



December 1, 2011

(By electronic transmission)  
City of Alameda Historical Advisory Board  
2263 Santa Clara Avenue  
Alameda, CA 94501

**Subject: Historic Preservation Ordinance Revisions**

Dear Boardmembers:

AAPS has very quickly reviewed the latest draft ordinance. The overall format is an improvement over the previous drafts in that it is well organized and relatively easy to follow. The line numberings will help facilitate referencing. We are very pleased that the pre-1941 cut-off date for the demolition "safety net" has been changed to 50 years.

Because our review has been very cursory, the comments below are preliminary and address only what we see as some of the most significant issues. Following the HAB'S 12-1-11 meeting, we plan to continue our review and submit more definitive and comprehensive comments.

1. **Why was the "Historic-Cultural Resource" (HCR) category of the previous draft (which included all existing Study List properties as well as certain other properties) replaced by a new more limited version of the Study List, including only properties with N, S and B ratings?** The E and H-rated properties which constitute about 30% of Study List's approximately 4,000 properties will, in effect, be deleted from the List. Although E's and H's will still be subject to the demolition "safety net" if more than 50 years old, the burden of proof will now be on the HAB to demonstrate that they are historic and should not be demolished. This reverses the current framework, which presumes E's and H's to be historic and places the burden on those who propose demolition to demonstrate that the properties have insufficient historic value to warrant demolition alternatives. The removal of E's and H's thus greatly weakens the City's current preservation framework.
2. **"Potential" Landmarks and District Contributors.** In order for demolition of a 50+ year old building to be denied, the HAB must designate the building as a "potential" landmark or district contributor. In the case of district contributors, this means that the building must have "integrity" (the proposed designation criteria for Landmarks does not appear to have an integrity component), which, depending on how the ordinance's integrity definition is interpreted, may disqualify altered properties, such as those covered with asbestos or vinyl siding from any demolition protection. This would be very ironic, since the proposed demolition of the building that led to creation of the pre-1942 safety net (1525 Morton Street, which is covered with asbestos shingles) may not have protection under the proposed ordinance if a strict integrity definition is applied.

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In order to clarify the HAB's intent concerning protection of altered properties, it would be helpful for the HAB to affirm that buildings like 1525 Morton Street are "historic" for purposes of demolition protection. A recent photo of 1525 Morton Street is attached.

After a "potential" landmark or district contributor is designated, the ordinance is not clear as to what happens in the future. Do these "potential" landmarks and contributors become an additional list of historic properties, like the National Register does with its list of properties that have been "determined eligible" for the register, but not on the register? Alternatively, the properties could be placed on the Study List with the appropriate S, N or B rating.

3. **Continue to apply demolition protection to accessory structures.** The 50 year safety net and demolition protection to Ns, Ss and Bs apply only to "main buildings", not accessory buildings, such as garages, water towers, etc. It therefore appears that demolition of these buildings require only a ministerial demolition permit with no public or further staff review. This is inappropriate, since some of these buildings are significant either on their own or as support structures to the main building. One possible approach is to only require demolition review of accessory buildings that are at least 50 years old.
4. **Expand application of penalties and other enforcement remedies.** The proposed penalties apply only to landmarks and district contributors. Under the previous draft, the penalties applied to all HCRs. Therefore the penalties would apparently not apply to the illegal demolition case that triggered the ordinance revision in 2004, i.e. 1104 Oak Street.
5. **Clarify applicability of HAB purview over City-owned landmark interiors. Expand HAB authority to specially designated privately owned landmark interiors.** The draft ordinance gives the HAB authority over interior changes to City-owned landmarks, such as the Carnegie Building, City Hall, etc. However, it is in the form of a blanket authority, rather than limited to just specially designated spaces, such as (for City Hall) the Council Chamber, entry vestibule, main interior stairs, etc.

In addition, this authority should be expanded to interiors normally opened to the public in other publicly or privately owned landmarks, e.g. churches, theaters, store spaces, etc.

The review authority for interiors, whether or not City-owned, should apply only to specific interior spaces called out in the landmark designation. Within these spaces, the designation could be limited to just certain character-defining elements, e.g. distinctive ceilings, floors, wall surfaces, light fixtures, etc. Including this authority in the Historic Preservation Ordinance would therefore not by itself cause interior spaces to become subject to HAB review. Any designation of these spaces would instead be considered as a separate building-by-building process that could not occur until after the ordinance revisions are adopted and only after owner notification and full public review.

