



City of Beverly Hills

Planning Division

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Planning Commission Report

Meeting Date: November 8, 2011

Subject: Historic Preservation

Recommendation: Review and provide direction on a draft zoning ordinance establishing historic preservation in the City of Beverly Hills.

REPORT SUMMARY

The City Council has directed the Planning Commission to develop an historic preservation program for the City. A draft historic preservation ordinance is attached for the Planning Commission's review and direction. This draft ordinance would be codified in the City's Municipal Code, replacing the existing Article 32 of Title 3, Chapter 10 (BHMC 10-3-32. Preservation of Landmarks). The draft ordinance establishes processes through which the City would implement General Plan goals and policies for historic preservation. Actions proposed in the draft ordinance are presented in the Discussion section of this report. The draft ordinance has been developed with the intention of the City obtaining "Certified Local Government" status as a means of availing the City to grant funding sources. This is an iterative process and the draft ordinance is being presented to facilitate discussion and revisions as necessary. With direction from the Commission, staff will incorporate any revisions necessary and return with a final draft ordinance for the Planning Commission's consideration on December 19, 2011.

BACKGROUND

On October 27, 2011, acting on direction from the City Council, the Planning Commission held a study session to review the City's current goals and policies and provide direction on developing an historic preservation program for the City. The Planning Commission directed the formation of a subcommittee consisting of Commissioner Furie and Commissioner Rosenstein to oversee development of a draft ordinance. The subcommittee met twice, once on November 17, 2011, and again on November 28, 2011.

DISCUSSION

The following section provides summary information on the key aspects of the draft historic preservation ordinance, presented on the following page.

Attachment(s):

1. Planning Commission Staff Report – October 27, 2011
2. California Historical Resource Status Codes
3. Draft Ordinance

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Key Aspects of the Draft Ordinance

- Establishing a Cultural Heritage Commission
- Developing Guidelines and Program Incentives
- Identifying Historic Resources
- Designating Historic Landmarks and Historic Districts
- Issuing Certificates of Appropriateness for Work Proposed on Landmarks and Historic District Contributing Properties
- Recognizing Properties of Merit
- Preventing Demolition of Potentially Historic Resources and Establishing Penalties

Establishing a Cultural Heritage Commission

A new commission would be established to oversee the City's Historic Preservation Program. The commission would consist of five (5) members, of which, at least two (2) members would be professionals from the following fields: history, architecture, architectural history, planning, pre-historic and historic archaeology, folklore, cultural anthropology, curation, conservation and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography. At least one (1) member would be a registered architect, licensed contractor, or a California real estate licensee.

The Cultural Heritage Commission would be tasked with the following:

Summary of Duties

- Develop program incentives;
- Maintain an Inventory of Historic Resources, a Register of Landmark Properties and District Contributors; a list of Master Architects, and a list of Properties of Merit;
- Review and recommend on designation of Historic Landmarks and Historic Districts;
- Review and recommend on applications to the Mills Act program;
- Review and approve applications for certificate of appropriateness;
- Recognize Properties of Merit;

Developing Guidelines and Program Incentives

To provide additional guidance to local historic preservation the Cultural Heritage Commission will oversee the creation of guidelines. The guidelines will further elaborate on the processes proposed in the draft ordinance. The guidelines, once adopted, will be available on the City's website and at the City's permit counter and library, and on file at the local office of the State Office of Historic Preservation.

The Cultural Heritage Commission may also develop program incentives. Incentives that the Commission may explore could include:

Potential Incentives

- Use of the State Historical Building Code – Would make it possible to reconstruct dilapidated or missing portions of an historic resource using historic proportions such as smaller door openings.
- Historical Property Contracts (Mills Act) – Mills Act contracts under the City's pilot program will reduce property tax burden in exchange for the upkeep and maintenance of designated properties.
- Zoning and Development Standards – Studies would be conducted to assess the benefit of adjusting zoning and development standards for preservation of historic properties.
 - Parking – This would reduce current parking requirements for designated properties as a means of facilitating continued use of the existing historic property. This incentive would mainly apply to commercial properties.
 - Yard Setbacks – Studies would be conducted to determine incentives that would be appropriate.
- International Existing Building Code, Appendix A – Would provide alternative requirements for unreinforced load bearing walls, allowing the continued use of certain brick and masonry buildings.
- Transfer Development Rights/ Conservation Easements – Would allow the owner of a designed landmark or district contributing property that is under built in terms of allowable building height and floor area to transfer their rights of development to another property in the City.
- Expedited Plan Check
- Fee Waivers

Identifying Historic Resources

All properties in the City will periodically be reviewed for their potential as a Historic Resource. A flow chart illustrating the proposed process is provided as well as a list of terms used in this report. A full list of terms with definitions is provided in the draft ordinance. For illustrative purposes, terms have been organized to reflect the process flow presented in the flow chart.

Terms:

Survey. (verb) A systematic and standardized process for identifying and gathering data on the City's potential historic resources by which properties are documented and evaluated for eligibility for listing on the City's Register, the California Register, or the National Register.

Inventory (Historic Resources Inventory or Local Inventory). (noun) A list maintained by the City, which contains all properties surveyed for historical or architectural significance determined to be eligible historic resources and all properties within neighborhoods or areas determined to be eligible historic districts. In creating and maintaining the inventory, surveys, either of individual properties or of several properties as once, shall be conducted and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled 1) by or on behalf of the city, or 2) by a Qualified Historic Preservation Consultant for a specific property in which case the individual survey shall be submitted to and deemed sufficient by the Director to support inclusion of the property on the Local Inventory.

Nominated Resource. A property that has been identified as a potential historic resource and has been nominated for listing on the Beverly Hills Register as provided for in this Article.

Local Register (City of Beverly Hills Register) (noun) The register contains those properties formally designated by City Council as landmarks or historic districts pursuant to the provisions of this Article. Also referred to as the Local Register.

Landmark. Any building, structure, object, place, landscape, or natural feature that is listed on the Local Register as approved by the City Council, pursuant to this Article.

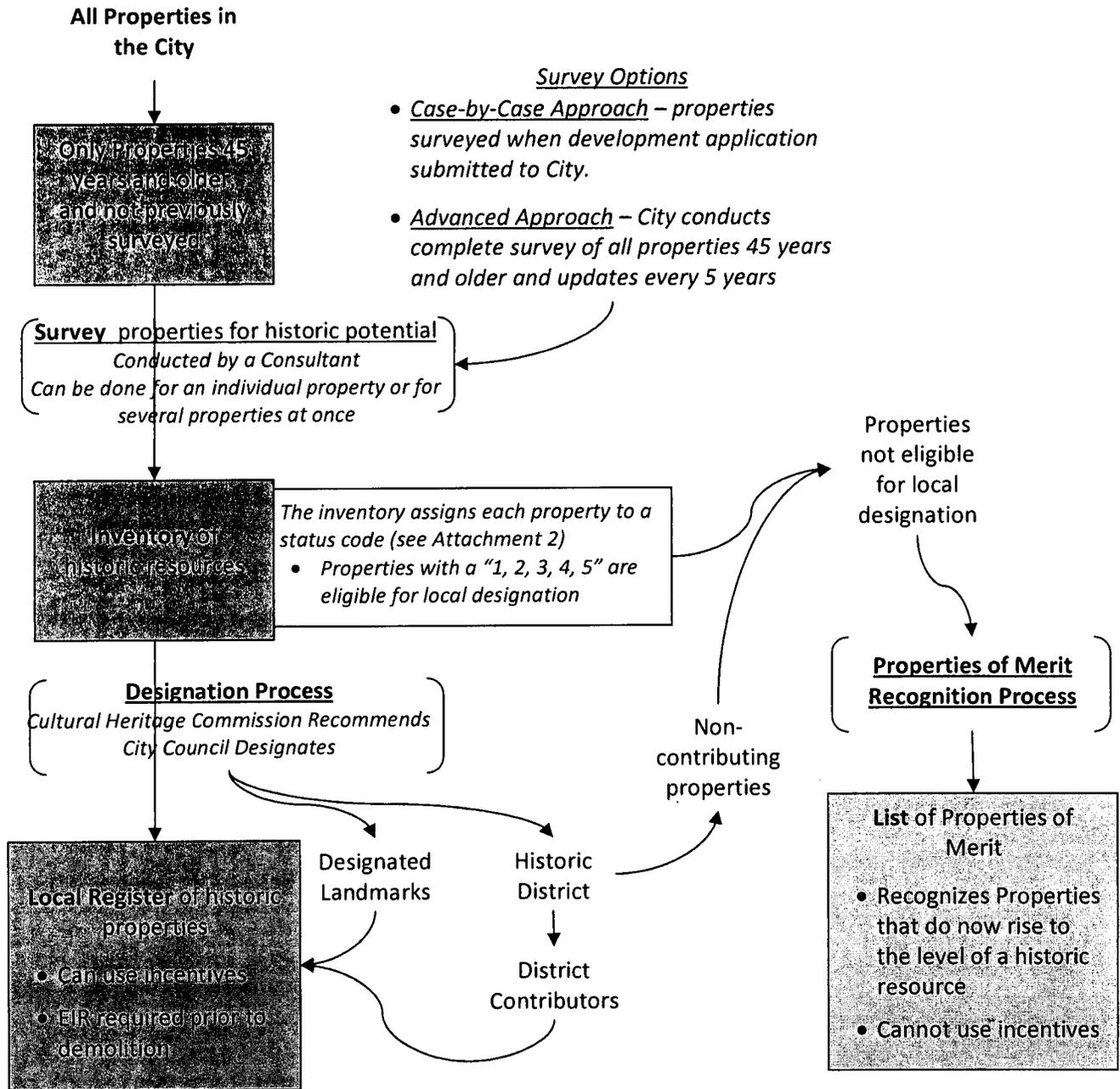
Historic District. A geographic area having a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development that has been designated pursuant to this Article. For the purposes of this article, 70% of the properties in a geographic area must be determined to be contributing in order for that area to be considered for designation as an Historic District.

