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DATE: May 18, 2010
TO: Mayor and City Council
FROM: Development Services Director
SUBJECT: Historic Preservation Program including Repealing and Replacing Article 11 of Chapter 10 of the Municipal Code, Historic Preservation Ordinance; and approving an Historical Resources Survey & Inventory, an Historic Context Statement, Goals and Objectives for Historic Preservation, Incentive Programs

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) that 1) determines that the Historic Preservation Program is exempt from the California Environmental Quality Act; 2) accepts the attached Historic Context Statement (Attachment II) and Historical Resources Survey & Inventory (Attachment III); 3) resolves to participate in the Mills Act Program (Attachment VI); and 4) approves the Goals and Objectives for Historic Preservation (Attachment VII); and introduces the attached Historic Preservation Ordinance (Attachment V).

SUMMARY

For Council's consideration and adoption, staff presents within and attached to this report the core elements of the proposed Historic Preservation Program. These documents provide the City of Hayward with a current and comprehensive inventory of potential and existing historical 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 to direct and guide decision-making policies.

The Historical Resources Survey and Inventory assists in establishing a basis for identifying historical 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. *Circa: Historic Property Development (Circa)*, the firm selected to assist the City with this program, has identified individual structures and sites, and 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 will become part of the City's Preservation Plan, which will provide Hayward with a "tool box" for preservation planning.

At its meeting of April 15, 2010, the Planning Commission recommended approval (4-0-3) of the Historic Preservation Program (see meeting minutes, Attachment X). Two of the three abstentions were from members who own properties listed on the Historical Resources Survey and Inventory as potential historical resources.

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* to perform an Historical Resources Survey and Inventory Report, to be accompanied by the Historic Context Statement, and recommendations for amendments to the City's Historic Preservation Ordinance.

DISCUSSION

Historic Context Statement (Attachment II) – The Historic Context Statement is a written account of the physical development of the community. An Historic Context enables the assessment of a property's historic significance by creating a framework against which to objectively qualify its relationship to larger historic themes and events. 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.

Historical evaluation of a property should use the Context Statement as a tool for understanding where the property's significance lies within the larger municipal historical timeline. Such evaluations should also include an analysis of the immediate physical context. This is part of determining the level of the resource's historic integrity. Therefore, buildings in their original location retain a much higher integrity level. This study also identifies various property types within the community, representing properties associated with the residential, commercial, industrial, and civic development of Hayward and its environs.

Historical Resources Survey and Inventory (Attachment III) – In conjunction with the Historic Context Statement, the Historical Resources Survey and Inventory provides a comprehensive record of historical resources, and an understanding as to why and how these resources meet local, state, or national criteria. 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 in 1992 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 Historical Resources and Surveys? - Historical 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. Historical resources are typically fifty years of age or older, but properties of lesser age may qualify if they demonstrate extraordinary significance.

An historical 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 specific 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 an historical resource. A separate evaluation and approval process is required in order for any individual property or district to be formally designated as an historical resource and listed on the register. Properties that are listed on the official register of the City of Hayward would be bound by all provisions of the proposed Historic Preservation Ordinance (discussed later), but would also be eligible for consideration for use of the proposed Historic Preservation Incentives (also discussed later). Properties that are not listed on Hayward's official register, but are listed on the City's historic inventory, would be subject to the proposed ordinance provisions requiring review of any alteration, demolition, or relocation of a structure at least fifty years in age, in order to determine if an historical alteration permit and/or historical resource demolition or relocation permit is required.

Any structure that can be determined to be an historical resource, whether or not is found on any historic inventory or official register, is considered to be a significant environmental resource, per Section 15064.5 of the Guidelines of the California Environmental Quality Act (CEQA). Such resources may not be demolished or materially altered prior to evaluating the impacts and mitigation measures for doing so per CEQA.

Overview of the Survey Process - The survey began with background research on the area to provide a basis to evaluate significance. *Circa* 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, 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.

While the Historical Resources Survey and Inventory Report responds to historical resources citywide, the primary study area encompassed a Focus Survey Area (Attachment VIII), which generally encompasses the downtown and immediately surrounding areas, including the Mark's Historic Rehabilitation District area (Hayward's downtown core). 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 historical 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.

The Focus Survey Area was established 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 Focus Survey Area built up to and including 1959 were surveyed to accommodate the fifty-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 and Inventory Report also draws on the findings from other sources to list historical resources in the remainder of the City. These sources included the National Register of Historic Places, the California Register, the California Historical Resources Information System, Alameda County's survey for Mt. Eden, and other local listings found through the Historical Society, both official and unofficial. Furthermore, as other found resources are evaluated in the future, the proposed Ordinance (Attachment V) provides opportunity for them to be added to the inventory.

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 and recorded 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 or for local listing. This level of survey will be performed in the future as individual properties or districts are evaluated for inclusion in the City's register of historic places.

Intended Use of the Survey and 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.

Undertaking a survey to identify historical resources recognizes that these resources have value to present and future generations. Historical 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. An historical resources 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 historical resources;
- Identify historical 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 historical 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 historical 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 an historical 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.

In addition to integrity, to be placed on an historic register, the property should exhibit at least one of the following: association with events that have made a significant contribution to the broad patterns of local or regional history; association with the lives of persons important to local history; embodiment of the distinctive characteristics of a type, period, region, or method of construction; or yield information important to the prehistory or history of the local area. The Historic Context Statement can aid in this evaluation.

