

## MEMORANDUM

**DATE:** September 23, 2016  
**TO:** City Council  
**FROM:** Heritage Committee  
**SUBJECT:** Historic Inventory and Historic Preservation Ordinance Update

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### **Background:**

On June 16, 2016, the Heritage Committee reviewed a revised updated “Draft” of the Historic Preservation Ordinance. At the workshop, the Committee was generally in support of the “Draft” Ordinance as written but several additional recommendations were discussed. Additionally, the Committee was divided in regard to the classification of Contributive (C-rated) Properties and toward the end of the workshop, staff suggested that a draft memo be prepared for the Committee to review on July 7, 2016.

The Committee requested that the memo include the recommendation that 1) the density bonus incentive also be expanded to R-1 properties; 2) staff provide clarification on the historic review “triggers;” 3) all the historic incentives be expanded to all historic property categories; 4) the proposed modifications submitted at the workshop by the South Laguna Civic Association (SLCA) be incorporated into the “Draft” Ordinance; and 5) for staff to provide clarification on the classification of Contributive (C-rated) Properties.

At the July 7, 2016 workshop, the Committee reviewed the revised “Draft” Ordinance and the draft memo. At the meeting, members of the Committee and the public requested that the discussion be continued to allow for more time to review the workshop materials, the revised “Draft” Ordinance, and new information that was submitted by the public. The Committee directed staff to prepare a Frequently Asked Questions handout for the next workshop. At this meeting, the Committee felt that the sections requiring that all un-surveyed structures 45 years in age or older to be evaluated for historic significance be revised to reflect what was important to preserve. Subsequently, the Committee recommended that staff update the “Draft” Ordinance to read “pre-1955 structures.” Staff also pointed out that five definitions listed in the previously submitted SLCA letter had not been integrated and that these definitions would also be added before the next workshop on August 25, 2016.

At the August 25, 2016 workshop, a majority of the Committee members indicated that they were in support of the “Draft” Ordinance, however, several minor modifications were also discussed. The Committee directed staff to update the memo and the draft ordinance to reflect these additional recommendations and to include a summary of the benefits of reclassifying the Contributive (C-rated) Properties. The Committee’s recommendations from both workshops and additional discussion on each topic can be found below.

**Committee Recommendations:**

Density Bonuses: The revised “Draft” Ordinance includes language that would expand the current density bonuses allowed in the Local Business Professional Zone and the Downtown Specific Plan Area to the R-2, Residential Medium Density, and R-3, Residential High Density zones. At the June 16, 2016 workshop, it was expressed that the Committee would also like to see additional density standards expanded to the R-1, Residential Low Density zone as well.

Staff believes that density bonuses for single-family dwellings in the R-1, Residential Low Density zone should be addressed within the City’s existing Second Residential Unit Ordinance (Section 25.17), therefore, staff has updated the “Draft” to reference Section 25.17 for this topic. However, the Second Residential Unit Ordinance was recently revised in 2014, to comply with recently adopted the state laws regarding the local processing of second residential unit applications. Based on the multi-faceted nature of these regulations, staff recommends that this topic be investigated during the Planning Commission’s review of the “Draft” to ensure continued compliance with state law.

Historic Evaluation Triggers: At the June 16, 2016 workshop, the Committee requested that staff provide clarification of the events that would “trigger” a historic evaluation of a property. This would particularly pertain to structures that have not been identified on the “Draft” Inventory or placed on the Register. The proposed “Draft” Ordinance requires that a historic assessment be conducted during the review of a development application for the modification of a pre-1955 structure. Specifically, “Draft” Section 25.45.014 states that an application to demolish, relocate, or substantially change a pre-1955 structure be submitted to the Director of Community Development (or his designee, like a staff historic planner), who will preliminarily determine if the property is a potential historic structure. If this is determined, then a structure would be required to go through the evaluation process identified in “Draft” Code Section 25.45.018 and the Heritage Committee would review the historic status of a structure. If at any time in this review process a historic assessment is desired, as proposed, it would be prepared at the cost of the City. All determinations by the Director or Committee may be appealed to the City Council.

The “Draft” Ordinance also notes in “Draft” Section 25.45.020(C), that the City will reasonably attempt to provide a notation on any future Real Property Report (RPR) indicating that a pre-1955 structure may require a historic review during the development process. Once reviewing this disclosure, if a potential buyer would like to have a historic assessment completed, then the buyer may make an application (with permission from the property owner) for a property rating evaluation pursuant to “Draft” Section 25.45.018. If at any time in this review process a historic assessment is desired, as proposed, the assessment would be prepared at the cost of the City. It is important to note that a Contributive (C-rated) Properties may be upgraded to a “K”- or an “E”-rating, thereby allowing the structure to qualify for the Register. The revised “Draft” also notes that once an evaluation has been completed pursuant to Section 25.45.018, the property will then be added to the Inventory with the determined property rating.