Contributing Property. A property, including all buildings, structures or objects located on it, that adds or contributes to the significance of a historic district.

Non-contributing Property. A property within an historic district that is not identified as a contributing property as previously defined.

Property of Merit. Any Property recognized as being of architectural, historical, or cultural interest to the community and approved as such by the Cultural Heritage Commission pursuant to the provisions of this article.

SURVEY, INVENTORY, DESIGNATED LANDMARK, LOCAL REGISTER FLOW CHART



Designating Historic Landmarks and Historic Districts

Historic Landmarks. The Cultural Heritage Commission would recommend to the City Council, and the City Council would designate properties included on the City's inventory of historic resources and determined to be eligible for designation as local historic landmarks.

Historic Districts. The Cultural Heritage Commission would also recommend to the City Council, and the City Council would also designate historic districts. Eligibility for being designated a historic district would include a requirement that at least 70% of the properties in the proposed district contribute to the historic nature of the district. These properties are referred to as "Contributing Properties". Provisions in the draft ordinance would only apply to Contributing Properties, and not to other properties determined to not be eligible for local designation. A Contributing Property can also be eligible for individual listing.

All designated properties and district contributors would be included in the City's Local Register of Historic Properties.

Result of Designation

- Designated Landmarks and Contributing Properties would be eligible to use the proposed incentives.
- Any work (replacement in kind of deteriorating materials, alterations, additions and other work requiring a building permit) proposed on a property listed as a Designated Landmark or a Contributing Property would require a Certificate of Appropriateness.
- Designated Landmarks and Contributing Properties would be considered historic resources for the purposes of the California Environmental Quality Act (CEQA) and therefore demolition would automatically trigger an Environmental Impact Report (EIR).

Property of Merit. A property owner of a property not eligible for local designation as a Landmark or as Contributing Property may request recognition of the property by the City as a Property of Merit.

Issuing Certificates of Appropriateness for Work Proposed on Landmarks and Historic District Contributing Properties

A certificate of appropriateness would be required for any work on a Designated Landmark or Contributing Property that requires a building permit.

Certificates of Appropriateness would either be reviewed by the Director (administrative review), or by the Cultural Heritage Commission (or by the Planning Commission in cases where an application for Certificate of Appropriateness accompanies a Planning Commission level entitlement application).

Administrative Review. Proposed work to a designated landmark that would be eligible for administrative review includes minor repairs and maintenance.

Commission Review Required When

- The scope or breath of work proposed is greater than what is eligible for administrative review;

- When the importance of the property warrants;
- When a potential discrepancy between the proposal and the Secretary of the Interior's Standards for the Treatment of Historic Properties justifies Commission review.

Recognizing Properties of Merit

Recognizing Properties of Merit provides an opportunity for the owners of properties that may or may not be eligible for designation as a landmark to have their property recognized for its unique or rare architecture, or historic, architectural or aesthetic benefit to the neighborhood.

- Properties of Merit would be recognized by the Cultural Heritage Commission
- Properties of Merit would be eligible to receive a plaque, at the owner's expense, that would be displayed on the street side of the exterior of the property.
- Properties of Merit could be altered or demolished in part or in whole through issuance of a building permit and following the City's current design or architectural review requirements without obtaining any additional clearance based on the property being recognized.
- Properties of Merit would not be considered historic resources for the purposes of the California Environmental Quality Act (CEQA) and therefore alteration or demolition would not automatically trigger an Environmental Impact Report (EIR).

Preventing Demolition of Potentially Historic Resources and Establishing Penalties

Demolition, significant alteration, or relocation of buildings or structures 45 years or older would require a Certificate of Appropriateness (see below) if the building or structure meets the following criteria.

Commercial and Multi-Family Properties

- Listed on the Local Register;
- Built at least 45 years ago and is identified on the Local Inventory with a status code of 1, 2, or 3 (see Attachment 2, status code 1, 2 & 3 are properties either on the National or State Register or eligible for listing on the National or State Register);
- Built at least 45 years ago and was designed by an architect included on the City's list of master architects.

Single-Family Properties

- Listed on the Local Register;
- Built at least 45 years ago and is identified on the Local Inventory with a status code of 1, or 2 (see Attachment 2, status code 1 & 2 are properties listed on the National or State Registers);
- Built at least 45 years ago and was designed by an architect included on the City's list of master architects.

Enforcement and Penalties. Enforcement measures and penalties are proposed to strongly discourage unauthorized alteration or demolition of buildings and structures that meet one of the above criteria.

PROGRAM ADMINISTRATION

As mentioned in the previous staff report of October 27, 2011, establishing an historic preservation program in the City could result in additional staffing needs. As a draft program is developed the staffing needs will be better understood and estimations will be developed. Staff is currently assessing the anticipated workload associated with administering the draft ordinance.

NEXT STEPS

With direction, staff will revise the draft ordinance and return for the Planning Commission's consideration on December 19, 2011.

Report Reviewed By:



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Attachment 1



City of Beverly Hills

Planning Division

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Planning Commission Report

Meeting Date: October 27, 2011

Subject: Establishing an Historic Preservation Program for the City of Beverly Hills

Recommendation: Review and consider information provided on local Historic Preservation Programs and provide direction to Staff on developing a program for the City.

REPORT SUMMARY

Historic Preservation is a means of preserving, conserving and protecting buildings, structures, objects, sites, landscapes or other artifacts of historical significance. Local historic preservation programs have been established by many cities throughout Southern California. On the Westside of Los Angeles, the Cities of Culver City, Santa Monica, West Hollywood, and Los Angeles have established reputable programs. Other cities with historic preservation programs in the greater region include: Glendale, Monrovia, Pasadena, Laguna Beach, and Coronado. Case studies have been conducted for each of these programs as a means of showing various models for Historic Preservation in Southern California.

BACKGROUND

The City Council has directed the Planning Commission and the Community Development Department to study and develop an historic preservation program for the City of Beverly Hills.

DISCUSSION

The City reviewed the historic preservation programs for several cities in Southern California. Summaries of the review are provided in Attachment 1. The following discussion is based on these program summaries. In general, historic preservation programs in Southern California have the following characteristics:

- Defined in the City's General Plan, enabled through a Zoning Ordinance
- Either any member of the public can nominate a property for historic designation, or the property owner must to request nomination. In some cities where any member of the public can nominate, the property owner must agree to the nomination.
- Established set of criteria with a requirement that a property meet at least one criterion on the list.
- Historic resource survey. Although not included in the study, most cities have conducted and maintain an inventory. Some cities use the inventory to designate historic properties, without waiting for a nomination to come from the property owner or a member of the public.
- Of the cities surveyed, most have dedicated full time employees administering their programs.

Attachment(s):

1. Surveyed Historic Preservation Programs in Southern California
2. Historic Preservation Element of the General Plan

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- All programs surveyed have a dedicated appointed body reviewing cases. If the city is a Certified Local Government, the review body is a Cultural Heritage and Landmarks Commission.
- Incentives offered include relaxed development standards, fee waivers, façade easements, transfer of development rights, Mills Act tax relief, and use of the State Historic Building Code.
- Oftentimes, designated properties may request a plaque to be displayed to the public.

Existing Historic Resources

The Federal Government and the State Government both maintain lists of designated historic properties.

National Register of Historic Places (National Register)

The National Register is the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of their community, region, state, or the nation. Seven properties in the City of Beverly Hills are listed on the National Register:

Sites in Beverly Hills Listed on the National Register of Historic Places

Anderton Court Shops	332 N. Rodeo Drive
Beverly Hills Women's Club	1700 Chevy Chase Drive
Beverly Wilshire Hotel	9528 Wilshire Boulevard
Doheny Estate/ "Greystone"	905 Loma Vista Drive
Harold Lloyd Estate/ "Greenacres"	
Virginia Robinson Estate	1008 Elden Way
U.S. Post Office – Beverly Hills Main	469 N. Crescent Drive

Benefits of Listing on the National Register

- Recognition
- Consideration in planning for Federal, federally licensed, and federally assisted projects
- Eligibility for certain tax provisions
- Qualification for Federal grants for historic preservation
- Use of the State Historical Building Code

California Register of Historical Resources (California Register)

Properties listed on a California Register are eligible for a plaque and markers identifying the historic resource. Plaques and markers must be purchased by the property owner and are provided only upon request.

The City's General Plan identified 48 properties as being eligible for listing the State's Registry. The General Plan's Historic Preservation Element is included as Attachment 2 of this report.

City of Beverly Hills Landmark Register

Although the City's Municipal Code allows for the designation of local historic resources (BHMC Title 10, Chapter 3, Article 32. Preservation of Landmarks), currently no local resources have been designated by the City.

Historic Preservation in Beverly Hills to Date

- 1975 – City adopts Beverly Hills Municipal Code Title 10, Chapter 3, Article 32. Preservation of Landmarks, which establishes a means for locally designating historic resources. City begins reviewing properties 50 years and older as potential historic resources as part of the environmental review required under the California Environmental Quality Act (CEQA).
- 1980s – The first of three surveys of historic resources is conducted and the Architectural Commission considers locally designating certain properties. Many properties in the City are photographed and building permits are compiled to provide a record of how buildings were altered in the event that a building was identified as a potential historic resource in the future.
- 1990s – The second of three surveys of historic resources is conducted.
- 2000s – The third of three surveys of historic resources is conducted.
- 2010 – The City Council amends the General Plan to include an Historic Preservation Element and an implementation program which calls for the development of an Historic Preservation Program.
- 2011 – The City Council establishes a Mills Act program and directs staff to develop an Historic Preservation Program

General Plan – Historic Preservation Element and Implementation Program

Development of an Historic Preservation Program would be consistent with the City's General Plan. In 2010 the City of Beverly Hills amended its General Plan to include an Historic Preservation Element, which is included as Attachment 2. The Historic Preservation Element includes two goals and eleven policies. The General Plan goals are as follows:

Historic Preservation Element - Goals

HP 1 Value and Preserve Significant Cultural Resources. A community with well-preserved and maintained historic and cultural resources that provide a sense of permanence, foster civic pride and stewardship, and contribute to the unique identify and charm of the City.

