

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Marisa Lundstedt, Director of Community Development

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DATE: September 23, 2015

SUBJECT: Amendments to Title 10 Planning and Zoning, other portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) revising the Historic Preservation provisions

RECOMMENDATION

Conduct a public meeting, receive public comment, discuss and provide final revisions to the Historic Preservation Ordinance and adopt the Resolution, recommending approval to City Council.

BACKGROUND:

The existing Landmark Ordinance No. 2143 was adopted by the City Council on September 5, 2006, establishing Chapter 10.86 Culturally Significant Landmarks in the Municipal Code. The existing regulations only recognize properties of cultural significance without limiting or prohibiting any development rights and is voluntary on behalf of the property owner. The proposed Historic Preservation regulations allow only limited people, the owner, the City or a local Preservation Organization (MBPO), to submit an application request for Landmark designation. The Ordinance requires owner's consent for the actual designation of an individual Landmark, with an exception for Historic Districts that require a majority percentage of the property owners. Additionally, the City Council may designate a Landmark if it makes specific findings for exceptional resources and very limited situations. Landmark Designation limits alterations, improvements and demolition of the designated structure or feature, and generally requires review through a Certificate of Appropriateness to determine that historical integrity is maintained, although most ordinary repair and maintenance and minor alterations are exempt. The intent of the proposed Historic Preservation ordinance is to preserve and protect historic resources in the City while balancing historic preservation objectives with property owners' rights.

Planning Commission meetings

The Planning Commission conducted public hearings on April 29th and June 10th, 2015. Standard code language was included for compliance with State regulations for Certified Local Government (CLG) eligible certification per City Council direction.

Additionally, the removal of the voluntary/honorary designation process was supported by local preservation groups as well as the Commission. Staff, the Historic Preservation Consultant (SWCA Environmental Consultants), and City Attorney presented the following information at the public hearings:

- Ordinance implementation procedures, including the proposed code amendments
- Duties and roles of the new Historic Preservation Commission
- Designation criteria for Landmarks
- Threshold of property owner signatures for formation of historic districts (Proposed-25% at initial application and 51% prior to designation of all owners-contributing and non-contributing- within the district)
- Nomination process and requirements for owners consent, specifically in historic districts
- Certificate of appropriateness and alterations and demolitions of designated properties
- Clarifications on definitions, including CEQA and economic hardship exemption sections

The Los Angeles Conservancy, the Manhattan Beach Cultural Heritage Conservancy (MBCHC) and members of the public were in attendance and provided input on the proposed regulations.

DISCUSSION:

The Planning Commission understood the value of the Historic Preservation program, but had a number of concerns and comments as indicated below. The Commission indicated any code amendments should be carefully considered and researched in order to balance property rights with preservation of the City's heritage. On June 10, 2015, the Planning Commission had concerns related to the following items and requested that staff address or provide clarification:

- Simplification, consistency and formatting of code language within the Ordinance;
- Additional City Council findings or criteria for Landmark Designation of exceptional properties without owners consent;
- Work Moratorium time limit for Certificate of Appropriateness applications during designation process for Landmarks and Historic Districts (Section 10.86.110 A.);
- Owners consent required for designated of individual Landmarks versus less than 100% of owners consent (25% at application and 51% at designation proposed) required for formation of Historic Districts;
- Demolition and alteration limitations for properties within Historic Districts; not being too restrictive for non-contributing properties; and
- Notification of property owners listed on potential Inventory of Historic Resources.

Historic Preservation Ordinance

Staff coordinated with the City's historic preservation consultant and the City Attorney on clarifying and addressing the Planning Commission concerns as outlined above. The following sections were revised from the draft Resolution that was presented to the Planning Commission on June 10, 2015. A redline strikeout version of the draft Resolution is attached (Attachment A) showing the specific code language that was revised.

Demolition Permits – Section 10.86.170 B. and Section 10.86.190 .

The application for the demolition of part or all of a historic resource is proposed to be increased from a 30-day waiting period to 60 days. The Planning Commission felt that more time was needed to review and evaluate the demolition of a potential historic resource. After research and further discussion staff believes that 60 days is a more realistic time frame.

Owner Consent- City Council designation without consent- Section 10.86.090 B

The Planning Commission had concerns with the discretion of the City Council to override owner's consent and designate Landmarks. A designation would prohibit a property owner from demolishing or altering a structure without a Certificate of Appropriateness in most situations. Specific findings must be made in order for the Council to designate a Landmark without the owner's consent. The Landmark would need to possess an exceptional significance as determined by a qualified professional and the designation would be necessary to facilitate the preservation, rehabilitation or protection of the property. Staff and the consultant believe that this section would be used very rarely; only in exceptional situations. Staff will forward the Planning Commission concerns and recommendations to the City Council for final adoption of the Ordinance.

Historic Districts – Section 10.86.110 C & D. 3.

As part of the Historic District designation process, the regulations propose that 25% of all owners' signatures within the district would be required in support of the application prior to the public hearing and 51% of signatures would be required prior to the actual designation.

During the June 10, 2015 meeting a variety of alternatives were discussed, and the Commission expressed a variety of opinions. The majority of the Commission felt that between 50% and up to 100% of owners consent, should be required as part of the historic district review process, with a lower percentage with the initial submittal of the application. Some Commissioners felt that the percentages should be kept low at the initial application phase to encourage submittal and allow time for education on the process and benefits, as well as responsibilities and consequences of being within a historic district. Some indicated that 100% owners consent should be required to protect property rights when designating a historic district. There was also concern expressed that owners consent from the noncontributing property owners should not be included as part of the application and designation process. Some Commissioners suggested requiring 50% of owner consent as part of the application submittal and

100% prior to designation. Certain members of the Planning Commission also expressed concern regarding maintaining any type of language related to historic districts within the Ordinance. Concerns revolved around the impact that historic district provisions would have on property rights as well as property values.

The Historic Preservation Consultant stated that requiring 100% of owner may not achieve the desired group or cluster of properties to form a viable historic district. The consultant recommended creating less strict design guidelines for non-contributing properties during the formation of a historic district. The Planning Commission requested that staff research whether historic districts would be required for Certified Local Government (CLG) status per State regulations. Staff contacted Shannon Lauchner from the California Office of Historic Preservation and she stated that their office “would not support certifying a program that did not have a process through which historic districts could be identified and designated.” Furthermore, she stated that, high owner consent thresholds could prevent a local government from securing CLG status.

Staff asked the Historic Preservation Consultant to provide information regarding the number of cities in Los Angeles County that have historic districts, how criteria were established for the districts and the benefits of historic districts. Attached is a summary from the consultant of the information that was gathered. (Attachment D).

Code Language Inconsistency

The Planning Commission stated that the language and formatting in the regulations was inconsistent as well as it needed simplification and cross-reference of sections. The City Attorney reviewed these concerns with one of the Commissioners and revised the language based on this input. The changes are not substantive in nature and can be reviewed in detail on the redlined Resolution which contains all of the changes made by staff (Attachment A).

Honorary Landmark Ordinance- Section 10.86.230

The Manhattan Beach Cultural Heritage Conservancy (MBCHC) and the LA Conservancy expressed concerns about keeping the language for the honorary/voluntary landmark designation. They felt that keeping this code language in the new Historic Preservation Ordinance would compromise the intent of the Ordinance, in that, it was honorary in nature and offered no protection from alterations, modifications or demolition. The Planning Commission agreed with the MBCHC and LA Conservancy stance on removing the honorary and voluntary code language.

CONCLUSION:

Staff recommends that the Planning Commission conduct the public meeting, take public comment, discuss the proposed code amendments, provide final comments and adopt the Resolution incorporating any changes from tonight’s meeting.

Attachments:

- A. Redline Strikeout version comparison of June 10, 2015 draft Resolution
- B. Draft Resolution No. PC __-__
- C. Planning Commission minutes- June 10, 2015
- D. Summary of Historic Districts information- September 14, 2015-SWCA

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RESOLUTION NO. 15-_____

**RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MANHATTAN BEACH RECOMMENDING
TO THE CITY COUNCIL AMENDMENTS TO CHAPTER
10.86 (HISTORIC PRESERVATION), TITLE 10 (PLANNING
AND ZONING) OF THE MANHATTAN BEACH
MUNICIPAL CODE (MBMC) AND THE LOCAL COASTAL
PROGRAM (LCP) TO ESTABLISH PROVISIONS FOR THE
PRESERVATION OF HISTORIC RESOURCES**

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY
RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On April 29, 2015 the Planning Commission conducted a public hearing, and reviewed proposed text amendments to Chapter 10.86 of the Municipal Code, part of the City's Zoning Ordinance, and continued the public hearing to June 10, 2015.

B. On June 10, 2015, the Planning Commission again reviewed the draft Code amendments.

C. On ~~September 23~~, September 23, 2015, the Planning Commission again reviewed the draft Code amendments.

D. The Planning Commission public hearing for April 29th included a public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

E. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

F. The Planning Commission finds that adoption of the proposed amendments is exempt from the requirements of the California Environmental Quality Act, pursuant to the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

G. The Planning Commission finds that the proposed amendments will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

H. The proposed amendments are consistent with the following General Plan Goals and Policies:

Goal LU-1: Maintain the low-profile development and small town atmosphere of Manhattan Beach.

**ATTACHMENT A
PC MTG 9-23-15**

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.

Policy LU-4.4: Encourage the preservation and enhancement of unique residential homes and buildings throughout Manhattan Beach to preserve the culture and history of the City.

Policy LU-4.5: Encourage measures that recognize and work to protect buildings, landscaping, and other features important to the City's history.

Policy LU-4.6: When public improvements are made, they should preserve and maintain distinctive neighborhood characteristics.

I. The proposed amendments are consistent with the following Local Coastal Program policies:

Policy II.B.1: Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.

Section 2. The Planning Commission of the City of Manhattan Beach hereby recommends deleting Chapter 10.86 (Culturally Significant Landmarks) of the Manhattan Beach Municipal Code and replacing it with the following:

**“Chapter 10.86
HISTORIC PRESERVATION**

10.86.020	Purpose.
10.86.030	Definitions.
10.86.040	Historic Preservation Commission.
10.86.050	Inventory of Historic Resources.
10.86.060	Register of Historic Resources.
10.86.070	Designation Criteria for Historic Landmarks.
10.86.080	Designation Procedures – Historic Landmarks.
10.86.090	Owner Consent for Landmark Designation.
10.86.100	Designation Criteria for Historic Districts.
10.86.110	Designation Procedures – Historic Districts.
10.86.120	Conservation Districts.
10.86.130	Amendment or Rescission of Designation.
10.86.140	Duty to Maintain Historic Resources.
10.86.150	Certificate of Appropriateness – Requirement.
10.86.160	Certificate of Appropriateness – Procedures.
10.86.170	Certificates of Appropriateness – Findings.
10.86.180	Work Moratorium.
10.86.190	60-Day Waiting Period for Demolition.
10.86.200	Certificate of Economic Hardship.
10.86.210	Unsafe or Dangerous Conditions.
10.86.220	Environmental Review.

- 10.86.230 Appeals.
- 10.86.240 Preservation Incentives.
- 10.86.250 Historic Variance.
- 10.86.260 Application Filing Fees.
- 10.86.270 Enforcement and Penalties.

10.86.010 Title.

This Chapter shall be known as the “Historic Preservation Ordinance” of the City of Manhattan Beach.

10.86.020 Purpose.

The purpose of the Historic Preservation Ordinance is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, objects, sites, features and that represent the City’s architectural, cultural, social, historical, and political heritage. The standards and requirements in this Chapter are intended to balance historic preservation objectives and property owners’ rights. Further, it is the intent and purpose of the Manhattan Beach City Council in passing this Chapter to:

- A. Safeguard the City’s heritage and small-town beach atmosphere by encouraging the identification, recognition, and protection of landmarks representing significant elements of the City’s history and culture;
- B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City’s past and small-town beach atmosphere;
- C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to residents and visitors alike, and safeguarding our heritage for future generations;
- D. Encourage public education and participation in the City’s historic preservation program;
- E. Encourage public knowledge, understanding, and appreciation of our cultural, social, and architectural history and heritage;
- F. Preserve diverse and significant architectural styles and property types reflecting phases of the City’s history and encourage complementary contemporary design and construction;
- G. Establish criteria for a comprehensive survey of historic resources within the boundaries of the City and publicize and periodically update survey results; and
- H. Adopt incentives that promote the preservation and rehabilitation of historic properties.

~~I. Continue to provide a voluntary honorary landmark designation process through a Manhattan Beach Preservation Organization, with recognition by the City, but with no incentives or property right effects on the landmark.~~

10.86.030 Definitions.

The following terms when used in this Chapter shall have the meaning set forth in this Section, unless a different meaning clearly appears from the context:

“Alteration” means any act or process that modifies a historic landmark or contributing resource that either: (1) requires a building or other permit and changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the erection, construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes the setting and/or any character-defining feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource, regardless of whether such act or process requires a building or other permit.

