the public can ask planning department staff to correct errors before the survey results are considered by the HPC in a public hearing. The survey advisory group may also be asked to consider any survey findings that have been challenged. If the survey determination remains unchanged after review by the planning department and the survey advisory group, only the HPC can change a survey determination and make findings to support the revision when adopting the survey.

Within the proposed administrative bulletin described in Recommendation No.5, we recommend formalizing the current process for challenging draft survey results and calling for early review by planning department staff and the survey advisory group. The bulletin should describe meritorious challenges (i.e., factual errors) and the types of documentation needed to justify revisions to survey findings. Likewise, the survey advisory group should be asked to reconsider any findings subject to challenge before the survey results move ahead in the process. This would focus the survey advisory group on particular "trouble spots" and provide peer review to help work through challenging issues. Ultimately, the advisory group's opinion might be reversed by the HPC, but nonetheless the survey advisory group's review would flag and resolve issues early in the process.

Historic Districts: Protecting Historical Resources



Jeremy Blackledge

Jackson Square, the city's first National Register historic district, was designated in 1971. Made up predominately of two- and three-story brick buildings erected in the 1850s and 1860s, the district serves as a line of demarcation between the skyscrapers of the Financial District and the smaller, neighborhood-scale development to the north.

A historic district is a collection of built resources (buildings, structures, landscapes, sites and/or objects) that are historically, architecturally and/or culturally significant. As an ensemble, resources in a historic district are worthy of protection because of what they collectively tell us about vital aspects of our past. Often, a limited number of architectural styles and types are represented because a historic district typically reflects a particular theme.

To be designated as a historic district, an area must contain a significant percentage of buildings that both relate to the district's theme and possess sufficient physical integrity to contribute to our understanding of a neighborhood's development. Historical resources that retain their integrity are able to convey their association with events, people and designs from the past and are considered to be contributors to a historic district. Older resources that have lost their integrity, perhaps through major alterations or damage, and structures that never had integrity (e.g., structures built after the period of significance) are considered to be incompatible or non-contributory to a historic district. In general, a historic district's boundaries are narrowly drawn to minimize the proportion of incompatible or non-contributory structures.

Since the late 1960s, San Francisco has designated 13 local historic districts (Article 10 of the San Francisco Planning Code) and six downtown conservation districts (Article 11 of the planning code). San Francisco also has nearly 40 historic districts listed in the California Register of Historical Resources, the National Register of Historic Places and the National Historic Landmark program. Contributing properties within National Register historic districts are eligible for certain financial and regulatory incentives such as federal rehabilitation tax credits, conservation easement tax deductions, Mills Act property tax relief and performance-based code flexibility under the California State Historical Building Code. (See "Incentives for Preserving Historical Resources" on page 16.)

Incentives for Preserving Historical Resources

There are numerous local, state and federal preservation incentive programs to encourage property owners to repair, restore or rehabilitate historic properties. Although these programs have been in place for decades, some preservation incentives have been difficult to qualify for and/or are underused in San Francisco, particularly Mills Act property tax abatement and transferable development rights. Recent legislation passed by the San Francisco Board of Supervisors aims to broaden access to these programs and to other financial and regulatory incentives for historic properties.

TAX INCENTIVES

Mills Act Program

The Mills Act is an economic incentive program to encourage maintenance and rehabilitation of historic buildings. This state legislation, enacted in 1972, significantly reduces property taxes for developers of commercial buildings or homeowners of historic properties in exchange for a 10-year commitment by the owner to maintain and improve their historic property. The Mills Act adjusts the property tax assessment to reflect the actual use of the site, rather than the market value based on comparable sales. For newly improved or recently purchased properties, this alternative assessment method will frequently result in a property tax reduction of 50 percent or more. In San Francisco, the Mills Act is only available to locally designated and National Register-listed properties, including individual landmarks and contributors to historic districts. Amendments to the city's Mills Act ordinance in 2012 cut application fees, developed standardized application and contract forms and established a fixed annual application deadline of May 1. See Recommendation No. 10.

Federal Rehabilitation Tax Credits

The Internal Revenue Code provides federal income tax credits equal to 20 percent or 10 percent of the cost of rehabilitating a historic building for commercial use. A 20 percent income tax credit is available for the rehabilitation of income-producing buildings that are "certified historic structures" — that is, individually listed in the National Register or contributing to a National Register historic district. All work must be determined by the State Office of Historic Preservation to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, a set of guidelines issued by the U.S. Department of the Interior (which oversees the federal historic tax credit program). A 10 percent tax credit is available for the rehabilitation of non-historic buildings constructed before 1936 for non-residential use. In order to qualify for the 10 percent tax credit, the rehabilitation must meet three criteria: at least 50 percent of the existing external walls must remain in place as external walls, at least 75 percent of the existing external walls must



153 Kearny Street used federal rehabilitation tax credits to finance upgrades to the building.

remain in place as either external or internal walls, and at least 75 percent of the internal structural framework must remain in place. There is no formal review process for rehabilitation projects seeking to take advantage of the 10 percent tax credit.

Conservation/Facade Easements

The owner of a National Register-listed historic property can earn a significant one-time income tax deduction by donating a conservation easement to a qualifying historic preservation organization.⁶ An easement is a legal agreement between the property owner and the preservation organization that entitles the easement holder to review and approve all proposed changes to protected features in perpetuity. Buildings listed in the National Register or contributing to a National Register historic district are eligible to receive a federal income tax deduction equal to the appraised value of the easement donation.

⁶ San Francisco Architectural Heritage holds more than 60 easements on historic properties throughout San Francisco. For more information on Heritage's easement program, see www.sfheritage.org/easements.

CODE INCENTIVES

California Historical Building Code (CHBC)

The CHBC gives property owners flexibility to find economical methods to rehabilitate historic features while retaining the structure's physical integrity. Many projects that would otherwise be financially impossible under today's building code are made feasible by the CHBC, whose regulations are performance-oriented rather than prescriptive. A qualified historical building eligible for the CHBC includes any building that is listed by any level of government as having historic importance.

Transfer of Development Rights (TDR)

San Francisco's TDR program protects historic buildings by 1.) allowing the permanent transfer of the unused permitted floor area from a historic building to other development parcels and 2.) using the sale of those transferred rights as a source of funds to rehabilitate the historic structure. TDR allows projects to increase the permitted floor-area ratio on a lot but does not allow projects to exceed height or bulk limits. Since the adoption of the Downtown Plan (Article 11 of the planning code) in 1985, TDR has proven to be an effective planning tool for steering development away from historic buildings and protecting certain historic buildings in perpetuity. In 2013, the San Francisco Board of Supervisors passed amendments to the city's TDR ordinance (Section 128 of the planning code) to allow development rights to be transferred freely across the four types of downtown commercial zoning districts (office, retail, general commercial and support services). Previously, development rights could only be transferred within the same zoning district. TDR from the retail and office districts and, to a limited extent, from the general commercial and support districts can also be used in a special development district known as the South of Market Extended Preservation District. The city is currently analyzing the effectiveness of this program with a focus on possible expansion to increase the number of eligible historic properties. By allowing increased flexibility, more properties will now be able to sell and use the TDR market. Facilitating TDRs will protect and restore additional historic buildings while permitting desired job and housing growth downtown.



Located in San Francisco's downtown, the Mechanics Library (left) at 57 Post Street sold TDR in the early 1980s to enable construction of 88 Kearny Street (right). Designed by Skidmore, Owings & Merrill, 88 Kearny was completed in 1986.

Types of Historic Districts

There are three levels of government that can designate historic properties: local, state and federal. As described below, only local districts directly protect historical resources from demolition and major alterations, through the process defined in Articles 10 and 11 of the planning code. Projects that may impact historic resources in districts designated through state and federal programs are subject to review under CEQA.

National Register of Historic Places Districts

The National Register is the nation's official list of cultural resources worthy of preservation. Properties listed in the National Register include districts, sites, buildings, structures and objects that are significant in American history, architecture, archeology, engineering and culture. Generally, properties must be at least 50 years old to qualify for National Register listing unless they possess "exceptional significance." There are approximately 1,000 properties that are contributors to National Register historic districts in San Francisco. There are no specific protections for buildings listed in a National Register district, but any project that uses federal funds or requires a federal permit and that could impact a National Register property is subject to special review by the federal agency (under Section 106 of the National Historic Preservation Act). Furthermore, properties listed in National Register historic districts qualify as "historical resources" under CEQA; any project having potentially significant adverse impacts on historical resources is subject to CEQA environmental review. Income-producing properties listed in the National Register are eligible for federal rehabilitation tax credits.

