



DEPARTMENT OF CITY PLANNING SECOND SUPPLEMENTAL RECOMMENDATION REPORT



CITY PLANNING COMMISSION

DATE:	September 10, 2009	CASE NO:	CPC-2008-4918-CA
TIME:	after 8:30 a.m.*	CEQA:	CHC-2008-310-CA
PLACE:	City Hall	LOCATION:	ENV-2008-4990-CE
	200 N. Spring Street, 10 th Fl.	COUNCIL DISTRICT:	Citywide
	Los Angeles, CA 90012	PLAN AREAS:	All
			All

PUBLIC HEARING REQUIRED

REQUEST: Proposed Amendments to the Cultural Heritage Ordinance, Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171 et seq.

SUMMARY: A proposed ordinance to clarify the designation criteria for Historic-Cultural Monuments; strengthen provisions for Cultural Heritage Commission review of proposed demolitions, alterations and additions to City Historic-Cultural Monuments; provide earlier notification to private property owners of Cultural Heritage Commission actions; increase the size of the Cultural Heritage Commission to seven members; detail the purpose and duties of the Cultural Heritage Commission, and strengthen the ordinance's enforcement provisions.

RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the findings included in Attachment 1.
3. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.
4. **Adopt** ENV-2008-4990-CE (Categorical Exemption) and find that pursuant to State of California CEQA Guidelines, Article 19, Sections 15308, Class 8, and 15331, Class 31, the project is categorically exempt.

S. GAIL GOLDBERG, AICP
Director of Planning

[SIGNED ORIGINAL IN FILE]

KEN BERNSTEIN, AICP
Manager, Office of Historic Resources

[SIGNED ORIGINAL IN FILE]

EDGAR GARCIA
Preservation Planner, Office of Historic Resources
Telephone: (213) 978-1189

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

STAFF REPORT

BACKGROUND

At its July 9, 2009 meeting, the City Planning Commission (CPC) held a second public hearing on the draft amendments to the Cultural Heritage Ordinance and directed Department of City Planning staff to report back to the Commission with recommendations on a single issue: the designation and review of interior spaces within residential properties. This Second Supplemental Recommendation Report should be read in conjunction with the original staff report for the June 11, 2009 CPC hearing, which contains background on the ordinance and the proposed findings, as well as the first Supplemental Staff Report for the July 9, 2009 CPC hearing, addressing 13 issues raised by the Commission at its June 11 hearing.

The July 9, 2009 draft ordinance had proposed an approach to the review of Historic-Cultural Monument interiors that is most common in other major cities' preservation ordinances: limiting designation of interiors to publicly accessible or visible spaces. The July 9 draft did go beyond other cities' practices by also allowing for additional interior designations upon agreement of the property owner or in cases where interior work is reviewed as part of a Federal Rehabilitation Tax Credit project or Mills Act Historical Property Contract. However, representatives of preservation and neighborhood organizations expressed concerns that these provisions could result in the loss of significant interior features for many Historic-Cultural Monuments. Following the July 9 public hearing, the CPC continued the ordinance discussion to September to allow for additional discussion of this issue.

To respond to the Commission's request on interior designations and to seek broader consensus around any new provisions on this issue, the Department convened five meetings among a broad group of interested parties, between July 21 and August 25. Each of the participants in this Working Group on Interiors represented a constituency or membership, and it was assumed that these representatives were communicating with speaking on behalf of these broader constituencies.

Some of the participants in the Working Group on Interiors initially expressed that they had not been given an opportunity to participate in last year's Cultural Heritage Ordinance Working Group or in more recent meetings on the ordinance with development community representatives. All participants were therefore given ample opportunity in the first two meetings to articulate their concerns about the proposed ordinance's approach to the review of interiors.

A list of the participants in these meetings is provided below:

CULTURAL HERITAGE ORDINANCE WORKING GROUP ON INTERIORS

Participant(s)

Carol Schatz and Anh Nguyen
 Karen Hathaway and Charles Michaels
 Loren Montgomery and Robert Smith
 Deborah Rosenthal
 William Delvac
 Donald Pease
 Peter Kendall
 Linda Dishman and Michael Buhler
 Christy McAvoy and Andrew Schwartz
 Carmela Gomes and Charles Fischer
 Jim Robinson and Laura Meyers
 David Raposa
 Mitzi March Mogul
 Rory Cunningham

Organization

Central City Association
 Los Angeles Athletic Club
 Latham and Watkins
 Sheppard, Mullin, Richter & Hampton
 Armbruster, Goldsmith and Delvac
 Historic-Cultural Monument Owner
 Historic-Cultural Monument Owner
 Los Angeles Conservancy
 Hollywood Heritage
 Highland Park Heritage Trust
 West Adams Heritage Association
 City Living Realty
 LA Historic Theatre Fdn., Heritage Square
 Art Deco Society of Los Angeles

RECOMMENDATION

After exploring a wide array of potential solutions to interior designation during more than 12 hours of meetings since the last Commission hearing, the Working Group on Interiors came to a consensus on a preferred approach at its final meeting on August 25th. Under this proposal, the review of interior work would not be subject to a Certificate of Appropriateness under the new ordinance. Instead, the review of interior work would continue as it does today under the current Cultural Heritage Ordinance.

Permits for interior work would continue to be referred to the Cultural Heritage Commission (CHC) and the Office of Historic Resources for review. However, the CHC could not deny approval of interior work altogether: it could only object to the issuance of the permit for no more than 180 days, with a possible 180-day extension of the objection period upon approval of the City Council.

The ordinance would require a Certificate of Appropriateness only for exterior work, or for additions or new construction; a Certificate of Hardship would be required for approval of demolition of a Historic-Cultural Monument.

Department of City Planning staff is supportive of the Working Group on Interiors' August 25 recommendations as an appropriate solution to the review of interiors under the new ordinance. Retaining the current ordinance's language specifically for interiors reflected a broad consensus that these provisions have worked successfully for many decades to protect significant historic interiors while safeguarding private property rights. The permit

objection period, while invoked only very rarely by the Cultural Heritage Commission, allows for a full exploration of preservation alternatives.

At the same time, for requests involving exterior modifications or new additions, the new draft ordinance's provisions for a Certificate of Appropriateness mirror the City's long-standing procedures in its Historic Preservation Overlay Zone (HPOZ) Ordinance. These provisions also improve clarity and certainty for the development community by placing preservation review earlier in the process.

Staff acknowledges that this recommendation goes somewhat beyond the CPC's direction at its July 9 meeting to focus specifically on residential interiors. However, the deliberations of the Working Group on Interiors underscored the difficulties in developing a rational distinction between the reviews of residential and commercial interiors. Even more significantly, at the August 25th meeting it was the representatives of commercial property owners themselves who proposed broadening the interiors provisions. Under their proposal, all interiors, whether residential or commercial, would be subject to the same review procedure that exists today. The Working Group on Interiors left its final meeting with a broad consensus that this "delay only" review process should apply to all Historic-Cultural Monument interiors.

The revised draft ordinance included with this report contains the following changes from the July 9, 2009 draft:

- A new section on "Review Procedures for Interior Spaces" has been added as Sec. 22.171.14 (e). This section requires that, "No permit for the Demolition, Substantial Alteration, or Relocation of any Monument interior shall be issued without first referring the matter to the Commission."
- The draft has retained all of the time limitations on permit objections that are contained in the current Cultural Heritage Ordinance, but has applied these objection periods solely to review of interior work.
- In keeping with the Office of Historic Resources' goal of ensuring that Los Angeles' Cultural Heritage Ordinance reflects best practices in historic preservation and nationally-accepted criteria and terminology, the definition of Character-Defining Features in Sec. 22.171.1 has been changed to reflect the National Park Service's definition.
- At the request of the Working Group on Interiors, all references to the "Inventory" of Character-Defining Features in Sec. 21.171.8 have been changed to a "list" of Character-Defining Features. In this section, staff has proposed new language to clarify that owners are not required to submit a proposed list of Character-Defining Features to the Director. The new language also clarifies that any party may appeal the Director's approval of the list to the Cultural Heritage Commission.
- In order to ensure that the provisions for reviewing interior work are identical to current practice under the existing Cultural Heritage Ordinance, Sec. 22.171.15 on

appeals has been amended to clarify that the Commission's permit objection (Stay) on interior work is not appealable to Council.

CONCLUSION

Subsequent to the final meeting of the Working Group on Interiors, staff has received communications from representatives of property owners and the business community indicating continued concerns with this proposal that had generated broad consensus at the August 25th meeting. Staff will continue discussions with interested parties and with the members of the Working Group on Interiors and may propose additional refinements to the proposed ordinance language based on this additional input.

**DRAFT REVISED CULTURAL HERITAGE ORDINANCE
FOR CITY PLANNING COMMISSION
AND PUBLIC REVIEW**

SEPTEMBER 2009

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**CHAPTER 9
DEPARTMENT OF CITY PLANNING**

**ARTICLE 1
CULTURAL HERITAGE COMMISSION**

Section	
22.171	Purpose of This Article.
22.171.1	Definitions.
22.171.2	Composition of the Commission and Term of Office.
22.171.3	Members' Compensation.
22.171.4	Organization of the Commission.
22.171.5	Appointment and Duties of the Commission Secretary.
22.171.6	Quorum and Actions of the Commission.
22.171.7	Duties of the Commission.
22.171.8	Monument Designation Criteria.
22.171.9	Procedures for Designation of Monuments.
22.171.10	Inspection and Investigation.
22.171.11	Preservation of Monuments.
22.171.12	Temporary Stay of Demolition, Substantial Alteration, or Removal Pending Determination to Designate a Monument.
22.171.13	Notice of Designation and Subsequent Actions.
22.171.14	Commission Review.
22.171.15	Appeals.
22.171.16	Compliance with California Environmental Quality Act.
22.171.17	Permit Required.
22.171.18	Expiration of Approval.
22.171.19	Duty to Keep in Good Repair.
22.171.20	Preservation Incentives.
22.171.21	No Right to Acquire Property.
22.171.22	Rules and Regulations of the Commission.
22.171.23	Cooperation with the Commission.
22.171.24	Enforcement and Penalties
22.171.25	Severability

Sec. 22.171. Purpose of This Article.

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

1. Safeguard and enhance the City's historic, cultural, and architectural heritage
2. 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;
3. Promote participation in the Rehabilitation, adaptive reuse, Restoration, and maintenance and continued vitality of Historic-Cultural Monuments;
4. Promote public education and awareness by preserving and encouraging interest in Los Angeles' cultural, social, and architectural history;
5. Protect Historic-Cultural Monuments as a means to enhance the City's attraction to residents, tourists and visitors, thus stimulating local business and industry;
6. Enhance property values, stabilize neighborhoods and/or communities, and render property eligible for financial benefits;
7. Recognize that our City's Historic-Cultural Monuments are an important part of both the past and future of Los Angeles, and recognize the contribution of Historic-Cultural Monuments to the unique fabric of Los Angeles;
8. Acknowledge the critical role served by Owners of Historic-Cultural Monuments in furthering the goal of historic preservation;
9. Balance the rights of the owners of Historic-Cultural Monuments and owners of properties adjacent to Historic-Cultural Monuments;
10. Provide Owners with early notification of Commission actions affecting their properties;
11. Codify the procedures and criteria for designation of Historic-Cultural Monuments, as well as the processes and standards for reviewing proposed demolitions, alterations, and additions to designated monuments;
12. Encourage preservation and adaptive reuse of Monuments by allowing changes to an historic building to accommodate new functions, and not to "freeze" historic buildings in time;

13. Recognize that Monuments need to continue to be economically sustainable to reduce the threat of demolition;
14. Identify financial and other incentives that are intended to encourage Owners to designate, maintain, reuse, rehabilitate and improve Monuments;
15. Encourage public awareness of the value of Rehabilitation, adaptive reuse, Restoration, and maintenance of cultural resources as a means to conserve reusable material and energy resources;
16. Encourage the integration of historic preservation into the City's planning process, and provide technical assistance within City government; and
17. Fulfill the City's responsibilities as a Certified Local Government under Federal preservation laws, for Federal Section 106 reviews, and ensure that all procedures comply with the California Environmental Quality Act (CEQA).