“Certificate of Appropriateness” means the permit granted on the finding by the Historic Preservation Commission or Director that an application to demolish, alter, or relocate a historic resource as defined by this ordinance is in accordance with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties* and other applicable criteria as provided in this Chapter.

“Certificate of Economic Hardship” means the permit granted to a property owner or applicant by the Historic Preservation Commission ~~or Director~~ to approve an application for a Certificate of Appropriateness for a project that, due to undue economic hardship on the owner, does not comply with the Secretary’s Standards.

“Character-Defining Feature” means the physical elements and characteristics through which a historically significant property expresses its significance. Character-defining features include but are not limited to overall form and massing, materials, finishes, architectural style, decorative detailing, site features and relationship to neighboring properties, landscaping, and interior features.

“Community Development Director” or “Director” means the Community Development Director or his or her designee.

“Conservation District” means an area that contains, within defined geographic boundaries, buildings, structures, sites, objects, or natural features with unifying characteristics or qualities. A conservation district might not retain sufficient integrity to qualify as a historic district, but it is of interest to local planning due to its concentration of related properties and features.

“Contributing Resource” (or “Contributor”) means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is either a separately designated historic landmark or designated as a resource that contributes to the district’s historic, cultural, or architectural significance.

“Demolition” means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity.

“Historic District” means a geographic area having a significant concentration, linkage, or continuity of buildings, structures, objects, sites, and other features united historically or aesthetically by plan or physical development that has been designated pursuant to the provisions in this Chapter.

“Historic Integrity” means a property retaining enough of the important physical characteristics from its period of significance that it can still convey the reasons for its significance. As defined by the National Parks Service and in accordance with the accepted standards of professional preservation practice, Historic Integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association.

“Historic Landmark” means any building, structure, object, site, sign, area, place, or natural feature designated as a historic landmark pursuant to this Chapter.

“Historic Preservation Commission” or “Commission” means the Historic Preservation Commission established pursuant to this Chapter.

“Historic Resource” means a property listed, nominated, or eligible for listing in the Register of Historic Resources, including historic landmarks, historic districts, and contributing resources to historic districts.

“Inventory of Historic Resources” means the inventory of buildings, structures, objects, sites, historic districts, signs, areas, places, and natural features determined potentially eligible for local landmark listing in the City, prepared and approved in accordance with Section 10.86.050.

“Manhattan Beach Preservation Organization” or “MBPO” means a group comprised of voluntary members of the community, recognized by the City of Manhattan Beach, such as the Manhattan Beach Cultural Heritage Conservancy (MBCHC) or the Manhattan Beach Historical Society, that assists in increasing public awareness and community appreciation of Manhattan Beach history.

“Major alterations” means any work to a property that includes the alteration, removal, or obstruction of character-defining features, elevations, and spaces, or additions to a property that are visible from the public right-of-way.

“Minor alterations” means any work to a property that does not include changes/removal of character-defining features. Minor alterations generally includes the following, to the extent they do not include changes/removal of, or do not affect, character-defining features: (1) paint color; (2) roofing; (3) repairs to foundations; (4) construction, demolition, or alteration of side, rear, and front yard fences; (5) ordinary maintenance and repair; (6) landscaping, including sprinkler system work; (7) paving work; (8) all alterations that are entirely interior and do not affect the exterior of property, except for interior features that are specifically mentioned as being important in a landmark designation; and (9) replacement of existing screens and awnings with the same or substantially consistent materials, form and shape.

“Ordinary maintenance and repair” means work on a historic resource that (i) does not, by law, require issuance of a permit; (ii) involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (iii) does not involve a change of design, material, or appearance of the property.

“Prehistory” refers to the period in history prior to the advent of written records, revealed through archaeological and paleontological discoveries and analysis.

“Property Owner” or “Owner” means the person or persons appearing as the owner of the improvement, natural feature or site on the last equalized assessment roll of the County of Los Angeles.

“Qualified Professional(s)” shall mean any of the following professions/occupations:

- “Architectural Historian” shall refer to an architectural historian who meets the Secretary of the Interior’s Professional Qualifications Standards in architectural history, as defined by the National Park Service.
- “Historian” shall refer to a historian who meets the Secretary of the Interior’s Professional Qualifications Standards in history, as defined by the National Park Service.
- “Historic Architect” shall refer to a licensed architect who meets the Secretary of the Interior’s Professional Qualifications Standards in historic architecture, as defined by the National Park Service.
- “Structural Engineer” shall refer to any individual registered by the State of California to practice structural engineering and to use the title Structural Engineer pursuant to the State of California Business and Professions Code, Chapter 7, Section 6701. When working with historic buildings and structures for the City of Manhattan Beach, the Structural Engineer shall have experience in historic preservation.

“Register of Historic Resources” means the register of historic landmarks, historic districts, and contributing resources to historic districts prepared and approved in accordance with the provisions of this Chapter.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural significance.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

“Secretary of the Interior’s Standards for the Treatment of Historic Properties” or “Secretary’s Standards” means both the Standards and Guidelines developed by the United States Department of the Interior, National Park Service, for the preservation, rehabilitation, restoration, and reconstruction of historic resources.

10.86.040 Historic Preservation Commission.

A. Establishment of Commission. There is hereby created the Manhattan Beach Historic Preservation Commission. The Commission shall have and exercise the powers and perform the duties set forth in this Chapter. Except as otherwise specified in this Chapter, the Commission shall be subject to the provisions of Chapter 2.44 of this Code.

B. Composition and Appointment of Members. Commissioners shall be appointed pursuant to Chapter 2.44 of this Code. All members shall have an expressed special interest, experience, or knowledge of the history, architecture, or cultural heritage of the City.

At least two members shall be chosen from among professionals in the disciplines of architecture, history, planning, land economics, real estate or a related discipline, to the extent that such professionals are available in the community.

C. Meetings and Record of Proceedings. The Commission shall meet at least quarterly. All meetings of the Commission shall be open to the public and held in compliance with the provisions of the state’s Ralph M. Brown Act. The Commission shall keep a record of minutes of all of its proceedings and actions, which shall be available for public inspection.

D. Powers and Duties. The Commission shall have the following powers and duties, in addition to any other duties specified in this Chapter:

1. General Powers. The Commission shall be an advisory board to the City Council, Planning Commission, and all City departments and staff on all matters relating to the identification, protection, retention, preservation, and registration of historic resources in the City, as directed by the City Council.

2. Enumerated Powers. The Commission shall:

- a. Administer the provisions of this Chapter;
- b. Advise the Council in all matters pertaining to historic preservation in the City;
- c. Compile and maintain for public use and information the Register of Historic Resources;
- d. Compile, maintain, and periodically update the Inventory of Historic Resources;
- e. Recommend the designation of and nominate historic landmarks and districts;

f. Approve or disapprove in whole or in part applications for Certificates of Appropriateness and Certificates of Economic Hardship for the demolition, alteration, or relocation of designated landmarks, including individual landmarks, historic districts, sites, and their contributing improvements and natural features;

g. Review and comment on the decisions and documents, including but not limited to environmental assessments, Environmental Impact Reports, and Environmental Impact Statements, prepared by the City or other public agencies when such decisions or documents might affect designated or eligible historical resources within the City;

h. Participate in, promote, and conduct public informational, educational, and interpretive programs pertaining to historic preservation;

i. Recommend and encourage the protection, enhancement, appreciation, and use of properties of historical, cultural, architectural, community or aesthetic value that have not been designated as historical resources but are deserving of recognition;

j. Review applications and make recommendations to the City Council on Mills Act Tax Abatement program contracts;

k. Upon request, make recommendations to the Planning Commission on zoning and general plan amendments related to historic preservation goals and policies; and

l. Perform any other functions that may be designated by resolution or action of the City Council.

3. Secretary. The Director shall act as Secretary of the Commission and shall be custodian of its records, conduct official correspondence, and generally coordinate the clerical and technical work of the Commission in administering this Chapter.

4. Subcommittee. In order to permit the Commission flexibility in performing its duties in as efficient a manner as possible, the Commission may adopt criteria under which a subcommittee of the full Commission may implement and administer the policies of the Commission on a case-by-case basis.

10.86.050 Inventory of Historic Resources.

The Commission shall compile, maintain, and periodically update the Inventory of Historic Resources. Within six months of the Commission's first meeting, the Commission shall forward a plan to the City Council recommending a comprehensive historic resources survey, which will provide the baseline data for the Inventory. Based upon the results of the survey, the Commission shall compile the Inventory.

10.86.060 Register of Historic Resources.

A. Register Established. There is hereby established the Manhattan Beach Register of Historic Resources, a register of locally designated historic landmarks, historic districts, and contributing resources to historic districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.

B. ~~Automatic~~Effect of National or State Designation. Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is ~~automatically designated~~eligible for designation as a historic landmark for purposes of this Chapter.

C. Prior Designations. Any historic landmark designated as a culturally significant landmark or as a historic landmark by the City on or before the effective date of this Chapter shall not automatically be designated a historic landmark for purposes of this Chapter, but shall require review to determine if the designation is consistent with the provisions of this Chapter.

D. New Designations. New designations of historic landmarks and historic districts can be initiated in accordance with the criteria and procedures set forth in this Chapter.

E. Designation Runs with the Land. The designation of a historic landmark, historic district or contributing resource runs with the land, and is not affected by a change of the property owner.

F. Rescission of Designation. The conditions and process for amendment or rescission of a designation as a historic landmark or district, or of a contributing resource, are described in Section 10.86.130 (Amendment or Rescission of Designation).

10.86.070 Designation Criteria for Historic Landmarks.

A. The Council may designate a property as a historic landmark and add it to the Register of Historic Resources if it meets the requirements of paragraphs B, C, and D of this Section.

B. In order to be eligible for consideration as a landmark, a property must be at least 45 years old. A historic property less than 45 years of age may qualify for local listing if the Director, Commission, and/or City Council determine that the resource is of exceptional architectural, cultural, social, and/or historical importance to the City, as verified by a qualified architectural historian or historian.

C. Historic landmarks must retain integrity from their period of significance, as determined by a qualified architectural historian or historian. A proposed landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its historic, cultural, or architectural significance.

D. Historic landmarks must meet at least one of the following criteria:

1. It is or was once associated or identified with important events or broad patterns of development that have made a significant contribution to the social, political, cultural, or architectural history of the city, region, state, or nation.

2. It is or was once associated with an important person or persons who made a significant contribution to the history, development, and/or culture of the city, region, state, or nation.

3. It embodies the distinctive characteristics of a style, type, period, or method of construction
4. It represents the work of a master, or possesses high artistic or aesthetic values.
5. It represents the last, best remaining example of an architectural type or style in a neighborhood or the city that was once common but it increasingly rare.
6. It has yielded or has the potential to yield information important to the prehistory or history of the city, region, state, or nation.

E. Neither the deferred maintenance of a proposed landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility under the appropriate criteria and theme of significance.

10.86.080 Designation Procedures – Historic Landmarks.

A. Application. The City Council, Historic Preservation Commission, Director, a MBPO, or the owners of the subject property or their authorized agents, may apply for historic landmark designation. In the event the Council or Commission initiates the application, the Director shall oversee and cause the completion of the required application.

B. Required Information. All applications shall be made on a form prescribed by the Director and shall include the following data:

1. The assessor's parcel number and legal description of the site.
2. A description of the historic property and statement of how it qualifies under the criteria described in Section ~~10.86.070 or 10.86.110, as applicable.~~ [10.86.070.](#)
3. A detailed architectural description, enumerating the property's character-defining features, elevations, and spaces.
4. Construction chronology of the property, including history of major alterations/additions.
5. Ownership history.
6. A statement of significance describing why and how the property or feature meets the eligibility criteria of the Code including the area of significance, theme, and period of significance.
7. Current photographs and (if available) historic photographs, maps, sketches, drawings, or other descriptive material as available to support the nomination.
8. The signature of the property owner(s) or their authorized agents, if the owner is the applicant.

9. Such other information as requested by the Commission or Director.

C. Evaluation. Within 60 days after the date a designation application is deemed complete, the Director shall prepare, or cause to be prepared, a historic resources evaluation to determine the eligibility of the property and to document all potentially historic features of the subject property and prepare a report to the Commission. The evaluation shall be conducted by a qualified architectural historian or historian.

D. Commission Review and Recommendation. The Commission shall conduct a public hearing on the application. After the close of the hearing, the Commission shall adopt a resolution recommending to the Council the approval, conditional approval, or denial of the application. If the Commission has not taken action on the application within 60 days after receipt from the Director of the completed historic resources evaluation, the Commission will be deemed to have forwarded the application to the Council without recommendation.

