



## **Attachment 6**

Memos from Planning Commissioner Corman and  
Summary of Cultural Heritage Commission Comments

# Memo

**To:** The Beverly Hills Planning Commission  
**From:** Craig Corman  
**CC:** Howard Fisher; Maralee Beck; Noah Furie  
**Date:** 5/28/15  
**Re:** Summary of Key Changes to Proposed Historical Preservation Ordinance Revisions

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To my fellow Commissioners:

As you know, on December 11, 2014, the Planning Commission passed a resolution recommending that the City Council adopt certain revisions to the current Historic Preservation Ordinance. Thereafter, at a joint City Council/Planning Commission/Cultural Heritage Commission Liaison Committee meeting held on January 15, 2015, then-Mayor Bosse directed members of the Planning and Cultural Heritage Commissions to meet to further refine the proposed revisions. Since then, Chair Fisher and I have been working with members of the Cultural Heritage Commission and with staff to make such refinements. During this process, the Cultural Heritage Commission formally met three times to review and comment on drafts of the revisions (on February 2, February 11, and April 21), and Cultural Heritage Commissioner Furie and I met and consulted with the city's historical preservation consultant, with a representative of the Los Angeles Conservancy, and with a prominent local architect who has worked on preservation projects both in and outside of Beverly Hills, regarding the proposed revisions. Chair Fisher and I also consulted with other architects and real estate agents with experience in preservation matters to get their input on the revisions, too.

As a result of all of these meetings and consultations, Chair Fisher and I have made many substantive changes to the proposals we forwarded to the City Council back in December. To help you review these changes (which can be read in their entirety in the red-lined draft of our December 11 resolution contained in your packet), I have prepared this brief summary of the most significant changes.

**Definition of Exceptional Work.** More publications will now satisfy the objective requirement of publication. This is because: 1) they no longer need to be "scholarly;" 2) advertiser-sponsored internet publications can qualify; and 3) non-monograph publications that *either* discuss a work *or* have a photograph of it will qualify.

**Definition of Master Architect.** The publication requirement has been eliminated, and the language now tracks a similar provision in the Los Angeles historic preservation ordinance.

**10-3-3207.** The name of the commission has reverted back to the Cultural Heritage Commission.

**10-3-3208.E.** Primary responsibility for reviewing surveys and compiling the local inventory of potential landmarks has reverted back to the Cultural Heritage Commission.

**10-3-3212.A.2.** This has been modified to make it clear that the criteria for voluntary designations of landmarks will essentially remain unchanged from the current ordinance.

**10-3-3212.B.4.** A new category for involuntary designations has been added to allow for designation of properties once owned by locally prominent persons. To avoid the slippery slope of subjective *ad hoc* decisions regarding who was sufficiently important and who was not, the qualifying criteria is that the person must have been so important to the city's history that a street or park was named after him/her.

**10-3-3215.A.1.b.** Although historic districts will be prohibited in R-1 areas, there will be a mechanism whereby multiple property owners can jointly apply to have their properties designated as landmarks.

**10-3-3215.A.5.b.** The yearly cap on involuntary designation proceedings initiated by the Cultural Heritage Commission has been deleted.

**10-3-3215.F.** Economic hardship will no longer be considered in designation proceedings, but must be addressed separately in subsequent proceedings in the event a property is landmarked.

**10-3-3215.N.** Time periods have been adjusted throughout the designation process to better reflect staff's reasonable expectations about the amount of time it will take to do the required work. In addition, staff now has one "get out of jail free card" in case it is unable to meet a deadline during the course of designation proceedings concerning a subject property.

**10-3-3221.** The Certificate of Exemption program has been replaced by a simpler Certificate of Ineligibility program. Under the new program, the only question is whether there is sufficient evidence to find that a property is an eligible property as defined in the ordinance; thus, the time and expense associated with competing full-blown historic assessment reports is eliminated. A decision by the director to issue a certificate of ineligibility is final, but a decision not to issue a certificate is automatically appealed to the Cultural Heritage Commission. The Cultural Heritage Commission will receive copies of any applications so that its members can supply the director with relevant information to aid in the decision-making process.

# Memo

**To:** Ryan Gohlich  
**From:** Craig Corman  
**CC:** Howard Fisher; Maralee Beck; Noah Furie  
**Date:** 5/18/15  
**Re:** Changes to the Historical Preservation Ordinance Revisions Suggested by Members of the Cultural Heritage Commission

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Ryan:

As part of the process of bringing the proposed revisions to the Historic Preservation Ordinance back to the Planning Commission for another vote, you and Bill Crouch asked me to identify which changes were made to the revisions as a result of suggestions made by various members of the Cultural Heritage Commission at their last meeting. I will do so below, following the format of the memo describing those suggestions that was sent to me on April 28 by Reina Kapdia (at Bill's request). As you will see, the vast majority of the suggestions were either incorporated into the ordinance or deemed unnecessary for reasons given.