HP 2 Promotion of the City's Historic Resources. Acknowledge and actively promote the City wealth of historic resources through a variety of activities geared to residents, visitors, and the public at large.

Additionally, the City's General Plan includes Implementation Program 2.3, which calls for the development of an Historic Resources Ordinance as a framework for the preservation and documentation of significant historic and cultural resources in the community.

Implementation Program 2.3 Other Development Regulations and Ordinances.

Historic Preservation. Consider adoption of a local Historic Resources Ordinance as a framework for the preservation and documentation of significant historic and cultural resources in the community. The ordinance would identify specific actions designed to preserve, maintain and promote the City rich inventory of cultural resources including:

- Adopting a **local register** of historic resources and establishing criteria and procedures to list properties;
- Maintain an updated **historic resources inventory**, and requiring documentation of resources that may be approved for demolition, including establishment of an archive of historic information and resources;
- Programming to **promote the designation and protection** of significant local resources including residential, and non-residential properties;
- Exploring establishment of a **requirement to replace commercial buildings** that are demolished, and to extend this provision to residential buildings at some point in the future;
- Exploring **incentives such as a Mills Act Ordinance**, conservation easements, and transfer of development rights to promote preservation of significant resources;
- Establishing **disincentives and penalties for the demolition** of significant resources without benefit of City permits; and
- **Programming and partnerships** to promote the wealth of historically significant local resources.

DEVELOPING A LOCAL PROGRAM – DIRECTION SOUGHT

Historic preservation programs promote the historic architecture, culture, and aesthetic values and traditions of a city through the preservation of landmarks and districts. Historic preservation programs can add to the stability of neighborhoods and areas of the city; contribute to higher property values; fulfill the goals and policies of the City's general plan; help protect and enhance the city's cultural and aesthetic heritage; and if designed to do so, promote and encourage continued private ownership and utilization of historic resources.

Staff is seeking direction on developing a local historic preservation program. The following information is presented to facilitate discussion. This information is based on the existing historic preservation programs surveyed and is presented in the same order as the program summaries in Attachment 1. The Planning Commission, upon consideration could elect to develop a program with characteristics similar to what is presented, or could propose alternatives.

1. **Preservation Focus** – The preservation focus describes what the city’s historic preservation program is focused on preserving. The City of Los Angeles uses the following phrase (see Attachment 1 for additional cities):

“Properties and neighborhoods with distinct architectural and cultural resources”

Los Angeles’ phrase captures the essential nature of preserving architectural and cultural resources without further defining what this includes. This could work well for the City of Beverly Hills at this time, while the City reviews potential historic resources through the Mills Act Pilot Program.

2. **Enabling Legislation** – Enabling legislation determines how a city adopts its program. Most cities surveyed established their programs in the General Plan as an Element, and implemented the program through a Zoning Ordinance. City of Beverly Hills adopted an Historic Preservation Element in 2010 (Attachment 2). Under the current approach, the Planning Commission could develop a Zoning Ordinance to implement the General Plan’s Historic Preservation Element. This process is consistent with how most existing programs surveyed were developed.
3. **Implementation** – Implementation addresses how a city administers the historic preservation program. Aspects of program implementation are listed below for the Planning Commission’s consideration.

- **Nomination of Potential Resources.** Cities in the region either allow any person to nominate a property for designation, or limit nomination to the property owner and the City’s designated historic resources commission. Limiting nominations to the property owner and designated commission (with consent from the property owner) would encourage cooperation on maintaining potential historic resources.
- **Inventory of Potential Historic Resources.** Most cities review properties for their potential as historic resources. Many cities conduct this review as part of a regularly updated inventory. Conducting an inventory of potential historic resources is especially important if the City would like to designate local resources without first having a community member, or the property owner nominate the property for designation (with consent of the property owner). Inventories can be costly, and the City has conducted at least three dating back to 1986. The need for additional inventories should be further evaluated.
- **Certificate of Appropriateness.** Many cities require a certificate of appropriateness prior to allowing any alteration of a designated historic resource. Requiring a certificate of appropriateness would allow the City to review and monitor any modification proposed to a designated resource and would assure that modification does not diminish the resource’s importance.
- **Recognition.** Many cities offer a plaque to designated properties. Recognition of local historic resources could have an element of prestige, and could also integrate with City programs focused on economic sustainability and tourism.
- **Demolition of Potential Historic Structures** – Currently the City does not have a means of preventing the demolition of a potentially historic structure when there is no replacement project proposed. To further review a potential site for its historic resource potential, the following or similar process could be adopted (see next page):

Potential Process to Reduce Demolition of Potential Historic Structures

If a site is both 45 years old, meets at least two of the Criteria for Local Designation as an Historic Resource (see below), and retains sufficient historic integrity to convey its historical significance, then a 90-day "cooling off" period is required prior to demolition of the structure. During the 90-day period, the property owner will conduct public outreach.

4. **Criteria for Local Designation** – Currently, the City's Municipal Code, Title 10, Chapter 3, Article 32 defines a landmark:

Beverly Hills Municipal Code Title 10 Chapter 3 Article 32 (BHMC 10-3-32. Preservation of Landmarks)

"For the purposes of this article, a "historical or cultural landmark" is any site (including significant trees or other plant life located thereon), building, or structure of particular historic or cultural significance to the city, such as historic structures or sites in which the broad cultural, political, economic, or social history of the nation, state, or community is reflected or exemplified, or which are identified with historic personages or with important events in the main currents of national, state, or local history, or which embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period style or method of construction, or a notable work of a master builder, designer, or architect whose individual genius influences his age. (Ord. 75-O-1563, eff. 4-10-1975)"

Establishing criteria for designating historic resources would assist the City in reviewing nominations for local designation. As a suggestion towards this action, BHMC Article 32 could be amended to include criteria for designating local historic resources (refer to Attachment 1 to review the criteria used by other cities):

Potential Criteria for Local Designation as an Historic Resource

A property must satisfy both of the following criteria to be eligible for designation as an historic resource.

1. **Must meet at least two of the following:**
 - a. Is identified with important events in the main currents of national, state or local history or directly exemplifies significant contributions to the to the broad social, political, cultural, economic history of the nation, state, city or community; or
 - b. Is directly associated with the lives of historic personages important to national, state, city or local history; or
 - c. Embodies the distinctive characteristics of a style, type, period or method of construction; or represents a notable work of a master architect, builder, or designer¹ whose work influenced his or her generation; or possesses high artistic or aesthetic value; or
 - d. Has yielded or has the potential to yield, information important to the pre-history or history of the nation, state, city or community; or

¹ The Community Development Department would maintain a list of Master Architects, Builders, and Designers.

- e. Represents a significant and distinguishable entity whose components may lack individual distinction; or
 - f. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been determined eligible by the State Historic Preservation Office for listing on the State Register of Historical Resources.
2. **Retains Integrity from its Period of Significance.** Proposed landmarks do not need to retain all aspects of integrity, but should retain a sufficient degree of those aspects of integrity that related to why it is significant. Integrity shall be judged with reference to the particular criteria associated with the potential landmark's significance. The seven qualities of integrity are: location, material, workmanship, design, association, feeling, and setting. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.
5. **Incentives** – The City Council recently established a local Mills Act Pilot Program. Local designation would qualify a property for consideration for this program. Other incentives identified in the City of Beverly Hills General Plan, and currently part of other local Historic Preservation Programs include the following. Providing both financial incentives, and development incentives (transfer of rights and reduced requirements) could offer a full range of options for preserving existing structures.

Potential Incentives

- Mills Act
 - Conservation Easements
 - Transfer of Development Rights
 - Fee Waivers
 - Relaxed Development and Parking Standards
 - Alternative Uses
 - Expedited Plan Check
 - State Historical Building Code
6. **Program Administration** – Establishing an historic preservation program in the City could result in additional staffing needs. As a draft program is developed the staffing needs will be better understood and estimations will be developed.

NEXT STEPS

With direction, staff will return with a draft Historic Preservation Program for the Planning Commission's consideration.

Report Reviewed By:

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Attachment 2

California Historical Resource Status Codes

1 Properties listed in the National Register (NR) or the California Register (CR)

- 1D Contributor to a district or multiple resource property listed in NR by the Keeper. Listed in the CR.
- 1S Individual property listed in NR by the Keeper. Listed in the CR.

- 1CD Listed in the CR as a contributor to a district or multiple resource property by the SHRC
- 1CS Listed in the CR as individual property by the SHRC.
- 1CL Automatically listed in the California Register – Includes State Historical Landmarks 770 and above and Points of Historical Interest nominated after December 1997 and recommended for listing by the SHRC.

2 Properties determined eligible for listing in the National Register (NR) or the California Register (CR)

- 2B Determined eligible for NR as an individual property and as a contributor to an eligible district in a federal regulatory process. Listed in the CR.
- 2D Contributor to a district determined eligible for NR by the Keeper. Listed in the CR.
- 2D2 Contributor to a district determined eligible for NR by consensus through Section 106 process. Listed in the CR.
- 2D3 Contributor to a district determined eligible for NR by Part I Tax Certification. Listed in the CR.
- 2D4 Contributor to a district determined eligible for NR pursuant to Section 106 without review by SHPO. Listed in the CR.
- 2S Individual property determined eligible for NR by the Keeper. Listed in the CR.
- 2S2 Individual property determined eligible for NR by a consensus through Section 106 process. Listed in the CR.
- 2S3 Individual property determined eligible for NR by Part I Tax Certification. Listed in the CR.
- 2S4 Individual property determined eligible for NR pursuant to Section 106 without review by SHPO. Listed in the CR.