Sec. 22.171.1. Definitions

For the purposes of this ordinance, the following words and phrases are defined:

1. **ADDITION** is an extension or increase in floor area or height of a building or structure.
2. **ALTERATION** is any change or modification to a Historic-Cultural Monument.
3. **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)** means the California Public Resources Code Section 21000 et seq. and its related guidelines as they may be amended from time to time.
4. **CALIFORNIA REGISTER OF HISTORICAL RESOURCES** is a listing of archaeological and historic resources that meet the criteria for designation in the Register as defined in California Public Resources Code Section 5020.1, as it may be amended from time to time.
5. **CERTIFICATE OF APPROPRIATENESS** is an approved certificate issued for exterior work on a Historic-Cultural Monument.
6. **CERTIFICATE OF HARDSHIP** is an approved certificate issued, in conjunction with a Certificate of Appropriateness, to permit demolition of a Historic-Cultural Monument.
7. **CERTIFIED LOCAL GOVERNMENT (CLG)** is a local government certified under Federal law by the National Park Service for the purpose of more direct participation in Federal and State historic preservation programs.

- 8. CHARACTER-DEFINING FEATURE is a prominent or distinctive aspect, quality, or characteristic of a historic property that contributes significantly to its physical character. Structures, objects, vegetation, spatial relationships, views, furnishings, decorative details, and materials may be such features.
- 9. **DEMOLITION** means destruction that is so extensive that the historic character of a Historic-Cultural Monument is completely removed and cannot be repaired or replaced.
- 10. **GOOD REPAIR** is the level of Maintenance and Repair which clearly furthers the continued availability of a Historic-Cultural Monument for lawful reasonable uses and prevents deterioration, dilapidation, decay, and neglect of such resource, as provided in Los Angeles Building Code Section 8104.
- 11. **HISTORIC-CULTURAL MONUMENT**, also referred to as Monument or HCM, is a building, structure, object, place, landscape, or natural feature that is a locally-designated historic landmark, as approved by the City Council, pursuant to this Article.
- 12. **HISTORIC PERSONAGE** is 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.
- 13. **HISTORIC PRESERVATION OVERLAY ZONE (HPOZ)** is a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development, as defined in Section 12.20.3 of the Los Angeles Municipal Code.
- 14. **HISTORIC RESOURCES SURVEY** is a systematic and standardized process for identifying and gathering data on the City's potential historic resources for the purpose of evaluating the resources per local, State, and/or Federal criteria. This definition is in addition to the specific purpose of a survey to create an Historic Preservation Overlay Zone (HPOZ), as required in Section 12.20.3 of the Los Angeles Municipal Code. A survey should be completed a

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- 15. **INTEGRITY** is the ability of a Historic-Cultural Monument to convey its significance, with consideration of the following aspects of Integrity: location, design, setting, materials, workmanship, feeling and association.

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16. INVENTORY OF CHARACTER-DEFINING FEATURES is the list of specific Character-Defining Features for each Monument, included in the nomination.

- 16. **MAINTENANCE AND REPAIR** is any work done to correct or prevent the deterioration, decay of, or damage to a building, structure or lot, or any part thereof, including replacement in-kind where appropriate, and which does not involve a change in the existing design or materials.

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17. **MILLS ACT HISTORICAL PROPERTY CONTRACT** is a contract, between an Owner or Owners of a Historic-Cultural Monument or a Contributing Element in a Historic Preservation Overlay Zone and the City, as defined in Section 12.20.3 of the Los Angeles Municipal Code, which meets all requirements of California Government Code Sections 50281 and 50282 and 19.140 et seq. of the Los Angeles Administrative Code. Deleted: 8
18. **NATIONAL REGISTER OF HISTORIC PLACES** is the official inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archeology and 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(16 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63). Deleted: 9
19. **OWNER** is any person, association, partnership, firm, corporation or public entity identified as the holder of title on any property as shown on the records of the City Clerk or on the last assessment roll of the County of Los Angeles, as applicable. For purposes of this section, the term Owner shall also refer to an appointed representative of an association, partnership, firm, corporation, or public entity which is a recorded Owner. Deleted: 20
20. **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 designation. Deleted: 21
21. **PRESERVATION** is the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a Historic-Cultural Monument. Deleted: 22
22. **PROJECT** is work that is proposed to a Historic-Cultural Monument. Deleted: 3
23. **QUALIFIED HISTORIC PRESERVATION CONSULTANT** is a consultant that meets the Secretary of the Interior's Professional Qualifications Standards, as defined in 36 CFR Part 61. Deleted: 4
24. **RECONSTRUCTION** is the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. Deleted: 5
25. **REHABILITATION** is the act or process of making possible 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. Deleted: 6
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26. **RELOCATION** is the act or process of moving a Historic-Cultural Monument from one site to another site, or to a different location on the same site. Deleted: 7

27. RESTORATION is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

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28. SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES are the guidelines prepared by the National Park Service for Preserving, Rehabilitating, Restoring, and Reconstructing historic buildings and the standards for historic preservation projects prepared by the National Park Service with the most current Guidelines for Applying the Standards.

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29. SUBSTANTIAL ALTERATION is a proposed Alteration to a Historic-Cultural Monument that may cause a change in its Character-Defining Features

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Sec. 22.171.2. Composition of the Commission and Term of Office.

(a) **Qualifications.** The Commission shall be composed of seven members who are qualified electors of the City of Los Angeles. Each Commissioner shall be appointed, and may be removed in accordance with Charter Section 502. The Commissioners shall have a demonstrated interest, competence or knowledge of historic preservation. To the extent feasible and legally permissible, at least three 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 archeology, 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. At least two Commissioners shall be Owners of Historic-Cultural Monuments: at least one of whom is an Owner of a residential Historic-Cultural Monument, and at least one of whom is an Owner of a commercial or industrial Historic-Cultural Monument.

(b) **Term.** The term of office for each Commissioner shall begin with the first day of July and shall be a term of five years. An appointment to fill a vacancy on the Commission shall be for the period of the unexpired term.

Sec. 22.171.3. Members' Compensation.

The members of the Commission shall be paid \$25.00 per meeting for each Commission meeting attended, but not to exceed \$125.00 in any one calendar month.

Sec. 22.171.4. Organization of the Commission.

During the last meeting of July of each year, the Commission shall elect a President and Vice President, which officers shall hold office for one year and until their successors are elected, unless their membership on the Commission expires sooner. The Commission may at any meeting fill any vacancy for any unexpired term occurring in the office of President or Vice President.

Sec. 22.171.5. Appointment and Duties of Commission Secretary.

The Director of Planning (Director) of the Department of City Planning (Department), 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.

Sec. 22.171.6. 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 its members and recorded in the minutes with the ayes and nays. The action shall be attested to by the signature of the Secretary of the Commission.

Sec. 22.171.7. Duties of the Commission.

The duties of the Cultural Heritage Commission shall be as follows:

1. Compile or cause to be compiled and maintained a current list of all Historic-Cultural Monuments;
2. Receive or initiate Historic-Cultural Monument nominations;
3. Inspect and investigate and recommend to the City Council whether proposed Monuments meet the criteria for inclusion to the list of Historic-Cultural Monuments;

4. Review and evaluate applications for Certificates of Appropriateness, Certificates of Hardship, and permits for interior work;
5. Conduct or cause to be conducted, maintained and regularly updated a City-wide Historic Resources Survey, and adopt the Survey's findings;
6. Adopt policies and procedures for the review and certification of findings under the City-wide Historic Resources Survey program;
7. 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, the enforcement of the National Environmental Protection Act and the California Environmental Quality Act (CEQA) with regard to historic resources;
8. Advise the City Council, City departments, and City commissions on whether a proposed project would have an adverse effect on the significance of historical 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;
9. Recommend to the City Council 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-Cultural Monuments;
10. Participate in, promote, and conduct public information, educational and interpretive programs pertaining to Historic-Cultural Monuments and provide for public participation and input in all aspects of the City's historic preservation programs;
11. Provide for a plaque and signage program to recognize and promote the City's Historic-Cultural Monument program;
12. Cooperate with local, County, State and Federal governments in the pursuit of the objectives of historic preservation and request, receive and appropriate information from any City departments or commissions;
13. Review and make recommendations on zoning and general plan amendments for the purpose of preserving historic resources;
14. Encourage the identification and designation of historic resources that reflect the City's diversity, including resources associated with groups and individuals that have been traditionally underrepresented;
15. Perform any other functions that may be designated by resolution or motion of the City Council;

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16. In addition to the duties set forth in this section, the Commission shall perform those duties imposed on it by Los Angeles Municipal Code Section 12.20.3 relating to Historic Preservation Overlay Zones; and
17. Assume the responsibilities and duties that may be assigned to the Commission under the Mills Act Historical Property Contracts program.
18. Consult with local tribes before the Historic-Cultural Monument designation of a tribal cultural resource, including a Native American sanctified cemetery or burial ground, place of worship, religious or ceremonial site, sacred shrine or sacred site, historic, cultural, or artistic site, historic or prehistoric ruins, and archaeological sites under Public Resources Code sections 5097.9 and 5097.995. The City and the Commission shall follow SB 18 and State of California Tribal Consultation Guidelines, Supplement to General Plan Guidelines, or successor laws and documents as applicable.

Sec. 22.171.8. Monument Designation Criteria

A proposed Monument may be designated by the City Council upon the recommendation of the Commission if it:

(A) Meets at least one of the following criteria:

- 1) Is identified with important events in the main currents of national, State or local history, or exemplifies significant contributions to the broad cultural, political, economic or social history of the nation, state, city, or community; or
- 2) Is associated with the lives of Historic Personages important to national, state, city, or local history; or
- 3) Embodies the distinctive characteristics of a style, type, period, or method of construction; or represents a notable work of a master designer, builder or architect whose genius influenced his or her age; or possesses high artistic values; or
- 4) Has yielded, or has the potential to yield, information important to the pre-history or history of the nation, state, city or community; or
- 5) Demonstrates historic significance because it reflects or exemplifies the diversity of Los Angeles, including, but not limited to, the important contributions of people of color, women, and workers; or because it stimulates and promotes a greater understanding of diversity, democracy, and freedom.

and

(B) Retains Integrity from its Period of Significance. Proposed Monuments do

not need to retain all aspects of Integrity, but should retain a sufficient degree of those aspects of Integrity that relate to why it is significant. Flexibility shall be used in assessing Integrity, particularly when a proposed Monument is significant under designation criteria 1, 2 or 5 above. A proposed Monument's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.

C. List of Character-Defining Features. After [The Effective Date of the Ordinance], each proposed Monument recommended by the Commission or approved by the City Council shall include a list of Character-Defining Features.

1. After [The Effective Date of the Ordinance], a draft List of Character-Defining Features shall be included in the Director's report and recommendation to the Commission, and shall be available for public review and comment pursuant to the procedures applicable to designation.

2. For Monuments designated prior to [The Effective Date of the Ordinance], an Owner may submit a proposed List of Character-Defining Features for approval by the Director. Once a proposed list is received and deemed complete, the Director shall approve the list within 45 days, based upon a report by a Qualified Historic Preservation Consultant. The Owner shall provide for access to the property as necessary to verify the Monument's Character-Defining Features. The decision of the Director may be appealed in accordance with Section 22.171.15. An Administrative Certificate of Appropriateness may be approved while the List is under review by the Director.

3. The Director may also prepare a list for other Monuments approved prior to [the Effective Date of the Ordinance] provided that the Monument Owner receives written notice and a copy of the proposed List at least 45 days before approval by the Director. The notice shall notify the Owner of the date on which the List will be approved and the time for appeal of the List's approval pursuant to Section 22.171.15.

Sec. 22.171.9. Procedures for Designation of Monuments.

A site, building, object, or structure may be designated as a Monument in accordance with the procedures set forth in this section.

(a) **Initiation.** The City Council, the Commission, or the Director, may initiate consideration of a proposed Monument designation. 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.** Any person or group may apply for a proposed designation of a Monument. The applicant shall complete the application for the

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- Deleted: If the Owner does not appeal the decision of the Director, the Inventory is considered to be approved as part of the designation. Private interior Character-Defining Features may be added to the Inventory upon request of the Owner, and shall be added to the Inventory upon approval of a Mills Act Historical Property Contract or upon submittal of a Part 2 Certification Application for Federal Rehabilitation Tax Credits. Requests that the Director agrees are subject to an Administrative COA
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proposed designation on a form provided by the Department, include all information required, pay the required fee, if any, and file the application with the Department.

(c) **Action on the Initiation or Application.**

1. **Authority.** The Commission may recommend approval or disapproval in whole or in part of an application or initiation of a proposed designation, based upon findings supported by substantial evidence. Unless otherwise specified, the recommendation shall be made to the Council for its action pursuant to the procedures set forth in this section. No designation of a Monument shall be effective until the designation has been adopted by the Council, based upon findings supported by substantial evidence.