California Register of Historical Resources Districts

The California Register is a comprehensive listing of California's historical resources, including those of local, state and national significance. The "significance" criteria for the California Register follow those used for the National Register but are generally more flexible in terms of significance, integrity and minimum age requirements. Indeed, California law provides that a listing in the National Register automatically qualifies individual properties or district contributors for inclusion in the California Register. There are more than three dozen California Register districts in San Francisco, including many districts that are in both the National Register and the California Register. There are no specific protections for buildings listed in the California Register, but such properties do qualify as "historical resources" under CEQA; any project having potentially significant adverse impacts on historical resources is subject to CEQA review.

San Francisco's Article 10 Historic Districts

Article 10 of the planning code, enacted in 1967, established the city's authority to identify, designate and protect landmarks from demolition and inappropriate alterations. Article 10 allows the city to designate landmarks and local historic districts, in which

demolitions, major alterations and new construction are subject to review and approval. Design guidelines for making changes are included in the designating ordinance for each district, although they vary in level of detail from district to district. The HPC, a seven-member expert panel, oversees proposed changes to properties in Article 10 historic districts. In addition, changes to properties in these districts are subject to environmental review under CEQA.

Since Article 10 was first enacted, the city has created 13 local historic districts; the two most recent are a group of eight masonry buildings in the Market Street Masonry Landmark District and 81 homes in the Duboce Park neighborhood, both designated in 2013.⁷ Future potential historic districts may be identified through both survey activity (see the "Historic Surveys" section of this report), and through the planning department's routine development approvals process (see the "CEQA" section).

San Francisco's Article 11 Conservation Districts

Conservation districts are located exclusively in the city's downtown core and reflect the density of the downtown's historic fabric and the vitality of physical change there. These districts are regulated under Article 11 of the San Francisco Planning Code (the "Downtown Plan"), which includes design guidelines for each of the designated areas. Conservation districts seek to protect buildings based on architectural quality and their contribution to the physical character of downtown. As in the historic districts created under Article 10, proposed demolitions, major alterations and new construction within Article 11 conservation districts must be approved by the HPC and are subject to review under CEQA.

Other Types of Districts: Social Heritage Districts

The planning department is currently developing new models and procedures for establishing social heritage districts or programs, which are intended to recognize and protect the people, places, businesses, activities and community heritage that are vital to maintaining cultural identity. Social heritage districts identify resources that pertain to specific social and cultural movements or to groups that have made a contribution to the broad patterns of the city's history.

For example, the Filipino community possesses cultural assets that have links to notable historical and cultural events, significant persons and art relating to the early settlement of Filipino immigrants in San Francisco and to Filipino American history. Identified social heritage assets include the Bessie Carmichael School, West Bay Pilipino and the Lipi ni Lapu-Lapu Mural, which is painted on an exterior wall of the San Lorenzo Center (formerly the Dimasalang House). Although often not eligible for listing under traditional historic designation criteria, many of these assets

⁷ Prior to the recent designations, Dogpatch was the last Article 10 district to be created in San Francisco, in 2003. Golden Gate Park has potential for local designation; it is already listed as a National Register historic district.



In Japantown, community members are working with the planning department to complete a historic survey and potentially designate the neighborhood as a social heritage district.

continue to provide a space for cultural activities that build and preserve the existing Filipino community in the South of Market (SoMa) neighborhood.

Community members are working with the planning department to establish social heritage districts or programs in Japantown, in the Western Addition and for Filipino and LGBT communities in SoMa. The proposed social heritage programs in these neighborhoods recommend a wide range of different strategies, with a focus on economic and regulatory incentives, to foster and perpetuate the cultural attributes that define each community.⁸

⁸ See, e.g., Japantown Cultural Heritage and Economic Sustainability Strategy, July 10, 2013, a report by the Japantown Organizing Committee, San Francisco Planning Department and Office of Economic and Workforce Development, available at www.sf-planning.org/index.aspx?page=1692

How It Works Now

Protection of Resources in Historic Districts

The designation of local historic districts affords two forms of protection. The first is that any exterior alteration proposed for a building within an Article 10 or Article 11 district requires a Certificate of Appropriateness following review by the HPC. (New construction within historic districts, even if on vacant parcels or involving non-contributory buildings, also requires a Certificate of Appropriateness.) Second, demolition or major alteration of contributing resources, as well as new construction within historic districts, also requires local review under CEQA.

Standards for Review

The standards for reviewing building permits for contributing resources located within historic districts and conservation districts are listed in Articles 10 and 11 of the planning code. The Secretary's Standards are locally adopted by the HPC and provide a framework to review preservation, alteration or new construction projects under Articles 10 and 11.

Achieving Design Compatibility in Historic Districts

New construction and additions within district boundaries can be subject to scrutiny by residents and property owners, although design guidelines for local districts can help minimize controversies. A major tenet of the Secretary's Standards provides that new construction within a historic district must be "differentiated from the old and ... compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment."

"Compatibility" requires more than similarities of massing or materials. What makes buildings from different eras and styles compatible is that they share many of the same underlying principles of space, structure, elements, composition, proportion, ornament and character. This concept is intended to be broad enough to accommodate contemporary architectural expressions, designs that more closely adhere to the relevant historical style or styles, or something in between.

Achieving the right balance between old and new can prove elusive. In some instances, maintaining compatibility in size and scale of development is important to maintaining the integrity of the historic district. An example of this is Jackson Square, the city's first National Register historic district, designated in 1971. Made up of 82 parcels with predominately brick buildings erected in the 1850s and 1860s, almost all of them two to three stories, the Jackson Square Historic District serves as a line of demarcation between the tall skyscrapers of the Financial District and smaller, neighborhood-scale development to the north. With some exceptions, the district has been the site of numerous new infill projects that respect the historic fabric as well as sensitive alterations to historic buildings in the four decades since its designation. In other cases, variations in scale may be desirable to achieve other public policy goals, such as higher-density construction near transit. One example of this is San Francisco's downtown, where many smaller-scale historic buildings are found directly adjacent to taller contemporary structures, leading to greater urban texture that amplifies the relationship between old and new.

Case Study: The Downtown Plan

In 1975, San Francisco Architectural Heritage commissioned the first intensive architectural survey of downtown, with the results published in 1979 as the book *Splendid Survivors: San Francisco's Downtown Architectural Heritage*. The *Splendid Survivors* survey became the authoritative guide used by the city to define significant historic buildings in its pioneering 1985 Downtown Plan. Heralded as a model for cities throughout the country, the Downtown Plan rated historical resources and created incentives for their protection, including transferable development rights. It mandated the retention of 248 significant buildings, encouraged protection of nearly 200 others and established six Article 11 conservation districts to preserve the scale and character of significant groupings of historic structures.

The inherently subjective design process — skewed by competing views among project sponsors, neighbors and city officials and tempered by financial considerations — can yield wide-ranging and sometimes controversial results. The process of determining compatibility can be helped by developing user-friendly design guidelines to accompany historic district designations, identifying character-defining features and determining zoning and height-and-bulk designations that are appropriate to the neighborhood context. Although not well publicized, design guidelines for each Article 10 and Article 11 district are included in the appendices of the designating ordinance.⁹

Nomination and Designation of Article 10 Historic Districts

The HPC is required to consider any historic district nomination supported by a majority of property owners within the requested district; alternately, there is no minimum owner consent requirement for the HPC to initiate the nomination of a local historic district. The 2012 amendments to Articles 10 and 11 of the planning code also allow members of the public to nominate historic districts. When new historic districts are proposed, Article 10 requires the planning department to conduct thorough outreach to affected property owners and occupants. The department must invite all property

⁹ Examples of clear, user-friendly design guidelines in other cities include the King's Hill Historic District Guidelines in Portland, Oregon, and Preservation Plans for Historic Preservation Overlay Zones in Los Angeles. Both include illustrations and photos of appropriate building treatments and infill construction. See www.portlandoregon.gov/bps/article/58856 and www.preservation.lacity.org/hpoz/preservation-plan-workbook



Composed of three fused-together buildings representing distinct eras, One Kearny Street is a good example of design compatibility. Through its classical composition and sensitive materials, the 2009 addition by Charles Bloszies (at left) takes cues from both the original French Renaissance Revival building (center) and the mid-century annex by Charles Moore (right).

owners and residents to express their opinion on the proposed district while advising them of the “practical consequences” of forming a district, including the availability of any preservation incentives, the types of work that require review, and the process and fees for those seeking approval.