E. Council Determination. After receiving the Commission's recommendation, the Council shall conduct a public hearing on the landmark nomination application. The Council shall adopt a resolution approving, conditionally approving, or denying the application. If the Council has not taken action on the application within 150 days of the Commission's recommendation, or within 150 days after the date the application was deemed to have been forwarded to the Council without recommendation, then the application shall be deemed denied. The Council shall not approve or conditionally approve the landmark designation absent owner consent, except as otherwise provided in Section 10.86.090.

F. Designation.

1. Upon designation by the Council, the Director shall forward a copy of the resolution approving the designation of a historic landmark to any department or agency that the Director deems appropriate, and shall record or cause to be recorded the location, characteristics, and significance of the historic landmark on a California Department of Parks and Recreation Historic Resources Inventory Form 523, or current equivalent form, in accordance with the practices specified by the State Office of Historic Preservation for the recordation of historic resources.

2. A designated historic landmark may be identified by an approved City marker, but such a marker is not required.

10.86.090 Owner Consent for Landmark Designation.

A. Landmark applications can be recommended, initiated, prepared, and considered by the Commission without owner consent. The public hearing before the City Council required by subsection E of Section ~~10.86.090~~[10.86.080](#) shall not be held unless the owner has consented to the application. Owner consent is required for a property to be designated as a historic landmark.

B. Notwithstanding paragraph A, the Council may consider the designation of a historic landmark without the owner's consent, and may designate a historic landmark without the owner's consent, if the Council makes both of the following findings:

1. The property possesses exceptional architectural, historical, aesthetic, or cultural significance to the city, region, state, or nation, as determined by a qualified professional; and
2. Designation will facilitate the preservation, rehabilitation, or protection of the property

10.86.100 Designation Criteria for Historic Districts.

A. In addition to satisfying the criteria in Section ~~10.86.070~~, 10.86.070 (as those criteria are applied to the proposed district), when recommending the approval of the nomination of a historic district, the Commission must also find:

1. That the historic district is an identifiable and distinct entity with clear boundaries and that it possesses a significant concentration of buildings, structures, and related features sharing common historical, visual, aesthetical, cultural, archaeological, or architectural plan or physical development; and
2. That the historic district retains integrity from its period of significance as determined by a qualified architectural historian or historian. Not all properties or features within a proposed district need to retain all seven aspects of integrity (location, design, setting, materials, workmanship, feeling, and association), but a substantial number of such properties and structures must retain sufficient integrity to convey the historic, cultural, or architectural significance of the district.

B. The components of an eligible historic district may lack individual distinction but still represent a significant and distinguishable entity that meets eligibility criteria.

~~C. In recommending approval of a historic district, the Commission may recommend the adoption of district-specific design guidelines to guide subsequent new construction, alterations and additions, and to further the purpose of this Chapter.~~

C. ~~D.~~ Neither deferred maintenance within a proposed district nor the dilapidated condition of its constituent buildings and landscapes shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility under the appropriate criteria and theme of significance.

10.86.110 Designation Procedures – Historic Districts.

A. Applicable Historic Landmark Procedures. Procedures for the application and designation of historic districts, including the time limits specified in paragraphs C, D, and E of Section 10.86.080, shall be the same as those applicable to historic landmarks, except as modified by this Section.

B. Applications. In addition to all other information and materials described in paragraph B of Section 10.86.080 (which information shall be provided for each proposed contributing resource), all applications for designation of historic districts shall include a depiction of the proposed district that includes a clear and distinct description of its boundaries and a report

prepared by a qualified professional describing all contributing and non-contributing resources within the district.

C. Petition Required. Prior to the hearing before the Commission, a petition in support of the application, that is signed by at least 25% of the owners of the parcels within the proposed district, must be submitted to the Director. For purposes of the petition requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the 25% required.

D. Commission and Council Action.

1. Whenever the Council designates a historic district, it shall also adopt: (1) a written description and clear depiction of the district boundaries; and (2) a detailed report that identifies and describes the contributing resources and elements of the district, as well as those resources and elements that are not contributing resources.

2. The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new construction, alterations and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. [Any such guidelines require Council approval.](#)

3. The written consent of a minimum of 51% of the owners of the parcels within the proposed district must be obtained and submitted to the Director in order for the district to be designated. For purposes of this consent requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the 51% required.

10.86.120 Conservation Districts.

1. While conservation districts do not qualify for designation on the Register of Historic Resources, generally due to a lack of historic integrity, this ~~Chapter~~[Section](#) provides for the identification of conservation districts, and for the recognition of such districts by the Commission. Alterations to properties considered to be contributing elements of Conservation Districts do not require Certificates of Appropriateness but may be subject to conservation district design guidelines.

2. An area may be recommended for designation as a Conservation District by the Director, a MBPO, or 51% of the property owners within the proposed District. Any such recommendation must include the information required by Section 10.86.110.B. All such information must be verified by a qualified architectural historian or historian.

3. The Commission may include on a list maintained by the Director a collection of properties as a Conservation District, if the proposed district has either:

a. A distinctive, cohesive, and identifiable setting, architectural style, scale, or character, and/or association that makes it unique and an integral part of the City's identity; or

b. A recognized neighborhood identify with a definable physical character whose retention would contribute to the overall historic character and setting of the City.

4. The recognition of a qualifying Conservation District may be accompanied by a plan and guidelines for new construction and in-fill, alterations and additions within the boundaries of the Conservation District.

10.86.130 Amendment or Rescission of Designation.

A. Criteria for Rescission. Once a historic landmark, historic district, or contributing resource is so designated, the designation shall not be repealed by the City Council unless it is determined that: (1) the evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or (2) the historic landmark, historic district, or contributing resource no longer meets the criteria for designation under Section 10.86.070 or 10.86.110.

B. Amendment or Rescission. The Council may amend or rescind the designation of any designated historic landmark, historic district, or contributing property to a historic district in the same manner that is followed for designation.

10.86.140 Duty to Maintain Historic Resources.

Every owner of a historic landmark or contributing resource to a historic district shall maintain and keep such resources in good repair, in a manner that clearly ensures the continued availability of such premises for lawful and reasonable uses, and which prevents deteriorating, dilapidation and decay of any portion of such resource.

10.86.150 Certificate of Appropriateness – Requirement.

A. Certificate Required. No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any historic landmark or contributing resource listed on the Register of Historic Resources unless the City has first issued a Certificate of Appropriateness or a Certificate of Economic Hardship in accordance with the requirements of this Chapter. No person shall carry out or cause to be carried out demolition of any historic resource included in the Inventory of Historic Resources unless the City has first issued a Certificate of Appropriateness or a Certificate of Economic Hardship in accordance with the requirements of this Chapter.

B. Exemptions. A Certificate of Appropriateness shall not be required for ordinary maintenance or repair or minor alterations or for projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance of the property.

C. Administrative Review. A Certificate of Appropriateness may be issued by the Director for work that requires issuance of a permit but does not involve a change of design, material, or appearance to character-defining features, nor the removal or obstruction of a

character-defining feature, of a designated historic landmark or contributing property of a designated historic district. The Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the following types of alterations:

1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.
2. Addition or deletion of awnings, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.
3. Minor additions of square footage (150 square feet or less), as determined by the Director, where such additions are on the rear elevation and not visible from the public right-of-way and would not remove, change, or obstruct any of the property's character-defining features.
4. Alterations previously identified in an adopted design guidelines plan for a historic district and designated in such guidelines for review through the plan check process and approved accordingly.

D. Commission Review. Applications for a Certificate of Appropriateness for work that does not qualify for administrative review pursuant to paragraph C of this Section 10.86.150 shall be referred to the Commission.

10.86.160 Certificate of Appropriateness – Procedures.

A. Application. An application for a Certificate of Appropriateness shall be filed with the Community Development Department upon the prescribed form and shall contain the following data:

1. A description of the proposed work and an explanation of how it is compatible with the Secretary's Standards and other applicable standards as appropriate.
2. Detailed architectural plans, including floor plans and scaled elevations and drawings, illustrating the scale, massing, and appearance of the proposed work, including existing and proposed elevations and plans. Information on the specifications and appearance of existing and proposed replacement materials and features should also be included.
3. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment.
4. Relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage, for new construction in historic districts.
5. Other information deemed necessary by the Director.

B. Commission Review. The Commission shall conduct a public hearing on the application, after which it shall adopt a resolution approving, conditionally approving, or denying the application.

C. Administrative Review. Notwithstanding the previous paragraph, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the minor alterations described in Section 10.86.150.C. The following considerations shall guide the review and issuance of Certificates of Appropriateness at the Administrative Review level:

1. If the Director determines that the proposed work would not result in a change of design, material, or appearance of the property's character-defining features, and all elements of the project comply with the Secretary's Standards, the Director shall approve the Certificate of Appropriateness.

2. If the Director determines that the proposed work may result or would result in a change of design, material, or appearance of the property's character-defining features, or has the potential to conflict with the Secretary's Standards, the Director may deny the Certificate of Appropriateness or refer the Certificate of Appropriateness to the Commission for review.

D. ~~3.~~ Findings Required. No Certificate of Appropriateness may be approved by either the Commission or Director unless the findings specified in Section 10.86.170 are made, or a Certificate of Economic Hardship is approved pursuant to Section 10.86.200.

E. ~~D.~~ Issuance of Certificate. Upon approval, copies of the Certificate of Appropriateness shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

F. ~~E.~~ Appeal. Decisions of the Director and Commission regarding a Certificate of Appropriateness are subject to appeal in accordance with Section 10.86.230. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.

10.86.170 Certificates of Appropriateness – Findings.

A. Standard Findings. A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, makes all of the following findings:

1. The project will not cause a substantial adverse change in the significance of an historic resource in accordance with the California Environmental Quality Act.
2. The project is consistent with the provisions of this Chapter.
3. The project is consistent with the Secretary's Standards and any applicable design guidelines adopted by the City.

B. Additional Findings for Demolitions. In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic landmark or contributing resource, all of the following additional findings must be made.

1. The mandatory 60-day waiting period has expired.
2. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.

3. Restoration or rehabilitation would require extensive alterations that would render the resource unworthy of preservation.

4. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.

5. The deterioration of the historic landmark or contributing resource is not the result of the failure of the owner to maintain the property in accordance with Section 10.86.140.

10.86.180 Work Moratorium.

A. Moratorium – Pending Historic Landmark Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness on a proposed historical landmark for which an application has been filed, until final approval of the designation.

B. Moratorium – Pending Historic District Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness for any property within the boundaries of a proposed historic district while an application for designation is pending.

10.86.190 60-Day Waiting Period for Demolition.

Applications for a certificate of appropriateness for demolition of a historic resource shall be subject to a 60-day waiting period. During this period, the Director shall post a notice of the pending demolition permit in a location on the property that is visible from the nearest street (or in a similarly visible location adjacent to the property) and shall explore alternatives to demolition, including adaptive re-use and/or rehabilitation in accordance with the Secretary's Standards, application of the State Historic Building Code to allow for flexibility in code requirements in cases of adaptive reuse or rehabilitation, possible use of financial incentives such as the Mills Act Tax Abatement program, relocation, resale, or other provisions as appropriate.

10.86.200 Certificate of Economic Hardship.

A. Certificate. The Commission may issue a Certificate of Economic Hardship to allow alteration or demolition of a historic landmark or contributing resource where denial of a Certificate of Appropriateness would create an undue hardship upon the owner.

B. Applications. An application for a Certificate of Economic Hardship shall be made on the prescribed form and be accompanied by the following information, unless any such information is determined by the Director not to be applicable:

1. The estimated market value of the property in its current condition with supporting documentation.

2. The estimated market value of the property after completion of the proposed alteration or demolition with supporting documentation.

3. Estimates of the costs of proposed alteration or demolition with supporting documentation.

4. In the case of demolition, the estimated market value of the property after renovation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

6. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.

7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

8. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

9. The amount paid for the property if purchased within the previous 36 months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

10. Any listing of the property for sale, rent, prices asked, and offers received, if any within the previous two years.

11. Any other information the Director may reasonably require in order to determine whether or not the property may yield a reasonable return to the owners.

C. Hearing Required. The Commission shall hold a public hearing on all applications for a Certificate of Economic Hardship; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.

D. Findings. The Commission shall approve a Certificate of Economic Hardship if it makes all of the following findings:

1. Denial of the application would decrease the value of the subject property so as to deprive the owner of any reasonable economic return on the property.

2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.

3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.

4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.

E. Approval.

1. Upon approval, copies of the Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

2. [Decisions of the Commission regarding a Certificate of Economic Hardship are subject to appeal in accordance with Section 10.86.230.](#) No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

10.86.210 Unsafe or Dangerous Conditions.

A. None of the provisions of this Chapter shall be construed to prevent any construction, alteration, removal, demolition or relocation of a historic landmark or contributing resource necessary to correct the unsafe or dangerous conditions of any structure, or feature, or part thereof, where the Building Official, with a report from a qualified Structural Engineer or other qualified professional, has declared such condition unsafe or dangerous and the proposed construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this Section.