2. **Procedure for Council-Initiated Designations.** After initiation of a proposed designation by the Council, the Commission shall inspect and investigate the proposed designation as specified in Section 22.171.10 of this article. The Director shall thereafter prepare a report and recommendation on the proposed designation. After receipt of the Director's report and recommendation, the Commission shall hold a public hearing regarding the proposed designation and determine whether the site, building, object, or structure meets the criteria for designation of a Monument set forth in Section 22.171.8 of this article. After the Commission submits a report and recommendation, the Council shall consider the matter. If the Commission recommends approval of a Council-initiated designation, the Council may adopt the designation by a majority vote. If the Commission recommends disapproval of a Council-initiated designation, the Council may adopt the designation by a two-thirds vote. The Council shall act within the time specified in Subsection (f) of this section.

3. **Procedure for Commission- or Director-Initiated Designations.** After initiation of a proposed designation by the Commission or the Director, the Commission shall inspect and investigate the proposed designation as specified in Section 22.171.10 of this article. The Director, or his or her designee, shall thereafter prepare a report and recommendation on the proposed designation. After receipt of the Director's report and recommendation, the Commission shall hold a public hearing regarding the proposed designation and determine whether the site, building, object, or structure meets the criteria for designation of a Monument set forth in Section 22.171.8 of this article. If the Commission recommends approval of a Commission- or Director-initiated designation, the Commission shall submit a report and recommendation to the Council. The Council may consider the matter and may approve the recommendation by a majority vote. If the Commission disapproves the proposed designation, the Commission's decision is final and is not subject to the appeal procedures in Section 22.171.15 of this article.

4. **Procedure for Applications for Designations.** Once an application is received and deemed complete by the Director, the Commission shall determine at a public meeting whether the application merits further consideration because it appears to meet the criteria for designation in Section 22.171.8. This determination

shall include consideration of any prior environmental review of the proposed Monument that included a report from a Qualified Historic Preservation Consultant evaluating the proposed Monument's potential eligibility for designation.

If the Commission determines to take the proposed designation under consideration, it shall conduct an inspection and investigation pursuant to Section 22.171.10 of this article. The Director, or his or her designee, shall thereafter prepare a report and recommendation on the proposed designation. After receipt of the Director's report and recommendation, the Commission shall hold a public hearing regarding the proposed designation and determine whether the site, building, object, or structure meets the criteria for designation as set forth in Section 22.171.8 of this article. If the Commission recommends approval of an application for a proposed designation, the Commission shall submit a report and recommendation to the Council. The Council may consider the matter and may adopt the designation by a majority vote. If the Commission disapproves the proposed designation, the decision is final and is not subject to the appeal procedures in Section 22.171.15 of this article.

(d) **Notice.** Notice shall be given as set forth below.

If the records of the City Clerk and the County Assessor indicate the ownership in different persons, those persons appearing on each of those lists shall be notified.

1. **Initiation of a Proposed Designation by the Council, Commission or Director.** The Owner and the Owner's representative, if any, shall be notified forthwith in writing of: any determination by the Council, Commission or Director to initiate a proposed designation; and the Temporary Stay pursuant to Section 22.171.12 of this article. The Notice shall be sent via Certified Mail, Return Receipt Requested.

2. **Commission Action to Take Under Consideration Proposed Designation by Application.** The Owner and the Owner's representative, if any, shall be notified forthwith in writing of the Director's determination that an application is substantively complete, and the initiation of the Temporary Stay pursuant to Section 22.171.12 of this article. The Notice shall be sent via Certified Mail, Return Receipt Requested.

3. **Commission Action on Proposed Designation by Initiation or Application.** The time, place and purpose of the public hearing on the proposed designation shall be given by mailing written notice at least ten days prior to the date of the hearing, to the applicant, if any, and to the Owner or the Owner's representative, if different from the applicant or if the designation was proposed by initiation. Notice to the record Owner or the Owner's representative shall be sent via Certified Mail, Return Receipt Requested.

4. **Council Action on Proposed Designation by Initiation or Application.** The time, place and purpose of the public hearing on the proposed

designation shall be given by mailing written notice at least ten days prior to the date of the hearing, to the applicant, if any, and to the Owner or the Owner's representative, if different from the applicant or if the designation was proposed by initiation. Notice to the record Owner or the Owner's representative shall be sent via Certified Mail, Return Receipt Requested.

(e) **Time for the Cultural Heritage Commission to Act.**

1. **Action on Application.** The Commission shall determine at a public meeting held within 30 days of the filing of a substantively complete application, as determined by the Director, or his or her designee, whether to take a proposed Monument designation under consideration. This time limit to take a proposed designation under consideration may be extended by the Commission, upon written request of the Owner. After providing all notice required under this article, the Commission shall hold a public hearing on the proposed designation. The Commission shall, pursuant to Subsection (c) of this section, make a report and recommendation on the application within 90 days of the meeting where the proposed Monument was taken under consideration. If the Commission fails to act on an application within the time allowed by this section, the Commission shall be deemed to have denied the application. With written consent of the Owner, the time period for the Commission to act may be extended.

2. **Action on Initiation.** If the proposed Monument designation was proposed by initiation of the Council, Commission, or Director, rather than application, the Commission shall, after providing all notice required under this article, hold a public hearing on the proposed designation. The Commission shall, pursuant to Subsection (c) of this section, make a report and recommendation on the application within 90 days of the date of the initiation. If the Commission fails to act on the initiation within the time allowed by this section, the Commission shall be deemed to have denied the proposed designation. With written consent of the Owner, the time period for the Commission to act may be extended.

(f) **Time for Council to Act.** The Council may approve or disapprove in whole or in part an application or initiation for a proposed Monument designation. The Council shall act within 90 days of the public hearing held before the Commission on the proposed designation. The 90 day time limit to act by the Council may be extended by the Council for good cause for a maximum of 15 days. If the Council does not act on the application or initiation within this 105-day total time limit, the application or initiation to designate a Monument shall be deemed to have been denied. The Council may override a Commission recommendation of denial of a Council-initiated designation by a minimum of ten votes. With written consent of the Owner, the time period for the Council to act may be extended.

(g) **Effect of Denial of the Initiation or Application.** No property may be nominated for designation as a Historic-Cultural Monument for a period of five years after an initiation or application for designation has been denied, unless the Commission determines that substantial new information has been documented which makes the latest application materially different from the previous application.

(h) **Repeal of Monument Status.** Once a Monument designation is made, it shall not be repealed by the Commission and 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 Monument no longer meets the criteria for designation under Section 22.171.08 due to damage caused by natural disaster (e.g. fire, flood, earthquake, etc.) or reasons otherwise outside of the control of the Owner

A change of use, a difference of opinion of a subsequent Commission, the desires of property Owners, or financial considerations are not sufficient to repeal a designation. The repeal of a Monument may be initiated by the Director, Commission, or Owner. The City Council, with the approval of the Commission, may consider a repeal of a previously designated Monument utilizing the same procedures for designation as provided by this article. If the determination of Monument status is repealed, the list of Monuments shall be updated accordingly. Repeal of a Monument designation shall be considered a project under the California Environmental Quality Act.

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Sec. 22.171.10. Inspection and Investigation.

The Commission, a sub-committee, or the staff of the Department acting on behalf of the Commission shall inspect and investigate any proposed Monument, including but not limited to, touring, reviewing photographic or videographic records, and reviewing any prior environmental study of the proposed Historic-Cultural Monument that included a report from a Qualified Historic Preservation Consultant. Inspection and investigation shall also include soliciting opinions and information from the office of the Council District in which the proposed Monument is located and from any department or bureau of the City whose operations may be affected by designating the proposed Monument.

Sec. 22.171.11. Preservation of Monuments.

The Commission shall take all steps necessary to preserve Monuments not in conflict with the public health, safety and general welfare, powers and duties of the City of Los Angeles, or its several boards, officers or departments. These steps may include assistance in the creation of civic citizens' committees; assistance in the establishment of a private fund for the acquisition or Restoration of Monuments; and recommendation that a Monument be acquired by a governmental agency where private acquisition is not feasible.

Sec. 22.171.12. Temporary Stay of Demolition, Alteration or Relocation

Pending Determination to Designate a Monument.

Upon the filing of an application for a Monument, the Director or his or her designee shall determine whether the application is substantively complete and whether the proposed Monument 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 shall be issued, and any previously issued permit to authorize Demolition, Alteration, and Relocation shall not be effective, pending final determination by the Commission and Council on whether the proposed site, building, object or structure shall be designated as a Monument. The Director shall notify the Department of Building and Safety in writing not to issue any permits for the Demolition, Alteration or Relocation of a proposed Monument.

The Commission and Council shall act on the proposed designation within the time limits contained in Section 22.171.09 (e) and (f) of 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 Monument, then the permit may be issued and Demolition, Alteration or Relocation may proceed.

If the Commission determines that the site, building, object or structure proposed to be designated does not meet the criteria for Monument designation set forth in Section 22.171.8 of this article, then the temporary prohibition on the issuance of a permit to demolish, alter or relocate the proposed Monument and the temporary prohibition on Demolition, Alteration or Relocation of the proposed Monument shall terminate, except when the designation of a site, building or structure as a Monument was proposed by Council initiation.

Sec. 22.171.13. Notice of Designation and Subsequent Actions.

The Commission shall notify the applicant, the Owner, and the appropriate Department and Board, if any, that his or her site, building or structure has been designated a Monument. Notice shall be mailed to the address shown on the Assessment Roll or the City Clerk's records, as applicable, as soon as practicable after the property is designated or the Commission takes any further action regarding the proposed Monument. The designation shall be recorded with the County Recorder.

Sec. 22.171.14. Commission Review

No person, Owner or other entity shall demolish, develop, or relocate a Historic-Cultural Monument, or alter, rehabilitate, remove, restore or relocate any ~~exterior~~ Character-Defining Features of a Historic-Cultural Monument without first having applied for and been granted a Certificate of Appropriateness, Administrative Certificate of Appropriateness, or Certificate of Hardship on a form provided by the Department. A Certificate of Appropriateness, Administrative Certificate of

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Appropriateness, or Certificate of Hardship shall not be required for Ordinary Maintenance and Repair. Ordinary Maintenance and Repair shall mean work on a Historic-Cultural Monument that meets all three of the following conditions:

- 1) Involves regular, customary or usual care of an existing building, structure or object, 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 Character-Defining Features

An Administrative Certificate of Appropriateness shall be issued for work requiring a permit, involving basic maintenance and repair or minor rehabilitation, that does not involve a change of design, material, appearance or visibility of Character-Defining Features, including the following:

1. The in-kind replacement of historically correct architectural features or building elements, including windows, doors, exterior siding, porches, cornices, balustrades, stairs, that are deteriorated, damaged beyond restoration, or previously removed.
2. The in-kind replacement of historically correct site, or landscape features that are deteriorated, damaged beyond restoration, or previously removed.
3. The replacement or repair of roof covering materials, gutters, and downspouts, with no change in appearance
4. Foundation work, and repointing of bricks on the exterior of a structure, with no change in appearance
5. Fences and walls.
6. Awnings and building-mounted signs.
7. Landscape alterations and installations, including the removal of trees not specifically designated or listed as contributing to a designated resource.
8. Paving for driveways, walkways and/or patios.
9. Exterior painting. Surfaces allowed to be painted include only those that were originally intended to be painted and exclude all other surfaces, such as unpainted brick, concrete and stone.
10. Exterior lighting.
11. The removal of inappropriate additions to restore the original appearance of a structure.
12. Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances, not visible from street level, that result in no change in appearance
13. 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
14. Other minor rehabilitation work

The Administrative Certificate of Appropriateness shall be issued by the Director within 21 days of receipt, unless the Director determines that the proposed work would involve a change of design, material, appearance or visibility of Character-

Defining Features.

(a) **Standards for Issuance of a Certificate of Appropriateness.** The Commission shall issue a Certificate of Appropriateness for the Substantial Alteration of a Historic-Cultural Monument if it finds that the work:

1. Complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties; or
2. Does not demonstrate strict compliance with the Secretary's Standards, but nonetheless protects and preserves the historic and architectural qualities and the physical characteristics that make the site, building, or structure a Historic-Cultural Monument.

The applicant for a Certificate of Appropriateness may make submissions to the Commission of any or all of the information in Section (b) (1) 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. In the event work proposed by the Project has obtained approval of an Historic Preservation Certification Part 2 Approval or a finding of no effect pursuant to Section 106 of the National Historic Preservation Act, the Commission shall issue the Certificate of Appropriateness.

