

Agenda Report

TO: City Council

DATE: August 5, 2002

FROM: City Manager

SUBJECT: Revision of the Cultural Heritage Ordinance

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the adoption of a revised historic preservation ordinance is categorically exempt from the California Environmental Quality Act, Class 8: An action by a regulatory agency for protection of the environment;
2. Acknowledge that policy 6.2 of the Land-use Element of the General Plan (protection of historic and cultural resources) directs the City to update its historic preservation ordinance and strengthen its protections for historic resources;
3. Approve the following policy changes and other regulatory and administrative changes listed on the attached "Summary of Revisions" (Attachment A) for inclusion in a revised historic preservation ordinance:
 - Update and simplify the existing classification system for historic resources and the regulatory procedures based on the classification system.
 - Protect properties listed in the National Register of Historic Places from demolition and inappropriate alterations by treating them equally with locally designated landmarks and landmark districts.
 - Authorize the Cultural Heritage Commission to deny demolitions and alterations to designated historic resources—including properties listed in the National Register; authorize the Commission or Planning Director to delay demolitions and major alterations to undesignated historic resources (if eligible for designation).
 - Authorize the City Council to designate a historic resource as a landmark over the objection of the property owner.
 - Streamline procedures to designate landmark districts.
 - Add penalties to deter demolition by neglect.

- Update the ordinance to ensure compliance with California Environmental Quality Act and consistency with other state and federal historic preservation programs.
 - Authorize review and protection of historic resources that are less than fifty years old.
4. Direct the City Attorney to prepare an ordinance amending Ch. 2.75 of the municipal code to implement these policy changes.

RECOMMENDATION BY CULTURAL HERITAGE COMMISSION:

On June 17, 2002, the Cultural Heritage Commission reviewed and forwarded a recommendation to the City Council to approve the above policy changes.

RECOMMENDATION BY THE DESIGN COMMISSION:

On July 8, 2002, the Design Commission reviewed and forwarded a recommendation to the City Council to approve the above policy changes.

RECOMMENDATION BY THE PLANNING COMMISSION:

At a public hearing on July 18, 2002, the Planning Commission reviewed and forwarded a recommendation to the City Council to approve the above policy changes.

EXECUTIVE SUMMARY:

The Comprehensive General Plan directs the City to update its historic preservation ordinance and to strengthen protections for historic resources. To accomplish this goal, the City, in 2000, contracted with Clarion Associates, specialists in land-use and historic preservation law, to identify and recommend policy changes to the existing ordinance. The recommended policy changes were:

1. Establish a classification system of historic resources to distinguish designated historic resources (Category 1), historic resources evaluated as eligible for designation (Category 2) and historic resources that have not been previously evaluated or designated (Category 3).
2. Protect properties listed in the National Register of Historic Places.
3. Authorize the Commission to deny demolitions and alterations as a means of protecting designated historic resources.
4. Authorize the City Council to designate a historic resource over the objection of the property owner.
5. Revise procedures for landmark district designation to encourage and promote neighborhood preservation.
6. Add penalties for demolition-by-neglect.
7. Establish procedures that coordinate protection of historic resources with state and federal historic preservation procedures.
8. Authorize review and protection of historic resources that are less than fifty years old.

During the past two years, City staff and the consultant have made a concentrated effort for public outreach throughout the implementation of this project. Public participation began early in 2000 with interviews with community leaders and interested persons and workshops. The proposed policy changes that were a result of community input were then presented in April through July 2002 to neighborhood groups, civic organizations and property owners who would be most affected by the revised ordinance.

BACKGROUND:

The existing Cultural Heritage ordinance (Ch. 2.75 P.M.C.) regulates designation and protection of historic resources. It was adopted by the City Council in 1976 and amended in 1983, 1986, 1987, 1992 and 1994. It authorizes the City Council to designate historic resources as landmarks (regardless of age), and the Cultural Heritage Commission to review: demolitions of all buildings 50 years old or older, major alterations to landmarks and landmark-eligible buildings over 50 years old, and major alterations, demolitions, and new construction in landmark districts. The current ordinance also authorizes the Commission to review and forward recommendations to the Planning Commission and City Council on environmental impact reports (EIRs), zone changes, and other land-use entitlements; and to advise the Design Commission on changes to historically significant, City-owned properties.

Update of Current Ordinance

Policy 6.2 of the Land Use Element in the General Plan directs the City to “adopt new legislation to protect historic and cultural resources according to levels of significance and include provisions to deter the demolition of historically, architecturally and culturally significant structures.” Strengthening the existing preservation ordinance supports this policy.

