

DATE: April 15, 2010

TO: Planning Commission

FROM: Planning Manager

SUBJECT: Historic Preservation Program, including 1) a Historical Resources Survey & Inventory; 2) a Historic Context Statement; 3) a Historic Preservation Ordinance; 4) Goals and Objectives for Historic Preservation; and 5) Incentive Programs

RECOMMENDATION

That the Planning Commission recommends that the City Council 1) determines that this program is exempt from CEQA; 2) accepts the Historical Resources Survey & Inventory; 3) accepts the Historic Context Statement; 4) adopts the Historic Preservation Ordinance; 5) approves the Goals and Objectives for Historic Preservation; and 6) resolves to participate in the Mills Act Program.

SUMMARY

Staff presents within and attached to this report the core elements of the proposed Historic Preservation Program for review by the Planning Commission and recommendation to the City Council. These elements include 1) the historical resources inventory, 2) the Historic Context Statement, 3) a new Historic Preservation Ordinance, 4) goals and objectives for historic preservation, and 5) incentives to encourage historic preservation.

These documents provide the City of Hayward with a current and comprehensive inventory of potential and existing historic resources; an understanding as to why and how some of these resources can and do meet local, state and national criteria; and a well-defined historic preservation ordinance that will direct decision-making policies. The need for a comprehensive approach to cataloging and evaluating the architectural inventory of Hayward has been increasing in recent decades as development pressures stress the historically suburban community and its cultural resources. The City Council authorized this effort to help balance new development with preservation of Hayward's rich and colorful architectural and social past.

The historical resources survey and inventory assists in establishing a basis for identifying historic resources throughout the City. The Historic Context Statement identifies the significant periods of Hayward's historical development by which decisions about identification, evaluation, registration, and treatment of historic properties can be made. In addition to identification of

individual structures and sites, Circa has made recommendations regarding the establishment of historic districts.

Staff has also developed 1) a set of goals and objectives for approaching historic preservation in community planning and economic development; and 2) specific incentives to be considered to encourage historic preservation. Development of incentives will be relevant to encouraging property owners to allow their properties to be designated as historic sites. These items, along with Circa's contributions, will become part of the City's Preservation Plan. This Plan will provide Hayward with a "tool box" for preservation planning containing:

- Information on the merits of historic preservation;
- Background information relating to the physical character of the environment, its history, historic contexts and themes, historic/cultural resources, and past and current preservation activities;
- Preservation issues identified by the general public and government officials during the public meeting process;
- Preservation opportunities/resources available to individuals, organizations, and government agencies to further the goals and policies identified in the plan;
- Historic preservation vision statement and community preservation goals;
- Implementation strategies for preservation goals; and
- Provisions for periodic review and update.

BACKGROUND

In January of 2009, the City Council indicated that work on the City's Historic Preservation Ordinance was a priority, as it has been for several years, particularly related to *Land Use and Sustainability* priorities. On April 15, 2008, the City Council approved the selection of *Circa: Historic Property Development (Circa)*, to perform a Historical Resources Survey & Inventory Report, to be accompanied by the Historic Context Statement, and recommendations for amendments to the City's Historic Preservation Ordinance.

DISCUSSION

Historic Context Statements (Attachment I) – The historic context statement is a written account of the physical development of the community. This document arranges the historical, architectural and cultural development of a city and its properties by theme, place, and time. Placed within a historic context, individual buildings as well as neighborhoods may be evaluated against a historical and chronological framework and to comparable resources within the city, state, and nation. This study identifies various property types within the community; these are representative properties associated with the residential, commercial, industrial, and civic development of Hayward and its environs. Once the historic context statement has been adopted, qualified historic professionals and City staff can then use it as a basis for the completion of historical evaluations.

Historic Resources Survey & Inventory (Attachment II) – Various surveys and studies, official and unofficial, have been conducted over the years to determine what sites, buildings, and landmarks

may be of local significance or eligible for placement on national or state registers. One such study was conducted in the Downtown area in 1993 in conjunction with the formation of the Marks Historic Rehabilitation District. Another study was conducted with the assistance of the Hayward Area Historical Society as part of the Upper B Street Neighborhood Plan. However, the City has not, until now, conducted a comprehensive survey of potentially significant historic structures and sites.