- 2CB Determined eligible for CR as an individual property and as a contributor to an eligible district by the SHRC.
- 2CD Contributor to a district determined eligible for listing in the CR by the SHRC.
- 2CS Individual property determined eligible for listing in the CR by the SHRC.

3 Appears eligible for National Register (NR) or California Register (CR) through Survey Evaluation

- 3B Appears eligible for NR both individually and as a contributor to a NR eligible district through survey evaluation.
- 3D Appears eligible for NR as a contributor to a NR eligible district through survey evaluation.
- 3S Appears eligible for NR as an individual property through survey evaluation.

- 3CB Appears eligible for CR both individually and as a contributor to a CR eligible district through a survey evaluation.
- 3CD Appears eligible for CR as a contributor to a CR eligible district through a survey evaluation.
- 3CS Appears eligible for CR as an individual property through survey evaluation.

4 Appears eligible for National Register (NR) or California Register (CR) through other evaluation

- 4CM Master List - State Owned Properties – PRC §5024.

5 Properties Recognized as Historically Significant by Local Government

- 5D1 Contributor to a district that is listed or designated locally.
- 5D2 Contributor to a district that is eligible for local listing or designation.
- 5D3 Appears to be a contributor to a district that appears eligible for local listing or designation through survey evaluation.

- 5S1 Individual property that is listed or designated locally.
- 5S2 Individual property that is eligible for local listing or designation.
- 5S3 Appears to be individually eligible for local listing or designation through survey evaluation.

- 5B Locally significant both individually (listed, eligible, or appears eligible) and as a contributor to a district that is locally listed, designated, determined eligible or appears eligible through survey evaluation.

6 Not Eligible for Listing or Designation as specified

- 6C Determined ineligible for or removed from California Register by SHRC.
- 6J Landmarks or Points of Interest found ineligible for designation by SHRC.
- 6L Determined ineligible for local listing or designation through local government review process; may warrant special consideration in local planning.
- 6T Determined ineligible for NR through Part I Tax Certification process.
- 6U Determined ineligible for NR pursuant to Section 106 without review by SHPO.
- 6W Removed from NR by the Keeper.
- 6X Determined ineligible for the NR by SHRC or Keeper.
- 6Y Determined ineligible for NR by consensus through Section 106 process – Not evaluated for CR or Local Listing.
- 6Z Found ineligible for NR, CR or Local designation through survey evaluation.

7 Not Evaluated for National Register (NR) or California Register (CR) or Needs Reevaluation

- 7J Received by OHP for evaluation or action but not yet evaluated.
- 7K Resubmitted to OHP for action but not reevaluated.
- 7L State Historical Landmarks 1-769 and Points of Historical Interest designated prior to January 1998 – Needs to be reevaluated using current standards.
- 7M Submitted to OHP but not evaluated - referred to NPS.
- 7N Needs to be reevaluated (Formerly NR Status Code 4)
- 7N1 Needs to be reevaluated (Formerly NR SC4) – may become eligible for NR w/restoration or when meets other specific conditions.
- 7R Identified in Reconnaissance Level Survey: Not evaluated.
- 7W Submitted to OHP for action – withdrawn.

Attachment 3

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Article 32
[DRAFT] - HISTORIC PRESERVATION
Title 10, Chapter 3

10-3-3201: TITLE:

This Article shall be known as the Historic Preservation Ordinance of the City of Beverly Hills.

10-3-3202: PURPOSE AND AUTHORIZATION:

The purpose of this article is to promote the public health, safety and general welfare by providing for the identification, recognition, designation, protection, enhancement, perpetuation and use of historic resources that reflect associations important in the city's history and to:

- A. Safeguard the character and history of the City which is reflected in its unique architectural, historical, and cultural heritage;
- B. Foster civic and neighborhood pride and a sense of identity based on the recognition of the City's past accomplishments as reflected through its buildings, structures, objects, landscaping, natural features, infrastructure, and engineering;
- C. Promote public education and awareness by preserving and encouraging interest in Beverly Hills' cultural, social, and architectural history;
- D. Strengthen the City's economy by protecting and enhancing the City's attractions to residents, tourists, visitors, and others, thereby serving as a stimulus and support to local business and industry;
- E. Enhance property values, stabilize neighborhoods, and render city landmarks eligible for financial benefits and incentives;
- F. Acknowledge the critical role served by owners of city landmarks in furthering the goal of historic preservation pursuant to the City's General Plan;
- G. Encourage preservation and adaptive reuse of landmarks by allowing changes to a historic building to accommodate new functions, and not to "freeze" historic buildings in time;
- H. Identify financial and other incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate and improve landmarks.

10-3-3203: APPLICABILITY:

This Article applies to all historic resources within the City.

10-3-3204: ADMINISTRATIVE GUIDELINES:

The Director is authorized to develop and make publically available historic resources guidelines and other support documents as necessary to implement this article. These administrative guidelines shall serve as baseline standards for evaluation and designation of historic resources, and processing applicable certificates of appropriateness as issued pursuant to this article.

10-3-3205: PERMIT REQUIRED:

No permit shall be issued for any purpose regulated by this Article unless and until the proposed work has been approved or granted conditional approval by the Director, Commission, or by the City Council on appeal, and then the permit shall be issued in conformity with such approval or conditional approval.

10-3-3206: ORDINARY MAINTENANCE AND REPAIR:

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this chapter that does not involve a change in design, material, or external appearance thereof; however for designated landmarks, an administrative certificate of appropriateness or a Commission certificate of appropriateness may be required.

10-3-3207: MINIMUM MAINTENANCE REQUIREMENTS:

Every person in possession or control and every owner of a landmark or district contributor and any appurtenant premises shall, to the maximum extent practicable, maintain and keep the historic property in good repair, as defined in Beverly Hills Building Code Section xxxx. In the case that a historic property constitutes a public nuisance or is subject to vandalism, the Building & Safety Division may issue any order it deems appropriate to prevent further vandalism or public nuisance pursuant to Beverly Hills Municipal Code Section xxxx.

10-3-3208: DEFINITIONS:

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Addition. Any extension or increase in floor area or height of a building or structure.

Archaeological Site. An area where remains of man or his activities prior to keeping of history are still evident.

Building. A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

California Environmental Quality Act (CEQA). The California Public Resources Code Section 21000 *et seq.*, and the State of California CEQA Guidelines, 14 Cal. Code Regs. 15000 *et seq.*, as may be amended from time to time.

California Register of Historical Resources. The authoritative and comprehensive listing and guide to California's significant historical resources as defined in California Public Resources Code Section 5020.1, as may be amended. Also referred to as the California Register.

Certificate of Appropriateness, Administrative. A certificate issued by the Director of the Community Development Department approving alteration, restoration, construction, removal, relocation in whole or in part, of a designated landmark or contributing property within an historic district.

Certificate of Appropriateness, Commission. A certificate issued by a City Commission approving alteration, restoration, construction, removal, relocation in whole or in part, of a designated landmark or contributing property within an historic district.

Certificate of Economic Hardship. A certificate authorizing work described in an accompanying Certificate of Appropriateness granted by a City Commission because of extreme financial privation or adversity and in accordance with the procedures and findings of this Article.

Certified Local Government. The program authorized by the National Historic Preservation Act of 1966 (16 U.S. C. Section 470 et seq.) and the subsequent participatory agreement between the City and the State of California Office of Historic Preservation.

Character-Defining Feature. A prominent or distinctive aspect, quality, or characteristic of a historic resource that contributes significantly to its physical character and historical significance. Such features may include but are not limited to landscaping, setbacks, massing, distinguishing aspects, roof attributes, materials, moldings, sculptures, fountains, light fixtures, windows, doors, and monuments.

City of Beverly Hills Register. The register contains those properties formally designated by City Council as landmarks or historic districts pursuant to the provisions of this Article. Also referred to as the Local Register.

Commission. The Cultural Heritage Commission as defined in Section 10-3-3205 of this Article.

Contributing Property. A property, including all buildings, structures or objects located on it, that adds or contributes to the significance of a historic district under criteria set forth in this Article.

Demolition or Demolish. Any act or process that destroys in part or in whole an individual historic resource such that the historic character and key character-defining features of the property are completely removed and cannot be repaired or replaced. The terms Demolition or Demolish shall include, but not be limited to, the act of pulling down, destroying, removing, or razing a property or commencing work thereof with the intent of completing the same.

Economic Hardship. The facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property in its current form.

Exceptional Significance. A property having extraordinary importance under applicable evaluation criteria and context as defined in: "Criteria Consideration G: Properties That Have Achieved Significance within the Last Fifty Years", in the "National Register Bulletin: How to Apply the National Register Criteria for Evaluation".

Historic District. A geographic area having a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development that has been designated pursuant to this Article. For the purposes of this article, 70% of the properties in a geographic area must be determined to be potential historic resources in order for that area to be considered for designation as an Historic District.

Historic Personage. An individual whose activities, contributions and impact to an important local, state, or national historic context can be demonstrated through scholarly research and judgment. Properties associated with a historic personage illustrate (rather than commemorate) a person's important achievements and must reflect the time period in which he or she achieved significance.

Historic Resource. May also be referred to as an historic property. Those properties determined to be a historic resource under CEQA, NEPA, Section 106 of the National Historic Preservation Act of 1966, as amended; under any other provision of California law; or listed, nominated or eligible for listing in the Local Register.