B. The Building Official shall inform the Commission and Director prior to authorizing any work pursuant to this Chapter unless he or she determines that such work is immediately necessary to correct the unsafe or dangerous condition; in which case, the Building Official shall report his or her actions to the Director within 48 hours and to the Commission at its next regular meeting.

C. If work authorized by the Building Official pursuant to this Chapter is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, documentation, and/or salvage of the historic resource or contributing resource. Notwithstanding the foregoing, if no arrangements have been made for rehabilitation, relocation, or salvage within 60 days of an order to abate a nuisance, or an earlier time if determined to be necessary by the Building Official, the Building Official may proceed with the abatement action.

10.86.220 Environmental Review.

If any action required or taken pursuant to this Chapter is subject to the provisions of the California Environmental Quality Act, the time in which such action must be taken shall be extended to the extent necessary to allow time to comply with the Act.

10.86.230 Appeals.

A. The owner of a property subject to review, or the applicant, if different then the owner, may appeal any decision by the Director or Commission under this Chapter pursuant to the

limitations and procedures in Chapter 10.100 of this Code. All appeals brought under this Section shall be accompanied by a filing fee established by the Council.

B. A decision whether to initiate a historic landmark designation application in accordance with Section 10.86.080 is not appealable.

C. Any decision regarding a Historic Resource by the Director shall become final ~~15 days following~~upon the ~~date~~expiration of the ~~decision~~appeal period set forth in Section 10.100.10, unless an appeal to the Commission is filed.

D. Any decision of the Commission regarding a Historic Resource shall become final ~~15 days following~~upon the ~~date~~expiration of the ~~decision~~appeal period set forth in Section 10.100.10, unless an appeal to the City Council is filed.

10.86.240 Preservation Incentives.

To encourage owners to designate, maintain, preserve, rehabilitate, and improve historic landmarks and contributing resources, the City provides the incentives set forth in this Section.

A. Mills Act Contracts. Pursuant to California Government Code Sections 50280 – 502090 (commonly known as the “Mills Act”), the Council is authorized to enter into Mills Act contracts with the owner of a historic landmark for the purpose of preservation, rehabilitation, and maintenance of designated historic resources, which allow the owner to receive a reduction in property taxes in exchange for a commitment to specific repair, restoration, or rehabilitation improvements and satisfactory maintenance of the property in accordance with the Secretary’s Standards and other applicable criteria. The Council shall, by resolution, specify the application process and review procedures for Mills Act contracts.

B. Public Recognition. The Commission may establish a program to publicly recognize historic landmarks, historic districts, and conservation districts with plaques, signage, and other appropriate forms of recognition.

10.86.250 Historic Variance.

Historic variances may be applied to historic landmarks and contributing resources in historic districts. The designation as a historic landmark or contributing resource constitutes a property condition for the purposes of determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same district. Procedures and requirements of Chapter 10.84 of this Code and Section A.84 of the Coastal Plan Implementing Ordinance must be followed for the variance process.

10.86.260 Application Filing Fees.

Before accepting for filing any application described in this Chapter, the Director shall charge and collect such administrative fees as may be set by resolution of the Council.

10.86.270 Enforcement and Penalties.

A. Any person who violates a requirement of this Chapter or fails to obey an order issued by the City Council, Commission and/or Director, or fails to comply with a condition of approval of any certificate or permit issued under this Chapter, shall be subject to enforcement actions as set forth in Chapter 1.04 of this Code.

B. In addition to all other remedies available to the City, any alteration or demolition of a historic resource in violation of this Chapter is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.

C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed 60 months from the date the City becomes aware of any alteration or demolition in violation of this Chapter, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the “Secretary Of The Interior’s Standards For The Treatment Of Historic Properties ~~With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings~~”. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined by the Commission and/or Director shall be imposed as a condition of any subsequent permit for development of the subject property.

D. The city attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any historic resource demolished, partially demolished, altered, or partially altered in violation of this Chapter.

E. Any person who constructs, alters, removes, or demolishes a designated landmark or ~~property~~contributing resource in a designated historic district without the approval and issuance of a certificate or permit issued pursuant to this Chapter may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the Director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.

F. In addition to any other remedies provided herein, any violation of this Chapter may be enforced by civil action brought by the City. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the City may seek as appropriate, one or both of the following remedies:

1. A temporary or permanent injunction, or both;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.”

Section 3. The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language changes to the MBMC and the LCP to achieve internal consistency as required.

Section 4. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of _____, 2015 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marisa Lundstedt
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

Document comparison by Workshare Professional on Thursday, September 17, 2015
11:19:38 AM

Input:	
Document 1 ID	interwovenSite://RWGDMS2/RWGIMAN1/1817010/9
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Document 2 ID	interwovenSite://RWGDMS2/RWGIMAN1/1817010/10
Description	#1817010v10<RWGIMAN1> - MB Resolution Amending Chaper 10.86, Title 10 (Historic Preservation
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Legend:	
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Format changed	0
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RESOLUTION NO. 15-_____

**RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MANHATTAN BEACH RECOMMENDING
TO THE CITY COUNCIL AMENDMENTS TO
CHAPTER 10.86 (HISTORIC PRESERVATION), TITLE 10
(PLANNING AND ZONING) OF THE MANHATTAN
BEACH MUNICIPAL CODE (MBMC) AND THE LOCAL
COASTAL PROGRAM (LCP) TO ESTABLISH
PROVISIONS FOR THE PRESERVATION OF HISTORIC
RESOURCES**

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES
HEREBY RESOLVE AS FOLLOWS:

Section 1. The Planning Commission hereby makes the following findings:

A. On April 29, 2015 the Planning Commission conducted a public hearing, and reviewed proposed text amendments to Chapter 10.86 of the Municipal Code, part of the City's Zoning Ordinance, and continued the public hearing to June 10, 2015.

B. On June 10, 2015, the Planning Commission again reviewed the draft Code amendments.

C. On September 23, 2015, the Planning Commission again reviewed the draft Code amendments.

D. The Planning Commission public hearing for April 29th included a public notice published in *The Beach Recorder*, a newspaper of general circulation in Manhattan Beach.

E. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

F. The Planning Commission finds that adoption of the proposed amendments is exempt from the requirements of the California Environmental Quality Act, pursuant to the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

G. The Planning Commission finds that the proposed amendments will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

H. The proposed amendments are consistent with the following General Plan Goals and Policies:

Goal LU-1: Maintain the low-profile development and small town atmosphere of Manhattan Beach.

**ATTACHMENT B
PC MTG 9-23-15**

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.

Policy LU-4.4: Encourage the preservation and enhancement of unique residential homes and buildings throughout Manhattan Beach to preserve the culture and history of the City.

Policy LU-4.5: Encourage measures that recognize and work to protect buildings, landscaping, and other features important to the City's history.

Policy LU-4.6: When public improvements are made, they should preserve and maintain distinctive neighborhood characteristics.

I. The proposed amendments are consistent with the following Local Coastal Program policies:

Policy II.B.1: Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.

Section 2. The Planning Commission of the City of Manhattan Beach hereby recommends deleting Chapter 10.86 (Culturally Significant Landmarks) of the Manhattan Beach Municipal Code and replacing it with the following:

**“Chapter 10.86
HISTORIC PRESERVATION**

10.86.020	Purpose.
10.86.030	Definitions.
10.86.040	Historic Preservation Commission.
10.86.050	Inventory of Historic Resources.
10.86.060	Register of Historic Resources.
10.86.070	Designation Criteria for Historic Landmarks.
10.86.080	Designation Procedures – Historic Landmarks.
10.86.090	Owner Consent for Landmark Designation.
10.86.100	Designation Criteria for Historic Districts.
10.86.110	Designation Procedures – Historic Districts.
10.86.120	Conservation Districts.
10.86.130	Amendment or Rescission of Designation.
10.86.140	Duty to Maintain Historic Resources.
10.86.150	Certificate of Appropriateness – Requirement.
10.86.160	Certificate of Appropriateness – Procedures.
10.86.170	Certificates of Appropriateness – Findings.
10.86.180	Work Moratorium.
10.86.190	60-Day Waiting Period for Demolition.
10.86.200	Certificate of Economic Hardship.
10.86.210	Unsafe or Dangerous Conditions.
10.86.220	Environmental Review.

- 10.86.230 Appeals.
- 10.86.240 Preservation Incentives.
- 10.86.250 Historic Variance.
- 10.86.260 Application Filing Fees.
- 10.86.270 Enforcement and Penalties.

10.86.010 Title.

This Chapter shall be known as the “Historic Preservation Ordinance” of the City of Manhattan Beach.

10.86.020 Purpose.

The purpose of the Historic Preservation Ordinance is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, objects, sites, features and that represent the City’s architectural, cultural, social, historical, and political heritage. The standards and requirements in this Chapter are intended to balance historic preservation objectives and property owners’ rights. Further, it is the intent and purpose of the Manhattan Beach City Council in passing this Chapter to:

- A. Safeguard the City’s heritage and small-town beach atmosphere by encouraging the identification, recognition, and protection of landmarks representing significant elements of the City’s history and culture;
- B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City’s past and small-town beach atmosphere;
- C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to residents and visitors alike, and safeguarding our heritage for future generations;
- D. Encourage public education and participation in the City’s historic preservation program;
- E. Encourage public knowledge, understanding, and appreciation of our cultural, social, and architectural history and heritage;
- F. Preserve diverse and significant architectural styles and property types reflecting phases of the City’s history and encourage complementary contemporary design and construction;
- G. Establish criteria for a comprehensive survey of historic resources within the boundaries of the City and publicize and periodically update survey results; and
- H. Adopt incentives that promote the preservation and rehabilitation of historic properties.

10.86.030 Definitions.

The following terms when used in this Chapter shall have the meaning set forth in this Section, unless a different meaning clearly appears from the context:

“Alteration” means any act or process that modifies a historic landmark or contributing resource that either: (1) requires a building or other permit and changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the erection, construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes the setting and/or any character-defining feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource, regardless of whether such act or process requires a building or other permit.

“Certificate of Appropriateness” means the permit granted on the finding by the Historic Preservation Commission or Director that an application to demolish, alter, or relocate a historic resource as defined by this ordinance is in accordance with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties* and other applicable criteria as provided in this Chapter.

“Certificate of Economic Hardship” means the permit granted to a property owner or applicant by the Historic Preservation Commission to approve an application for a Certificate of Appropriateness for a project that, due to undue economic hardship on the owner, does not comply with the Secretary’s Standards.

“Character-Defining Feature” means the physical elements and characteristics through which a historically significant property expresses its significance. Character-defining features include but are not limited to overall form and massing, materials, finishes, architectural style, decorative detailing, site features and relationship to neighboring properties, landscaping, and interior features.

“Community Development Director” or “Director” means the Community Development Director or his or her designee.

“Conservation District” means an area that contains, within defined geographic boundaries, buildings, structures, sites, objects, or natural features with unifying characteristics or qualities. A conservation district might not retain sufficient integrity to qualify as a historic district, but it is of interest to local planning due to its concentration of related properties and features.

“Contributing Resource” (or “Contributor”) means any building, structure, object, site, sign, area, place, or natural feature within a historic district that is either a separately designated historic landmark or designated as a resource that contributes to the district’s historic, cultural, or architectural significance.

“Demolition” means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity.

“Historic District” means a geographic area having a significant concentration, linkage, or continuity of buildings, structures, objects, sites, and other features united historically or

aesthetically by plan or physical development that has been designated pursuant to the provisions in this Chapter.

“Historic Integrity” means a property retaining enough of the important physical characteristics from its period of significance that it can still convey the reasons for its significance. As defined by the National Parks Service and in accordance with the accepted standards of professional preservation practice, Historic Integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association.

“Historic Landmark” means any building, structure, object, site, sign, area, place, or natural feature designated as a historic landmark pursuant to this Chapter.

“Historic Preservation Commission” or “Commission” means the Historic Preservation Commission established pursuant to this Chapter.

“Historic Resource” means a property listed, nominated, or eligible for listing in the Register of Historic Resources, including historic landmarks, historic districts, and contributing resources to historic districts.

“Inventory of Historic Resources” means the inventory of buildings, structures, objects, sites, historic districts, signs, areas, places, and natural features determined potentially eligible for local landmark listing in the City, prepared and approved in accordance with Section 10.86.050.

“Manhattan Beach Preservation Organization” or “MBPO” means a group comprised of voluntary members of the community, recognized by the City of Manhattan Beach, such as the Manhattan Beach Cultural Heritage Conservancy (MBCHC) or the Manhattan Beach Historical Society, that assists in increasing public awareness and community appreciation of Manhattan Beach history.