Economic Hardship Exemption

The 2012 amendments to Article 10 established economic hardship exemptions for qualifying low-income property owners and multi-family residential projects that provide affordable rental and ownership units.¹⁰ Qualifying units are defined as those whose renters or owners earn up to 100 percent and 120 percent of the area median income, respectively (currently \$101,200 and \$121,450 for a family of four).¹¹

Design Guidelines

Article 10 of the planning code includes design guidelines for existing local historic districts; each district has guidelines tailored to its specific characteristics and needs. Under recent amendments to Articles 10 and 11, projects involving contributors to local historic districts must be consistent with the Secretary’s Standards and any other applicable guidelines or policies. In addition, the amended Articles 10 and 11 would require both the HPC and the planning commission to approve local interpretations of the Secretary’s Standards, although none have been proposed so far.¹² Because this is a relatively recent amendment to Article 10, the planning department has not yet had an opportunity to develop such interpretations.

Streets and Sidewalks Exemption

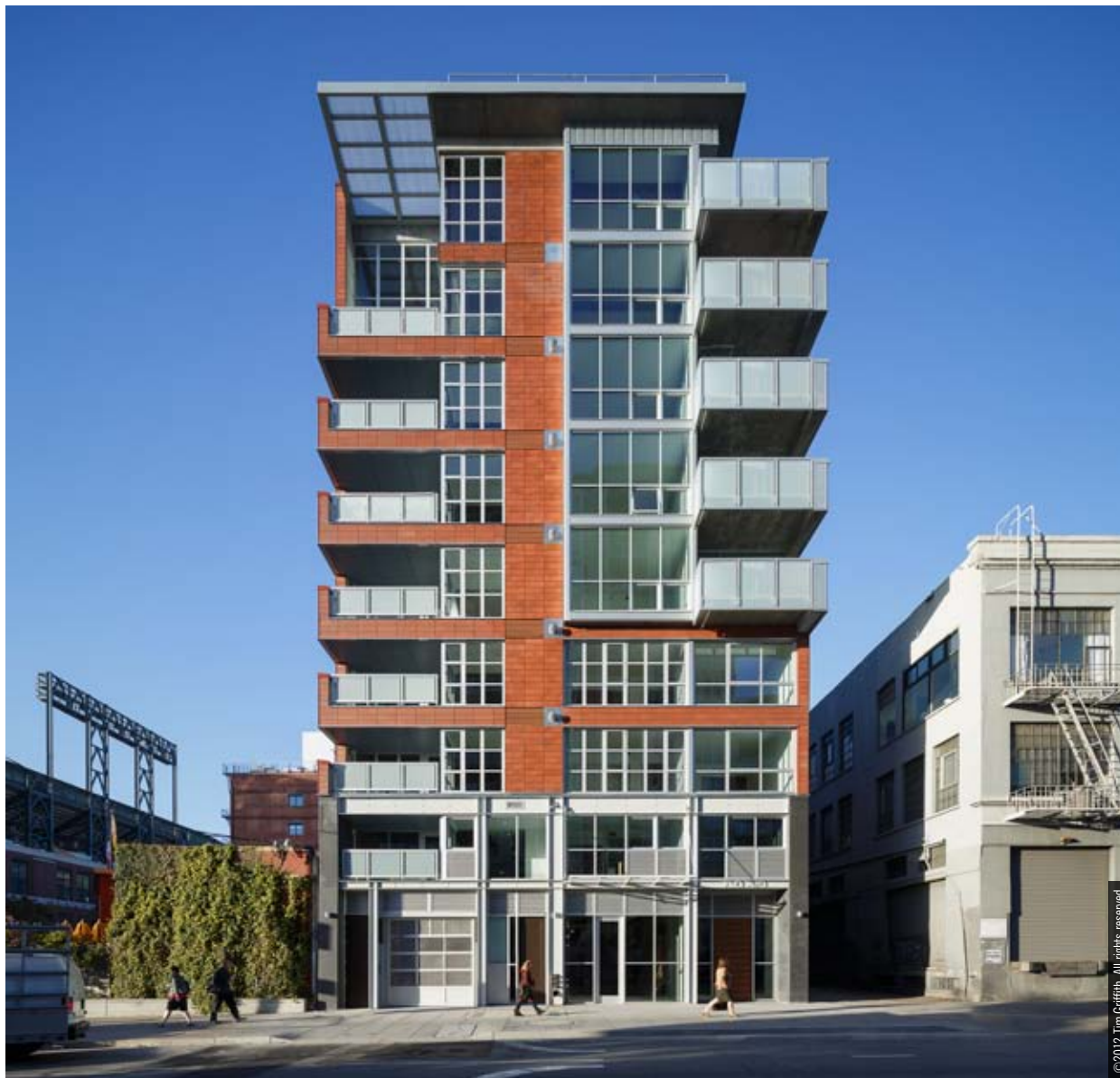
The 2012 amendments to Article 10 exempt work on all public sidewalks and streets in Article 10 historic districts from HPC review, unless these features are explicitly called out as character-defining features in the designating ordinance.¹³

¹⁰ The new economic hardship language appears in two stand-alone sections: Section 1006.6(g), for low-income owners; and Section 1006.6(h), exempting “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.”

¹¹ San Francisco Mayor’s Office of Housing, 2013 Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco, available at sf-moh.org/modules/showdocument.aspx?documentid=4642 (accessed June 2013).

¹² See San Francisco Planning Code Sections 1006.6(b) and 1111.6(b), which mandate compliance with the Secretary’s Standards “as well as any applicable guidelines, local interpretations, bulletins, or other policies.”

¹³ See San Francisco Planning Code, Section 1005(e)(4).



The 750 2nd Street project, designed by Gould Evans, references common building patterns found in the South End Historic District, including punched openings, projecting balconies, textured brick cladding and industrial sash windows.

Case Study: South End Historic District

The HPC applies the Secretary's Standards in conjunction with district design guidelines to review additions to contributors and infill projects within historic districts. Located in the South End Historic District, the recently completed 750 2nd Street project, a 14-unit condominium building, demonstrates how contemporary infill

construction can complement its historic surroundings. Large-scale additions to contributing buildings have been approved elsewhere within the South End Historic District, based on district-specific design guidelines that acknowledge the district's dense urban setting. Although large-scale additions are not without controversy and may not be appropriate in many local historic districts, these projects demonstrate how the development of design guidelines can allow additions and infill development to move forward while protecting historical resources and the integrity of the district as a whole.

What's Working Well

Historic districts help to ensure that the most distinctive physical qualities of a community will be maintained. They foster neighborhood conservation and stability by protecting against demolition, incompatible infill development and insensitive alterations. Historic districts also support community identity, culture and heritage tourism. In San Francisco, the classification of buildings as contributing and non-contributing resources within historic districts — and the basic description of character-defining features and design guidelines in the planning code — provides greater certainty and predictability for property owners in determining whether their building is significant, what the review process is for proposed projects and what types of work are likely to be approved.

Recent amendments to Article 10 require the planning department to conduct “thorough outreach to affected property owners and occupants” during the district nomination process. To this end, the designating ordinance for the new Duboce Park Historic District was the product of an active dialogue between the department and residents to identify protected features, define the types of projects that are subject to historic review and enable the streamlined approval of projects that meet the Secretary’s Standards. For example, there is no additional review for garage doors, window replacement, seismic work, solar panels, roof replacement, rear yard fences and many alterations to nonvisible facades. Other projects, such as replacing front steps and nonvisible additions, can be signed off by planning department staff after a 20-day wait period. Based on input from residents, the planning department scaled back the definition of “visible” to exclude projects that can only be seen from outside the boundaries of the district. Only major additions will be reviewed by the HPC.

What's Not Working Well

The process for establishing new historic districts can be complicated, and the potential impact of being included in a district may not be clear to property owners and residents, particularly owners of vacant lots and non-contributors within the district. In some instances, property owners may be required to complete an HRE on a building that has already been identified as a historical resource.¹⁴ The reasoning behind decisions to reconsider the historic status of certain properties can be unclear and the appeal process burdensome. Some of these challenges are described in greater detail below.

¹⁴ If a building is a known historical resource per Articles 10 and 11, an HRE typically should not be required because the planning department already has documentation on why the property is significant. For more information on HREs, see page 28 in the “CEQA” section of this report.

Recommendations for Historic Districts

7. Publish planning department community engagement policies and procedures for historic districts in a new administrative bulletin.

