

City of Laguna Beach  
AGENDA BILL

No. 1

Meeting Date: 12/16/17

**SUBJECT: ZONING ORDINANCE AMENDMENT 17-0388 AND LOCAL COASTAL PROGRAM AMENDMENT 17-0289 TO AMEND THE CITY OF LAGUNA BEACH MUNICIPAL CODE CHAPTER 25.45, RELATING TO HISTORIC PRESERVATION.**

**SUMMARY OF THE MATTER:** On October 18, 2017 the Planning Commission reviewed proposed revisions to the Historic Preservation Ordinance (Municipal Code Chapter 25.45) and recommended (4-1) that the City Council adopt the Ordinance as amended with the following additional recommendations:

1. The City should hire a designated staff person to administer the historic program, review projects and assessments;
2. The City should provide additional historic resource training to the Design Review Board and the Heritage Committee;
3. The City should develop a historic style guide (written for the use of the public) and amend the City's Design Guidelines/Criteria to provide standards for historic property review.
4. The City Council should review the proposed changes to the commercial parking incentives and the revised demolition section in the proposed Ordinance.

**BACKGROUND:** Since September of 2015, the City has been in the process of updating the City's existing Historic Preservation Chapter ("Chapter 25.45") in the City's Municipal Code. On September 28, 2016, the Heritage Committee finalized its recommendations to the City Council regarding the draft Ordinance and on January 26, 2017, the Design Review Board finalized its recommendations to the City Council. A complete history of the historic preservation program and the Historic Resources Inventory Update and summary of the workshops and meetings can be found in the background of the March 15, 2017 Planning Commission Staff Report (pgs. 124-130). A total of 20 publically noticed meetings were held prior to the Planning Commission's recommendation to the City Council. For each series of meetings, a press release was published and the owners of the homes listed on the Historic Inventory were noticed by mail.

(Continued)

**RECOMMENDATION:** It is recommended that the City Council:

- 1) Review and consider the suggested modifications to Chapter 25.45 relating to historic preservation; 2) direct staff to provide further information or make modifications to the Ordinance; 3) direct the City Manager to include a fiscal impact analysis during the mid-year budget process regarding the potential hiring of a historic preservation planner; and 4) continue the first reading of the draft Ordinance to the March 27, 2018 City Council meeting.

Appropriations Requested: \$ \_\_\_\_\_

Fund: \_\_\_\_\_

Attachments: Draft Ordinance (clean copy) (pgs. 13-24);  
PC Minutes and Staff Reports (pgs. 25-131);  
DRB Memo to the City Council and Minutes (pgs. 132-143);  
HC Memo to the City Council (pgs. 144-148);  
City Attorney CEQA Memo (pgs. 149-154);  
Frequently Asked Questions 2/27/17 (pgs. 155-164)  
OHP State Status Codes (pg. 165)

Submitted by:  \_\_\_\_\_  
Director Of Community Development

Coordinated with: City Attorney's Office

Approved:  \_\_\_\_\_  
City Manager

Additionally, a formal 1/8 page notice was published in the paper prior to the Planning Commission and City Council's initial review. Memorandums to the Council, summarizing the recommendations of both the Design Review Board and the Heritage Committee are attached (pgs. 132-143).

**Planning Commission Review:** On March 15, 2017, staff provided an introductory presentation to the Planning Commission regarding the proposed draft Ordinance. A staff report provided the history of the draft Ordinance and suggested topics for discussion (pgs. 124-131). The Commission then continued the review of the draft Ordinance to the April 19, 2017 Planning Commission meeting. Subsequently, the Commission reviewed various revisions to the draft Ordinance at its April 19, June 7, July 5, September 6, and finally on October 18, 2017, when it was recommended (on a 4-1 vote) that the City Council approve the Ordinance as amended with additional recommendations (listed on pg. 1 of this report). Minutes and the Staff Reports from the March 15, April 19, June 7, July 5, September 6, and October 18, 2017 Planning Commission meetings are attached (pgs. 25-131).

**Changes in the Draft Ordinance:** The proposed draft Ordinance represents a culmination of public workshops and recommendations from the Heritage Committee, the Design Review Board and the Planning Commission. Each workshop or meeting was held to help address the seven following deficiencies of existing Chapter 25.45, "*Historic Preservation*":

1. It does not provide for a process for the alteration of a property identified on the Historic Inventory.
2. It does not provide for a process for the alteration of a property that is more than 45 years of age, which may be a historic resource under the California Environmental Quality Act ("CEQA").
3. It does not provide for a rating review process.
4. It contains no definitions.
5. It contains no appeal procedures for historic designation determinations.
6. Current City ratings are not consistent with the Office of Historic Preservation (OHP) or the State status codes.

Based on these deficiencies, and as a result of the public review process, the draft Ordinance has been expanded, rewritten and reorganized. A list of the major changes to the draft Ordinance and a summary of each change is provided below:

**Property Rating Evaluation Process:**

Existing Chapter 25.45 currently provides a review process to add a structure to the Register, but no current process exists to evaluate a potential historic resource. This has become problematic when the City is reviewing development applications for older structures, particularly for CEQA compliance. To address this issue, the draft Ordinance proposes that a rating evaluation application can be submitted at any time, even independently of a development application, to obtain clarity on a property's historic resource status.

As currently proposed in Section 25.45.008, when a development application is submitted for review to modify a structure 70 years or older, staff will review the property for potential historical significance. For example, if the structure has been significantly altered over time, staff would most likely make a determination that the structure is not historic. A notice reflecting this decision would be sent to the Heritage Committee and the property owners within 300 feet and tenants within 100 feet of the property. After a 14 day appeal period, a development application could proceed through the normal design review process.

On the other hand, if staff determines that the property is intact and could be a potential historic resource, a rating determination application would be forwarded to the Heritage Committee for determination of whether the property is a historic resource. This determination would be made following a noticed hearing. The Heritage Committee may also request the preparation of a historic assessment at the cost of the City (per the proposed Ordinance). After consideration of all testimony and evidence presented at the public hearing the Heritage Committee would determine the appropriate (OHP) status code applicable to the property. The Heritage Committee shall make the following findings as part of the review:

- (1) Explanation of the significance or lack of significance of the property under consideration;
- (2) Explanation of the integrity or lack of integrity of the property under consideration; and
- (3) Identification of or lack of the important character-defining exterior architectural, site or landscaping features of the property under consideration.

After the rating determination has been made, future development applications would be reviewed according to the assigned rating. Note that the rating determination would be appealable to the City Council (further discussion is provided below). Section 25.45.008 in the draft Ordinance describes the proposed rating evaluation process.

#### Appeal Processes:

There are no appeal processes provided in the existing Ordinance (Chapter 25.45), or for a historic rating assessment determination. This has become problematic, particularly when determining a rating when a property is not currently listed on the Historic Register. The draft Ordinance provides an appeal process to City Council for any decision by the Heritage Committee or the Director, which includes historic rating evaluations.

#### Incorporation of the State (OHP) Status Codes:

The 1981 Historic Inventory was conducted using a local rating system and three local ratings were assigned to properties surveyed. The Historic Resource Element of the General Plan provides the following discussion of these ratings:

*Properties on the historic inventory are rated either "E" for Exceptional, "K" for Key or "C" for Contributive. "E" rated buildings are usually in excellent condition and unique; some are eligible for the National Register. Structures with a "K" rating are buildings which strongly maintain their original integrity and demonstrate a particular architectural style or time period. "C" rated structures contribute to the overall historic character of the neighborhood, but are not unique or distinctive; however, these properties are still important to the streetscape of Laguna Beach.*

During its review, the Planning Commission and many members of the public recommended that the City utilize the OHP status codes to provide more consistency with state-wide historic preservation practices.

This decision was consistent with the initial recommendation from Ostashay Consulting and Associates (OAC), but was not recommended by the Heritage Committee.

Under the new Ordinance, properties eligible for a K or E-rating today, would be rated with the appropriate 1 through 5 OHP status code (typically with a 5S3 rating). C-rated properties would be assigned a rating of 6L (further discussion below on this topic). Properties already listed on the Register will automatically be identified with a 5S1 rating. A copy of the OHP status codes is attached as pg. 165 for reference.

Elimination of the Historic Inventory:

One of the more controversial topics discussed throughout the update process was the Historic Inventory. The existing Historic Inventory is a list of properties that were identified through a historic survey completed in 1981. This Inventory is out of date because it has not been updated within the last five years. Thus, it no longer creates a legal presumption that the properties listed on it are historic resources. Because it had become outdated, the City Council authorized a process to update the Inventory in 2013. OAC was selected to re-survey the 550 structures on the existing Inventory (properties already placed on the Historic Register were not evaluated). If the draft updated Inventory prepared by OAC was finalized and adopted by the City Council, the properties identified on the Inventory as historic resources would then be considered historic resources for CEQA purposes. Additionally, those identified to not be historic resources would also be formally acknowledged.

Because the draft updated Inventory is 1) only a preliminary survey of a portion of the structures in portion of the City, and 2) only contains street level surveys rather than full detailed property assessment, the Planning Commission recommended that the draft Inventory not be finalized. Instead, the Planning Commission recommended that properties be assessed on a case-by-case basis when a development application is submitted, or a rating evaluation is desired by the property owner. By assessing each property individually, all properties in the City would be subject to the same processes and those listed on the Inventory would not be held to a different standard of review.

Review of Structures 70 years or older:

Currently, the Municipal Code is mostly silent in regards to the development review process for a property that is not listed on the Register. The City's Design Review Criteria notes that special consideration should be provided to structures over 45 years of age.

The Heritage Committee recommended the year 1955 be used as a threshold for historic review because the Committee felt that year marked the end of the time period in which unique structures important to the City's past were constructed. The Planning Commission was concerned that a set date of 1955 would prevent the future preservation of important or iconic post-1955 structures. It therefore recommended a rolling 70-year threshold.

Review of 6L- Rated (previously C-rated) Properties:

Currently, C-rated structures are eligible for the Historic Register and therefore could be considered locally recognized historic resources under CEQA. This has created some difficulties in processing applications to alter such structures. Generally, exterior alterations to these structures require both Design Review approval and CEQA clearance. If the projects include modifications that are consistent with the Secretary of the Interior's Standards ("SOIS") the projects are eligible for a Categorical Exemption (Class 31) from CEQA.

Application of the SOIS to C-rated structures is awkward at best because the SOIS are intended to apply to structures that are intrinsically historical, whereas C-rated structures "contribute to the overall historic character of the neighborhood, but are not unique or distinctive; ... these properties are still important to the streetscape of Laguna Beach." (Historic Resource Element, p. 2.) While application of the SOIS may be appropriate for historic structures with key architectural features (OHP status code 1-5 and previously rated K or E), such application has proved to be very difficult for a property owner to remodel their structure when it is not individually historic.

Recently, there have been situations when the Design Review Board, upon recommendation of the Heritage Committee, has found that a proposed alteration is compatible with the pattern of development and that the contributive nature of a property is not altered, even though the alterations are not consistent with the SOIS. However, these situations have necessitated the preparation of Initial Studies and Negative Declarations, the preparation of which are atypical for projects involving single-family homes. The CEQA exemption that applies to most projects involving a single-family home (Class 1) does not apply to projects that involve substantial adverse changes in the significance of historic resources.

Therefore, by making C-rated structures eligible for the local Historic Register, the City has created difficult CEQA processing issues for remodel projects to structures that may be contributive to the neighborhood, but are not individually historic. Given these processing issues, the Heritage Committee, Design Review Board and the Planning Commission recommended a change from the current practice of attempting to applying the SOIS to modifications to C-rated structures or alternatively having to prepare expensive and/or time-consuming CEQA clearance documents.

On September 23, 2016, the Heritage Committee (on a 4-3 vote) recommended that C-rated structures remain eligible for the City's Historic Register, but that the City also adopt a new local CEQA exemption for C-rated structures to allow for certain modifications beyond those authorized by the SOIS. A majority of the Design Review Board agreed with the Heritage Committee's recommendations.

During its review, the Planning Commission did not agree with the this recommendation and recommended that C-rated structures be reclassified as 6L properties so that they are no longer eligible for the Historic Register. The 6L classification notes that the property is not eligible for the local register but may warrant special consideration in the local planning processes, as being contributive to the neighborhood.

Thus, under the draft Ordinance, all C-rated properties that are already on the Register would remain, but in the future, properties that would have had a C-rating would no longer be eligible for the Register. As a result, they would not be considered historic resources. Such properties, if they were rated, would fall into the "6L" category. Projects involving 6L structures would be subject to design review, but would not be reviewed by the Heritage Committee. Special design guidelines were added into the draft Ordinance (section 25.45.014) for projects that include 6L properties. During design review, the Design Review Board would assess whether the proposed modifications are designed and located in a manner that best "contributes" and preserves the city's village atmosphere and the existing streetscape.

Property Incentives:

Currently, only structures on the Register are eligible for historic preservation incentives. During the review of the draft Ordinance, Committee and Commission members and the public expressed the desire to expand the eligibility for incentives to further encourage preservation. Section 25.45.10 in the draft Ordinance would replace existing Section 25.45.10 and would provide the opportunity for preservation incentives to any property determined to qualify as a historic resource (OHP status code 1-5) or as a 6L rating. The only exception is eligibility for the Mills Act benefits, which, under state law, requires that the property be on the Historic Register. New incentives include density bonuses for structures in the R-2 and R-3 zones (not just the LBP and downtown areas), reduced open space requirements, and reduced rear setbacks. Draft Section 25.45.010 describes the property preservation incentives.

Providing a Cap for Commercial Historic Parking Incentives:

During its review of the draft Ordinance, the Planning Commission noted concern with the existing commercial historic parking incentive and directed staff to update the draft Ordinance to require that potential neighborhood impacts and available offsite and on-street parking be considered when reviewing parking reductions incentives. On September 6, 2017, the Commission reviewed updated language that required a parking analysis be submitted in conjunction with an application for a commercial historic parking incentive. The Commission noted that the allowed parking incentive reductions (50% and 75%) should be reduced. However, staff expressed concern that further limiting the reductions may be detrimental to smaller structures being able to take advantage of this incentive in exchange for preserving the historic integrity of a structure.

In response, staff proposed providing a 15-space cap for the incentive, so to not eliminate the incentive for smaller structures. The cap allows smaller structures to be expanded or converted, while placing a limit on the intensification of the larger structures, which can create neighborhood impacts. The language in the draft Ordinance has been updated to reflect this change and to allow all structures with a status code of 1 through 5 up to a 75% reduction (previously K-rated structures were allowed up to a 50% reduction). When the Planning Commission made its final recommendation on October 18, 2017, it recommended that the City Council further review the parking incentive. Below is the revised language as noted in the draft Ordinance:

*(3) Historic resources (OHP code 1 through 5) located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be*

*required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.*

*(4) Properties identified with an OHP status code of 6L that are located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.*

Penalties for Illegal Demotion Section:

The Planning Commission recommended that the City Council review the revised illegal demolition penalty Section of the draft Ordinance, Section 24.45.028. The proposed language in the draft Ordinance has been updated to 1) align the term “Demolition” with the city more widely used term of “Major Remodel”; 2) provide the City Council more discretion in administering the proposed penalties; and 3) remove the previous reference to the “Historic Inventory”. Below is a comparison of proposed language of the draft ordinance to the current Ordinance:

25.45.014-028 ~~Illegal demolition—Penalty for violations.~~

~~(A) Penalties. The following penalties shall be determined by the city council after a public hearing, with a recommendation from the heritage committee.~~

~~(A1) The removal or demolition of any structure listed on the historic register without an approved demolition permit—Undertaking the removal, demolition or major remodel of any identified historic resource or an unrated structure more than 70 years of age, without a permit to do so, shall result in up to a five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.~~

~~(B) The removal or demolition of any structure listed on the historic inventory without an approved demolition permit shall result in a two-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.~~

(2) In addition to the repayment or restoration provisions of Section ~~25.45.004(F)~~ 25.45.010 of this chapter, any person who partially demolishes ~~a structure listed on the city’s historic inventory or historic register or partakes in a major remodel to a historic resource, without an approved building permit to do so,~~ may be subject to an administrative penalty of up to one hundred thousand dollars for each violation.

(3) The determination of the application of this provision and the amount of the penalty fee shall be determined at a public hearing by the city council upon recommendation from the heritage committee. The determination shall be based on the extent of the partial demolition and the benefits received, including setback and parking incentives.

Disclosure of Historic Properties:

The draft Ordinance includes section 24.45.018 which requires that when a property owner lists property for sale, if the property is on the Register or if the property has been evaluated and been assigned an OHP status code 1 through 5, then disclosure must be provided by the property owner or his/her representative. Distribution of a current Real Property Report to the buyer shall satisfy the requirements of this section.

Definition Section:

Definitions are currently not provided in Chapter 25.45. The draft Ordinance has been updated to include definitions relating to historic preservation to provide further clarification.

Fiscal Impact:

During its review, the Heritage Committee recommended that the City pay for all historic assessments and historic plan reviews. The Committee felt that it was unfair to require that property owners pay for these assessments, especially if the property owner contested the historic status of a property. Additionally, the Committee felt that having a planner, designated solely to administering the historic preservation program was critical to the implementation of the draft Ordinance. This recommendation was also made by the Design Review Board and the Planning Commission.

City Paid Historic Assessments:

Under the City's current practice, when a development project is being reviewed, the applicant submits a deposit for the historic assessment and the City hires a historic consultant to conduct the necessary rating assessment or the Secretary of the Interior's compliance assessment. These assessments range in cost from \$2,000-\$3,700. The applicants also have the choice of submitting their own assessments, but a deposit would still be collected for the City to hire a historian to conduct a peer review. The draft Ordinance would shift the cost of these assessments to the City. Since 2013, an average of 18 reports have been completed per year. Assuming an average cost of \$3,000 per report, the potential cost to the City would be approximately \$54,000 a year.

Hiring a Staff Historic Planner:

With the proposed changes to the draft Ordinance, it is anticipated that there will be an increase in request for property rating assessments, thereby increasing the amount of items that will go before the Heritage Committee and increasing the workload in the Community Development Department. If a staff historic planner were hired, the planner would not only be able to process this influx of applications, but would also be able to provide in-house services that are not currently provided. It is anticipated that providing these additional services will improve the zoning plan check processing for historic development applications by providing a more expedited review of these projects. Additionally, because of the anticipated increase in the number of applications, the Heritage Committee may consider increasing the frequency of their meetings. Furthermore, the staff historic planner would be able to help in the preparation of Mills Act Applications, which would eliminate the \$2,500 cost to property owners, which costs an average of \$17,500 a year. Given these reasons, it was recommended by the Heritage Committee, the Design Review Board and the Planning Commission that a historic planner be hired to administer the City's historic preservation program. Job responsibilities or tasks of a preservation planner would include:

- 1) Staff Liaison to the Heritage Committee. This includes setting the agendas, taking minutes and staffing the Heritage Committee meetings;
- 2) Provide training for the Heritage Committee and Design Review Board;
- 3) Zoning Plan check for all historic projects;
- 4) Pre-Application Site meetings for historic property owners;
- 5) Prepare staff reports for the Design Review Board and City Council;
- 6) Historic rating assessments and SOIS plan reviews;



- 7) Coordination with any outside consultants, as necessary;
- 8) Counter/phone coverage and assistance to answer public questions about historic resources;
- 9) Mills Act application processing, monitoring and inspections (106 Mills Act properties);
- 10) Construction monitoring;
- 11) Construction revisions review and processing;
- 12) Property inspections before permit fee refunds.

The fully burdened rate for the cost for hiring an Associate/Senior Planner to administer the program is anticipated to cost approximately \$150,000. If the Council wants to further consider this recommendation, it should recommend that the City Manager include this topic for discussion at the mid-year budget review along with other competing measures to fund. At that time, an analysis would be provided regarding how fees may be added or adjusted to help with cost recovery.

**General Plan Compliance:**

The Planning Commission received some comments from the public that the draft Ordinance is not consistent with the General Plan, specifically as it relates to the policies listed below. Staff does not believe this is the case and a discussion regarding the topics is provided below:

Land Use Element:

*Action 2.2.1: Update the City's Historic Resource Inventory. (Short-term implementation.)*

Historic Resources Element:

*Policy 1.1: Create a Historic Preservation Task Force to review and update the Historic Resources List (Inventory).*

*Policy 1.4: Expand the Mill's Act Contract program to include "K" and "C" rated structures as "qualified structures."*

Staff believes that the draft Ordinance is consistent with the General Plan. When the Historic Preservation Element and Ordinance were initially adopted, the Inventory was a resource document that only covered certain structures within the City. It was not Citywide. The original Inventory indicated whether structures were eligible for the Register and it had no bearing on the processing of any projects involving the structures. In 2006, Chapter 25.45 was amended to address demolition and illegal demolition of structures listed on the Inventory, but no other processing requirements have been set forth in the Ordinance for structures listed on the 1981 Inventory. Additionally, under the draft Ordinance, the Inventory will essentially be updated property by property when a 70+ year old property goes through the rating evaluation process via a development proposal or voluntarily.

Further, in 2012, the City Council reconsidered what properties should be eligible for the Mills Act, and reconfirmed its desire to have the Mills Act apply to E and K-rated properties. The City's current ordinance reflects this, and no substantive change is being proposed.

**LOCAL COASTAL PROGRAM:** Certification of a Local Coastal Program Amendment is required by the California Coastal Commission because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval. The proposed Ordinance will not be in force or effect unless and until such approval is granted.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** The adoption of the revised ordinance is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to section 15308 of the State CEQA Guidelines, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. The fact that C-rated structures will no longer be eligible for the City's Register does not negatively affect historic resources. Any C-rated structures that are currently on the Register are historic resources and will continue to be protected. C-rated structures that were never placed on the Register are not historic resources as defined by CEQA once they are no longer eligible for the City's Register. The City's historic consultant confirmed that while C-rated structures were locally recognized, they are classified as having a California Office of Historic Preservation status code of 6L. OHP status codes 1 through 5 are considered historic resources. Thus, the C-rated structures are not historic resources under State law.

In addition, the fact that the Coastal Commission will need to approve the revised Ordinance as an amendment to the City's certified Local Coastal Program creates an additional exemption. Public Resources Code Section 21080.5 and Section 15265 of the State CEQA Guidelines exempt actions of local governments for approvals and amendments to local coastal plans. This is because the Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process.

**RECOMMENDATION:**

- 1) Review and consider the suggested modifications to Chapter 25.45 relating to historic preservation; 2) direct staff to provide further information or make modifications to the Ordinance; 3) direct the City Manager to include a fiscal impact analysis during the mid-year budget process regarding the potential hiring of a historic preservation planner; and 4) continue the first reading of the draft Ordinance to the March 27, 2018 City Council meeting.

## **SUGGESTED WORKSHOP FORMAT**

1. Staff Presentation;
2. Council Questions of staff;
3. Council Comments and Direct to Staff
4. Open Public Hearing;
5. Close the Public Hearing;

## Chapter 25.45 - HISTORIC PRESERVATION

### Sections:

- 25.45.002 Intent and purpose.
- 25.45.004 Definitions.
- 25.45.006 Procedures for the alteration/demolition of structures 70 years or older not listed on the historic register.
- 25.45.008 Property rating evaluation.
- 25.45.010 Property preservation incentives.
- 25.45.012 Procedures for the substantial alteration of a historic resource.
- 25.45.014 Procedures for the substantial alteration of a contributive (6L) property.
- 25.45.016 Historic register designation.
- 25.45.018 Historic property disclosure.
- 25.45.020 Procedures for demolition of a historic structure.
- 25.45.022 Unsafe or dangerous conditions.
- 25.45.024 Property owned by public agencies.
- 25.45.026 Property maintenance required.
- 25.45.028 Illegal demolition-penalty for violations.

#### 25.45.002 Intent and purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the city that reflect special elements of the city's architectural, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage to achieve the following objectives:

- (A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;
- (B) Enhance the visual character of the city by encouraging the preservation of those buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;
- (C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (D) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents and visitors;
- (E) Promote the private and public use of historic resources for the education, prosperity and general welfare of the people; and
- (F) Stabilize and improve property values within the city.

#### 25.45.004 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Code of Federal Regulations (CFR)" means the codification of the general and permanent rules and regulations published in the federal register by the executive departments and agencies of the federal government of the United States.

“Contributive property” means a property containing a structure that contributes to the overall character and history of the neighborhood and village atmosphere, but does not qualify as a historic resource. These structures are intact and are good representations of the era in which they were constructed. While these structures may not be architecturally significant, they are still important for their contribution to the streetscape. If rated, these properties would be identified with a California Office of Historic Preservation (“OHP”) status code of 6L. The following characteristics are typical of a contributive property:

- (1) The structure remains intact and has not been substantially altered since the time of original construction.
- (2) Structures which have been modified, but retain its original form, character and scale should also be considered.
- (3) The structure is located in an area largely intact to its original development and which contains several structures similar in scale which were also constructed during the same period.
- (4) The property maintains a similar appearance to the time in which it was associated with an important person or persons or groups who significantly contributed to the cultural, artistic, or other important developmental aspects of the city, region, state, or nation.

“Character-defining features” include the overall shape of the building, its materials, craftsmanship, decorative details and features, as well as the various aspects of its site and environment. These features exude the historic character of a building.

“Cultural landscape” means a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

“Director” means the city's director of community development, or her/his designee.

“Demolition” - for the purpose of this chapter, means any act which removes all the existing exterior walls and or roof framing. Demolition permits require the applicant to obtain a Coastal Development Permit, which permits are subject to the California Environmental Quality Act, unless exempt therefrom.

“Historic assessment” means a historic building or site assessment to determine if a property is a historic resource or if a project will adversely affect a historic resource. An assessment shall be prepared by a consultant that meets the secretary of the interior's (SOI) professional qualifications standards, as defined in the Code of Federal Regulations, (36 CFR 61) or its successor.

“Historic context” means historical patterns that can be identified through the consideration of the history of the property and the history of the surrounding property. Historic context may also relate to an event or series of events, pattern of development, building form, architectural style, landscape, artistic value, use of materials and methods of construction, or be associated with a life of an important person.

“Historic integrity” means the ability of a property to convey its significance. Historic properties either retain integrity (this is, convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling and association.

“Historic landscape” means residential gardens and community parks, scenic highways, rural communities, institutional grounds, cemeteries, battlefields and zoological gardens. They are composed of a number of character-defining features which, individually or collectively contribute

to the landscape's physical appearance as they have evolved over time. In addition to vegetation and topography, cultural landscapes may include water features, such as ponds, streams, and fountains; circulation features, such as roads, paths, steps, and walls; buildings; and furnishings, including fences, benches, lights and sculptural objects.

"Historic monitor" means a professional, who meets the qualification standards contained in the Code of Federal Regulations (36 CFR Part 61), who is hired at the applicant's expense to oversee a development project to ensure that the construction and modifications are consistent with the secretary of the interior's standards as conditioned in the project approval.