Beginning in January 1999, after receiving a \$25,000 Certified Local Government grant from the California Office of Historic Preservation, the staff began working with Clarion Associates, a firm specializing in preservation and land use law, to revise the existing Cultural Heritage ordinance. This project is part of the larger initiative to rewrite the zoning code, update the General Plan, complete the Central District Specific Plan and revise the citywide design guidelines. Work began by interviewing members of the community including Design, Cultural Heritage and Planning Commissioners, the City Manager, the City Attorney, directors of Pasadena Heritage, business people, and Pasadena realtors. Through these interviews, they identified historic preservation issues that could be studied in revisions to the ordinance. After identifying the key issues and analyzing the existing ordinance, they wrote a detailed diagnosis that included recommendations for revisions.

Referring to the existing ordinance as a “first generation” ordinance, the consultant’s diagnosis made it clear that the City of Pasadena has fallen behind

other cities in California in protecting its valuable historic resources. For instance, other cities have protective legislation that allows denial of projects whereas, outside landmark districts and the Central District, the City's ordinance only allows delays. Following a delay, an alteration or demolition may proceed as of right in Pasadena.

ANALYSIS:

During several work sessions, the Cultural Heritage Commission discussed the issues presented in the diagnosis report. The following are recommendations for revisions to the ordinance.

First Recommendation: Update and simplify the classification system for historic resources and apply regulatory procedures based on these categories. To accomplish this goal, the City should adopt a new three-tiered classification system (similar to the categories assigned buildings in Oakland and downtown San Francisco). This system would enable the City to more clearly identify what resources are significant and deserve extended review, and what resources are not. The proposed classifications are:

*Category 1 – All locally **designated** historic resources and districts (landmarks) and all properties and districts **listed** in the California Register or National Register of Historic Places.*

*Category 2 – All properties in an **intensive-level survey** (with standardized inventory forms) that are **determined eligible** for local designation or listing in the California Register or National Register, including properties that are identified as contributing to a district.*

*Category 3 – All properties **not yet evaluated** in inventories, but identified in the 1993 City-wide reconnaissance survey with a preliminary code of 3, 4, or 5, or a subsequent preliminary historic resources survey, or preliminarily determined by staff to be eligible for the California Register or National Register.*

In the design review/demolition review process, the proposed revisions to the ordinance treat all Category 1 historic resources the same. The Commission reviews "major projects" and the staff reviews "minor projects." Major or minor projects, which will be defined in the ordinance, may be approved, approved with conditions or denied. For Category 2 and 3, the staff reviews only major projects (except demolition of buildings that are eligible for designation which are reviewed by the Commission), such as additions on the front elevation; minor projects are not reviewed. Projects may be approved, approved with conditions or delayed for 180 days. The delay period may be used to explore alternative designs, which comply with the Secretary of the Interior's Standards; in other

cases, the delay may be used to designate a building as a landmark or to list it in the Register, an action that would advance the building to Category 1.

The existing regulatory procedure requires reviews of major alterations and demolitions of all buildings fifty years of age or older. It does not distinguish between designated and non-designated properties. Because of the large number of buildings subject to this review – and the ones that have no historic/architectural significance – this procedure is both ineffective and inefficient. Much staff and Commission time is spent on buildings that are insignificant or on reviews where there is little opportunity for preservation. The proposed classification system corrects this problem by minimizing reviews of insignificant buildings and concentrating the City's resources on significant buildings.

The proposed revisions to the ordinance ensure more protection for the City's most important historic resources: its designated landmarks, treasures and properties listed in the state and national registers. They also ensure that the Commission's decisions are justifiable and defensible if challenged in court. And, for the public, the revisions provide a simpler and more understandable review process, with clearly defined standards and criteria for evaluating significance of historic properties.

Second Recommendation: Protect properties listed in the National Register of Historic Places from demolition and alterations that are irreversible and/or cause an adverse effect. Currently some designated properties have more protection than others. Local regulatory procedures that apply to landmarks and landmark districts do not apply to California Register or National Register-listed properties (a property in either Bungalow Heaven or Garfield Heights landmark district is protected by the Commission's ability to deny a project, whereas in a National Register district, there is only limited protection under the current ordinance's 50-year old building review process, where the Commission may only delay a project). The proposed ordinance revision corrects this inconsistency by elevating all designated historic resources to the same level. Under the revised ordinance, California Register and National Register designated properties would be classified as Category 1 historic resources along with locally designated historic resources. Since 1985, the municipal code has provided this level of protection to all historic resources in the Central District, which has five National Register districts; the proposed amendment would extend this policy everywhere in the City, equalizing the protections for all designated historic resources.