**Definition of Exceptional Work.** No changes were necessary because the existing language already captures newspapers and magazines reviewable for free on the internet if, as is nearly always the case, they were once published either in print or online with the expectation of compensation through subscription fees and/or advertising revenue.

**Definition of Landmark.** This change was made.

**Definition of Major Architectural Award.** The language was changed so that now the jury giving the award need only be comprised *mainly* of architects, not exclusively.

**Definition of Person of Great Importance.** A new category allowing for involuntary designation of properties once owned by a person of great local prominence was added to address this concern.

**10-3-3203.** This change was made (with "protecting" substituted for "safeguarding").

**Level of Maintenance.** Both of these changes were made. 10-3-3206 and 10-3-3215.J. are now consistent, and 10-3-3206 now requires an owner to maintain a property and its character defining features in good repair ("at such a level to maintain its historic integrity" was deemed too vague).

**10-3-3207.** This change was made.

**10-3-3208.H.** This change was made.

**10-3-3212.** No changes were suggested – only a general disagreement was expressed.

**Landmark or Historic District [sic] application procedure.** This change was made by adding 10-3-3215.A.1.b.

**10-3-3212 Landmark Designation Criteria.** No change was made because 10-3-3212.A.2. and 10-3-3213.E. are not inconsistent. The former deals with an individual property that only needs to be internally consistent, while the latter deals with multiple properties that need to exhibit a unifying style, type, or period.

**10-3-3215 Landmark or Historic Designation Proceedings [I].** This change will be made; Dave Snow is working on a non-codified provision that will specify when the revisions take effect.

**10-3-3215 Landmark or Historic District Designation Proceedings [II].** The suggested change to 10-3-3215.A.2.a. was not made.

**10-3-3215.G.** The first suggested change was not made. The second suggested change also was not made, but as a compromise the deadline for the City Council to act was extended from 60 to 90 days.

**10-3-3215.N.** This change was made.

**10-3-3221.** The first suggested change was made. The second suggested change was unnecessary, because members of the Cultural Heritage Commission will already have received a copy of the application, and will automatically receive another copy along with copies of the director's preliminary evaluation and any other pertinent materials if the matter comes to the commission pursuant to 10-3-3221.B.

**10-3-3223.** This change was made.

#### **Global Comments.**

The suggested change to references to Master Architect was not made because it is unnecessary. Prior language limiting qualifying properties to those "originally designed" by a Master Architect was deleted previously, so it is already clear that a property remodeled by a Master Architect – and thus only partly by him/her – would qualify.

The suggested change to references to the director was not made because it is unnecessary. The director already has authority under the code to delegate his/her duties to a subordinate; the existing language simply provides that ultimate responsibility for historic preservation decisions – which can significantly affect property rights and values – remains with the director.

The change to 10-3207.H. was made.

The change to 10-3-3229 (actually, 10-3-3230) was made.



## SUMMARY OF CULTURAL HERITAGE COMMISSION COMMENTS

At their meeting on April 21, 2015, the Cultural Heritage Commission reviewed and discussed the draft Historic Preservation Ordinance (version 4-18-15). As part of the discussion, various Commissioners offered the following feedback to the Planning Commission on provisions of the draft Ordinance. Consistency and clean-up items that were noticed during review of the Article are also noted below.

### ***Comments from the Commission pertaining to Ordinance draft v. 4-18-15***

#### 10-3-3202 Definitions

- Exceptional Work
  - Commissioners considered the proposed definition of “exceptional work,” paying particular attention to the “monograph” and “scholarly works” components of the definition.
  - Commissioners discussed the need to capture authority in the quality of the author and the publication was essential. However, Commissioners raised concerns that works that were “solely in electronic form” and “without any reasonable expectation of compensation” would not be eligible, since many newspaper and magazines articles, for example, are made available electronically at no charge.
- Landmark
  - The Commission discussed the merits of retaining the ability to include certain interiors in landmark designations. Commissioners recommended the removal of the final sentence in the proposed definition of landmark: (strike) “In addition, any interior space or spaces of a landmark open to the general public, including, but not limited to, a lobby area, may be included in the property’s landmark designation if the public space(s) is substantially visible from the public right-of-way.”
- Major Architectural Award
  - Commissioners raised concern with the requirement, as drafted, that the jury be composed of “distinguished architects.”
- Person of Great Importance
  - Two Commissioners echoed prior concerns that the definition as drafted seems to focus on nationally-important (rather than locally-important) figures, which seems to be in conflict with the stated goal that the current amendments refine the Ordinance to be more tailor-fit for Beverly Hills.
- 10-3-3203 Intent, Purpose, and Authorization