"Historic preservation style guide" means a publication that has been developed to assist in the identification of historic resources and 6L properties through providing expanded examples and definitions which define each historic rating category. Examples of historic and non-historic property characteristics are provided. This document will provide preferred design examples and guidelines for the alteration of historic structures. Projects which are consistent with these guidelines will typically not create an adverse impact to a historic structure.

"Historic register (or register)" means the city's list of properties formally designated as historic resources. The current list of designated properties will be kept on file at the city clerk's office.

"Historic resource" means a property or structure that is on the city's local register or that satisfies the criteria identified in OHP status codes 1 through 5. Historic resources are usually excellent in condition and unique, or maintain the structures original integrity and demonstrate a particular architectural style or time period. Typically these properties shall meet one or more of the following criteria:

- (1) It represents the work of a notable builder, designer, architect, or artist;
- (2) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city;
- (3) It is one of the few remaining examples in the city, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen;
- (4) It is a noteworthy example of the use of indigenous materials or craftsmanship.

"Heritage committee" means the committee, as established by city council, which serves an advisory role on matters pertaining to historic preservation as specified within this chapter.

"Insubstantial alterations" means exterior modifications to a historic resource that do not result in the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings. These alterations are performed in such a way that the significance and integrity of a historic resource is not materially impaired. Examples include, but are not limited to, the following:

- (1) Any alteration that does not independently require design review approval as specified in Section 25.05.040 and other alterations that would not result in the destruction, relocation, or alterations that would materially change a historic resource's character-defining features, historical significance, or its exterior appearance.
- (2) Maintenance, repair, restoration, or in-kind replacement of severely deteriorated architectural features or building components.
- (3) Installation or replacement of electrical and/or plumbing equipment, utility work, or other mechanical and other building systems, including rooftop appurtenances not significantly visible from a public street and that would result in no change in the general appearance of the historic property.
- (4) Repair or partial replacement of porches, cornices, exterior siding, doors,

balustrades, stairs, or other trim when the repair or replacement is done in-kind to match existing material, form, and general appearance.

(5) Replacement of severely damaged or deteriorated windows when the replacement is done in-kind to match the existing materials, type, shape and general appearance.

(6) Replacement of window panes in-kind or with double or triple glazing so long as the glazing is clear and untinted and the window does not alter the existing window material or general appearance. The replacement of existing archaic or decorative glass is not included in this exclusion.

(7) Repair or replacement of roofing, when replacement is done in-kind to match the existing in form and general appearance.

(8) Repair or replacement of roadways, driveways, and walkways when work is done in-kind to match the existing in material, form, shape, style and general appearance.

(9) Repair or in-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed, including gates, fences, walls, hedges, freestanding walls, pergolas, gazebos and planting beds.

(10) Repointing and repainting of bricks on the exterior of a property, with no change in appearance.

(11) Removal of additions intended to restore the original appearance of a building, structure, site, or object.

(12) Other insubstantial rehabilitation work as determined by the director.

“Mills act” means the state law as defined in Section 50280 of the California Public Resources Code, which allows cities to enter into contracts with the owners of structures on the city’s historic register who may receive a reduction in property taxes. To qualify as a historic resource, a property must be listed on the City’s Historic Register and satisfies the criteria identified in OHP status codes 1 through 5.

“Replacement In-Kind” means the replacement of a building material or finish with the exact same materials as existing, or with a historically accurate replacement. Historic properties may qualify for the application of the State Historic Building Code to facilitate replacements in-kind, subject to approval of the Building Official.

“Substantial alteration” means demolition, destruction, relocation, or alteration such that the significance and integrity of a historical resource or a 6L property would be impaired. This would include any act or failure to act that destroys, removes, or relocates, in whole or part, a historical resource in such a way that its historic or architectural character and significance are materially altered. Major Remodels, as defined in section 25.08.024, are considered “substantial alterations”.

25.45.006 Procedures for the alteration/demolition of structures 70 years or older not listed on the historic register.

(A) Application. Application to demolish, relocate, or substantially alter a building or structure that is 70 years or older (not currently listed on the city’s historic register) shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director. A historic assessment shall be required unless the requirement for such an assessment is waived in writing by the director.

(B) Director Determination. Within thirty (30) days of receipt of a complete application as described in subsection (A) of this section, the director shall make an initial determination of

whether the property is eligible to be considered a historic resource.

(1) If the director finds that the property may be eligible for an OHP status code of 1 through 5, or 6L, then the director will submit a rating evaluation application to the heritage committee for review as prescribed by Section 25.45.008 to determine the appropriate rating of the property.

(2) If the director determines that the property does not meet the criteria referenced in subsection (B)(1), the property shall be processed without further restrictions under this chapter unless a timely appeal is filed. The director will provide a 14-day notification pursuant to section 25.05.065(D) of this determination. Notification shall also be provided to the heritage committee.

(C) Appeals.

(1) Any determination made by the director pursuant to subsection (B)(2) of this section may be appealed pursuant to 25.05.070.

25.45.008 Property rating evaluation.

(A) Intent and Purpose. The property owner, the owner's authorized agent or the director (pursuant to 25.45.006) may request that the heritage committee review a property to determine the appropriate property rating with regard to its historic character.

(B) Applications. Applications shall contain such information as prescribed by the director.

(C) Public Notice. Public notice shall be subject to the provisions of Section 25.05.065.

(D) Heritage Committee Review. The heritage committee shall, at its next available meeting, conduct a public hearing to determine the appropriate property rating. The heritage committee may also request that a historic assessment at the cost of the city be prepared to evaluate the property if one has not already been submitted. After consideration of all testimony and evidence presented at the public hearing the heritage committee shall determine the appropriate OHP status code that best suits the property. The heritage committee shall make the following findings as part of the review:

(1) Explanation of the significance or lack of significance of the property under consideration;

(2) Explanation of the integrity or lack of integrity of the property under consideration;

(3) Identification of or lack of the important character-defining exterior architectural, site or landscaping features of the property under consideration;

(E) Future Development Applications. Any development application that proposes to relocate or substantially alter a building on a property that is rated with an OHP status code of 1 through 5 or 6L shall be subject to either section 24.45.012 or 25.45.014 of this chapter. Applications to demolish a structure that has been rated with an OHP status code of 1 through 5, shall be subject to section 24.45.020.

(F) Appeal. Rating determinations made by the heritage committee pursuant to Section 25.45.008(D) may be appealed to the city council subject to the provisions set forth in Section 25.05.070.

25.45.010 Property preservation incentives.

Structures listed on the city's historic register or those structures identified as having an OHP status code 1 through 5, or 6L pursuant to section 25.45.008, are eligible to apply for the following preservation benefits. The consideration of benefits shall occur at a public hearing and the granting of any benefit shall be conditioned upon the recordation of a written agreement between the city and property owner that ensures preservation of the building's historic character and identifies any



historic incentives granted for the property. Unless further noted, the design review board shall conduct a noticed public hearing on design review applications, except that the planning commission shall assume the same authority for design review for all projects located in the downtown specific plan area and for projects that the planning commission is the primary discretionary review authority, such as approval of a conditional use permit. The notice of public hearing shall include notice that the applicant is requesting approval of preservation incentives and identify the requested benefits. A request for incentives in conjunction with an application to modify an historic resource (OHP status code 1 through 5) must receive a recommendation from the Heritage Committee.

(A) Parking. The following benefits are subject to design review board approval, except when a conditional use permit is required, in which case the city council shall be the final approval authority, upon recommendation by the planning commission. The planning commission shall consider recommendations of the heritage committee for modifications to an historic resource (OHP status code 1 through 5).

(1) Single-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least one parking space has been provided on-site. When a second residential unit is being added to a historic structure under the provisions of Chapter 25.17 (Second Residential Units), parking shall be in accordance with the requirements of that chapter unless modified by the city council for purposes of achieving the goals of the historic preservation ordinance.

(2) Multiple-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the original square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.

(3) Historic resources (OHP code 1 through 5) located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.

(4) Properties identified with an OHP status code of 6L that are located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.

(B) Building Permit and Planning Application Fees. All building permit and planning

application fees for structures will be refunded for those projects if, prior to the finalization of the building permit, the heritage committee finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund unless the variance is required to restore an original historic feature of the building. A request for this incentive does not need to be included in a public notice.

(C) Building Code Deviations. The city may allow deviations from Title 14 of this code requirement when findings can be made by the director of community development that the historic building is in conformance with the state of California Historical Building Code. A request for this incentive does not need to be included in a public notice. Properties identified with a status code of 6L are not eligible for this incentive.

(D) Additions to Commercial Structures. Commercial structures may add up to fifteen percent of the existing floor area, not to exceed five hundred square feet, without providing additional parking and without bringing any existing nonconformities into compliance with current zoning regulations.

(E) Setback Flexibility. Additions to structures shall be allowed to maintain setbacks up to the line of existing encroachments; provided, that all setbacks as required by the Uniform Building Code are maintained for new construction.

(F) Rear Yard Setback Relief. New structures, or additions to existing historic structures, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.

(G) Density Bonuses. Structures located in the R-2 residential medium density zone, the R-3 residential high density zone, local business professional zone with an OHP status code of 1 through 5 or 6L, may add residential units at a density of one unit per one thousand square feet of lot area, provided the historic structure is preserved. Residential density credit for historically significant buildings shall be based on the lot size on which the structure is located, and shall not include adjoining parcels or lots under the same ownership; these residential density credits shall not apply if the historically significant building is demolished. See the downtown specific plan for the applicable density provisions related to the downtown specific plan area.

(H) Single-Family Density Bonuses. Properties located in the R-1, residential low density zone may be eligible for residential density bonuses for a second residential unit. See Section 25.17 for applicable provisions.

(I) Open Space Requirements. Properties which do not currently provide the required open space area may be enlarged or expanded without providing the required open space if it is determined that the proposed alterations will not diminish or detract from the historic significance of the original structure.

(J) Official Recognition. Properties on the historic register shall be eligible for special designation plaques. A request for this incentive does not need to be included in a public notice.

(K) Priority Processing. Properties shall receive priority building and planning/zoning division plan check processing. A request for this incentive does not need to be included in a public notice.

(L) Financial Incentives. Owners of properties with an on the historic register are eligible to apply for a Mill's Act contract. Owners of any historic property listed on the historic register are also eligible to apply for other local, state and national financial benefits, if any.

(M) Bed and Breakfast incentives. Refer to Section 25.22.050.

(N) Relief from Nonconforming Structure Requirements.

(1) Structures may be allowed to add more than fifty percent of the existing structure without bringing existing nonconformities into compliance if it is determined that such an

addition will not diminish or detract from the historic significance of the original structure, and if such addition is found to be compatible in scale and character with the surrounding neighborhood.

(2) Properties located in multifamily zones (R-2 and R-3), where only one unit currently exists, may apply for additional units without bringing existing nonconformities into conformance, if it is determined that the additional unit will not diminish or detract from the historic significance of the original structure, and if such additional unit is found to be compatible in scale and character with the surrounding neighborhood. Requests for this benefit shall be subject to design review approval with recommendation of approval provided by the heritage committee.

25.45.012 Procedures for the substantial alteration of a historic resource.

(A) Purpose and Intent. This section shall apply to properties listed on the historic register, that have been identified as an historic resource (OPH status code 1 through 5) under section 25.45.008.

(B) Review. Prior to the issuance of a building permit to substantially alter any historic resource, the design review authority shall review the proposed changes in accordance with Chapter 25.05 of this title and determine whether the proposal is consistent with the city's design guidelines. Interior changes shall not be reviewed unless the changes will alter a character defining features of the historic resource or if the interior area is publically accessible. Prior to design review, the heritage committee shall provide a recommendation on the proposed change(s). Repair or replacement of existing materials with in-kind or historically appropriate materials, in the same location, does not require design review approval. Minor alterations may be subject to Section 25.05.040 (B)(3).

(C) Historic Assessment. If a historic assessment has not been prepared for the property, the heritage committee or the design review authority may request that a historic assessment paid for by the city be prepared prior to the review of the project to evaluate the project impacts to the property.

(D) Environmental Determination. During its review, the design review authority will adopt the appropriate environmental determination pursuant to the California Environmental Quality Act. A historic assessment may be required to evaluate a project's potential environmental impact. Projects that comply with the Secretary of the Interior's Standards may be eligible for a categorical exemption. In addition, projects that are consistent with the design guidelines may be found to not significantly impact the historic resource.

(E) Pre-construction Meeting. Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector assigned to inspect the structure, a city staff member, the project architect/designer and historic monitor (if required). This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects in protecting and avoiding destruction of the identified historic fabric that is to be retained.

25.45.014 Procedures for the substantial alteration of a contributive (6L) property

(A) Purpose and Intent. This section shall apply to properties that have been identified with an OPH status code of 6L pursuant to section 25.45.008.

(B) Review. Prior to the issuance of a building permit to substantially alter a property with an OPH status code of 6L, the design review authority shall review the proposed changes in

accordance with Chapter 25.05 of this title and determine whether the proposal is consistent with the city's design guidelines. Windows and doors may be replaced in the existing opening with similar or new materials without design review.

(C) Design Guidelines. Substantial physical improvements and building modifications shall be designed and located in a manner that best preserves the city's village atmosphere and the existing streetscape. Design review is required to determine if a project complies with the city's design guidelines to ensure that the proposed modifications:

- (1) Maintain the current relationship to the neighborhood;
- (2) Are consistent with the pattern of open space existing in the neighborhood;
- (3) Are designed in such a way that visible mass conforms to the scale of the neighborhood and that the building heights are appropriate to the neighborhood;
- (4) Consider the existing setback pattern in the neighborhood;
- (5) Locate garages and driveways in a manner compatible with the established neighborhood pattern, and that new garages are designed to preserve the existing scale of the neighborhood; and
- (6) Incorporate compatible exterior materials, finishes and treatments.

#### 25.45.016 Historic Register Designation.

(A) Purpose and Intent. The purpose of the Laguna Beach historic register is to provide a means to preserve, protect and enhance the most significant historic resources within the community, including buildings, structures, sites, objects, and cultural or historic landscape features. All subsequent identified eligible resources shall be added to the register pursuant to the procedures established in this chapter. Properties listed on the register may be identified on-site with an exterior marker or plaque displaying pertinent information about the property. The current list of homes on the register will be kept on file with the city clerk.

(B) Designation Procedures.

(1) The property owner shall complete the application for the proposed designation on a form provided by the department, include all information required and file the application with the department.

(2) The heritage committee will review the application for designation. In its consideration of placement on the register, the heritage committee may request additional information and plans for any future planned changes to the structure. There shall be no filing fee for placement on the register.

(3) Recordation of a written agreement between the city and the property owner, acknowledging the owner's obligations and responsibilities to ensure preservation of the historic character of the structure shall be filed after the property is designated. This agreement is recorded with the County and will apply to any subsequent owners.

(C) Criteria for Historic Register Listing. Properties identified as having an OHP status code of 1 through 5 are eligible for listing on the register as the structures have been found to have individual historical, cultural, or architectural significance. Such properties must meet one of the characteristics listed in the definition of "historic resource" in section 25.45.004 of this chapter.

(D) Findings of the Heritage Committee. Upon review of the application and any supporting material, the heritage committee shall adopt findings that the registered property does or does not meet the definition of a historic resource, contained in this chapter. The findings of the heritage committee shall contain the following information:

- (1) Explanation of the significance or lack of significance of the property under consideration;
  - (2) Explanation of the integrity or lack of integrity of the property under consideration;
  - (3) Identification or the lack thereof of the important character-defining exterior architectural, site or landscaping features of the property under consideration;
- (E) Removal from the Historic Register. Removal from the register can be initiated by the property owner or by the city. An application shall be submitted and provide evidence that the property no longer retains its historic integrity and/or that the property does not meet any of the criteria listed in Section 25.45.016(C). A historic assessment may be requested as part of the application and will be paid for by the applicant. The decision to remove a structure from the register shall be considered at a public hearing by the city council with recommendation from the heritage committee.
- (F) Repayment or Restoration of Benefits/Incentives. The city council shall take into consideration repayment or restoration of any utilized benefits/incentives as set forth in Section 25.45.010 of this chapter when (a) the property owner or the city initiates a request to remove the structure from the historic register; or (b) anytime unauthorized modifications to the historic structure are made including demolition and partial demolition of an historic structure. Additional penalties for unauthorized demolition are also specified in Section 25.45.028 of this chapter. Filing fees for removal of a structure from the register shall be determined by resolution by the city council.

25.45.018 Historic property disclosure.

- (A) Agent Disclosure. If property has been included in the register by the city of Laguna Beach, or has been identified as property historic resource (OHP status code 1 through 5) under 25.45.008, the owner of the property or his representative shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property's listing on the register. Distribution of a current Real Property Report to the buyer shall satisfy the requirements of this section.
- (B) Penalty. Any person who violates the provisions of subsection (A) of this section shall be subject to the penalties and remedies specified in chapter 14.76.090 of the municipal code.

25.45.020 Procedures for demolition of a historic resource.

The following procedures shall be applied to all structures identified as historic resource (OHP code 1 through 5) under Section 24.45.008 of this chapter or those listed on the historic register.

- (A) Application. An application for demolition of a historic resource shall be filed with the department of community development. Demolition permits require that the applicant obtain a Coastal Development Permit and are subject to compliance with the provisions of the California Environmental Quality Act. ("CEQA")
- (B) Heritage Committee Review. Upon receipt of a complete application to demolish a historic resource, the department of community development shall, within thirty days, schedule the application to be reviewed by the heritage committee for a recommendation to the design review authority.
- (C) Design Review Action. After the appropriate environmental documentation has been prepared pursuant to CEQA, and the heritage committee has provided a recommendation, the design review authority shall address any project impacts, and identify project alternatives which may mitigate the defined project impacts. The design review authority shall consider project

mitigation measures. After conducting the public hearing, the design review authority shall either approve or deny the permit.

(D) Public Notice. Public notice for the design review hearing shall be subject to the provisions of Section 25.05.065, and Chapter 25.07.

(E) Demolition Approval. If the design review authority approves a permit for demolition, the permit is subject to a waiting period of ninety calendar days to consider relocation and/or documentation unless building relocation is included as part of the project mitigation measures as adopted by the design review authority.

(1) During the waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the city once a month for the first two months following the design review hearing. Such advertisement shall be one-quarter page in size and shall include a photograph of the structure, the address at which the structure proposed for demolition is located, information as to how arrangements can be made for relocation, and the date after which a demolition permit may be issued. Evidence of this publication must be submitted to the department of community development prior to issuance of a demolition permit.

(2) Any application for relocation of the structure shall be filed within the specified waiting period as determined by the design review authority.

(3) The design review authority may extend the waiting period up to one hundred eighty days if it determines that relocation is imminent.

(4) During the continuance period, the heritage committee may investigate relocation of the building or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

(5) During the continuance period, the applicant may pursue plan approval.

(F) Findings. Prior to the issuance of a demolition permit, the design review authority shall make one of the following findings:

(1) The action proposed is consistent with the purposes of the ordinance and the historic resources element of the general plan; or

(2) There are no reasonable alternatives to demolition.

#### 25.45.022 Unsafe or dangerous conditions.

None of the provisions of this chapter shall be construed to prevent any demolition necessary to correct the unsafe or dangerous conditions of any structure, feature, or part thereof, when such condition has been declared unsafe or dangerous by the building official or the fire chief and where the proposed measures have been declared necessary and permitted by such official to correct such conditions. A city permit is required prior to demolition. However, only such work as is necessary to correct the unsafe or dangerous condition may be performed. In the event any structure or other feature shall be damaged by fire or other calamity, the building official may specify, prior to the commission's review, the amount of repair necessary to correct any unsafe conditions.

#### 25.45.024 Property owned by public agencies.

Public agencies that own property in the city shall be notified of the provisions of this chapter and encouraged to seek the advice of the heritage committee before the construction, alteration, demolition, or relocation of any historic or potentially historic resource.

25.45.026 Property maintenance required.

(A) The city's intention is to preserve from deliberate or inadvertent neglect the exterior portions of any historic resource and all interior portions thereof whose maintenance is necessary to prevent deterioration of a historic resource. No owner, lessee, or occupant of any historic resource shall fail to undertake such repairs or maintenance as are necessary to prevent significant deterioration of the property beyond the condition of the property on the effective date the property is identified as a historic resource.

(B) No owner, lessee, or occupant of any listed property in the register shall fail to comply with all applicable provisions of this code and other ordinances of the city regulating property maintenance, including, without limitation, weed control, garbage, and housing.

(C) Before the city attorney files a complaint in municipal court for failure to maintain the historic property, the director shall notify the property owner, lessee, or occupant of the need to repair, maintain, or restore the property, and shall give the owner a minimum of thirty days to perform such work.

25.45.028 Illegal demolition-Penalty for violations.

(A) Penalties. The following penalties shall be determined by the city council after a public hearing, with a recommendation from the heritage committee.

(1) Undertaking the removal, demolition or major remodel of any identified historic resource or an unrated structure more than 70 years of age, without a permit to do so, shall result in up to a five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the structure.

(2) In addition to the repayment or restoration provisions of Section 25.45.010 of this chapter, any person who demolishes or partakes in a major remodel to a historic resource, without an approved building permit to do so, may be subject to an administrative penalty of up to one hundred thousand dollars for each violation.

(3) The determination of the application of these provisions and the amount of the penalty fee shall be determined at a public hearing by the city council upon recommendation from the heritage committee. The determination shall be based on the extent of the illegal construction and the benefits received, including setback and parking incentives.

**DRAFT**

**PLANNING COMMISSION  
MINUTES  
October 18, 2017**

A regular noticed meeting of the Planning Commission of the City of Laguna Beach, California, convened at 6:00 P.M. in the City Council Chambers on October 18, 2017.

**ROLL CALL:**

- Present: Chairperson Susan McLintock Whitin, Chair Pro Tem Roger McErlane and Commissioners Anne Johnson, Sue Kempf and Ken Sadler
- Absent: None
- Staff Present: Gregory Pfost, Director of Community Development  
Scott Drapkin, Planning Manager  
Martina Caron, Senior Planner  
Wendy Jung, Senior Planner  
Anthony Viera, Associate Planner  
Ann Marie McKay, Administrative Assistant

**PUBLIC COMMUNICATIONS**

John Thomas suggested that the City address the disparity between Planning Commission and City Council approvals, and the maximum occupancy load given by the Building Division and Fire Department that is posted on the wall. He commented that those occupancy loads are based on State Code criteria; no public notice or input is included, and the occupancy load can be much higher than the approved number of seats. Mr. Thomas stated that the Building Division and Fire Department will set lower occupancy loads if directed by the Commission or Council; therefore, he suggested that the occupancy load be included as part of the approvals.

**PUBLIC HEARINGS**

1. **Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.**

Martina Caron summarized the staff report.

**Questions of Staff:** Commissioner Johnson clarified her previous recommendation to designate a staff person to handle historic designations by either hiring an expert or training a staff person.

Commissioner Johnson also stated that the historic style guide should be written so that the public can easily understand it.



Ms. Caron responded to Commissioner McErlane that a property's historic character can be determined by the Heritage Committee, Design Review Board, City Council, etc. She advised him that there is generally a list of features and the level of success is generally determined by comparing the property to pristine examples that could be shown in the future "Style Guide".

Ms. Caron explained to Commissioner McErlane that if the Director determines that a property is not historic, notifications will be sent out; otherwise, the determination will go to the Heritage Committee for review and public hearing notices are mailed for items on the Heritage Committee's agenda.

Commissioner Whitin recommended that a parking study be required if more than 15 additional parking credits would be required for a project; Commissioner Johnson agreed.

**Public Testimony Regarding the Project:** Joanna Felder, President of Village Laguna, read the letter submitted by the Laguna Beach Historic Preservation Coalition, which lists several reasons why they believe the draft ordinance is deficient and should be rejected.

Charles Brickell, Laguna Beach Board of Realtors, thanked the Commission for having the disclosures tied to the RPR (Real Property Report); however, he stated that property owners need more certainty. He stated that there are too many subcategories, no opt-out provision and no voluntary component. He also noted that the 70-year range would affect 37% of properties in the City.

John Thomas supported the proposed parking cap, commenting that waiving 15 spaces is worth about \$2 million. He suggested including language that if there is a conflict with other City codes, then the limit within this ordinance prevails. He also recommended adding language to address evasion techniques of splitting projects by including an additional aggregate cap that includes the combined waivers of outdoor dining, grandfathered, historic incentives, etc., so that there are two caps, with the higher cap combining all waivers.

Dean Harbold, 615 Thalia Street, stated that his house, purchased in 1970, is less than 900 square feet and anything but historic. He stated that the house was built prior to 1945 and because it was not hidden like his neighbors' properties, it was identified in the Inventory. He commented that many repairs have been made without any incentives being received. He requested the removal of C-rated properties as historic resources and that the process be made voluntary.

Robert Owens, 12 South La Senda Drive in Three Arch Bay, commented that every house on his left and right were torn down, yet three years ago he was told that his property is historic. He urged the Commission to vote no on the ordinance and to declassify C-rated properties.

David Vendler commented that 70 years seems arbitrary, the City may want to preserve younger properties. He commented that his property was built in 1941 and was not included in the Inventory done in the 1980s. He did not understand what has changed, since the properties have not.

Loraine Mullen-Kress, speaking as a realtor, commented on the process for historic determinations, which could take 90 days, and a property's status may not be known until the RPR is received. Ms. Mullen-Kress argued that this is an unjustifiable hardship for owners of old homes. She stated that

the determination should be provided with the RPR if requested, and the City should accept responsibility.

Paul Quast, 20 Lagunita, stated that 70 years is an arbitrary number to determine historicity and violates the Bill of Rights by amounting to seizure of property.

Ming Ge admitted that he has not read the ordinance, but he questioned the major purpose and commented that old does not necessarily mean historic. He concurred that it is arbitrary.

David Michelson, 35-year homeowner, commented that the common request from the public is for the process to be voluntary. He stated that he does not have an issue with historic preservation and supports the Register. He questioned if it is reasonable to expect properties not to be altered and suggested that the City focus more on commercial properties, which he asserted is the true intent of the Registry. He agreed that the Inventory should be eliminated.

Michael Ray, North Laguna, stated that he is tired of new City regulations, turning the City into a giant HOA. He argued that the draft ordinance is not fair to anyone and he suggested that the City obtains a legal opinion regarding the likelihood of the City losing in a class action lawsuit.

Elisa Slee, owner of 806 Cliff Drive, stated that the property was never on the Inventory and they were told it was a 6L, yet after they hired an architect for some renovations, the property suddenly became historic. She requested that the program be voluntary.

Curtis Wollman, property owner, adamantly opposed any forced taking away of rights to modify or repair his property. He questioned who would be liable if someone is injured while waiting on a determination and he requested that the program be voluntary and incentive-based.

Pat Carpenter, resident since 1963, spoke about property rights and unequal treatment. He asserted that the ordinance negatively affects what property owners can do, adding costs in time and materials, and the draft ordinance will not solve that problem. He argued that the ordinance takes away value without the property owner's permission, which is a taking of property rights. Mr. Carpenter noted that an ordinance is not required and he stated that the City's design review process takes historic and neighborhood significance into consideration. He supported protection of charming neighborhoods and historic preservation, but only if it is voluntary and incentive-based.