This proposed new grouping of all designated historic resources would, in effect, retroactively designate National Register buildings and districts as locally designated landmarks and landmark districts. Property owners affected by this change have been notified of this proposed revision and were provided an opportunity to comment through a postcard mailing and communications with

City staff. The Cultural Heritage Commission also conducted a workshop to explain the proposed change. Last year staff advised property owners in two National Register districts (Lower Arroyo Seco and Arroyo Terrace) that the pending ordinance revisions would likely change the existing design review procedure to a more restrictive one. At that time, only one property owner objected to listing in the National Register.

Third Recommendation: Authorize the Commission to deny demolitions and alterations that adversely affect designated historic resources.

Changes to the existing historic review procedure would authorize the Commission to approve, approve with conditions or deny an alteration (including demolition), whereas presently it can only delay a project. The existing ordinance allows the commission to **deny** projects only in cases where they involve historic resources in designated landmark districts (2 districts) or historic treasures (4 buildings). Also, the zoning code (Title 17) authorizes the Design Commission (not the Cultural Heritage Commission) to approve or deny projects in the Central District (CD), where five National Register districts are located. Individually designated landmarks and National Register-listed properties outside the CD do not have this protection because the commission can only **delay** projects in such cases. Under the current ordinance, a modest Craftsman bungalow in Bungalow Heaven or Garfield Heights has more protection than an Arts and Crafts period house designed by Greene and Greene in the Arroyo Terrace National Register district.

Category 1 properties affected by this change include: locally designated landmarks (37 properties outside the CD or non-City-owned), National Register-listed properties and districts (approximately 300 properties in 4 districts and 66 individually listed properties outside the CD or non-City-owned), works of Greene and Greene (49 properties) and designated historic signs (approximately 50 signs).

Un-designated historic resources in Category 2 would be protected through regulations that consider the National Register (NR) status code in an intensive-level historic resources survey and whether a project would have an adverse effect on its significance. Projects affecting properties with a National Register status code of 2, 3, 4 or 5S1 would be reviewed by staff, who would determine if the proposed change would have a significant adverse effect or no adverse effect. With a determination of "adverse effect," staff could request changes to a project, refer the project to the Commission, or delay the project for a period up to 180 days.

Category 3 historic resources would be treated the same as Category 2 historic resources only after the staff and/or the Commission determines that the property is eligible for designation on the local, state or national registers. Decisions about eligibility for designation may be appealed to the Cultural Heritage Commission and ultimately to the City Council.

Fourth Recommendation: Authorize the City Council to designate a historic resource over the objection of the property owner. The existing ordinance allows a property owner to file a written objection to a landmark designation. This objection prevents a designation from moving forward. Eliminating the owner-objection provision in the ordinance is recommended so that the City Council may – at its discretion – designate a property in the City as a landmark (notification procedures and opportunity to comment at a public hearing would apply to all designation actions).

Cities in California that allow designation without owner consent or over the objection of a property owner include Santa Monica, Long Beach, Redlands, Riverside, Sacramento, San Francisco, and Palo Alto.

Fifth Recommendation: Streamline procedures for designation of landmark districts. Currently, landmark district designation provides the most effective means of protecting historic resources in the City. Nevertheless, the City has designated only two landmark districts (Bungalow Heaven with over 900 buildings and Garfield Heights with over 200 buildings) in over fourteen years – in part because the designation procedure is both complicated and burdensome.

The revised ordinance proposes to streamline this designation process by eliminating the existing requirement for a “conservation plan” (a district plan that defines physical boundaries, preservation objectives for a district, and design review procedures). The revisions in the proposed ordinance would not require a conservation plan for future new districts. Instead, the specific regulations and objectives in the plans would be folded into the code and apply to all landmark districts. Although the conservation plan has been used in the two existing and two pending districts to educate property owners about their neighborhood preservation objectives and review procedures, other tools would continue this function: e.g., presentations to neighborhood groups, workshops, mailings to property owners, and distributing the recently completed “Design Guidelines for Historic Preservation.” The design guidelines will soon be scheduled for presentation to the City Council for adoption by resolution for proposed use in all landmark districts. These guidelines are based on the *Secretary of the Interior’s Standards*, which are the standards specified in the current code for reviewing changes to historic properties.

Additional revisions to landmark district designation provisions are to: change the requirement of a district representative to an optional appointment (e.g., a small district might not be able to meet this requirement), require submittal of an inventory of contributing and non-contributing buildings in the district, specify a percentage of properties that must be contributing and eliminating the requirement for a minimum number of contributing properties, and reduce the number of required public notices of designation from four to three.

Sixth Recommendation: Add penalties for demolition-by-neglect. Although the existing penalty provisions for demolition and alteration without compliance with the ordinance are strong compared to most preservation ordinances, there is no provision to enforce penalties for “demolition by neglect.” The revised ordinance would extend these provisions to cases where a property owner willfully allows a historic resource to deteriorate to a point of being unusable.