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 still 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 Planning Division 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 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

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

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 Focus 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 survey bounds. Of these 3,893 properties, 415 were found to be outside the survey boundaries, were parcels that contained no built resources, or lacked a physical address. Of the remaining 3,478 properties, a total of 1,269 were constructed in 1960 or later and were not surveyed; and 2,209 were constructed in 1959 or earlier. This later group comprises the number of properties included in the reconnaissance-level survey.

Of the 2,209 properties surveyed within the Focus Survey area, approximately 80 properties did not retain any integrity, 1,045 properties displayed a low degree of integrity, 790 retained a moderate degree of integrity, and 190 retained a high degree of integrity. The remainder, about 100 properties, display varied degrees of integrity (high to moderate or moderate to low) or integrity was not able to be determined, because there were multiple buildings on those parcels, build date was unclear, or 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 the information regarding the level of physical integrity 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.

Potential Historic Districts (map, Attachment IX) – 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 historical 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 takes 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 IV (existing) & V (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 IV). 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 V) 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 an 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 an historical resource without an 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 an 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 an 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 VI) – 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 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, 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 Property Tax Adjustment Worksheet Guide in Attachment VI, provided by the City of Riverside, shows how the "Mills Act value" is calculated. 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 considerably 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 ninety 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 sixty-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% 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 an historical property, the City can cancel the contract for a breach of contract. The owner will be penalized with the 12.5% 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, staff recommends that 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 would also need to 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 by presenting a plan for its restoration and/or rehabilitation, including schedule and estimated costs; 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 tax revenue 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. Exemptions to the valuation limits could be granted if the property is an exceptional example of an architectural style or represents a work of a master architect, or if granting the exemption would assist the preservation and rehabilitation of a property that has excessive and/or unusual maintenance requirements and is otherwise in danger of demolition. 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.

Using a "calculator" provided on the City of Oakland website², staff performed a rough estimate of the Mills Act impact on the private properties that are now listed on the City's Historically and

² Each property owner should also consult legal counsel and/or a financial advisor concerning the advisability of entering into a Mills Act agreement, prior to completing and submitting a Mills Act application. There are no warranties or representations about the accuracy or validity of the Mills Act Property Tax Calculator - it is merely an information tool that applicants may use (at their sole risk).

Architecturally Significant Buildings. Of the twelve listed properties, eight are privately owned. Five of those are commercial properties; three are residential. Four of the commercial properties would see no benefit from the Mills Act, and one would see only a three percent (\$121) annual property tax savings. Two of the residential properties would see a 30-40 percent annual property tax savings (total of \$2,607), and one would see no benefit.

State Historical Building Code - One of California's most valuable tools for the preservation of historical 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 an 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 historical 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 and planning and zoning variances and exceptions can all recognize the importance of protecting historical 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;
- Transfer of development rights;
- Density or floor area bonuses;
- Coordination between city departments to guide, assist, and facilitate adaptive reuse implementation through a project-facilitating team that helps 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 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 VII) – The commitment to a broad historic preservation program is expressed by its goals. Staff proposes that the attached issues, goals, objectives, and actions 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) historical 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.

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). For example, there have been recent proposals for residential development on the site of the former Burbank School. This property shares B Street frontage with the Streetcar District (recommended for review as an official historic district). Discussion with potential developers included the need to be sympathetic with the architectural styles (Victorian, Colonial Revival, and Craftsman) and scale found in the Streetcar District.
- 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.

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.

PUBLIC CONTACT

Staff held a community meeting to initiate the project in the City Hall rotunda on May 3, 2008. At that meeting, staff presented an overview of the expected program components and process, and gathered input regarding specific sites that the attendees (approximately 12) felt should be surveyed. Staff also 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 twelve percent less to nine percent more

than the cost of comparable new construction with the typical building cost saving being about four 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 three percent to sixteen percent.”³

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.

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.

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:

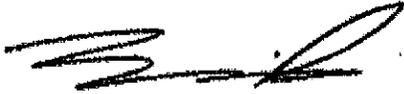
- Evaluate the three potential historic districts: this requires further research, expansion, or reduction of proposed district boundaries and completion of district records. Due to age and local interest it may be best to prioritize the district evaluation and begin with the Upper B Street neighborhood first (initial evaluation to begin in Fiscal Year 2011).
- In five-ten years, a range of new properties will be over fifty 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 the application for use of the Mills Act by property owners (to immediately follow Council action to authorize use).
- Develop local planning and zoning incentives (scheduled for Fiscal Year 2011).
- Adopt the Historic Preservation Issues, Goals, Objectives, and Actions as part of the General Plan when next updated.

³ Donovan Rypkema: *The Economics of Rehabilitation* (1991)

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Approved by:



Fran David, City Manager

Attachments:

- Attachment I – Resolution to Approve Historic Preservation Program
- Attachment II - Historic Context Statement
- Attachment III – Historical Resources Survey and Inventory Report
- Attachment IV - Current Historic Preservation Ordinance
- Attachment V – Proposed Historic Preservation Ordinance
- Attachment VI – Mills Act Program
- Attachment VII - Issues, Goals, Objectives and Actions
- Attachment VIII - Focus Survey Area Map – Parcels by Year Developed
- Attachment IX – Proposed Historic Districts
- Attachment X – Draft Planning Commission Minutes – April 15, 2010