Eugene D'Isabella reiterated his previous statements and requested that the program be voluntary.

Cheryl Herfurth, Jasmine Street, commented that she respects that the City is trying to preserve its charm and understands that the Commission is trying to strike a balance. She stated that keeping historic preservation in mind makes Laguna unique.

Larry Nokes stated that the City has well-defined property development standards, and the draft ordinance adds an extra level of restriction. He stated that "historic resource" is defined by the Public Resources Code as a property placed on a Register or properly maintained Inventory. Mr. Nokes commented on insubstantial changes and penalties for not maintaining a property or demolishing it, and he argued that the ordinance is not fair. He stated that historic resources should only be those that have voluntarily been placed on the Register.

Ann Christoph requested that staff explain again the issues of an opt-out provision, the role of CEQA and voluntary limitations before opening the hearing for more testimony in the future. She agreed that the draft ordinance is not ready because it should be more effective, fair and understandable; however, she did not agree that it should be abandoned.

Luck Patterson, representing the owners of a C-rated property in Woods Cove, noted that everyone has asked for a voluntary program.

Linda Fluent, Woods Cove resident for 25 years, stated that she is upset that her home could be encumbered, noting that others around her have rebuilt and added on.

John Alexander commented on voluntary versus involuntary, acknowledging that the State requires properties to be evaluated; however, he noted other cities that have voluntary historic preservation programs.

Alex Tabrizi, South Laguna, noted that the City has a stringent design review process, which he argued is enough to preserve historic properties. He urged the Commission to vote no on the ordinance.

Betty Haight, artist in town, stated that sometimes junk is just junk, and she requested that the Commission vote no on the ordinance.

Jeff Benedick requested that the Commission think hard about how to restructure the ordinance to limit CEQA, provide relief to property owners, rely to the maximum extent voluntary participation, reject more laws, consider lessons learned of other cities, rely on the Mills Act as the only meaningful financial incentive and repeal the use of perpetual agreements. He commented that such programs have been successful in other cities.

Larry Toomey, 48-year resident of South Laguna, stated that her home was built in 1937 and they declined to be on the Historic Inventory. She argued that the process is arbitrary.

Hillary Cole read a letter from her mother, and expressed concerns with the Heritage Committee making determinations with no training. She argued that the City has a gross misreading of CEQA.

Kathleen Robinson stated that her home is not on any list. She commented that there are laws for safety, and her husband is the builder that worked on the Wave Street home. She commented that historic properties are expensive to keep up and she asserted that values will drop if the draft ordinance is passed. She requested that the Commission vote no on the ordinance.

Sam Goldstein, commercial property owner and Laguna resident, commented that he has been through the process, and a motivating factor was parking incentives. He argued that without those incentives, buildings will not be revitalized, leading to a declining real estate environment.

Curt Barwick asserted that the draft ordinance is the largest regulatory overreach he has seen in 30 years. He suggested that the City look at other cities, such as Manhattan Beach, which added an owner opt-in provision in its 2016 ordinance, which states that the city shall not designate a property without the owner's consent.

Sharon Walter, Victoria Beach, warned that there would be a massive class action lawsuit if the ordinance is passed.

Duane Vajgrt, noted that most people have been against this ordinance, and that neither side supports the draft ordinance. He opined that historic preservation has been implemented better in other cities, with a voluntary approach, and he requested that the Commission not adopt the ordinance as written.

Roy Gallagher, 787 Manzanita Drive, stated that his home is generational and his mother could not afford to repair it because of its historic designation. He stated that the City's treatment of 6L (C-rated) properties has nothing to do with CEQA. Mr. Gallagher stated that he never received any perks and he agreed that the program should be voluntary and incentive-based.

Marshall Innis stated that he understands the concepts, but he does not agree with the staff report and draft ordinance. He assured that he is not anti-historic, and he agreed with eliminating the Inventory.

Ed Sauls stated that he has been in Laguna for 37 years and witnessed the community support during the 1993 fire. He stated that his home went through the process to be remodeled and explained that he wants good public policy, his property will not be affected. He asserted that the draft ordinance does not address CEQA and there is a better way.

**Staff Response:** Kathy Jenson, City Attorney, explained that per CEQA (the California Environmental Quality Act), properties with California Historical Resource Status Codes 1 through 5 are historic resources, and development applications must be reviewed for historic significance as part of the discretionary review process. Regarding the 70-year trigger date, Ms. Jenson noted that the original recommendation was 45 years, to align with other trigger dates. She explained that the trigger date does not automatically identify a property as a historic resource, it is just a screening mechanism.

Regarding State versus local requirements, Ms. Jenson explained that C-rated properties are regulated locally. She noted that the draft ordinance specifies that those properties are not historic resources, but should have special considerations. Ms. Jenson noted that references to the Inventory were removed and being on the Register is voluntary. She also noted that the draft ordinance provides a mechanism for an applicant to obtain a rating voluntarily, and the draft ordinance now refers to State guidelines. Ms. Caron added that an appeal process has also been included, which is not currently available. She noted that the General Plan lists specific styles that may be deemed historic, and the connection to a significant person may make a property a historic resource. Ms. Caron clarified that a property would not have a rating unless it is currently on the Register, or until a rating evaluation is conducted.

Ms. Caron confirmed for Commissioner Kempf that though there are properties in Laguna Beach that may be eligible for the State Register, none are officially registered with the State.

Ms. Jenson reiterated that the Register and the incentives are voluntary, but compliance with CEQA is mandatory; with discretionary permits, a historic assessment must be done. Ms. Caron added that the City elected to have a Historic Preservation program.

Regarding the assertion made that the ordinance constitutes seizure or property and regulatory overreach, Ms. Jenson disagreed, stating that the ordinance contains typical requirements, and other cities use trigger dates less than 70 years. She stated that historic preservation requirements are similar to other requirements such as geological reports.

Regarding policies in other cities, Mr. Pfof explained that the discretionary nature of Laguna Beach's development process is different from other cities. Ms. Jenson added that Laguna Beach falls under the Coastal Act, bringing in Coastal Development Permit requirements.

Regarding CEQA, Ms. Jenson reiterated that discretionary reviews, which are those that require a public hearing, must assess whether historic resources will be impacted. It was confirmed for Commissioner Sadler that the "voluntary" nature of the program changed when historic resources were added to CEQA. Mr. Pfof explained that the draft ordinance tries to create voluntary procedures.

It was confirmed for Commissioner Whitin that historic resources are only those with California Historical Resource Status Codes 1 through 5, which includes properties currently on the Register. Mr. Pfof added that properties with a California Historical Resource Status Code of 6L do not have to comply with the Secretary of the Interior's Standards.

Commissioner Johnson commented that the ordinance recognizes that safety trumps all.

**Commissioners' Comments:** Commissioner Sadler acknowledged that many are against the draft ordinance; however, he asserted that there are many misunderstandings and misinterpretations of what the draft ordinance proposes. He acknowledged that many people's primary residence is their biggest asset; however, he noted that the City is amending an existing ordinance. He stated that they are trying to improve the process and make it less onerous, especially for those with lower ratings. He stated that the "C, K, E" rating system was an arbitrary system and he agrees with using the State's system, which identifies those with ratings 1 through 5 as historic and others are not. Commissioner Sadler noted that C-rated properties were considered historic resources by the City, but the draft ordinance changes that, per the State system, lessening the burden for those property owners. He noted that the Inventory was done in the 1980s and the Commission decided not to recommend adopting an updated Inventory. He also noted that the Register is voluntary. Commissioner Sadler stated that the City must evaluate historic significance for discretionary approvals to determine if historic resources are impacted. He commented that the Commission decided to go from 50 to 70 years as a trigger date in order to not be as restrictive; having no date would mean every single property must be evaluated. He reiterated that the City is trying to draft the ordinance so that the process is less burdensome; if the City keeps the existing ordinance, C-rated properties would continue to be historic resources and would have to meet Secretary of the Interior Standards.

Commissioner Kempf commented that the discretionary processes in the City keep Laguna how we like it. She stated that she has issues with the draft ordinance because she believes inclusion in historic preservation should be voluntary. She stated that she is not opposed to looking at other ordinances for ideas. She agreed with removing C-rated properties and acknowledged that CEQA cannot be avoided; however, she did not support the ordinance as written.

Commissioner McErlane commented that the process of drafting the ordinance has not been user-friendly or effective in educating people. He supported Commissioner Sadler's view, agreeing that the draft ordinance improves the existing process and meets community goals. Commissioner McErlane noted that per CEQA, historic reviews must occur. He stated that he supported a Citywide Inventory because everyone's property status would be known. Commissioner McErlane explained that the 70-year trigger date was derived because the architecture changed around 1946-47, at the end of WWII. Commissioner McErlane supported the draft ordinance, stating that it is a good attempt to refine the process.

Commissioner Johnson commented that the old ordinance would stand if nothing is done and she argued that the draft ordinance is an improvement over what exists. She commented that laws govern use of property. Commissioner Johnson requested that the draft ordinance be clarified that "insubstantial" means changes that can be approved over-the-counter. She agreed with most of Commissioner Sadler's and Commissioner McErlane's comments, and she was ready to support a recommendation that the City Council adopts the ordinance.

Commissioner Whitin commented that the draft ordinance is an amendment to an existing ordinance. Regarding Commissioner Kempf's comments about voluntary participation, Commissioner Whitin noted that only structures on the voluntary Historic Register are pre-determined to be historic resources. Commissioner Whitin stated that the ordinance seeks to protect Laguna's character; age is just a filter and could be reconsidered. She noted that a lot of incentives have been added, and she stated that she will support the recommendation, with changes. She asserted that the definition of "insubstantial alterations" on page 9 of the staff report is too broad. She also commented that the first sentence of that definition says "resource," though the intent is not to identify a historic resource. She recommended that the definition be revised to say that the examples listed are permitted.

Regarding the definition of "Contributive property," Ms. Caron explained to Commissioner Kempf that the characteristics listed came from the General Plan. Commissioner Johnson suggested that the characteristics be listed in the style guide rather than the ordinance.

Regarding the definition of "historic resource," Commissioner Whitin stated that only items (7) through (10), the State standards, should be listed.

Regarding Section 25.45.012(B), which mentions interior changes, Ms. Caron explained to Commissioner Kempf that the statement applies to the National Register and generally applies to commercial properties. Ms. Caron stated that the *Taverna* property is an example where interior areas have historic elements.

Regarding the "Property rating evaluation" section on page 10 of the staff report, Commissioner Kempf asserted that the onus needs to be on the City, not the property owner. Ms. Caron clarified that the property owner may voluntarily request a rating evaluation when there is no other triggering event for such an evaluation to occur.

Commissioner Kempf suggested removing the extra criteria for 6L properties.

Commissioner Whitin noted the process on page 15 of the staff report that allows applicants to apply to be removed from the Register.

Commissioner McErlane questioned how the ordinance protects neighborhoods from the negative impact of historic parking credits and Ms. Caron summarized the explanation of page 2 of the staff report. Commissioner Johnson suggested providing examples or clarification of when parking demand studies would be required. Commissioner Sadler recommended highlighting this issue City Council discussion, and also highlighting the penalties, considering recent Council decisions.

Motion RM Second AJ Action Recommend that the City Council adopt the draft Ordinance as amended. Motion carried 4-1.

Vote: Johnson Y Kempf N Sadler Y McErlane Y Whitin Y

2. **Conditional Use Permit 17-2157, to establish and operate a one-on-one personal training studio at 837 Laguna Canyon Road (Festival Center).**

Wendy Jung summarized the staff report, noting that no correspondence has been received regarding the application.

**Questions of Staff:** Ms. Jung responded to Commissioner Sadler that a sign application has not been submitted.

**Public Testimony Regarding the Project:** Ann Larson, consultant representing the applicant, explained to Commissioner Whitin that the reason the locker room is so large for a proposed one-on-one personal training studio is because the area has an odd shape, and clients will be able to rent lockers.

Ms. Larson responded to Commissioner Johnson that the parking requirement for group training is higher. Though the previous use included a design studio with retail, Mr. Drapkin explained to Commissioner Whitin that gyms can create substantial parking issues; therefore, staff recommends that the applicant request an additional review if he desires to expand to such a use. Commissioner Kempf commented that the applicant's hours of operation would likely allow for a successful shared parking arrangement and Mr. Pfof responded that the Planning Commission could allow the retail-equivalent so that the use would not be considered an intensification.

Ryan Haley, applicant, advised that currently the only employees would be himself and one additional person to help with administrative work.

The Commission agreed with Ms. Jung's recommendation to revise the approval to a maximum allowable occupancy using the computation for retail use of 1/250, for the studio space. Commissioner Johnson also requested that the approved use be changed to "personal training studio," removing "one-on-one."

Hillary Cole requested that the Commission allow the applicant to come back to revise the approval once the City has updated its parking code, because the occupancy restrictions are based on parking spaces.

Motion AJ Second SK Action Approve Conditional Use Permit 17-2157 at 837 Laguna Canyon Road, subject to amended conditions. Motion carried 5-0.

Vote: Johnson Y Kempf Y Sadler Y McErlane Y Whitin Y

3. **Downtown Specific Plan Update – Receive a presentation and discuss the Planning Commission subcommittee’s suggested revisions to MIG’s recommended changes to land use permitting (MIG’s Table 1) for the Downtown Specific Plan.**

Wendy Jung summarized the staff report, noting the additional correspondence received today.

**Public Testimony Regarding the Project:** Ann Larson, representing Mark Orgill, stated that they agree with the staff recommendation on uses. She noted that the problem with having an administrative process like design review is if someone opposes the project, it is automatically sent to the Design Review Board, which is a two-tier process. Ms. Larson agreed with the ad hoc committee regarding the need for a retail expert. Regarding the table, Ms. Larson noted that hotel/motel is currently “not listed” and she recommended allowing uses such as the Laguna College of Art & Design’s “hostel”-type uses, which the California Coastal Commission encourages. Ms. Larson also supported permitting outdoor display, and allowing offices on the ground floor in the Civic Art District.

Norm Grossman, ad hoc committee, stated that there are too many unanswered questions. He commented that the City could possibly combine Districts and recommended that the City look at uses after the Districts have been defined, because the “intent and purpose” of the Districts may change. He supported staff on the suggestion of by-right or Conditional Use Permit approvals because Minor Use Permit (MUP) has not been defined. Mr. Grossman noted that the Districts will be reviewed thoroughly during the review of Section V, and recommended that this discussion be delayed until after that review.

Hillary Cole supported an administrative approval process to ease the process. She expressed concerns about the various Districts, arguing that the downtown should be more integrated to create better walkability.

**Staff Response:** It was confirmed for Commissioner McErlane that the Civic Art District is part of the Downtown Specific Plan area. He expressed concerns about downtown uses spreading out to the Civic Art District. Commissioner Johnson commented that those uses already exist and the subcommittee’s recommendations are to provide some flexibility for development potential. Mr. Pfof commented that staff agrees with the ad hoc committee on consolidating land uses, the permitting process and the need for a retail consultant.

**Commissioners’ Comments:** Commissioner Johnson agreed with the staff recommendation.

Commissioner McErlane commented that people need adequate direction on what uses would be allowed, and he stated that the Civic Art District needs to be better defined.



**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 1 **DATE:** 10/18/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, CEQA Guidelines Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.

**BACKGROUND:** On March 15, 2017, staff provided an introductory presentation to the Planning Commission regarding the proposed draft Ordinance. A staff report provided the history of the draft Ordinance and suggested topics for discussion. The Commission then continued the review of the draft Ordinance to the April 19, 2017 Planning Commission meeting. Following, the Commission reviewed various drafts of the Ordinance at its April 19, June 7, July 5, and September 6, 2017 meetings. At the last meeting on September 6, 2017, the Commission reviewed the previous draft Ordinance (released August 25, 2017) line-by-line and made several wordsmithing recommendations. These recommendations are noted in the September 6, 2017 Planning Commission Minutes, which are attached as Exhibit B. Additionally, the Commission recommended that staff update the draft Ordinance to utilize the State Historic Status Codes and provide an analysis of the historic parking incentive. The Commission continued its review of the draft Ordinance to the October 18, 2017 meeting.

The Commission has also made the following additional recommendations (not Ordinance-related) for Council consideration:

1. The City should hire a designated staff person to administer the historic program, review process and assessments;
2. Additional historic training should be provided to the Design Review Board and the Heritage Committee;

3. A historic style guide should be developed and the City’s Design Guidelines/Criteria should be amended to help provide standards for historic property review (City Council approval would be required for this task).

**STAFF ANALYSIS:** Staff has updated the draft Ordinance to include the Commission comments from the September 6, 2017 and previous meetings. Recent draft Ordinance changes including an analysis of the historic parking incentives, draft Ordinance consistency with the General Plan, and the historic rating classification changes are indicated below:

Historic Parking Incentive:

At the previous Commission hearings, the Commission noted its concern with the existing commercial historic parking incentive and directed staff to update the draft Ordinance so that potential neighborhood impacts and available offsite and on-street parking be considered when reviewing the historic parking reductions. On September 6, 2017, the Commission reviewed updated language that required a parking analysis be submitted in conjunction with an application for a commercial historic parking incentive. The Commission noted that the allowed parking incentive percentage reductions (50% and 75%) should be reduced. However, staff expressed concern that this modification would be detrimental to smaller structures. Therefore, the Commission requested that staff provide further analysis at the next hearing.

Based on review of the current historic parking incentive provisions, staff is concerned that the Municipal Code regulations for historic parking incentives do not consider the actual net parking space reduction and their potential off-site parking impacts. Recently, most historic commercial parking reduction applications have been submitted for the conversions of retail to restaurant uses or for restaurant expansions. In order to best understand how this parking reduction is currently applied, staff reviewed several scenarios regarding the parking reductions and the change from a retail to restaurant use. (Note: retail uses are parked at a ratio of 1 vehicle per 250 square feet of floor area, and restaurant uses are parked at 1 vehicle per 100 square feet of floor area.) Table A below shows four different scenarios and how the percentage reduction translates into parking spaces.

Table A. Historic Parking Incentive Comparisons

Conversion from Retail to Restaurant with no Expansion

Building Size	Retail Rqmt 1/250	Restaurant Rqmt 1/100	Parking Space Incentive	Percent Incentive
1,000 s.f.	4	10	6	60%
2,000 s.f.	8	20	12	60%
2,500 s.f.	10	25	15	60%
3,000 s.f.	12	30	18	60%

As noted above in Table A, the parking reduction incentive can vary greatly depending on the existing building size. Concerns have been expressed with applying the current allowable reduction percentages (up to 50% for C- or K-rated structures and up to 75% for E-rated structures) to existing large buildings with no (or deficient) onsite parking, and the potential neighborhood parking impacts that can result. Given this concern, staff believes that the commercial historic parking incentive could

include a cap to a limit the maximum parking space reductions. After reviewing the table above and assessing the average size of buildings in town, staff believes that a 15-space cap reduction should be incorporated into the draft Ordinance. The cap will allow smaller structures to be expanded or converted, while placing a limit on the intensification of the larger structures, which can create neighborhood impacts. The language in the draft Ordinance has been updated to reflect this change and to allow all structures with a status code of 1 through 5 up to a 75% reduction (previously K-rated structures were allowed up to a 50% reduction). Below is the revised language as noted in the draft Ordinance:

*(3) Historic resources (OHP code 1 through 5) located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.*

*(4) Properties identified with an OHP status code of 6L that are located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent or 15 parking spaces, whichever is more restrictive, and the parking reduction shall be based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study, may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering proposed parking reductions.*

#### California Historical Resource Status Codes:

At the previous Planning Commission meeting on September 6, 2017, the Planning Commission recommended that staff revise the draft Ordinance so that the existing “E”, “K” and “C” ratings be updated to reflect the State status codes. Staff has updated the Ordinance to include these State status codes. As indicated in the draft Ordinance, K and E-rated structures, which are historic resources, will now be rated referenced with the appropriate 1 through 5 State Status Code. C-rated structures will be assigned a rating of 6L, because these structures are not considered to be historic resources, but are proposed to be given special consideration in the planning review process (as noted in draft Section 25.45.014).

#### **General Plan Compliance:**

The Planning Commission has received comments from the public that indicate that the draft Ordinance will not be consistent with the General Plan, specifically as it relates to the policies listed below. Staff does not believe this is the case and a discussion regarding the topics is provided below:

#### Land Use Element:

*Action 2.2.1: Update the City’s Historic Resource Inventory. (Short-term implementation.)*

#### Historic Resources Element:

*Policy 1.1: Create a Historic Preservation Task Force to review and update the Historic Resources List (Inventory).*

*Policy 1.4: Expand the Mill’s Act Contract program to include “K” and “C” rated structures as “qualified structures.”*

Staff believes that the draft Ordinance is consistent with the General Plan. When the Historic Preservation Element and Ordinance were initially adopted, the Inventory was a resource document that only covered certain structures within the City. It was not Citywide. The original Inventory indicated whether structures were eligible for the Register and it had no bearing on the processing of a project. In 2006, the Ordinance was amended to address demolition and illegal demolition of structures listed on the Inventory, but no other processing requirements have been set forth in the Ordinance for structures listed on the 1981 Inventory. Additionally, under the draft Ordinance, the Inventory will essentially be updated property by property, when a 70+ year old property goes through the rating evaluation process.

Further, in 2012, the City Council reconsidered what properties should be eligible for the Mills Act, and reconfirmed its desire to have the Mills Act apply to E and K-rated properties. The City's current ordinance reflects this, and no substantive change is being proposed.

**LOCAL COASTAL PROGRAM:** Certification of a Local Coastal Program Amendment is required by the California Coastal Commission because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval. The proposed Ordinance will not be in force or effect unless and until such approval is granted.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** The adoption of the revised ordinance is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to section 15308 of the State CEQA Guidelines, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. The fact that C-rated structures will no longer be eligible for the City's Register does not negatively affect historic resources. Any C-rated structures that are currently on the Register are historic resources and will continue to be protected. C-rated structures that were never placed on the Register are not historic resources as defined by CEQA. The City's historic consultant confirmed that while C-rated structures were locally recognized, they are classified as having a California Office of Historic Preservation status code of 6L. Status codes of 1 through 5 are considered historic resources. Thus, the C-rated structures are not historic resources under State law.

In addition, the fact that the Coastal Commission will need to approve the revised Ordinance as an amendment to the City's certified Local Coastal Program creates an additional exemption. Public Resources Code Section 21080.5 and Section 15265 of the State CEQA Guidelines exempt actions of local governments for approvals and amendments to local coastal plans. This is because the Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process.

**CONCLUSION:** The Planning Commission has reviewed the draft Ordinance amendments and received public comment during five public hearings. Prior to the Planning Commission hearings, the Heritage Committee and the Design Review Board also reviewed and commented on the draft Ordinance, and their comments were forwarded to the Planning Commission for consideration in its

recommendation to the City Council. Since the Planning Commission's first review of the draft Ordinance, Commissioner concerns and comments and have been addressed in the current draft Ordinance. Staff believes that the attached draft Ordinance reflects all previous direction of the Planning Commission, and that the Planning Commission should provide the City Council with a recommendation to approve the draft Ordinance.

**RECOMMENDATION:** Staff recommends that the Planning Commission recommend that the City Council adopt the draft Ordinance as set forth in the attached Resolution.

**ATTACHMENTS:** Exhibit A: Revised draft Ordinance (clean version 10/4/17)  
Exhibit B: 9/6/17 PC Minutes and Staff Report (w/o attachments)  
Exhibit C: California Historical Resource Status Codes  
Ordinance (strike-through version)

Approved 10/4/17

**PLANNING COMMISSION  
MINUTES  
September 6, 2017**

A regular noticed meeting of the Planning Commission of the City of Laguna Beach, California, convened at 6:00 P.M. in the City Council Chambers on September 6, 2017.

**ROLL CALL:**

Present: Chairperson Susan McLintock Whitin, Chair Pro Tem Roger McErlane and Commissioners Anne Johnson, Sue Kempf and Ken Sadler

Absent: None

Staff Present: Gregory Pfof, Director of Community Development  
Scott Drapkin, Planning Manager  
Martina Caron, Senior Planner  
Wendy Jung, Senior Planner  
Anthony Viera, Associate Planner  
Ann Marie McKay, Administrative Assistant

**PUBLIC HEARINGS**

- Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.**

Martina Caron provided a presentation, summarizing the history of the ordinance and the information in the staff report.

**Questions of Staff:** Commissioner Kempf noted previous discussions regarding voluntary participation, enhanced incentives and opting out and Mr. Pfof explained that the rating evaluation process is meant to address the "opt out" issue. Ms. Caron noted that the Heritage Committee discussed an opt-out provision, but decided against including such a provision because even if a property is removed from the Inventory, it may still be considered a historic resource under CEQA (California Environmental Quality Act), and therefore such a provision may be misleading.

Commissioner Sadler requested further clarification regarding the elimination of references to the Inventory, but maintaining it as a resource document. Ms. Caron explained that the rating of properties currently on the Inventory is not presumed accurate because the Inventory is not valid to give rise to a presumption regarding historicity for CEQA purposes; therefore, further investigation is required to make a historic status determination. She stated that, potentially, many of the properties on the Inventory may be determined to not be historic; properties will be reviewed on a case-by-case basis, with the historic determination made during the review process. Ms. Caron

confirmed for Commissioner Sadler that all properties currently on the Inventory are over 70 years old.

Commissioner Sadler noted that C-rated properties on the Register are considered historic resources but those on the Inventory are not; Kathy Jenson, City Attorney, reiterated that because being on the Inventory does not give rise to a presumption regarding historicity for CEQA purposes, all properties on the Inventory that have not been assessed will be re-evaluated if a development application is submitted, for a historic determination. Ms. Caron confirmed for Commissioner Sadler that per the draft Ordinance, C-rated properties would no longer be allowed to be placed on the Register unless they are eligible for a rating upgrade. Ms. Caron noted that currently, properties are required to be on the Register for incentives, whereas in the new draft Ordinance, properties are eligible for the incentives without being on the Register.

**Public Testimony Regarding the Project:** Bonnie Hano stated that she is confused about the new ordinance, and she spent 12 years on the Heritage Committee. She commented that now no one will know if their property is historic unless work is proposed to be done. She stated that she would be furious to discover her house was historic after she bought it, and such a process is unfair and will be costly for the City. Ms. Hano commented that in the past people were able to opt out, then CEQA was passed because of the public benefits associated with historic preservation. She stated that it is important for people to understand those benefits and she submitted that the proposed ordinance will kill Laguna.

Johanna Felder, President of Village Laguna, commented that the draft Ordinance is intended to make the process easier, but she argued that it makes the situation worse because it is full of ambiguities that make it hard to understand and use. She argued that the abandonment of the Inventory throws the whole program into limbo, and the result will not satisfy anyone. She noted that there are a number of inconsistencies and requested the Planning Commission's consideration of those concerns before making its recommendation.

