

Date: Dec. 1, 2009

Item No. 6 & 7
File No. 09067

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Library Users Association v Historic Preservation Commission**
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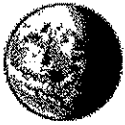
Completed by: Chris Rustom

Date: Nov. 24, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



<complaints@sfgov.org>
11/24/2009 02:21 PM

To <sof@sfgov.org>
cc
bcc
Subject Sunshine Complaint

To:sof@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Historic Preservation
Commission
CONTACTED:
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:No
MEETING_DATE:Oct. 7, 2009
SECTIONS_VIOLATED:
DESCRIPTION:See attached.
HEARING:Yes
PRE-HEARING:No
DATE:Oct. 13, 2009
NAME:Library Users Association
ADDRESS:
CITY:
ZIP:
PHONE:573-2180
CONTACT_EMAIL:
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:No

Librarian Users Association

P.O. Box 170544, San Francisco, CA 94117-0544

Tel./Fax (415) 753-2180

Date: 10/13/09

~~to:~~ to: SOTF
cc:

From: Peter Warfield, Executive Director

Subject: Complaint - Hearing Requested

The Historic Preservation Commission,
at its October 7, 2009 meeting, approved Minutes
of prior meetings that did not provide summaries of public
comment -- or even pro/con positions -- as required by law,
even though the requirement had been pointed out to them
at this meeting, just prior to approval, and at
a meeting of this Commission on a prior date.

Library Users Association

P.O. Box 170544, San Francisco, CA 94117-0544

Tel./Fax (415) 753-2180

November 24, 2009

Honorable Members
Sunshine Ordinance Task Force
City Hall
San Francisco, CA

Subject: *Complaint Regarding Minutes -- Planning Department / Historic Preservation Commission (SOTF # 0906)*

Honorable Members:

This letter augments the hand-written complaint we filed several weeks ago in the hope of obtaining a hearing in October; it additionally provides specific examples as attached documents.

A. The Complaint

The Historic Preservation Commission (HPC) on October 7, 2009 approved two sets of Minutes that did not provide the minimum information required by the Sunshine Ordinance, regarding what the public said during various public comment periods.

This violated **Sunshine Ordinance Section 67.16**, which requires Minutes to include these aspects of what members of the public said:

- Whether each speaker supported or opposed a matter; and
- A summary of each person's statement.

We do not consider the occasional inclusion of a subject or list of subjects to be a "summary" of each person's statement.

B. What We Ask For

We ask that you find the following:

1. The Minutes approved by the HPC October 7, 2009 violate the Sunshine Ordinance because they repeatedly show a lack of two specific pieces of required

information about public comments, namely, (a) a summary of what was said, and (b) whether the speakers supported or opposed the matter / motion.

2. All of the HPC's Minutes should be re-done promptly so as to comply with the law. The effort would be limited, as the HPC began its existence this year, and has met on average less than twice a month.

We also note that we have publicly commented to the HPC several times about inadequacies of the Minutes, starting approximately in June, 2009, and including the October 7 meeting. Consequently, the Planning Department and HPC were aware of our concerns and this issue. In fact, when we first raised the issue the Chair said months ago that the body would try to do better in future.

Library Users Association thanks you for the time and effort you have expended on this matter.

Sincerely yours,

Peter Warfield
Executive Director

Attachments:

- a. **Minutes of October 7, 2009 HPC meeting**(draft), showing approval of 4/8/09 and 8/19/09 Minutes on Page 1. Only one minor typographical change was made.
- b. **Minutes of 4/8/09 and 8/19/09 HPC meetings** (draft). In 4/8/09, see pages 2, 4, 6, 7 (two examples), 8. In 8/19/09, see Pages 2 (topics mentioned but no summary is provided, no pro-con is indicated), 4, 5, 9.
- c. **Sunshine Ordinance, Sec. 67.16:**

SEC. 67.16. MINUTES.

The clerk or secretary of each board and commission enumerated in the charter shall record the minutes for each regular and special meeting of the board or commission. **The minutes shall state . . . a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item....** (Emphasis added.)

Source: Online Sunshine Ordinance at this url:
http://www.sfbos.org/index.aspx?page=5548#67_5

Copy provided
courtesy of
Library Users Association

A. TRAINING

1.

(T. Sullivan: 415/558-6257)

Planning CEQA Workshop / Training

Tara Sullivan – Department Staff

- Overview of CEQA and how the Department focuses in Categorical Exemption for historic resources.

SPEAKERS:

Nancy Shanahan – Telegraph Hill Dwellers, re: categorical exemption (Cat Ex) process.

Aaron Goodman – from District 7, re: (Cat Ex) issues of notification

Peter Warfield – Library Users Association, re: CEQA training

12:30 P.M.

Commission Secretary made the following announcements before starting the meeting.

- Public records are available to the public at all HPC hearings and at the Planning Department everyday.
- Full packets of material for the hearings are available at the hearing for the public. They can definitely see it but they need to return the materials for my files after the hearing is over.

B. PUBLIC COMMENT – 15 Minutes

SPEAKERS:

Jeremy Paul – Permit Consultant, re: Ordinance for seismic strengthening for soft story wood-frame buildings.

Robert A. Byrum – Resident representing the neighbors, re: Preserve historic house at 2750 Vallejo.

Bradley Wiedmaier – Concerned Historian, re: 2750 Vallejo preservation.

Aaron Goodman – Resident of District 7, re: Public broadcasting of HPC meetings and HPC meeting minutes.

Johanna Street – Preservation Architect, re: Landmark at Turk and Fillmore

Peter Warfield – Library Users Association, re: Agenda packets, commissioner's attendance, public broadcast of hearings, and draft minutes.

Peggy Coster – Use of historic designation and video recording of hearings.

C. MATTERS OF THE COMMISSION

2. Consideration of Adoption of Draft Minutes:

- Draft minutes of Special Hearing of April 8, 2009
- Draft minutes of Regular Hearing of August 19, 2009
- Draft minutes of Regular Hearing of September 16, 2009

SPEAKER: Peter Warfield – Library Users Association

Motion: April 2, 2009 minutes - Approved

August 19, 2009 minutes – Approved as corrected by Commissioner Martinez, changing Delores to Dolores

September 16, 2009 minutes – Continued to 10/21/09 to address commissioner's concerns

Adoption of Minutes
4/8/09 and
8/19/09 with no
changes to public
comment provided
in draft version.

