



March 4, 2021

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

Subject: Historic Preservation Ordinance Revision (Item 7-B on Historical Advisory Board's March 4, 2021 Agenda)

Dear Boardmembers:

The Alameda Architectural Preservation Society (AAPS) would again like to thank the Historical Advisory Board (HAB) and staff for resuming your effort to revise the Historic Preservation Ordinance.

We have the following comments on the draft Definitions, Purpose, and Duties of the Historical Advisory Board and Secretary to the Board sections and other topics presented in the staff report. Some of these comments restate the comments in our November 4, 2020 letter to the HAB.

A. DEFINITIONS.

1. **General comment.** It is somewhat challenging to review the definitions section in isolation from the rest of the ordinance, since the definitions set the stage for many aspects of the ordinance framework and even imply some ordinance procedures, such as in the definition of "Certificate of Approval". The staff recommendation of revisiting the definitions of alteration and demolition later in the process when more of the ordinance is fleshed out reflects this challenge, but some of the other definitions will also probably need to be revisited, such as "Certificate of Approval", "Economic Hardship", and "Historic District", among others.
2. **Demolition.** Change the proposed definition of demolition as set forth on the staff report to read as follows:

"Demolition shall mean any one of the following:

- a. Removal of more than twenty-five percent of the surface of a street-facing exterior wall and more than fifty percent of the surface of any nonstreet-facing exterior walls of any building, except for replacement in kind.
- b. Enclosure or visual obstruction of more than twenty-five percent of a street-facing wall and more than 50% of the surface of a nonstreet-facing wall ~~the exterior wall(s)~~ of any building so that the wall(s) no longer functions as an exterior wall(s).

- c. Removal of more than fifty percent of the roof surface area as measured in plain view, except for the replacement of roof surfaces in kind or replacement to match original roof surfaces.
- d. Any alteration that, in combination with other alterations within the preceding five years, will represent a change as defined in one or more subsections above.
- e. ~~Relocation of any building or other resource within the site or to another site.~~

Note that the demolition definition presented in the staff report is not reflected in the draft ordinance sections attached to the staff report.

We deleted “Relocation” from the definition, since relocation may involve different approval criteria and a different review process than demolition. Note that a specific definition of relocation is already in the draft.

3. **Certificate of Approval.** The definition of Certificate of Approval should be revised to read as follows:

Certificate of Approval shall mean a discretionary permit that may be granted by the Historical Advisory Board for demolition, relocation or alteration to a Historical Monument or Contributor to a Historic District and for demolition or relocation of a Historic Resource or Pre-1942 Building.

The exact wording of this definition may need to be changed, depending, among other things, on what language is developed to amend the existing “interim review” procedure, including:

Whether before the Certificate of Approval process is triggered, the HAB would first make a determination of whether a Pre-1942 Building (or building that is at least 50 years old) should be added to the Historic Resources Inventory.

4. **Economic Hardship.** We assume that this definition will relate to an economic hardship finding to allow approval of a demolition or adverse alteration. If this is the case, the definition of economic hardship should be more precise, such as in terms of a “reasonable rate of return”. Ordinances in various other communities do this and even provide formulas for determining what constitutes a reasonable rate of return. Section 6 of the February 2012 draft ordinance included very specific criteria for economic hardship including a “Certificate of Economic Hardship” procedure that was referenced in the definitions section. **The approach in the February 2012 draft ordinance should be a starting point for the current revision.** The complete February 2012 draft ordinance is attached for reference. See also attached National Alliance of Preservation Commissions’ article “Creating a Better Process to Review Economic Hardship”.
5. Add a definition for “Historic Sign”.
6. Either delete the definition of “Noncontributor” (since there is already a definition of “Contributor”) or change the definition to read “main and accessory buildings and other appurtenances within the boundaries of a Historic District that are not Contributors”.
7. Include the definitions used elsewhere in the AMC (as listed in the 11-1-12 HAB staff report) in the Historic Preservation Ordinance to facilitate reference.

8. Capitalize all defined terms or use italics or other special font.
9. Use consistent terminology, e.g. “Landmark” vs. “Historical Monument” and “Historic” vs. “Historical” as in “Historic(al) Advisory Board”.