Charlotte Masarik also commented on inconsistencies, noting that C-rated properties would not be allowed to be listed on the Register, but would be eligible for incentives if an agreement is signed, and she questioned the difference. She noted that there are 80 C-rated structures currently on the Register and questioned how that is justified. Ms. Masarik noted that the rating system in section 25.45.008 suggests that C-rated properties have historic significance and in section 25.45.010, C-rated properties are eligible for nearly all incentives, but they do not require a recommendation from the Heritage Committee; therefore, she commented that less valued properties have an easier road to benefits.

Gale Keller, 1580 Galan, read parts of the email she submitted, questioning who exactly "staff" is, the need for an Inventory and the threshold review date. She argued that the draft Ordinance needs a lot more work.

Leah Vasquez thanked everyone, particularly Commissioner Whitin. She noted that the City Attorney pointed out that downgrading the Inventory to a resource document throws everyone into a "no-man's land," which Ms. Vasquez argued is apparent in the revised draft Ordinance. She asserted that there will be an enormous impact by including all structures 70 years and older, with property owners uncertain until they are at the counter, and also for the staff time that will be required and for the community, who will be paying for that time. She commented that there is the

mistaken notion that the Inventory was carelessly done; but in fact it was done by qualified consultants, following accepted guidelines, and adopted by resolution. Ms. Vasquez stated that the properties placed on the Inventory were the best representative examples, and it qualifies as a local register of historic resources, which has no five-year update rule to be valid.

Elisa Slee stated that she purchased her property May 30, 2013, and it was not on the Inventory. She stated that staff had a consultant do a street assessment, and the consultant categorized her property as a 6L; however, when they submitted their application for a remodel, they were advised that a historic assessment was required, and the assessment categorized her property as a K. Ms. Slee stated that when they protested this rating, staff advised them that they would need to pay additional fees for another review. Ms. Slee expressed her exasperation over the costs of all the reviews and fees required to try to expand her 1,000-square-foot cottage to 1,500 square feet. She assured that she loves her cottage and wants to live in town, but the process has been expensive and demoralizing.

Jahn Levitt commented on the inconsistencies created in making C-rated properties not historic. She noted that C-rated properties are excluded from Heritage Committee review and Building Code deviations, yet must be under a written agreement to preserve the property in order to obtain benefits. She also noted that age alone has implications for demolition; therefore, she submitted that information should be shared with prospective buyers. Regarding demolition, Ms. Levitt argued that Coastal Development Permit considerations are meaningless in regards to protection of C-rated properties because no history-related findings are required, and the Design Review Board only hears the proposal when there is a replacement plan. Therefore, Ms. Levitt suggested that the preservation requirements, including the demolition section, be extended to all structures with preservation agreements.

Erin Sparkuhl, whose family has been in Laguna since the 1950s, introduced the Nokes & Quinn presentation, explaining the legislative history of the City's Historic Preservation Ordinance. She noted the original intent in 1981, and commented that the designation is now a burden and not a benefit. She noted that the reason the Inventory was adopted in 1982 was so the City could get a grant. Duane Vajgrt, 43-year resident, continued with the presentation, noting that in the 1989 draft of the ordinance, the tone changed. He noted that at the May 1989 City Council meeting, property owners requested clarification, and the mayor sent the ordinance back to the Planning Commission, directing the requirement of an affirmative statement from property owners and instructions that properties placed on the Register would be at the pleasure of the owner, not the City. Marshall Innins continued the presentation, referencing the May 4, 1989 News-Post article, which noted that inclusion on the list was the greatest problem. He read Mayor Gentry's quote, which states that it was never the City's intention to force participation, but rather for it to be voluntary. He then noted that in April 1992, the chair of the Heritage Committee reiterated that participation is voluntary. Larry Nokes concluded the presentation by explaining that it is important to understand the context of how the Inventory was born and how people perceived it. He agreed with Ms. Caron regarding the incentives but stated that the issue is with retaining the ratings. Mr. Nokes suggested that if the City wants to use ratings, then allow property owners to submit applications, then use the State classification codes, which are precise and specific.

Cathy Jurca stated that she was attracted to Laguna because of its robust preservation program, and is disappointed to see it weakened. She recommended adopting the Inventory; otherwise, there will be more uncertainty. She stated that there is a misperception that you can somehow opt out of



being historic; adopting the Inventory lets people know the status of their property. She also suggested changing the threshold review date to 50 years to reflect Federal, California and every other standard. She argued that a 70-year threshold will make people incorrectly assume their mid-century modern home is not historic. Ms. Jurca also submitted that C-rated properties that receive incentives should go to the Heritage Committee and be eligible to use the California Historical Building Code exemptions.

John Thomas, referencing section 25.45.010(A)(3) and (4) regarding parking incentives, commenting on the issues with parking reductions, and suggested that in addition to a percentage limit, a numerical limit be included. He also stated that further guidance is needed on when a parking study is required. Mr. Thomas suggested that both grandfathered parking and historic parking incentives be considered independently even though they may be intermingled.

Scott Fraser stated that he is in favor of historic preservation; however, he submitted that the draft Ordinance needs to be revised because it does not speak to the historic preservation of Laguna Beach. He encouraged the Commission to adopt the Inventory because of its importance in adding certainty. Mr. Fraser found the 70-year threshold odd and suggested that 50 years may be more appropriate since it is commonly used. He also commented on the misunderstanding regarding opting in or out, noting that people can decide to opt in to a program for advantages, but cannot opt out of the historic nature of their property.

Verna Rollinger acknowledged that the ordinance was drafted with the best of intentions. She stated that she has attended all of the meetings and has witnessed the process from the beginning. She asserted that the program the current draft Ordinance reflects does a disservice to the City Council, property owners and the community in general. Ms. Rollinger noted that when the update process started, the intention was to make the program more reasonable, simpler and less expensive for C-rated properties to maintain, and she argued that the current draft Ordinance does not achieve those goals. Ms. Rollinger asserted that scrapping the Inventory makes the program useless, and she noted the discrepancies and ambiguities in the draft Ordinance. She submitted that the Heritage Committee was on the right track. Ms. Rollinger also commented that the term "voluntary" was connected to the Register, not the Inventory, and she concluded by requesting that the Commission look at the impact of the proposed revisions.

Jeff Benedick, 425 Locust Street, commented that Eugene D'Isabella was unable to attend tonight. Mr. Benedick noted that several members of the public have spoken before the various governing bodies numerous times, yet their input is still ignored. He submitted that the format is questionable for effectiveness because there is no opportunity for rebuttal. Mr. Benedick stated that dialogue is needed and suggested that a subcommittee be formed with the public. He stated that there are many property owners unaware of the proposed ordinance and its impact. He stated that the majority of them have lived here most of their lives, are not developers, are not interested in allowing Laguna to become like other cities, but want the same freedoms as their neighbors. He requested that the City has faith in its residents to manage their properties with respect to the community voluntarily. Mr. Benedick reiterated his request for consideration of creating a subcommittee because of the significance of this issue, and to include a voluntary option.

Norm Grossman commented on the General Plan, noting that the City Attorney explained that the text can be interpreted many ways. Mr. Grossman noted Land Use Element policy 2.2.1, which directs that the Inventory be updated. He commented on legislative intent and stated that when the

City updated the Land Use Element, the intent was for the existing Inventory to be updated. Mr. Grossman argued that if the City wants to change that direction, it must change the General Plan because that is a major policy change, which goes against City Council direction, indicated with the authorization of funding to update the Inventory.

Aaron Talarico stated that his family moved to Laguna in 1972, eventually demolishing and rebuilding their property on Wykoff Way. He questioned how many exceptional historical properties exist in Laguna, surmising there are only a few that qualify per State law. He suggested getting rid of the City ratings and using the State codes. Mr. Talarico commented that the longer the City spends on this issue, the less time is being spent on more important things.

Loraine Mullen-Kress, speaking as a realtor, stated that she is impressed with the draft Ordinance and supports it. She noted that this is a complicated issue, but submitted that the draft Ordinance incorporates requests from both sides. She suggested that "Director" be replaced with "City historian" and asserted that property rating evaluations should be the property owner's choice. She also suggested clarifying that certain sections apply to E and K-rated properties only, and she noted that the cost of the initial rating is not mentioned.

Patrick Shanahan commented on the heated debate that has occurred on this issue, but argued that the testimony has been 80-20, with the majority against the proposed changes. He commented that properties are upgraded from C to E with no explanation, even after repeated requests. He asserted that the draft Ordinance is confusing and wrong.

Ann Corwin, speaking for her husband Chuck Corwin, stated that his family has owned the property at 489 Jasmine Street for 60 years. She stated that his mother left the home to her children and grandchildren, and Ms. Corwin asserted that participation in the historic preservation program should be voluntary.

Becky Jones read the email she submitted, asserting that an absence of dialogue has created an untenable situation. She noted that the ordinance's revision was intended to make life easier by adopting more flexible standards and more extensive incentives, rather than expanding the City's control. She argued that eliminating the City's Inventory will have no effect on whether structures are potentially historic and submitted that a thorough update would identify those properties that should not be on the list, those that should, and would give owners a better opportunity to take advantage of incentives or protest the listing of their property. She argued that classifying C-rated properties as non-historic puts the City in an illogical and legally vulnerable position of trying to preserve something declared non-historic, whereas classifying them as local resources under CEQA would provide a legal basis for preservation of neighborhood character while also providing flexible guidelines and expanded incentives. Ms. Jones concluded that the lack of dialogue has pitted the community against each other rather than enabling the community to work together to find equitable solutions.

Hillary Cole supported Larry Nokes' testimony and she referenced Pat Carpenter's August 10, 2017 letter to the editor that quoted the 1992 letter she received from the City, on City stationary, assuring that the program is completely voluntary. Ms. Cole asserted that the documented history of the City's previous assurances cannot be ignored and the City should turn the issue over to the voters if it wants to overturn that policy. Ms. Cole then noted that the draft Ordinance requires a certain level of maintenance under threat of litigation and she asserted that such policies are unfair.

Ann Christoph stated that she was at the meeting where Mayor Gentry made those statements in the 1980s; however, in 1991 California adopted the preservation of historic resources as part of CEQA, which changed participation from voluntary to required under State law, and the City needs to comply. She noted that the City must evaluate historic resources, and she also noted that the City has a Historic Resources Element, adopted in 2006, in which preservation is a major component. Ms. Christoph submitted that the present draft Ordinance weakens and undermines the current program. She noted that the City has had successful efforts by broad-based task forces and agreed with Mr. Benedick that the Commission should request that the City Council use that approach.

Barbara Metzger noted that the Commission is opting to get rid of the Inventory to appease property owners that object to being on it, but doing so only creates more uncertainty. She asserted that it is a violation of the General Plan to downgrade C-rated properties and an Environmental Impact Report (EIR) would be required because of the cumulative impact. She argued that such a policy change does not fall under the Local Coastal Program (LCP) exemptions because relaxation of standards is expressly excluded. Ms. Metzger suggested that instead, the City adopt guidelines for C-rated properties so the process is less onerous.

Mary Ives noted gaps in the draft Ordinance, such as the definitions of "demolition" and "substantial alteration," which she stated the Design Review Board pointed out during its review. Ms. Ives stated that the role of the historic monitor is not explained and it is not clear when a pre-construction meeting is required. She also noted that though the "style guide" is defined, it is not mentioned in the draft Ordinance. She stated that the intent of the style guide was to provide guidance to evaluate C-rated properties, but that premise is now abandoned.

Nathan Rosenberg stated that the draft Ordinance is fundamentally flawed. He commented that properties are designated by virtue of age, but age is not the sole criteria for being historic. He asserted that there should be a definitive list of those that fit the criteria. He acknowledged that the City does not want a "taking," but argued that the current draft Ordinance is a taking and would be a tool in the design review process to pit neighbor against neighbor.

Curt Barwick stated that the purpose for the update was to regulate potentially historic resources, but potentially historic is not historic. He noted that the Ordinance continues to use the old rating system incorporated in the Inventory and he submitted that any property will eventually be potentially historic. He argued against imposing mandatory regulations without the property owner's consent. Regarding CEQA, he noted that all that is required is a finding to be made. Regarding incentives, Mr. Barwick commented that incentives are meaningless without choice because they are designed to facilitate choice.

Bob Chapman noted the two potential paths, but either path requires standards, which he asserted are missing. He commented that a specific objective regarding the desired result for properties must be outlined. Mr. Chapman stated that he has been a realtor for 25 years and served on the Planning Commission and Design Review Board for 16 years, yet he has no idea what to tell clients. He submitted that the draft Ordinance does not solve the disclosure issues and he submitted that a new Inventory may be the best way to go.

Roy Gallagher, 787 Manzanita, stated that he went through the process and was required to use like-for-like windows, but built to today's standards, for his replacement windows. He argued that

heritage includes family and he stated that the incentives do not help him. Mr. Gallagher noted that Councilmember Boyd said he did not want an ordinance that would make the City an "HOA on steroids." Mr. Gallagher also noted that C-rated properties do not fall under CEQA, it is the City's choice.

**Staff Response:** Regarding what is mandated by the State and what requirements are locally imposed, Ms. Jenson explained to Commissioner Johnson that CEQA requirements are the State requirements and anything beyond is locally imposed. Regarding constraints, Ms. Jenson explained to Commissioner Johnson that properties categorized as 1 through 5 are considered to be historic resources per the State and modifications and demolition are considered to have a significant environmental impact unless the Secretary of the Interior's Standards are followed. Mr. Pfof added that the City has a thorough discretionary design review process, and discretionary decisions are subject to CEQA. He noted that one of the CEQA criteria that must be evaluated is the impact to any historic resources; the draft Ordinance includes processes to catch those properties that may be deemed historic early in the process. Ms. Jenson confirmed for Commissioner Johnson that the passing of CEQA changed how the City treats historic properties. Ms. Jenson explained that the voluntary historic preservation program is still voluntary; however, there are minimum requirements by CEQA and extra protections that the City opted to adopt for C-rated properties that are not voluntary. For C-rated properties on the Register, Ms. Jenson explained that those properties cannot be removed without justification. She also noted that those properties were placed on the Register voluntarily, and would be grandfathered in; however, that does not mean that the City has to continue to allow C-rated properties to be eligible for the Register. She advised that if C-rated properties are eligible, then they would be considered locally historic, and subject to CEQA. Regarding the difference between the City's local ordinance and State requirements, Ms. Jenson stated that the City is not required to have a historic preservation ordinance. Ms. Jenson explained that that the draft Ordinance was drafted to try to provide a process that allows for some certainty for applicants, with the rating assessment process, to provide an early determination.

Regarding the General Plan, Ms. Jenson responded to Commissioner McErlane that the General Plan references the ratings, but does not state that C-rated properties have to be considered historic. Ms. Jenson noted that the draft Ordinance cross-references the City's rating system with the State ratings. Ms. Jenson acknowledged that the Land Use Element has a policy that the Inventory be updated; however, she submitted that the term "Inventory" may not have been used in the same way as CEQA. She noted that the draft Ordinance provides for an ongoing update with voluntary rating evaluations and properties constantly rated during the development review process; therefore, Ms. Jenson argued that the draft Ordinance is achieving the goal of the Land Use Element policy.

Regarding voluntary versus involuntary, Ms. Caron responded to Commissioner McErlane that the General Plan is not clear. Ms. Jenson added that regardless, the City must meet minimum requirements related to historic resources.

Ms. Jenson confirmed for Commissioner Sadler that the City is not required to have a historic preservation ordinance, but is required to determine if it has historic resources. She further explained that the ordinance adds guidance, such as assessing properties older than 70 years versus 50 years, and the Inventory provides some evidence, but cannot be solely relied upon. Ms. Caron added that because the City has adopted a definition of what a historic resource is, it has to protect what the City has locally defined. Regarding State codes versus the City's rating system, Ms. Caron

responded to Commissioner Sadler that the City's rating system pre-dates the State's, and the Heritage Committee decided to keep the City's existing system because the community is familiar with it. Mr. Pfost reiterated that the draft Ordinance cross-references the City's ratings with the State's.

Regarding the difference between E and K-rated properties, Ms. Caron explained to Commissioner McErlane that the parking incentives are different, and because E is considered the highest level of integrity, stricter standards are applied.

Ms. Caron confirmed for Commissioner Whitin that there are E and K-rated properties on the Register that have not taken advantage of the incentives, but are restricted to having to comply with the Secretary of the Interior's Standards. Ms. Caron confirmed for Commissioner Whitin that properties rated 6L would only require design review and would not be subject to CEQA's requirements related to historic resources.

Ms. Caron noted that the draft Ordinance contains standards for review of C-rated properties, relative to how those properties contribute to the neighborhood. Mr. Pfost responded to Commissioner Johnson that the intent is to preserve those properties because of their contribution to the character of Laguna Beach.

It was confirmed for Commissioner Kempf that all C-rated properties are proposed to have a State Code of 6L.

**Commissioners' Comments:** Regarding section 25.45.002(D), Commissioner Whitin commented that "tourists" should be removed, to reflect the City's current language.

Regarding section 25.45.004, Ms. Caron confirmed for Commissioner Sadler that the style guide has not yet been drafted. In response to Commissioner Sadler's comments regarding the definitions of "Historic Register" and "historic resource," Ms. Jenson suggested referencing section 25.45.008, which describes the property rating evaluation process. In response to Commissioner Sadler's comments regarding the term "historic structures" in the definition of "Mills Act," Ms. Jenson suggested replacing it with "those properties on the Register." Ms. Caron responded to Commissioner Kempf that the term "feeling" is used in the standard definition of "historic integrity"; however, staff can clarify where the definition for "feeling" can be found. Commissioner Kempf recommended that the statement that there is no presumption of historicity be included in the definition of C-rated properties. It was confirmed for Commissioner Kempf that item (7) in the definition of "historic resource" refers to local people.

Commissioner Whitin commented that there is a history attached to the City's E, K and C rating system and therefore recommended substituting it with the State rating system. Commissioner Johnson agreed and Commissioner McErlane added that it can be good to change the frame of mind. Regarding the impact to the policies related to incentives, the Planning Commission agreed to address that issue later in the discussion.

Regarding item (4) in the definition of C-rated properties, Ms. Caron clarified for Commissioner Whitin that though the standard is related to an important person, the property should look the same as when that person was there, to retain its historic significance.

Regarding the inclusion of “walls or roof framing” in the definition of “demolition,” Mr. Pfof advised Commissioner Whitin that the definition reflects the “major remodel” definition in the Laguna Beach Municipal Code.

Regarding “relocation” in the definition of “substantial alteration,” Ms. Caron clarified for Commissioner Whitin that the definition provides a threshold for review, it does not limit what can be permitted.

Commissioner Johnson requested that references in the definitions, such as “CFR” in the definition of “historic monitor,” be spelled out, with the acronym put in parentheses.

Commissioner Sadler commented that the definition of “historic assessment” should indicate that it is done by the historic monitor; however, Ms. Jenson stated that the historic monitor and the person doing the historic assessment may be different.

Mr. Pfof advised the Commission that section 25.45.006 allows the Director to make a determination, but the process in section 25.45.008 has the applicant go straight to the Heritage Committee. Ms. Caron explained to Commissioner Whitin that the reason a timeline is stated in section 25.45.006 and not in section 25.45.008 is because the Heritage Committee currently meets once a month. Commissioner Johnson agreed with Ms. Jenson’s suggestion of adding a statement that the application would be scheduled for the first available meeting.

Regarding section 25.45.010, Ms. Caron explained that a recorded agreement would be required. Ms. Jenson suggested that the wording can be revised to require the reviewing body’s review of the agreement when considering incentives.

Regarding parking incentive percentages, Commissioner Johnson agreed that Mr. Thomas made a good point regarding the actual number of spaces. Commissioner McErlane argued that the parking demand study should drive the determination and Commissioner Johnson stated that she could agree to a maximum 50% reduction with a parking demand study. Ms. Caron noted that the issue of using percentages is with smaller buildings; therefore, Commissioner Johnson suggested that staff research the issue further to determine an appropriate number for smaller properties and maximum percentage for larger properties. Ms. Jenson suggested five spaces or 50%; however, Ms. Caron commented that another consideration is whether an application is for intensification within an existing structure, or to expand. Ms. Jenson responded that the Commission could opt to base the reduction just on a parking demand study, as suggested by Commissioner McErlane.

Regarding section 24.45.012, Commissioner Sadler was advised that E and K-rated properties are required to follow Secretary of the Interior’s Standards. Regarding item (E), Ms. Caron advised Commissioner Sadler that not all projects require a historic monitor. Regarding item (B), the Commission agreed with Commissioner Whitin’s suggestion to remove the last sentence.

Regarding section 24.45.016, Ms. Caron responded to Commissioner McErlane that landscape features may be heritage trees, rock outcroppings, knolls, etc. Commissioner Johnson suggested that the examples be included in the text.

Regarding section 25.45.018, Mr. Pfof advised Commissioner Johnson that the average turnaround time to obtain a Real Property Report (RPR) is five to seven days. Commissioner Whitin

recommended that a disclosure be included for all properties 70 years or older, advising buyers that the property may be subject to historic preservation.

Regarding section 25.45.020(F)(2), Ms. Caron advised Commissioner Johnson that severely dilapidated structures or those that alternative locations cannot be found would meet that finding. Regarding section 25.45.020(A), Commissioner Sadler recommended replacing "historic buildings" with "buildings identified as historic resources."

Regarding section 25.45.022, Commissioner Whitin recommended adding that the demolition has been declared necessary and permitted, to make clear that not only notification must occur, but also City approval.

Regarding section 25.45.026, Ms. Caron explained that it currently applies to those on the Register; however, the language can be revised to include all historic resources.

Regarding section 25.45.028, Commissioner Sadler recommended that the City Council be requested to carefully review this section, considering prior Planning Commission determinations were overruled.

Regarding the rating system, Commissioners Johnson and McErlane agreed with Commissioner Whitin to change to the State codes. Commissioner Sadler commented that he could go either way. Mr. Pfof advised that the parking incentive section would need to be revised if the State codes are used.

After a brief discussion, the Commission confirmed its decision to keep the 70 years or older sliding scale as the threshold review date.

Commissioner McErlane commented that it is a General Plan requirement, whether the City has an Inventory or not, that a determination regarding historicity be made. He recommended that those concerned about any potential impact to their property speak to staff.

Commissioner Sadler agreed. He assured that the Planning Commission has listened to the public and heard their concerns, acknowledging that there is some truth to the argument that people have been forced into participation; however, he reiterated the State mandate driving the requirement. He stated that he did not think that the Inventory was worthless, and believes that eliminating it adds a higher level of uncertainty, but that is what the majority of the public wants to ease the burden of their concern. Commissioner Sadler asserted that the City is moving in the right direction, and making the process less onerous for C-rated properties.

Commissioner Kempf agreed, noting that the ordinance has been thoroughly vetted. She submitted that it is time to move it along. Commissioner Johnson commented that it has been an interesting process.

Mr. Pfof suggested that the Ordinance be continued to the October 18, 2017 Planning Commission meeting for staff to revise the draft to change the references to the State codes and address the Commission's direction regarding parking incentives, so the revised draft can be released two weeks before the meeting.

Commissioner Whitin acknowledged that this has been an arduous process, with frustration on all sides. She concurred with the other Commissioners. She noted that the draft Ordinance includes incentives not available before, and she asserted that the draft Ordinance creates a level playing field, so all properties are reviewed in the same way. Commissioner Whitin submitted that the draft Ordinance is a clearer, simpler, more useable document.

Motion AJ Second KS Action Continue Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to the October 18, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y Kempf Y Sadler Y McErlane Y Whitin Y

Chair Whitin agreed to Commissioner Johnson's request to hear Item #11 after Item #5, before Items #6 through 10.

2. **Conditional Use Permit 17-1392, Coastal Development Permit 17-1395 and Variance 17-1394 to convert an existing upper-level office space to a residential use and to not provide the required covered parking [LBMC 25.52.012(G)] at 502-510 South Coast Highway. (The project was initially heard on August 16, 2017 and was continued to allow for additional project noticing).**

Martina Caron summarized the staff report.

**Public Testimony Regarding the Project:** Bob McGraw, representing the Browns, the property owners, noted that the Planning Commission indicated at the last hearing that the Conditional Use Permit for the use is acceptable. He noted that to comply with the Municipal Code, they are required to cover the two parking spaces, but the adjacent neighbors expressed concerns about a carport's negative affects; therefore, the applicants are requesting a variance to not cover the parking.

Stacy Wacker, representing Thomas Panno, property owner of the adjacent property, which is where she lives, commented that the carport would block most of her window. She also expressed concerns that the carport would be attractive to the homeless as a sleeping area. Ms. Wacker also noted that the stakes have been hit three times.

**Commissioners' Comments:** Commissioner Johnson commented that the Commission agreed at the last hearing that the carport should be removed from the project. She stated that she can make the required findings. She agreed with the applicant and staff.

Commissioner McErlane also agreed and supported approval, commenting that it makes sense. Commissioner Kempf also commented that she supports approval of the project.

Commissioner Sadler commented that staff did a good job explaining the required findings and he also supported approval.

Motion AJ Second SK Action Approve Conditional Use Permit 17-1392, Variance 17-1394 and Coastal Development Permit 17-1395, subject to findings and conditions. Motion carried 5-0.

Vote: Johnson Y Kempf Y Sadler Y McErlane Y Whitin Y



**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 1 **DATE:** 9/6/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, CEQA Guidelines Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.

**BACKGROUND:** On March 15, 2017, staff provided an introductory presentation to the Planning Commission regarding the proposed draft Ordinance. A staff report was prepared that provided the history of the draft Ordinance and suggested topics for discussion. The Commission continued the review of the draft Ordinance to the April 19, 2017 Planning Commission meeting.

On April 19, 2017, staff provided an updated presentation and staff report to the Planning Commission based on the direction given at the initial Planning Commission hearing held on March 15, 2017. The staff report included: (1) a cost estimate for conducting a Citywide Historic Inventory; (2) clarification of the process for adopting a local CEQA (California Environmental Quality Act) guideline for C-rated structures; (3) discussion about the opportunity for historic districting within the City; (4) discussion about eliminating the draft Inventory; (5) providing flowcharts that describe the review processes proposed in the draft Ordinance; and (6) discussion in regard to extending the Mills Act Program to C-rated structures. After considering the staff report, staff presentation and the public comments, the Planning Commission directed staff to provide expanded information about the processing options for C-rated structures, options for updating the Historic Inventory and an analysis of the historic parking reduction incentives. The Commission continued the review of the draft Ordinance to the June 7, 2017 Planning Commission meeting.

On June 7, 2017, an updated presentation and staff report were given to the Planning Commission. The updated report included expanded information about the processing options for C-rated structures (3 options), options for updating the Historic Inventory and an analysis of the historic

parking reduction incentives. After listening to public testimony and reviewing the staff report, the Planning Commission unanimously directed staff to update the Ordinance so that C-rated properties were not considered as locally recognized historic resources (option 2) and that future applications to modify a C-rated structure would only be subject to design review approval (thereby eliminating Heritage Committee review of C-rated structures). The Planning Commission also recommended that staff update the Ordinance to provide the additional staff recommended criteria to be evaluated when considering historic parking incentives. The Planning Commission also requested that at the next meeting, staff provide an analysis about changing the need for a historic threshold review date of 1955 instead of another date, such as 1945 (for structures that have not been surveyed). The Commission continued the review of the draft Ordinance to the July 5, 2017 Planning Commission meeting.