AW

San Francisco Historic Preservation Commission Draft Meeting Minutes

Commission Chambers – Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place

Wednesday, April 8, 2009

12:30 P.M.

Special Meeting

COMMISSIONERS PRESENT: Chase, Hasz, Martinez, Damkroger

THE MEETING WAS CALLED TO ORDER BY PRESIDENT CHASE AT 12:31 P.M.

STAFF IN ATTENDANCE: John Rahaim – Planning Director, Tina Tam – Preservation Coordinator, Tara Sullivan - Planner, Sohpie Middlebrook – Planner, and Linda Avery – Commission Secretary

*Copy provided
courtesy of
Library Users Assn.
(415) 753-2180*

B.

1. 2008.1393T (T.SULLIVAN: 558-6257)
Ordinance Rescinding Planning Code Articles 10 & 11 in their Entirety and Adopting a New Article 10 & 11, and adding new Planning code section 176(F) [Board File No. 08-1565]. Ordinance introduced by Supervisor Daly and former Supervisor Peskin that would rescind Articles 10 and 11 from the Planning Code in its entirety and adopting a new Article 10 and 11 to implement the provisions of the new San Francisco Charter Section 4.135 (Historic Preservation Commission), and to add Section 176(f).
Preliminary Recommendation: Approval with Modifications.

President Chase started off the hearing by announcing comments would be limited to two minutes each from the public; that public comments would be allowed on specifics of issues or sections discussed; and that general comments would also be allowed at the conclusion of the staff presentations.

- 1) **Multiple Entitlement issues continued from last hearing** - language proposes that the Planning Commission could modify a C of A. Within 20 days specific findings and a written report would be provided to Historic Preservation Commission (HPC) for their review.
- **Commissioners Damkroger and Martinez** agreed the project should come back to HPC and HPC has the option to elect not to hear it, or hear it as a consent item.
 - **President Chase** suggested that if there is no greater impact to the historic resource, the project shouldn't come back to HPC for re-review.
 - For appeal process, if the building is materially enlarged or changed, HPC Commissioners could initiate an appeal process to Board of Supervisors (BOS) or Bureau of Permit Appeal (BPA).

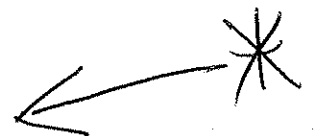
SPEAKER(S)

Cynthia Servetnick (Consortium) – suggested BOS create a task force in the interim between the 90 days when the Planning Department submit their comments on Articles 10 & 11; so that the Commissioners and the public can follow the process of amendments as the ordinance made their way to the Supervisors.

- 2) **In Article 10 the draft added a new point M** in response to Commissioners Martinez and Olague's comments on retaining and recognizing cultural diversity in major and minor groups and their possible significance to San Francisco.
- 3) **Proposed under the Powers and Duties of HPC:**
- Duty K – change all "shall" to "may".
 - City Attorney suggested to put "shall" and "may" in front of each category, and "may" for category K. Commissioners agreed.
 - Commissioner Martinez is fine with removing point 4 that allows HPC the appropriate level of environmental review to be conducted (the Environmental Review Officer (ERO) has the authority to do this under CEQA and the rules and regulation of the City)

SPEAKER(S):

Inger Horton, Cynthia Servetnick, Gee Gee Platt



DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Tara's comment on Cat Ex: It is not like a negative declaration or an EIR where there is a mandatory draft comment period. When a Categorical Exemption (Cat Ex) is issued, it is final. Draft Cat Ex is not feasible. The Department doesn't mind that a Cat Ex be distributed and reviewed by the HPC when the subject building has historic resource issues. It is the "may" and "shall" issue that is troublesome to the Department and the technical appropriated level of environmental review. The Environmental Review Officer (ERO) reviews cases internally to decide the level. The appeal process is where the appropriate level of environment review is hashed out.

Commissioner Damkroger asked what a CAT Ex was and was told that it is an environmental review document

President Chase asked that the environmental document be defined for the legislation.

Tara responded that there will be a place holder for definitions pertaining to Articles 10 & 11.

4) Definition of Major and Minor Alterations –

Commissioners Martinez and Chase felt that the definitions belong in the draft ordinance while **Commissioners Damkroger and Hasz** felt that a stand alone (trailing) document makes more sense and can provide greater flexibility in determining what types of projects need Commission review as long as it is given a name, an established time line of when it needs to be created, and made public. There was no consensus.

5) Discussion on how best to add definitions in the legislation for the future.

Commissioner Martinez – If definitions are added later, then it would be at the Board of Supervisors' level. It doesn't give the HPC the opportunity for discussion and that might end up with another piece of legislation.

President Chase – There is a basic list of definitions currently in the Planning Code and in the language of the Landmark Preservation Advisory Board's Articles 10 and 11. Those that need special attention might be called out in trailing legislation.

Tara – Proposed to remove the definition section from this legislation and use trailing legislation for future definitions in question.

6) Demolition - as drafted, the HPC could approve demolition of a contributory structure in a historic district if it meets the definition of demolition under two criteria: 1) The structure has no substantial market value, and 2) There is a serious and eminent safety hazard to the public. These afford the HPC limited circumstances to approve demolitions. This draft proposed to add two more provisions to the demolition section: 1) rescind or delist a contributory building so it can be demolished, and 2) if HPC has specific findings that the project meets the Secretary of Interior Standards for rehabilitation and that as proposed, alteration(s) would be the best way to preserve, protect, and enhance the historic district and its integrity.

DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Director Rahaim – major alteration would be in the purview of the HPC. Demolition should be in the HPC purview as well, and not necessarily has to go to the Board of Supervisors.

President Chase – When is demolition beyond a certain point in the retention of historic fabric?

Director Rahaim – The question is the consequences of the demolition.

Commissioner Martinez – I'm fine with de-listing by the Board of Supervisors. Need to have different definitions of demolition or leave it at the discretion of this Commission when it's a preservation or restoration project.