For proposed historic districts, the 2012 amendments to Article 10 require the planning department to conduct thorough outreach to affected property owners and occupants. This outreach process should be based on best practices, including notice provisions that help to inform the public of the potential benefits and regulatory implications associated with owning property or residing in the district. Community engagement policies should also address boundary and/or procedural changes within existing districts. Some recent district development processes, most notably for the Duboce Park Historic District, have successfully engaged the community. The planning department created a dedicated webpage with regular updates and hosted numerous public outreach events, including a walking tour, three community meetings and two “Ask a Planner” nights at the Duboce Park Café. The department should memorialize these successes by publishing community outreach policies and procedures in an administrative bulletin.

8. Develop clear design guidelines that interpret how best to apply the Secretary’s Standards to individual historic districts.

Recent amendments to Articles 10 and 11 allow for the adoption of design guidelines for any new district. These guidelines would define how the Secretary’s Standards would apply in specific neighborhood contexts, common building treatments (e.g., additions) and infill construction and within any parameters of protections provided by the designating ordinance. Well-documented historic districts and design guidelines help avoid delays and disputes between neighbors (or between planning staff and project applicants) by identifying building features that are protected in advance and by clearly defining the approval process for different types of projects. There should also be provisions to update these guidelines over time.

Many cities develop context-specific design guidelines for historic districts that describe the prevailing architectural styles and features that define a neighborhood’s significance. These lay out parameters for alterations, additions and infill construction. In Los Angeles, for example, the planning department works with property owners and residents to create a detailed preservation plan for each new historic district.¹⁵ The process allows neighborhoods to tailor design guidelines that respond to the needs and preferences of each community.

A standard template for design guidelines should be developed for all existing and proposed historic districts in San Francisco. This would provide a consistent level of clarity for property owners and designers as well as department staff reviewing proposed changes in all districts. Such guidelines need to be comprehensive in order to readily clarify to all what can (and cannot) be modified or altered.

9. Provide a clear mechanism to enable project applicants to request advisory opinions from the HPC's Architectural Review Committee in order to obtain the group's input on compliance with design guidelines early in the process.

The HPC has a three-member subcommittee known as the Architectural Review Committee (ARC). The purpose of the ARC is to provide direction, comments and advice on projects submitted for review by the HPC early in the design process, in order to provide productive and useful feedback to the owner and architect.¹⁶ Any project proposed for an Article 10 or Article 11 designated property has the opportunity to go to the ARC for design advice. The planning department should define points in the project review process when applicants can request an advisory opinion from the ARC if they cannot reach agreement with project review staff.¹⁷

10. Expand local access to historic preservation incentives, including state Mills Act property tax relief for historic property owners.

The Mills Act is the single most important economic incentive provided by the State of California for historic preservation. It gives local jurisdictions the right to provide property owners with tax relief of 50 percent or more in exchange for a 10-year commitment by the property owner to make specific

improvements to their historic property. Although San Francisco has had a Mills Act ordinance since 1996, few property owners have been able to qualify for the program.

A recent debate surrounding the proposed historic district adjacent to Duboce Park focused attention on the need for changes to the city's Mills Act program. Many homeowners within the proposed district legitimately questioned whether they would be able to qualify for property tax relief. The 2012 amendments to the city's Mills Act ordinance significantly reduced application fees and, for consistency, developed standardized application and contract forms and established a fixed annual application deadline of May 1. This incentive is available to properties with an assessed valuation of \$3 million or less for single-family dwellings and \$5 million or less for multi-unit residential, commercial or industrial properties, although an exemption from these limits can be granted for "particularly significant" buildings.

The planning department, working in coordination with the Assessor/Treasurer's Office, should establish a process for "pre-qualifying" all contributing properties in existing and proposed Article 10 and Article 11 historic districts (or condominium units in a landmark building) for Mills Act benefits, particularly when a majority of contributors share character-defining features. A "menu" of eligible maintenance, repair and improvement projects — reflecting common needs for buildings within the district — should be developed to expedite the drafting of Mills Act contracts for individual properties. These measures would ease the administrative burden on planning department staff and the HPC, expedite the approval process and limit costs for property owners.

15 See www.preservation.lacity.org/hpoz/preservation-plan-workbook

16 See Preservation Bulletin 20, p. 1, www.sf-planning.org/Modules/ShowDocument.aspx?documentid=5103.

17 This option may not be helpful for projects impacting historic properties that are culturally significant but architecturally modest, in that the ARC is focused primarily on design and aesthetic issues.

The California Environmental Quality Act: Evaluating Impacts to Historical Resources

The California Environmental Quality Act (CEQA) is an information-gathering process that requires public agencies to analyze environmental impacts when deciding whether or not to approve a particular project. CEQA applies to all proposed projects that may result in physical changes to the natural and cultural environment and that require discretionary approval by a government agency.

CEQA also requires public agencies to avoid or minimize environmental damage where feasible. When a project is proposed, public agencies must consider whether the project would have any significant impact on the environment and, if so, determine if there are any feasible ways to mitigate this impact. In assessing the feasibility of alternatives to a project, the lead agency may consider specific economic, environmental, legal, social and economic factors.

CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including the economic, environmental and social factors mentioned above. CEQA requires public agencies to impose feasible mitigation measures and/or choose an alternative if the measure or alternative can substantially lessen or avoid significant impacts and can feasibly meet the project objectives. An agency must prepare a statement of overriding considerations to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

How It Works Now

In San Francisco, the CEQA process is administered by the planning department, through its environmental planning division. This process consists of the following steps:

1. Exemption. For any project that might trigger CEQA, the planning department first determines whether the proposal falls within a class of projects that have been statutorily or categorically defined as exempt from environmental review under CEQA.¹⁸ For example, projects involving historical resources that comply with the Secretary's Standards are categorically exempt.

2. Initial Study. If the department determines that a project is not exempt from CEQA, then the project sponsor must complete an environmental evaluation application (EEA) and provide any required supplemental information. The department then conducts an initial study to determine if the project will have any significant effect on the environment. If the department determines that the proposed project will have no significant effect, it issues either a "categorical exemption" or a "negative declaration," and there is no further review. If the department determines that there are feasible mitigation measures that would reduce the impact to a less-than-significant level, it issues a "mitigated negative declaration."

3. Environmental Impact Report. If, at any point in the review process, the department determines that a project would have a significant impact on the environment even with mitigation measures, it will require preparation of an environmental impact report (EIR) to study the full potential impact of the project as well as less harmful alternatives. The time and expense associated with preparing an EIR can prevent smaller projects from moving forward.

CEQA and Historical Resources

CEQA affects the development of historic buildings and sites because its protections extend to historical as well as natural resources. Under CEQA, a project that will cause a substantial adverse change in the significance of a historical resource is considered to have a significant effect on the environment.¹⁹ "Substantial adverse change" could include any actions that materially impair the resource's historical significance, such as demolition, destruction, relocation or alteration of characteristics that qualify it for inclusion in a state or local register of historical resources. As a result, CEQA adds a layer of state-mandated review on top of local historic preservation protections already in place and applies to more than 135,000 buildings that are 50 or more years old.

The first step in CEQA review for projects involving older structures is to determine whether any qualify as a "historical resource." Under CEQA, any resource that is listed in the California Register,

¹⁸ See Administrative Code, Chapter 31.08. For a current list of exempt project types, see www.sf-planning.org/Modules/ShowDocument.aspx?documentid=473.

¹⁹ See California Public Resources Code, Section 21084.1.

²⁰ See California Code of Regulations, Title 14, Section 15064.5(a)(1)-(4).

designated as a local landmark or determined to be eligible for listing in a historic resource survey is presumed to be significant. The state CEQA guidelines also include a discretionary category for use by public agencies. Any resource that a public agency determines, based on substantial evidence, to be culturally or historically significant will be considered a historical resource for purposes of CEQA, even if it has not been included in a historical register.²⁰

In San Francisco, the planning department automatically affords heightened review under CEQA to several types of projects that are not formally recognized on historical resource registers or surveys but potentially have significance. These may include buildings appearing on unofficial community surveys, as well as any buildings over 50 years old that are proposed for demolition or major alteration. In determining whether a property that does not appear on formally recognized registers or surveys is a historical resource under CEQA, the department requires the project sponsor to provide additional historical information in a supplemental form or HRE and can consider local, state and national registries, survey reports that have or have not been formally adopted, and information and evidence submitted by members of the public.

Once the planning department determines that a property is a historical resource, the next step is to determine whether the proposed project will create a “substantial adverse change” in the significance of the resource. This is important, because if the department determines that the project creates a substantial adverse change, then the entire project is considered to have a significant impact on the environment under CEQA. Conversely, a project that is not consistent with the Secretary’s Standards is not automatically deemed to cause a significant impact under CEQA. A “substantial adverse change” can range from demolition of a historic building to removing physical features that convey its significance.