(b) **Standards for Review for Demolition – Certificate of Hardship.** No Historic-Cultural Monument shall be issued a permit for Demolition without obtaining a Certificate of Hardship. If a Certificate of Hardship is approved, the applicant shall obtain approval for new development on the same premises in compliance with CEQA before issuance of a demolition permit

1. In making its determination, the Commission may solicit expert testimony or require that the applicant for a Certificate of Hardship make submissions concerning any or all of the following information, if relevant:

- a. An opinion regarding the structural soundness of the structure and its suitability for continued use, renovation, Restoration or Rehabilitation from a licensed structural engineer or from an architect who meets the Secretary of the Interior's Professional Qualification Standards.
- b. An estimate of the cost of the proposed Demolition and cost of rehabilitation;
- c. Costs associated with maintaining the Monument in its current condition, including real property taxes, insurance, tenant improvements, if any, and brokerage commissions, if applicable;
- d. An estimate of the market value of the property in its current

Deleted: Notwithstanding the language in the above paragraphs, nothing in this section shall prevent the construction, Alteration, repair, Restoration, stabilization, or Demolition of a Historic-Cultural Monument if the Superintendent of Building and Safety or the City Engineer determines the resource creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The Superintendent of Building or the City Engineer shall notify the Commission in writing with a finding that the proposed action is necessary to mitigate the unsafe or dangerous condition. In such event, no Certificate of Appropriateness or Certificate of Hardship shall be required. However, the Superintendent of Building and Safety or the City Engineer 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. ¶

condition; after completion of the proposed Demolition and new construction; and after Rehabilitation of the existing structure for continued use;

e. An estimate from architects, developers, real estate consultants, appraisers, or other real estate professionals experienced in Rehabilitation as to the economic feasibility of Restoration, renovation or Rehabilitation of any existing structure or objects. This shall include tax incentives and any special funding sources, or government incentives which may be available.

f. Substantiation that all reasonable means involving City, State and federal incentives, such as transfer of development rights, tax abatements, financial assistance, building code modifications, changes in the zoning ordinance, loans, grants and reimbursements, to the extent useful and available to the Owner, have been explored to relieve possible economic hardship;

g. The Owner may submit any additional information that the Owner deems to be relevant and the Commission shall consider this information.

2. The following factors shall not be considered evidence of hardship:

- a. Willful or grossly negligent acts by the Owner;
- b. Purchase of the property for substantially more than the value of comparable properties at the time of purchase
- c. Failure to perform normal maintenance or repairs;
- d. Failure to take commercially reasonable efforts to solicit or retain tenants;
- e. Failure to provide normal tenant improvements;

3. Findings of Fact. The following findings shall be made by the Commission to approve or conditionally approve all Certificate of Hardship applications:

a. Based upon substantial evidence, including evidence provided by the applicant under Section 22.171.14 (b)(1), the Commission finds that:

- 1) denial of the application will deprive the owner of reasonable economic return on, or substantially all reasonable use of, the property; or
- 2) failure to approve the application for a Certificate of Hardship will cause a substantial hardship because of conditions peculiar to the particular

structure or other feature involved, and the purpose and value of an alternative use of the property significantly outweighs the benefit conferred to the community from the preservation of the historical resource.

(c) **Review Procedures for Certificate of Appropriateness or Certificate of Hardship.** The Director of Planning shall approve, deny, or refer a Certificate of Appropriateness or Certificate of Hardship application within 30 days from the date the application is deemed complete. The Director of Planning may refer a Certificate of Appropriateness to the Commission when the importance of the resource or the potential discrepancy between the proposal and the Secretary of the Interior's Standards for the Treatment of Historic Properties justify a public review. The Director shall refer all Certificate of Hardship requests to the Commission. Upon receipt of a complete application, the Commission shall act on the Certificate of Appropriateness or Certificate of Hardship 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 chapter and CEQA where applicable. The time, place and purpose of the public hearing on the proposed Certificate of Appropriateness or Certificate of Hardship shall be given by mailing written notice at least ten days prior to the date of the hearing, to the Owner or the Owner's Representative. Notice to the Owner or the Owner's representative shall be sent via Certified Mail, Return Receipt Requested.

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.

(d) **Effect of Denial of Application for Certificate of Hardship.** No Certificate of Hardship application that was previously denied by the Commission or, on appeal, by the City Council, shall be reconsidered by the Commission for a period of five years, unless the Commission determines that the applicant presents substantial new information in support of the application.

(e) Review Procedures for Interior Spaces. No permit for the Demolition, Substantial Alteration, or Relocation of any Monument interior shall be issued without first referring the matter to the Commission. The Commission shall approve the permit if it finds that the work:

1. Complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties; or

2. Does not demonstrate strict compliance with the Secretary's Standards, but nonetheless protects and preserves the historic and architectural qualities and the physical characteristics that make the site, building, or structure a Historic-Cultural Monument.

Where any permits subject to this article are referred to the Commission by its staff,

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the Commission shall have 30 days from the date of the referral to object to the proposed Demolition, Substantial Alteration, or Relocation. Any objection by the Commission shall be set for a public hearing. The filing of an objection shall suspend the issuance of any permit for the Demolition, Substantial Alteration, or Relocation of the Monument interior (Stay) for a period of not less than 30 nor more than 180 days, during which time the Commission shall take all steps within the scope of its powers and duties as it determines are necessary for the preservation of the Monument interior.

At the end of the first 30 days of the Stay, staff of the Department shall report any progress regarding preservation of the Monument interior to the Commission, which may, upon review of the progress report, withdraw and cancel its objection. If the Commission determines, upon the basis of the progress report to withdraw and cancel its objection, it shall promptly notify the appropriate Department or Board concerned of its action. Upon receipt of notification of withdrawal of the objection, the permit may be issued. If the Commission does not withdraw and cancel its objection, the Stay shall remain in effect.

If the Commission, or the staff of the Department acting on the Commission's behalf, finds at the end of the first 100 days of the Stay that the preservation of the Monument interior cannot be fully accomplished within the 180-day Stay period, and the Commission determines that preservation can be satisfactorily completed within an additional period not to exceed an additional 180-day Stay, the Commission may recommend to the City Council that the Stay be extended to accomplish the preservation. No request for an extension shall be made after the expiration of the original 180-day Stay.

The Commission's recommendation for an extension of the Stay shall set forth the reasons for the extension and the progress to date of the steps taken to preserve the Monument interior. If it appears that preservation may be completed within the time extension requested, the City Council may approve the request for extension of the Stay not to exceed an additional 180 days for the purpose of completing preservation of the Monument interior.

(f) Notwithstanding the language in the above paragraphs, nothing in this section shall prevent the construction, Alteration, repair, Restoration, stabilization, or Demolition of a Historic-Cultural Monument if the Superintendent of Building and Safety or the City Engineer determines the resource creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The Superintendent of Building or the City Engineer shall notify the Commission in writing with a finding that the proposed action is necessary to mitigate the unsafe or dangerous condition. In such event, no Certificate of Appropriateness, Certificate of Hardship, or permit referral shall be required. However, the Superintendent of Building and Safety or the City Engineer 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.

(g) City-Owned Properties or Public Improvements. To implement the provisions of this section and clarify its applicability to City-owned Historic-Cultural Monuments, a City department may request the preparation and adoption of a Memorandum of Agreement (MOA). The MOA may exempt from Commission review certain types of activities affecting City-owned Historic-Cultural Monuments, or outline the specific process for Commission review, subject to the provisions of the MOA. The Commission shall, on behalf of the Director, review and approve the MOA by majority vote following a public hearing and following the consideration of any amendments proposed by the Commission, the Director, and the affected City department. The MOA shall become effective upon signature of both the Director of Planning and the General Manager of the affected City department. For departments that request an MOA, the fully executed MOA will be required to implement the provisions of this section. An MOA may:

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- 1) Exempt from Certificate of Appropriateness, Administrative Certificate of Appropriateness, Certificate of Hardship, **or permit** review specific types of Maintenance and Repair activities and/or activities that would not alter Character-Defining Features; or
- 2) Exempt from Certificate of Appropriateness, Administrative Certificate of Appropriateness or Certificate of Hardship, **or permit** review any requests that have completed reviews under CEQA and Section 106 of the National Historic Preservation Act, subject to a substitute process agreed to by the Commission and the affected Department.
- 3) Clarify the timing of the Commission's review processes and create protocols for inter-departmental coordination.

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(h) Permit Review for Historical and Cultural Buildings under the California Environmental Quality Act (CEQA) Per the provisions of Los Angeles Municipal Code Section 91.106.4.5, the Department of Building and Safety shall not issue a permit to demolish, alter or remove a building or structure of historical, archaeological or architectural consequence if such building or structure has been officially designated, or has been determined by state or federal action to be eligible for designation, on the National Register of Historic Places, California Register of Historical Resources, or has been included on the City of Los Angeles list of historic cultural monuments, without the department having first determined whether the demolition, alteration or removal may result in the loss of or serious damage to a significant historical or cultural asset. If the department determines that such loss or damage may occur, the applicant shall file an application and pay all fees for the California Environmental Quality Act Initial Study and Check List, as specified in Section [19.05](#) of the Los Angeles Municipal Code. If the Initial Study and Check List identifies the historical or cultural asset as significant, the permit shall not be issued without the department first finding that specific economic, social or other considerations make infeasible the preservation of the building or structure.

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Sec. 22.171.15. Appeals.

- (a) **Finality of Director of Planning or Commission decision.** Any

decision of the Director of Planning or Commission on a Certificate of Appropriateness, Certificate of Hardship, or ~~list~~ of Character-Defining Features under this article shall become final if no appeal is submitted within the applicable time limits in this chapter.

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(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 of Planning, may appeal to the City Council at any time within fifteen (15) calendar days after the date on which the decision of the Commission is issued. The Commission's denial of a proposed Historic-Cultural Monument designation ~~and the Commission's Stay on Demolition, Substantial Alteration, and Relocation of Monument interiors are~~ not 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 specified in Section 22.171.9 and written notice shall be given to the Owner and appellant(s). The City Council shall act within 75 days after expiration of the appeal period or within any additional period agreed to by the Owner.

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(c) **Actions by the City Council.** The City Council may affirm, reverse, or modify the decision of the Director of Planning or the Commission. Such action by the City Council shall be final.

Sec. 22.171.16. Compliance with California Environmental Quality Act

1. In conjunction with any discretionary action required pursuant to this article, the Director of Planning, Commission, and/or City Council shall require an environmental review of the requested action in accordance with CEQA. Depending on the nature and scope of the requested action, a negative declaration, mitigated negative declaration, or environmental impact report may need to be prepared. Such environmental documents shall be based on CEQA and the State CEQA Guidelines. Environmental review under CEQA shall occur prior to approval for any permit for Demolition or Substantial Alteration of a Historic-Cultural Monument.

2. If the proposed Project complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and creates no other unmitigated significant impacts, as defined by CEQA, or if the proposed Project qualifies for a Certificate of Appropriateness pursuant to Section 22.171.14(a), the lead agency shall issue a categorical exemption, negative declaration, or mitigated negative declaration for the Project.

3. If the proposed Project would result in the Historic-Cultural Monument losing its eligibility as an Historic-Cultural Monument, or eligibility for listing in the

California Register of Historical Resources or the National Register of Historic Places, the lead agency shall require preparation of an Environmental Impact Report.

4. If the proposed Project does not comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties or creates additional significant impacts, but would remain eligible for the California Register of Historical Resources or the National Register of Historic Places, the proper level of environmental review shall be determined by the lead agency, at its discretion.

Sec. 22.171.17. 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 of Planning, Commission, or by the City Council on appeal, and then shall be issued in conformity with such approval or conditional approval.

Sec. 22.171.18. Expiration of approval.

A Certificate of Appropriateness shall lapse and become void 24 months (or other period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the Certificate has commenced prior to such expiration date and is diligently pursued to completion. Upon request by the Owner, a Certificate of Appropriateness may be extended by the Director of Planning for an additional period of up to 12 months as long as the approved plans have not been modified. The Director of Planning 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.

Sec. 22.171.19. Duty to keep in good repair.

Every person in possession or control and every Owner of a Historic-Cultural Monument and any appurtenant premises shall, to the maximum extent practicable, maintain and keep the Monument in Good Repair, as defined in Los Angeles Building Code Section 8104. In the case that a Historic-Cultural Monument constitutes a public nuisance or is subject to vandalism, the Department of Building and Safety may issue any order it deems appropriate to prevent further vandalism or public nuisance pursuant to Los Angeles Municipal Code Section 91.8119.5.

Sec. 22.171.20. Preservation Incentives

(a) Incentives. The City Council may by resolution establish preservation incentives to encourage Owners to designate, maintain, preserve, rehabilitate, and

improve Historic-Cultural Monuments. Preservation incentives shall be made available to owners of Historic-Cultural Monuments as defined in Section 22.171.1 of this Article.