Sophie [Middlebrook]– It's hard to come up with definitions of demolition that works across the board. I suggest we keep the tighter definitions of demolition which insures an extra level of review for projects that may be classified as demolition even if they are reconstruction or rehabilitation; and to keep working on addressing the consequences of demolition. It is important to revisit the actual definitions of demolition.

Commissioner Martinez – Suggested language for preservation, reconstruction and restoration projects that meet the Secretary of Interior Standards. The HPC has the power to say it is not demolition. For the purpose of the planning code or other sections of the code, it is not a demolition if it's everything but rehabilitation.

President Chase – concurred with Commissioner Martinez on how that definition is utilized by other sections of the code that would preempt the intent for preservation on the site.

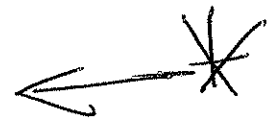
Commissioner Damkroger – I have a question about this section of the code just applied to historic districts.

Tara – responded that this section deals with both demolition of individual landmarks and contributory buildings in historic districts. We will include that in the language.

Commissioner Damkroger – on line 15 - individual landmarks go back, and line 20 – individual landmarks is added in.

SPEAKER(S)

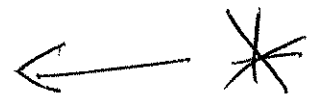
Gee Gee Platt, Cynthia Serventnick, Joe Butler



- 7) **Major and Minor Alterations** -- as proposed there are detailed requirements for what qualifies as a major alteration, and what is not considered a major alteration is a minor alteration. Including so much that qualifies as major alteration binds the HPC to delegate certain things to staff. If something technically qualifies as a major alteration under the codified list, delegating something might require a code change. Staff felt that HPC should have the ability to delegate the approval of these minor alteration to staff in a C of A and we tried to determine how much to codify.

SPEAKER(S)

Cynthia Serventnick, Catherine Howard, Fred Miller, Gee Gee Platt



DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Commissioner Damkroger – If HPC gets an application for demolition, the application would change what is identified in the designating ordinance as a significant feature, or change it to a major alteration.

Sophie – The intent to remove specificities of both major and minor alterations is to allow HPC the ability to determine through the rules and regulations process to decide what cases HPC wants to hear and what to leave to the Planning staff. The draft tries to remove language from the code and put it into rules and regulations. It is a hybrid of major and minor alterations. It didn't go far enough or went too far, but the middle didn't work.

Commissioner Damkroger - The language makes sense to me. If there was a proposal to change anything that is identified in the designating ordinance, then it would be a major alteration. The trouble is old designations where there isn't much specificity

Sophie – And most of the C of As are for old designations.

Tara – The way to define all the brief designations from a long time ago that don't list the character defining features is to use rules and regulations.

Commissioner Martinez – Where do we look for other specificities when the language is so general? It may set a bad precedent about having to refer to multiple documents. It's complicated enough as it is without this authoritative document that you could look at and know what is going on. If there were some other problem that is on the list, make that known to the BOS. The document has to be specific.

Commissioner Damkroger – There are areas where fewer specifics are important in an ordinance like this. The details are more useful/ beneficial in an implementation document. The ordinance will give the direction, the design guidelines will give specifics of how the ordinance is applied. I would go with something like staff has suggested, providing the details in implementation documents.

President Chase – It is also important that where the Commission makes a determination of what is major or minor that it should be referenced somewhere. If HPC was to follow the draft language, where does the public, the professional, as well as the homeowner find out what is major or minor?

Tara – Suggested to add specific language in the draft saying the definition of what qualifies as major or minor will be put into an implementation document. Staff can cite some formal document by reference that will exist in hard copy somewhere but would not be codified.

President Chase - Where would a consumer find this and have access to the ordinance concurrently?

Susan Cleveland-Knowles, Deputy City Attorney – HPC could name the document now or propose to the BOS and name it in regulations and provide that it must be made available in the Planning Department's website and other location you deem appropriate.

Tara – Another way is the appendix. HPC can add an appendix to Article 10 without going through the legislation process, but that's codified. The Department is recommending not to codify it now but to follow it in trailing legislation.

Commissioner Martinez – Points 1, 2, and 3 are the most problematic in terms of language, being perhaps a bit open-ended. From point 4 onward there is no problem with the level of specificity.

Tara – The Department is recommending keeping it more general and reference something later.

Commissioner Martinez – The HPC has a disagreement in our recommendation and I would encourage that we be as specific as possible.

President Chase – we do have options about making a decision today.

Commissioner Martinez – Suggested "in kind" is not good terminology. Use substitutions that match the original instead of "in kind."

8) The purpose of the Administrative C of A is to alleviate staff time and project sponsor time.

- A minor alteration does not need a full level HPC review. Department proposes that staff would review minor alteration projects and approve them in C of As. The approved C of As would go on an Administrative List with a case number and a brief description, and within 10 days would be presented at the next HPC hearing. At the hearing, the Commissioners could request and schedule a full hearing if they want more thorough review of the item. If nothing is pulled off the Administrative List, the C of A would become final. It could always be appeal at the appropriate appellant body, the Board of Permit Appeal or the Board of Supervisors.

DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Commissioner Martinez – The proposal is generally a good idea for it saves time and money. How would a member of the public ask the Commission to take an item off the calendar?

Commission Secretary Avery – If the Administrative List is on an agenda for your public meeting(s), a member of the public could come with the intent to ask the Commission to have a full hearing.

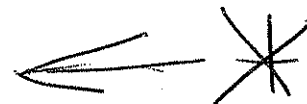
President Chase – The information provided on the Administrative List should be sufficient enough to understand the project. There may be a reason for the Commission or the public to raise a concern to pull an item off and be heard. He recommended when the case proceed to that point, that the Commission get the C of A notice.

Commissioner Damkroger – I support the list the need for a description; the hold on the C of A until the time is up; and that people can request pulling an item off at the hearing.

Tara – Agreed there is a disconnect in the proposed timing of within 10 days after the Administrative C of A is issued. There is notification and hearing scheduling issues to take into account. She will put more specificity into the code about what would be detailed on that list.