Historic Resources Inventory or Local Inventory. A list maintained by the City, which contains all properties surveyed for historical or architectural significance determined to be eligible historic resources and all properties within neighborhoods or areas determined to be eligible historic districts. In creating and maintaining the inventory, surveys, either of individual properties or of several properties as once, shall be conducted and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled 1) by or on behalf of the city, or 2) by a Qualified Historic Preservation Consultant for a specific property in which case the individual survey shall be submitted to and deemed sufficient by the Director to support inclusion of the property on the Local Inventory.

Integrity. The ability of a landmark property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

Landmark. Any building, structure, object, place, landscape, or natural feature that is listed on the Local Register as approved by the City Council pursuant to this Article.

Maintenance and Repair. Any work done to correct or prevent the deterioration, decay of, or damage to a property, building, structure, or any part thereof, including replacement in-kind where appropriate, and which does not involve a change in the existing design or materials.

Mills Act. The California Government Code Sections 50280 et seq., as it may be amended from time to time.

National Register of Historic Places. The official list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology and/or culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966, as amended (16 U. S. C. 470 et seq., 36 C.F.R. Sections 60, 63).

Natural Feature. Any naturally occurring tree, plant, plant community or geographical or geological site or feature.

Nominated Resource. A property that has been identified as a potential historic resource and has been nominated as a Landmark for listing on the Local Register as provided for in this Article.

Non-contributing Property. A property within an historic district that is not identified as a contributing property as previously defined.

Object. The term "object" is used to distinguish from buildings and structure those construct that are primarily artistic in nature or are relatively small in scale and simple construction. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Ordinary Maintenance and Repair. Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a building or structure or any part thereof and to restore the same, to its condition prior to the occurrence of such deterioration or damage.

Owner. Any person(s), association, partnership, firm, corporation or public entity identified as the holder of title on any property as shown on the last assessment roll of the County of Los Angeles, as applicable. For purposes of this article, the term owner shall also refer to an appointed representative of an association, partnership, firm, corporation or public entity which is a recorded owner.

Period of Significance. Is the span of time that a property was associated with important events, activities, or persons, or attained the characteristics that qualify it for landmark or historic district designation.

Preservation. Is the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic resource.

Property. The entirety of a site, including the buildings, structures, landscaping and other physical aspects of the location, regardless of historic designation.

Property of Merit. Any Property of architectural, historical, or cultural interest to the community and recognized as such by the Cultural Heritage Commission pursuant to the provisions of this article.

Property of Merit List. A list of properties recognized by the Cultural Heritage Commission as being of architectural, historical, or cultural interest to the community. The Property of Merit list does not include properties designated as City landmarks or historic districts.

Qualified Historic Preservation Consultant. A consultant that meets the Secretary of the Interior's Professional Qualifications Standards, as defined in 36 C.F.R. 61.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished building, structure, landscape or object, or a part thereof, as it appeared at a specified period of time.

Rehabilitation. Any act or process of making a compatible use for a property through repair, alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values.

Relocation. The act or process of moving a historic resource from one site to another site, or to a different location on the same site.

Resource. Any building, structure, site, area, place, feature, characteristic, landscape, or improvement.

Restoration. The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Secretary of the Interior's Standards. The "Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" found at 36 C.F.R. 68.3, as it may be amended from time to time.

Significant Persons. Persons significant in our past refer to individuals associated with Beverly Hills whose activities, achievements and contributions are demonstrably important within the city, state, or nation and directly associated with a historic resource. The resource must be associated with the person during the period that the person's significant achievements and contributions occurred. A person would not be considered historically significant by virtue of position/title, affiliation, race, gender, ethnicity or religion.

Site. A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

Stabilization. The act or process of applying measures designed to re-establish a weather resistant enclosure, or the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

State Historical Building Code. Part 2.7 of the California Health and Safety Code, commencing with Section 18950, and the regulations promulgated there under, as they may be amended from time to time (Cal. Code Regs., Title 24, Part 8).

Structure. The term “structure” is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter.

Substantial Alteration. Any destruction, relocation or alteration activities that would change a historic resource’s character-defining features or impair its historical significance.

Survey. A systematic and standardized process for identifying and gathering data on the City’s potential historic resources by which properties are documented and evaluated for eligibility for listing on the City’s Register, the California Register, or the National Register.

10-3-3209: CULTURAL HERITAGE COMMISSION:

A. Establishment of a Commission. There is hereby established the Cultural Heritage Commission. The Commission shall have and exercise the powers and perform the duties set forth in this article with respect to historic preservation.

B. Appointment and Qualifications. The Commission shall be composed of five (5) members appointed by the City Council, all of whom shall be residents of the city. Members of the Commission shall have the duties and functions set forth in this Article.

The Commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two of the Commissioners should be professionals who meet the qualifications for various disciplines outlined by the U.S. Secretary of the Interior, Code of Federal Regulations, 36 CFR Part 61. These disciplines include history, architecture, architectural history, planning, pre-historic and historic archaeology, folklore, cultural anthropology, curation, conservation and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that these professionals are available in the community. Of the five members, at least one should be a registered architect, licensed contractor or a California real estate licensee.

C. Term. The term of office for each Commissioner shall begin with the first day of March and shall be an initial term of two (2) years, with the opportunity to reappointment to an additional 4-year term. An appointment to fill a vacancy on the Commission shall be for the period of the unexpired term.

D. Rules and Orders. The Commission shall elect officers and establish its own rules and regulations which shall be consistent with the Cultural Heritage Commission Bylaws and this code. Copies of the Commission’s Bylaws shall be kept on file in the office of the City Clerk. The Commission shall keep a record of its resolutions, proceedings and transactions, and the City Clerk shall be the repository for all such records.

- E. **Secretary of the Commission.** The Director of the Community Development Department (Director) or his or her designee shall assign an employee of the Department, other than the Director, to be the Secretary of the Commission and assign duties to the employee, which shall be in addition to the duties regularly prescribed for that employee.

The Secretary shall attend Commission meetings and keep a record of the proceedings and transactions of the Commission, specifying the names of the Commissioners in attendance at each meeting and the ayes and noes upon all roll calls. The Secretary shall post and publish all orders, resolutions and notices, which the Commission shall order to be posted and published, and shall perform any other duties imposed by this chapter, or by order of the Commission.

- F. **Scheduled Meetings.** The Commission shall meet at least four times per year. In the event the Commission has more than one regular meeting per quarter, the term "regular monthly" shall mean the first such meeting in any given quarter. The commission shall establish a time and place for regular meetings to be held. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Cal. Gov. Code Section 54950 et seq.). The commission chairperson shall have the authority to call and notice special meetings in a manner specified in the Ralph M. Brown Act.

- G. **Quorum and Actions of the Commission.** A majority of the members of the Commission must be present at any meeting to constitute a quorum. The powers conferred upon the Commission shall be exercised by resolution or motion and adopted by a majority vote of the members present and recorded in the minutes with the ayes and noes. The action shall be attested to by the signature of the Secretary of the Commission.

10-3-3210: POWERS AND DUTIES OF THE COMMISSION:

Unless otherwise specified herein the duties of the Cultural Heritage Commission shall be as follows:

- A. Exercise the authority set forth in this article and as otherwise provided in this code;
- B. Inspect, investigate, and recommend for designation to the City Council or recognize, whichever is applicable, landmarks, historic districts, and/or Properties of Merit, and to make any preliminary or supplemental designations, determinations, or conclusions, as additions thereto, in order to implement the purposes of this Article;
- C. Review a city-wide historic resources survey, which is periodically updated, and recommend adoption of the survey's conclusions by the City Council;
- D. Compile or cause to be compiled and maintained a Local Register listing and describing all designated landmarks and historic districts within the city;

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- E.** Compile or cause to be compiled and maintained a list of local master architects, builders, and designers who have influenced his or her generation;
- F.** Conduct studies and evaluations of applications requesting the designation of an historic district, make determinations and recommendations as such appropriateness for consideration of such applications, and make any preliminary or supplemental designations, determinations or conclusions, and additions thereto, in order to implement the purposes of this Article;
- G.** Develop designs for suitable signs, plaques or other markers, that may be placed, at private expense, on or near a designated landmark, historic district, or Property of Merit, indicating that the resource has been designated as such;
- H.** Review and approve applications for certificate of appropriateness, and permits for interior work, as applicable;
- I.** Recommend, promulgate, amend, and rescind, from time to time, such rules and regulations as it may deem necessary to implement the purposes of this Article;
- J.** Assume the responsibilities and duties that may be assigned to the Commission by the City under the Certified Local Government provisions of the National Historic Preservation Act of 1966, as amended, including but not limited to, compliance with the National Environmental Protection Act (NEPA) and the California Environmental Quality Act with regard to historic resources;
- K.** Review and make recommendations to the City Council on Mills Act contracts.
- L.** Upon request, advise the City Council, City departments, and City commissions on whether a proposed project would have an adverse effect on the significance of historic resources, as defined by CEQA; and recommend to the City Council, City departments and City commissions appropriate action in compliance with the City's adopted CEQA procedures;
- M.** Upon request, participate in the environmental review procedures called for under this Article or under the California Environmental Quality Act by providing appropriate comments.
- N.** Provide Recommendations to the City Council regarding the utilization and promotion of incentives and grants from federal and state agencies, private groups and individuals, and budgetary appropriations to advance the preservation of historic resources in the city;
- O.** Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic resources and provide public participation in all aspects of the city's historic preservation program;
- P.** Coordinate with other local, County, State and Federal governments in the pursuit of the City's historic preservation goals;

- Q. Review and make recommendations to the Planning Commission on zoning and general plan amendments related to preserving historic resources;
- R. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year in accordance with the requirements of the Certified Local Government program;
- S. Perform any other functions that may be designated by resolution or motion of the City Council (Ord. C-6961 Section 1 (part), 1992).