(b) State Historical Building Code. The Superintendent of Building and Safety is authorized to use and shall use the State Historical Building Code for projects involving Historic-Cultural Monuments. The Commission and the Director of Planning are authorized to use and shall use the State Historical Building Code for preservation projects.

(c) Historical Property (Mills Act) Contracts. Pursuant to Los Angeles Administrative Code Sec. 19.14 (known as the Mills Act), the City Council may establish a program providing for contractual agreement with an Owner of an 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, Restoration and/or Rehabilitation improvements and satisfactory maintenance of the property. 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 of Planning or his or her designee.

(d) Zoning. Pursuant to Los Angeles Municipal Code Sec. 12.24X, a Zoning Administrator may, upon application, permit some commercial uses within residential zones, in a building that is a Historic-Cultural Monument. Additionally, a Zoning Administrator may reduce or eliminate required off-street automobile parking spaces for a Historic-Cultural Monument if there is no area available for parking, or if the provision of required parking would harm the historic character of a resource.

(e) Parking. Pursuant to Los Angeles Municipal Code Sec. 12.21A.4(x)(2) no additional parking spaces need be provided in connection with a change of use for a Historic-Cultural Monument. Nevertheless, a decision-making body in connection with a discretionary approval may impose conditions requiring additional parking in connection with a change of use.

(f) Yard Setbacks. Pursuant to Section 12.22-C.26 of the Los Angeles Municipal Code, in connection with any change of use in a Historic-Cultural Monument, the yards required shall be the same as the yards observed by the existing structures on the site.

(g) Adaptive Reuse Ordinance. Pursuant to Division 85 of Article 1 of Chapter IX of the Los Angeles Municipal Code, alternative building standards may be applied when the commercial or industrial uses in an existing building are converted (change of use or occupancy) to joint living and work quarters.

(h) International Existing Building Code, Appendix A: The Superintendent of Building and Safety is authorized to use the Seismic Strengthening Provisions for

Unreinforced Bearing Wall Buildings found in Appendix A of the International Existing Building Code.

(i) Transfer of Development Rights (Transfer of Floor Area Ratio) Ordinance. Pursuant to Article 4.5 of Chapter I of the Los Angeles Municipal Code, owners of Historic-Cultural Monuments in downtown Los Angeles may transfer unused development rights to other properties.

Sec. 22.171.21. No Right to Acquire Property.

The Commission shall have no power or right to acquire any property for or on behalf of itself or the City, nor shall it acquire or hold any money for itself or on behalf of the City.

Sec. 22.171.22. Rules and Regulations of the Commission.

The Commission may adopt rules and regulations necessary to carry out the purpose and intent of this article.

Sec. 22.171.23. Cooperation with the Commission.

All boards, commissions, departments and officers of the City shall cooperate with the Commission in carrying out the spirit and intent of this article.

Sec. 21.171.24. Enforcement and penalties.

Deleted: :

A. In accordance with the provisions of Section 11.00 of the Los Angeles Municipal Code, any person who willfully violates a requirement of this title or fails to obey an order a determination issued by the Commission or comply with a condition of approval of any certificate or permit issued under this title may be charged with a misdemeanor.

B. In accordance with the provisions of Section 91.8901 et. seq. of the Los Angeles Municipal Code, any Alteration or Demolition of a Historic-Cultural Monument in violation of this title is expressly declared to be a nuisance and shall be abated by restoring or reconstructing the resource to its original condition prior to the violation. Any person or entity who demolishes or substantially alters or causes Substantial Alteration or Demolition of a Historic-Cultural Monument, in violation of the provisions of this title, shall be liable for a civil penalty.

C. Demolition of a Historic-Cultural Monument in violation of this title shall authorize the Department of Building and Safety to issue a temporary moratorium for the development of the subject property for a period not to exceed (60) months (5 years), as specified in Section 91.106.4.1(10) of the Los Angeles Municipal Code.

D. The City Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial Restoration, Reconstruction or replacement of a Historic-Cultural Monument demolished, partially demolished, altered or partially altered in violation of this title. The City Attorney may also pursue any other action or remedy authorized under the Los Angeles Municipal Code, state statutes and/or in equity for any violation of this title. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty or other remedy provided by law.

E. In accordance with the provisions of Sec. 11.00 of the Los Angeles Municipal Code, violations of this Code are deemed continuing violations and each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$2,500 for each and every offense.

Sec. 22.171.25. Exemptions -- Application of Ordinance to Existing Projects and Project Applications. The provisions of this Ordinance shall not apply to any of the following:

1. Any application or initiation related to a new proposed Monument designation, if such application or initiation was submitted or initiated prior to [The Effective Date of Ordinance].
2. Any project where plans for a building permit or demolition permit have been accepted by the Department of Building and Safety for plan check and the appropriate fees paid prior to [The Effective Date of Ordinance].
3. Any entitlement application for a discretionary land use approval set forth in Section 16.05 B 2 of the Los Angeles Municipal Code filed and deemed complete, with the exception of CEQA review, prior to [The Effective Date of Ordinance].
4. Any development contained within a final discretionary land use approval set forth in Section 16.05 B 2 of the Los Angeles Municipal Code granted prior to [The Effective Date of Ordinance] provided the approval is still valid.

Sec. 22.171.26. Notice of Ordinance Amendments. Sixty (60) days written notice of any proposed amendments to this ordinance shall be provided to Owners prior to initial consideration by the Cultural Heritage Commission.

Deleted:

Sec. 22.171.27. Severability.

If any section, sentence, clause, or phrase of this chapter is for any reason held to be invalid by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council

declares that it would have passed this ordinance and adopted this article, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences clauses or phrases be declared invalid.



DEPARTMENT OF CITY PLANNING SUPPLEMENTAL RECOMMENDATION REPORT



CITY PLANNING COMMISSION

DATE:	July 9, 2009	CASE NO:	CPC-2008-4918-CA
TIME:	after 8:30 a.m.*		CHC-2008-310-CA
PLACE:	City Hall	CEQA:	ENV-2008-4990-CE
	200 N. Spring Street, 10 th Fl.	LOCATION:	Citywide
	Los Angeles, CA 90012	COUNCIL DISTRICT:	All
		PLAN AREAS:	All

PUBLIC HEARING REQUIRED

REQUEST: Proposed Amendments to the Cultural Heritage Ordinance, Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171 et seq.

SUMMARY: A proposed ordinance to clarify the designation criteria for Historic-Cultural Monuments; strengthen provisions for Cultural Heritage Commission review of proposed demolitions, alterations and additions to City Historic-Cultural Monuments; provide earlier notification to private property owners of Cultural Heritage Commission actions; increase the size of the Cultural Heritage Commission to seven members; detail the purpose and duties of the Cultural Heritage Commission, and strengthen the ordinance's enforcement provisions.

RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the findings included in Attachment 1.
3. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.
4. **Adopt** ENV-2008-4990-CE (Categorical Exemption) and find that pursuant to State of California CEQA Guidelines, Article 19, Sections 15308, Class 8, and 15331, Class 31, the project is categorically exempt.

S. GAIL GOLDBERG, AICP
Director of Planning

[SIGNED ORIGINAL IN FILE]

KEN BERNSTEIN, AICP
Manager, Office of Historic Resources

[SIGNED ORIGINAL IN FILE]

EDGAR GARCIA
Preservation Planner, Office of Historic Resources
Telephone: (213) 978-1189

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

STAFF REPORT

BACKGROUND

At its June 11, 2009, the City Planning Commission directed Department of City Planning staff to report back on 13 specific issues concerning the draft Cultural Heritage Ordinance. The department's response to these issues was shaped by two additional meetings held with representatives of the development community and property owners, including the Central City Association, as well as the Los Angeles Conservancy.

This Supplemental Recommendation Report should be read in conjunction with the original staff report, which contains background on the ordinance and the proposed findings. This Supplemental Recommendation Report provides a summary of the department's response to each of the Commission's 13 issues and also contains a new draft ordinance, with changes to the May 2009 draft ordinance indicated in underline/strikeout form in Attachment A. These ordinance refinements address several of the 13 issues; in other cases, explanations or clarifications are provided in this report, with no ordinance text changes proposed.

SUMMARY

Below are the 13 issues raised by the Commission at the June 11, 2009 hearing:

1) Designation of Interiors

At the June 11 hearing, several property owners argued that the regulation of interiors raises privacy concerns and potential legal issues surrounding the legitimate police powers of local government. A majority of big-city preservation ordinances either prohibit designation of interior spaces altogether or significantly limit interior designations to areas that are regularly accessible to the public. The Department therefore recommends new language that would restrict designation of interiors to publicly accessible or visible spaces. Private interior spaces could still be included in the designations upon agreement of the property owner, and would automatically be included when interior work is reviewed as part of a Federal Rehabilitation Tax Credit project or Mills Act Historical Property Contract. (Both of these programs require reviews of an entire designated historic property, including interior spaces.)

2) Inventory of Character-Defining Features

Many property owners have requested greater clarity as to the specific "character-defining features" covered by a Historic-Cultural Monument designation. Although "character-defining features" have always been reviewed by the Cultural Heritage Commission as part of its review of projects in accordance with the Secretary of the Interior's Standards, the new draft ordinance more specifically defines this concept and specifies that alteration or removal of character-defining features would be subject to review by the Cultural Heritage Commission. The proposed ordinance did not originally require a specific inventory of character-defining features for each Monument. The Department agrees that an inventory of character-defining

features would help create greater clarity and certainty for property owners. Under the ordinance changes, all new Monument designations would contain this inventory, and the Office of Historic Resources would require on the Monument application form a draft inventory of character-defining features.

The Department's workload could be very significantly affected if the ordinance retroactively mandated an inventory of character-defining features for more than 950 existing Historic-Cultural Monuments. To address this issue, the draft ordinance does not require the Department to prepare such an inventory immediately for all existing Monuments.

Nevertheless, any Monument owner may request preparation of such an inventory at any time, by submitting a draft inventory to the department, based upon a report by a qualified historic preservation consultant. In addition, the inventory language allows for adding interior character-defining features if a Federal Rehabilitation Tax Credit project or Mills Act contract is later approved.

3) Transition Rules

Development community representatives had expressed concerns that the draft ordinance lacked a set of "transition rules" addressing the review of projects or new Monument applications that were already in the approval pipeline at the time of the ordinance's enactment. The Department frequently includes such transition rules in new citywide ordinances, and agrees that it is appropriate to add such provisions in this ordinance. The transition rules would ensure that Monument applications or proposed projects filed prior to the effective date of the ordinance would be governed by the current version of the Cultural Heritage Ordinance.

4) "Second Bite of the Apple" – Limits on Reconsideration of Previously Declined Monument Nominations

Representatives of the development community expressed concerns at the June 11 hearing that opponents of development projects could misuse the Cultural Heritage process by repeatedly submitting Historic-Cultural Monuments for the same site. The new draft ordinance proposes a prohibition on resubmission of a Historic-Cultural Monument nomination for five years after a nomination was denied, except where the Commission determines that significant new information makes the new nomination materially different from the previous submittal. The Department proposes that a similar "second bite of the apple" restriction should also prohibit project applicants from repeatedly re-submitting substantially the same Certificate of Hardship request for demolition, if it had previously been denied by the Commission and Council.

5) "12 to 2" Process/Multiple Approvals

At the June 11 hearing, concern was expressed as to whether the ordinance is consistent with the "12 to 2" initiative reforming the City's review of planning entitlements, as well as with the City's Charter and Municipal Code sections requiring combined approval processes and public hearings when multiple approvals are required. The draft Cultural Heritage Ordinance will significantly improve coordination of the approval process. Today, because the Cultural

Heritage Commission's approval is only triggered at the building permit stage, it is frequently the last, "hidden" step of an entitlement process, sometimes months or even years after other approvals are secured.

However, the multiple approvals provisions of the Los Angeles City Charter (Section 564) are limited to those affecting the Zoning Administrator, Area Planning Commissions and City Planning Commission. It is not appropriate for the Cultural Heritage Commission's review of historic preservation impacts to be delegated to a Zoning Administrator or Area Planning Commission. While the strict "bundling" of approvals may not be possible, the Department does support the review of multiple approvals on a concurrent time-line and can coordinate its administrative practices to make this possible. In addition, Department of Building and Safety staff has indicated a willingness to give a priority to Historic-Cultural Monument projects in assigning case managers to coordinate complex projects involving multiple approvals and City departments.