SPEAKER(S):

Grey Miller, Cathy Howards, Gee Gee Platt

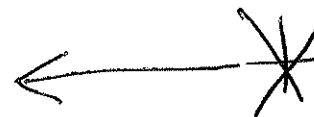


9) **As proposed in the Board legislation, any alterations to a storefront would require a full HPC review.**

- As modified in the draft, a major alteration is defined for storefronts that extend beyond piers and lintels of the storefront or the ground floor openings which include cladding materials, excessive signage, and removal or obscuring character defining features. All of that work will immediately trigger HPC review. A minor alteration for storefronts is defined for storefronts that are contained within the ground floor piers and lintels and to be compatible to the character defining features of the building. The Department proposes the ability to approve minor alteration at staff level.

SPEAKER(S)

Gee Gee Platt

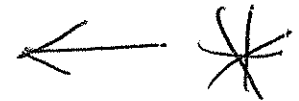


Commissioners Chase, Hasz, and Martinez – support keeping the Board of Supervisors' language because changes to these ground floor storefronts have been significant alterations that have been inconsistent with the historic character of the building.

10a) **Designation Process in Article 10** – Staff proposed a change by moving the nomination section ahead of the initiation sections. The process begins with a nomination application which comes with a draft designation report. This report package will be reviewed by the Historic Preservation Officer (HPO) who determines the application is adequate and complete within 30 days. The intent of the change is to streamline the process. Once the application has been determined complete, the HPO informs the HPC about the application and schedules a hearing. After HPC has passed a resolution initiating designation, the site or district is treated as if it is already a landmark, subject to all the review procedures of landmarks/ districts. Applicants can still apply for C of A if they want to move forward, but during the time it is in initiation but prior to designation, it is subject to the review processes for landmarks. The intent is to protect sites that have not yet received final designation by the BOS and the Mayor's ordinances but has been designated.

- 10b) **Requiring the insertion of height and bulk discussion in the designation in historic districts** — ~~Once HPC has made its final designation to the BOS recommending approval of the district, HPC needs to include discussions on contributor & non-contributor, control and standards to protect and maintain integrity of the district, insure compatibility of the alteration, addition and new construction within the historic district including, 1) specific design standards for work within, 2) setback, height and bulk controls for addition and new construction in the historic district which is presumed to be compatible to the height and bulk of the new historic district.~~

SPEAKER(S)
Gee Gee Platt



DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Commissioner Martinez – In terms of criteria, the language needs to include multicultural perspective, not just about history, but about histories. He suggested the following: under significant event, maybe add social and cultural heritages of San Francisco; under significant architecture, he thought that architectural work considered to be of outstanding value is left out; under architect, maybe add engineers, builders whose work is culturally or historically important, not just important. He would like to see significant architecture be more open ended to include vernaculars, structures to include contractor design and engineering structures. Regarding height and bulk, he preferred the language he suggested that “HPC may adopt guidelines for the district describing the height and bulk that would be generally compatible with the district.” It is a guideline that architects and developers can go by. If they want to go beyond the guidelines, they would have to be able to justify and convince everybody.

President Chase – Suggested using the standard nomenclature “building structure” or “object”. It captures all the man-made features.

Commissioner Martinez – Suggested also including eccentric buildings and individual master pieces of great value that don’t fit into established architectural types or styles.

Commissioner Damkroger – She is also uncomfortable with the language “the presumption of compatibility” and agreed with Commissioner Martinez’s simpler language on guidelines for height and bulk.

Commissioner Martinez – on the subjects on nominations, he suggested maybe change “adequate and complete” case report to just “adequate” case report. {**Staff, Sophie Middlebrook** suggested the language could be “adequate and complete draft” case report because it doesn’t have to be the final product and there is time for refinement as long as the HPO feels it is adequate enough to go to HPC in order to pass that initiate resolution.}

Commissioners Chase, Damkroger, and Martinez concurred with “draft.”

Commissioner Damkroger – asked if there had been any discussion about providing opportunities for other commissions to initiate designation. {**Staff, Tara Sullivan**, responded that there was no discussion, because other commissions don’t have the Charter power. Other commissions can pass resolutions to forward the nomination to you or the Board. The HPC has the power to initiate designations, just like the BOS does.}

- 11) **Compliance with Maintenance Requirements in Section 1011** – The Department is proposing to strike e) and f) that relate to deteriorated or ineffective waterproofing, defective or inefficient weather protection, and possibly strike g) deteriorated ornamental features.

SPEAKER(S)

Joe Butler

President Chase – Decided to retain e) and f) and add the word “secure” as suggested by Joe Butler.

Commissioners Damkroger and Martinez both agreed.

12) **HPO shall report directly to the Planning Director and shall oversee the professional preservation staff and administrative services of the Historic Preservation Program.** Added Point A – the HPO shall be chosen by the Planning Director in consultation with the HPC. The Director of Planning is to provide a short list of 3 names to the Commission for consultation in a closed session. According to the language of Proposition J, the Director has the complete control of who the HPO is.

Commissioners Chase, Hasz, and Martinez – support that the three HPO nominees should come from the Planning Director; that the selection is an open process and anyone who is interested could apply; that combined consultation would provide some guidance from the HPC to the Director the kind of qualities and characteristics the HPC desires and the Director can take the remarks, issues and concerns into account when he makes the selection decision; and that the consultation process would be in a closed session.

13) **Engaging outside expert for technical advice at the expense of project sponsor** – The Planning Department feels the language would have given the HPC complete discretion to tell a project sponsor to get a paid expert opinion. We propose to delete that language throughout the document.

DISCUSSION BETWEEN COMMISSIONERS AND STAFF:

Commissioners Chase and Martinez preferred to leave the language in and have it codified in the General Power and Duties section so there is no challenge about the HPCs ability to engage outside experts. They agreed that maybe the language has to be changed.

Sophie – She suggested to at least change the language so that the HPC “may” require that the project sponsor engage a professional.

Commissioners Chase and Martinez – accepted the “may” change.

Commissioner Damkroger – Would be fine with the project proponent retaining the expert. She would like some involvement of the HPC or HPO in the selection of that expert.

President Chase – The engagement of a third party expert in the field is that it is done in a manner that the Commission can feel assured that someone substantiate the concern HPC has or make experienced recommendations.