What are historic resources and surveys? - Historic resources are districts, buildings, sites, structures or objects that represent a specific period in history. Their historical value may be related to their association with significant historical events; association with persons significant in our past; representation of a particular style, type or method of construction; possession of high artistic value; or their potential to yield information important to history or prehistory. Historic resources are typically fifty years of age or older, but properties of lesser age may qualify if they demonstrate extraordinary significance.

A historic resources survey is a process of systematically identifying, researching and documenting properties that reflect important themes in the City's growth and development, such as architecture, city planning, social history, ethnic heritage, politics, industry, transportation, commerce, entertainment, and others. The survey and inventory is both a process and a product. The survey is the active part of the process consisting of fieldwork, identification and recordation of a locale's historic built environment. This process leads to the creation of a survey matrix or inventory, which contains the product of the survey, the survey data. The survey matrix can then be used as a quick reference guide for individual property information.

It is also important to note that the survey and inventory process alone does not place any property on an official register as a historic resource. A separate evaluation and approval process is required in order for any individual property or district to be formally designated as a historic resource.

Overview of the Survey Process - The survey began with background research on the area to provide a basis to evaluate significance. The consultant, Circa, with the help of volunteers, conducted field inspections to identify the resources' architectural, physical, and visual qualities and characteristics; assess the impacts of changes or alterations; and document overall condition through photography. These field inspections assessed the exterior of resources and were conducted from the public right-of-way. Survey teams did not need to obtain access to private property, nor did they ask questions of property owners or residents.

Individual resources and districts were evaluated for significance in accordance with criteria established for listing in the National Register of Historic Places and the California Register of Historical Resources, as well as for local designation such as City Historic Structures, Sites or Districts; or Historic Preservation Overlay Zones (historic districts). The survey results identify resources eligible for designation as well as those that do not meet criteria for designation.

The study area for the Hayward Historic Resources Survey & Inventory Report encompassed two separate but overlapping survey areas: the Mark's Historic Rehabilitation District (Hayward's

downtown core) and the larger Focus Survey Area. The methodology used for completion of this historic resources survey included the following:

- a literature review of all related existing information
- survey field work
- documentation of historic properties within the Mark's Rehabilitation Historic District with updated Department of Parks and Recreation (DPR) A forms
- identification of potential historic districts within the larger survey area
- development of a survey matrix to record property information and survey findings
- limited additional property-specific research

City of Hayward Planning Division staff identified the larger boundaries of the Focus Survey Area (Attachment VII) with the aim of including the areas of early development that preceded the large-scale tract housing and suburban expansion of the post World War II boom years. This area was determined in part by using archival information, historic Sanborn fire insurance maps, and county assessor data to determine the areas with the highest concentrations of potentially historically significant buildings. Since the survey work was completed in 2009, all properties within the survey bounds built up to and including 1959 were surveyed to accommodate the 50-year mark for potential historic properties. Approximately 3,800 properties in this area were surveyed.

While the survey inventoried the properties in the historic core at the most detailed level, the Survey & Inventory Report also draws in the findings from other sources (National Register of Historic Places, California Register of Historical resources, the California Historical Resources Information System, Alameda County's survey for Mt. Eden, and local listings, both official and unofficial) to list historic resources in the remainder of the City. Using the City's GIS system, it was determined that the concentration of structures built prior to 1946 and the integrity of those structures as historic resources throughout the remainder of the City is quite low, and that the best use of consultant resources would be served by conducting a more-detailed survey in what was the extent of pre-war Hayward. Furthermore, as other found resources are evaluated in the future, the proposed Ordinance (Attachment IV) provides for them to be added to the inventory. This Preservation Program will provide a "tool-box" that will enable City staff to evaluate other properties as necessary throughout the City.

Intended Use of the Survey & Inventory Report- This initial survey is not intended to be an exhaustive survey of all potential resources within the current City of Hayward boundaries. Rather, it is a starting point for the creation of a local inventory of historic places and for the treatment of such resources in future planning and development efforts. Circa prepared DPR 523a (Primary) forms for all properties within the Mark's Historic Rehabilitation District that retained sufficient integrity. Evaluation of individual properties was beyond the scope of this survey project. Circa conducted a standard reconnaissance survey within the broader Focus Survey Area, recording basic property data and integrity information.