6) Certificate of Hardship – Demolition Standard

Many property owners have argued that the draft ordinance sets an inappropriately "high bar" for approval of demolition requests under the ordinance's "Certificate of Hardship" provisions. The draft ordinance's demolition standard was crafted by the Cultural Heritage Ordinance Working Group as a consensus approach to demolition review that did not fully satisfy either property owners or the preservation community. Many major cities allow demolition of local landmarks only in cases of economic hardship, and, indeed, the City's Historic Preservation Overlay Zone (HPOZ) Ordinance since the 1980s has prohibited demolitions of often-modest "Contributing Structures" in historic districts, except in cases of economic hardship.

To respond to the concerns expressed, the new draft ordinance has made two changes to the demolition standard. First, the new draft ordinance has changed the economic hardship standard that previously required a showing of denial of "substantially all reasonable use of, or economic return on, the property." The new language requires a showing of denial of "reasonable economic return on, or substantially all reasonable use of, the property." Many other local preservation ordinances utilize the term "reasonable economic return" in their economic hardship tests. Second, the new draft ordinance still allows for demolition to be approved based on a finding of hardship that is not an economic hardship, but has changed the requirement slightly, from "extreme hardship" to "substantial hardship."

The Department believes the current draft's proposed language allows decisionmakers sufficient flexibility to approve demolitions, while still conveying that demolition of Historic-Cultural Monuments should be relatively rare. The draft ordinance also allows demolition proposals to be appealed to the City Council for the first time.

7) Changes to Existing Monuments – Standards for Review

The draft ordinance will not be changing the historic preservation standards on which the City bases its approval of project work on Monument properties, the Secretary of the Interior's Standards for Rehabilitation. These standards, used in every local government's preservation

law, are meant to allow significant change to historic properties, not to "freeze" historic buildings in time (see #12 below for a further explanation of the Standards). Furthermore, the Cultural Heritage Ordinance currently on the books requires strict compliance with the Secretary of the Interior's Standards to obtain project approval. The new draft ordinance allows for approval of a Certificate of Appropriateness in certain situations where strict compliance with the Standards may not be feasible, so long as the qualities and characteristics that led to the Monument's designation are preserved.

8) Process for City-Owned Monuments

Several City departments participating in the Cultural Heritage Ordinance Working Group had indicated that the proposed COA process was not well-suited to certain public properties, public improvements, and infrastructure where no building permits are required. To address these concerns and ensure that the COA process does not adversely affect the City's public safety responsibilities and capital improvement programs, the draft ordinance allows the Commission to enter into a Memorandum of Agreement (MOA) with other City departments upon request.

This MOA process does not create a "double-standard" entitling City departments to make alterations to Monuments that would be denied to private owners. The MOA may not exempt City projects from review altogether, nor may it exempt the review of any activities that would affect the significant historic features of any City-owned Monument. Instead, the process is largely meant to clarify the timing of the Commission's review process and create protocols for inter-departmental coordination. To avoid duplicative reviews, the MOA may also exempt from review those requests that have already completed reviews by the State Office of Historic Preservation under CEQA and Section 106 of the National Historic Preservation Act. In order to ensure transparency and public input, the MOA would require Commission approval, following a public hearing.

9) Inclusion of the Ordinance in the Zoning Code

The Department supports the integration of the Cultural Heritage Ordinance into the Zoning Code/Los Angeles Municipal Code and will work with the City Attorney to accomplish this integration as part of that office's review of the ordinance for form and legality. The Department will seek to locate the ordinance consecutively with the Historic Preservation Overlay Zone (HPOZ) Ordinance, the City's other major historic preservation law.

10) Relationship to the Adaptive Reuse Ordinance

The City's Adaptive Reuse Ordinance (ARO) has helped spur the creation of thousands of units of housing in downtown Los Angeles, Hollywood, and other parts of the City. Many of these adaptive reuse projects have successfully been approved under the existing Cultural Heritage Ordinance, for conformance with the Secretary of the Interior's Standards. Because these Standards are not changing, all of the projects previously approved under the ARO would also be approved under the new ordinance. Furthermore, as discussed above under #7, the new ordinance would provide additional flexibility to the Commission and City Council to approve adaptive reuse projects that may not be in strict conformance with the Standards.

11) Fifth Designation Criterion on Diversity

Based upon the recommendation of the Cultural Heritage Ordinance Working Group, the proposed Ordinance would add a fifth criterion recognizing places that are significant because they reflect or exemplify the diversity of Los Angeles. The proposed Monument would need to demonstrate historic significance and an important association based on this criterion, just as it would under any of the existing criteria. Indeed, proposed Monuments that are eligible under the fifth criteria may already be eligible in many cases under the first criteria, which allows for designation of places that are significant to the social or cultural history of the city or a community.

The criterion will help encourage submission and designation of local landmarks that are of importance to Los Angeles' diverse ethnic communities, of sites associated with the history of women in Los Angeles, or places associated with social and political movements and of labor history.

12) Explanation of the Secretary of the Interior's Standards

The Secretary of the Interior's Standards for Rehabilitation are part of the United States Department of the Interior – National Park Service – Secretary of the Interior's Standards for the Treatment of Historic Properties.

The Standards are a nationally recognized tool for the preservation, maintenance and rehabilitation of our nation's heritage. These Standards have become the accepted benchmark at all levels of government – national, state, and local – for evaluating the acceptability of proposed changes to historic properties. The City of Los Angeles utilizes the Standards in reviewing proposed alterations to City Historic-Cultural Monuments and in its Historic Preservation Overlay Zones (HPOZs).

The Standards are not meant to prevent change – instead, they represent a sophisticated and nuanced framework for managing change. The Standards do not require that every feature of a historic property be preserved, but do seek to preserve the most significant, character-defining features of a historic site. The Standards also give important guidance on how to design and construct new additions in a manner that does not detract from a property's historic character. The National Park Service has also published detailed Guidelines that further explain and illustrate the Standards and their practical application.

13) Incentives for Historic Preservation

The Cultural Heritage Ordinance should not be seen as solely regulatory or punitive: it should include positive incentives that help make good historic preservation projects possible. The Ordinance therefore references the City's successful Mills Act Historical Property Contracts Program (which can provide a significant property tax reduction to historic property owners), the California Historical Building Code (which provides considerable flexibility for designated historic structures in achieving code compliance), and other preservation incentives found in other sections of the City's codes.

Recent discussions with Monument property owners have generated additional, constructive proposals for new historic preservation incentives that were not included within the Cultural Heritage Ordinance because they would require separate ordinances or inter-departmental coordination. Property owners have proposed a new dollar-for-dollar credit against the City's Arts Development Fee (Percent for Art) for expenditures toward rehabilitation or restoration of a designated Monument. Owners have also suggested that Historic-Cultural Monuments automatically be assigned a Case Manager in the Department of Building and Safety upon request, to assist in addressing code requirements and navigating the City approvals process. Finally, the City is exploring further applicability of additional portions of the International Existing Building Code that are not yet in the City's Building Code. OHR staff will be working with the Departments of Cultural Affairs and Building and Safety to pursue these proposals.

ADDITIONAL CHANGES TO THE ORDINANCE

In addition to addressing the 13 issues raised by the Commission, Department of City Planning staff is recommending several additional changes to the draft ordinance to address issues that have been raised during the public workshops and the June 11 hearing:

- **Owner representation on Cultural Heritage Commission:** The new draft ordinance now contains a requirement that two of the seven members of the expanded Cultural Heritage Commission be owners of Historic-Cultural Monuments: one shall be an owner of a residential Monument, and one shall be an owner of a commercial or industrial Monument.
- **Administrative Certificate of Appropriateness review:** The new draft establishes a 21-day time limit for department staff to approve an Administrative Certificate of Appropriateness (COA) request for minor rehabilitation work. This time limit is identical to the time limit for approval of "Conforming Work" (minor rehabilitation) cases under the City's Historic Preservation Overlay Zone (HPOZ) Ordinance. The new text also includes some minor changes to the 14 categories of work eligible for Administrative COA approval.
- **Consideration of previous environmental reviews:** In considering whether to take a proposed Monument under consideration for designation, the new ordinance directs the Cultural Heritage Commission to consider any prior environmental review of the proposed Monument that included a report from a qualified historic preservation consultant evaluating the proposed Monument's potential eligibility for designation.
- **Feasibility of rehabilitation:** The new draft adds language directing the Commission to take into consideration the reasonable economic, environmental, and technical feasibility of the proposed work in determining whether to issue a Certificate of Appropriateness for a project.
- **Repeal of Historic-Cultural Monument status:** The new draft slightly broadens the circumstances under which repeal of an existing Monument's designation could be considered, to include situations where procedural errors were made during the original designation process.

- **Notice of future Ordinance amendments:** To ensure appropriate and timely notification of property owners regarding any future changes to the Cultural Heritage Ordinance, the draft Ordinance now requires 60-day notice to all owners prior to initial consideration of any amendments.



DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT



CITY PLANNING COMMISSION

DATE:	June 11, 2009	CASE NO:	CPC-2008-4918-CA
TIME:	after 8:30 a.m.*	CEQA:	CHC-2008-310-CA
PLACE:	City Hall	LOCATION:	ENV-2008-4990-CE
	200 N. Spring Street, 10 th Fl.	COUNCIL DISTRICT:	Citywide
	Los Angeles, CA 90012	PLAN AREAS:	All

PUBLIC HEARING REQUIRED

REQUEST: Proposed Amendments to the Cultural Heritage Ordinance, Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171 et seq.

SUMMARY: A proposed ordinance to clarify the designation criteria for Historic-Cultural Monuments; strengthen provisions for Cultural Heritage Commission review of proposed demolitions, alterations and additions to City Historic-Cultural Monuments; provide earlier notification to private property owners of Cultural Heritage Commission actions; increase the size of the Cultural Heritage Commission to seven members; detail the purpose and duties of the Cultural Heritage Commission, and strengthen the ordinance's enforcement provisions.

RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the findings included in Attachment 1.
3. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.
4. **Adopt** ENV-2008-4990-CE (Categorical Exemption) and find that pursuant to State of California CEQA Guidelines, Article 19, Sections 15308, Class 8, and 15331, Class 31, the project is categorically exempt.

S. GAIL GOLDBERG, AICP
Director of Planning

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KEN BERNSTEIN, AICP
Manager, Office of Historic Resources

[SIGNED ORIGINAL IN FILE]

EDGAR GARCIA
Preservation Planner, Office of Historic Resources
Telephone: (213) 978-1189

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EXECUTIVE SUMMARY

The City of Los Angeles' Cultural Heritage Ordinance, originally approved by the City Council in 1962, created the procedures for the designation and protection of significant Los Angeles buildings and sites as Historic-Cultural Monuments. While the Ordinance has undergone several minor, procedural modifications, it has never been comprehensively updated to give Los Angeles a state-of-the-art historic preservation program.

The proposed ordinance amendments would clarify the designation criteria for Historic-Cultural Monuments; strengthen provisions for Cultural Heritage Commission review of proposed demolitions, alterations and additions to City Historic-Cultural Monuments; provide earlier notification to private property owners of Cultural Heritage Commission actions; increase the size of the Cultural Heritage Commission to seven members; detail the purpose and duties of the Cultural Heritage Commission, and strengthen the ordinance's enforcement provisions.

STAFF REPORT

REQUEST

Recommend to the City Council approval of the draft revisions to the Cultural Heritage Ordinance, Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171.7

BACKGROUND

In 1958, a small group of volunteers, as members of the Los Angeles chapter of the American Institute of Architects' (AIA) Historic Building Committee, became alarmed by the destruction of historic landmarks created by the explosion of growth in post-World War II Los Angeles. The AIA Committee and the City's Municipal Art Commission began working on an ordinance that would create a citizens board to survey, identify and protect historic sites throughout the city.

This early work culminated in the passage of the City's Cultural Heritage Ordinance in 1962. Los Angeles' ordinance was one of the earliest pieces of historic preservation legislation in a major urban center, predating by three years the 1965 passage of New York City's renowned Landmarks Preservation Law. The Cultural Heritage Ordinance created a five-member Cultural Heritage Board, giving the Board the responsibility to designate as Historic-Cultural Monuments any building, structure, or site important to the development and preservation of the history of Los Angeles, the state, and the nation.

Originally, the Cultural Heritage Board had the unilateral power to declare Historic-Cultural Monuments. In 1980, a code amendment required that the City Council confirm the Board's action before a property becomes an Historic-Cultural Monument.

In 1985, the Cultural Heritage Board became a full-fledged City Commission.

The Cultural Heritage Commission (CHC) is a five-member, mayoral-appointed commission that considers nominations of sites as City Historic-Cultural Monuments (designated City landmarks) and reviews proposed project work affecting more than 900 existing Historic-Cultural Monuments. The Commission also serves as the city's primary forum for the discussion of historic preservation policy. Recommendations of the Cultural Heritage Commission are forwarded to the City Council for their final action. The CHC meets on the 1st and 3rd Thursday of each month.