Tara – Will add the concept back by rewriting the language.

14) **Add language on Stewardship of the HPO** – The HPO shall be required to protect the interest of historic preservation through environmental review and development processes.

Commission Secretary Avery – Asked if the Commission was willing to support and take action for the changes made up to this point.

ACTION: Commissioner Damkroger (seconded by Hasz) motion to approve April 7, 2009 Department’s final draft with the modifications HPC has made thus far.

AYES: Chase, Damkroger, Hasz, and Martinez (+4, 0)

~~**ACTION:** Commissioner Martinez (seconded by Hasz) motion to approve up to 1006 with HPC modifications.~~

AYES: Chase, Damkroger, Hasz, and Martinez (+4, 0)

ACTION: Commissioner Martinez (seconded by Damkroger) motion to approve, from the end of Section 1005 through 1007.1, staff's proposed modifications for 409 with exception that deals with major and minor alterations. The Commission is divided. Some members prefer the BOS's version; some members prefer the staff's version; some members approved both version. The second part of the motion, the Commission believes the issues of murals is complicated issues but important to historic resource issues and would like to see that issue brought forward for discussion and possible future legislation.

AYES: Chase, Damkroger, Hasz, and Martinez (+4, 0)

ACTION: Commissioner Martinez (seconded by Hasz) motion to approve the language from 409 through the end of 107 with HPC modifications.

AYES: Hasz, Martinez, Damkroger, Chase (+4, 0)

ACTION: Commissioner Damkroger (seconded by Martinez) motion to approve up to 1011 on 4/7/09 documents with the modifications agreed upon.

AYES: Hasz, Martinez, Damkroger, Chase (+4, 0)

ACTION: Commissioner Martinez (seconded by Damkroger) motion to approve the balance of Article 10 dated 4/7/09 with the Department's language as per the HPC comments

AYES: Hasz, Martinez, Damkroger, Chase (+4, 0)

ACTION: Commissioner Martinez (seconded by Hasz) motion to approve Article 11 dated 4/7/09 with the Department's language with all HPC recommendations and changes as stated

AYES: Hasz, Martinez, Damkroger, Chase (+4, 0)

Adjournment: 5:57 p.m.

Adopted:

San Francisco Historic Preservation Commission Draft Meeting Minutes



Commission Chambers – Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place

Wednesday, August 19, 2009

12:30 P.M.

Regular Meeting

COMMISSIONERS PRESENT: Chase, Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger

THE MEETING WAS CALLED TO ORDER BY PRESIDENT CHASE AT 12:35 P.M.

STAFF IN ATTENDANCE: Tina Tam – Preservation Coordinator, Sophie Hayward, K. Dischinger, John Billovits, Abigail Keifer, Moses Corrette, Brett Bollinger, S. Caltagirone, Aaron Starr, Tim Frye, , and Linda Avery – Commission Secretary

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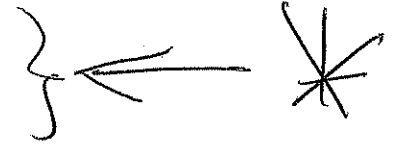
Time: 12:30 P.M.

FOR FULL COMMISSION CONSIDERATION

PUBLIC COMMENT

SPEAKER(S)

- Aaron Goodman – re: Park Merced Library
- Alice Carey – re: HPC comments on nominations
- Peter Warfield – re: Park Brach Library nomination



STAFF REPORT AND ANNOUNCEMENTS

1. Discussion on the environmental review and approval process of the Ortega, Merced, and North Beach Branch Libraries.

Preservation Coordinator Tina Tam:

- Designation of 2055 Union Street, aka the Metro Theater – on July 27, the Mayor signed ordinance #175.09 designating the Metro Theater as Landmark No. 261. The proposed designation came before the HPC back in March of this year. Discussions among the HPC members were about what should be included and what features to be preserved. At the end, HPC was unable to obtain a majority vote to either approve or disapprove the landmarking. Hence, the proposed designation went forward to the Board of Supervisors on a procedural approval without specific recommendations. Based upon the language in the final ordinance adopted by the supervisors and signed by the Mayor, work on the interior was included. There was language in the ordinance that said other features in the auditorium are significant and the project owner would make all effort to save it.
- The Ortega Branch Library – the Board of Appeals held a public hearing on August 5, 2009 on the appeal of a demolition permit. The appeal was filed by Inge Horton. At the hearing there were many speakers, both in support and in opposition to the project. There were members of the Board that were concerned about insufficient notification and outreach to the community, but the majority of the Board did feel there was adequate outreach to the community at large and there was a lengthy public process. The Planning Department followed proper procedure and the Board of Appeals concurred with the Department's determination. The vote for the appeal was 3 to 2. That vote denied the appeal and upheld the permit.
- The Merced Branch Library – the Categorical Exemption (Cat Ex) was issued in June. The building permit to alter the building was approved by the Building Department in July. No appeal was filed for the building permit nor the Cat Ex Certificate. The Department issued a notice of exemption last week.
- The North Beach Library – the Planning Department is in the process of conducting a full Environmental Impact Report (EIR). The Notice of Preparation was issued and the timeline for the draft EIR is sometime in 2010. The draft EIR with historic resource impact would go before the HPC and would be calendared for public hearing.

Commissioner Martinez:

- For Merced, notification did go out to people who were on the historic preservation notification list?

Preservation Coordinator Tina Tam:

- Correct. For Merced we concluded the library was a historic resource. However, the alteration proposed was not a significant impact for the purposes of CEQA. A Certificate of Cat Ex was issued and people on the preservation list were notified.

Commissioner Wolfram:

- For Ortega, what kind of research was done to determine that it was not a historic resource?

Preservation Coordinator Tina Tam:

- Information submitted by the Library Department, members of the public, and materials from Carey and Company, the consulting firm that did the North Beach Library, were used to make the determination.

Commissioner Wolfram:

- I thought at the Carey and Company's North Beach report did consider that it would be a historic resource... the Ortega Branch...somewhere stated that?

Preservation Coordinator Tina Tam:

- It appeared, from the preservation staff, that the Carey and Company report was used for the Merced Branch Library evaluation and not so much for the Ortega Branch Library.