10-3-3211: PRESERVATION INCENTIVES:

The City Council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve City landmarks, historic districts, and district contributors. Preservation incentives shall be made available to owners of landmarks and designated district contributors as defined in Section 10-3-3204: of this article.

Preservation Incentives the City may develop include the following:

- A. **State Historical Building Code.** The City's Building Official is authorized to, and may use the State Historical Building Code for projects involving designated historic properties. The Commission and the Director are authorized to, and may use the State Historical Building Code for preservation projects.
- B. **Historical Property Contracts (Mills Act).** Pursuant to Beverly Hills Resolution xxxx (known as the Mills Act), the City Council may establish a program providing for contractual agreement with an owner of a historic property. The terms of the Mills Act agreement allow the owner to receive a reduction in property taxes in exchange for the property owner's commitment to repair and make restoration and/or rehabilitation improvements and provide satisfactory maintenance of the property over a set period of time. The agreement shall include, but not be limited to, the contract provisions as required under law. The application process, review procedures, and required contract provisions for Mills Act agreements are established by separate resolution of the City Council and shall be implemented by the Director or his or her designee.
- C. **Zoning.** Pursuant to Beverly Hills Municipal Code Section xxxx, a Zoning Administrator may, upon application, permit some commercial uses within residential zones, in a building that is a designated historic property. Additionally, a Zoning Administrator may reduce or eliminate required off-street automobile parking spaces for a historic property if there is no area for parking, or if the provisions of required parking would harm the historic character of the property.
- D. **Parking.** Pursuant to Beverly Hills Municipal Code Section xxxx, no additional parking spaces need be provided in connection with a change of use for a designated historic landmark property. Nevertheless, a decision-making body in connection with a discretionary approval may impose conditions requiring additional parking in connection with a change of use.

- E. Yard Setbacks.** Pursuant to Section xxxx of the Beverly Hills Municipal Code, in connection with any change of use in a designated historic landmark property, the yards required shall be the same as the yards observed by the existing structures on the site.
- F. International Existing Building Code, Appendix A.** The Building Official is authorized to use the Seismic Strengthening Provisions for Unreinforced Bearing Wall Buildings found in Appendix A of the International Existing Building Code.
- G. Transfer Development Rights.** The City may study and explore establishment of a Transfer of Floor Area Ratio incentive which could allow owners of historic landmark properties to transfer unused development rights to other properties.
- H. Architectural Review Commission, Design Review Commission Exemption.** All properties designated as landmarks and any contributing properties within a designated historic district that require a certificate of appropriateness shall be exempt from review by the architectural review commission or the design review commission. The cultural heritage commission may refer any matter to the architectural review commission or design review commission for comment.

10-3-3212: PROPERTY OF MERIT RECOGNITION CRITERIA:

A property with a building, structure or object more than forty-five (45) years of age, may be recognized as a Property of Merit if the Commission determines that it retains some qualities of integrity and meets one or more of the following characteristics. Properties less than forty-five (45) years of age may also be recognized, but must also demonstrate exceptional significance as defined in Section 10-3-3204: Definitions, of this Article.

- A.** Is included on the Local Inventory as historically significant.
- B.** Satisfies at least two of the following criteria:
 - 1.** Is a unique or rare example of an architectural design, detail or property type;
 - 2.** Is representative of a style in the City that is no longer prevalent;
 - 3.** Materially benefits the historic, architectural or aesthetic character of the neighborhood;
 - 4.** Is connected with a business or use which was once common in the community but is now rare; or
 - 5.** Contributes to a greater understanding of contextual significance of a neighborhood, community or area.
- C.** Nothing in this Article shall be construed to impose any regulations or controls upon structures included on the Properties of Merit List that are neither designated

as landmarks nor situated in historic districts. Further, the Properties of Merit List shall not be construed as a local register for purposes of the California Environmental Quality Act.

10-3-3213: PROPERTY OF MERIT RECOGNITION PROCESS:

- A. The cultural heritage commission may approve a list of structures of historical, architectural or aesthetic merit which have not been designated as landmarks and are not situated in designated historic districts. The said list may be added to from time to time. The purpose of this list shall be to recognize and encourage the protection, enhancement, perpetuation and use of such structures. The cultural heritage commission and the city council shall maintain a record of properties in the City which have been recognized as Properties of Merit.
- B. Properties of merit do not require the preparation of a resolution or recordation of such recognition with the county recorder.
- C. Nothing in this article shall be construed to impose any regulations or controls upon such Properties of Merit included on the said list and neither designated as landmarks nor situated in historic districts.
- D. The city council, with the recommendation of the cultural heritage commission, may authorize such steps as it deems desirable to recognize the merit of, and to encourage the protection, enhancement, perpetuation and use of any such recognized structure, including but not limited to the issuance of a certificate of recognition and the authorization of a plaque to be located on the exterior street side of the property.

10-3-3214: ESTABLISHMENT OF A LOCAL INVENTORY OF HISTORIC RESOURCES:

The Commission, acting with the administrative support of the Director or his or her designee, shall periodically review, amend, and maintain a Local Inventory of eligible historic resources and all properties within areas identified to be eligible historic districts within the City as such is defined and provided for in the CEQA Guidelines Section 15064.5(a)(2). Resources listed on the City's historic resources inventory or individually assessed and identified as potentially eligible are eligible for nomination to the City's local register of historic properties.

10-3-3215: ESTABLISHMENT OF A LOCAL REGISTER OF HISTORIC PROPERTIES:

An official roster of designated landmarks, historic districts, and district contributors located within the City is hereby created, and is referred to as the Local Register. The purpose of the Local Register is to provide a means to preserve, protect, and enhance the most significant historic resources within the community, including buildings, structures, sites, objects, districts and natural features. Local Register properties may be identified on -site with an exterior marker or plaque displaying pertinent information about the resource. A record of properties on the

Local Register shall be kept by the City and shall be provided to the Regional Information Center of the State Office of Historic Preservation and other agencies as required.

10-3-3216: LANDMARK DESIGNATION CRITERIA:

A nominated landmark may be designated by the City Council upon the recommendation of the Commission if it is more than 45 years of age and satisfies all of the requirements set forth below.

Properties that are less than 45 years of age can be designated by the City Council, but in addition to meeting the criteria below, they must also exhibit exceptional significance as defined in Section 10-3-3204: Definitions of this Article.

For the purposes of this subsection, any interior space or spaces open to the general public, including but not limited to, a lobby area, may be included in the landmark designation of a property if the Commission, or the City Council upon appeal, finds that such public space(s) satisfies the following criteria.

To be designated as a landmark, a property must satisfy the following:

A. The property meets at least two of the following criteria:

1. Is identified with important events in the main currents of national, state, or local history or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city or community;
2. Is directly associated with the lives of historic personages important to national, state, city or local history;
3. Embodies the distinctive characteristics of a style, type, period or method of construction;
4. Represents a notable work of a master architect, builder, or designer who has influenced his or her generation; or possesses high artistic or aesthetic value;
5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city or community;
6. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been formally determined eligible by the State Historic Preservation Office for listing on the California Register of Historical Resources.

B. The property retains integrity from its Period of Significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship,

and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3207 (A) of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.

- C. The Property Has Historic Value.** The nominated landmark is of significant historic or architectural value to the community, beyond the simple market value, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect, and further the goals and purposes of this Article.

10-3-3217: HISTORIC DISTRICT DESIGNATION CRITERIA:

A geographic area may be designated an historic district by the City Council upon the recommendation of the Commission if the City Council finds that the proposed district meets all of the following criteria:

A. Historic District Designation Criteria:

1. The District satisfies two of the landmark criteria identified in Section 10-3-3216: Landmark Designation Criteria.
2. The District is a noncontiguous grouping of thematically related properties or a definable area possessing a concentration of historic, scenic or thematic sites, which contribute to each other and are unified aesthetically by plan, physical development or architectural quality.
3. The District reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.
4. The collective historical value of the proposed historic district may be greater than that of each individual resource;
5. The proposed designation is in conformance with the purpose of the city's historic preservation provisions set forth in this article and the city's general plan.

B. Consideration Factors: In determining whether to list a geographic area on the Local Register as an historic district, the following factors shall be considered:

1. An historic district should have integrity of design, setting, materials, workmanship, and association.
2. The collective historic value of the buildings and structures in an historic district taken together may be greater than the historic value of each individual building or structure.

3. The district shall be comprised of a majority of contributing properties; at least seventy percent (70%) of properties in the proposed district shall be identified as contributing properties.

10-3-3218: STREET IMPROVEMENTS IN HISTORIC DISTRICTS:

Whenever streetscape improvements are proposed by the City in areas that are designated local historic districts, the City shall consider the use of materials, landscaping, light standards, and signage that are compatible with the area's historic and architectural character.

10-3-3219: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:

A site, building, object, structure or natural feature may be designated as a landmark or historic district and added to the Local Register in accordance with the procedures set forth in this section.

- A. **Initiation of Nomination Proceedings.** Any potentially historic property may be nominated for designation as a city landmark by the City Council, Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested. Any initiation by the Council or the Commission shall be by majority vote. The Council or the Commission shall forward the proposed designation to the Director for a report and recommendation.
- B. **Application.** If proposed by someone other than the City Council, Commission or Director, an application for the proposed designation shall be completed on a form provided by the Department, and shall include all information required, payment of required fee, and filing of the application with the Department. The Director shall conduct an evaluation of the proposed designation and shall make a recommendation to the commission as to whether the application is acceptable and appropriate for formal consideration.
- C. **Initial Notification.** Within ten (10) days of a decision by the City Council, Commission or Director to initiate nomination proceedings, or of the filing of a designation application, the property owner, its designated agent or agents, and tenants of the subject property, if applicable, shall be notified by mail of the intent to have the Commission consider the preliminary evaluation of the property. Once completed, the owner or its designated agent or agents shall receive a copy of the evaluation assessment report.
- D. **Preliminary Consideration by Cultural Heritage Commission.** A hearing to determine whether the structure warrants formal consideration by the cultural heritage commission shall be scheduled within sixty days of filing of an application. If the Commission determines that the application warrants consideration, but only if it so determines, it shall schedule a public hearing within forty-five (45) days of such determination. Any determination of the Commission to schedule or not to schedule a public hearing shall be in writing and shall be filed by the Commission Secretary with the Director.