“Major alterations” means any work to a property that includes the alteration, removal, or obstruction of character-defining features, elevations, and spaces, or additions to a property that are visible from the public right-of-way.

“Minor alterations” means any work to a property that does not include changes/removal of character-defining features. Minor alterations generally includes the following, to the extent they do not include changes/removal of, or do not affect, character-defining features: (1) paint color; (2) roofing; (3) repairs to foundations; (4) construction, demolition, or alteration of side, rear, and front yard fences; (5) ordinary maintenance and repair; (6) landscaping, including sprinkler system work; (7) paving work; (8) all alterations that are entirely interior and do not affect the exterior of property, except for interior features that are specifically mentioned as being important in a landmark designation; and (9) replacement of existing screens and awnings with the same or substantially consistent materials, form and shape.

“Ordinary maintenance and repair” means work on a historic resource that (i) does not, by law, require issuance of a permit; (ii) involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (iii) does not involve a change of design, material, or appearance of the property.

“Prehistory” refers to the period in history prior to the advent of written records, revealed through archaeological and paleontological discoveries and analysis.

“Property Owner” or “Owner” means the person or persons appearing as the owner of the improvement, natural feature or site on the last equalized assessment roll of the County of Los Angeles.

“Qualified Professional(s)” shall mean any of the following professions/occupations:

- “Architectural Historian” shall refer to an architectural historian who meets the Secretary of the Interior’s Professional Qualifications Standards in architectural history, as defined by the National Park Service.
- “Historian” shall refer to a historian who meets the Secretary of the Interior’s Professional Qualifications Standards in history, as defined by the National Park Service.
- “Historic Architect” shall refer to a licensed architect who meets the Secretary of the Interior’s Professional Qualifications Standards in historic architecture, as defined by the National Park Service.
- “Structural Engineer” shall refer to any individual registered by the State of California to practice structural engineering and to use the title Structural Engineer pursuant to the State of California Business and Professions Code, Chapter 7, Section 6701. When working with historic buildings and structures for the City of Manhattan Beach, the Structural Engineer shall have experience in historic preservation.

“Register of Historic Resources” means the register of historic landmarks, historic districts, and contributing resources to historic districts prepared and approved in accordance with the provisions of this Chapter.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural significance.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

“Secretary of the Interior’s Standards for the Treatment of Historic Properties” or “Secretary’s Standards” means both the Standards and Guidelines developed by the United States Department of the Interior, National Park Service, for the preservation, rehabilitation, restoration, and reconstruction of historic resources.

10.86.040 Historic Preservation Commission.

A. Establishment of Commission. There is hereby created the Manhattan Beach Historic Preservation Commission. The Commission shall have and exercise the powers and perform the duties set forth in this Chapter. Except as otherwise specified in this Chapter, the Commission shall be subject to the provisions of Chapter 2.44 of this Code.

B. Composition and Appointment of Members. Commissioners shall be appointed pursuant to Chapter 2.44 of this Code. All members shall have an expressed special interest, experience, or knowledge of the history, architecture, or cultural heritage of the City.

At least two members shall be chosen from among professionals in the disciplines of architecture, history, planning, land economics, real estate or a related discipline, to the extent that such professionals are available in the community.

C. Meetings and Record of Proceedings. The Commission shall meet at least quarterly. All meetings of the Commission shall be open to the public and held in compliance with the provisions of the state's Ralph M. Brown Act. The Commission shall keep a record of minutes of all of its proceedings and actions, which shall be available for public inspection.

D. Powers and Duties. The Commission shall have the following powers and duties, in addition to any other duties specified in this Chapter:

1. General Powers. The Commission shall be an advisory board to the City Council, Planning Commission, and all City departments and staff on all matters relating to the identification, protection, retention, preservation, and registration of historic resources in the City, as directed by the City Council.

2. Enumerated Powers. The Commission shall:

- a. Administer the provisions of this Chapter;
- b. Advise the Council in all matters pertaining to historic preservation in the City;
- c. Compile and maintain for public use and information the Register of Historic Resources;
- d. Compile, maintain, and periodically update the Inventory of Historic Resources;
- e. Recommend the designation of and nominate historic landmarks and districts;
- f. Approve or disapprove in whole or in part applications for Certificates of Appropriateness and Certificates of Economic Hardship for the demolition, alteration, or relocation of designated landmarks, including individual landmarks, historic districts, sites, and their contributing improvements and natural features;

g. Review and comment on the decisions and documents, including but not limited to environmental assessments, Environmental Impact Reports, and Environmental Impact Statements, prepared by the City or other public agencies when such decisions or documents might affect designated or eligible historical resources within the City;

h. Participate in, promote, and conduct public informational, educational, and interpretive programs pertaining to historic preservation;

i. Recommend and encourage the protection, enhancement, appreciation, and use of properties of historical, cultural, architectural, community or aesthetic value that have not been designated as historical resources but are deserving of recognition;

j. Review applications and make recommendations to the City Council on Mills Act Tax Abatement program contracts;

k. Upon request, make recommendations to the Planning Commission on zoning and general plan amendments related to historic preservation goals and policies; and

l. Perform any other functions that may be designated by resolution or action of the City Council.

3. Secretary. The Director shall act as Secretary of the Commission and shall be custodian of its records, conduct official correspondence, and generally coordinate the clerical and technical work of the Commission in administering this Chapter.

4. Subcommittee. In order to permit the Commission flexibility in performing its duties in as efficient a manner as possible, the Commission may adopt criteria under which a subcommittee of the full Commission may implement and administer the policies of the Commission on a case-by-case basis.

10.86.050 Inventory of Historic Resources.

The Commission shall compile, maintain, and periodically update the Inventory of Historic Resources. Within six months of the Commission's first meeting, the Commission shall forward a plan to the City Council recommending a comprehensive historic resources survey, which will provide the baseline data for the Inventory. Based upon the results of the survey, the Commission shall compile the Inventory.

10.86.060 Register of Historic Resources.

A. Register Established. There is hereby established the Manhattan Beach Register of Historic Resources, a register of locally designated historic landmarks, historic districts, and contributing resources to historic districts, as well as of properties designated on the National Register of Historic Places and California Register of Historical Resources.

B. Effect of National or State Designation. Any property within the City that is listed in the National Register of Historic Places or the California Register of Historical Resources is eligible for designation as a historic landmark for purposes of this Chapter.

C. Prior Designations. Any historic landmark designated as a culturally significant landmark or as a historic landmark by the City on or before the effective date of this Chapter shall not automatically be designated a historic landmark for purposes of this Chapter, but shall require review to determine if the designation is consistent with the provisions of this Chapter.

D. New Designations. New designations of historic landmarks and historic districts can be initiated in accordance with the criteria and procedures set forth in this Chapter.

E. Designation Runs with the Land. The designation of a historic landmark, historic district or contributing resource runs with the land, and is not affected by a change of the property owner.

F. Rescission of Designation. The conditions and process for amendment or rescission of a designation as a historic landmark or district, or of a contributing resource, are described in Section 10.86.130 (Amendment or Rescission of Designation).

10.86.070 Designation Criteria for Historic Landmarks.

A. The Council may designate a property as a historic landmark and add it to the Register of Historic Resources if it meets the requirements of paragraphs B, C, and D of this Section.

B. In order to be eligible for consideration as a landmark, a property must be at least 45 years old. A historic property less than 45 years of age may qualify for local listing if the Director, Commission, and/or City Council determine that the resource is of exceptional architectural, cultural, social, and/or historical importance to the City, as verified by a qualified architectural historian or historian.

C. Historic landmarks must retain integrity from their period of significance, as determined by a qualified architectural historian or historian. A proposed landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its historic, cultural, or architectural significance.

D. Historic landmarks must meet at least one of the following criteria:

1. It is or was once associated or identified with important events or broad patterns of development that have made a significant contribution to the social, political, cultural, or architectural history of the city, region, state, or nation.

2. It is or was once associated with an important person or persons who made a significant contribution to the history, development, and/or culture of the city, region, state, or nation.

3. It embodies the distinctive characteristics of a style, type, period, or method of construction

4. It represents the work of a master, or possesses high artistic or aesthetic values.

5. It represents the last, best remaining example of an architectural type or style in a neighborhood or the city that was once common but it increasingly rare.

6. It has yielded or has the potential to yield information important to the prehistory or history of the city, region, state, or nation.

E. Neither the deferred maintenance of a proposed landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility under the appropriate criteria and theme of significance.

10.86.080 Designation Procedures – Historic Landmarks.

A. Application. The City Council, Historic Preservation Commission, Director, a MBPO, or the owners of the subject property or their authorized agents, may apply for historic landmark designation. In the event the Council or Commission initiates the application, the Director shall oversee and cause the completion of the required application.

B. Required Information. All applications shall be made on a form prescribed by the Director and shall include the following data:

1. The assessor's parcel number and legal description of the site.
2. A description of the historic property and statement of how it qualifies under the criteria described in Section 10.86.070.
3. A detailed architectural description, enumerating the property's character-defining features, elevations, and spaces.
4. Construction chronology of the property, including history of major alterations/additions.
5. Ownership history.
6. A statement of significance describing why and how the property or feature meets the eligibility criteria of the Code including the area of significance, theme, and period of significance.
7. Current photographs and (if available) historic photographs, maps, sketches, drawings, or other descriptive material as available to support the nomination.
8. The signature of the property owner(s) or their authorized agents, if the owner is the applicant.
9. Such other information as requested by the Commission or Director.

C. Evaluation. Within 60 days after the date a designation application is deemed complete, the Director shall prepare, or cause to be prepared, a historic resources evaluation to determine the eligibility of the property and to document all potentially historic features of the

subject property and prepare a report to the Commission. The evaluation shall be conducted by a qualified architectural historian or historian.

D. Commission Review and Recommendation. The Commission shall conduct a public hearing on the application. After the close of the hearing, the Commission shall adopt a resolution recommending to the Council the approval, conditional approval, or denial of the application. If the Commission has not taken action on the application within 60 days after receipt from the Director of the completed historic resources evaluation, the Commission will be deemed to have forwarded the application to the Council without recommendation.

E. Council Determination. After receiving the Commission's recommendation, the Council shall conduct a public hearing on the landmark nomination application. The Council shall adopt a resolution approving, conditionally approving, or denying the application. If the Council has not taken action on the application within 150 days of the Commission's recommendation, or within 150 days after the date the application was deemed to have been forwarded to the Council without recommendation, then the application shall be deemed denied. The Council shall not approve or conditionally approve the landmark designation absent owner consent, except as otherwise provided in Section 10.86.090.

F. Designation.

1. Upon designation by the Council, the Director shall forward a copy of the resolution approving the designation of a historic landmark to any department or agency that the Director deems appropriate, and shall record or cause to be recorded the location, characteristics, and significance of the historic landmark on a California Department of Parks and Recreation Historic Resources Inventory Form 523, or current equivalent form, in accordance with the practices specified by the State Office of Historic Preservation for the recordation of historic resources.

2. A designated historic landmark may be identified by an approved City marker, but such a marker is not required.

10.86.090 Owner Consent for Landmark Designation.

A. Landmark applications can be recommended, initiated, prepared, and considered by the Commission without owner consent. The public hearing before the City Council required by subsection E of Section 10.86.080 shall not be held unless the owner has consented to the application. Owner consent is required for a property to be designated as a historic landmark.

B. Notwithstanding paragraph A, the Council may consider the designation of a historic landmark without the owner's consent, and may designate a historic landmark without the owner's consent, if the Council makes both of the following findings:

1. The property possesses exceptional architectural, historical, aesthetic, or cultural significance to the city, region, state, or nation, as determined by a qualified professional; and

2. Designation will facilitate the preservation, rehabilitation, or protection of the property

10.86.100 Designation Criteria for Historic Districts.

A. In addition to satisfying the criteria in Section 10.86.070 (as those criteria are applied to the proposed district), when recommending the approval of the nomination of a historic district, the Commission must also find:

1. That the historic district is an identifiable and distinct entity with clear boundaries and that it possesses a significant concentration of buildings, structures, and related features sharing common historical, visual, aesthetical, cultural, archaeological, or architectural plan or physical development; and

2. That the historic district retains integrity from its period of significance as determined by a qualified architectural historian or historian. Not all properties or features within a proposed district need to retain all seven aspects of integrity (location, design, setting, materials, workmanship, feeling, and association), but a substantial number of such properties and structures must retain sufficient integrity to convey the historic, cultural, or architectural significance of the district.

B. The components of an eligible historic district may lack individual distinction but still represent a significant and distinguishable entity that meets eligibility criteria.

C. Neither deferred maintenance within a proposed district nor the dilapidated condition of its constituent buildings and landscapes shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility under the appropriate criteria and theme of significance.

10.86.110 Designation Procedures – Historic Districts.

A. Applicable Historic Landmark Procedures. Procedures for the application and designation of historic districts, including the time limits specified in paragraphs C, D, and E of Section 10.86.080, shall be the same as those applicable to historic landmarks, except as modified by this Section.