Incentives to All Historic Property Categories: At the June 16, 2016 workshop, the Committee discussed expanding all the historic preservation incentives to all property categories and requested that the same incentives be given to all historic properties, identified on the Register, the Inventory or as a Contributive (C-rated) Properties. The only incentive that is not available to all properties is the Mills Act, as Mills Act agreements are only available to those structures listed on the City’s

Historic Register. Currently, the City Council has determined that only K and E –rated Historic Register Structures are eligible for the Mills Act.

At the August 25, 2016 workshop, the Committee also recommended that the three Historic Preservation Incentive Sections (25.45.010, 25.45.014 and 25.45.018) be incorporated into one section for clarity. Staff has revised the “Draft” to reflect this request and now all of the historic preservation incentives are located in one location in the “Draft”, in Section 25.45.016.

Open Space Incentive: At the August 25, 2016 workshop, the Committee recommended that the open space requirements for commercial and multi-family structures be a guideline instead of a variance. The Committee noted that often older structures do not currently meet the open space requirements, therefore, most additions to these structures necessitate a variance to not provide the required, therefore, an exception to the open space requirements would be an appropriate incentive. Staff has updated the “Draft” with the following language:

*25.45.016(I) Open Space Requirements. Historic properties which do not currently provide the required open space area may be enlarged or expanded without providing the required open space if it is determined that the proposed alterations will not diminish or detract from the historic significance of the original structure. Requests for this benefit shall be subject to design review with recommendation provided by the heritage committee.*

As indicated above, this incentive would be extended to all historic properties, identified on the Register, the Inventory or as a Contributive (“C”-rated) Property.

South Laguna Civic Association (SLCA) Recommendations: At the June 16, 2016, workshop, the South Laguna Civic Association (SLCA) submitted a letter which included several suggested modifications to the “Draft” Ordinance. At the workshop, the Committee recommended that staff update the “Draft” Ordinance to include these recommendations. A majority of the recommended changes have been incorporated into the “Draft” Ordinance; however, the proposed recommendations regarding the Contributive (C-rated) Properties were not incorporated because the Committee was not in agreement with these revisions.

Demolition: At the August 25, 2016 workshop the Committee requested that the “Draft” Ordinance be revised to re-incorporate a section that discusses demolition of historic structures. The Committee felt that including a “Demolition Section” in the “Draft” Ordinance would provide further clarification as it relates to historic structures. Staff has included Section 25.45.022 which provides the procedures for demolition of a historic structure.

Now the “Demolition” section has been incorporated into the “Draft”, staff has provided the following definition for further clarification:

*“Demolition” for the purpose of this chapter, means any act which removes all the existing exterior wall and roof framing. Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code.*

Additionally, staff also updated the definition of “substantial alteration” and the terms listed in 25.45.030 for further clarification.

Change the term “Neighborhood Property” to “Contributive Property”: The Committee directed staff to revise the term “Neighborhood Property” to “Contributive Property” to remain consistent with the current historic preservation terminology. Staff indicated that the term “contributive” is typically associated with a structure in a historic district and that there are no historic districts within the City, but that there was no problem with incorporating this recommendation into the “Draft” Ordinance. The following definition was presented by a Committee Member at the August 25, 2016 workshop and was supported by the Committee (this definition was also updated in section 25.45.012 (A)):

*“Contributive (C-rated) property” means structures that contribute to the overall character and history of the neighborhood. While these properties are not considered historic resources under CEQA, they are still important for their contribution to the village atmosphere, historic presence and neighborhood character which they provide. These properties are identified with a “C” rating and with an OHP status code of 6 or lower on the inventory. Properties not identified on the inventory may also be identified by the heritage committee as specified in Section 25.45.018. The following characteristics or typical of a neighborhood property:*

*(1) The structure remains intact and has not been substantially altered since the time of original construction. Structures designed in the Craftsman, Bungalow, Beach Cottage, Period Revival, Provincial, Moderne and Mid-Century Modern styles should be given special consideration.*

*(2) Structures which have been updated with insubstantial modifications, but retain their original form, character and scale should also be considered.*

*(3) The structure is located in an area largely intact to its original development and which contains several structures similar in scale which were also constructed during the same period.*

*(4) The property maintains a similar appearance to the time in which it was associated with an important person or persons or groups who significantly contributed to the cultural, artistic, or other important developmental aspects of the city, region, state, or nation.*