On July 5, 2017, staff provided an updated staff report with the information listed above. In the staff report, it was requested that the Planning Commission provide direction on the following topics (*italicized*). The Planning Commission's response to each topic is listed below:

- 1) *Confirm staff's recommendation that the date of 1955 remain as currently drafted.*

The Planning Commission recommended that the review date be changed to 70 years or older. This was recommended instead of the 1955 date because a sliding scale would allow for additional structures to be reviewed in future years.

- 2) *Provide a recommendation that incentives be offered to E, K and C-rated properties equally, with the exception to the Mills Act, which will continue to only be allowed for K and E- rated structures on the Historic Register (as currently drafted); or, recommend to the City Council that an alternative incentive program be used.*

The Planning Commission recommended that all Registered structures continue to be eligible for incentives. If a property (unsurveyed or on the old Inventory) is found to be eligible for a K or E rating during the development process, it would also be eligible for incentives. A preservation agreement should be required to receive the incentives. It was also recommended that C-rated structures continue to be eligible for incentives, but these incentives would only be reviewed through the design review process, and a recommendation from the Heritage Committee was no longer required.

- 3) *Confirm staff's recommendation that the Inventory be adopted.*

After a motion to expand and adopt a Citywide Inventory failed to pass (1-4 vote), a motion was passed (4-1) that recommended the City Council not adopt or finalize the 2014 draft Inventory and that it only be used as a reference document. As a result, when a future development application or a request for evaluation is submitted to the City, then at that time, a rating would be determined through the process as described in the draft Ordinance (see section 25.45.008).

The Planning Commission also made the following recommendations for Council consideration:

1. Hire a designated staff person to administer the historic program, review process and assessments;
2. Ensure that Real Property Reports include a historic status disclosure;
3. Additional historic training be conducted for the Design Review Board;

4. Develop a style guide and amend the design review criteria to help provide standards for the review of historic properties.

The Commission continued the review of the draft Ordinance to the September 6, 2017 Planning Commission meeting.

**STAFF ANALYSIS:** Staff has updated the draft Ordinance to reflect the direction given by the Planning Commission at the July 5, 2017 meeting. In summary, the following changes have been made:

Historic Review Date Changed to 70 Years or Older:

The current Ordinance states that structures 50 years or older are eligible for the Register. The previous version of the draft Ordinance noted that structures constructed before 1955 would be reviewed for historic significance. After discussing this, the Planning Commission recommended that the review date be changed to 70 years or older. This was unanimously recommended instead of the 1955 date because a sliding scale would allow for additional structures to be reviewed in future years, while also capturing the structures that are most historic today. Section 25.45.006 in the draft Ordinance has been updated to reflect this direction.

Historic Incentives:

As noted above, the Planning Commission recommended that all “Registered” structures continue to be eligible for incentives. If a property (unsurveyed or on the old Inventory) is found to be eligible for a K or E rating during the development process (pursuant to draft section 25.45.008), it would also be eligible for incentives. It was also recommended that a preservation agreement be signed by the property owner in order to receive the incentives. Further, it was recommended that C-rated structures be eligible for incentives through the design review process. Draft section 25.45.010 has been updated to reflect this recommendation.

Historic Inventory:

After a lengthy discussion, the Planning Commission recommended that the City Council refrain from adopting or finalizing the 2014 draft Inventory. Further, it was recommended that the previous Inventories (1981 and 2014) be used solely as reference documents. This recommendation would necessitate a case-by-case assessment of each property over 70 years in age, and not listed on the Register. Section 24.45.006 is included in the draft and prescribes the review process of a structure that is 70 years or older.

In summary, if an application is submitted for development of a property that is not on the Register and the property is 70 years or older, the property would be reviewed by the Community Development Director to determine if a property may be historic (under proposed section 25.45.006). If it is determined that the property may be historic, then a rating evaluation application would be forwarded to the Heritage Committee (section 25.45.008). Upon review, if the Heritage Committee finds that a property is historic, then a property would be subject to the provisions proposed in section 25.45.012 (Procedures for the Alteration of a Historic Property). The Heritage Committee’s decision would be appealable to the City Council.

Alternately, if the Director determines that a property is not considered to be a historic resource, then the project can proceed without further restriction (after a required 14-day noticing period). The

Director's decision is appealable to the City Council. Appeal sections have been provided in both proposed sections 25.45.006 and 25.45.008.

Based on the Planning Commission's recommendation, staff has removed all references to the historic Inventory throughout the Municipal Code. These changes are noted in Sections 2 through 10 in the attached Ordinance.

### **General Plan Compliance:**

Staff has received comments from the public that indicate that the draft Ordinance will not be consistent with the General Plan, specifically as it relates to the policies listed below. Staff does not believe this is the case and a discussion regarding the topics is listed below:

#### Historic Resources Element:

*Policy 1.1: Create a Historic Preservation Task Force to review and update the Historic Resources List (Inventory).*

*Policy 1.4: Expand the Mill's Act Contract program to include "K" and "C" rated structures as "qualified structures."*

After reviewing the proposed draft Ordinance, and the policies listed above, staff believes that the draft Ordinance is consistent with the General Plan. The policies generally state that the City should update the Inventory, but these policies do not prescribe how the Inventory is applied, if structures on the Inventory must be historic resources or if the Inventory must be adopted. When the Historic Preservation Element and Ordinance were initially adopted, the Inventory was a resource document that listed structures eligible for the Register and it had no bearing on the processing of a project. In 2006, the Ordinance was amended to address demolition and illegal demolition of structures listed on the Inventory, but no other processing requirements have been set forth in the Ordinance for structures listed on the 1981 Inventory.

Additionally, in 2012, the City Council requested that the processing of Mills Act Applications for K-rated properties be suspended and that only E-rated applications would be accepted. This request was made so the financial impacts of the Mills Act program could be reviewed. Ultimately, the Council decided to allow K-rated structures to be eligible for the Mills Act. C-rated structures were not considered for the Mills Act. Given the past Inventory status and the past City Council considerations, staff believes that the proposed Ordinance is consistent with the General Plan.

**LOCAL COASTAL PROGRAM:** Certification of a Local Coastal Program Amendment is required by the California Coastal Commission because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval. The proposed Ordinance will not be in force or effect unless and until such approval is granted.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** The adoption of the revised ordinance is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to section 15308 of the State CEQA Guidelines, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. The fact that C-rated structures will no longer be eligible for the City's Register does not

negatively affect historic resources. Any C-rated structures that are currently on the Register are historic resources and will continue to be protected. C-rated structures that were never placed on the Register are not historic resources as defined by CEQA. The City's historic consultant confirmed that while C-rated structures were locally recognized, they are classified as having a California Office of Historic Preservation status code of 6L. Status codes of 1 through 5 are considered historic resources. Thus, the C-rated structures are not historic resources under State law.

In addition, the fact that the Coastal Commission will need to approve the revised Ordinance as an amendment to the City's certified Local Coastal Program creates an additional exemption. Public Resources Code Section 21080.5 and Section 15265 of the State CEQA Guidelines exempt actions of local governments for approvals and amendments to local coastal plans. This is because the Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process.

**RECOMMENDATION:** Staff recommends that the Planning Commission recommend that the City Council adopt the draft Ordinance as set forth in the attached Resolution.

**ATTACHMENTS:**

Exhibit A:	Revised draft Ordinance (clean version 8-25-17)
Exhibit B:	7/5/17 PC Minutes and Staff Report (w/o attachments)
Exhibit C:	6/7/17 PC Minutes and Staff Report (w/o attachments) Ordinance

Approved 8/16/17

**PLANNING COMMISSION  
MINUTES  
July 5, 2017**

A regular noticed meeting of the Planning Commission of the City of Laguna Beach, California, convened at 6:00 P.M. in the City Council Chambers on July 5, 2017.

**ROLL CALL**

Present: Chairperson Sue Kempf, Chair Pro Tem Susan McLintock Whitin and Commissioners Anne Johnson, Roger McErlane and Ken Sadler

Absent: None

Staff Present: Scott Drapkin, Planning Manager  
Martina Caron, Senior Planner  
Anthony Viera, Assistant Planner  
Ann Marie McKay, Administrative Assistant

**REGULAR BUSINESS**

1. **Election of Chairperson and Chair Pro Tem.**

Motion AJ Second RM Action Elect Commissioner Whitin as Chairperson. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

Motion SW Second AJ Action Elect Commissioner McErlane as Chair Pro Tem. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

**PUBLIC HEARINGS**

2. **Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.**

Martina Caron summarized the staff report.

**Questions of Staff:** Commissioner Johnson was advised that the unsigned letter came via email from Becky Jones. Regarding the content of the letter, Kathy Jenson, City Attorney, acknowledged that the current draft ordinance would make the process easier to demolish C-rated structures; however, it would also eliminate the necessity of EIRs (Environmental Impact Reports) for

modifications to those structures. She noted that demolition still requires a Coastal Development Permit, which is reviewed by the Design Review Board. She also advised that the Commission can add a waiting period for relocation consideration to the ordinance.

Staff confirmed for Commissioner Whitin the requested action from the Planning Commission.

Regarding Bonnie Hano's suggestion for C-rated properties to be eligible for a partial Mills Act agreement, Ms. Caron advised Commissioner McErlane that the City can decide to have varying Mills Act agreements; however, it is a State requirement for properties to be on the City's Register to be eligible for a Mills Act agreement. She also stated that at the present time, the City Council has determined that it wants maximum incentives applied to all Mills Act properties.

**Public Testimony Regarding the Project:** David Watkins stated that the Inventory is not valid, is arbitrary, and outdated. Regarding the proposed trigger date of 1955, he noted that properties as recent as 1972 are subject to CEQA's (California Environmental Quality Act) rolling 50-year timeframe and therefore he argued that the proposed trigger date is invalid. He stated that historic districts do not make sense in Laguna. Mr. Watkins noted that people have voluntarily preserved their properties and he stated that property rights are inherent. He urged the Commission to abandon the involuntary Inventory, stating that it seems wrong, and the City will need to be prepared to defend itself in court if the Inventory is adopted.

Joann Gale Keller, 1580 Galan Drive, stated that she is pushing 80 years old and is angry about what has occurred over the last five years. She stated that she has been involved since the beginning of the update effort in 2012 and has written to everyone. Ms. Keller asserted that her property, a 1954 duplex that has been remodeled, was illegally put on the Inventory. She argued that the Inventory is bogus and should not exist; everyone should be treated equally. Ms. Keller supported a voluntary program and she stated that she has received no response from anyone on her communications regarding her property.

Jinger Wallace, South Laguna, stated that she is opposed to including C-rated properties in the historic preservation process. She stated that she had hope during the last two Commission hearings and hopes that the Commission will continue in that direction. She requested that C-rated properties be eliminated from the Inventory; contributing to the neighborhood does not make a property historic. Ms. Wallace suggested that instead of burdening property owners, the City should tighten City regulations and empower the Design Review Board to prevent mansionization, which she surmised is the true motivation behind those that support including C-rated properties. She requested that the Commission help move the proposed draft ordinance forward.

Jeff Benedick, 425 Locust Street, stated that they have been residents for over 43 years and homeowners for 38 years. He asserted that they have not been listened to and their requests have not been honored. He also asserted that holding a meeting on July 5 shows a disregard for the public. Mr. Benedick asserted that the City has shown no regard for the financial and emotional impact to property owners. He commented on his two elderly neighbors impacted by this ordinance and he stated that replacement costs are unbearable, and one of the neighbors is unable to get insurance coverage.

Pat Carpenter, North Laguna, stated that she is opposed to the Inventory. She noted the criteria listed on the Ca.gov website regarding landmarks and argued that the City does not need the E, K,

C rating system. She asserted that preservation should be for the first, last, only, and most significant of a certain type of structure. Ms. Carpenter also noted that to qualify for the State Registry, written consent of the property owner must be obtained. She stated that the City's process is nonconsensual, is a taking of property rights and is wrong. Ms. Carpenter noted that only one Laguna Beach property is on the National Register, the St. Francis Church. She agreed with the other speakers and stated that she wants her home off the Inventory and a pathway to opt out.

Wendy Crimp, North Laguna, requested that if the goal is for compliance with CEQA, the City does so in a minimal fashion, and put it to a vote for the community if the City wants to exceed the minimum requirements. Ms. Crimp requested reassurance for people whose properties have been previously surveyed that there will be no more surveys of their property; otherwise, it creates uncertainty. She asserted that the ordinance places buildings over people.

Lawson Mead, resident in the north part of town for 35 years, stated that the same issue occurred in the 1970s. He stated that residents at that time felt that City officials lost touch with the residents and he submitted that the same situation exists now. He stated that volunteerism works here and requested that the City trusts the residents.

David Duker, North Laguna, reiterated the concern he brought up at the last meeting about parking exemptions for commercial properties and the dramatic impact of those exemptions on neighboring historic homes and cottages, specifically commenting on *Urth Caffé*. He asserted that some developers take an existing use and use the historic preservation program to maximize profits; such practices inundate the neighborhoods with traffic and parking issues from the employees and guests of those commercial uses.

Nathan Rosenberg, Buena Vista, stated that he is against the proposed draft ordinance because it will interfere in property rights, diminish property values and increase costs. He noted three criteria used by experts to determine historic significance, significant event, person of note, or architect/designer of note, commenting that old does not mean historic. Mr. Rosenberg argued that 1955 is just a random date and very few properties fit the criteria for historic significance; they are just on the City's list because they are old. He asserted that the program should be voluntary for those that want a Mills Act agreement.

Marilyn Alexander, 380 Aster Street, stated that she loves Laguna, and it is a great community. She stated that the Historic Preservation ordinance needs to provide a voluntary program with clear rules on how to participate or not. She asserted that the Inventory is invalid and should be thrown out. Ms. Alexander argued that CEQA provides guidelines, the City decides how to apply those guidelines here. She noted cottages in other areas, such as Balboa Island, that were torn down, and argued that the City has a lot of leeway.

Brian Corrigan, 455 Hilledge Drive, which he noted was built in 1936, asserted that the draft ordinance is wrong and unconstitutional. He assured that he will not back down and will litigate if C-rated properties are included. Mr. Corrigan stated that his property does not represent what was built in 1936.

Eugene D'Isabella, 387 Holly Street, stated that he was with the Fire Department when there was one fire station and it was mandatory to live in town. He stated that when the 1981 Inventory was created, property owners were advised that participation was optional, and he declined to



participate. He expressed his frustration that despite his request to not be included, he discovered that his property was on the list, even though he did not request or obtain any benefits. Mr. D'Isabella questioned why, if he did not pay anything to have his property put on the list, he would have to pay to have it removed.

Marshall Innis suggested that the trigger date be 1945. He recommended that the Inventory be eliminated and C-rated properties no longer be considered as historic resources. He noted that the City's design review process, piecemeal policies, etc., ensure a lot of review and neighborhood involvement; therefore, he argued that another layer of regulation is not necessary. Mr. Innis suggested that historic preservation be incentive-based, submitting that it works well. He commented that it costs \$14,000 to \$15,000 just for windows on historic properties.

Bruce MacDonald, 1140 North Coast Highway, stated that he bought the property a year ago and improved the inside to restore it to its original 1923 design, but they have not touched the exterior or landscaping. He commented that C-rated properties have zero incentives and it is an elusive process to move up to an E or K. Mr. MacDonald asserted that a C rating will deter people from improving their properties. He stated that the City should trust Laguna residents and its property owners. Mr. MacDonald said that he is confused by the draft ordinance and is against having C-rated properties included. He asserted that the ordinance hamstring property owners and eliminates the likelihood of reinvestment into those properties. He stated that the draft ordinance is still confusing and suggested that it be revised to make clear that the Heritage Committee will not be involved with C-rated properties. He suggested that the wording be revised to state that applicants can obtain a building permit unless there are substantial changes, rather than the current wording of "not insubstantial." Mr. MacDonald stated that this process is destroying the public's confidence in City leadership.

Hillary Cole stated that there were great discussions at the last meeting, which are not reflected the staff report for tonight, such as elimination of the Inventory, making historic designations optional and drafting a design guidelines document. She also noted that in Section 25.45.004, the draft ordinance requires the applicant to pay for the historic assessment, which she asserted is not fair. Ms. Cole referenced the Santa Ana ordinance and suggested that the City reduce the size and scope of the draft ordinance. She also suggested allowing repairs without using historic materials.

Thilde Peterson, noting that Ms. Cole is a business partner, acknowledged the hard work done on this ordinance. However, she stated that month after month many good things are brought up during the discussion, and do not appear in the document. She suggested hiring a historic expert. Ms. Peterson stated that people are fearful about buying when they know a property is historic. She suggested that all properties be reconsidered and people be given notice before they buy.

Matthew Kane, owner of 527 Lombardy Lane for 30 years, advised that he owns a property in Michigan that he voluntarily put on the National Register. He found the City's process arbitrary and without a well-defined program that indicates which properties are included and which are not. He asserted that C-rated properties should be excluded.

Deborah Rosenthal, a land use attorney, referenced the letter submitted by her firm on behalf of the Laguna Beach Preservation Coalition requesting a continuance of this item. She stated that she has worked with ordinances across the country and California, and she assured that it is possible to have an equitable solution. She stated that the City Council determined that C-rated structures are

historic and she argued that the City cannot declassify those structures without an Environmental Impact Report or individual CEQA reviews. She asserted that the draft ordinance is internally inconsistent and requires major revisions. Ms. Rosenthal also noted that the draft ordinance does not contain restrictions on demolition of C-rated structures. She reiterated that it is possible to have a streamlined review for C-rated structures without CEQA being an obstacle.

Charlotte Masarik commented that the inconsistencies are not surprising because the draft ordinance is attempting to implement incompatible goals by trying to preserve historic character while asserting that C-rated properties are not historic. She stated that C-rated properties reflect the neighborhood's history and the City's eclectic feel. Ms. Masarik asserted that the draft ordinance would result in a cumulative loss, and gives the Design Review Board no tools to preserve historic integrity. She submitted that the City can do better and she stated that C-rated properties should be recognized as the local historic resources that they are.

Ginger Osbourne continued on the points Ms. Masarik was making. She stated that the draft ordinance is confusing, noting that Section 25.45.008 states that E, C and K-rated properties are eligible for incentives with the recordation of a written agreement to ensure preservation of the historic character; however, C-rated structures would not be eligible for the Register, so she asked what kind of agreement is being referenced. She also questioned why C-rated structures would no longer be eligible for the Register when C-rated structures are currently on it. Ms. Osbourne asserted that the draft ordinance has major philosophical inconsistencies, noting that Section 25.45.002, "Intent and Purpose," uses the term "historic resources" multiple times. She stated that she wants to preserve the City's historic heritage, but also wants the process streamlined and for it to work to the advantage of the community. She applauded staff for the effort that is being done.

Larry Nokes referenced the preamble to the ordinance and asked about consideration of the people. He asserted that those listed on the Inventory had no due process and warned against continuing with simply "massaging" the same ordinance. Mr. Nokes recommended that the City start over because there is enough information to work with now. He warned on the dangers of having a threshold year and on continuing with an Inventory, which he asserted the City does not need, and he noted that staff is requiring historic reports on anything built before 1972.

Norm Grossman agreed with Mr. Nokes on starting over. Mr. Grossman stated that the current draft is causing massive confusion and he asserted that the City cannot adopt the current draft ordinance without a General Plan amendment because, he argued, the current draft ordinance is in conflict with the Historic Element, noting specific policies in the Element he viewed as in conflict with the draft ordinance. He also commented on the five-year update required for the Inventory and noted that section 25.45.012(D)(4) requires the use of preservation guidelines, which do not exist. He also commented that the draft ordinance refers to C-rated structures as historic, causing a philosophical problem with the ordinance. Mr. Grossman also stated that "historic" may have nothing to do with architecture and therefore the definition should be expanded. Mr. Grossman recommended a continuance.

Barbara Metzger agreed on the inconsistencies in the draft ordinance. Regarding the style guide, which is intended to address C-rated properties, she suggested elaborating on the design review guidelines to provide a simpler approach that would still conform to CEQA. She noted that C-rated houses were selected on a basis of style and character-defining features; therefore, she suggested keeping a style guide, which would be less demanding, as the Heritage Committee recommended.

Greg O'Loughlin, founding member of the Environmental Committee, expressed his frustration with the City's attempts to circumvent CEQA. He also expressed concern about the proposed redefinition of historic resource and he asserted that the City will have to go through the CEQA process to remove any properties or classifications. Therefore, he agreed that delaying any decision on this item would be best.

Sharon Fudge commented on the recommendation of 1955 as a trigger, asserting that no year is necessary. She stated that it should be a rolling time period, requiring an assessment of any property 45 years or older, noting that the Heritage Committee's recommendation to include mid-century modern by definition encompasses structures built between 1933 and 1965. Regarding the Inventory, Ms. Fudge asserted that it is invalid, commenting that there are properties that were missed that need to be added and others that are on the Inventory that should be taken off. Ms. Fudge noted that the purpose of CEQA is to provide information; it is a disclosure statute that should be a tool, not a hammer.

Johanna Felder, President of Village Laguna, submitted that with all the changes and edits to the draft ordinance, certain items have been lost or overlooked, such as the list of criteria. She noted edits requested by the Heritage Committee and Design Review Board that are not in the current draft ordinance, asserting that important provisions are falling through the crack. Therefore, Ms. Felder also recommended that the item be continued and she assured that Village Laguna is committed to working with the City.

Ralene Strauss, Shadow Lane, spoke against the draft ordinance. She commented that people are feeling bullied, abused and ignored. She stated that she has a K-rated property, but all of the discussion is about C-rated properties. Ms. Strauss stated that the ratings were determined by a street view, which missed the fact that her property had an addition in 1951. She noted that there are only two properties on the Inventory on her street, though many others should have qualified, indicating the subjective nature of the process. She commented that one house was approved to be demolished because it was in poor condition and she asserted that property owners are penalized because they have taken care of their homes. She argued that design review is enough; another layer that is arbitrary should not be added, it should be eliminated.

Becky Jones asserted that the draft ordinance provides no protections against the demolition of C-rated structures. She also suggested that a study session is needed with property owners and staff to answer questions. She stated that she is confused, and she sat on the Planning Commission for 10 years. Ms. Jones submitted that simple, straightforward answers will resolve much of the confusion and she commented that the misinformation being spread around is criminal.

Roy Gallagher, 787 Manzanita, which he described as a stucco cube that has a shed roof and eyebrow window, is on the Inventory with a C rating. He noted that Councilmember Boyd was clear that he did not want an ordinance that would make the City an "HOA on steroids." Mr. Gallagher stated that the process is not pleasant and provides him with no benefits, causing him to spend tens of thousands on like-for-like repairs on his house. He recommended removing C-rated properties from Heritage Committee review because that committee has one focus, to maintain what exists. Mr. Gallagher stated that his family cannot afford to maintain this property and he requested that the City shows mercy and compassion to its citizens.

Verna Rollinger stated that she lives in an “oldish” house that is not historic and she cannot expand because of City regulations, which she supports. She commented that if her property was C-rated, she might have options because on setback and parking incentives. She cautioned the City to be careful to not take options away from C-rated property owners. Ms. Rollinger submitted that the City can address concerns of property owners by setting specific criteria and waiving CEQA requirements; however, she noted that some people will not be satisfied no matter what is done. She noted that State law requires historic preservation and she supported a continuance.

Patrick Shanahan, representing the owners of 532 Oak Street, advised that the property was upgraded from a C to an E with no explanation. He stated that the owners upgraded their house and restored it because they love it, but they now feel penalized for doing so. He stated that the ordinance and process are confusing.

Luck Patterson stated that he owns a C-rated property in Woods Cove and has attended many meetings on this issue. He commented that most of the speakers own C-rated properties and are against the mandatory listing of their homes; the rest of the community is apparently neutral. Mr. Patterson stated that if the City moves forward with the mandatory listing, property owners will have to disclose that listing, which he argued will reduce demand and thereby reduce property values. He stated that the City has a hand in his pocket and he urged the Commission not to pass the draft ordinance and not make participation mandatory.

Ann Christoph agreed that the historic preservation program needs improvements; she agreed that the ordinance needs to be clearer, more consistent, and provide a better explanation of the benefits. She submitted that removing C-rated properties from CEQA will not address property owners’ concerns. Regarding Mr. Gallagher’s property, Ms. Christoph submitted that the State historic building code could have been applied and saved him some money. She argued that it is not necessary to change the status of C-rated properties. Ms. Christoph noted that Mr. D’Isabella has a K-rated property, so the recommended changes will not address his concerns. She questioned changing the status of C-rated properties, arguing that other modifications could improve the program. Ms. Christoph requested that the Commission keep C-rated properties under CEQA with improved guidelines.

Chris Quilter, 374 Myrtle Street, a K-rated property, echoed the comments made by previous speakers. He noted that his property is the only one with a historic rating on a block full of charming homes, and he stated that the arbitrary nature is what bothers him. He supported eliminating the Inventory or making it more objective because currently the process is not fair. Mr. Quilter noted that many C-rated properties are occupied by long-time occupants and provide the last body of affordable senior housing in the community. He asserted that the requirement to replace like for like makes zero sense for these properties and he suggested that the City start over to find a solution that provides fairness and simplification.

Curt Barwick noted that this issue is not just about C-rated properties. He stated that he has a K-rated property and he commented that everyone feels like no one is listening to the public. He stated that 80 to 90% of those that have commented are in favor of a voluntary, incentive-based program, with meaningful incentives for property owners that seek to be on the Register. He supported eliminating the Inventory, commenting that he had the misfortune of having a property being placed on the list without any notice or opportunity of being heard. He stated that the City seems to have an agenda and he asserted that it is a poorly written ordinance that the City is

cramming down the community's throats. Mr. Barwick noted that CEQA does not require the City to adopt an ordinance or an Inventory.

Linda Morganlander disclosed that she serves on the Heritage Committee, but is speaking as a resident and local architect. She stated that people are drawn to Laguna because of its charm, which is not accidental, but carefully protected. She asserted that it is not just the ocean and open space that people love. Ms. Morganlander also stated that the perception that property values diminish with a historic status is not true. She acknowledged that the development process is a nightmare and she stated that the draft ordinance is meant to make that process easier and more flexible, with local guidelines.

Duane Vajgrt, owner of property in North Laguna, thanked the Commission for listening, but stated that people feel like they are not being heard. He noted that this update process has gone on for years and it is apparent that the majority of the community is against it. He assured that though they have issues with the draft ordinance, they are in favor of preservation. Mr. Vajgrt stated that the process looks arbitrary if changes are not made to it. He agreed with the concerns made regarding the agenda and that the previous discussions are not reflected in the staff notes. Mr. Vajgrt also stated that he is not in favor of selecting a trigger year; old does not mean historic.