B. Applications. In addition to all other information and materials described in paragraph B of Section 10.86.080 (which information shall be provided for each proposed contributing resource), all applications for designation of historic districts shall include a depiction of the proposed district that includes a clear and distinct description of its boundaries and a report prepared by a qualified professional describing all contributing and non-contributing resources within the district.

C. Petition Required. Prior to the hearing before the Commission, a petition in support of the application, that is signed by at least 25% of the owners of the parcels within the proposed district, must be submitted to the Director. For purposes of the petition requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the 25% required.

D. Commission and Council Action.

1. Whenever the Council designates a historic district, it shall also adopt: (1) a written description and clear depiction of the district boundaries; and (2) a detailed report that identifies and describes the contributing resources and elements of the district, as well as those resources and elements that are not contributing resources.

2. The Director or Commission may also prepare or cause the preparation of design guidelines for the historic district, which will establish general recommendations to guide subsequent new construction, alterations and additions that will avoid significant adverse indirect impacts to the historic district, its contributors, and setting. Any such guidelines require Council approval.

3. The written consent of a minimum of 51% of the owners of the parcels within the proposed district must be obtained and submitted to the Director in order for the district to be designated. For purposes of this consent requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for purposes of calculating the 51% required.

10.86.120 Conservation Districts.

1. While conservation districts do not qualify for designation on the Register of Historic Resources, generally due to a lack of historic integrity, this Section provides for the identification of conservation districts, and for the recognition of such districts by the Commission. Alterations to properties considered to be contributing elements of Conservation Districts do not require Certificates of Appropriateness but may be subject to conservation district design guidelines.

2. An area may be recommended for designation as a Conservation District by the Director, a MBPO, or 51% of the property owners within the proposed District. Any such recommendation must include the information required by Section 10.86.110.B. All such information must be verified by a qualified architectural historian or historian.

3. The Commission may include on a list maintained by the Director a collection of properties as a Conservation District, if the proposed district has either:

a. A distinctive, cohesive, and identifiable setting, architectural style, scale, or character, and/or association that makes it unique and an integral part of the City's identity; or

b. A recognized neighborhood identify with a definable physical character whose retention would contribute to the overall historic character and setting of the City.

4. The recognition of a qualifying Conservation District may be accompanied by a plan and guidelines for new construction and in-fill, alterations and additions within the boundaries of the Conservation District.

10.86.130 Amendment or Rescission of Designation.

A. Criteria for Rescission. Once a historic landmark, historic district, or contributing resource is so designated, the designation shall not be repealed by the City Council unless it is determined that: (1) the evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or (2) the historic landmark, historic district, or contributing resource no longer meets the criteria for designation under Section 10.86.070 or 10.86.110.

B. Amendment or Rescission. The Council may amend or rescind the designation of any designated historic landmark, historic district, or contributing property to a historic district in the same manner that is followed for designation.

10.86.140 Duty to Maintain Historic Resources.

Every owner of a historic landmark or contributing resource to a historic district shall maintain and keep such resources in good repair, in a manner that clearly ensures the continued availability of such premises for lawful and reasonable uses, and which prevents deteriorating, dilapidation and decay of any portion of such resource.

10.86.150 Certificate of Appropriateness – Requirement.

A. Certificate Required. No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any historic landmark or contributing resource listed on the Register of Historic Resources unless the City has first issued a Certificate of Appropriateness or a Certificate of Economic Hardship in accordance with the requirements of this Chapter. No person shall carry out or cause to be carried out demolition of any historic resource included in the Inventory of Historic Resources unless the City has first issued a Certificate of Appropriateness or a Certificate of Economic Hardship in accordance with the requirements of this Chapter.

B. Exemptions. A Certificate of Appropriateness shall not be required for ordinary maintenance or repair or minor alterations or for projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance of the property.

C. Administrative Review. A Certificate of Appropriateness may be issued by the Director for work that requires issuance of a permit but does not involve a change of design, material, or appearance to character-defining features, nor the removal or obstruction of a character-defining feature, of a designated historic landmark or contributing property of a designated historic district. The Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the following types of alterations:

1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.

2. Addition or deletion of awnings, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.

3. Minor additions of square footage (150 square feet or less), as determined by the Director, where such additions are on the rear elevation and not visible from the public right-of-way and would not remove, change, or obstruct any of the property's character-defining features.

4. Alterations previously identified in an adopted design guidelines plan for a historic district and designated in such guidelines for review through the plan check process and approved accordingly.

D. Commission Review. Applications for a Certificate of Appropriateness for work that does not qualify for administrative review pursuant to paragraph C of this Section 10.86.150 shall be referred to the Commission.

10.86.160 Certificate of Appropriateness – Procedures.

A. Application. An application for a Certificate of Appropriateness shall be filed with the Community Development Department upon the prescribed form and shall contain the following data:

1. A description of the proposed work and an explanation of how it is compatible with the Secretary's Standards and other applicable standards as appropriate.

2. Detailed architectural plans, including floor plans and scaled elevations and drawings, illustrating the scale, massing, and appearance of the proposed work, including existing and proposed elevations and plans. Information on the specifications and appearance of existing and proposed replacement materials and features should also be included.

3. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment.

4. Relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage, for new construction in historic districts.

5. Other information deemed necessary by the Director.

B. Commission Review. The Commission shall conduct a public hearing on the application, after which it shall adopt a resolution approving, conditionally approving, or denying the application.

C. Administrative Review. Notwithstanding the previous paragraph, the Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the minor alterations described in Section 10.86.150.C. The following considerations shall guide the review and issuance of Certificates of Appropriateness at the Administrative Review level:

1. If the Director determines that the proposed work would not result in a change of design, material, or appearance of the property's character-defining features, and all elements of the project comply with the Secretary's Standards, the Director shall approve the Certificate of Appropriateness.

2. If the Director determines that the proposed work may result or would result in a change of design, material, or appearance of the property's character-defining features, or has the potential to conflict with the Secretary's Standards, the Director may deny the Certificate of Appropriateness or refer the Certificate of Appropriateness to the Commission for review.

D. Findings Required. No Certificate of Appropriateness may be approved by either the Commission or Director unless the findings specified in Section 10.86.170 are made, or a Certificate of Economic Hardship is approved pursuant to Section 10.86.200.

E. Issuance of Certificate. Upon approval, copies of the Certificate of Appropriateness shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

F. Appeal. Decisions of the Director and Commission regarding a Certificate of Appropriateness are subject to appeal in accordance with Section 10.86.230. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.

10.86.170 Certificates of Appropriateness – Findings.

A. Standard Findings. A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, makes all of the following findings:

1. The project will not cause a substantial adverse change in the significance of an historic resource in accordance with the California Environmental Quality Act.
2. The project is consistent with the provisions of this Chapter.
3. The project is consistent with the Secretary's Standards and any applicable design guidelines adopted by the City.

B. Additional Findings for Demolitions. In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic landmark or contributing resource, all of the following additional findings must be made.

1. The mandatory 60-day waiting period has expired.
2. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.
3. Restoration or rehabilitation would require extensive alterations that would render the resource unworthy of preservation.
4. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.
5. The deterioration of the historic landmark or contributing resource is not the result of the failure of the owner to maintain the property in accordance with Section 10.86.140.

10.86.180 Work Moratorium.

A. Moratorium – Pending Historic Landmark Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness on a proposed historical landmark for which an application has been filed, until final approval of the designation.

B. Moratorium – Pending Historic District Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.210, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness for any property within the boundaries of a proposed historic district while an application for designation is pending.

10.86.190 60-Day Waiting Period for Demolition.

Applications for a certificate of appropriateness for demolition of a historic resource shall be subject to a 60-day waiting period. During this period, the Director shall post a notice of the pending demolition permit in a location on the property that is visible from the nearest street (or in a similarly visible location adjacent to the property) and shall explore alternatives to demolition, including adaptive re-use and/or rehabilitation in accordance with the Secretary's Standards, application of the State Historic Building Code to allow for flexibility in code requirements in cases of adaptive reuse or rehabilitation, possible use of financial incentives such as the Mills Act Tax Abatement program, relocation, resale, or other provisions as appropriate.

10.86.200 Certificate of Economic Hardship.

A. Certificate. The Commission may issue a Certificate of Economic Hardship to allow alteration or demolition of a historic landmark or contributing resource where denial of a Certificate of Appropriateness would create an undue hardship upon the owner.

B. Applications. An application for a Certificate of Economic Hardship shall be made on the prescribed form and be accompanied by the following information, unless any such information is determined by the Director not to be applicable:

1. The estimated market value of the property in its current condition with supporting documentation.
2. The estimated market value of the property after completion of the proposed alteration or demolition with supporting documentation.
3. Estimates of the costs of proposed alteration or demolition with supporting documentation.
4. In the case of demolition, the estimated market value of the property after renovation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

6. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.

7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

8. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

9. The amount paid for the property if purchased within the previous 36 months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

10. Any listing of the property for sale, rent, prices asked, and offers received, if any within the previous two years.

11. Any other information the Director may reasonably require in order to determine whether or not the property may yield a reasonable return to the owners.

C. Hearing Required. The Commission shall hold a public hearing on all applications for a Certificate of Economic Hardship; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.

D. Findings. The Commission shall approve a Certificate of Economic Hardship if it makes all of the following findings:

1. Denial of the application would decrease the value of the subject property so as to deprive the owner of any reasonable economic return on the property.

2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.

3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.

4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.

E. Approval.

1. Upon approval, copies of the Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Director, and any other department or agency that requests one.

2. Decisions of the Commission regarding a Certificate of Economic Hardship are subject to appeal in accordance with Section 10.86.230. No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

10.86.210 Unsafe or Dangerous Conditions.

A. None of the provisions of this Chapter shall be construed to prevent any construction, alteration, removal, demolition or relocation of a historic landmark or contributing resource necessary to correct the unsafe or dangerous conditions of any structure, or feature, or part thereof, where the Building Official, with a report from a qualified Structural Engineer or other qualified professional, has declared such condition unsafe or dangerous and the proposed construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this Section.

B. The Building Official shall inform the Commission and Director prior to authorizing any work pursuant to this Chapter unless he or she determines that such work is immediately necessary to correct the unsafe or dangerous condition; in which case, the Building Official shall report his or her actions to the Director within 48 hours and to the Commission at its next regular meeting.

C. If work authorized by the Building Official pursuant to this Chapter is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, documentation, and/or salvage of the historic resource or contributing resource. Notwithstanding the foregoing, if no arrangements have been made for rehabilitation, relocation, or salvage within 60 days of an order to abate a nuisance, or an earlier time if determined to be necessary by the Building Official, the Building Official may proceed with the abatement action.

10.86.220 Environmental Review.

If any action required or taken pursuant to this Chapter is subject to the provisions of the California Environmental Quality Act, the time in which such action must be taken shall be extended to the extent necessary to allow time to comply with the Act.

10.86.230 Appeals.

A. The owner of a property subject to review, or the applicant, if different then the owner, may appeal any decision by the Director or Commission under this Chapter pursuant to the limitations and procedures in Chapter 10.100 of this Code. All appeals brought under this Section shall be accompanied by a filing fee established by the Council.

B. A decision whether to initiate a historic landmark designation application in accordance with Section 10.86.080 is not appealable.

C. Any decision regarding a Historic Resource by the Director shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the Commission is filed.

D. Any decision of the Commission regarding a Historic Resource shall become final upon the expiration of the appeal period set forth in Section 10.100.10, unless an appeal to the City Council is filed.

10.86.240 Preservation Incentives.

To encourage owners to designate, maintain, preserve, rehabilitate, and improve historic landmarks and contributing resources, the City provides the incentives set forth in this Section.

A. Mills Act Contracts. Pursuant to California Government Code Sections 50280 – 502090 (commonly known as the “Mills Act”), the Council is authorized to enter into Mills Act contracts with the owner of a historic landmark for the purpose of preservation, rehabilitation, and maintenance of designated historic resources, which allow the owner to receive a reduction in property taxes in exchange for a commitment to specific repair, restoration, or rehabilitation improvements and satisfactory maintenance of the property in accordance with the Secretary’s Standards and other applicable criteria. The Council shall, by resolution, specify the application process and review procedures for Mills Act contracts.

B. Public Recognition. The Commission may establish a program to publicly recognize historic landmarks, historic districts, and conservation districts with plaques, signage, and other appropriate forms of recognition.

10.86.250 Historic Variance.

Historic variances may be applied to historic landmarks and contributing resources in historic districts. The designation as a historic landmark or contributing resource constitutes a property condition for the purposes of determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same district. Procedures and requirements of Chapter 10.84 of this Code and Section _A.84 of the Coastal Plan Implementing Ordinance must be followed for the variance process.