Despite the many successes of the City's preservation program, the City's Cultural Heritage Ordinance is weaker than the preservation ordinances found in most large U.S. cities. Most notably, the City presently lacks a mechanism to deny demolition of its designated Historic-Cultural Monuments: the current ordinance only allows for a temporary delay of demolition.

With the creation of a staffed Office of Historic Resources (OHR) within the Department of City Planning during 2006, OHR staff began working with the CHC to begin discussing potential amendments to the Ordinance. OHR staff has conducted considerable research on other cities' ordinances and has utilized guidance publications from the State Office of Historic Preservation to propose ordinance language that reflects "best practices" nationally. The OHR and the Office of Council President Eric Garcetti also convened a Cultural Heritage Ordinance Working Group, including representatives of several City departments, which met five times between June and October 2008 and proposed additional refinements to these amendments. The CPC's consideration of the proposed amendments was also postponed twice, in January and March 2009, to allow the OHR to hold three public workshops for owners of Historic-Cultural Monuments and to incorporate significant additional revisions to the ordinance suggested by property owners.

DISCUSSION

The text of the proposed ordinance is included as Appendix A. Below is a summary of the proposed ordinance changes:

- **Increase number of Cultural Heritage Commissioners from five to seven**

When the Commission experiences a vacancy and/or a recusal due to professional employment, it has, at times, lacked a quorum necessary for action. The City of Los Angeles is now a Certified Local Government (CLG) for preservation, which enables the City to obtain State and Federal grants for historic preservation planning. As a CLG, the Cultural Heritage Commission must have a required level of professional expertise in architecture, landscape architecture, architectural history, planning and related fields. A slightly larger commission size would allow access to a broader cross-section of professional expertise, while still ensuring diverse community representation on the Commission. Drawing upon a suggestion of property owners,

the most recent draft revisions also incorporate a requirement that at least one of the Commissioners be an owner of a Historic-Cultural Monument.

- **Spell out designation criteria for Historic-Cultural Monuments**

While the current ordinance does contain criteria for designation, they are ambiguously buried as a lengthy paragraph labeled “Definition of Monument,” rather than defined as clear, separate criteria to evaluate eligibility. The new ordinance would generally retain the existing language, but would clearly label these provisions as criteria and differentiate them in separate numbered sections that would parallel California Register and National Register criteria. In addition, at the suggestion of the Cultural Heritage Ordinance Working Group, the proposed Ordinance would add a fifth criterion recognizing places that are significant because they reflect or exemplify the diversity of Los Angeles.

The other major substantive change in this section is to require that designated Monuments retain integrity – that the proposed Monument still have the ability to convey its significance. The current ordinance is silent on the issue of integrity, often leading to confusion as to how the Commission should evaluate significantly altered structures. The OHR has included language clarifying that the integrity finding should be applied with flexibility, particularly for resources that are significant for historic, social, and cultural associations, rather than their architectural or design qualities. In addition, the ordinance clarifies that a building’s poor maintenance or dilapidated condition does not necessarily equate to a loss of integrity.

- **Change procedures for temporary stay of demolition to allow a property owner to be notified of the initial Historic-Cultural Monument (HCM) nomination hearing**

The current ordinance does not allow for notification of the property owner that an HCM nomination has been filed until after the Commission holds an initial hearing to take the nomination officially under consideration. Many property owners therefore feel “blindsided,” not only by the nomination itself, but also by the realization that they were unable to participate in an initial public hearing affecting their own property. The delay in owner notification is currently necessitated because the “stay” preventing demolition or alteration of a resource does not go into effect until the Commission officially acts to take the matter under consideration. On several occasions (most recently for one of the first homes built in Van Nuys), property owners have demolished a building before it could be considered for potential HCM status.

Under the new proposal, the stay of demolition would begin when an application is deemed substantively complete by staff and scheduled for the Commission’s hearing, rather than after initial Commission consideration. While this would lengthen the “stay” period by 10-20 days, it would provide for the ability to notify property owners of the initial hearing without triggering a preemptive demolition, and provide more appropriate due process.

- **Add provision for Certificate of Appropriateness (COA) review of additions, alterations, and demolitions**

The Cultural Heritage Commission is sometimes the last, “hidden” step in the process to obtain a building permit. The Commission reviews projects only at the permit stage, not typically in coordination with other project entitlements. The Commission may only “object” or “not object” to the permit issuance, and its objection period is limited to 180 days, with a possible 180-day extension by the City Council.

By contrast, the City’s Historic Preservation Overlay Zone (HPOZ) Ordinance has a well-defined “Certificate of Appropriateness” (COA) process to review additions, alterations, and demolitions. The new ordinance would parallel the COA procedure in the HPOZ Ordinance, placing preservation review earlier in the process to improve clarity for the development community. The City Planning Commission has also previously requested that preservation-related input on projects affecting historic properties occur earlier in the process.

The draft ordinance proposes a streamlined Administrative COA allowing staff-level approval for minor rehabilitation work. The current draft ordinance adds language specifying more than a dozen categories of requests to which an Administrative COA would apply. A full COA would be required for major alterations, additions, and demolitions. Ordinary repair and maintenance work is exempted from COA review altogether.

A COA process is found in most big-city preservation ordinances – including the ability to deny a demolition request, not just temporary delay demolition. The Commission’s COA decisions would be appealable to the City Council; today, the Commission’s 180-day demolition objections are not further appealable. The ordinance would create standards for review of demolitions that would directly parallel the standards that have long existed in the HPOZ Ordinance. Today, the City actually provides a higher level of protection for thousands of often-modest “contributing structures” in HPOZs, as opposed to its most cherished historic resources, the more than 900 HCMs.

- **Limit Certificate of Appropriateness (COA) review to designated Historic-Cultural Monuments**

The original draft revisions to the Cultural Heritage Ordinance proposed that a COA be required for all “designated historic resources,” including properties listed in or determined eligible for the National Register of Historic Places or the California Register of Historical Resources. This provision raised significant concerns from the development community, as properties may have been determined eligible for the National or California Registers without going through the same public review process as properties officially designated by the City as Historic-Cultural Monuments.

Following discussions by the Working Group, the current draft limits COA review to designated Historic-Cultural Monuments. Properties listed in or determined eligible for the National Register and California Register would still be considered “historical

resources” under the California Environmental Quality Act (CEQA) and, under a provision in Section 91.106.4.5 of the Municipal Code, would still require environmental review before the issuance of any permit that would adversely affect the resource.

In addition, based on input from the Working Group, projects that have received approval for Federal Rehabilitation Tax Credits or under Section 106 of the National Historic Preservation Act will be exempted from the COA process, to avoid duplicative reviews.

- **Create a “Certificate of Hardship” process to allow approval of demolition in specified circumstances**

The Cultural Heritage Ordinance Working Group discussed concerns that the new COA process might “set the bar” too high and essentially prohibit all demolitions of designated Historic-Cultural Monuments. To address these concerns, the draft ordinance now contains a separate review process for proposed demolitions, allowing applicants to obtain a “Certificate of Hardship” based on specified findings.

The Certificate of Hardship details the specific information that should be submitted to substantiate a finding that denial of the demolition permit will deny a property owner of substantially all reasonable use of, or economic return on, the property. It also allows for approval of demolition based on a finding that an extreme hardship exists due to the peculiar conditions associated with the property and that the purpose and value of an alternative use of the property significantly outweighs the benefit conferred to the community from the preservation of the historical resource. The new language reflects the presumption that demolition of a Historic-Cultural Monument should occur only rarely, but allows policymakers some flexibility in reviewing demolition proposals.

- **Allow City Departments to enter into a Memorandum of Agreement (MOA) with the Commission to tailor Certificate of Appropriateness review to the unique needs of City-owned historic resources**

Several City departments participating in the Cultural Heritage Ordinance Working Group had indicated that the proposed COA process was not well-suited to certain public properties, public improvements, and infrastructure where no building permits are required. To address these concerns and ensure that the COA process does not adversely affect the City’s public safety responsibilities and capital improvement programs, the new draft allows the Commission to enter into a Memorandum of Agreement (MOA) with other City departments upon request.

The MOA may not exempt City projects from review altogether. It may exempt from review certain types of activities affecting City-owned properties that would not alter character-defining features. It may also exempt from review those requests that have already completed reviews under CEQA and Section 106 of the National Historic Preservation Act, or clarify the timing of the Commission’s review process and create protocols for inter-departmental coordination. To ensure transparency and public

input, the MOA would require Commission approval, following a public hearing.

- **Update Ordinance sections addressing purpose and duties of the Commission and definitions**

Unlike most state-of-the-art preservation ordinances, the Cultural Heritage Ordinance presently lacks clear statements articulating either the City's overarching goals for historic preservation, or the Commission's specific duties. A new "duties" section would define the Commission's role and purview in preservation. The addition of a definitions section will allow the public to clearly understand the specific usage of terms.

- **Clarify process for potential repeal of Historic-Cultural Monument status**

Occasionally, as with St. Vibiana's Cathedral in 1996, there is an attempt to repeal a site's Monument status. This section would clarify that repeals are only possible if the evidence used to establish the designation was significantly erroneous, or in case of fire or disaster. It would also clarify that removal of Monument status triggers review under the California Environmental Quality Act (CEQA).

- **Add language on compliance with CEQA requirements**

The California Environmental Quality Act contains some of the most significant protections for historic resources in California. The Ordinance will ensure that projects affecting historic resources are given full review under the provisions of CEQA.

- **Clarify enforcement and penalties provisions, and owner's duty to keep a historic resource in good repair**

The original drafts of the revised Ordinance sought to clarify provisions on enforcement and penalties for violations of the code. Property owners expressed concerns that these provisions might single out Historic-Cultural Monument owners for penalties or prosecution. The new revisions to the draft therefore merely reference existing enforcement and penalty provisions found elsewhere in the code that apply to all properties, whether historic or non-historic.

Similarly, the ordinance states a "Duty to Keep in Good Repair," found in most preservation ordinances locally and nationally, to address potential neglect and vandalism of designated historic properties. After owners expressed concerns that such a provision could be onerous, the language was further refined so that it only references specific maintenance requirements already found in the City's Building Code and that apply to all properties.

- **Include preservation incentives in ordinance**

The Cultural Heritage Ordinance should not be seen as solely regulatory or punitive: it should include positive incentives that help make good historic preservation projects

possible. The Ordinance therefore references the City's successful Mills Act Historical Property Contracts Program (which can provide a significant property tax reduction to historic property owners), the California Historical Building Code (which provides considerable flexibility for designated historic structures in achieving code compliance), and other preservation incentives found in other sections of the City's codes.

Recent discussions with Monument property owners have generated additional, constructive proposals for new historic preservation incentives that were not included within the Cultural Heritage Ordinance because they would require separate ordinances or inter-departmental coordination. Property owners have proposed a new dollar-for-dollar credit against the City's Arts Development Fee (Percent for Art) for expenditures toward rehabilitation or restoration of a designated Monument. Owners have also suggested that Historic-Cultural Monuments automatically be assigned a Case Manager in the Department of Building and Safety upon request, to assist in addressing code requirements and navigating the City approvals process. Finally, the City is exploring further applicability of additional portions of the International Existing Building Code that are not yet in the City's Building Code. OHR staff will be working with the Departments of Cultural Affairs and Building and Safety to pursue these proposals.

PUBLIC HEARINGS AND INPUT

The OHR and the Cultural Heritage Commission have engaged in extensive public outreach to shape the proposed ordinance revisions. The Cultural Heritage Commission held a workshop on the draft ordinance on February 7, 2008 and held additional hearings for public input on March 20, 2008 and April 17, 2008.

In addition to the required postings, workshops and hearings were publicized through the OHR's E-Newsletter, which reaches over 1,000 organizations and opinion leaders; direct notification of key business groups, development industry organizations, and other key stakeholders; press releases to local media; and notifications of all 90 Certified Neighborhood Councils.

At the recommendation of the Commission, the Office of Historic Resources, in conjunction with the Office of City Council President Eric Garcetti, convened a Cultural Heritage Ordinance Working Group to make additional recommendations on the draft ordinance. The Working Group, whose meetings were open to the public under the State's Brown Act, met five times in Los Angeles City Hall, on June 26, July 22, August 5, August 19, and October 7, 2008. Cultural Heritage Commissioner Glen Duke served as chair of the Working Group meetings.