**Staff Response:** Regarding the assertion that more environmental review is required to adopt the ordinance as currently drafted, Ms. Jenson countered that per the analysis done by Ostashay & Associates, the C-rated properties do not qualify under State law as historic resources. Ms. Jenson stated that the City has gone above and beyond by making them eligible for the Register; removing that eligibility does not trigger CEQA, rather, the City would rely on the exemption.

Regarding the assertion that the draft ordinance is inconsistent with the General Plan, Ms. Jenson noted that the Historic Element references C-rated properties, but does not say they must be designated as historic resources; rather, the Element differentiates C-rated properties from K and E-rated, noting that C-rated properties are not unique or distinctive individually, but important to the streetscape. Ms. Jenson noted that the importance to the streetscape is addressed in the draft ordinance with the special criteria for Design Review Board consideration. Regarding expanding the Mills Act, Ms. Jenson noted that the City Council has already rejected that idea. Ms. Jenson stated that she does not think the other policies in the General Plan are inconsistent with the ordinance as currently drafted.

In response to Commissioner McErlane's question about the assertion that a more involved CEQA analysis is required to remove C-rated properties from the Inventory, Ms. Jenson reiterated that C-rated properties do not qualify as historic resources under State guidelines and therefore are eligible to be processed under the CEQA exemption. Ms. Jenson confirmed for Commissioner Johnson that this means that if C-rated properties are removed from the Inventory, they will not have to go through the CEQA process, unless it is determined the property's historic status is higher. Ms. Jenson confirmed for Commissioner Johnson that this also applied to demolition applications for C-rated properties. Ms. Jenson clarified for Commissioner McErlane that because the current Inventory does not give rise to a presumption regarding historicity for CEQA purposes, the decision-making body has to make the CEQA determination and could determine that a C-rated property should be rated higher. Ms. Caron responded to Commissioner Johnson that the City determines if a historic assessment is needed and Ms. Jenson assured that the updated Inventory would not be adopted until there has been a full vetting process.

Regarding the assertion that the Design Review Board has no legal authority to prevent demolition, Ms. Jenson advised Commissioner Sadler that the Design Review Board must make findings for a Coastal Development Permit to demolish a structure; however, those findings are not specific to a property's historic status. Ms. Caron advised that the ordinance has a special process for demolition related to K and E-rated properties, but not C-rated; however, the incentives are meant to encourage property owners to preserve and not demolish. She stated that more review criteria could be incorporated if the Commission desires and Ms. Jenson reiterated that a waiting period could be added for relocation.

**Commissioners' Comments:** Commissioner McErlane noted that the Commission's review is towards the end of this process, which is at the stage of "fine tuning" what has been drafted. He assured that the Commission hears what people are saying and will incorporate concerns as appropriate. He commented that this has been a long process to improve an old ordinance. Commissioner McErlane asserted that the Inventory needs to be updated so everyone knows where they stand; during that process, C-rated properties would be reviewed and either elevated to a K or removed from historic review. He agreed with Ms. Jones that the ordinance language needs to be improved to protect C-rated properties; demolition is not the Commission's intent. He asserted that the Inventory is critical. Commissioner McErlane also noted that there are many advantages of being on the Register, and he stated that existing benefits should remain with C-rated properties to incentivize preservation. Commissioner McErlane stated that 1946 to 1948, at the end of the war, would be a logical date, not 1955, and he argued that mid-century modern does not represent Laguna's history. Commissioner McErlane stated that the ordinance is not fine-tuned enough; it needs to be more effective and fair.

Commissioner Kempf had an opposing view, stating that she does not support the Inventory. She noted that when the Inventory was done in 1981, property owners were advised that inclusion would be voluntary and would incur no restrictions, so now people feel ensnared. Commissioner Kempf stated that the identification feels arbitrary and it is hard to understand the differentiation between properties identified as C-rated, K-rated or not identified at all. She noted that Laguna Beach does not have historic districts and therefore proper vetting is necessary. Commissioner Kempf asserted that the process is overly complicated, submitting that the complexity is the root of the problem, and she referenced the Santa Ana ordinance that was provided by a member of the public at the last hearing, which is simple and straightforward. Regarding the trigger date for historic review, she noted that the Historic Element references nothing after 1940. Commissioner Kempf stated that the draft ordinance will come back for vetting by the Planning Commission, which will hopefully be the last Planning Commission review, then will go to the City Council. She assured that the Planning Commission is sensitive to historic structures, and she supported E and K-rated properties being eligible for the Mills Act to obtain those associated benefits, commenting that she would be pleased to see C-rated properties opt to be upgraded to be eligible for those benefits.

Commissioner Sadler noted that the City is not creating a historic preservation ordinance but rather is proposing an amendment. He noted that the Historic Preservation Ordinance was adopted in 1989 and amended in 2005. Commissioner Sadler stated that a good case has been made that C-rated properties do not rise to the level of E and K-rated. He noted that C-rated properties do not meet State standards for historic resources; the City originally took a broad approach to capture as many local historic resources as possible. Commissioner Sadler agreed that the City should provide more flexibility for C-rated properties; if they are no longer considered to be historic resources, but

remain on the Inventory, with a style guide that allow for modifications, repairs would be less costly. Commissioner Sadler noted that the draft ordinance applies incentives for all, including C-rated, and there is a process for re-evaluation of ratings, up or down. He stated that the goal is to make the process less of a hassle and less costly. Regarding the existing Inventory, Commissioner Sadler recommended keeping it as it is, noting that the ordinance is going to the City Council, which will make the final decision, and will determine if the Inventory should be eliminated, expanded or re-evaluated. Commissioner Sadler noted that there will be a process for property owners to point out the history of their property that may make it no longer historic and he asserted that starting over is not a viable option. Regarding the trigger date, Commissioner Sadler agreed that it seems arbitrary and he submitted that it should be a rolling timeframe because what is considered historic now may be different 100 years from now. Regarding Staff Recommendation #2, he agreed that all incentives should apply equally, as the draft ordinance is currently drafted. Commissioner Sadler stated that he is open to more fine tuning of the ordinance, but he recommends forwarding the ordinance to the City Council to make the final determination.

Commissioner Johnson stated that the Inventory should be updated, but participation should be voluntary and the Inventory should only be used as a resource document by staff. She stated that the process to upgrade a property's rating should be clear. Commissioner Johnson supported removing C-rated properties from the Inventory, but with incentives to encourage their preservation, and additional design review criteria for C-rated properties. She agreed with Ms. Fudge and Commissioner Sadler that there should be a rolling timeframe of 50 years. Commissioner Johnson stated that the draft ordinance needs edits. She asserted that it should be a voluntary process, providing people the ability to opt in or out, and the incentives need to be clearly explained and identified in the document. She also stated that the demolition issue needs to be clarified. Commissioner Johnson stated that the ordinance should be strongly incentive-based, commenting that this city does well with voluntary participation. She submitted that the design review process can be clarified and augmented to encourage preservation. Commissioner Johnson stated that the draft ordinance is a work in progress, not the final document. Regarding parking incentives for commercial structures, Ms. Caron noted that the draft has been updated to identify the potential need for a parking demand study; however, Commissioner Johnson responded that more is needed. Commissioner Johnson confirmed for Commissioner McErlane that she agrees that C-rated properties should be downgraded and handled with a local process, and the historic preservation process should be voluntary.

Commissioner Kempf questioned benefits applying to those that opt out, and she questioned the purpose of keeping the Inventory. Commissioner McErlane stated that the Inventory provides a list of what may be historic and Ms. Caron noted that it is possible that properties on the Inventory could be determined to be historic resources. Commissioner Johnson commented that properties can be vetted on an individual basis. Ms. Caron advised that the Heritage Committee recommended that the City absorb the cost of such assessments and Commissioner Johnson asserted that the City needs someone in-house that is qualified to do those assessments.

Commissioner Whitin recommended that the language regarding parking demand studies be changed from "may" to "shall" be required, and it was confirmed for Commissioner Sadler that the requirement would only apply if an applicant is requesting incentives.

Commissioner Whitin concurred with Commissioner Johnson, stating she has faith in the spirit of the town and its pride. She argued that there is no shortage of people wanting to improve their

properties, but they are unable because of the City's onerous requirements. Commissioner Whitin noted that the City wants to encourage people to age in place, but if they cannot afford to maintain or improve their property, it is not possible. She argued that it is incumbent on the design review process to prevent mansionization; therefore, there should be tighter controls, and she stated that the additions suggested by staff regarding neighborhood compatibility are a good start.

Regarding the trigger date, Ms. Caron clarified that the criteria is referring to the applicable architecture, but confirmed that other criteria apply to determine if a property may be historic. The Commissioners agreed with Commissioner Sadler's suggestion to have a rolling timeframe of 70 years.

Regarding the Inventory, Ms. Jenson stated that substantial revisions to the draft ordinance would be necessary if the updated Inventory is not adopted. She confirmed for Commissioner Whitin that if the update to the Inventory is completed, it would create the presumption for historicity. Ms. Jenson also confirmed for Commissioner McErlane that C-rated properties would be moved to another category, and she explained that how the City treats C-rated properties is a different issue. Commissioner McErlane argued that the Inventory defines the history the City wants to preserve and therefore the City has an obligation to have a complete Inventory to refer to. Commissioner Johnson countered that a Citywide Inventory would be a massive effort and she did not see the need, if more complete design review criteria is created. Commissioner Kempf also questioned the purpose of an Inventory, considering that the Commission just agreed on a rolling timeframe of 70 years. Ms. Jenson explained the City's current plan for completing the update to the Inventory, which would involve public hearings and possible adjustments, before being formally adopted. She noted that the City Council was presented the option to complete a Citywide survey and rejected that option. Therefore, Ms. Jenson stated that staff needs a Planning Commission recommendation regarding the effort being undertaken. The Planning Commission indicated that the current effort results in an outcome that is not equitable. Ms. Caron explained that having an adopted Inventory versus not having one is a matter of burden of proof; the burden shifts to the property owner if the property owner disagrees with the rating if the City has an adopted Inventory, else the burden is on the City if the City does not adopt an Inventory. Ms. Caron noted that as the revised ordinance is currently drafted, costs for historic assessments would be borne by the City. Ms. Jenson interjected that the ordinance was drafted based on the assumption that the update to the Inventory would be completed and she reiterated that a substantial revision to the draft ordinance will be necessary if the Inventory not adopted. Ms. Jenson responded to Commissioner Johnson that though it is not a requirement for the City to have an Inventory, it helps staff during the review process and it provides the public some level of notification, whereas having no Inventory leaves the statuses of all properties unknown. Commissioner McErlane commented that such uncertainty adds a hurdle to real estate transactions and Commissioner Sadler asserted that it would heighten the existing level of uncertainty. Ms. Jenson advised Commissioner Whitin that C-rated properties can only be removed from the Inventory if the City opts to give them no special recognition. Ms. Caron advised that staff can recommend assessments case-by-case; however, she cautioned that such an approach increases uncertainty. Ms. Caron advised that approximately 550 properties are on the 1981 Inventory. She advised that the results of the 2014 re-evaluation include recommendations for 87 to be downgraded and identified 9 that were demolished. The Planning Commission confirmed its preference for a comprehensive Inventory, to be kept as a resource document only. Commissioner Kempf questioned the purpose of the Inventory, which she viewed as arbitrary and therefore recommended that it be eliminated. Ms. Caron advised Commissioner Sadler that properties on the current Inventory would be treated the same as unsurveyed properties if the



Inventory is not adopted and she explained that staff would use the 2014 review as a resource document. Ms. Caron explained that staff was relying on the Inventory as presumption of historicity until two years ago when staff became aware that presumption could not be made. Ms. Jenson advised that if the City does not adopt an Inventory, then more individual assessments will be required. The Commission voted 4-1 (Commissioner McErlane dissenting) to recommend that the Inventory be kept in its current state to be used for informational purposes only; Commissioner McErlane recommends that all structures over 70 years old be surveyed and the City adopt a comprehensive Inventory.

Regarding incentives, Ms. Caron explained that the draft ordinance would allow properties on the Inventory to receive incentives because the Heritage Committee's concern was that properties were being determined to be historic and yet were not eligible for any incentives. Ms. Jenson noted that the ordinance requires a document to be recorded for a property to be eligible for incentives; therefore, Ms. Caron stated that staff will revise the ordinance appropriately. It was clarified that the Commission wants C-rated properties to no longer be treated as historic resources, but to be eligible for design review incentives, keeping the Mills Act as an additional incentive for E and K-rated properties. The Commission confirmed its direction for all E and K properties to be eligible for the same incentives whether they are on the Register or not.

Commissioner Johnson reiterated her recommendation that the City hire an in-house certified historic consultant. Commissioner Whitin agreed, and reiterated her previous recommendation that the City provide training on reviewing C-rated properties for the design review approval bodies.

Motion AJ Second KS Action Direct staff to revise the draft Ordinance, based on Planning Commission direction at tonight's meeting, and return with a revised draft Ordinance for review at the Sept 6, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y Kempf Y Sadler Y McErlane Y Whitin Y

- 3. Conditional Use Permit 15-1443, Planning Commission Design Review 15-1444 and Variance 16-0488 to establish a new Verizon Wireless communications facility in the public right-of-way across the street from 2133 Laguna Canyon Road (*Laguna Canyon Winery*). The installation would consist of two panel antennas, two remote radio units and associated ancillary equipment mounted onto a replacement wood utility pole, in conjunction with one new ground-mounted electric meter pedestal. A variance is required to exceed the height of the existing utility pole by approximately 7 feet.**

Communication Disclosures: All Commissioners have visited the site unless otherwise noted in the public hearing.

Anthony Viera summarized the staff report. He advised that Edison's preference is for a meter and will only consent to meterless if it is a City mandate; therefore, Mr. Viera provided staff's proposed condition of approval to add to the approval resolution requiring the meterless option.

**Questions of Staff:** Mr. Viera confirmed for Commissioner Johnson that the proposed condition, which he repeated, will be Condition 31, and applies to both this item and Agenda Item #4.

**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 2 **DATE:** 7/5/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, CEQA Guidelines Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.

**BACKGROUND:** On March 15, 2017, staff provided an introductory presentation to the Planning Commission regarding the proposed draft Ordinance. A staff report was prepared that provided the history of the draft Ordinance and suggested topics for discussion. The Commission continued the review of the draft Ordinance to the April 19, 2017 Planning Commission meeting.

On April 19, 2017, staff provided an updated presentation and staff report for the Planning Commission based on the direction given at the initial Planning Commission hearing held on March 15, 2017. The staff report included: (1) a cost estimate for conducting a Citywide Historic Inventory; (2) clarification of the process for adopting a local CEQA (California Environmental Quality Act) guideline for C-rated structures; (3) discussion about the opportunity for historic districting within the City; (4) discussion about eliminating the draft Inventory; (5) providing flowcharts that describe the review processes proposed in the draft Ordinance; and (6) discussion in regard to extending the Mills Act Program to C-rated structures. After considering the staff report, staff presentation and the public comments, the Planning Commission directed staff to provide expanded information about the processing options for C-rated structures, options for updating the Historic Inventory and an analysis of the historic parking reduction incentives. The Commission continued the review of the draft Ordinance to the June 7, 2017 Planning Commission meeting.

On June 7, 2017, staff provided an updated presentation and staff report for the Planning Commission based on the direction given at the April 19, 2017 hearing. The updated report included expanded information about the processing options for C-rated structures (3 options), options for updating the

Historic Inventory and an analysis of the historic parking reduction incentives. After listening to public testimony and reviewing the staff report, the Planning Commission unanimously directed staff to update the Ordinance so that C-rated properties were not considered as locally recognized historic resources (option 2) and that future applications to modify a C-rated structure would only be subject to Design Review approval (thereby eliminating Heritage Committee review of C-rated structures). The Planning Commission also recommended that staff update the Ordinance to provide the additional staff recommended criteria to be evaluated when considering historic parking incentives. The Planning Commission also requested that at the next meeting, staff provide an analysis about changing the need for a historic threshold review date of 1955 instead of another date, such as 1945 (for structures that have not been surveyed). The Commission continued the review of the draft Ordinance to the July 5, 2017 Planning Commission meeting.

**STAFF ANALYSIS:** Further discussion below is provided based on the Planning Commission's direction at the June 7, 2017 meeting.

**C-rated Properties to Receive Special Consideration during Design Review (option 2):**

At its June 7, 2017 meeting, the Planning Commission unanimously directed staff to update the draft Ordinance so that C-rated structures would no longer be classified as locally recognized historic resources and would not be subject to CEQA. Instead, the City would adopt local procedures for special consideration during design review. Staff has updated the draft Ordinance (revised 6/30/17) to reflect this direction and Section 25.45.014 now provides a separate review process for C-rated structures. The draft Ordinance notes that:

*"A building permit shall not be issued for any exterior alteration or enlargement of a building or structure listed on the inventory with a "C" rating without receiving design review approval, unless the project is determined to be an insubstantial change as defined in Section 25.45.004. Windows and doors may be replaced in the existing opening with similar or new materials."*

Pursuant to the draft Ordinance, Heritage Committee review would no longer be required prior to design review consideration of modifications to a C-rated structure. Additionally, the updated section includes additional design guidelines for Design Review Board consideration. Section 25.45.014(E) of the draft Ordinance states that:

*"Physical improvements and building modifications shall be designed and located in a manner that best preserves the city's village atmosphere and the existing streetscape. Design review is required to determine if a project complies with the city's design guidelines to ensure that the proposed modifications:*

- (1) Maintain the current relationship to the neighborhood;*
- (2) Are consistent with the pattern of open space existing in the neighborhood;*
- (3) Are designed in such a way that visible mass conforms to the scale of the neighborhood and that the building heights are appropriate to the neighborhood;*
- (4) Consider the existing setback pattern in the neighborhood;*
- (5) Locate garages and driveways in a manner compatible with the established neighborhood pattern and that new garages are designed to preserve the existing scale of the neighborhood,*
- (6) Incorporate compatible exterior materials, finishes and treatments."*

This revised section (above) eliminates the current requirement that alterations to C-rated structures must comply with the Secretary of the Interior's Standards, thereby allowing increase flexibility for

modifications to C-rated structures. However, design review approval is now required for the substantial alteration of a C-rated structure and the aforementioned criteria/findings were added for Design Review Board consideration when reviewing modifications to a C-rated structure to promote continued compatibility of these structures.

One Commissioner expressed the desire for staff to provide an analysis to the Design Review Board when modifications to a C-rated structure are being considered. Currently, staff provides either a Project Overview Sheet, or a detailed Staff Report to the Board, depending on the scope of the project. When the Board is considering any alterations to a C-rated structure, staff will expand the staff report or the overview sheet to provide further details and analysis about the proposed project modifications to these structures.

#### **Historic Parking Reduction Incentive:**

At the previous Planning Commission hearing, the Planning Commission reviewed an analysis of the historic parking reduction process and directed staff to update the draft Ordinance so that an evaluation of parking demand of the existing or proposed use, potential neighborhood impact and available offsite and on-street parking be considered when reviewing the parking reductions. Staff has updated Draft Section 25.45.008(A)(3) and (4), to include the additional language (changes underlined):

*(3) "E" rated ~~historic~~ structures located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering any parking reductions.*

*(4) ~~Historic~~ Structures located in commercial zones and which have "K" or "C" ratings may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design. A parking demand study may be required to evaluate the existing or proposed use, potential neighborhood impacts and available off-site and on-street parking when considering any parking reductions.*

The expanded language (above) will provide a requirement for the evaluation of property specific conditions to be reviewed during the Conditional Use Permit review process and specifically the potential neighborhood impacts of project parking reduction requests.

#### **Review of pre-1955 structures:**

Currently, the Municipal Code is silent in regards to the review process for a property that is not listed on the Register. However, when a project requires design review approval, an environmental determination, pursuant to the California Environmental Quality Act (CEQA), is required. The City's Design Review Criteria note that special consideration should be provided to structures over 45 years of age. Given that this would be a rolling timeframe and not really representative of what the draft Ordinance is trying to preserve, the Heritage Committee recommended the year 1955 be used as a cap for historic review. The year 1955 was selected because the Heritage Committee felt that time period was the end of the individually constructed, unique structures that were important to the City's past. As currently proposed, only structures that are intact, constructed prior to 1955, and are representative

of the City's historic styles (Craftsman, Bungalow, Beach Cottage, Period Revival, Provincial, Settlement, Moderne and Mid-Century Modern [Mid-Century Modern is not included in the City's Historic Element but was recommended to be included by the Heritage Committee]) would be evaluated for historic significance. On June 7, 2017, the Planning Commission discussed changing this date to 1945, and directed staff to provide additional discussion on this issue.

After researching City records, it appears that approximately 1,600 structures were constructed between 1946 and 1955. These structures are located throughout the City, and are not clustered into any specific areas. After a cursory review of these 1,600 structures, it appears that some of the properties built between 1945 and 1955 have been altered over time, some do not reflect the historic styles (mentioned above), but some structures do appear in their original condition. Given the wide range of property conditions that exist, staff recommends that the current draft Ordinance date of 1955 remain as a conservative threshold date so that any historic structures constructed during this timeframe are not overlooked. If a structure does not meet the criteria listed above, then it would not be subject to historic review in the future.

#### **Additional Considerations:**

While incorporating the Planning Commission's direction given at the June 7, 2017 meeting into the draft Ordinance, staff became aware that the Planning Commission had not made specific recommendations regarding the application of historic incentives and the adoption of the Historic Inventory. Below is a discussion of each.

#### **Historic Incentives:**

Currently, development incentives/flexibility are only available to structures listed on the Register. Under the proposed draft, all incentives are equally available to structures listed on the Inventory and the Register, including C-rated structures. The only exception is that K and E-rated structures listed on the Register are eligible for the Mills Act. The Heritage Committee made this recommendation because they were concerned that structures on the Inventory, which may be subject to historic review, are not currently eligible for any incentives, unless the property is placed on the Register. The Committee felt it important to provide incentives to all potentially historic properties as a way to further encourage preservation of these structures.

The current draft Ordinance allows E and K-rated structures on the Inventory, as well as C-rated structures, to qualify for incentives, even if the property is not put on the Register. This provides an increased benefit if a property is subject to historic review. However, staff is concerned that it may reduce the benefit of registering a structure because, as drafted, the only additional benefit of placing property on the Register would be Mills Act eligibility. Currently, when a property is placed on the Register, a notarized agreement of preservation is signed by the property owner and is recorded at the County. This agreement helps to ensure the long-term preservation of the property. As currently, drafted, this agreement would no longer be required as part of the incentive approval process. Staff recommends that the Planning Commission consider this issue, and provide a recommendation to the City Council regarding what structures are eligible for historic incentives.

#### **Adopting the Historic Inventory:**

At the June 7, 2017 hearing, several Commissioners discussed that the City's Historic Inventory (and any future updates to the Inventory) should be used solely as a resource document/planning tool and

should not be formally adopted. Currently, the 1981 Inventory is more than five years old and therefore does not give rise to a presumption regarding historicity for CEQA purposes. When an application is submitted for review, the Inventory is referenced by staff. If the property is on the Inventory and the structure appears to be in a similar condition as it was in 1981, the property is flagged to be reviewed to determine if it is a historic resource. Moving forward, if the Inventory is not adopted, it would continue to be used as a resource document. However, it is important to note that if the Inventory is not adopted, it will not change or downgrade the historic status of a K or E- rated structure. Therefore, current ambiguity about a property's rating may also continue. Alternatively, if the Inventory is adopted, then a definitive rating will be assigned to a property. The adopted Inventory will necessitate a re-evaluation every five years, to remain effective for purposes of being sufficient, in and of itself, to be relied upon to find a structure to be a historic resource. Staff recommends that the process of adopting the Inventory be completed, to re-affirm the historic status of the properties that have been surveyed. Additionally, the draft Ordinance provides a rating evaluation process so the rating can be reevaluated at any time. Staff recommends that the Planning Commission provide a recommendation to the City Council regarding the adoption of the Inventory.

**LOCAL COASTAL PROGRAM:** A Local Coastal Program Amendment is required because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** Public Resources Code Section 21080.5, a provision of California Environmental Quality Act (CEQA), and Section 15265(c) of the State CEQA Guidelines, shift the burden of CEQA compliance to the California Coastal Commission in connection with preparation or amendment to a Local Coastal Program (LCP). The Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process. In addition, the revised ordinance is categorically exempt under CEQA section 15308, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. According to the City Attorney, if significant changes are proposed to the draft Ordinance, additional environmental review may be required prior to adoption.

**RECOMMENDATION:** Staff recommends that the Planning Commission review the draft Ordinance and the additional information discussed in the staff report, listen to public testimony and provide the following:

- 1) Confirm staff's recommendation that the date of 1955 remain as currently drafted;
- 2) Provide a recommendation that incentives be offered to E, K and C-rated properties equally, with the exception the Mills Act will continue to only be allowed for K and E- rated structures on the Historic Register (as currently drafted); or, recommend to the City Council that an alternative incentive program be used;
- 3) Confirm staff's recommendation that the Inventory be adopted; and
- 4) (a) Direct staff to return to the Planning Commission on July 19, 2017, with a Resolution recommending that the City Council adopt the draft Ordinance as currently written; or (b) Direct staff to revise the draft Ordinance, based on Planning Commission direction at

tonight's meeting, and return with a revised draft Ordinance for review at the July 19, 2017 Planning Commission meeting.

- ATTACHMENTS:**
- Exhibit A: Revised draft Ordinance (updated 6-30-17)
  - Exhibit B: 6/7/17 PC Minutes and Staff Report
  - Exhibit C: 4/19/17 PC Minutes and Staff Report
  - Exhibit D: 3/15/17 PC Minutes and Staff Report

Commissioner Johnson was not in favor of a formal master plan for the college, noting that it has been able to change with the times. She also submitted that the college is not sure what it will be able to build until money is received and specific needs are identified. She asserted that the City can handle projects as they come forward. She agreed with waiting to address the density standard and agreed that modern architecture with appropriate materials may be appropriate in certain areas. She shared the concerns about the lack of attention to the road and submitted that they need information on the road before making a final determination. Commissioner Johnson stated that she would like the City to take over the road because it would make a difference in the look and feel, and she continues to advocate the designation of Laguna Canyon Road as a State Scenic Highway. She agreed that Ms. Jung provided a good summary of the key issues and she noted that this is a work in progress.

Mr. Pfost stated that staff can work with MIG to insert some of the comments into the document, such as correcting the map to include the Svendsen property, but detailed changes would occur with Code amendments and updating the Specific Plan. He stated that the reference material will be updated to include the comments that will not be directly included in the Study.

Commissioner Kempf stated that it was helpful to have the list of issues identified during the previous meeting.

Motion KS Second SW Action Continue this item to the July 19, 2017 Planning Commission meeting where a final report will be presented. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

3. **Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.**

Martina Caron summarized the staff report.

**Questions of Staff:** Commissioner Sadler requested further clarification on the sequence of events that changed the Heritage Committee decision from unanimously approving Option 2 to a split 4-3 decision for Option 3, which the Design Review Board (DRB) then approved. Ms. Caron explained that the Heritage Committee originally only considered two options, then the third option of a local CEQA (California Environmental Quality Act) exemption was presented. She explained that the Heritage Committee wanted to provide C-rated properties more flexibility, the question was how best to provide that flexibility while also protecting them.