Because it can be difficult to determine both the physical features that make a structure historic and the extent to which they can be altered or removed, evaluations of changes under CEQA often rely on the Secretary’s Standards. These standards, which offer general guidance in choosing appropriate treatments for maintaining and updating historic structures, are important for CEQA review.²¹ By definition, a project that is consistent with the Secretary’s Standards does not result in a substantial adverse change to the environment under CEQA.²² If the proposed project will cause a substantial

21 The Secretary’s Standards are augmented and refined by National Park Service (NPS) publications addressing specific design issues, including National Register bulletins, preservation briefs and the Rehab Yes/No Learning Program. To date, the NPS has published 56 “Interpreting the Standards” bulletins that cover a wide range of topics, from “New Additions” and “Alterations without Historical Basis” to “Incorporating Solar Panels in a Rehabilitation Project” and “Rooftop Additions.”

adverse change to a historical resource, the lead agency must determine if adverse impacts can be sufficiently reduced through mitigation measures. If yes, a mitigated negative declaration is appropriate; if not, an EIR must be prepared.

CEQA and Historic Preservation in San Francisco

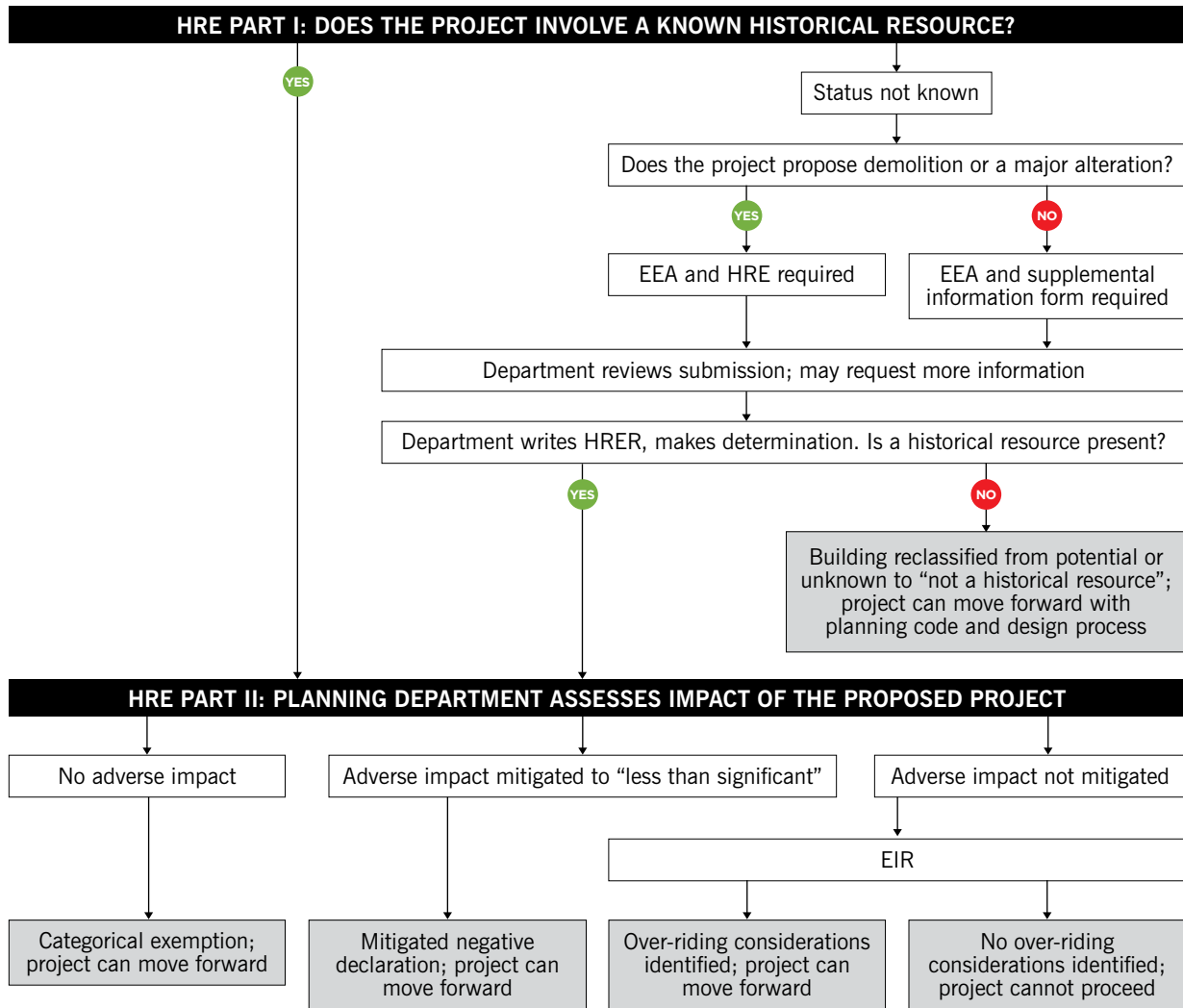
San Francisco’s Municipal Code and Charter contain unique provisions that make enforcement of CEQA different in San Francisco than in other California jurisdictions. CEQA defines a “project” as any permit, approval or action that is subject to the discretion of a local administrative body. In most jurisdictions, there is a clear distinction between “discretionary” actions that require the use of judgment or subjective criteria on the part of the approving body and “ministerial” actions that simply involve comparing a project against established standards or checklists. For example, in most jurisdictions, rezoning a property is considered discretionary because it generally involves judgment by officials about the appropriateness of the change, while a building permit is considered ministerial because the applicant must simply prove he or she has complied with the building code and completed a checklist of standard requirements. San Francisco’s code, however, essentially makes all permits issued by the city for virtually any type of project discretionary and therefore subject to CEQA. This significantly complicates historic preservation (and other aspects of proposed development projects) in San Francisco.

San Francisco’s large number of discretionary actions has resulted in a robust and active administrative appeal process in which a variety of different boards and commissions, sometimes including the board of supervisors, hear appeals on various permits, projects and developments. Although the vast majority of projects involving historical resources receive categorical exemptions, the volume and complexity of the CEQA review process for every governmental action, combined with the complexities of the historic preservation regulatory process, put a tremendous administrative burden on the planning department and can add time pressure and uncertainty to the development process in San Francisco, extending to even minor projects.

22 “Generally, a project that follows the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.” From CEQA Guidelines, Section 15064.5(b)(3).

Figure 2: How Does the Environmental Review Process Work?

When a proposed project involves a building over 50 years old, the project may be subject to a preservation-specific environmental evaluation process (in addition to review for other non-preservation-related CEQA issues). Whether applicants can complete a simple supplemental form or will be required to do the more complex HRE depends on the scope of the project. Most projects follow the process outlined here, but some can take a more circuitous route — for example if there is a lack of clarity about what constitutes a “major alteration.”



Source: San Francisco Planning Department

Which Forms Do I Need? Understanding the CEQA Review Process

In San Francisco, the CEQA review process for historical issues can involve multiple planning department documents. These ultimately determine the issuance of a categorical exemption, negative declaration, mitigated negative declaration or notice of preparation of an EIR. (See Figure 2 “How Does the Environmental Review Process Work?” on page 27.) Some projects require a simple supplemental form — others require a more complex, and more costly, HRE. Here are the three types of forms used in the review process and when they’re required:

Environmental Evaluation Application (EEA)

The EEA is the initiating form for planning department review of any proposed project that does not qualify for a categorical exemption based on an environmental review checklist used by the department. The EEA requests information on a variety of environmental and zoning topics, including two questions on possible historical issues:

1. Would the project involve alteration of a structure constructed 50 or more years ago or a structure in a historic district? (If yes, the applicant must submit a supplemental information form or an HRE, depending on the extent of the alteration.)
2. Would the project involve demolition or a major alteration of a structure constructed 50 or more years ago or of a structure located in a historic district? (If yes, an HRE will be required. The scope of the HRE will be determined in consultation with the department’s preservation staff.)

Upon submittal of an EEA, the department will provide a written evaluation of the property’s eligibility as a historical resource under CEQA. The applicant can submit new information from a qualified consultant regarding the property’s status, which could influence or reverse the department’s original determination.

Supplemental Information Form

This form, the less comprehensive and thus less expensive of the two possibilities, supplies basic historical data on the project building, such as date of construction, architect, owners and occupants, and whether it has been previously recognized as a historical resource. The form also requires an architectural description of the building and of other buildings in the same block. A preservation planner then reviews this information to decide whether the building will be considered a historical resource for CEQA purposes. The supplemental information form can be prepared by anyone, but it is most often completed by architects or consultants.