The Working Group was designed to be a small discussion group consisting of representatives from the real estate development community, historic preservation community, and others with specialized knowledge of historic preservation

ordinances. The Working Group also included representatives from several City departments. The members of the Working Group were:

Brian Bartholomew	American Institute of Architects/LA Chapter
Kate Bartolo	Kate Bartolo & Associates/Former VP, The Kor Group
William Delvac	Latham and Watkins
Linda Dishman	Los Angeles Conservancy
Charles Fisher	Highland Park Heritage Trust; Historic Preservation Consultant
Robert Garcia	The City Project
Dr. Amarjit Marwah	Former CHC President
Gerard McCallum	Wilson Meany Sullivan Development
Christy McAvoy	Historic Resources Group
Rochelle Mills	ArchiTours; South LA Area Planning Comsn.
Anh Nguyen	Central City Association
Deborah Rosenthal	Sheppard Mullin Richter and Hampton
Mott Smith	Civic Enterprise Development and Planning

City Representatives

Kelli Bernard	CD 13
Glen Dake	Cultural Heritage Commission
Krista Kline	Mayor's Office
Jeffrey Herr	Department of Cultural Affairs
Phil Richardson	Bureau of Engineering
Darryl Ford	Recreation and Parks
Kip Rudd	Community Redevelopment Agency
Wally Stokes	Bridge Improvement Program

A subcommittee of the Working Group also met under the leadership of Kate Bartolo, to develop recommendations for new historic preservation incentives. It is the intention of the subcommittee to test many of these recommendations as part of ongoing work on the Bringing Back Broadway initiative in downtown Los Angeles. Following the deliberations of the Working Group, the Cultural Heritage Commission held an additional public hearing and voted on November 20 to recommend approval of the Ordinance.

While the OHR had engaged in considerable citywide outreach on the Ordinance during 2008 and had obtained considerable input from the development community and property owners, it had not sent an informational mailing on the Ordinance to all 950 Historic-Cultural Monument property owners throughout the City. This mailing has led to an extensive additional set of public outreach meetings and consultations on the ordinance:

- The CPC hearing on the ordinance, originally scheduled for January 2009, was continued to allow for a detailed mailing to all property owners.
- The OHR organized a special workshop for Monument owners on March 4, 2009 at Saint Sophia Greek Orthodox Cathedral (Historic-Cultural Monument #120). The workshop attracted over 100 attendees, many of whom requested

- a second continuance of the CPC hearing and additional outreach to owners.
- OHR staff granted a second request for continuance of the CPC hearing, scheduled for March 2009.
 - The OHR sent a second informational mailing to all HCM owners citywide, addressing the major issues raised at the March workshop and inviting owners to participate in a second round of workshops.
 - The organized two additional public workshops for property owners, on the evening of April 22nd in West Adams and on April 24th at City Hall.
 - In response to requests at these meetings for an additional continuance of the CPC hearing, the May 14, 2009 hearing was continued a third time, to June 11, 2009.
 - In addition, OHR staff has participated in numerous follow-up discussions and working meetings with property owners and key organizations representing property owners.
 - In all, these discussions and suggestions from property owners and the development community have resulted in a dozen substantive changes to the proposed amendments. These changes are summarized in Attachment 2.

CONCLUSION

The revised Cultural Heritage Ordinance will help give the City of Los Angeles a comprehensive, state-of-the-art historic preservation program. While the Ordinance strengthens protections for the City's most cherished historic resources, it also enhances due process for private property owners and developers and clarifies the designation and project review procedures.

ATTACHMENT 1

LAND USE FINDINGS

The City Planning Department recommends that the City Planning Commission, in accordance with Charter Section 558, find:

1. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will be in conformity with the public necessity, convenience, general welfare, and good zoning practice. This ordinance implements the Goal of Section 5 of the Conservation Element of City of Los Angeles General Plan which states the City must “protect important cultural and historical sites and resources for historical, cultural, research, and community educational purposes.” Further, the proposed ordinance (Appendix A) is in accordance with the City Planning Commission, “Do Real Planning” policy 9, which seeks the “preservation of our historic resources;” and
2. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will preserve the historic and architectural heritage of Los Angeles as stated in the General Plan Framework. Specifically, this ordinance implements Framework Objective 3.17, which states that the city must “maintain significant historic and architectural districts while allowing for the development of economically viable uses;” and Framework Policy 3.17.2, which states that the city must “develop other historic preservation tools, including transfer of development rights, adaptive re-use, and community plan historic preservation policies;” and
3. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A), is in substantial conformance with the purposes, intent, and provisions of the Economic Development section of the City’s General Plan Framework. The new ordinance formalizes the permit review process for historic resources and discloses preservation review early in the entitlement process. Specifically, this ordinance implements Framework Objective 7.4, which states that the city must “[i]mprove the provision of governmental services, expedite the administrative processing of development applications, and minimize public and private development application costs”; Framework Policy 7.4.1, by ensuring that the city will “[d]evelop and maintain a streamlined development review process to assure the city’s competitiveness within the Southern California region;” and
4. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will have no adverse effect upon the General Plan, specific plans, or any other plans being created by the Department of City Planning because the proposed ordinance is consistent with the General Plan and carries out the General Plan goals, policies and objectives discussed above.

ENVIRONMENTAL FINDING

Staff recommends that the City Planning Commission and City Council find the proposed Cultural Heritage Ordinance amendments to be exempt from further analysis under the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations, Sections 15308 (Class 8) and 15331 (Class 31).

State of California CEQA Guidelines, Article 19, Section 15308, Class 8 “*consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.*”

State of California CEQA Guidelines Article 19, Section 15331, Class 31 “*consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources 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.*”

The proposed ordinance will ensure that future construction activities involving the City’s Historic-Cultural Monuments are regulated in accordance with Section 22.171.14 of the LAAC. The ordinance is crafted to prevent significant impacts to the City’s Historic-Cultural Monuments through the application of the standards set forth in the LAAC. Without the regulation imposed by way of the pending designation, the historic significance and integrity of the City’s historic resources could be lost through incompatible alterations and new construction and the demolition of irreplaceable historic structures. The Secretary of the Interior’s Standards of Rehabilitation, as cited in Class 31, are expressly incorporated into the LAAC and provide standards concerning the historically appropriate construction activities which will ensure the continued preservation of the City’s historic resources.

The use of Categorical Exemption Class 8 in connection with the proposed ordinance is consistent with the goals of maintaining, restoring, enhancing, and protecting the environment through the imposition of regulations designed to prevent the degradation of Historic-Cultural Monuments.

**ATTACHMENT 2:
CHANGES MADE TO THE PROPOSED CULTURAL HERITAGE ORDINANCE
BASED ON INPUT FROM THE DEVELOPMENT COMMUNITY AND PROPERTY OWNERS**

The draft Cultural Heritage Ordinance has been shaped with considerable input from representatives of the development community and private property owners. These discussions have involved consultations with specific organizations and individuals and the input of a diverse Cultural Heritage Ordinance Working Group, convened by the Office of Historic Resources and the office of City Council President Eric Garcetti. Below is a summary of the significant, substantive changes from the initial drafts incorporated at the suggestion of the development community and property owners:

- 1) **Demolition Review:** The original draft ordinance proposed language prohibiting demolition of designated buildings except in cases of demonstrated economic hardship. This language has been included in the City's Historic Preservation Overlay Zone (HPOZ) Ordinance since the 1980s and is also found in most large cities' preservation ordinances. However, the development community expressed concerns that this might "set the bar" too high and essentially prohibit all demolitions of designated Historic-Cultural Monuments. The revised language allows for approval of demolition based not only on economic hardship, but also based on a separate finding: that an extreme hardship exists due to the peculiar conditions associated with the property and that the purpose and value of an alternative use of the property significantly outweighs the benefit conferred to the community from the preservation of the historical resource. This new finding gives the Cultural Heritage Commission or City Council flexibility to approve demolition based on public policy benefits such as economic development or affordable housing.
- 2) **National Register and California Register Properties:** The original draft ordinance proposed that a Certificate of Appropriateness (COA) be required for changes to all "designated historic resources," including properties listed in or determined eligible for the National Register of Historic Places or the California Register of Historical Resources. Following discussions by the Working Group, the revised draft limits COA review only to designated City Historic-Cultural Monuments. Properties listed in or determined eligible for the National Register and California Register will not be covered by this ordinance at all, though these properties are already considered "historical resources" under the California Environmental Quality Act (CEQA).
- 3) **Administrative Review:** To respond to a request by property owners that the ordinance more clearly detail which types of projects could be signed off administratively by Office of Historic Resources staff, the current draft ordinance has added language specifying more than a dozen categories of requests to which an "Administrative Certificate of Appropriateness" would apply. These sign-offs would typically occur over-the-counter or by telephone. An additional language change to this section was made at the request of property owners, limiting staff discretion in review if the conditions for an Administrative COA are met.
- 4) **Ordinary Maintenance and Repair:** Because some property owners were concerned that COA review might be required for basic, day-to-day maintenance and repair activities, "Ordinary Maintenance and Repair" is defined in the current draft ordinance and is exempted from review altogether.

- 5) **Economic Feasibility:** The draft ordinance allows a property owner to submit information on economic feasibility to substantiate the findings for a “Certificate of Hardship” permitting demolition of a Historic-Cultural Monument. The ordinance was further revised, based on input from property owners, to give property owners the option to submit the same information to the Cultural Heritage Commission on non-demolition COA cases (for major alterations or additions).
- 6) **Avoiding Duplicative Reviews:** Based on input from development community representatives on the Working Group, projects that have received approval by the State Office of Historic Preservation for Federal Rehabilitation Tax Credits or under Section 106 of the National Historic Preservation Act (required for federally-funded projects) will be exempted from the ordinance’s COA requirements, to avoid duplicative reviews.
- 7) **Compliance with Preservation Standards:** Under the current ordinance, the Cultural Heritage Commission may only approve changes to Historic-Cultural Monuments that comply with the Secretary of the Interior’s Standards for Rehabilitation. The original draft ordinance retained the current ordinance’s language. Development community representatives pointed out that certain projects may not fully comply with the Standards, yet would retain the building or site’s eligibility as a Monument. The draft ordinance was revised to allow approval of a Certificate of Appropriateness without full Standards compliance, so long as the building or site retains those qualities that led to its eligibility as a Historic-Cultural Monument. This provision is meant to recognize that there are occasionally extenuating circumstances, such as economic or technical challenges, that may make full compliance with the Standards infeasible.
- 8) **Repeal of Monument Status:** The original draft ordinance allowed for repeal of existing Historic-Cultural Monument’s status only if the evidence used to establish the designation was significantly erroneous. The current draft ordinance expanded this provision to allow repeals in cases of fire or natural disaster.
- 9) **Statements of Purpose:** The draft ordinance begins with a Statement of Purpose that describes the overall goals of the ordinance’s provisions. Based on input from property owners, several points were added to this section to articulate more clearly the critical role served by property owners in historic preservation, the need to accommodate changes of use and new functions in historic buildings, and the imperative to ensure continued economic vitality of the City’s historic structures.
- 10) **Composition of the Cultural Heritage Commission:** Drawing upon a suggestion from property owners, the draft ordinance has added a requirement that at least one Cultural Heritage Commission member be an owner of a Historic-Cultural Monument.
- 11) **Duty to Keep in Good Repair** – Most preservation ordinances have a “duty to keep in good repair” section stating minimum maintenance standards to avoid “demolition by neglect.” Based on input from property owners, this section was significantly amended so that it merely references existing maintenance requirements found in the City’s Building Code, which apply to all properties citywide, whether historic or non-historic.
- 12) **Enforcement** – At the suggestion of property owners, the revised draft ordinance clarifies the enforcement provisions so that they do not add any new penalties for code violations: they merely reference existing penalties that apply to violations on all properties citywide, whether historic or non-historic.

ATTACHMENT 3: COMPARISON OF PRESERVATION ORDINANCE PROVISIONS IN OTHER MAJOR CITIES

Issue	New York	Chicago	Philadelphia	Seattle	San Francisco	Sacramento	San Diego	Pasadena	Santa Monica	Long Beach
1) Demolition: Delay vs Denial?	Denial	Denial	Delay and/or Denial	Denial	Delay and/or Denial	Denial	Denial	Denial and Delay*	Denial	Delay
2) Tests for demolition: Economic hardship vs other findings	Economic Hardship	Economic Hardship	Economic Hardship	Economic Hardship	None	Economic Hardship and Other Findings	Other Findings e.g. Environmental)	Economic hardship	Economic hardship	Other Findings (e.g Environmental)
3) Certificate of Appropriateness Review (or equivalent) vs permit objection	COA	Permit Review	Permit Review	COA	COA	COA	Permit Review	COA	COA	COA
4) Duty to keep in good repair/maintenance	Yes	None	Yes	None	None	Yes	Yes	Yes	Yes	Yes

**when site is not already a designated site*