Two types of surveys are generally conducted for historic preservation and planning purposes: reconnaissance-level surveys and intensive-level surveys.

Reconnaissance level surveys (also called windshield surveys) are the most basic approach for systematically documenting historic buildings. This approach is generally used for assessment of large groups of buildings and most reconnaissance surveys include all or a large portion of the built environment within a community. The chief purpose is to identify a "first cut" of *potential* buildings in a given area that appear, because of their age and physical integrity, to be eligible for listing on national, state or local historic registers. These surveys, however, involve only a visual evaluation of properties, not an assessment of significance based on association with significant events or persons. That information can only be obtained through archival research conducted as part of an "intensive level survey," the next level of survey.

An *Intensive level survey* generally involves detailed research, thorough inspection and documentation of all historic properties within the survey boundaries. Intensive level surveys also provide an assessment as to the potential eligibility of the resource to be listed in the National Register of Historic Places, the California Register of Historical Resources or for local listing. This level of survey will be performed as individual properties or districts are evaluated for inclusion in the City's register of historic places.

Additional Applications – Undertaking a survey to identify historic resources recognizes that these resources have value to present and future generations. Historic resources provide character, continuity and a sense of individuality to a community. Surveys are fundamental to historic preservation because they identify significant buildings sites, structures objects and districts and help guide stewardship of these assets in the future. A historic resource survey may also:

- Assist City departments, elected officials, and board and commission members, in planning for historic preservation, housing and commercial development, and revitalization of neighborhoods and business districts;
- Be used to encourage adaptive reuse of historic properties, to guide neighborhood conservation and sustainable development;
- Promote cultural heritage tourism as part of economic development efforts;
- Foster civic pride by stimulating interest in and increasing public awareness of the community's historic resources;
- Identify historic resources that may be eligible for tax benefits and/or façade programs;
- Create an information base to be utilized by community action groups for either residential or commercial rehabilitation and neighborhood improvement;
- Develop interpretive and educational materials or programs that help community members better understand the positive aspects of historic preservation efforts within a community
- Identify potential local, state or national-level historic districts;
- Identify historic resources in anticipation of projects that may involve building demolition and land disturbance; and
- Provide information that is used to meet specific environmental review requirements of the California Environmental Quality Act (CEQA) or Section 106 of the National Historic Preservation Act (NHPA) of 1966.

Integrity Evaluations – A property, district, site, area, object, or landscape must undergo a process of evaluation to assess significance. First, the resource must be associated with an

important historic context and meet at least one of the federal, state, or local criteria. Next, it must retain aspects of integrity associated with the historic context with which it is associated. A property's level of integrity – the degree to which it retains its physical and historical character-defining features and is able to communicate its significance – is a key factor in determining whether it may be classified as a historic resource. The National Register and the California Registers define seven physical aspects of integrity against which a property or district must be evaluated: location, design, setting, materials, workmanship, feeling, and association. To maintain integrity, a property must possess at least several of these aspects; enough that the essential physical features that enable it to convey its historic significance remain intact.

A reconnaissance-level survey involves only a visual evaluation of properties, not an assessment of significance based on association with significant events or persons. As stated above, the principal purpose of a reconnaissance survey is to identify a "first cut" of buildings in a given area that appear, because of their age and physical integrity, to be eligible for listing on National, state or local historic registers. It is assumed that properties can sustain some alterations and still retain the characteristics that are essential to their historical significance.

Generally, a property must retain a high degree of integrity to qualify for listing in the National Register of Historic Places. The California Register recognizes that it is possible that potential resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register.¹ Many local historic registers also accept that properties may have lowered levels of integrity but retain an adequate level of integrity to be listed at the local level.

Alterations and additions affect how a resource is classified. In general, modest additions and alterations that have little impact on the historic design of the original resource don't significantly affect that resource's eligibility for listing on any level. Common alterations include additions, siding and window alterations. While just one of these changes might not significantly alter a building, a combination of two or more such alterations can potentially result in a complete loss of physical integrity. While it is understood that properties evolve and change over time, properties that have undergone a significant number of changes will not be able to communicate their significance and would thus not be eligible for listing even if historical significance were established.