- E. Notice of Public Hearing.** Written notice of the date, time place and purpose thereof shall be given by first class, prepaid mail not less than seventy-two hours (72) prior to said hearing to the applicant and owner(s) of the property proposed for nomination, as shown on the latest equalization assessment roll. In the case of a nomination regarding a historic district or conservation area the notice shall be provided to all property owners within the proposed district, as shown on the latest equalization assessment roll. The failure to send notice by mail to any such real property owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. In those instances where the owners petition the city for such designation, it shall be the petitioner's obligation to furnish a current list of names and legal mailing addresses to the Director of all real property owners to be notified and pay such fee as shall be established by separate resolution. When the proposed designation is by city initiative, the city planning and building department shall be responsible for preparing the notification list. The commission may also give other notice(s) as it may deem desirable and practicable.
- F. Interim Protection Measures.** Upon a determination that the application warrants formal consideration by the Commission and the scheduling of a public hearing therefor, any alteration, restoration, construction, removal, relocation, or demolition, in whole or in part, of or to a proposed designated property is prohibited, and no permits shall be issued by any City department, board, commission, including but not limited to a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, any Zoning Officer approval, design review board approval, certificate of appropriateness permit, and no building permit authorizing any such alteration, restoration, construction, removal, relocation, or demolition shall be granted while a public hearing or any appeal related thereto is pending. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the nominating process.
- G. Findings.** At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty-five (45) days from the date set for the initial public hearing, the Commission shall approve, in whole or in part, or disapprove the application for the designation of the nominated resource. The decision of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the decision, and such decision shall be filed with the Director. If the Commission fails to take action on the application for the nominated resource within the forty-five (45) day time period, the application for such designation shall be deemed disapproved, and it shall be the duty of the director to certify such disapproval. Upon the rendering of such decision to designate by the nominated property, the owner(s) of the designated property shall be given written notification of such designation by the director, using for this purpose the name and address of such owner as is shown in the records of the City Clerk.

- H. Recommendation.** At the conclusion of the hearing, the commission shall make a recommendation to the City Council on the nomination. The commission shall base its recommendation on the criteria, considerations and assessment of integrity and significance outlined in this article. If it recommends for listing of the nominated resource on the Local Register as a landmark, the commission shall specify the significant elements or character-defining features of the nominated resource. In the case of a recommendation for listing of a historic district on the Local Register, the commission shall identify as contributing resource(s) all properties, structures, features, or other resources within the nominated historic district that it determines contribute to the area's designation as a historic district. Properties, structures, features or other resources that happen to be located within the nominated historic district, but that have no relevance to the area's identified period of significance, significant physical features, or identifying historic characteristics shall be deemed non-contributing resources.
- I. Hearing and Decision by City Council.** The city council shall consider the matter as soon as practicable after receiving the commission's recommendation. The city council by written resolution may approve, disapprove, or give modified approval to a proposed landmark or historic district designation. If the city council approves the landmark or historic district designation, such approval shall be evidenced by resolution. The city clerk shall then notify the director of the city council's action in order to ensure compliance with this article.
- J. Historic Resource Resolution.** The resolution designating a landmark, historic district or contributing property within a historic district shall include a description of the particular characteristics that justify the designation and which should therefore be preserved; shall stipulate the reasons for designation; shall develop a set of general guidelines to establish standards for future proposed changes; and shall delineate the location and boundaries of the designated resource. A certified copy of such resolution shall be recorded in the office of the county recorder of the county of Los Angeles by the city clerk immediately following its effective date. The city clerk shall also send a copy of said resolution to the director, director of public works, the building official, the property owner(s), and the occupant of the property. The document to be recorded shall contain a legal description of the property or properties, the date and substance of the designation, a statement explaining that the demolition, alteration, or relocation of the property is restricted, and a reference to this section authorizing the recordation.
- K. Disapproval of Nominated Resource.** Whenever an application for the designation of nominated property has been disapproved or deemed disapproved by the city council, upon appeal, no application which contains the same or substantially the same information as the one which has been disapproved shall be resubmitted to or reconsidered by the commission within a period of five years from the effective date of the final action upon such prior application. However, if significant new information is available, the council may waive the time limit by ordinance and permit a new application to be filed.

- L. **Disapproval of Deletion of a Listed Resource.** Where a nomination for deletion of a listed historic resource from the official city register has been denied, no new application to delete the same listed resource may be filed or submitted for a period of one year from the effective date of the final denial.
- M. **Effect of Designation.** Upon designation, and thereafter, the provisions of this article shall apply to the designated property. From and after the adoption by city council by resolution designating the property a local landmark or historic district, any removal or demolition of the property or its district contributors, or exterior construction, alteration or remodeling of the property, or any landscaping on such property is subject to the provisions of this ordinance. The owner(s) of such property shall maintain and preserve the historic resource at such a level that it does not become a safety hazard to the occupants or to the public.

10-3-3220: AMENDMENT OR RESCISSION OF LANDMARK OR HISTORIC DISTRICT DESIGNATION:

Once a landmark or historic district designation is made, it shall not be repealed by the City Council unless it is determined at any time that:

1. The evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or
2. The landmark or historic district no longer meets the criteria for designation under Section xxxx due to damage caused by natural disaster (e.g. flood, earthquake, etc.) or reasons otherwise outside of the control of the owner.

Changes of use, differences of opinion of subsequent City Councils, desires of property owners, or financial considerations are not sufficient reasons to repeal a designation. The repeal of a landmark or historic district may be initiated by the Director, Commission, City Council or property owner. The City Council must consider a repeal of a previously designated landmark or historic district utilizing the same procedures for designation as provided by this article. If the determination of landmark or historic district status is repealed, the city's register of historic properties shall be updated accordingly.

10-3-3221: PROPERTIES NOMINATED FOR LANDMARK OR DISTRICT CONTRIBUTING DESIGNATION – TEMPORARY PROTECTIONS PENDING FINAL DECISION:

Upon the filing of an application for landmark or historic district status, the Director or his or her designee shall determine whether the application is substantively complete and whether the proposed designated property warrants further investigation by the Commission. Upon the determination by the Director that the application is substantively complete, or upon initiation by the Council, the Commission, or the Director, no permit for the demolition, alteration, or relocation of the nominated property shall be issued, pending final determination by the Commission and Council on whether the proposed site, building, structure, object or natural feature shall be designated as a landmark or historic district. The Director shall notify the

Building & Safety Division in writing not to issue any permits for the demolition, alteration, or relocation of a proposed landmark or historic district.

The Commission shall recommend and Council shall act on the proposed designation within the time limits contained in this article. If, after the expiration of the final period of time to act, the Council has not taken an action on the application or initiation to designate a landmark, then the permit may be issued and demolition, alteration, or relocation of the property may proceed.

If the City Council determines that the site, building, structure, object, or natural feature proposed to be designated does not meet the evaluation criteria for landmark or historic district designation set forth in section xxxx of this article, then the temporary prohibition on the issuance of a permit to demolish, alter or relocate the proposed landmark or contributing properties within the proposed historic district shall terminate.

10-3-3222: CERTIFICATE OF APPROPRIATENESS REQUIRED

- A. Properties of Merit – Certificate Not Required for Certain Properties.** Owners of structures listed on the Property of Merit List are encouraged to preserve these structures in a manner consistent with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings; however, a Certificate of Appropriateness is not required prior to demolition, substantial alteration or relocation, based solely on the structure’s inclusion on the Property of Merit List. A Certificate of Appropriateness nonetheless may be required for other reasons set forth in this Article.
- B. Designated Landmarks and District Contributing Properties – Certificate of Appropriateness Required.** No person, owner or other entity shall restore, rehabilitate, alter, develop, construct, demolish, remove or change the exterior appearance of a designated landmark or contributor within a designated historic district without first having applied for and been granted a Certificate of Appropriateness, Administrative Certificate of Appropriateness, or exemption on a form provided by the City unless the work proposed qualifies as “Ordinary Maintenance and Repair” as specified below.

In the event that the work proposed has received a Federal Tax Credit Historic Preservation Certification Part 2 Approval, or a finding of no effect pursuant to Section 106 of the National Historic Preservation Act, the City shall issue an Administrative Certificate of Appropriateness and this shall be considered a ministerial action.

- C. Designated Landmarks and District Contributing Properties – Ordinary Maintenance and Repair.** A Certificate of Appropriateness, Administrative Certificate of Appropriateness, or exemption shall not be required for ordinary maintenance and repair.

Ordinary maintenance and repair shall mean work on a landmark property or district contributor that meets all three of the following conditions:

1. Involves regular, customary or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition.
2. Does not, by law, require issuance of a permit.
3. Does not involve a change of design, material, or appearance of the property.

D. Certificate of Appropriateness – Administrative Review. An Administrative Certificate of Appropriateness shall be issued by the Director or his or her designee for work that meets the following conditions:

1. Requires a permit, and
2. Involves basic maintenance and repair or minor rehabilitation that does not involve a change of design, material, appearance, or a change in visibility of the designated landmark or district contributor.

All proposed work shall comply with the “Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.” The Administrative Certificate of Appropriateness shall be approved by the Director within 21 days of receipt of a complete application, unless the Director determines that the proposed work would involve a change of design, material, appearance or visibility of property’s character-defining features and overall historical significance.