Historic Resource Evaluation (HRE)

As noted above, this report is required for any project proposing the demolition, either physical or technical,²³ of a building 50 or more years old. A full HRE is made up of Part I, which examines whether a building qualifies as a historical resource, and Part II, which evaluates the impact of a given project on a building that has been deemed a resource in Part I. In certain cases, there may be sufficient preexisting information (e.g., from a previous survey) that the applicant may not be required to complete Part I.

Part I: Part I of an HRE incorporates all the historical data needed for a supplemental information form, plus the consultant’s evaluation of the building’s historical resource status and its physical integrity. The HRE must also examine and show photographs of a portion of the surrounding area to establish whether or not a potential historic district can be identified, in order to determine if the building would qualify as a contributor to such a district. The exact area to be examined, as well as other details of the report, must be defined in scoping discussions with the planner assigned to the project or with preservation staff at the planning department. The report must be prepared by a qualified professional who meets the Secretary of the Interior’s Professional Qualification Standards.²⁴ Formerly, this could include an architect; however, the department has recently declared it a conflict of interest for a project architect to prepare an HRE on his or her own project, because the architect is an advocate for the project.

Part II: Part II evaluates the impact of a proposed project on a building or district that has been identified as a historical resource. Although the applicant’s consultant might be asked to analyze the project’s conformity with the Secretary’s Standards in the HRE, only the planning department can determine whether it “may cause a substantial adverse change in the significance of a historical resource” under CEQA. In other words, Does the project demolish or materially alter in an adverse manner those physical characteristics that convey its historical significance (i.e., character-defining features)?²⁵ Under the department’s new Guidelines for Environmental Review, only the environmental review officer can make this determination. Compliance with the Secretary’s Standards is considered to mitigate effects sufficiently. A project that does not meet the Secretary’s Standards may still be mitigated to a less than significant level by other means, though the planning department is generally reluctant to accept this approach.

23 The definition of a technical demolition is contained in Article 10. Originally applied only to landmarked buildings, it is now used in judging large projects involving any historical resource. This definition can include substantial alterations to existing structures. See Section 1005(f) of the San Francisco Planning Code for the definition of “demolition.”

24 See www.nps.gov/history/local-law/arch_stnds_9.htm.

25 See CEQA Guidelines, Subsection 15064.5(b)(1).

The planning department may also require an HRE for projects not involving demolition, especially in cases where historical status or the character-defining features of the building are not readily known. It is also permissible for a project applicant to voluntarily submit an HRE rather than a supplemental information form on a project not involving demolition. This is generally done in order to provide an expert opinion to the department early in the process rather than leaving the decision on historical status solely to the preservation planner assigned to the project. The HRE also informs the applicant as early as possible if there is an eligible historical resource or historic district.

Historic Resource Evaluation Response (HRER)

Although often confused with an HRE, an HRER is actually a report prepared by the department's preservation staff announcing the department's decision on historical issues. It can be based on a supplemental information form or an HRE submitted with the EEA. However, it may draw conclusions different from those in an HRE prepared by the applicant's consultant.

What's Working Well

The current CEQA procedures provide broad protection for the vast majority of buildings in the city. They give ordinary citizens a powerful mechanism to question projects large and small, identify important aspects of history that matter to them, and propose alternatives and mitigation measures. At the same time, the procedures furnish a means of analyzing matters of potential public importance and recognizing new areas of our collective history (e.g., specific classes of resources, such as movie palaces). If the information gathered in individual HREs is properly correlated, it creates a patchwork of historical understanding for many segments of the physical city and its history.

What's Not Working Well

Some of the greatest challenges for making historic preservation work well for everyone in San Francisco relate directly to the way the city interprets CEQA. CEQA affects any project impacting any building that is more than 50 years old. Roughly 135,000 buildings in San Francisco (75 percent of all buildings in the city) fall into this category. Because so many projects are affected by this issue, there is a need to create rules and guidelines that provide greater clarity and transparency. Unfortunately, the CEQA process related to historic preservation issues can be murky and complex. Some of the greatest challenges include:

Unclear standards for evaluating the impacts of a major alteration or demolition of a contributor to a historic district

Preservation Bulletin 16 currently indicates that any building determined to be a contributor to any designated or identified district is a historical resource for purposes of CEQA.²⁶ In some cases, this has meant that demolition of a contributory resource or alterations that do not meet the Secretary's Standards are deemed significant adverse impacts that cannot be mitigated under CEQA, requiring preparation of an EIR.²⁷ In other instances, the planning department has allowed demolition of contributing resources without an EIR as long as the overall eligibility of the historic district is maintained. For example, two Article 11 contributors in the Kearny-Market-Mason-Sutter Conservation District were removed to make way for construction of the Macy's wing facing Union Square based on a mitigated negative declaration.

Inconsistent application of HRE requirements

In order for the benefits of surveys and historic designation to be fully realized, regulations need to be clear and uniformly applied. For example, among the purported benefits of being located in a historic district (or survey area) is that project applicants need not submit an HRE because the property has already been evaluated as a contributor or non-contributor. However, in some cases, the department has required applicants to submit an HRE Part I (which determines whether or not a building is a historical resource) for resources that have already been designated or identified. In one case, a Part I analysis was required for a proposed addition to a building in the Civic Center Historic District that had already been rated as a historical resource under Article 11. Project sponsors have also been required to provide HREs for buildings that have been rated not eligible for historic status. An HRE Part I was required for a proposed addition to a building that had been rated as not a historical resource under Article 11. Other examples include requests for HREs on a designated San Francisco landmark and on a recently surveyed property.

At other times, the department has only asked for an EEA with a supplemental information form, a significantly lesser requirement. Clear and consistent guidance should be provided to explain when additional analysis will be required and which type it will be — an HRE Part I or an EEA with supplemental information form.

²⁶ See Preservation Bulletin 16, p. 8, available at www.sf-planning.org/Modules/ShowDocument.aspx?documentid=5340

²⁷ See Preservation Bulletin 16, pp. 10-11, available at www.sf-planning.org/Modules/ShowDocument.aspx?documentid=5340

Potential Contributors to Potential Districts

Proposals to alter or demolish a potential contributor to a potential historic district are among the most difficult impacts to evaluate under CEQA. In an established historic district — one that has been formally designated or identified through a survey process — there is usually sufficient information about the character-defining features of the buildings that comprise the district to make determinations about what projects might constitute a significant impact under CEQA. When an area has been identified as a possible historic district pending further investigation, however, the status or value of an individual building as a “potential contributor” to such a district cannot be definitively demonstrated or refuted.

The planning department’s review of alterations to a potential contributor lacks clear guidelines and can be seen as arbitrary. Adding to the confusion, potential districts are not publicly listed or identified. Project sponsors, property owners, consultants or other members of the public do not know when a potential district has been identified by planning department staff. At the same time, important resources may exist that have not yet been identified in a survey process. These resources, once identified, may be deemed worthy of protection.

Here’s how a potential district differs from more established types of districts:

Designated — Designated historic districts are those that have either been adopted by the board of supervisors under Articles 10 or 11 or formally found eligible for listing in the California Register or National Register by the State Historical Resources Commission or the keeper of the National Register. Designated districts have

Inconsistent requirements for property owners about conducting surveys to determine if their property is a potential contributor to a potential district

There are no published guidelines to define when an HRE is required to assess a potential historic district and the geographic limits of the analysis. The minimum area surveyed for each HRE is the street block on which the project is located. However, in one case, the planning department required a survey of up to eight square blocks near a project, a total of 250 buildings, based on speculation that a district might exist. This was required despite the HRE having stipulated that the building was an individual historical resource and the design having been modified to meet the Secretary’s Standards. Similarly, a project to expand the Drew School, located on Broderick Street, was required to finance a survey of four square blocks and document all potential contributing buildings within that area. In

been documented in greater detail, including specific boundaries; character-defining features; significant contributing and non-contributing structures; relevant periods of significance and the reasons for that significance. In addition, Article 10 and 11 districts have design guidelines for alterations to individually significant and contributing buildings as well as for new construction. Individually designated structures and contributors, as well as the district itself, are seen as historical resources in the context of CEQA analysis, by definition.

Identified — Identified historic districts are those that have been identified and documented through a formal survey process. Identified districts may have much of the same detail recorded as designated districts. However, they have not been accepted or adopted by the authoritative agencies or bodies and therefore have not been as thoroughly vetted. These districts and any identified contributors are presumed to be historical resources.