Survey Results - Circa conducted a reconnaissance survey of all properties within the greater survey bounds and classified each property according to its level of physical integrity. This integrity scale is intended to serve as a quick reference tool for the Planning Department Staff to identify buildings that should be reviewed prior to alteration or demolition. The methodology for identifying levels of integrity in a property is described below:

- High: Properties that exhibit an excellent degree of integrity of design, materials, feeling workmanship and setting. Such properties retain, to a high degree, original materials and features including exterior siding and window materials, architectural detailing and stylistic features. Their general setting and physical context is intact. These properties may have

¹ Office of Historic Preservation, Department of Parks and Recreation. California Register and National Register: A Comparison. Technical Assistance Series No. 6.

modest alterations or additions that have had little impact on the historic integrity of the property.

- Moderate: Properties that exhibit a moderate degree of integrity of design, materials, feeling, workmanship and setting. Such properties retain approximately 50% or more of the building's original materials and features including one or more of the following: exterior siding and window materials, architectural detailing and stylistic features. Their general setting and physical context is intact. These properties may have alterations or additions, but the general form, massing and original stylistic features of the property – the basic elements that allow it to communicate its historic character – remain intact.
- Low: Properties that exhibit a low or negligible degree of integrity of design, materials, feeling workmanship and setting. Properties with low integrity are properties with two or more of the following: removal and replacement of original windows with modern sash (vinyl or aluminum, usually), complete siding replacement, significant alterations to the setting/physical context and/or notably incompatible or out of scale additions.

As described previously in this report, the City provided Circa with a matrix of all properties within the larger survey area following the kickoff meeting for this study. This matrix contained a total of 3,893 properties, the approximate number of properties located within the greater survey bounds. Of these 3,893 properties, a total of 1,269 were constructed in 1960 or later and were not surveyed. Just over 2,200 properties (2,209) were constructed in 1959 or earlier and this group comprises the number of properties included in the reconnaissance-level survey. Of the total number of properties shown in the matrix, 87 were found to be outside the survey boundaries; 144 parcels contained no built resources; and 184 lacked a physical address and were not surveyed. The City of Hayward, the County of Alameda, and/or the State of California own the many of the properties with no listed address.

Of the 2,209 properties surveyed within the Focus Survey area, approximately 1,000 properties displayed a low degree of integrity, 730 retained a moderate degree of integrity and 160 retain a high degree of integrity. About 215 of the total number (2,209) of buildings surveyed are the Marks District buildings, which are addressed separately below. The remainder, about 100 properties, display varied degrees of integrity (high to moderate or moderate to low) – because there were multiple buildings on the parcel, because build date was unclear, or because properties were not visible from the public right of way. These properties will be evaluated by planning staff on a case-by-case basis. Staff will add this information to the City's GIS system so that the survey results will be available on a day-to-day basis to assist City staff and the public in the planning process.

Historic Districts (map, Attachment VIII) – An historic district “possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development”. While completing the survey, it became clear that there were several areas where a concentration of potential resources was located. Survey and evaluation identified three potential historic districts within the City of Hayward: the Upper ‘B’ Street Historic District, the ‘B’ Street Historic Streetcar District and the Prospect Hill Historic District. Neighborhood plans completed in the late 1980s and early 1990s also helped to identify these potential historic districts. All three of the potential historic districts possess a high level of

physical integrity of a certain architectural style(s), period, and historic context to warrant further investigation. Circa verified that these areas retained both a significant concentration of historic resources, and a level of integrity that would qualify them for listing at the local level.

Staff recommends that evaluation of the three potential historic districts take place in future years. This will require further research, expansion or reduction of proposed district boundaries and completion of district records. Due to age and local interest it may be best to prioritize the district evaluation and begin with the Upper B Street neighborhood first.

Historic Preservation Ordinance (Attachments III (existing) & IV (recommended)) – The City of Hayward desires to provide its property owners and citizens with local legislation that reflects the values and commitment of the community regarding historic preservation. To that end, clear and precise direction must be provided in the form of zoning and ordinances that communicate this information.

The National Trust for Historic Preservation describes the importance of local legislation:

Preservation ordinances are local laws through which owners of historic properties are usually prohibited from demolishing their property, or making major alterations to it, without local government approval. Such restrictions are comparable to the many zoning and housing subdivision regulations in place across the country. While restrictions in preservation ordinances are imposed primarily to protect a community's heritage, they often protect homes and businesses against the devaluing effects of unsightly or inappropriate development on nearby properties.