Ms. Caron confirmed for Commissioner Sadler that with Option 2, C-rated structures would have all the same incentives as E- and K-rated, with the exception of the Mills Act Agreement. She also confirmed that Option 2 has a process for property ratings to be upgraded and downgraded. Ms. Caron explained to Commissioner Sadler that Option 3 may provide more protection for C-rated properties against demolition and unsympathetic alterations because Option 2 allows those properties to go through only the regular design review and Coastal Development Permit processes, which allow for more flexibility, whereas Option 3, depending on how the exemption guidelines are written, may require more in-depth environmental review. Ms. Caron confirmed for Commissioner



Sadler that all demolition requests require design review approval. Regarding CEQA implications, Mr. Pfof explained to Commissioner Sadler that under Option 2, C-rated properties would no longer be subject to CEQA because they would no longer be considered historic resources, whereas under Option 3, C-rated properties would still fall under CEQA, but the City would determine how restrictive that exemption would be. Ms. Caron added that Option 2 would still require design review, and the requirements under Option 3 depend on how the exemption is drafted.

**Public Testimony Regarding the Project:** Ann Christoph, Charlotte Masarik, Norm Grossman, Barbara Metzger and Deborah Rosenthal provided a presentation supporting Option 3, showing an example of a successful addition to a C-rated property, the differences between Option 2 and Option 3, and recommending that the Planning Commission supports Option 3 with the DRB recommendations. Mr. Grossman also questioned approving an ordinance without standards written.

Marshall Innis, speaking as a homeowner, asserted that the presentation provided by the previous speakers is inaccurate. He stated that the first picture they showed was his house on Oak Street, which was originally a shack built out of shipping containers. Mr. Innis supported Option 2 without Heritage Committee review, asserting that the DRB can adequately handle that review. He submitted that C-rated houses are being indentured to the process and recommended that the City focuses on E and K-rated properties, with a process for others to upgrade if they so desire.

Curt Barwick handed out copies of the Santa Ana ordinance, which he surmised the original Laguna Beach was modeled after. He stated that the Santa Ana ordinance is clear and concise, and Santa Ana maintains a Register, which the applicant has the burden to demonstrate that a property should be included. Mr. Barwick noted that Santa Ana has similar ratings of "Landmark," "Key" and "Contributive," a rehabilitation financing program and no Inventory, just a Register. He stated that the Santa Ana program is voluntary, incentive-based and works well, with restrictions only after a hearing on full merits; other properties are not presumed historic.

Mary Keown Watkins agreed with the previous speakers that the program should be kept voluntary and acknowledge others besides C-rated. She stated that when they moved into their home, they were aware that it was on the Inventory, and they were fine with that until all this process started. She stated that to get on the voluntary Register, the process is difficult and confusing.

Dave Watkins thanked everyone for their hard work. He observed that everything is tied to CEQA. He commented that the Inventory is not valid and he suggested that anything prior to 1972 be included, otherwise, the dates are arbitrary. Mr. Watkins argued that the Inventory must be complete, with ratings, to give property owners a chance to reply. He questioned the qualifications of the person that decides a property should be on the Inventory, asserting that the criteria need to be spelled out. Mr. Watkins questioned why the City is changing the existing ordinance, submitting that it is making things worse.

Charles Brickell, Laguna Beach Board of Realtors, argued that realtors should not be the source of information related to a property's historic status, it should come from the City. He agreed that C-rated properties should only have DRB oversight.

David Duker commented that most of the focus is on homes, but the commercial parking exemptions have a devastating impact on neighborhoods. He stated that for example, *Urth Caffé*

occupies a site that was originally built in 1917 as a single-family residence, and they have 83 tables plus five areas for single seating, totaling 171 people that can be seated. He stated that there are 50 to 80 vehicles looking for parking in the neighborhoods; the restaurant averages a 45-minute turnaround, further exasperating the situation. He reiterated that such situations are devastating to people living in historic homes in adjacent neighborhoods.

Ginger Osbourne expressed concerns about section 25.45.014, which arbitrarily assigns a historic status to structures built before 1955. She argued that CEQA requires all structures over 50 years old be evaluated, so she questioned how the draft ordinance meets CEQA requirements. She commented that what may be unimportant to one generation becomes important with the passage of time; if the arbitrary date is removed, then the ordinance will never be outdated. Therefore, Ms. Osbourne requested removal of the 1955 date and she asked for a new Inventory to identify and protect what is truly historic.

Diane Riegler, fourth generation resident, stated that she has witnessed many changes. She stated that she lives in a 1922 house and had no idea it was K-rated on the Inventory, which describes it as "Craftsman influenced..." She explained that for 30 years she has been putting on band-aids to make her home livable. Ms. Riegler stated that she recently tried to apply to remodel her house, and discovered it is K-rated. She stated that she wants off the Inventory so she has freedom to add more space, or be downgraded to a C rating, which she submitted is more appropriate, given all the changes that have been made to the home over the years. She asserted that property owners should not have to fight so hard to keep and maintain their homes.

Jennifer Zeiter supported Ms. Riegler. She supported including a process to downgrade property ratings and she questioned the difference between C and K-rated properties. Ms. Zeiter requested that the City not adopt another Inventory.

Ron Craig stated that his home was built in 1932, in the 1950s the size was doubled, and other changes such as stucco and aluminum windows were added. He stated that in 1971 he bought the home and shingled the entire structure to make it look cohesive, then the drive-by Inventory survey was done in the 1980s and they determined his home is historic, without doing any homework. Mr. Craig asserted that the City stole his house and he wants his home back, stating that he was not given the opportunity to opt out.

Gary Khazanovich, 2569 Bonita Way, stated that he purchased his property in March. He stated that in January he went to Planning to discuss capabilities to build a second story and major remodel and was advised that the setbacks could be extended. He said the RPR did not state that the home was historic, but after he purchased the property, during Zoning Plan Check, staff informed him that a historic evaluation is required. Mr. Khazanovich stated that he would have never purchased the property if he had known. He also stated that he filed an application for demolition and heard nothing after 30 days, which violated the law.

Sharon Fudge submitted that the ordinance needs to have a lot more "carrot" and a lot less "stick." She asserted that making people preserve their properties is gross overreach into property rights. She stated that she thinks historic preservation is important, but it must be the property owner's choice. Ms. Fudge explained that for historic resources, changes must meet the Secretary of the Interior's Standards (SOIS) to qualify for exemptions; otherwise, certain studies are required, but that does not mean those changes cannot occur. She referenced the notes from the 1981 Inventory

and the purpose of the State Resources Inventory, which was to provide the technical profile of the City's architecture to be used as a tool for future planning, but not to be a "hammer."

Eugene D'Isabella stated that he requested to opt out in 1981 and has never applied for any benefits, yet his property was listed on the Inventory. He asserted that no one will want to buy his house now and he beseeched the Commission to make the program voluntary.

Tina Griesinger stated that she owns four cottages at 222 La Brea Street, and is fighting against the Inventory. She questioned how it was decided which properties to add to the Inventory, noting that her cottages were added with a K rating because of artistic value. She assured that she wants to keep the cottages cute, but advised that it cost her \$250,000 to add 566 square feet. Ms. Griesinger submitted that Laguna is artistic, and property owners should be able to do what they want with their own property.

Mike Johnson, realtor, spoke as a citizen, requesting that the process be simplified. He referenced the flow charts on page 76 of the staff report, noting how many more steps are in the proposed process for properties on the Inventory versus the steps in the existing ordinance for properties on the Register. He commented on Pasadena's Mills Act program and noted that Laguna's Mills Act program does not reward a lot of people. Mr. Johnson supported protecting historic properties, but not stifling property owners. He also stated that people need certainty.

Larry Nokes asserted that the Inventory has caused a lot of problems. He noted that it is invalid for presumption purposes and the General Plan simply references the ratings. He recommended that the City adopt a Register only and maintain a voluntary, opt-in, incentive-based program. Mr. Nokes requested that all references to the Inventory in the proposed ordinance be eliminated because the Inventory causes confusion and distress. He suggested that structures built before 1940 be required to obtain a historic assessment and amending the existing section 25.05.040(H) to eliminate the reference to 45 years.

Lorraine Mullen-Kress, speaking as a private citizen, stated that there are advantages of C-rated properties going only before the DRB. She noted that they are less significant than E and K-rated and she supported eliminating Heritage Committee review for C-rated properties, saving significant time and money for applicants.

Darrylin Girvin requested that the Commission considers how important incentives can be. She asserted that Option 2 would leave C-rated properties without protections because incentives such as parking and setback reductions would no longer apply. Therefore, Ms. Girvin requested that the Commission approves Option 3.

Becky Jones also requested that the Commission adopts Option 3. She asserted that if C-rated properties are no longer listed as historic resources, future C-rated properties will not be listed, and by the time a project gets to design review, damage will already have been done, and the City will have less authority. She argued that Option 3 provides flexibility and protection, and was recommended by both the Heritage Committee and Design Review Board. Ms. Jones explained that most of the discussion revolved around how to protect C-rated structures while still providing flexibility; Option 3 was not discussed until the September 28, 2016 meeting. She submitted that development guidelines do not need to be onerous, noting that staff has already suggested five criteria. She agreed that the Heritage Committee does not have to review these projects and she

stated that there have been problems because the City has not had local guidelines and instead requires SOIS compliance.

Chip Harrell, one of the owners of the *Sandpiper*, stated that they want off of the Inventory after hearing about their neighbor's difficulties in selling their property, eventually selling for far less than they may have gotten if they did not have a historic designation.

Gary English stated that his grandfather purchased their home in 1922. He commented that the City of Laguna Beach is still part of the United States and they are entitled to just compensation.

Ed Sauls stated that he is not here because of his home, but rather because he cares about the City adopting good public policy. He questioned what problem the City is trying to solve and submitted that the ordinance is not ready for adoption. He stated that if the City thinks the proposed ordinance solves an issue relative to CEQA, it does not. Mr. Sauls noted that the Inventory does not mean a property is historic, and he questioned what is being resolved by the ordinance that the City's design review process does not already address. He stated that he could support an incentive-based program, but if it is regulatory-based, that is a huge issue.

Maureen Sanchez de Tagle advocated a voluntary program. She stated that she owns a C-rated structure and it was a laborious process to remodel it. She argued that the design review process would have preserved the historic nature of the property and she stated that she was unable to get any benefit from a Mills Act agreement.

Michael Ray stated that he owns two C-rated houses, which he tried to remove from the list. He stated that he hopes the City Council adopts an ordinance that identifies any property over 45 years as historic, because then there will be a class action lawsuit for taking without just compensation. He also commented that he is tired of Village Laguna bullying the City.

Catherine Jurca stated that she attended the last hearing on this issue. She commented that she appreciates the historic quality of the City and she noted that properties eligible and not on the Register are still subject to CEQA, so any program would not be completely voluntary. She agreed that there needs to be a Citywide survey, but she noted that the 1981 Inventory is not invalid, and the City would have to have substantial evidence to remove a property from the 1981 Inventory. She agreed that C-rated properties should be historic but with far more flexibility and she commented that the proposed ordinance is difficult to pass without knowing what the exemption would look like.

Hillary Cole referenced the email her mother sent and she explained that they have a new house that looks like it is old, and it was added to the Inventory. She submitted that the City can keep that look with simple design processes, without an ordinance that would chain property owners. Ms. Cole argued that section 25.45.006(E) makes it impossible to remove a property from the Inventory, and requires that the assessment be paid by the applicant.

Roy Gallagher, 787 Manzanita Drive, stated that his home was built by his grandfather, who was a plumber. He stated that he recently completed the historic preservation process to remodel and it cost him tens of thousands of dollars more than it would have if his property was not historic. Mr. Gallagher stated that his children chose to buy a 117-year-old home in Rhode Island because they cannot afford to make the required modifications to the Laguna Beach property. He advised that

none of the incentives apply to him, but he is trying to maintain his property's historic integrity. Mr. Gallagher asserted that the City is looking at lawsuits if it continues down this road; the program should be voluntary.

June Jerome stated that she bought her home 35 years ago, which was built in 1925. She stated that the letter they received in the 1980s said that the program would be completely voluntary. She commented that these are not museum pieces, but real people's homes. Ms. Jerome stated that though some people can restore their homes, not everyone can afford to do so. She suggested preserving Laguna's character by allowing the freedom of diversity, which created these homes in the first place. She noted that there are still procedures in place, such as design review, that would continue to protect the nature of the City. Ms. Jerome surmised that many would voluntarily be included on the Register; people just want to be able to afford to repair and maintain their homes.

Dennis Johnson, with a 1921 house on Victoria Drive, stated that his home was built from pieces taken from a bank in Corona and sand from Victoria Beach. He stated that the City is dividing the community by commanding participation and he suggested that the Commissioners read about the legal case involving the City of Highland because it might change their opinion.

Bob Chapman, former Planning Commissioner and local realtor for 25 years, noted that the issue has been narrowed down to what to do with C-rated properties. He noted that if they are no longer identified as historic, they could still be considered to be historic by the State. Mr. Chapman noted that people want certainty and he questioned what the liberal requirements would be.

Patsy Mars, owner of a C-rated property on Glenneyre Street, stated that she hopes the people of Laguna can keep their sanity while going through this complicated process. She submitted that the City plays god more than any other City it has made her angry. She argued that the process should be simple.

**Staff Response:** Ms. Caron clarified for Commissioner Sadler that a C-rated property is not eligible for a Mills Act agreement unless the property is upgraded to a K.

Ms. Caron confirmed for Commissioner Sadler that even if the City eliminated its entire historic preservation program, there are still CEQA requirements related to historic resources. However, Ms. Caron explained that the City's program identifies local historic resources whereas the State and Federal programs only identify State and National historic resources.

Kathy Jenson, City Attorney, clarified that even if a property is determined to not be a historic resource, an over-the-counter permit for demolition cannot be obtained because that type of permit requires a Coastal Development Permit hearing process. She also stated that there is not a 50-year benchmark in CEQA, that is just the standard in the State's definition.

It was confirmed for Commissioner Sadler that it is possible for a property that has a new structure to be determined to be a historic resource if a major event occurred at that site.

Ms. Jenson also clarified that the City's RPR (Real Property Report), simply notes if a property is on the Register or Inventory and the rating if it is; the RPR does not determine if a property is a historic resource.

Regarding the threat of lawsuits, Ms. Jenson advised Commissioner McErlane that the designation of a property as historic would not constitute a "taking." Ms. Jenson advised Commissioner Johnson that if there are no City designations, the City would rely on its discretionary process.

Commissioner Whitin noted that the City's historic consultant determined that the City does not have historic districts; however, Commissioner Whitin commented that C-rated properties may not be individually historic, but collectively contribute to the neighborhood's historic nature. Ms. Caron explained that neighborhood compatibility is currently one of the criteria reviewed for any design review application. Mr. Pfost added that staff has included on page 3 of the staff report five additional criteria that could be included with Option 2 to specifically address C-rated properties.

Ms. Jenson responded to Commissioner Johnson that a "taking" occurs when a property owner is deprived of all reasonable use of a property.

Commissioner Whitin agreed that they should review the historic parking incentives and Commissioner Johnson also agreed with that staff recommendation, which included considering the demands on the neighborhood. Commissioner Whitin noted that there are currently no clear guidelines for reviewing the impact on a neighborhood and she asserted that the ordinance must address that issue.

**Commissioners' Comments:** Commissioner Sadler assured that the Commission does not take this issue lightly and considers the comments seriously. However, he noted that the City has an existing historic preservation ordinance, which has been in effect for a long time, and is being revised. Therefore, he questioned the threat of a class action lawsuit for "taking," considering such a lawsuit has not been filed in the decades that the current ordinance has existed. He noted that Option 1 is to leave the existing ordinance as is, which he asserted is not a good option, noting the issues with the current ordinance that were pointed out in the staff report. Therefore, Commissioner Sadler stated that the decision is between Option 2 and Option 3. Commissioner Sadler noted that the Heritage Committee acted as an advisory body to the Planning Commission, which will be the advisory body to the City Council, which will make the final decision. He noted that for maximum flexibility, the best option is to no longer consider C-rated properties as historic resources; if demolition is a concern, Option 3, creating a local CEQA exemption, is the best option. Commissioner Sadler stated that he is leaning towards maximum flexibility for C-rated properties. He noted that the same incentives are in Options 2 and 3 and both allow re-evaluation of ratings. Regarding expanding the Inventory, Commissioner Sadler stated it should be considered in order to create a more level playing field. He stated that a new Inventory would identify potential historic resources, noting that it would be a street assessment, not a detailed determination. Commissioner Sadler noted that staff has suggested additional criteria to include in Option 2 for C-rated properties, and historic context is already considered under the City's existing design review process. Regarding parking incentives, Commissioner Sadler agreed that some have been significant, causing impacts to the neighborhoods, and additional language to address the issue should be added to the ordinance.

Commissioner Whitin concurred with Commissioner Sadler. She supported the maximum flexibility provided in Option 2, with the proviso that the criteria on page 3 of the staff report are added, and other relevant comments could also be added. Commissioner Whitin supported a voluntary, incentive-based, "opt in, opt out" program. She submitted that the date of construction should be removed because a property's historic nature is not based only on its age. She stated that

the City should develop a checklist that specifically addresses historic criteria. She asserted that the Inventory does not need to be expanded. Commissioner Whitin submitted that the City needs to hire a staff person qualified to review historic properties and needs to provide special training for the decision-making bodies so properties can be properly evaluated regardless of age or if they are on a list. She also agreed that RPRs must have accurate information. Commissioner Whitin recommended that the City establishes a historic information desk that is available to the public a couple days a week. She also supported further study regarding parking incentives.

Commissioner McErlane commented that the goal is not to control property rights, but to control what Laguna looks like, to avoid becoming like other areas where volume rules. He stated that he likes the Santa Ana ordinance example because it is simple and clear. Commissioner McErlane argued that the Inventory is important because it identifies potentially historic properties. He agreed that the City needs to take the responsibility for communicating a property's historic status. Commissioner McErlane agreed with separating the C-rated properties from the E and K-rated, while ensuring the C-rated properties are eligible for benefits. He agreed that flexibility is good, but it should not be unlimited; therefore, Commissioner McErlane stated that the process needs to be defined, clearly showing the difference between processing a C-rated property versus an E or K-rated. Commissioner McErlane asserted that C-rated properties should go to the Design Review Board without having to first go through the Heritage Committee, noting that the DRB deals with historic context anyway. Therefore, Commissioner McErlane supported Option 2. He also agreed that it is critical that the historic parking incentives be reviewed.

Commissioner Johnson agreed with many of the Commissioners' comments. She noted that the biggest issue is voluntary versus involuntary, public rights regarding the look and feel of the town versus individual property rights. Commissioner Johnson agreed that parking incentives must be weighed with respect to the impact to the neighborhood. She suggested using the updated 2014 Inventory as a resource, removing those properties no longer deemed historic. She recommended creating program with owner consent and strongly publicizing the incentives. Commissioner Johnson stated that she likes the idea of just design review approval for remodels of C-rated properties, without Heritage Committee review. Commissioner Johnson also agreed with training someone in-house on the historic process. She commented that the building standards for remodels should be the same as the Inventory standards, to mimic the look from the street, rather than requiring like-for-like materials. She suggested reviewing the State guidelines because some City constraints are not State required. Commissioner Johnson agreed with Option 2 if local standards are developed for C-rated properties. Regarding RPRs, Commissioner Johnson asserted that realtors should encourage buyers to read the report. She concluded by stating that she supports Option 2 with changes.

Commissioner Kempf supported Option 2 as well. She submitted that the Inventory not being updated is an issue, and she stated that she is fine with having an Inventory if the program is voluntary. Commissioner Kempf recommended removing references to 45 years and the Inventory from the ordinance. She agreed that C-rated properties should have flexibility and Commissioner Kempf opined that the street assessment seems arbitrary and unfair.

Mr. Pfof summarized that the Commission supports Option 2 with the guidelines included in the staff report and addressing issues related to parking incentives, as recommended in the staff report. Regarding C-rated properties, Mr. Pfof noted that two Commissioners stated that those properties should go straight to DRB without Heritage Committee review being required. Commissioner

Whitin stated that she prefers a qualified staff person review the project before it goes before the DRB. Commissioner Sadler commented that historic preservation is already included in the design review criteria, but Commissioner Whitin expressed concern that the DRB does not consist of historic professionals. Mr. Pfof noted that with Option 2, C-rated properties would no longer be considered historic resources, but would be reviewed within the neighborhood context. Commissioner Whitin responded that she believes there should be continuity through a central "clearing house." Ms. Caron noted that certain projects require a staff-assist design review report; therefore, the ordinance could be revised to require such a report for C-rated properties.

Regarding the 1955 date, Mr. Pfof advised that it provides a threshold for staff when reviewing an application. Commissioner McErlane suggested reviewing the existing Inventory to see how many properties were built later than the 1940s; however, Ms. Caron noted that because the Inventory was created in the 1980s, it is unlikely any properties were.

Mr. Pfof advised that staff recommends that this item be continued to the July 5, 2017 Planning Commission meeting.

Commissioner McErlane commented that the City should have a better public relations effort to communicate the benefits of this program.

Motion KS Second AJ Action Direct staff to revise the draft Ordinance, based on Planning Commission discussion, and return with a revised draft Ordinance for review at the July 5, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

4. ~~Conditional Use Permit (CUP) 16-2118, an amendment to CUP 02-29, requesting to modify the conditions of approval in order to facilitate a proposed change of business ownership at 239 Broadway Street (currently *Laguna Drug*). The requested changes include modified hours of operation, a revised merchandise mix, and the addition of a full line of alcoholic beverages. Planning Commission Sign Permit 17-0547 is requested to establish a sign program for *CVS Pharmacy*.~~

~~Communication Disclosures: Commissioner Whitin reported that she met with the applicant.~~

~~Anthony Viera summarized the staff report and commended the applicant on the proposed interior décor.~~

~~**Public Testimony Regarding the Project.** Karen Martin, Pacific Planning Group, agent for CVS, stated that several outreach efforts were conducted, and the common sentiment expressed was how much people love *Laguna Drug*. However, Ms. Martin noted that at one point, there were three pharmacies in the downtown. She asserted that pharmacies must be looked at differently than typical retail because pharmacies have critical items to survival. She stated that CVS is a pharmacy with a retail use and that she loves working with CVS.~~

~~Sheila Bushard Jamison commented that in less than three weeks she obtained 1,200 signatures from residents requesting the City to deny the application. She stated that she did not solicit from~~



**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 3 **DATE:** 6/7/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, CEQA Guidelines Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.

**BACKGROUND:** On April 19, 2017, staff provided an updated presentation and staff report for the Planning Commission based on the direction given at the initial Planning Commission hearing held on March 15, 2017. The staff report included: (1) a cost estimate for conducting a Citywide Historic Inventory; (2) clarification of the process for adopting a local CEQA (California Environmental Quality Act) guideline for C-rated structures; (3) discussion about the opportunity for historic districting within the City; (4) discussion about eliminating the draft Inventory; (5) providing flowcharts that describe the review processes proposed in the draft Ordinance; and (6) discussion in regard to extending the Mills Act Program to C-rated structures. After considering the staff report, staff presentation and the public comments, the Planning Commission directed staff to provide expanded information about the processing options for C-rated structures, options for updating the historic Inventory and an analysis of the historic parking reduction incentives. The Commission continued the review of the draft Ordinance to the June 5, 2017 Planning Commission meeting.

**STAFF ANALYSIS:** Further discussion below is provided based on the Planning Commission's direction at the April 19, 2017 meeting.

**Processing Options for C-rated Structures:**

Over the course of its review of the draft Ordinance, the Heritage Committee expressed that C-rated structures should be given more flexibility for development. The Committee ultimately reviewed two options that could provide more flexibility including: (1) concurring with the consultant's conclusion the C-rated structures are not historic resources under the State standards, and therefore would not

be treated as such under the California Environment Quality Act (CEQA); or (2) continue to treat C-rated properties as locally recognized historic resources, but adopting a local CEQA exemption to allow for expanded flexibility for the alteration of these C-rated properties, with “Expanded flexibility” meaning more flexibility than they would have if treated as historic structures subject to the requirements of the Secretary of the Interior’s Standards (SOIS). Ultimately, the latter option was recommended by the Heritage Committee on a 4/3 vote.

During the April 19, 2017 Planning Commission meeting, the Commission expressed concern that further study was needed to fully evaluate the different C-rated classification options and directed staff to provide clarification on the following three scenarios:

1. Maintaining C-rated structures as locally recognized historic resources subject to the Secretary of Interior’s Standards (as currently done);
2. Reclassifying C-rated structures to no longer be considered locally recognized historic resources, not subject to CEQA, and adopt local procedures for special consideration during design review (initial Heritage Committee draft);
3. Maintaining C-rated properties as locally recognized historic resources, but adopt a local CEQA exemption for predetermined acceptable alterations (current Heritage Committee recommended draft).

1. Maintaining C-rated structures as locally recognized historic resources subject to the Secretary of Interior’s Standards (SOIS) (as currently done).

Structures currently eligible for a C-rating designation are considered locally recognized historic resources. Exterior alterations to these structures, which require Design Review approval, also require a CEQA determination prior to Design Review Board action. The Design Review Board typically reviews projects that are eligible for a Categorical Exemption, which are predetermined in the CEQA Guidelines as not creating a significant environmental impact. In the case of a historic resource, CEQA Guidelines provide for a specific exemption (Class 31), which indicates that if a proposed project is consistent with the Secretary of the Interior's Standards, a significant impact to the resource would be avoided and categorical exemption (Class 31) may be adopted.

Oftentimes when the SOIS are applied during the CEQA review process, only minimal alterations are allowed to a property. While this may be appropriate for historic structures with key architectural features, it has proved to be cumbersome for a structure that is not individually historic, but simply contributes to the streetscape. Recently, there have been situations when the Design Review Board, upon recommendation of the Heritage Committee, has found that a proposed alteration is compatible with the pattern of development and that the contributive nature of a property is not altered, even though the alterations are not consistent with the SOIS.

This inconsistency poses a difficult CEQA processing issue. Once a project involving a modification to a historic property is determined to be inconsistent with the SOIS, additional environmental review is required. For such projects that are not exempt, CEQA is likely to require the preparation of an Environmental Impact Report (EIR) prior to the final approval of the project. Mitigated Negative Declarations, which are another form of CEQA determination, are generally not available if the project will cause a substantial adverse change in the significance of the historic resource because of the lack of viable mitigation measures. Given these processing issues, the Heritage Committee and the Design

Review Board both recommended a change from the current process of applying the SOIS to C-rated structures.

2. Reclassifying C-rated structures to no longer be considered locally recognized historic resources (not subject to CEQA) and adopt local procedures for special consideration during design review (initial Heritage Committee draft).