10.86.260 Application Filing Fees.

Before accepting for filing any application described in this Chapter, the Director shall charge and collect such administrative fees as may be set by resolution of the Council.

10.86.270 Enforcement and Penalties.

A. Any person who violates a requirement of this Chapter or fails to obey an order issued by the City Council, Commission and/or Director, or fails to comply with a condition of approval of any certificate or permit issued under this Chapter, shall be subject to enforcement actions as set forth in Chapter 1.04 of this Code.

B. In addition to all other remedies available to the City, any alteration or demolition of a historic resource in violation of this Chapter is expressly declared to be a nuisance and may be abated as deemed appropriate by the City.

C. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed 60 months from the date the City becomes aware of any alteration or demolition in violation of this Chapter, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the Secretary Of The Interior's Standards For The Treatment Of Historic Properties. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined by the Commission and/or Director shall be imposed as a condition of any subsequent permit for development of the subject property.

D. The city attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any historic resource demolished, partially demolished, altered, or partially altered in violation of this Chapter.

E. Any person who constructs, alters, removes, or demolishes a designated landmark or contributing resource in a designated historic district without the approval and issuance of a certificate or permit issued pursuant to this Chapter may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the Director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.

F. In addition to any other remedies provided herein, any violation of this Chapter may be enforced by civil action brought by the City. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the City may seek as appropriate, one or both of the following remedies:

1. A temporary or permanent injunction, or both;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection."

Section 3. The Planning Commission also recommends that the City Council direct the City Clerk to make any other corresponding language changes to the MBMC and the LCP to achieve internal consistency as required.

Section 4. The Secretary to the Planning Commission shall certify to the adoption of this Resolution.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of _____, 2015 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marisa Lundstedt
Secretary to the Planning Commission

Rosemary Lackow
Recording Secretary

**CITY OF MANHATTAN BEACH
PLANNING COMMISSION
MINUTES OF REGULAR MEETING
JUNE 10, 2015**

A Regular Meeting of the Planning Commission of the City of Manhattan Beach, California, was held on the 10th day of June, 2015, at the hour of 6:30 p.m., in the City Council Chambers, at 1400 Highland Avenue, in said City.

1. ROLL CALL

Present: Apostol, Bordokas, Conaway, Hersman, Chairperson Ortmann
Absent: None
Staff Present: Marisa Lundstedt, Community Development Director
Mike Estrada, Assistant City Attorney
Laurie Jester, Planning Manager
Angelica Ochoa, Associate Planner
Rafael Garcia, Assistant Planner
Rosemary Lackow, Recording Secretary

Chair Ortmann introduced new Planning Commissioner George Apostol who made brief remarks, stating he is a 17-year resident, previously served on the Parking and Public Improvements Commission and is very pleased to be on the Commission.

2. AUDIENCE PARTICIPATION – None

3. APPROVAL OF MINUTES – May 13, 2015

A motion was MADE and SECONDED (Hersman/Conaway) to **APPROVE** the minutes of May 13, 2015, with the following requested changes:

Pg. 2: 2nd paragraph under public hearing item, 4th line down: change to read “~~have~~ has the potential...” (Conaway)

Pg. 4:

- Commission Discussion, 2nd bolded paragraph subtitle: change to read “Proposed ~~changed~~ changes regarding...” (Hersman)
- In the next paragraph, 4th line: change to read “that can be pursued...” (Conaway)
- Last paragraph on the page, 4th line change “congestions” to be singular. (Conaway)

Pg. 6:

- 2nd paragraph from bottom, 2nd line: delete “a” after “amendment” to read: “...as any other code amendment a.” (Hersman)
- Last paragraph revise the second sentence to read “Commissioner Conaway emphasized that he believes community buy-in is integral to a successful public policy which ~~can~~ might be attained with at least one community meeting.” (Conaway)

Pg. 7: (Hersman)

- Planning Commission Action, 4th paragraph, 3rd line change to read: “...procedures for quasi- ~~judicial~~ judicial...”
- Director’s Items, (a) change the second sentence to read: “If an individual Commissioner receives an email, that email would be referred to the Director, who will refer it to staff and ~~then~~ the Director will report ~~respond~~ back to the Commission.”

AYES: Bordokas, Conaway, Hersman, Chairperson Ortmann
NOES: None
ABSENT: None
ABSTAIN: Apostol

Director Lundstedt clarified for the Chair that any requests he receives to call or meet to discuss a Planning matter should be forwarded to her.

4. PUBLIC HEARING

06/10/15-2. Amendments to Title 10 Planning and Zoning, Other Portions of the Manhattan Beach Municipal Code (MBMC), and the Local Coastal Program (LCP) Revising the Historic Preservation Provisions.

RECOMMENDATION: CONDUCT THE CONTINUED PUBLIC HEARING, DISCUSS AND ADOPT RESOLUTION RECOMMENDING APPROVAL TO CITY COUNCIL

Director Lundstedt noted that staff has a joint presentation covering the background, the proposed code, and public outreach. Associate Planner Angelica Ochoa, with aid of a Power Point presentation, explained the background and 12 key issues and the status of each issue. Associate Planner Ochoa also informed that: a letter has been received (distributed to the Commission) from the South Bay Association of Realtors; staff is suggesting 25% and 51% as the thresholds of owner agreement for historic districts; and, since the last meeting, the Manhattan Beach Cultural Heritage Conservancy (MBCHC) reconsidered its position and is now requesting that the ordinance not include a provision for a voluntary/honorary designation.

Planning Manager Jester presented the various code issues and changes made to the draft ordinance per direction/input from the Commission. Topics she covered included: conservation districts, requirements for owner consent, the provision for City Council override of an owner's consent, the staff suggestion for thresholds for forming historic districts (25% at initiation and 51% at final commitment), and she explained that the concerns raised by the Realtors' Association regarding owner consent. Planning Manager Jester also explained revisions for clarifications have been made to some definitions, economic hardship exemptions and CEQA appeals sections, with assistance from the City Attorney. Staff requests direction on the waiting time for a demolition permit application, whether the provision regarding voluntary/honorary designations should be removed, and the percentages for thresholds in forming historic districts. Planning Manager Jester concluded by stating that much of the language in the code is standard, and while staff has simplified some sections, it is important to have standard technical wording because the City Council directed that the ordinance be eligible for CLG certification.

Assistant Planner Rafael Garcia advised that notice of this hearing was sent to about 250 stakeholders on May 21 (architects, contractors, developers) and the only written comment was received today from the realtors. Mr. Garcia noted staff believes that the proposed ordinance is legally defensible, that property values typically increase within designated historic districts and he explained the Mills Act two-step process. Assistant Planner Garcia concluded with the Staff recommendation conduct the continued the public hearing, accept public input, discuss and adopt the draft resolution.

Staff and the City's consultant responded to questions from the Commission as follows:

Property rights can be affected in a historical district, but how they are affected depends on whether a property is a "contributing resource" or not, because different criteria apply. If a property is located within a historic district, compliance with the ordinance is required, not voluntary.

Consultant Howell-Ardilla described the demolition permit process for a property within a historic district. When there is a pending application for a district, a hold, establishing a waiting period would be placed on a demolition permit filed for any property within the proposed district boundaries. The duration of the hold could be between 30 and 60 days but this is something that should be determined by the Commission. Additionally, any property on the inventory of possible landmarks would also be subject to a hold if a demolition permit is filed. Typically the timeline for the moratorium referred to in 10.86.170 would be in line with the time needed to hold a hearing on an application but an explicit time frame for a moratorium has not been determined and staff may want to review this point and discuss possible nuances with the City Attorney. The moratorium would also apply to a district while pending even if less than the 51% or approval threshold has not been reached because the idea is to allow a "time out" while the concept of a district is being considered.

Regarding the wait period for alterations vs. demolition: Consultant Howell-Ardilla advised that it is implicit in the proposed ordinance that the process for proposed alterations and demolition applies differently. For proposed alterations a wait period is required only for designated landmarks, but for proposed demolitions a wait period applies more broadly – not only to existing landmarks already on the City’s Register but also to properties on the Historic Resource Inventory.

Planning Manager Jester explained the honorary/voluntary designations provision that has been prepared for inclusion in the draft Ordinance. The honorary designation would require review by the Historical Preservation Commission and allows for a recognition plaque on a house, but no real protection is afforded. Although to have the honorary program in the ordinance would not be in conflict with the proposed program, staff is aware that the LA Conservancy and the MBCHC have concerns with having both in the ordinance, as there may be confusion. Director Lundstedt confirmed that if this provision is not included in an adopted ordinance, the current voluntary program will sunset.

Consultant Howell-Ardilla explained that “eligible inventory” refers to the list of properties throughout the City that have been found by a professional historic survey, that appear to have characteristics, per the State Historic Register, that make them potentially eligible to be designated as landmarks. Having such an inventory is among the criteria needed to qualify for CLG status. If your property is on the inventory this does not mean you are a designated landmark but if you want to pull a demolition permit, you will be required to look at options to demolition. The inventory must be performed by a qualified professional, based on specific technical and comparative criteria after much research and after the inventory is completed it becomes an important planning tool.

Regarding disclosure that a property is on the inventory, Planning Manager Jester explained the inventory compilation process. Within six months after the Historic Preservation Commission is formed, that Commission is required to forward a plan to the City Council for the survey, then a consultant would be hired and would perform the survey. The overall process would take a good amount of time and staff anticipates that by the time the inventory is compiled, owners of properties would be aware that their property has been considered or is included in the inventory, however notes of a property’s status would be placed in property files and this would be disclosed in reports of building records if a property on the inventory list sells.

Regarding the CLG “Certified Local Government” program: Consultant Howell-Ardilla explained it is run by the State Office of Historic Preservation (OHP) and many of the provisions of the draft ordinance are, per direction of the City Council, included so that the City can qualify for CLG status. There are 66 GLGs in the state, and these cities are eligible for both technical and financial assistance in the form of grants between \$20,000 and \$40,000 to cover things like surveys and re-location costs of historic resources.

Regarding the cost of administering the proposed code, Director Lundstedt stated that a supplemental budget request has been approved by the City Council for about \$250,000, of which about \$100,000 is a one-time cost for the initial survey. Ongoing costs will include services of a historic preservation consultant. The conduct of a resources inventory is critical not only to achieve CLG status but as a planning document that provides a foundation and baseline for the Historic Commission, staff and the public. The resources inventory would be used to review specific properties that come up for redevelopment and can be used by staff to provide education on existing resources.

Chairperson Ortmann opened the public hearing and invited public comment.

PUBLIC INPUT

Jane Guthrie, member of MBCHC and longtime resident, distributed a pamphlet regarding the current voluntary program, noting that three structures have already been demolished. The MBCHC has reconsidered its position and now would like the honorary designation removed from the Ordinance because they believe it is confusing and doesn’t actually preserve historic structures. The MBCHC would like to fold the honorary program into a program of walking tours of homes of historic interest.

Marcello Vavala, LA Conservancy, generally endorsed the draft ordinance and removal of Section

10.86.230 (Voluntary/Honorary Historical Designation of Landmarks) because he believes that having two programs sends a mixed message, and an honorary program, being non-regulatory, is not technically considered historic preservation. He believes the inventory is important to property owners to know their home is potentially an important cultural resource and to staff who can consult the inventory to comply with CEQA requirements in determining if any historic resources will be impacted when a nearby development is proposed.

Tony Choueke, believes that there has been a lot of new beautiful buildings being built in Manhattan Beach and he is concerned that having a historic designation would create obstacles to development and potentially could allow a few people to impose their desire upon many owners.

Jan Dennis, longtime resident and city historian commented that the MBCHC has estimated that out of a total of 14,000 houses in the city, about 190 might actually qualify as historic landmarks. The qualification of landmarks is a very careful process and the MBCHC has even turned down some owners who have applied for recognition. She believes that there will be very few historic districts. She urges that the City seriously consider this and think about this in a positive, not negative way. She distributed copies of her book to the Commissioners.

There being no other speakers, Chairperson Ortmann closed the public hearing.

PLANNING COMMISSION DISCUSSION

Commissioner Bordokas expressed concern about the characterization of the proposed ordinance as a voluntary program. The Chair echoed this concern but believes it is more of a case where the ordinance has not been fully articulated and explained. Commissioner Bordokas is concerned that the Ordinance will limit property rights both with regard to individual homes (as possible landmarks) and groups of homes (as possible districts). Commissioners Hersman, Conaway and Chair Ortmann agreed that the voluntary characterization (i.e. that owner consent is required) applies to individual landmarks, with the exception of the provision for City Council override in 10.86.110.B, but doesn't apply to the formation of districts, as 100% owner consent is not being recommended.

Discussion ensued about the voluntary nature of the proposed ordinance. Director Lundstedt confirmed that in the case of a district, there is a possible scenario that someone who wants to demolish their home, can be denied a demolition permit if a Certificate of Appropriateness and Economic Hardship are both denied and also in the very unusual case for an individual property where the City Council might invoke their right to deny a demolition permit against the wishes of a property owner (10.86.110.B).