A preservation ordinance can protect individual landmarks only, entire historic districts, or both landmarks and districts. To ensure that new buildings blend in with their older neighbors, preservation ordinances typically regulate the design of new construction as well as changes to existing structures.

The authority to regulate private property through historic preservation and land-use laws, such as the Zoning Ordinance, is derived from the states' police powers. Virtually every state has delegated these powers to the local governments in their jurisdictions and empowered them to regulate development affecting historic sites.

The City of Hayward adopted an Historic Preservation Ordinance (Chapter 10, Article 11 of the Municipal Code) in 1989 (Attachment III). Since then, the standards and practices of historic preservation ordinances have changed to provide stronger protections for historical resources. Therefore, staff recommends that Hayward adopt a new Ordinance (Attachment IV) that addresses the following:

- Identification of historical resources through reconnaissance surveys, evaluations and sensitivity maps (Sec. 10-11.040) – This is a new section that recognizes the historical resources survey recommended for adoption and provides for the inclusion of additional properties; calls for use of the Historic Context Statement as a tool for evaluation; calls for

the maintenance of a local register of designated historical resources; and permits the adoption of archaeological sensitivity maps.

- Process for determining when a historical alteration permit and/or historical resource demolition or relocation permit is required (Sec. 10-11.050-70) – Adds new provisions that make it unlawful to alter character-defining features of a historical resource without a historical alteration permit, and sets the procedure and standards for making such alterations; strengthens the provisions and procedures regarding the demolition of an historical resource; and adds provisions and procedures for the relocation of a historical resource.
- Historical resources designation process and criteria (Sec. 10-11.080-90) – Retains similar procedures and criteria for the formal designation of historical resources and districts, along with retaining the Planning Commission as the decision-making body for the formal designation; the City Council would act on an appeal of the Commission’s decision.
- Incentives for the preservation of designated historical resources listed on the local register (Sec. 10-11.100) – Adds provisions to encourage the establishment of incentive programs for the preservation of historical resources by permitting the City Council to waive or reduce associated fees; to establish funding programs regarding historical resources; to adopt the provisions of the Mills Act and the Marks Historical Rehabilitation Act; to participate in the development of historic easements; to use the State Historical Building Code; to permit the application of an Historical Zoning Overlay.
- Adopted survey list (Sec. 10-11.110) – Adds provisions to set the manner by which historical resources may be added to the Adopted Survey List.
- Ordinary repair and maintenance, duty to keep in good repair (Sec. 10-11.130-140) – Clarifies the allowance of the ordinary maintenance and repair of historical resources in such a way that the resource is not altered, demolished or relocated; and retains the requirement for the owner of a historical resource to keep it in good repair.
- Evaluation of and standard conditions of approval for development projects located within archaeologically sensitive areas, and/or within or adjacent to known archaeological sites (Sec. 10-11.150) – This is a new section that sets the review process and standard conditions of approval for development projects in an archaeologically-sensitive area.
- Enforcement and penalties (Sec. 10-11.160) – This is a modified section that permits the Planning Director and the Building Official to enforce the sections of this ordinance; and requires restoration of an historical resource that is damaged, along with criminal prosecution and penalties. In addition to all other remedies or penalties provided by law, a violation is punishable by administrative penalties as set forth in Chapter 1, Article 7 of the Hayward Municipal Code. The administrative penalties imposed by this Article do not preclude other potential civil actions or criminal prosecution under any other provision of law.

Historic Preservation Incentives – Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. A wide variety of local, state and federal incentives are available for property owners who appropriately repair and rehabilitate historical resources, rather than turn to demolition and new construction. These incentives would only be made available to property owners who agree to list their property on the City’s register of historic places.

Mills Act Property Tax Abatement Program (overview, Attachment V) – Staff recommends that the City Council endorse the Mills Act Property Tax Abatement Program, considered to be the single most important preservation incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties when those owners actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. Each jurisdiction individually determines the criteria and requirements for participation. Tax savings are intended to be used to assist in offsetting the costs of restoring, rehabilitating, maintaining and preserving historic buildings.

Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past. A qualified historic property, under the Mills Act, is a property listed on any federal, state, county, or city register, including the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act program.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Mills Act contracts stay with the property when transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants may realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach, rather than by the standard Market Approach. After a property owner enters into a contract, the County Assessor will annually determine the value of Mills Act properties based upon an income approach to value using a prescribed capitalization rate. This is a restricted value. The Assessor then compares the restricted value to the current market value (using the income approach with market capitalization rates or sales data approach) and the factored base year value (also known as the "Proposition 13" value). The lowest of the three values then becomes the valuation on which the tax is assessed.

The restricted value can be considerable lower than the other values creating a tax savings to the property owner, especially if the building was recently purchased. As all properties are assessed annually, Mills Act properties may realize increases or decreases in property taxes each year as market conditions change. Properties are assessed on the lien date (January 1) of the next calendar year in which the contract is recorded. Tax benefits would begin the ensuing fiscal year.

A written notice of non-renewal of the contract must be served at least 90 days prior to the anniversary renewal date, otherwise one year will automatically be added to the term of the contract (if the local government decides not to renew, it needs only provide a 60-day notice). The existing contract will remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract. The first year of non-renewal will have nine remaining years. A property may still receive tax benefits; however, an alternate valuation method is used that provides a value that gradually approaches the property's Proposition 13 value as the remaining term under the contract decreases.

If a property owner decides to cancel a Mills Act contract, a cancellation fee equal to 12.5 percent of the current fair market value of the property (not the restricted value) is required. The property will then be assessed at the lower of the Proposition 13 value or the current market value for the ensuing lien date. If the property owner doesn't comply with contract conditions or allows the property to deteriorate such that it no longer meets the standards of a historical property, the City can cancel the contract for a breach of contract. The owner will be penalized with the 12.5 percent cancellation fee. If the City cancels the contract for reasons other than a breach of contract, a cancellation fee would not apply.

Understanding that participation in the Mills Act Program would result in a loss of property tax revenue to the City, staff recommends that the Program be controlled to limit the City's exposure. To participate in the program, a property must be listed as either a Hayward or a National Register landmark, or a contributing structure within a Hayward or National Register historic district. A property must meet three of five criteria: 1) there is a necessity to make this investment; 2) the property exhibits uniqueness; 3) the owner is committed to a personal investment in his/her property; 4) improvements to a property would contribute to housing affordability; and 5) improvements to the property would provide employment to low- and moderate-income persons.

To specifically limit the impact on City revenues, staff recommends that single-family dwellings valued in excess of \$1,500,000, and that multi-family residences, and commercial and industrial properties valued in excess of \$3,000,000 not be eligible for the program. This does two things: limits the impact of any single property's participation in the program, and ensures that the program is available to owners who would more-likely need the benefit of the program. Furthermore, staff recommends that the total reduction of property taxes under this program at any one time not exceed \$200,000 for all properties in the program. This amount would be tracked by the accounting that the County Tax Assessor would provide on an annual basis.

State Historical Building Code - One of California's most valuable tools for the preservation of historic resources is California's State Historical Building Code (SHBC). The SHBC protects California's architectural heritage by recognizing the unique construction problems inherent in historic buildings and offering an alternative code to deal with these problems. The SHBC provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures designated as historic buildings. SHBC regulations are intended to facilitate restoration or accommodate change of occupancy so as to preserve a historic structure's original or restored architectural elements and features.

While the Code provides for a cost-effective approach to preservation, it also provides for occupant safety, encourages energy conservation, and facilitates access for people with disabilities. The SHBC recognizes and endorses the need – on a case by case basis – to find and adopt reasonable alternative or reasonable levels of equivalency for situations where strict compliance with established statutes or regulations would negatively affect an historic resource’s historic appearance or jeopardize its economic viability.

Planning and Zoning Incentives - Local municipal codes and ordinances can provide incentives to preserving and protecting historic properties within a community. Historic preservation ordinances, planning and zoning variances, and exceptions can all recognize the importance of protecting historic resources while providing leeway in modern code requirements and developmental pressures. Planning, zoning, and construction incentives can streamline the permitting process and provide flexibility in meeting zoning and building code requirements for adaptive reuse projects that convert underutilized commercial buildings into more productive uses such as loft type residential uses.