Seventh Recommendation: Update the ordinance to ensure compliance with California Environmental Quality Act (CEQA) and consistency with other state and federal historic preservation programs. Currently, the City treats demolition reviews by the commission as ministerial because – following a delay – a certificate of appropriateness for demolition is issued as of right. CEQA reviews, therefore, are not applicable to many project reviews in the existing preservation ordinance (unless the demolition is part of a larger project, in which case there is an environmental study). The proposed revisions broaden the numbers of reviews that fall under the CEQA regulations.

A hypothetical example that demonstrates the ineffectiveness of the existing ordinance is: CEQA compliance might not be required to review demolition of the Greene and Greene-designed Duncan-Irwin House (240 N. Grand Avenue), unless a replacement project for the site does not comply with the zoning code. Without a discretionary permit, there is no environmental study to mitigate the adverse impact to the historic resource. All the City can do is delay the demolition for up to 425 days; at which time the house could be demolished and a new house constructed as long as a permit for it has been issued. Even though a major work of Greene and Greene is unlikely to be demolished (the property is worth more with the house than without it), the inability of the City to intervene in such a case exposes a major weakness in the current ordinance.

Eighth Recommendation: Authorize review and protection of historic resources that are less than fifty years old. In the current ordinance, there is no protection for architecturally significant buildings less than fifty years old, unless they are designated landmarks (Perkins House) or they are affected by a project requiring a discretionary permit with an environmental clearance (CEQA). This omission leaves many important local examples of the modern movement (e.g., works of Craig Ellwood and Buff & Hensman, Case Study house, Bubble House, etc.) vulnerable to severe alterations and demolition. A recent case of such a loss is the demolition of the Union Bank (1963, William L. Pereira & Associates), 171 South Lake Avenue. This Corporate International Style pavilion, heavily influenced by the work of Mies van der Rohe, was demolished as of right without review and without the provision preventing demolition of a building over 50 years old without a building permit for a replacement project. Consequently the site has remained vacant for six years.

PUBLIC OUTREACH

City staff has conducted a public outreach program to present the proposed policy changes to interest groups and property owners most affected by the revised ordinance. Between January and July, 2002, staff has presented a summary of the ordinance changes to: 1) nine neighborhood associations (list of associations in Attachment B), 2) owners of properties listed in the National Register of Historic Places or designated landmarks or works of Greene and Greene, 3) Pasadena Heritage, 4) Pasadena-Foothill Chapter of American Institute of Architects, 5) Board of Realtors, and 6) Pasadena Chamber of Commerce. The policy changes were also presented as an information item at meetings of the Planning Commission, Design Commission and Northwest Commission.

Although the Northwest Commission typically would not advise the City Council on the revisions to the historic preservation ordinance, it requested that the item be presented as an action item on a subsequent agenda. On July 23, 2002, the Northwest Commission reviewed and recommended to the City Council that it approve the policy changes. The Commission's recommendation included a condition that the revised ordinance should provide flexibility to property owners with financial hardships that have difficulty maintaining their historic structures.

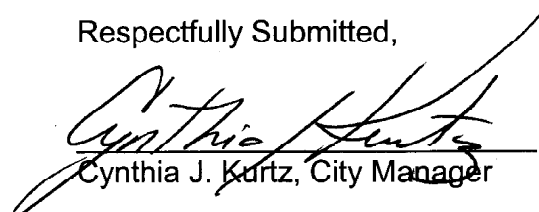
For property owners who will be affected by the changes to include National Register-listed properties in Category 1, staff mailed letters explaining the proposed revisions and enclosed a return postcard (Exhibit C) for a response to the proposed changes. With a 12% response rate (65 out of 534), 34 indicated general support for the proposed changes, 19 indicated concerns about the changes, and 12 indicated both or neither support or concerns.

The public hearing by the Planning Commission was advertised in local newspapers. Mailings were sent to all organizations in the first paragraph of this section, and to all who responded to the information letter with the post cards.

FISCAL IMPACT

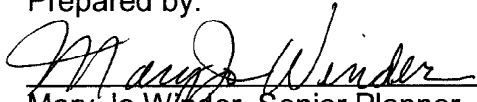
The approval of the policy changes for revising the Cultural Heritage Ordinance will have no significant fiscal impact. The City has waived fees for design review of projects in landmark districts and projects involving designated landmarks. Adding National Register properties to the fee waiver is not expected to have a substantial effect on revenues. The General Fee Schedule has fees for design review of undesignated historic properties.

Respectfully Submitted,




Cynthia J. Kurtz, City Manager

Prepared by:


Mary Jo Winder, Senior Planner

Reviewed by:


Richard J. Bruckner
Director of Planning & Development Department

ATTACHMENTS

ATTACHMENT A: "Summary of Revisions

ATTACHMENT B: List of Neighborhood Organizations