Commissioner Hersman expressed concern that the ordinance would change property rights and minimally adds a lot of complexity to the status for homes on the Inventory of Historic Resources.

The Chair stated that he felt the Ordinance is too vague and needs wordsmithing.

Commissioner Conaway stated that the ordinance provides staff with a tool kit for historic preservation and he believes it is purposely vague because preserving historic resources is not a "one size fits all" situation. He believes that there are a lot of checks and balances, has opportunity for public input, will involve a long process and property owners will be closely involved.

Commissioner Bordokas suggested, and Commissioner Hersman agreed, that requiring 100% consent of owners for a proposed district should be considered. Commissioner Hersman believes that there might be more than a few potential historic districts. Chairperson Ortmann stated that it is good to have this conversation about acknowledging our heritage and we need to recognize there will be tradeoffs between some private property rights and public benefit.

Director Lundstedt advised that, with or without this ordinance, there already is an existing layer of complexity in that under state environmental law, a nondiscretionary action such as a demolition permit can be subject to environmental review (CEQA) if an argument can be made that the property proposed to be demolished is of historic significance. Crafting a preservation ordinance is an art and there may be some "gray areas" intended to provide flexibility while other sections need to be precise and have technical

terms. Parameters need to be established to make this ordinance work as a regulatory document and the ordinance language has been carefully vetted.

Regarding requiring 100% consent for forming districts, Consultant Howell-Ardilla explained that the main issue is in setting the boundaries, starting with identifying a cluster of buildings that share some uniform character. In looking carefully at the individual properties however, it's often found that some contribute to that uniform character, while others ("non-contributors") do not. However, the boundaries may include both types in order to have a unified collection that share a heritage and if you require 100% consent you may not achieve the desired critical mass to form that collection. One option is to create general design guidelines for the district that would apply to the non-contributors, to address, for example, massing and scale. Guidelines would not be proscriptive, requiring strict adherence to a set of architectural features, but would provide a framework. Common sense should be used in setting guideline parameters.

Assistant City Attorney Estrada pointed out that under 10.86.140 A. a non-contributing property within a historic district is not subject to the requirement for a Certificate of Appropriateness and he further clarified that paragraph B. (Waiting Permit for Demolition) does not belong in 10.86.150 (Certificate of Appropriateness) because the waiting period for a demolition permit applies to a broader category. Assistant City Attorney Estrada summarized that a Certificate of Appropriateness, which is the basic approval needed to proceed with a building project, is required only for designated landmarks or contributing properties within an established district. The waiting period for demolition applies to designated landmarks and properties that are listed on the inventory of eligible properties. The draft Ordinance should be amended in this regard.

Director Lundstedt illustrated with the example of a small beach cottage that is on the eligible inventory list, and if the owner files for a demolition permit, a hold would be placed on the permit for up to 60 days to enable a "time out". The owner would not have his property rights taken away during that hold period, however the property would still, if evaluated and found to be eligible for landmark designation during the time out period, be subject to environmental review and could potentially be designated by the City Council per 10.86.110 although that is expected to be a very rare case. Director Lundstedt further advised that the Planning Commission can articulate its discomfort with the provision for a City Council override and staff can forward that to the City Council with the Commission's recommendation.

Consultant Howell-Ardilla stated her opinion that a property owner could request to be taken off the eligible inventory list through a process similar to delisting a property from the landmarks list. However, an owner would need to provide proper evidence that the property does not qualify for landmark status. Conversely, properties can be added to the list again based on proper evidence. Such situations may come up during conduct of a periodic update of the eligible inventory list.

Commissioner Hersman commented that she sees a lot of internal inconsistency in the language of various sections and cited some examples. She stated that it should be clearer as to when the applicable percentage of owner consent threshold (such as 51%) is determined to be attained to form a district. Consultant Howell-Ardilla recommends that the threshold should not be required until late in the process, such as at the hearing before the City Council, to allow all research to be done and to give an opportunity for owners to more fully understand the issues as well as benefits and opportunities.

Discussion followed regarding whether the ordinance is too open-ended in some sections. Commissioner Bordokas expressed concern that once a moratorium is established for a district, it could last a very long time.

Chairperson Ortmann suggested that some parameters can be set in the definitions and procedures.

Consultant Howell-Ardilla recommended that if the Commission desires to have more specificity to the Ordinance, the Commission might review State OHP Technical Bulletin 14.

Assistant City Attorney Estrada clarified that Section 10.86.240 (Historic Variances) simply clarifies that properties with landmarks and contributing resources in districts are still eligible to apply for variances.

Chairperson Ortmann asked how the Commission can best move forward.

Commissioner Hersman stated her top concerns about the language and format: 1) consistency throughout the regulations, including typos and word usage; 2) Sections 10.86.140 and 10.86.150 Certificate of Appropriateness – Requirements and Procedures) are confusing and not as well laid out as the procedures for designation (10.86.090); 3) findings or criteria need work; 4) inconsistency between 10.86.100 (Designation Procedures – Historic Districts) and 10.86.090 (Designation procedures – Historic Landmarks) for example, in an application for a district not all the requirements, one through nine, such as owner signatures, are able to be provided at the time of application and perhaps this is not written properly.

Chairperson Ortmann believes that there is sufficient clarity on how minor changes to a historic structure are to be handled, but is not clear on major changes.

Director Lundstedt clarified that the applicant would be expected to bear the cost of a qualified professional to evaluate a proposed historic district and stated that staff would be agreeable to sitting down with Commissioner Hersman and going over her detailed code language and format issues.

Commissioner Apostol stated his general perspective, acknowledging that the work by staff and the consultant has been outstanding. His general main concern is that the ordinance should have a good balance between safeguarding property rights and achieving a public benefit in line with the General Plan goals. Section 10.86.110.B. in particular is troubling and he would like it removed but short of that he thinks it should have more strict parameters and he is also concerned about districts as has been discussed. Before tonight he had thought the honorary program was great but believes the points made tonight are well taken.

Discussion refocused on the thresholds of consent for historic districts. Commissioner Bordokas stated her belief that a higher threshold above 25% is needed at the application phase. She understands there has to be some teeth – she would like to see 50% for submittal and 100% for final formation. Commissioner Conaway gave the opinion that the 25% application threshold for owner consent needs to stay that low in order to encourage districts, and raising the second threshold for approval from 51% to 100% doesn't feel right, observing that no other cities have done that. Regarding the moratorium length, applicable to pending applications for a district, perhaps there should be a time limit so that an undue burden is not created due to it being too open-ended; more thought is needed on this, but this could be studied as separate from the districts.

Commissioner Bordokas suggested that the moratorium has a relationship to the 25% filing threshold because it starts when an application is filed. Commissioner Conaway stated that he feels strongly that historic districts be supported as they would be a great tool for potentially preserving a small geographic area. He suggested that more research might be done on that amount of time a consultant can actually accomplish the research that is needed to evaluate a district - e.g. is 30 days enough time? Chairperson Ortmann gave a general observation, having lived in and renovated homes in a couple of historic districts, that he believes as a practical matter the ordinance is workable but perhaps it needs to be better articulated.

Commissioner Apostol stated his opinion that historic district properties may increase in value and it depends on various factors. He has seen where historic districts due to their uniqueness have increased in value. His goal personally is that while he endorses preserving older charming buildings, he does not want to impose his personal belief on property owners. He also believes that public education and promotion of the benefits of preservation are good goals.

The Chair suggested that staff sit down with Commissioner Hersman to go over her detailed concerns with language and format of the Ordinance. In summary, the following general direction was provided by the Commission on major issues:

- 10.86.090 and 10.86.100 (Designation procedures Historic Landmarks and Historic Districts) – review for inconsistency with language and format.
- 10.86.110.B (Owner consent - City Council override on owner consent) – staff to explore possible additional findings or criteria, while keeping the provision as directed by City Council.
- 10.86. 230 (Voluntary Honorary Designation) – the consensus was to remove.
- 10.86.170 (Work Moratorium) – seems very open-ended and impacts when a district application is filed and pending: staff to research further.

- 10.86.140 and 10.86.150 (Certificate of Appropriateness) – review for language consistency and format and for 10.86.150.B. - need more staff input on waiting time for a demolition permit, possibly 45 days as a middle ground, but can the time frame be extended in a way other than by a specific number of days? Remove paragraph B. from 10.86.150 per Assistant City Attorney.
- 10.86.100 (Historic Districts) thresholds – Commission majority supports the provision for historic districts but is divided on the thresholds especially, or final buy-in, with the majority supporting between 50% and 100%. Ties into work moratorium time frame.

The public hearing was closed and a new public hearing will be noticed at a future date to be determined.

6. DIRECTOR’S ITEMS - None

7. PLANNING COMMISSION ITEMS

Chairperson Ortmann advised he won’t be at the next meeting on June 24, 2015.

8. TENTATIVE AGENDA – June 24, 2015

Director Lundstedt noted that the Bristol Farms Use Permit for alcohol service is on the agenda.

9. ADJOURNMENT

The meeting was adjourned at 9:50 pm to Wednesday, June 24, 2015 in the City Council Chambers, City Hall, 1400 Highland Avenue.

ROSEMARY LACKOW
Recording Secretary

ATTEST:

MARISA LUNDSTEDT
Community Development Director

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AT A GLANCE: HISTORIC DISTRICT DESIGNATION IN LOS ANGELES COUNTY

TO: Laurie Jester, Angelica Ochoa, Rafael Garcia, Michael Estrada, Marisa Lundstedt

FROM: Debi Howell-Ardila, MHP, Senior Historic Preservation Specialist, SWCA

DATE: September 14, 2015

OVERALL STATISTICS ON HISTORIC DISTRICTS

- The County of Los Angeles has a total of **88 cities, plus the County itself**
- Among these 88, **a total of 36 cities (41 percent)** in Los Angeles County, plus the County itself as of September 2015, have adopted historic preservation ordinances
- Among these 36 cities with historic preservation ordinances, a total of **81 percent (29 out of 36)** offer historic district designation (**19 percent, 7 out of 36, do not**)
- Among cities offering historic district designation, a total of **61 percent (22 out of 36) do not require owner consent** for landmark or historic district designation
- **All CLGs** (11 total) in Los Angeles County provide for historic district designation
- Another **20 cities that are not CLGs** offer historic district designation

HISTORIC DISTRICT DESIGNATION: BENEFITS

- Research shows that historic designation/landmark status enhances/leads to **higher property values** (see attached summary and study)
- Historic designation enhances **price stability** during market downturns or times of volatility (see attached summary and study)
- Contributors have possibility of **reduced property taxes** through the Mills Act Program
- Allowing for designation of historic districts is consistent with **standard industry practice, will help qualify the City for CLG status**, and supports the objectives stated in the Manhattan Beach Historic Preservation Ordinance
- Historic districts offer an effective tool for **preserving neighborhood character**

HISTORIC DISTRICT DESIGNATION: CHALLENGES

- Presents a potential challenge/conflict in **striking a balance between historic preservation policy and property owners' rights**
- In ordinances allowing for owner dissent, a simple majority in favor is generally required; in this way, property owners not wishing to participate are therefore obliged to do so
- How about requiring **100 percent owner consent** as a solution?
 - Since a historic district is defined by a cohesive concentration of related properties, the district might ultimately dissolve if enough owners opt out of designating their properties as "contributing"

Excerpt: Mabry, Jonathan, PhD. 7 June 2007. "Benefits of Residential Historic District Designation for Property Owners," Historic Preservation Office, Department of Urban Planning and Design, City of Tucson, Arizona.

"Summary: The findings of recent comparative studies of the effects of historic district designations over time, conducted in many different regions of the U.S., converge on a few key findings:

- Historic district designation typically increases residential property values by 5-35% per decade over the values in similar, undesignated neighborhoods.
- Both nationally designated historic districts and locally designated historic districts outperform similar, undesignated neighborhoods, but districts that carry both local and national designation experience the highest relative increases in property values.
- The values of newer properties within designated historic districts increase along with those of older properties.
- Local historic district designation decreases investor uncertainty and insulates property values from wild swings in the housing market.
- Increasing property taxes due to rising property values in historic districts designated at the national or state levels can be offset by state and federal tax reduction programs.
- The tax incentives also provide alternatives to demolition of historic homes, thereby providing stability to the built environments of neighborhoods.
- Historic district designation leads to increased levels of home ownership and longer residence by both homeowners and renters.
- Designated historic districts tend to have higher rates of participation in neighborhood associations and improvement projects, which protects shared spaces from decline.
- Proposed exterior renovations, demolitions, and new construction in locally designated historic districts are reviewed by neighborhood advisory groups and historical commissions, thereby ensuring community involvement in neighborhood planning."