Work that may be approved with an administrative certificate of appropriateness includes the following:

In-kind replacement of historically accurate architectural features or building elements that are deteriorated, damaged beyond repair, or previously removed including windows, doors, exterior siding, porches, cornices, balustrades, and stairs.

In-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed including gates, fences, walls, hedges, pergolas, gazebos, walkways, and planting beds.

Replacement or repair of roof covering materials, gutters, and downspouts, with no change in appearance.

Foundation work and repainting of bricks on the exterior of a structure, with no change in appearance.

Addition of new fences and walls.

Addition or replacement of awnings and building mounted signs.

Landscape alterations, removal and installation of tree and plant material not specifically designated or listed as contributing features to the designated resource.

New paving for driveways, walkways and/or patios.

Repainting of exterior surfaces that were originally intended to be painted. No surfaces that were not intended to be painted shall be painted including unpainted brick, concrete, or stone surfaces.

Installation of new exterior lighting.

Removal of additions intended to restore the original appearance of a structure.

Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances, not visible from street level, and that result in no change in appearance to the property.

One-story residential room additions, excluding attached garages, that are no more than 15% of the size of the existing main residence, with limited or no visibility to public rights-of-way and adjacent properties.

Other minor rehabilitation work.

- E. Certificate of Appropriateness – Commission Review.** The Director may refer an application for a Certificate of Appropriateness to the Commission when the importance of the property or a potential discrepancy between the proposal and the Secretary of the Interior's Standards for the Treatment of Historic Properties justifies Commission review.

When a Certificate of Appropriateness application is referred to the Commission for review, a complete application shall be one that includes a report from a qualified historic preservation consultant detailing the project's compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Upon receipt of a complete application, the Commission shall act on the Certificate of Appropriateness within 75 days. The time limits in this section shall be extended when necessary to comply with the provisions of CEQA or with the written consent of the owner. A public hearing shall be scheduled and notice provided per this article and CEQA where applicable. The time, place and purpose of the public hearing on the proposed Certificate of Appropriateness shall be given by mailing written notice to the owner or owner's representative at least ten (10) days prior to the date of the hearing. Notice to the owner or the owner's representative shall be sent via certified mail, return receipt requested.

The applicant for a Certificate of Appropriateness may make submissions to the Community Development Department of any or all of the information in Section xx below. Based on this and any other relevant information, the Commission shall take into consideration the reasonable economic, environmental, and technical feasibility of the work in determining whether to issue a Certificate of Appropriateness.

The Commission shall issue a Certificate of Appropriateness for the substantial alteration of a landmark or contributing property if it finds that the work:

- F. Complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties; or
- G. Does not demonstrate strict compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, but nonetheless protects and preserves the historic and architectural qualities and the physical characteristics that make the site, building, structure, object, or natural feature a designated landmark.

10-3-3223: CERTIFICATE OF APPROPRIATENESS – APPEALS:

- A. **Finality of Director or Commission decision.** Any decision of the Director or Commission on a Certificate of Appropriateness under this article shall become final if no appeal is submitted within the applicable time limits in this article.
- B. **Appeal of Commission actions.** Any person or group aggrieved or affected by a decision of the Commission, including any decision on appeal of a decision of the Director, may appeal to the City Council at any time within fifteen (15) calendar days after the date on which the decision of the Commission was issued. The Commission's approval or denial of a proposed landmark or historic district designation is appealable. An appeal shall be taken by filing a letter of appeal with the Commission Secretary and paying an appeal fee as established by the City Council. Such letter of appeal shall set forth the grounds upon which the appeal is based. Within ten (10) days after the receipt of the letter of appeal, the Commission secretary shall transmit to the City Clerk the letter of appeal, copies of the application and all other papers constituting the record upon which the action of the Commission was taken. Notice of the hearing before the City Council shall be given in the manner specific in Section xxx and written notice shall be given to the owner and appellant(s). The City Council shall act within 90 days after expiration of the appeal period or within any additional period agreed to by the owner.
- C. **Actions by the City Council.** The City Council may affirm, reverse, or modify the decision of the Director or the Commission. Such action by the City Council shall be final.

10-3-3224: **CERTIFICATE OF APPROPRIATENESS TERM, EXTENSION, MODIFICATION:**

A. Term.

1. **General.** Except as provided in subsection xxxx of this article, a certificate of appropriateness shall lapse and become void 24 months from the date of issuance, unless a building permit (if required) has been issued and the work is being pursued to completion. For the purposes of this section, the phrase "pursued to completion" means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.
2. **Certificate of Appropriateness for Demolition.** A certificate of appropriateness for the demolition of a property shall expire at the end of one hundred and eight days (180) days from the date of issuance of the certificate of appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and the work is being pursued to completion. For the purposes of this section, the phrase "pursued to completion" means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.

B. Extensions.

1. **General.** Except as provided in subsection xxxx of this section and as long as the approved plans have not been modified, a certificate of appropriateness may be extended for a period of up to an additional twelve (12) months upon request by the owner, and submittal of an appropriate application and payment of applicable fees. The Director may approve, conditionally approve, or deny any request for a time extension or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension.
2. **Demolition.** A certificate of appropriateness for the demolition of a property may be extended for a period of up to an additional forth-five (45) days upon request by the owner, and submittal of an appropriate application and payment of applicable fees no later than thirty (30) days prior to expiration. The Director may approve, conditionally approve, or deny any request for a time extension or may refer the request to the Commission, which may approve, conditionally approve, or deny any request for a time extension.

C. Modifications. An application to modify an issued certificate of appropriateness or a condition of approval of a preservation review application shall be heard and

considered in the same manner and by the same body as the original review application unless otherwise determined by the Director. Payment of applicable fees is required upon receiving an application.

10-3-3225: CERTIFICATE OF APPROPRIATENESS – EXEMPTIONS – CERTIFICATE OF HARDSHIP:

The owner of the designated landmark or contributor within a designated historic district may request to be exempted from the certificate of appropriateness requirement and carry out work that may adversely affect the value or significance of a designated landmark or district contributor on the basis of extreme financial hardship or adversity. Such request shall be submitted by the owner and considered by the cultural heritage commission (and City Council if appealed) in the same manner as an application for a certificate of appropriateness. The Director may require the owner to furnish material evidence clearly demonstrating and supporting the request for exemption. The cultural heritage commission, and city council if appealed, shall consider and approve the request for exemption only if all of the following findings can be demonstrated:

1. Requiring the owner to obtain a certificate of appropriateness, or preventing the owner from carrying out the requested work, would deprive the owner of all reasonable use of, or economic return on, the property designated as a landmark or as a district contributor;
2. The damage to the owner would be unreasonable in comparison to the benefit conferred to the community by the designated landmark or district contributor;
3. Sale or Rental of the property at a reasonable rate of return is not feasible.

10-3-3226: PROPOSED DEMOLITION, SIGNIFICANT ALTERATION, OR RELOCATION OF BUILDINGS OR STRUCTURES 45 YEARS OR OLDER:

A. Commercial and Multi-family Residential Buildings and Structures. Prior to the issuance of any permit sought from the Department of Community Development for demolition, significant alteration or relocation of a commercial or multi-family residential building or structure, including accessory structures, meeting one or more of the following criteria, the applicant shall obtain approval of a Certificate of Appropriateness pursuant to Section 10-3-3213 of this Article:

1. The building or structure is listed on the Local Register; or,
2. The building or structure was constructed at least forty-five (45) years prior to the date of application for the permit and is identified on the Local Inventory with an eligibility category 1, 2 or 3; or,

3. The building or structure was constructed at least forty-five (45) years prior to the date of application for the permit and was designed by an architect included on the City's list of master architects.

B. Single Family Residential Buildings and Structures. Prior to the issuance of any permit sought from the Department of Community Development for demolition, significant alteration or relocation of a single family residential building or structure, including accessory structures, meeting one or more of the following criteria, the applicant shall obtain approval of a Certificate of Appropriateness pursuant to Section 10-3-3213 of this Article:

1. The building or structure is listed on the Local Register; or,
2. The building or structure was constructed at least forty-five (45) years prior to the date of application for the permit and is identified on the Local Inventory with an eligibility category 1 or 2; or
3. The building or structure was constructed at least forty-five (45) years prior to the date of application for the permit and was designed by an architect included on the City's list of master architects.

C. Permit Processing Pending Nominating Decision. Any pending permits to demolish, substantially alter, or relocate a building or structure subject to this Section 10-3-3215 may be processed, but shall not be issued until either:

1. A decision is made not to add the building or structure to the Local Register; or,
2. If the building or structure is added to the Local Register, after the issuance of a Certificate of Appropriateness, pursuant to Section 10-3-3213 of this Article.

10-3-3227: ENFORCEMENT AND PENALTIES:

[Language under Development]

10-3-3228: PRE-EXISTING BUILDING PERMITS:

This article does not apply to construction, alteration, moving or demolition of a building, structure, or object started under a building permit issued prior to the effective date of this article.

10-3-3229: FEES:

The city council may, by resolution, establish the fee(s) for submission of the nomination, and all other applications and submissions made pursuant to this chapter.

10-3-3230: DANGEROUS AND IMMEDIATELY DANGEROUS PROPERTIES:

Nothing in this article shall prevent the construction, alteration, repair, restoration, stabilization, rehabilitation, or demolition of a property, regardless of designation, if the Building Official determines the property creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The Building Official shall notify the Director in writing with a finding that the proposed action is necessary in order to mitigate the unsafe or dangerous condition. In such event, no Certificate of Appropriateness or permit referral shall be required. However, the Building Official shall make all reasonable efforts to consult the Director, or his or her designated representative to determine if there are feasible alternatives to the proposed action that will adequately protect the public health and safety.