Commissioner Buckley:

- Investigation into the Ortega Branch - was that only about the building or was it taken into account the whole civic center community aspect of that block?

Preservation Coordinator Tina Tam:

- The overall master plan was not looked at. When the Department got new information, it was re-evaluated and was concluded with the same determination.

Commissioner Buckley:

- I'm confused on how those decisions were made at staff level.

President Chase:

- Requested that the Planning Staff responsible for this speak to this issue.

Sophie Hayward:

- The review of the Ortega Branch Library project was conducted prior to the receipt of the Carey and Company report for North Beach, which included information of all the Appleton and Wolfard libraries. The review was conducted based on information submitted by the Library's staff for the Ortega Branch Library. As with any Historic Resources Evaluation Responses (HRERs), they were not brought to the HPC prior to issuance of their reviews. At the interim, they were assigned and reviewed by the Preservation Coordinator.

President Chase:

- Asked if the Planning Staff answered Commissioner Buckley's question.

Commissioner Buckley:

- No, but not sure when would be the right time to....

President Chase:

- It might be appropriate to have a separate discussion about process and procedures.
- Instructed staff to calendar that at the next most convenient time.

Commissioner Buckley:

- The HPC needed to look at these kinds of designations in context. There was incredible context in the Ortega Library that might or might not be the same as the building itself.
- As a planning historian, the HPC might want to make sure it understood the context when looking at these decisions.

Commissioner Martinez:

- This was when the issues involved in the discussion around the re-writing of Article 10. Commissioner Buckley was not part of that ongoing discussion.
- Might be re-visited at some point.

Commissioner Buckley:

- One final comment to point is out that San Francisco Heritage ran an article about all the Appleton and Wolfard libraries around 8 years ago. They were all considered historic resources. This was not new information; it had been there for quite some time.

- At that time, the Ortega Branch was proposed to be renovated instead of demolished.

President Chase:

- There is technically no action for this item.
- Instructed that the hearing move on to public comments.



SPEAKER(S):

Alice Carey – Carey and Company, Aaron Goodman – Parkmerced Residents Organization, Clarice Moody – Resident of Sunset, Charles Moody – Resident of Sunset, Dan Ryan - Resident of Sunset, Bernice Lassiter, Sue Cauthen – Chair for the City Supervisors Library Advisory Committee, speaking for the Coalition for the Better North Beach Library, Kim Drew – Resident of Noe Valley, Donna Bero – Executive Director of Friends of the Library, Zach Steward – Architect, David Tornheim – Resident of the City, Sal Busalacchi – Friends of Appleton- Wolfard Libraries, Joan Wood - Friends of Appleton- Wolfard Libraries, Howard Wong – Architect and Friends of Appleton- Wolfard Libraries, Carol Mo – Resident of Sunset, Marian Chatfield- Taylor – Work from the SF Public Library and in charge of the her neighborhood library campaign, Deborah Oppenheim – Resident of the City, Peter Warfield – Executive Director of Library Users Association, Bradley Wiedmaier, Deborah Fisher-Brown – Friends of the SF Public Library, Dorothy Danielson – Resident of the City, Inge Horton, Charles Higuera – Architect, former Library Commissioner, Jill Bourne – Deputy City Librarian, Nancy Shanahan – Western Region of the National Trust for Historic Preservation, Ellen Egbert

PRESIDENT'S REPORT AND ANNOUNCEMENTS

None

MATTERS OF THE COMMISSION

2. Election of Officers
(Continue to September 2, 2009 hearing)
3. Discussion on the creation of an Architectural Review Committee
(Continue to September 2, 2009 hearing)

Item taken out of order and follow Item 1

4. Selection of a HPC member to participate in the properties selection in Market and Octavia augmentation survey.

This item didn't need a vote. Commissioner Martinez volunteered and was accepted by other commissioners to participate in the survey evaluation process.

5. 1268 Lombard Street – Draft letter from the Commissioners to the Building and Planning Departments regarding the Departments' processing of the emergency demolition permit, and a request for further investigation of the matter including a review by the City Attorney's Office.
(Continue to September 2, 2009 hearing)

Item 6 taken out of order and followed Item 1

6. Luis Herrera's Letter to the Historic Preservation Commission.

SPEAKER(S)

Luis Herrera – City Librarian, Peter Warfield – Library Users, Tamara Gonzales Schenlov – Library Campaign Organizers, Friends of San Francisco Public Library, Anne Wintrop – Friends of the Library, Debra Dole – Representative of the Library Counsel, Aaron



Goodman – Park Merced Residence Organization, Sal Bruosalaski – North Beach Resident, Rodri Meyer, Sue Cauthen – Coalition for Better North Beach Library

Comments from the Commissioners

Vice President Damkroger:

- Had questions about how the review process is conducted.
- Asked how a project library of this magnitude, like Ortega, did not get historic evaluation by a preservation professional.
- Asked why the group of Appleton & Wolfard buildings were not reviewed as a potential district in the process.
- Suggested the Library, as a give back to the city, designate more libraries as local landmarks.
- Regarding Merced Branch Library, a Cat Ex was issued - the proposal did not meet the Secretary of Interior's Standard, but was found it would not result in adverse impact – the Planning Department responsibility was to try and assist the library so that it does meet the Standards. Suggested one way was to bring the proposal to the HPC, who would be happy to help.
- Supported HPC investigating a multiple property designation

Commissioner Martinez:

- Asked Herrera if a preservation architect was included as part of the design team for the Park Branch Library and the Merced Branch Library. (Response from Herrera was negative.)
- Asked Herrera if a preservation architect was included in the peer review. (Response from Herrera was there was a peer reviewer but he didn't know her credentials.)
- Quoted part of Herrera's letter "We welcome the opportunity to present a more in-depth overview at a later date of the entirety of the BLIP program including our landmark Carnegie libraries, the modern era branches, and our ongoing historic preservation efforts." Commissioner Martinez asked if he meant that. (Response from Herrera was positive.)