- Commissioners suggested adding “Safeguarding the character through...” prior to “Promoting greater awareness...” in the first sentence in 10-3-3203A.
- Level of Maintenance
  - One Commissioner pointed out that the standard of care and maintenance of landmark properties is inconsistent between 10-3-3206 (“maintain and keep the property in good repair”) and 10-3-3215 (“such that it does not become a safety hazard to the public”).
  - As such, some Commissioners suggested that the level be “at such a level to maintain its historic integrity” throughout.
- Cultural Heritage Commission qualifications (10-3-3207)
  - Commissioners suggested that the commission “should” rather than “shall” “be composed of five members appointed by the city council...” (10-3-3207B)
- Powers and Duties of the Commission
  - In 10-3-3208H, Commissioners suggested that “review and approve” be changed to “review and act upon,” to give the CHC authority to act on applications as necessary.
- Landmark Designation Criteria (10-3-3212)
  - Two Commissioners echoed previous comments in disagreement with the drafted changes in landmark criteria.
- Landmark or Historic District application procedure
  - Commission Furie suggested a non-codified administrative procedure to help streamline and incentivize residential property owners to apply for landmark or historic district applications. He suggested creation of a single application whereby multiple properties in close proximity could be considered for individual (not district) landmark designation, so that the owners could potentially combine applications and historic assessment reports.
- 10-3-3212 Landmark Designation Criteria
  - Commissioners noted that 10-3-3212A.2 and 10-3-3213E should be consistent as to if the architectural style, type, or period should be “single” or not.
- 10-3-3215 Landmark or Historic District Designation Proceedings
  - Commissioners requested further clarification in the code language as to whether or not the amended code would apply to properties that are currently engaged in landmark proceedings. Members of the Commission wished to indicate their preference that the ordinance amendments would be prospective only, and would not apply retroactively unless specified.

- 10-3-3215 Landmark or Historic District Designation Proceedings
  - Commissioners noted that Landmark Designation Criteria (10-3-3212B) lists four requirements, while the Commission’s ability to initiate designation proceedings (10-3-3215A.2.a) is based on three criteria. Commissioners suggested that 10-3-3215A.2.a be revised to read: “...3) was owned and occupied by a person of great importance; or 4) it is an iconic property” to be consistent with 10-3-3212B.4.
  - The Commission had a discussion on the “super majority” four-fifths vote requirement outlined 10-3-3215G. Commissioners questioned whether this standard was inconsistent with similar decision types and excessive for a landmark designation, and suggested that the voting requirement be consistent with the requirement for the category of decisions that includes a General Plan Amendment<sup>1</sup>.
  - In addition, Commissioners recommended striking the final sentence from 10-3-3215G: “If the city council fails to take action...”
  - 10-3-3215N, Extension of Time Period.
    - Commissioners recommended that the 7 day extension period be changed to 14 days.
  - 10-3-3221 Certificate of Ineligibility
    - Commissioners requested notification of Certificate of Ineligibility applications, 1) at the time of application filing and 2) upon decision, to allow Commissioners the opportunity to provide information or evidence related to the property, and to review the Director’s decision within the established appeal period.
  - 10-3-3223 Historic Property Disclosure
    - Commissioners suggested that an administrative Historic Disclosure Form be developed to identify in writing the historic status of a property, e.g. if it is 45 years + Master Architect; listed on the inventory; does not appear to be historic, etc.

#### Global comments

- Commissioners recommended that the ordinance language specify that the Master Architect criterion applies to the entire property, by adding the language: designed “in whole or in part” by a Master Architect (10-3-3215, etc.)
- Director or his/her designee
  - Commissioners raised issue with the requirement that decisions be administered by the Director only, as a result of the removal of the language “or

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<sup>1</sup> General Plan Amendments require three affirmative votes of the five-member City Council.

his/her designee.” Commissioners recommended that the authority be delegable to a designee, as is common administrative practice.

Non-Substantive Clean-up or Consistency Items

- 10-3-3207H lists the “historic preservation commission,” though in the remainder of the Ordinance, the term has been reinstated to “cultural heritage commission.”
- 10-3-3229. Two sections are assigned the same section number of 10-3-3229 (“City Owned Properties; School District Properties” and “Dangerous and Immediately Dangerous Properties”).