

ATTACHMENT 3

SELECTED VERY PRELIMINARY MAPS COMMITTEE ON 5/6/10
DRAFT HISTORIC PRESERVATION ORDINANCE

- 6. For an innovative or unusual characteristic, or
- 7. For an accepted professional, scientific, technical, or traditional nickname.

* = MOST SIGNIFICANT COMMENTS

30-21.5 Historic Advisory Board Permit-Certificate of Approval for Historical-Cultural Resources

a. Procedures: Permits are required to:

- 1. ~~An application for any permit to demolish, alter, or relocate a Historical Cultural Resource, shall be submitted to the Community Development Department and referred to the Historical Advisory Board for consideration.~~

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IS AN "HAB PERMIT" REQUIRED IF THE DEMOLISHED OR REMOVED ELEMENTS ARE REPLACED BY NEW ELEMENTS THAT "VISUALLY MATCH" (AND THEREFORE MEET THE LATEST "IN-KIND" DEFINITION) THE REMOVED ELEMENTS?

Construct any addition to a Historic-Cultural Resource.

- 2. Demolish or remove character defining elements or historic fabric of Historical-Cultural Resources. This includes removal of or change in original massing, roof forms, porches, finish materials, windows, or decorative details.

DELETE ONE OF THESE

3. Construct a major alteration.

DEFINE

- 4. Within a five year period, demolish or make changes to the exterior of a pre-1942 structure that alters more than twenty-five percent of the total surface area of any exterior wall, including porches and other projections, or that does not substantially change the original massing including roof forms.

- 5. Remove a protected tree, a significant streetlight or a historic sign.

c. Findings:

A Certificate of Approval to demolish, remove or alter a Historical-Cultural Resource may be granted only if the HAB makes one of the following findings:

1. The proposal does not demolish, remove or materially alter in an adverse manner those physical characteristics of the Historical-Cultural Resource that convey its significance and that justify its designation as a Resource. Generally, proposals that follow 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 shall be considered as meeting these criteria, as they are interpreted by the HAB.

2. The Historical-Cultural Resource has become a detriment to the community and the detrimental condition cannot be (~~readily??~~) corrected without significant economic hardship.

3. The Historical-Cultural Resource has received a Certificate of Economic Hardship pursuant to Subsection 30-21.14.

4. The proposal is necessary to implement a project important to the

* [City, and the benefits of the proposal outweigh any adverse effects on the Historical-Cultural Resource.

d. Good Faith Requirement

As a condition of approval for projects contemplating the demolition of a Historical-Cultural Resource, reasonable efforts shall be made to relocate

the property to an acceptable site. The applicant may be deemed to have fulfilled this condition, if the applicant can demonstrate to the HAB that reasonable efforts have been made, and that these efforts have been *unsuccessful*.

~~fruitless~~. The applicant shall present a report to the Historic Advisory

Board demonstrating the extent of their Good Faith Efforts. The ~~Historic~~ *HAB*

~~Advisory Board~~ shall review the report to determine if reasonable Good

Faith Efforts have been made. *The HAB shall adopt criteria that describes what would normally be considered "Good Faith Efforts".*

30-21. 6 Exceptions For Emergencies

In cases where immediate action is necessary to protect the public health, safety, or general welfare, the Building Official or his or her designee may, after prior consultation with the Secretary to the HAB, order the alteration, relocation, or demolition of a Historical-Cultural Resource. The Building Official shall address the mitigation of the hazard in a manner that will have the least detrimental effect on the Historic-Cultural Resource. The Building Official or his or her designee shall notify the HAB within two days of the issuance of any such order.

30-21.7 Maintaining Historical-Cultural Resources

1. Every Historical-Cultural Resource shall be maintained in good repair by the owner to preserve all character-defining elements against decay and deterioration.

2. Should a Historical-Cultural Resource be damaged by neglect, fire, earthquake, flood or other Act of God, an Interim Stabilization Plan shall

30-21.15 Enforcement and Penalties

It is unlawful for a person or entity to alter, relocate, or demolish or cause to be altered, relocated, or demolished any Historical-Cultural Resource or portion thereof in violation of any of the provisions of this chapter.

- a. Any violation of this chapter or failure to comply with a condition of approval of any Historic Advisory Board Permit, any Historic-Cultural Preservation Permit or other permit issued pursuant to this chapter constitutes a violation of the Alameda Municipal Code.
- b. It shall be the duty of the Community Development Director, or his or her delegate, to administer and enforce the provisions of this chapter.
- c. For the purposes of this section, the date of alteration, relocation, or demolition shall be the date the City first was advised of the action, unless the property owner can prove an earlier date.
- d. The alteration, removal, or demolition of a Historical-Cultural Resource shall result in the requirement to restore the resource to its original appearance ~~(prior to the violation)~~ to the extent such restoration is physically possible to the satisfaction of the HAB. If restoration is not possible, the violator shall be required to reconstruct the Historical-Cultural Resource.
- e. If the violator is a contractor, the City Attorney shall notify the State Contractor Licensing Board of the violation.
- f. The Community Development Director may require the owner to prepare an interim stabilization plan that may include additional measures designed

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DEFINE RECONSTRUCTION MORE CLEARLY, E.G. AS SET FORTH IN THE SECRETARY OF THE INTERIOR'S STANDARDS FOR RECONSTRUCTION. SEE COMMENT (6) ON PAGE 5 OF APPS'S 3/2/10 LETTER.

to establish a weather resistant enclosure or secure the structural stability of an unsafe or deteriorated Historical-Cultural Resource. The owner shall submit a landscape plan or other site maintenance plan to the satisfaction of the Community Development Director, or his or her designee, and shall maintain such landscaping or implement the maintenance plan to prevent the accumulation of debris and waste on the property during this period. The site shall not be used as a private or commercial parking lot.

g. The HAB shall recommend appropriate penalties to the City Council from the following list.

1. Payment of a fine equal to the replacement value of the resource in kind. The estimate on replacement value shall be determined by a real estate appraiser with a certified general license. ~~to~~ The fine shall be deposited in the Historic Advisory Board Fund.

2. A fine of up to \$50,000 per violation to be deposited in the Historic Advisory Board Fund.

3. A parcel that is the site of alteration, relocation, or demolition of a Historical-Cultural Resource in violation of this chapter shall not be developed in excess of the ~~existing permitted~~ floor area ratio, or the ~~existing permitted~~ dwelling unit density, of the affected Historical-Cultural Resource for a period of ~~five~~ ^{ten} years from the action.

4. ~~Add language that will give the~~ The City Attorney ~~to ability to~~ shall pursue means to collect assessed penalties. City Attorney may attach a tax

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 DEBATE THE NEW "EXISTING PERMITTED" LANGUAGE. IF THIS LANGUAGE IS ADDED THERE IS NO PENALTY AND ITEM 3 MIGHT AS WELL BE DELETED!!

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 HOW IS APPRAISER SELECTED?
 STATE COMMENTS 6(a)(i) on PAGE 3 A= AAPS 3/2/10 LETTER.