Commissioner Wolfram:

- The Planning Department wasn't really involved until the building permit process had happened. In June 2009, the construction document was 100% complete and subsequently closed on June 6. It didn't seem like there was much time for the Planning Department to comment.
- Was curious about the Library was relying on the Planning Department staff to give an evaluation of historic resource and comment on the plan.
- Asked if the Library was allowing time for Staff to comment, because the document had already been done. (Staff planner Hayward responded that when she reviewed the project when the design was completed and there was conversation about some alterations to the design but it was probably too late at that point)
- I second Commissioner Damkroger's comment about the review process and believe the commission was able to have input on it.
- In the Branch Library Improvement Program (BLIP), there are about 35% of the Appleton & Wolfard libraries being demolished, and that is a substantial number.
- Stated that we are all on the same side; that there shouldn't be a divide between preservation and meeting the needs of these libraries; that we want great libraries but we would like them to meet the preservation needs as well.

Commissioner Martinez:

- Suggested HPC calendar a discussion of whether or not to initiate a group designation at the next commission meeting as an action item.
- Discussion would explicitly exclude Ortega Branch Library because it will probably be

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demolished by the time the Commission meets again.

- The Carey and Company report suggested that there might be grounds for group designation. He asked Tim Fyre of the Department's staff if any further studies had been done on other libraries besides the North Beach Branch and would he be able to speak about individual branches as contributors.

President Chase:

- Confirmed that Tim Fyre believed that by the next hearing in September he'd be able to come back with a recommendation. (Tim Fyre responded that by next hearing on September 16 he would have HRER completed, which would take into consideration the other libraries that previously were not evaluated)

Vice President Damkroger:

- Suggested staff to look at the historic report for the North Beach Branch Library and that it would make sense to discuss the multiple property district and the North Beach Library together. (Tim Frye responded that currently the only report that staff was using was the Carey & Company report.)

Commissioner Buckley:

- In June 2009, on the Merced Branch, the Planning Department issued a HRER and subsequently the Planning Department issued a Cat Ex. What was the relationship between that process and this Commission?

Preservation Coordinator Tina Tam:

- In a June or July HPC hearing, the Commission asked to see the final HRER for the Appleton and Wolfard libraries. Whether or not the review of the actual project should come to the HPC is something not required in the Planning Code. Merced Branch Library is not a city landmark, nor in the historic district. Therefore a Certificate of Appropriateness was not required for these buildings

Commissioner Buckley:

- The response determined that the branch was a historic resource for the purpose of CEQA. Was there no mechanism by which that would trigger some review by the Commission? The next action was a Cat Ex.

Preservation Coordinator Tina Tam:

- The Planning Department has an Environment Review Officer (ERO) who does the environmental determination. The Department does not clear the environmental determination with the HPC.

Commissioner Buckley:

- According to Article 10, is there not some connection between the responsibilities of the Commission to act on that determination?

Sophie Hayward:

- The determination for the Merced Branch Library project was that although it did not meet the standards, it was not a significant impact to the historic resource. It fell within the window between the standards and the significant impact. The addition did not meet the standards and did not constitute a significant impact to the historic resource. Therefore, a Cat Ex was used rather than an EIR.
- Under several versions of the proposed revision of Article 10, the HPC does not review Cat Ex. It does review EIRs and can provide comments on EIRs.
- The requested copy of the HRER was included in your packet. It wasn't something the HPC was acting on.

Commissioner Buckley:

- The administrative act that the code called on whether it needed an EIR or Cat Ex or not...

Sophie Hayward:

- The determination of the correct level of the environmental review under the Administrative Code is made by the ERO, Bill Wycko, not by the HPC.

- In this case, the critical difference was that Merced was considered a historic resource, not a landmark as designated under Article 10. Were it a landmark, it would be here before the HPC for review for a Certificate of Appropriateness.

Commissioner Buckley:

- Anyone in the public could appeal a Cat Ex.

Sophie Hayward:

- CEQA determinations are appealable to the Board of Supervisors.

Commissioner Martinez:

- Asked other commissioners how they felt about scheduling a discussion initiating a process for a historic district as an action item.

Vice President Damkroger:

- Suggested that those who had not yet seen these libraries should do so between now and the next meeting so that people could discuss with the possession of some knowledge, although the buildings can only be seen from the outside due to closures of the libraries.

Commissioner Martinez:

- Requested staff give everyone the Carey and Company report and the Appleton and Wolfard documentation.

Commissioner President Chase:

- Confirmed this would be heard on September 16, 2009.

7. Adoption of Commission Minutes

- Draft Minutes of Regular Hearing of June 3, 2009
- Draft Minutes of Regular Hearing of June 17, 2009
- Draft Minutes of Special Hearing of June 17, 2009
- Draft Minutes of Regular Hearing of July 15, 2009

(Continue to September 2, 2009)

Commissioner Wolfram – Requested a discussion with staff relating to the Secretary of Interior Standards application in HRER.

Commissioner Martinez – Requested the status of the Landmark Board Program

Commissioner Damkroger – Requested the status of Parkmerced and the National Trust Memo

Commissioner Buckley – Requested the status of Articles 10 and 11. Wants to discuss what the HPC could do to bring it forward at the Board of Supervisor for adoption.

CONSENT CALENDAR

Item 8 was pulled from Consent Calendar by Commissioner Martinez and followed item 11.

8. 2009.0315A (S. Hayward: 415/558-6372)

1 Carleton B. Goodlett Place (City Hall), east side, between McAllister and Grove Streets. Assessor's Block 0787, Lot 001. **Request for a Certificate of Appropriateness** for the installation of a non-penetrating photovoltaic system to include solar panels, a weather station, and interior display kiosks. City Hall is San Francisco Landmark No. 21, and is a contributor to the Civic Center Historic District. The site is zoned P (Public), within an 80-X Height and Bulk District.

Preliminary Recommendation: Approval

SPEAKER: None

ACTION: Motion to approve with the information kiosk taken out of the Certificate of Appropriateness

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

Motion No.: 0023

9. 2009.0325A (P. LaValley: 415/575-9084)
598 2nd Street (aka 300 Brannan Street), northeast corner of 2nd and Brannan Streets, in Assessor's Block 3775, Lot 008. **Request for a Certificate of Appropriateness** removal of existing storefront, windows, and metal roll-down door and installation of new metal and glass storefront system, doors, windows, and canopy within three existing ground floor openings on the Brannan Street elevation, and installation of one tenant sign. The subject property, formerly known as the Blinn Estate Building, is a contributing structure to the South End Historic District and is located within a MOU (Mixed Use Office) District with a 65-X Height and Bulk limit.