6. **Do not include "relocation" in "demolition" definition.** "Demolition" is defined to include "relocation". Therefore moving a building or other protected structure, including all buildings more than 50 years old, would be considered demolition and, among other things, probably require an Environmental Impact Report (EIR). In addition to being confusing, defining demolition to include relocation would have what are arguably excessive regulatory impacts and discourage relocation as an alternative to demolition, as AAPS tried to promote in the case of the "Yellow House" at 2413 Buena Vista Avenue.

7. **Restore “The proposal is necessary to implement a project important to the City” to findings for approving demolition or alterations.** This finding was included in the previous draft and is probably the finding that the City Council really wanted to make for the 2413 Buena Vista Avenue case (aka the “Yellow House”), but was unable to do so because the finding was unavailable to them. Including this finding will allow the HAB (and the Council on any appeal) to deal directly with the tradeoffs that often occur between historic preservation and other priorities. **Why was this finding deleted?**

In addition, unlike the previous draft, the list of findings for demolition or alteration is not clearly presented.

8. **Amend AMC Sections 13-9.6 and 13-10.9 (Summary Abatement) and 13-9.7 and 13-10.13 (Summary Abatement Without Hearing) to allow the Building Official to use abatement methods other than “demolition or destruction” and to require the Building Official to follow the “least detrimental impact” procedure, as set forth in the previous draft Historic Preservation Ordinance Section 30-21.6, if a summary abatement involves a landmark or other historic property.** These AMC sections apply to “imminently hazardous” buildings or structures, including buildings damaged by earthquakes. These sections limit the Building Official’s abatement options for such buildings only to “demolition or destruction”. These AMC sections should be amended to expand the Building Official’s options to include repair and selective demolition. The Building Official should also be allowed to order street or sidewalk closures and erection of street or sidewalk barricades as interim abatement measures. The costs of barricades, like any other abatement costs under the current AMC, would be billed to the property owner. The procedures for historic buildings in Oakland’s Earthquake Repair Ordinance (Ordinance No. 11217 C.M.S.) should be considered as a model. See marked-up copy of Sections 13-10.7 and 13-10.13 (which contain language similar to Sections 13-9.6 and 13-9.7) included as Attachment 2.

In addition, Section 30-21.6 of the previous draft Historic Preservation Ordinance directs the Building Official to abate immediate hazard structures “in a manner that will have the least detrimental effect on the Historic-Cultural Resource” and should be added to the current draft. Section 30-21.6 is clearly intended to apply to the summary abatement procedures set forth in AMC Sections 13-9.6, 13-9.7, 13-10.9 and 13-10.13. However, Sections 13-9.6, 13-9.7, 13-10.9 and 13-10.13 do not reflect this and should therefore be amended to reference Section 30-21.6’s “least detrimental effect” requirement. This will clarify the relationship between the two procedures and help avoid possible confusion for future summary abatements involving historic properties.

AAPS has been requesting these AMC changes since the unfortunate 1999 summary demolition without HAB review of the Webb Avenue Garage, a building that was on the Preservation Study List.

9. **Restore the previous draft’s “Historic Preservation Permit” provision to allow exceptions to height limits, setbacks and other zoning envelope requirements to allow restoration of a historic property.** These provisions provided a “one-stop” process for review of restoration proposals that would otherwise require zoning variances and provided a significant incentive for restoration projects.
10. **Identify alternatives for tree protection.** The existing tree protection provisions have been deleted from the revised draft. This may be because the HAB does not include any arborists or

other “tree experts”. However, these provisions should remain somewhere in the Alameda Municipal Code. The HAB should direct staff to identify strategies to retain these provisions.

Thank you for the opportunity to comment. Please contact me at (510) 523-0411 or [cbuckleyAICP@att.net](mailto:cbuckleyAICP@att.net) if you would like to discuss these comments.

Sincerely,



Christopher Buckley, Chair  
Preservation Action Committee  
Alameda Architectural Preservation Society

Attachments:

1. Photo of 1525 Morton Street
2. Marked-up AMC sections concerning imminently hazardous structures

By electronic transmission:

cc: Margaret Kavanaugh-Lynch, HAB Secretary  
Lori Taylor, Community Development Director  
AAPS Board and Preservation Action Committee members