Potential — Potential historic districts are those put forward in less formal processes than identified or designated districts. In most cases, they are identified as part of an HRE conducted for an individual project, during which the evaluator analyzes the potential for a possible district with input and direction from a city planner. In other cases, a potential district may simply be perceived by observation not related to an HRE during the course of some other planning process. Boundaries are vaguely described, if at all; character-defining features of the district are only minimally noted; and contributors and non-contributors are seldom listed. (Generally, only the subject of the specific project HRE is called out as a contributor or non-contributor.) Nonetheless, based on a broad interpretation of its CEQA mandate, the planning department generally considers these potential districts and their contributors as historical resources.

another case, a survey was required to corroborate the existence of a potential historic district that was suggested in an earlier HRE for a nearby building, though the sponsors of the earlier project were not required to conduct a survey.

Lack of recourse to appeal decisions made by planning department staff

The planning department generally does a good job in providing early guidance to project applicants. Project review meetings and the recently established preliminary project assessment (PPA) — a process to get clarity on process, objectives and requirements early on — have met with good reviews. However, access to the department’s preservation staff is more limited. Typically, project sponsors must meet with the case planner assigned to the project. That planner confers with the historic preservation technical specialist and brings a message back to the applicant.

Because design is a process and not a product, this can result in misunderstandings, miscommunication and considerable back and forth. Furthermore, questions fundamental to analysis of historical issues — such as whether a building is to be considered a historical resource and, if so, the identification of its character-defining features — are decided in closed internal discussions. There is no avenue to appeal decisions made by preservation staff. Below, we recommend a process that would enable project applicants to seek an advisory opinion from the HPC's ARC.

Recommendations for CEQA

The recommendations in this section are intended to address San Francisco's uniquely broad definition of discretionary actions that trigger CEQA review. We suggest a system of identifying and resolving preservation issues early in the CEQA process and minimizing the administrative burden for projects that meet CEQA requirements.

11. Publish guidelines that identify significant historical themes, associated property types and thresholds of significance for the purpose of making CEQA determinations on individual buildings.

Necessarily, the first step in the CEQA process is to determine whether or not a previously unevaluated building or group of buildings 50 or more years old or is a historical resource. Criteria published by the National Park Service and the California Office of Historic Preservation, and adopted by Preservation Bulletin 16, provide a basic methodology for this evaluation. However, they ultimately leave unanswered the critical question of whether a particular quality or association of the building is important enough to be "significant" in comparison to other properties with the same quality or association. For example, because all buildings are related to the development history of their neighborhood, how is it determined which ones might be historically significant because of this association? At present, CEQA determinations are made internally by preservation planners based on ad hoc HREs, but without any published standards on minimum thresholds of significance. Yet it is the fundamental decision that will determine the applicable CEQA process.

Historic context statements are required to address this problem by including registration requirements that discuss how buildings or districts associated with a particular theme will be prioritized for designation or registration and which ones will fall short despite having some level of association. To better define thresholds of significance under CEQA, the planning department should develop a comprehensive historic context statement for the City of San Francisco that identifies significant contexts, themes, associated property types and registration requirements.

For example, in conjunction with SurveyLA, the City of Los Angeles completed a citywide context statement that provides a framework for survey professionals to identify potential historical resources and evaluate them according to established federal, state and local criteria for designation. It includes narratives on multiple historical contexts and more than 200 themes and associated property types relating to the architectural, social and cultural history of Los Angeles, and it is designed to be expanded over time to incorporate new themes and property types.

While a similar approach in San Francisco would facilitate the evaluation of individual properties for purposes of CEQA, the completion of a comprehensive citywide context statement would take a significant amount of time and resources. There is a clear need for more immediate guidance on the hundreds of CEQA evaluations undertaken by the planning department each year. In many cases, the default context considered is the history of neighborhood development surrounding the subject building. Accordingly, we recommend that a general citywide context for neighborhood development (including thresholds of significance) be the first component of the proposed citywide historic context statement.

All past context statements already completed on specific topics, such as the ongoing African American historic context statement, should also be compiled and organized under a comprehensive citywide narrative. Eventually, the proposed citywide context statement would also inform the completion of historic survey work throughout the city, as recommended in the "Historic Surveys" section of this report.

12. Revise Preservation Bulletin 16 to provide clear guidelines on how to evaluate the impacts of major alterations or demolition of contributors within historic districts.

There is a need for a well-defined and consistent methodology for evaluating the impacts of major alteration or demolition of a contributor to a designated or identified historic district. By definition, a project that meets the Secretary's Standards will not result in a significant adverse impact to historical resources. However, CEQA does not mandate that the major alteration or demolition of any building that is a contributor to a historic district be considered a significant effect on the environment. Invariably, the determination of the level of impact under CEQA is a case-by-case analysis.

The proposed methodology below will help ensure that future project applicants will have a better understanding of the city's requirements, including what level of environmental review is required under CEQA. For designated districts (Articles 10 and 11, National Register and California Register) and identified districts (documented through a formal survey process), such guidelines should be based on the following principles:

- The issue is whether the proposed project would materially alter in an adverse manner those physical characteristics of the historic district that convey its significance and that justify its eligibility for designation.²⁸
- A clear distinction should be made between impacts to individually significant resources (which should be reviewed for their impact to the building itself) and impacts to contributory buildings (which should be reviewed for their impacts to the historic district as a whole).²⁹
- If the district as a whole will retain its integrity and ability to convey its significance after project completion, the impact should be considered a less-than-significant impact on the historical resource (i.e., the district itself). If a project's impact on an individual contributory building will have a significant impact on the district as a whole (e.g., by reducing significantly the ratio of contributory to non-contributory buildings, demolishing the last remaining example of an important building type or destroying the cohesiveness of the district), then the project should be treated as having a significant adverse impact under CEQA.
- In measuring a project's impact on the physical integrity of the district, the department should consider the number, location and type of contributing structures that would remain following construction. These factors include whether the boundaries of the historic district will be maintained, whether replacement construction will be compatible with existing construction (based on design guidelines and/or HPC review) and whether a representation of historically significant property types and periods of development will remain. Although the percentage of remaining contributory structures is also important, there is currently no accepted minimum threshold ratio for maintaining district eligibility.

For potential contributors to potential districts, clear guidelines should also be developed, including clarification as to the conditions under which potential contributors to potential districts are treated as historical resources under CEQA. Because potential contributors to potential districts

have not been identified through a formal survey process — and thus the character-defining features and boundaries of the district have not been identified — a different set of criteria should be used to analyze impacts to these potential historical resources under CEQA.

13. Encourage collaboration between planning department staff and property owners (and their architects) so that compliance with the Secretary's Standards can be achieved more quickly and efficiently.

The Secretary's Standards are a broadly accepted set of standards for determining appropriate treatments for development of a historic property. State CEQA guidelines accept compliance with the Secretary's Standards as a "safe harbor" for CEQA compliance. By definition, any project that follows the Secretary's Standards does not have a significant effect on historical resources under CEQA.³⁰

Under the current process, when the applicant submits a project that he or she believes satisfies the Secretary's Standards, the department will often prepare its own written evaluation in an HRER to determine whether the proposal meets the Secretary's Standards. If the department concludes that the project does not comply, the project applicant can either 1.) ask the department to prepare an EIR or 2.) revise the project in an attempt to meet the Secretary's Standards and qualify for an exemption.

Rather than focus energy on preparing a detailed HRE before the design has been finalized, the project applicant and department staff could work collaboratively from the outset to design a project that all agree meets the Secretary's Standards. Once consensus has been reached, an abbreviated report could be prepared to document the design and confirm its compliance with the standards. Steps in this process could be as follows:

1. The owner declares in writing that it is the owner's intent to meet the Secretary's Standards and that the project applicant will work with department staff to that end.
2. Department staff identifies, in an abbreviated checklist, the character-defining features of the building that will guide the design effort going forward.
3. Department staff and the project applicant then commit to a series of design discussions and meetings to develop a project design and program that will meet both the Secretary's Standards and the owner's objectives.

²⁸ See CEQA Guidelines, Section 15064.5(b)(2)(A)-(C).

²⁹ In some cases, an HRE may be required to determine if a contributory building also possesses individual significance. See Recommendation No. 16.

³⁰ See CEQA Guidelines, Section 15064.5(b)(3).

4. Assuming agreement is reached, an abbreviated HRE can be prepared to document the design that was reached by consensus in the meetings and to certify its compliance with the Secretary's Standards.

14. Provide a clear mechanism to enable project applicants to seek an advisory opinion from the ARC when they cannot reach agreement with planning department staff on interpretation of the Secretary's Standards.