There are a number of substantive issues that still need to be resolved that will affect the definitions, but will probably not be addressed until other sections of the draft ordinance are prepared. These issues include:

1. **Should demolition of accessory structures be subject to any review?** AAPS believes that they should. See 12-1-11 and 12-19-11 AAPS comments.
2. **Will Protected Trees continue to be covered in the Historic Preservation Ordinance or will there be a separate ordinance?** During its pre-2013 ordinance reviews, the HAB indicated that Protected Trees should continue to be covered in the Historic Preservation Ordinance, at least for now. In this case, there should be a definition of Protected Tree. See definition in the 7-5-12 memo to the HAB from the-HAB member Judith Lynch and the definition in the 8-10 draft ordinance.
3. **Should exterior changes to altered properties that can be restored and are within Historic Districts be subject to HAB review?** AAPS believes that they should. It may be useful to add a class of Historic District properties called “Potential Contributors” that would supplement “Contributors”.
4. **Should new construction within Historic Districts be subject to HAB review?** AAPS believes that it should.

B. CERTIFICATE OF APPROVAL AND DESIGN REVIEW PROCESSES.

1. **We recommend Option 3: Expand the HAB’s purview to include design review for all alterations to pre-1942 and historic building study list (HBSL) buildings.** This is the cleanest approach; eliminates the “double jeopardy” of an application being subject to both HAB review for “demolition“ exceeding the prescribed thresholds and design review for the overall project; and allows the HAB to consider partial demolitions in combination with the overall project.
2. **Limit the finding of conformity with the Secretary of the Interior Standards to projects involving Historical Monuments or properties listed on the National Register of Historic Places.** The Secretary of the Interior Standards set a very high bar that may be too onerous for all but the most significant buildings. In addition, Standard 9’s discouragement of “false historicism” conflicts with the Citywide Design Review Manual’s approach that additions and alterations should “look like they were always there”. The Design Review Manual’s approach is preferable because it is much more straightforward than Standard 9, is easier for staff and applicants to understand, and is easier to administer. In addition, Standard 9’s mandate to differentiate the old from the new sometimes results in additions and alterations that excessively intrude on the original design.

C. CONTINUE TO CONSIDER ALL PROPERTIES ON THE HBSL AS “HISTORIC” FOR PURPOSES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PENDING EVALUATION OF THE MORE QUESTIONABLE PROPERTIES. We recommend **against** the

staff proposal to consider “historic” for CEQA purposes only the ca. 700 HBSL properties included in the California Historical Resources Information System (CHRIS). The staff proposal would eliminate most of the CEQA safety net for the remaining ca. 3300 HBSL properties by changing the presumption that these ca. 3300 properties are “historic” for CEQA purposes (unless verified otherwise through documentation and analysis) to the presumption that they are **not** historic.

It is true that, as staff observes, that some HBSL properties are questionable, but this issue should be addressed by HAB review of the ca. 3300 HBSL properties to determine which should be considered “historic” for CEQA purposes rather than presume that they are not historic. This review would involve significant work but could be spread over a period of time and perhaps in phases. For example, some HBSL properties appeared to be questionable because of incorrect address entries. In some cases it was an adjacent property that was intended to be on the HBSL rather than the actual listed property. The first phase of the evaluation could, among other things verify addresses. Subsequent phases could:

1. Check the notes that are sometimes on the 1978–79 survey cards that were prepared for each property to determine what basis, if any, was provided for a property’s inclusion on the HBSL; and
2. Check architects and builders as listed in George Gunn’s books and Woody Miner’s building permit compilations to determine if the property should be considered historic based on the architect and/or builder.

D. PURPOSE

Consider adding the following provision that is based on a similar provision included in the February 2012 draft ordinance:

- g. Identification and resolution of conflicts between preservation and land-use: The early identification and resolution conflicts between the preservation of Historical Monuments, Historic Districts and Historic Resources and proposed alternative land uses.

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

Sincerely,

Christopher Buckley, Chair
Preservation Action Committee
Alameda Architectural Preservation Society

Attachments:

(1) Bradley Wolf: [Creating a Better Process to Review Economic Hardship](#). The Alliance Review, Spring 2020 (National Alliance of Preservation Commissions)

(2) February 2012 Draft Historic Preservation Ordinance

By electronic transmission:

cc: Allen Tai and Andrew Thomas - - Planning, Building and Transportation Department
Mayor and Councilmembers
AAPS Board and Preservation Action Committee