Staff has not yet developed specific local incentives; these incentives would be developed as part of future work programs and brought back to the Planning Commission and City Council for review and approval. Potential incentives may include:

- Waiver, reduction, or reasonable alternatives to parking requirements;
- Civil penalties to any person or entity who fails to maintain any qualified historic building;
- Exclusion of basement and attics from floor area ratio calculations;
- Transfer of development rights;
- Density or floor area bonuses;
- Coordination between city agencies to guide, assist and facilitate the adaptive reuse implementation through a project facilitating team that help the project through design, permitting and construction processes;
- Many non-compliant site conditions such as building height, parking, floor area and setbacks may be permitted without requiring a variance;
- Residential density requirement may be waived;
- Construction guidelines may provide some flexibility in meeting structural and fire and life safety compliance requirements; and
- Conversion of existing buildings to privately-owned residential use may not necessarily trigger disabled access requirements in the residential use area, however disabled access would still be required in areas used by employees and that are open to the general public.

Federal Rehabilitation Tax Credits - The Federal Historic Preservation Tax Incentives program is one of the nation’s most successful and cost-effective community revitalization programs. The program fosters private sector rehabilitation of historic buildings and promotes economic revitalization. It also provides a strong alternative to government ownership and management of such historic properties. The Federal Historic Preservation Tax Incentives are available for buildings that are National Historic Landmarks, that are listed in the National Register, and that contribute to National Register Historic Districts and certain local historic districts. Properties must be income-producing and must be rehabilitated according to standards set by the Secretary of the Interior.

The Historic Preservation Tax Incentives have proven an invaluable tool in revitalizing communities and preserving the historic places that give cities their special character. The Incentives generate jobs, both during the construction phase and in the spin-off effects of increased earning and consumption. Rehabilitation of historic buildings attracts new private investment to the historic core of cities and is crucial to the long-term economic health of many communities. Enhanced property values generated by the incentives program result in augmented revenues for local government through increased property, business and income taxes. Historic Preservation Tax Incentives also create moderate- and low-income housing in historic buildings. The various financial incentives may be used together to minimize rehabilitation costs. In California, the Mills Act can be linked with federal tax incentives provided by the Tax Reform Act of 1986. Federal affordable housing tax credits may also be used with these incentives.

Current tax incentives for preservation, established by the Tax Reform Act of 1986, include:

- 1) A 20% tax credit for the certified rehabilitation of certified historic structures. The credit is available for properties rehabilitated for commercial, industrial, agricultural, or rental residential purposes, but it is not available for properties used exclusively as the owner's private residence. A certified historic structure is a building that is listed individually in the National Register of Historic Places or a building that is located in a registered historic district and certified by the National Park Service as contributing to the historic significance of that district. A certified rehabilitation is a rehabilitation of a certified historic structure that is approved by the NPS as being consistent with the historic character of the property and, where applicable, the district in which it is located. The NPS assumes that some alteration of the historic building will occur to provide for an efficient use. However, the project must not damage, destroy, or cover materials or features, whether interior or exterior, that help define the building's historic character. Commercial properties that retain a high level of integrity could be good candidates for this program.
- 2) A 10% tax credit for the rehabilitation of non-historic, non-residential buildings built before 1936.

A tax credit differs from an income tax deduction. An income tax deduction lowers the amount of income subject to taxation. A tax credit, however, offsets the amount of tax owed. In general, a dollar of tax credit offsets the amount of income tax owed by one dollar.

Historic Preservation Issues, Goals, Objectives, and Actions (Attachment VI) – The commitment to a broad historic preservation program is expressed by its goals. Staff proposes the issues, goals, objectives, and actions, as shown in Attachment V, be considered as part of the Preservation Plan. These goals are ambitious and seek to maximize the City's exposure to historic preservation benefits. The issues that drive the goals are 1) a comprehensive planning vision for Hayward; 2) historic resource identification and designation; 3) the legal basis for historic preservation in Hayward; 4) coordinating zoning, land use, and growth management; 5) defining public-sector responsibilities; 6) incentives for historic preservation; 7) marketing Hayward; and 8) the relationship between preservation and education. Staff would appreciate comments from the Commission regarding these issues and goals.