Under CEQA, the planning department, as lead agency, is charged with conducting the required CEQA analysis and issuing all formal CEQA documents. In sum, staff has final administrative discretion to make initial CEQA determinations and issue CEQA documents.³¹

Some project applicants think the planning department's internal CEQA decision-making process on preservation issues is unclear. Small- and medium-sized projects have been subject to significant costs and delays triggered by lengthy investigations of preservation/CEQA issues. This is important for property owners, as compliance with the Secretary's Standards for small- and medium-sized projects typically results in the issuance of a CEQA exemption. Issuance of an exemption can save significant time and money for the project applicant as well as reduce the amount of department staff time needed to process the project.

Many project applicants work diligently with the planning department staff to design their projects in compliance with the Secretary's Standards. More often than not, staff and the project applicant agree on a design that complies with the standards or agree that there will be an adverse impact under CEQA and that an EIR will be necessary. There are, however, situations in which the applicant and department staff simply cannot come to agreement on the application of one or more of the standards. If there is an impasse, there is no recourse for the project applicant to challenge the planning department's determination.

In cases where there are legitimate interpretive differences about the application of the Secretary's Standards, the parties should be able to seek an advisory opinion from the HPC's ARC. The process we envision for HPC consultation initiated

31 That is not to say, however, that the planning department necessarily has final say on the CEQA process. All CEQA documents are subject to an administrative appeal process that will result in public hearings before either the planning commission or the board of supervisors. At these public hearings, jurisdiction over the adequacy of the document passes from the planning department staff to the commission or the board. The commission or the board has the power at that time to either accept or reject the planning department's conclusions set forth in the CEQA document.

by the project applicant is simple and straightforward and designed to place the least amount of burden on the planning department staff. As required under state law, the planning department would retain final discretion on administrative CEQA determinations.

We believe that it is unlikely that many project applicants would make use of this option, given the time and expense involved, as well as the public scrutiny such a process would bring to a project. However, in some cases, this option could help resolve disagreement over whether the project meets the Secretary's Standards.³²

15. Complete a citywide survey so that historical resources are identified systematically and prospectively, rather than on an ad hoc basis during CEQA review (as per Recommendation No. 1).

SPUR and Heritage believe that one of the best ways to address some of the CEQA challenges outlined above is to complete a citywide survey. Historical resources can be identified and preserved, while structures that are not historic can be designated as appropriate for alteration or replacement. If a citywide survey is undertaken, the process improvements described in this report need to be implemented, including opportunities for public input on context statements and themes, robust peer review procedures, early and ongoing property owner notification and a user-friendly grievance process for survey findings. Such findings should be considered valid until the survey is updated, as is current planning department practice.

Completing a citywide survey is an expensive undertaking. The planning department should consider seeking grant funding to augment existing department resources, as was done in Los Angeles. SurveyLA is in the process of being completed with partial funding from the J. Paul Getty Trust.

16. Develop a new administrative bulletin defining the process for conducting HREs. This bulletin should include guidance on when HREs should or should not be required for projects in designated historic districts, in potential historic districts or adjacent to or within view of historic districts.

Anecdotal evidence suggests that the department has required both additional demonstration of significance for a building previously identified as a historical resource and additional research on a building previously identified as a

32 This process should not be used to provide guidance as to whether a particular building is a historical resource, only whether the proposed project meets the Secretary's Standards.

non-contributor. Other inconsistencies are described under “Inconsistent application of HRE requirements” on page 29.

It should be recognized that contributors to designated historic districts may not have been originally evaluated for individual eligibility and/or may have attained individual significance since the district was first designated. In such cases, an HRE or other additional analysis may be required by the department to determine if a building possesses individual significance for the purpose of CEQA review.³³

However, in almost all other cases, if a project has already been evaluated for significance, it should not be required to be re-evaluated.

17. Clarify the conditions under which the planning department can require project sponsors to complete their own survey work in an unsurveyed area; define the appropriate geographic boundaries and level of detail.

In certain cases, the planning department has required project sponsors to complete a full or partial district survey to determine whether the subject building is a potential contributor to a potential historic district. For the last few years, the planning department has requested that the areas surrounding the subject property be considered for inclusion in an HRE in order to convey the neighborhood context, to disclose the presence of any designated historical resources nearby and to discuss the potential for a historic district. Conducting a survey such as this can be quite expensive for project sponsors.

The planning department needs to develop clear, consistent and reasonable guidelines to determine when this requirement will be made of property owners. In addition, the department should include guidelines to define the geographic boundaries of such surveys and the appropriate level of detail. Because districts are ordinarily predicated on visual relationships between buildings, areas not within the “line of sight” or not close enough to the surveyed property to have a discernible visual relationship should be excluded from the study area. We believe that “line of sight” should be defined as “within view of the resource as seen from the public realm adjacent to the resource.” Though the potential district might well extend beyond that area, to require an individual project sponsor to conduct a survey beyond the public line of sight is not reasonable.

This “line of sight” criterion is used in federal guidelines for surveys under Section 106 of the National Historic Preservation Act, which emphasizes that the area studied is influenced by the scale and nature of the project. Thus, a vertical addition might require a larger study area than a rear horizontal addition, or a change in the sash pattern of windows may be less visible than the addition of a garage. Section 106 is also concerned with possible impacts from aspects of a project that are not included in CEQA as it relates to historical resources. These aspects include such things as audible impacts and traffic impacts, which are addressed by other sections of CEQA.

18. Clarify how alteration and development projects that are adjacent to landmarks and designated, identified and potential districts (but not actually within one of these districts) should be treated for the purposes of CEQA review.

In defining “substantial adverse change in the significance of a historical resource” CEQA guidelines include physical changes in the immediate surroundings of a resource “such that the significance of a historical resource would be materially impaired.”³⁴ We recommend that clear guidelines be developed describing the types of physical changes to an adjacent property that would materially impair the significance of a historical resource, rather than simply appear incongruous.

19. Complete the development of local interpretations and design guidelines based on the Secretary’s Standards per the recent update to Articles 10 and 11 of the San Francisco Planning Code.

As mentioned earlier, the Secretary’s Standards constitute “safe harbor” under CEQA, meaning that projects conforming to the standards will not trigger a costly EIR. Recent amendments to Articles 10 and 11 require the development of local interpretations and design guidelines based on the Secretary’s Standards.³⁵ Such interpretations and guidelines will help clarify how the Secretary’s Standards will be applied within specific neighborhood contexts and must be approved by both the HPC and the planning commission. In conjunction with ongoing survey work, the planning department should initiate the development of context-specific local interpretations and design guidelines in a timely manner. These design guidelines should take into account the plans and zoning in the area. For example, design guidelines in the Van Ness Corridor should be different than design guidelines in the Sunset District.

33 See Recommendation No. 12.

34 See California Code of Regulations, Title 14, Div. 6, Chapter 3, 15064.5 (b)(1).

35 See San Francisco Planning Code, Section 1006.6(b).

Historic Preservation and Seismic Retrofits

Historic buildings can be vulnerable to damage or collapse from earthquakes, especially if they have not been seismically upgraded. Yet seismic retrofits, which SPUR has advocated for as part of our Resilient City initiative,³⁶ by their nature involve alterations to buildings.

Fortunately, seismic safety and historic preservation goals do not have to conflict with one another.

Recently, San Francisco passed a retrofit ordinance affecting wood-framed buildings with “soft-story” conditions. Soft-story buildings are those with large openings for windows or garages, which cause the ground floor to be weak, leaving it vulnerable to damage or even collapse in an earthquake. The ordinance makes seismic retrofitting mandatory for all wood-frame, soft-story buildings constructed prior to 1978 with five or more units and three or more stories. The city estimates that there are at least 2,800 of these buildings and that they are home to roughly 58,000 people and 2,000 businesses.

In order to implement this ordinance, San Francisco's Earthquake Safety Implementation Team worked with multiple city agencies to develop design guidelines that deal with historic preservation (among other issues) for the retrofit work. Projects that are able to conform to the design guidelines will receive categorical exemptions under CEQA and therefore will be able to obtain seismic retrofit permits over the counter. These design guidelines will be ready by late summer 2013. In addition, qualifying historic buildings are encouraged to apply for Mills Act property tax relief to help offset retrofit costs.

Conclusion

San Francisco has many wonderful historical resources worthy of protection. However, the process of reviewing proposed changes to historical resources in existing, identified and potential historic districts is in need of improvement. In particular, the way the CEQA process relates to historic preservation issues can be murky and complex, especially in areas that have not undergone a formal historic survey process. The recommendations outlined in this report are intended to create rules and guidelines that are clear, consistent and transparent. It is our hope that implementing these recommendations will make the preservation process work better for everyone.

36 SPUR, *The Resilient City*, www.spur.org/initiative/resilient-city



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