Design Review Criteria for Contributive Properties: The Committee recommended adding a sixth criteria to “Draft” Section 25.45.012 (E), which is used to evaluate design criteria for changes to Contributive (“C”-rated) Property. The following criteria (criteria 6) has been added to the “Draft” under section 25.45.012 (E):

*(6) Are designed in such a way so as to minimize impacts to the historic integrity and character defining features of the structure.*

Additional Recommendations: The “Draft” Ordinance is the primary component of the Historic Preservation Program update, however, the Committee has also noted several other recommendations for the Council to consider in the update:

1. Staff planner to be hired with a background in historic preservation.
2. Increased Heritage Committee training.
3. Historic Preservation Style Guide (which is defined in the “Draft”) with definitions (to be prepared in the future by a Historic Consultant). Preferred vendor list (doors, windows and other building materials).
4. Historic window/station at the public counter.

5. Free Shoppers Parking Passes for property owners of a structure listed on the Historic Register.
6. Street-sweepings tickets waived for owners of a “C”, “K”, or “E”-rated structure (first 4).

**Contributive (C-rated) Property Clarification:** The “Draft” Ordinance establishes C-rated structures as Contributive Properties and identifies the importance of these structures to the neighborhood. The “Draft” acknowledges that these structures are historically important, but the revised classification will discontinue the requirement that these structures comply with the Secretary of the Interior’s Standards in order to be exempt from additional CEQA (California Environmental Quality Act) review. As proposed, Contributive (“C”-rated) Properties would no longer be eligible for placement on the Historic Register, however, these properties would still be eligible for all of the historic preservation incentives provided in the “Draft” Ordinance (excluding the Mills Act). Additional development review is also now required prior to the alteration of these structures.

The Contributive (C-rated) Property category was introduced to provide more local flexibility and to streamline the CEQA review process. Since these properties contribute to the streetscape, the “Draft” Ordinance establishes a review process to examine applications to modify a Contributive (C-rated) Property with the streetscape in mind. The process introduced in “Draft” Section 25.45.012 requires Heritage Committee Review prior to Design Review for all “substantial alterations” to a Contributive (“C”-rated) Property. Additionally, the “Draft” Ordinance includes Design Guidelines (“Draft” Municipal Code Section 25.45.012(E)) for consideration during project review, to ensure continued compatibility with the streetscape.

The Committee proposes the reclassification to the Contributive (“C”-rated) Properties because in the past, it has been found that often times when the Secretary of the Interior’s Standards are applied during the CEQA review process, only minimal alterations are allowed to a structure. While this may be appropriate for historic structures with key architectural features, it has proved to be cumbersome for a structure that is not individually historic, but simply contributes to the streetscape. Recently, there have been situations when the Design Review Board, upon recommendation of the Heritage Committee, has found that the proposed alterations are compatible with the pattern of development even though the alterations are not consistent with the Secretary of the Interior’s Standards. This inconsistency poses a difficult CEQA processing issue. Once a project involving a modification to a historic structure is determined to be inconsistent with the Secretary of the Interior’s Standards, additional environmental review is required, unless the exemption for following the Secretary of Interior Standards is applicable. For projects that are not exempt on that basis, CEQA is likely to require the preparation of an Environmental Impact Report (EIR) prior to the final approval of the project because mitigated negative declarations are generally not available because of the lack of viable mitigation measures.

Based on these issues, the Committee unanimously believes that the reclassification of Contributive (“C”-rated) Property and the introduction of the requirement for Design Review, with a recommendation from the Heritage Committee (as described in “Draft” Section 25.45.012), will improve the Historic Preservation Program. The “Draft” Ordinance will allow for more local flexibility, discretion, and may potentially reduce project processing time for any substantial modification proposed to a Contributive (“C”-rated) Property.

In summary the following list highlights the benefits of the reclassification of “C”-rated structures:

- Local flexibility;
- Contributive, “C”-rated Properties are still acknowledged as historically significant to the streetscape.
- Historic Analysis (SOIS compliance) is not required during review, as the “Draft” Ordinance establishes that these structures are not classified as historic resources under CEQA;
- Contributive, “C”-rated Properties no longer eligible for Register, but still eligible for all incentives (except the Mills Act). However, as noted before, a “C”-rated structure could be rehabilitated to restore its original historic value and be upgraded to a “K”- or an “E”-rated structure, thereby becoming eligible for a Mills Act.
- Heritage Committee and Design Review approval is required for any/all substantial alterations; (local planning process)
- The “Draft” Ordinance is consistent with the General Plan

**Attachments:**

Exhibit A: Revised “Draft” Ordinance (9/23/16)