The City's General Plan will likely be subject to an update beginning 2012. While some of the action items may be enacted prior to the update, it is recommended that a new Historic Element be developed to contain the following:

- Design guidelines for contextual infill projects (new construction in an historic district or adjacent to an historical resource).
- Incentives for Historic Preservation: Promote the protection of historic properties through utilization of incentives, because listed historic structures and districts raise property values and improve the character of the community.
- Develop property owner assistance strategies: Investigate funding sources for the preservation of historic properties as well as available tax-incentive programs, to include the Federal Tax Credit for Historic Properties and the Mills Act.
- Preservation Education: Educate property owners on appropriate rehabilitation procedures. Make information about the Secretary of the Interior's Standards, design review, incentives for historic preservation, and other related programs available to property owners.

PUBLIC CONTACT

Staff held a community meeting regarding the historic preservation program on February 25, 2010. Individual letters of invitation were mailed to approximately 845 owners of properties containing structures with a medium to high level of historic integrity. Approximately 75 persons attended the meeting; 79 persons have otherwise contacted staff to ask questions. The response of those attending the meeting was generally positive, with several owners requesting further information, including ways in which they could get their property designated as an historic site.

ECONOMIC IMPACT

There is broad agreement that the benefits of historic preservation outweigh the costs. More specifically, the economic costs of preservation are outweighed by the benefits – both economic and cultural – of a robust historic preservation sector. It has been demonstrated time and again that individual historic preservation projects are, under certain conditions, comparable economically to projects involving new construction—in other words, preservation can pay. New construction is not necessarily less expensive or more profitable than rehabilitation. “If no demolition is required, a major commercial rehabilitation will probably cost from 12 percent less to 9 percent more than the cost of comparable new construction with the typical building cost saving being about 4 percent. On the other hand, if new construction requires incurring the costs of razing an existing building, the cost savings from rehabilitation should range from 3 percent to 16 percent.”²

Perhaps the most-often asked economic question regarding historic preservation is whether the designation and public regulation of historic districts and landmarks increases or decreases the economic value of the properties designated. The economics literature clearly comes down in favor of a positive effect of historic districting on property values. Virtually every analysis that has been done on the economic impact of historic district protection has indicated that values have maintained at worst, and usually are enhanced, because of historic district status.

² *Donovan Rypkema: The Economics of Rehabilitation (1991)*

Another important set of questions relates to the effects of historic preservation as an economic development tool. Does public policy stimulating or investing in historic preservation yield positive fiscal benefits for the public sector? Such questions are often approached by performing economic impact studies. The question posed by economic impact studies is what effect investment in historic preservation activity has on the economy of a particular region. In other words, these studies ask the question, “Does preservation pay?” on more than a project-by-project basis. A significant number of these studies have been undertaken across the U.S., and the answer to this question is a resounding “yes” – historic preservation yields significant benefits to the economy.

ENVIRONMENTAL REVIEW

This action is categorically exempt from the California Environmental Quality Act pursuant to Section 15308 of the Guidelines, Actions by Regulatory Agencies for Protection of the Environment.

NEXT STEPS

The undertaking of a citywide survey provides a great deal of information for property owners and agencies regarding proper preservation planning and methodologies. Staff has also received recent training to implement this program by taking courses offered by the California Preservation Foundation, including “Design Review for Historic Buildings, Districts, Sites & Landscapes” and “Deciphering the Mills Act.” The following recommendations are submitted for follow-up action in future years:

- Evaluate the three potential historic districts: this requires further research, expansion or reduction of proposed district boundaries and completion of district records. Due to age and local interest it may be best to prioritize the district evaluation and begin with the Upper B Street neighborhood first.
- In 5-10 years, a range of new properties will be over 50 years old. Conduct a supplementary survey to identify and evaluate structures, sites and objects not evaluated in this survey because they did not yet meet the age requirement. This will require special consideration regarding the evaluation of subdivisions built during the 1950s and later.
- Develop local planning and zoning incentives.
- Adopt the Historic Preservation Issues, Goals, Objectives & Actions as part of the General Plan when next updated.

Prepared and Recommended by:



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Attachments:

- Attachment I - Historic Context Statement
- Attachment II – Historical Resources Survey & Inventory Report
- Attachment III - Current Historic Preservation Ordinance
- Attachment IV – Proposed Historic Preservation Ordinance
- Attachment V – Mills Act Program
- Attachment VI - Issues, Goals, Objectives and Actions
- Attachment VII - Focus Survey Area Map – Parcels by Year Developed
- Attachment VIII – Proposed Historic Districts