Preliminary Recommendation: Approval with conditions

SPEAKERS: None

ACTION: Approved as recommended by staff.

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

Motion No.: 0020

10. 2009.0598A (S. Caltagirone: 415/558-6625)
943-945 Steiner Street, west side between Fulton and McAllister Streets. Assessor's Block 0778, Lot 003 - **Request for a Certificate of Appropriateness** to replace the rear deck and windows at secondary facades. The property is designated as is a potentially compatible building within the Alamo Square Historic District. It is zoned RH-3 (Residential, House, Three-Family) District and is in a 40-X Height and Bulk District.

Preliminary Recommendation: Approval

SPEAKERS: None

ACTION: Approved as recommended by staff.

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

Motion No.: 0021

11. 2007.0007A (P. LaValley: 415/575-9084)
750 2nd Street, west side between Townsend and King Streets, in Assessor's Block 3794, Lot 002A. **Request for a Certificate of Appropriateness** to demolish an existing, one-story with mezzanine industrial building and construction of an eight-story with mezzanine residential building with ground floor retail and parking. The subject property is a non-contributing structure to the South End Historic District and is located within a MOU (Mixed-Use Office) District with a 105-F Height and Bulk limit. The project also requires Large Project Authorization from the Planning Commission, which is scheduled for public hearing on September 10, 2009.

(Continued from the July 15, 2009 hearing.)

Preliminary Recommendation: Approval with conditions

SPEAKERS: none

ACTION: Approved as recommended by staff.

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

Motion No.: 0022

- 15. 2009.0420A (A. Starr: 415/558-6362)
 2113 – 2115 Bush Street, south side of Bush Street, between Webster and Fillmore Streets, in Assessor’s Block 0677 and Lot 032. **Request for a Certificate of Appropriateness** to legalize work that has already been completed including removing the asbestos siding, removing the historic drop siding, interiorize the exposed plumbing and electrical conduits, installing new drop siding to match the original and replacing the sashes on five of the front façade windows. The subject property is located within an RM-1 (Residential, Mixed, Low Density) Zoning District, and a 40-X Height and Bulk Limit.
(Continued from the July 15, 2009 hearing.)
Preliminary Recommendation: Approval

SPEAKERS: None

ACTION: Without hearing, continued to 9/2/09

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

- 16. 2009.0476A (T. Frye for P. Lavalley: 415/575-6822)
 178 Townsend Street, northeast corner of Townsend Street and Clarence Place, in Assessor’s Block 3788, Lot 012. **Request for a Certificate of Appropriateness** to construct a vertical addition to provide up to 93 dwelling units, ground floor retail and daycare space, and up to 45 off-street parking spaces. The subject property is a contributing resource to the South End Historic District and is within an SLI (Service, Light Industrial) District with a 65-X Height and Bulk limit. The project also requires Conditional Use authorization from the Planning Commission and Variances for rear yard, parking, and dwelling unit exposure from the Zoning Administrator. These cases are scheduled to be heard at a joint Planning Commission and Zoning Administrator public hearing on September 3, 2009.
Preliminary Recommendation: Approval with conditions

SPEAKERS: None

ACTION: Without hearing, continued to 9/2/09

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

Adjournment: **5:06 p.m.**

Adopted:

REGULAR CALENDAR

12. _____ (K. Dischinger: 415/558-6284)

Review and Comment on the Survey Integration into the Market and Octavia Plan Area. Last winter the Planning Commission and the Landmarks Advisory Board endorsed the Page and Turnbull Area Plan level survey of the Market and Octavia Plan Area. Following this endorsement, in coordination with the community, staff has developed a recommendation for the integration of these findings into the Market and Octavia Plan as required by the Planning Commission and the Board of Supervisors.
Preliminary Recommendation: Provide written comments to the Planning Commission.

SPEAKERS: Peter Luis – President of Mission Delores Neighborhood Association
Kurt Holzinger – Duboce Triangle Neighborhood Association

ACTION: Continued to September 16, 2009. The Commission requested the completed Mission Delores Survey information as well.

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

13. 2007.0690E (B. Bollinger: 415/575-9024)

260 Fifth Street Project – Review and Comments on the Draft Environment Impact Report on the proposed project to demolish the existing two-story warehouse building with approximately 42,000 square feet of interior space and construct a new nine-story, 85-foot-tall residential and retail building located between Clementina and Tehama Streets on Fifth Street (Assessor's Block 3732, Lots 150 and 008). The existing 260 Fifth Street building is located in the CRHR-eligible, Light Industrial and Residential Historic District, identified in the South of Market Context Statement.

Preliminary Recommendation: The Historic Preservation Commission will provide comments on the Draft Environmental Impact Report (DEIR) and may direct staff to draft written comments of the Commission on the DEIR.

SPEAKERS: Eric Tao – AGI Capital

Jesse Herzog – AGI Capital

ACTION: Staff to write letter for HPC consideration and then forward it to the Environmental Resource Officer incorporating the Commissioner's comments with a copy to the HPC.

AYES: Hasz, Matsuda, Martinez, Wolfram, Damkroger

EXCUSED: Chase and Buckley

14. 2009.0565A (S. Caltagirone: 415/558-6625)

1000 Great Highway, Golden Gate Park, west end of park near Martin Luther King Jr. Drive. Assessor's Block 1700, Lot 001. **Request for a Certificate of Appropriateness** for seismic and ADA-accessibility upgrades, window replacement, and re-roofing. The building contributes to designated Landmark No. 210: The Murphy Windmill and Millwright's Cottage. It is zoned P (Public) District and is in an Open Space Height and Bulk District.

(Continued from the July 15, 2009 hearing.)

Preliminary Recommendation: Approval

SPEAKERS: None

ACTION: Approved Plan B

AYES: Buckley, Hasz, Martinez, Matsuda, Wolfram, Damkroger, Chase

MOTION: 0024