At an August 25, 2016 workshop, the Heritage Committee reviewed a draft ordinance that had been created based on previous Heritage Committee recommendations. In that draft ordinance, C-rated structures were referred to as "Neighborhood Properties," and were individually addressed within an independent section of the draft ordinance. That draft included language that clarified that C-rated structures were not to be considered historic resources under CEQA. However it was noted that special consideration should be given to these properties during the design review process because of the structures' contribution to the village atmosphere and neighborhood character.

The previous draft ordinance therefore eliminated the requirement for alterations to C-rated structures to comply with the SOIS, but introduced a process that required Design Review approval, with a recommendation from the Heritage Committee in the review of these alterations. The following criteria/findings were added for Design Review consideration during the review of modifications to C-rated properties. These criteria were proposed in addition to the City's existing Residential Design Guidelines (Exhibit G):

- (1) Maintain the current relationship to the neighborhood;
- (2) Consistent with the pattern of open space existing in the neighborhood;
- (3) Designed in such a way that visible mass conforms to the scale of the neighborhood and building heights are appropriate to the neighborhood;
- (4) Consider the existing setback pattern in the neighborhood; and
- (5) Locate garages and driveways in a manner compatible with the established neighborhood.

The aforementioned criteria (1-5) were added to ensure that future modifications, additions or replacements of C-rated properties would still contribute to the streetscape and the village atmosphere. The prior version of the ordinance also allowed for the replacement of doors and windows in the existing openings with new or similar materials. After reviewing this draft, the Heritage Committee members indicated that they were in support of this approach. Staff was directed to return on September 28, 2016 with a revised draft ordinance and an updated memorandum to the City Council. However, after staff did so, the Heritage Committee, on a split vote, modified its recommendation and recommended that C-rated structures remain as locally recognized historic structures. In an effort to still provide increased flexibility from C-rated properties, the Committee recommended that a local CEQA exemption also be adopted that allowed for modification beyond those authorized by the SOIS. The September 23, 2016 (prior) draft ordinance and memorandum to the City Council are attached as Exhibits E and F, respectively.

3. Maintaining C-rated as locally recognized historic resources, but adopt a local CEQA exemption for predetermined acceptable alterations.

Instead of moving forward with option #2 above, on September 28, 2016, a majority of the Heritage Committee members changed their minds and recommended that the City Council adopt a Historic Preservation Ordinance that treats C-rated as historic resources, but authorizes structural modifications through local CEQA exemptions. These exemptions would define acceptable alterations to C-rated structures and could be outlined in a future style guide. Thus, as specified in the current draft Ordinance, any exterior alterations to a C-rated property on the Inventory that requires Design Review approval would also require a CEQA determination prior to Design Review Board action. A majority of the Heritage Committee chose to keep C-rated properties as historic resources but to adopt a local CEQA exemption over the previously proposed option to downgrade C-rated properties because it felt that more protection would be provided to C-rated structures. Further, the Committee members who recommended this approach were concerned that demolition and unsympathetic alterations of these structures could more easily be achieved if C-rated structures were not subject to CEQA.

The Planning Commission should consider what alterations and reconstructions are appropriate for C-rated structures. Overall, what is important to understand is that for C-rated structures, local treatment can be as strict or as flexible as the City desires. So if maximum flexibility is desired, no longer treating the C-rated structures as historical resources would be the best option. On the other hand, if the Commission is concerned that the flexibility could lead to increased demolition of these structures (despite implementation of the additional guidelines noted in option #2), then adopting a local CEQA exemption for pre-determined specific types of alterations to C-rated structures would be the better choice (i.e. option #3).

**Options for Updating and Adopting the Historic Inventory:**

The Historic Inventory is a list of properties that were identified through a historic survey in 1981 as being eligible for the City's Historic Register. These properties were determined in 1981 to have retained their original appearance, architectural integrity, and generally represent the former character of Laguna Beach. A total of eight architectural styles are listed in the Historic Resources Element as being important architecturally to the history of Laguna Beach and are the styles listed in the Inventory. Because the 1981 Inventory was not updated every five years, the survey no longer, in and of itself, gives rise to a presumption that a property is a historic resource pursuant to CEQA. However, this does not mean that the Inventory is invalid or illegal. It still provides evidence that a property may be historic, and is an indicator that further assessment may be needed.

It has been suggested that a Citywide Historic Inventory be conducted instead of only providing an update to the 1981 Historic Resources Inventory. At the Planning Commission hearing on April 19, 2017, the Commission requested that staff provide more information about the process of updating the Historic Inventory to include a survey of all structures in the City. It was also suggested that the list be completed as a resource list, and not an official survey.

The 2014 update to the 1981 Historic Inventory included a re-survey of all the structures listed on the 1981 Inventory that are not on the City's Historic Register. No additional properties were surveyed as part of this effort. This re-survey was done from the public right-of-way and primarily evaluated the

exterior of the structures from the street. This survey qualifies as a historic survey for CEQA purposes once adopted by the City Council, but this survey work would not include a comprehensive review of each property, and therefore, may better serve as a resource document. However, it may be beneficial to adopt the portion of the survey that identifies the properties that have been altered unsympathetically, to establish that these altered properties are no longer historic resources.

Conducting an expanded survey could help provide more clarity to a property's rating, but like the 2014 survey, it would be done from the public right-of-way and would not be a full detailed assessment of each property. Therefore, if conducting a Citywide survey is a recommendation of the Commission, staff suggests that it be done to solely identify structures that have the potential to be historic resources. This way, it would flag potential structures that would need a further in-depth investigation when a property comes in for development, or if an application for a rating evaluation is submitted.

The current draft Ordinance outlines a process that aligns with the CEQA requirements for review of historic resources when reviewing a development application. The draft also introduces a rating evaluation process, so a homeowner can request that their property's rating be reviewed at any time. The proposed review and evaluation process will help identify historic resources as projects come in for development, or when a request for rating is made. The draft Ordinance is written in a way that historic resources would be identified on a case-by-case basis as development applications are reviewed, or rating evaluation applications are made, thereby reducing the need for a Citywide survey.

#### **Parking Reduction Incentive:**

At the April 19, 2017 Planning Commission meeting, the Commission requested that staff provide an analysis of the City's historic parking reduction incentives. Municipal Code Section 25.45.006(A)(1-4) specifies parking incentives for historic structures. Although these provisions include historic incentives for both commercial and residential historic properties, the Commission was concerned with the City's historic parking incentives as they relate to commercial properties. Parking incentives for commercial properties require City Council approval of a Conditional Use Permit with a recommendation by the Planning Commission. The current Historic Preservation Ordinance and the proposed draft Ordinance include the following parking incentives for commercial properties based on their historic classification:

*Municipal Code Section 25.45.006 (A)(3): "E-rated historic structures located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design."*

*Municipal Code Section 25.45.006 (A)(4): "Historic structures located in commercial zones and which have "K" or "C" ratings may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design."*

One of the specific concerns expressed by the Commission is that the neighborhood impacts of the aforementioned commercial parking reductions are not currently addressed in the Ordinance and there is not specific parking demand criteria tied to the approval of these incentives. In order to better

evaluate the Planning Commission's concerns, staff has researched some of the historic parking reductions that have been granted recently by the City Council (see Table A below).

**Table A: Approved Historic Parking Reductions in the City**

Establishment	Address	Historic Parking Reduction	Overall Parking Demand	Number of Vehicle Reduction	Provided Parking
Heisler Building	400 SCH	73.53%	170	125	0
Taverna	222 Ocean Ave.	70.45%	44	31	0
Casa del Camino	1289 SCH	52%	122	60	33 (valet)
Pottery Place	1200 SCH	53%	103	55	49
Active Culture	1006 SCH	40%	15	6	6
Urth Caffe	309 NCH	63%	58	36	7/25 Offsite

As noted in the above Table A, the percentage reduction and the total vehicle parking space reduction can vary dramatically and be significant for large commercial buildings. While the current code indicates that "up to a maximum of seventy-five percent" may be granted "based on the degree to which the historic character of the building is preserved or enhanced," the Ordinance does not directly indicate an evaluation of parking demand of the existing or proposed use, potential neighborhood impact and available off-site and on-street parking. All of these are factors should be considered when evaluating the overall historic parking reduction. If desired, the Planning Commission could direct staff to provide additional language in the draft Historic Preservation Ordinance to address these potential impacts more clearly, and return the draft Ordinance for further Planning Commission review.

**LOCAL COASTAL PROGRAM:** A Local Coastal Program Amendment is required because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** Public Resources Code Section 21080.5, a provision of California Environmental Quality Act (CEQA), and Section 15265(c) of the State CEQA Guidelines, shift the burden of CEQA compliance to the California Coastal Commission in connection with preparation or amendment to a Local Coastal Program (LCP). The Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process. In addition, the revised ordinance is categorically exempt under CEQA section 15308, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. According to the City Attorney, if significant changes are proposed to the draft Ordinance, additional environmental review may be required prior to adoption.

**RECOMMENDATION:** Staff recommends that the Planning Commission review the draft Ordinance and the additional information discussed in the staff report, listen to public testimony and either: (1) direct staff to return with a Resolution recommending that the City Council adopt the draft Ordinance as written; or (2) direct staff to revise the draft Ordinance, based on Planning Commission discussion, and to return with a revised draft Ordinance for review at an upcoming Planning Commission meeting.

**ATTACHMENTS:** Exhibit A: Draft Ordinance (strikethrough of current Ordinance)  
Exhibit B: Draft Ordinance (clean copy)  
Exhibit C: 3/15/17 PC Minutes and Staff Report  
Exhibit D: 4/19/17 PC Minutes and Staff Report  
Exhibit E: 9/23/16 HC Draft Ordinance (reviewed on 9/28/17)  
Exhibit F: 9/23/16 HC Draft Memo to the City (reviewed on 9/28/17)  
Exhibit G: Chapter 8 of the Design Guidelines- Historic Preservation

4. **Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.**

Communication Disclosures: Commissioner McErlane reported communications with Ann Christoph and Becky Jones.

Martina Caron provided a presentation summarizing the staff report. Regarding the Inventory, Ms. Caron explained that the Ordinance must be updated before the Inventory can be finalized because of the outstanding issue on how the City wants to handle C-rated properties. She briefly summarized options for local processing, either through a local CEQA (California Environmental Quality Act) exemption or through other local zoning procedures, as opposed to the current process, which is limited to the four Secretary of the Interior (SOIS) treatments, within the CEQA Class 31 exemption.

**Questions of Staff:** Ms. Caron confirmed for Commissioner Johnson that if C-rated properties are upgraded to K or E-rated, then they would be eligible for the Mills Act.

Ms. Caron clarified for Commissioner Whitin that during the draft survey, certain C-rated properties were recommended to be downgraded and others were recommended to be upgraded to K. Mr. Pfof added that some C-rated properties could be restored to be eligible to be upgraded to K-rated. Ms. Caron confirmed for Commissioner Whitin that C-rated properties are currently able to be upgraded to K-rated to then be eligible for the Mills Act, if they meet the requirements. Ms. Caron confirmed for Commissioner McErlane that the C-rated properties on the existing Inventory were either recommended to be downgraded to State status code 6 or upgraded to a K rating. Ms. Caron clarified for Commissioner Johnson that the recommendations are still in draft form and have not been adopted by the City; therefore, nothing has been implemented. Ms. Caron advised that 87 properties are recommended to be removed from the Inventory and 9 have been demolished, of the 138 C-rated properties.

Ms. Caron responded to Commissioner McErlane that there is currently no difference in Mills Act Agreements for E and K-rated properties.

Regarding the conclusion that the City does not have districts that qualify to be historic districts, Ms. Caron explained to Commissioner Whitin that neighborhoods here are not intact, the properties are too independently altered; whereas, in other cities districts were established before such changes were made.

Ms. Caron assured Commissioner McErlane that the City's communication with property owners has been much more robust during this update process than it was in the past regarding the Inventory, and that robust communication will continue throughout the process.

Ms. Caron confirmed for Commissioner Johnson that properties not on the Inventory may still be historic resources. Ms. Caron explained that properties fall within three categories, those on the Register, those on the Inventory, and those not surveyed, which includes the majority of properties in the City. Ms. Caron stated that the original Inventory did not catch all properties that may be historic resources; therefore, when a project comes in for review, staff must ensure it does not impact a historic resource, as part of reviewing the environmental impact for a project that requires



discretionary approval. Ms. Caron responded to Commissioner Johnson that the current Ordinance does not require a rating evaluation; however, a historic assessment may be required at some point during the project review process. Ms. Caron explained that the proposed ordinance introduces a process to obtain that assessment. Ms. Caron clarified for Commissioner McErlane that only the properties on the 1981 Inventory were re-evaluated; the direction was not to expand the list to have a complete Citywide Inventory.

Ms. Caron confirmed for Commissioner Johnson that even if a property is on the Inventory, a historic assessment is required to get a Mills Act Agreement.

Ms. Caron clarified for Commissioner Johnson that though CEQA has certain requirements regarding historic resources, the City has established criteria regarding what it considers to be historic. Ms. Caron explained to Commissioner Kempf that the criteria for determining if a property is a historic resource is if it is eligible to be placed on the Register. Ms. Caron explained that there is currently no process to catch unsurveyed properties prior to design review, at which point the Design Review Board may request an assessment. Ms. Caron clarified for Commissioner Sadler that the determination of environmental impacts to historic resources is not only based on CEQA requirements, but because the City elected to have a Historic Preservation Ordinance and Element, the City established its own thresholds. Ms. Caron confirmed for Commissioner Whitin that those thresholds can be changed, as long as they are more restrictive than the State and National requirements.

Commissioner McErlane argued that the confusion is a result of the City not having a complete Inventory; however, Mr. Pfof responded that the draft ordinance includes a process to “catch” other unsurveyed properties. Ms. Caron reiterated the process included in the draft ordinance to re-evaluate a property at any time, so its historic status can be determined at the beginning of the review process. Ms. Caron confirmed for Commissioner Sadler that there are thousands of properties that have not been evaluated, estimated around 3,800.

Ms. Caron confirmed for Commissioner Sadler that in August 2016, the Heritage Committee considered the option of not including C-rated properties as historic resources, in order to allow for more flexibility. Ms. Caron explained that the Heritage Committee initially supported the recommendation to downgrade the C-rated properties so no CEQA review would be required; however, similar flexibility can be achieved with a local CEQA exemption, but would be administered differently. Mr. Pfof explained the current issues of requiring C-rated properties to meet the Secretary of the Interior’s Standards; when those standards are not met, CEQA has additional requirements in the review process. Mr. Pfof further explained that instead, cities can create a local exemption for those properties subject to CEQA.

Ms. Caron responded to Commissioner Johnson that regardless of the rating (C, K or E), there have been issues with applicants wanting to make substantial changes; however, C-rated properties have a wider variation.

Ms. Caron confirmed for Commissioner Whitin that standards for C-rated properties are not as restrictive; the structure itself may not be historic, but the property may be considered historic if an important event or historic figure is tied to the property.

Ms. Caron responded to Commissioner Sadler that pre-1955 structures may or may not qualify for a local CEQA exemption, it depends on the rating.

**Public Testimony Regarding the Project:** Richard Bracamonte, 2647 Victoria Drive, stated that he paid \$5,000 to have his property assessed, for no reason. He argued that the requirements are not fair and there should be rules in place to protect homeowners.

Sandra Desmond stated that she owns an old house and she does not know if it is considered historic, but expressed concern about her ability to remodel later. She stated that the proposed ordinance sounds communist, dictating what people can or cannot do to their homes. Ms. Desmond noted that the Heritage Committee's vote was 4-3, and suggested the disagreement that split vote may imply. Ms. Desmond asserted that determining that a home's exterior clashes with the neighborhood is silly. Ms. Desmond also found it shocking that the Design Review Board upheld the Heritage Committee's recommendation that a homeowner must replace metal frame windows with wood frame, costing the homeowner thousands of dollars.

David Watkins suggested that the City is making things up as it goes. He submitted that "facts" are actually opinions and questioned how an Inventory that is invalid becomes valid when it is redone the same way. He also questioned the dates selected for determining if a property is historic, suggesting that perhaps the City's character was defined in the golden age of the 1920s, so the City should choose 1930, or perhaps the City should go the other direction, and choose 1977. Mr. Watkins then suggested that the City not do anything and simply leave the program the way it was, voluntary.

Mary Keown-Watkins stated that they own a K-rated residence. She explained that when they bought their home eight years ago, they knew it was on the Inventory, but did not want it on the Register because they felt the requirements are an invasion of privacy. She also stated that they have a house in Charleston, South Carolina, that is in a historic district. Ms. Watkins submitted that Laguna Beach is not historic, but rather an artist community, which is why it is so different; the founders built different kinds of houses because they were creative.

Kim Friedman commented that loyalty and longevity should be rewarded, not punished. She argued that if processes burden people in historic homes, the City is not creating anything beneficial. She stated that she is considering selling her house, even though it is her family's legacy, because she is tired of dealing with this issue. Ms. Friedman stated that in her neighborhood, everyone has taken out all of the charm and her property is the only one left remotely trying to keep its historic charm alive. She suggested that the City create a surplus fund so the burden of maintaining the City's historic charm is not placed on property owners.

Gregg Abel, architect designer, stated that his family has been in Laguna for 80 years, as woodcarvers, builders and artists. He supported the charm of the community, but also respected others that choose to do what they want to their properties. Mr. Abel submitted that architecture is art and he argued that the owner of the property has a right to say what that property will look like, not the City. He requested that the City respects the rights of property owners.

Charles Brickell, President of the Laguna Beach Board of Realtors, stated that the Board is in favor of private property rights, but also wants to enhance and maintain Laguna's charm. He stated that the Board is not in favor of additional disclosure requirements and asserts that the Inventory should be voluntary for the homeowner.

Madeleine Peterson, Alta Laguna, noted that everyone's property rights are limited for the common good. She asserted that preserving historic neighborhoods preserve the character that make it desirable to live here. She also stated that the program is a General Plan policy and historic preservation improves property values. Ms. Peterson noted that the draft ordinance is an update to an ordinance that has worked for 30 years. She recommended that the Planning Commission sends the draft ordinance to the City Council with a recommendation for approval.

Larry Nokes spoke against the proposed ordinance. He stated that people with properties not on the Register just want the same process as everyone else. He argued that homes are not historic until the government says they are. Mr. Nokes explained the difference between a presumptive determination in which the homeowner must prove that their property is not historic and the discretionary process in which the burden of proof is on the City, which is a big distinction. He stated that in order to prove a property is historic, the City must satisfy provisions of the public resources code. Mr. Nokes commented on the importance under CEQA regarding exemptions, unless an exception applies.

Luck Patterson stated that he owns a C-rated property and is against involuntary inclusion. He noted that the Inventory is not valid and the City wants to revalidate it, and questioned why property owners cannot have their properties removed from the Inventory in the meantime. He argued that the Inventory causes another disclosure to a potential buyer that lowers the property's value because it lowers the demand. Mr. Patterson noted that to modify a property, the applicant still has to go before the Design Review Board; therefore, extra regulations are unwarranted.

John Thomas requested that the Planning Commission reconsiders Code sections 25.45.006(A)(3) and (4) regarding historic parking reduction incentives. He stated that the policy is expensive. He noted that the incentive is meant to motivate property owners to renovate, but it does not lower costs. Mr. Thomas noted the City's parking challenges and the true cost to acquire land, which he asserted is expensive to residents, when the City must purchase land to add more parking. Therefore, Mr. Thomas suggested that the City put a maximum on the number of spaces that can be waived.

Dean Harbold, owner of 615 Thalia Street, a C-rated property, commented that he first came to Laguna in 1954. He stated that his last duty station as a Marine was in El Toro, so in the summer of 1970 he purchased his home. He stated that in the fall came the rain, and they discovered many leaks, and made the necessary repairs. Mr. Harbold stated that for 43 years they have done their own repairs, receiving no money from anyone else. He commented that this is America and he has not volunteered to place his property on any Inventory, and will fight for his constitutional property rights.

Jinger Wallace stated that the City is making a decision that will impact people's most important economic asset. She commented that people like her have invested every bit of their money into their properties; therefore, it is not surprising to hear such an emotional response. She requested that the Commission reject the inclusion of C-rated properties and insist on a voluntary program; the incentives should be sufficient to encourage property owners to participate. Ms. Wallace submitted that the proposed ordinance goes against Laguna's creative spirit, which is what made Laguna's neighborhoods what they are. She also suggested that the Commissioners examine the Mills Act benefits, noting that they are based on the property tax level, which does not help people who have owned their homes for a long time.

Roberta Kansteiner disagreed that because the survey was done over five years ago, it has no value under CEQA. She noted the CEQA definition of a "local register of historic resources" and submitted that the City's Inventory meets that definition. She also noted that in 1982, the City Council adopted the resolution adopting the Inventory, and the Inventory list was then confirmed in the City's Historic Element. Therefore, Ms. Kansteiner argued that the Inventory has not lost its value of assessing historic properties even though it has not been updated, and she requested that the Commission not dismiss the Inventory as useless.

Rosemary Boyd noted that this is an ordinance revision, and guidelines for C-rated properties will have to be in place before it is adopted. She stated that the City can be as strict or as flexible as it deems necessary and can make its own rules for alterations. Ms. Boyd thanked everyone for the great job they are doing on this complex issue.

Barbara Smith stated that she walked the Woods Cove and Laguna Village neighborhoods to distribute flyers advising people about this issue. She commented that many property owners are senior citizens and had no idea what was being contemplated. She stated that many were horrified that their properties could be involuntary added to this program, and their biggest concern is with the loss of property value. Ms. Smith stated that one owner voluntarily had their property placed on the list and now wants it off because they wanted to add 2 feet to their property to make it more livable and the request was denied by the City. As a result, Ms. Smith stated that the other neighbors want no part this program. She stated that senior citizens should be respected and valued, not have their savings disappear.

Linda Duttenhaver stated that her home was built in 1951, and she urged the Commission not to adopt the draft ordinance. She asserted that it is unfair to property rights and that the program should be voluntary.

Eugene D'Isabella stated that when the original Inventory was done in 1981, the property owners were told they could opt out, which he stated he did, only to discover years later that his property was put on the Inventory. He asserted that no one will want to buy his property because it is now surrounded by huge structures and it will be too difficult and expensive to improve his property now that it has been identified as "historic." Mr. D'Isabella submitted that people should be able to modernize their homes and he stated that the historic preservation program needs to be voluntary, commenting that this is America.

Carolyn Burris stated that she loves history and is third generation to Laguna, commenting that her father was the first motorcycle cop. She stated that though she honors history, what is being proposed will devastate her and she will not have a retirement. She stated that she is outraged the program will not be voluntary and is scared about the impacts to her and her future.

Charlotte Masarik stated that it is not true that you cannot do anything if your property is historic, and she noted that the restrictions are less stringent for C-rated properties. She commented on the benefits of historic preservation to neighborhoods and she assured that the proposed process allows property owners to have more input and flexibility than the Secretary of the Interior's Standards. She noted success stories of those that have made alterations to their historic properties, properties on the Register that added living space, garage space, and saved money on taxes. She

also commented that Village Laguna's annual Charm House Tour features many C-rated properties that people come to see in droves, which shows that people want those homes preserved.

Kate Clark agreed that C-rated properties are important in preserving the distinctive nature of neighborhoods. She surmised that they are underappreciated by professionals, but she asserted that they accurately reflect the past. Ms. Clark requested that the draft ordinance be kept so that it continues to recognize the value of C-rated properties.

Darrylin Girvin disagreed that being identified as historic diminishes the value of a property. She noted the real estate ads that feature many cottages that are C-rated, clearly in demand, and so she argued that the status actually adds value.

Becky Jones supported developing guidelines for a local historic CEQA exemption, which is the path that both the Heritage Committee and Design Review Board strongly recommended. She explained that the local guidelines would replace the Secretary of the Interior's Standards and could provide as much or as little flexibility as the City desires. She commented that the two examples provided by staff are both extremes, and both were rejected. Ms. Jones asserted that the Heritage Committee was concerned equally with protecting the C-rated properties and providing flexibility.

Norm Grossman urged the Commission to opt for staff recommendation #2 even though it will mean more meetings. He commented on the parking reduction incentives, noting that the Heritage Committee always recommends the maximum 75%. Mr. Grossman stated that there are over 200 parking credits in the downtown and he agreed that there should be a limit or the percentage granted should be based on other criteria. He also asserted that the ordinance cannot be adopted until the historic preservation style guide it references is created, which is supposed to build in the flexibility for C-rated properties. Mr. Grossman stated that the draft ordinance is not well-written and needs to be cleaned up and simplified.

Monica Thompson, North Laguna resident, commented on property values. She stated that she moved to Laguna in 2014 and they purchased their property in May 2015. She explained that they purchased the "St. Clair" home on Jasmine Street in North Laguna, and the historic designation did not reduce its value; though it was in disrepair, there were numerous offers given in a very short window. Ms. Thompson stated that they had the home put on the Register and obtained a Mills Act Agreement, and have benefitted from the incentives. She stated that they are happy to live in a historic home, but she noted that they did so voluntarily.

Johanna Felder, President of Village Laguna, thanked staff for the work that has been done on this ordinance. She stated that Village Laguna supports the draft ordinance and she asserted that although the Inventory is out-of-date, it is not invalid or illegal because it was passed by City Council resolution. She agreed that the revised Inventory will be a valuable planning tool and she submitted that updating the Inventory every five years can be done in a relatively simple manner. Ms. Felder noted that homes currently require historic assessments, and the City can adopt flexible standards for C-rated properties. She supported Commissioner Sadler's assertion at the last hearing that homes over a certain age still need a historic assessment and yet could not take advantage of incentives because they did not opt to participate in the program.

Patrick Shanahan, representing the owners of 532 Oak Street, compared Ms. Caron to a soccer referee in regards to managing this issue. He explained that the property went from a C rating to an

E. He noted that people are confused and he submitted that this is a great opportunity to put everyone in the same boat, but this ordinance is not it.

Christian Tanner stated that he has worked at *Coast Hardware* in the paint department for 10 years, and owns a home on the 400-block of Oak Street. He stated that his house is not on the historic Inventory and he views it as his home, his private property, where his family has lived since the late 1930s.

Penelope Milne stated that she lives in a C-rated house in the Canyon. Regarding the concern about reductions in value, she acknowledged that it would be devastating if her home lost its value; however, she commented that there is no indication that having a historic designation reduces the value, but may actually increase its value, as indicated by *Quicken* home loan information. She also stated that it is not the case that you cannot remodel a historic structure. Ms. Milne asserted that if the program is voluntary, it would allow erosion of those properties and the community would lose its character, which would lead to homes losing their value. She requested that the Commission protect investments by having the historic ordinance in place. She agreed that clarity is needed so people understand the advantages to all residents. Ms. Milne expressed her hope that the Planning Commission supports the ordinance.

Chuck Krolkowski asserted that the draft ordinance is a death sentence to the best use of property because individual homeowners are the best to decide. He stated that setting a presumptive threshold will require property owners that would normally get a categorical exemption to instead have to go through the EIR (Environmental Impact Report) process, which costs \$100,000 because it requires studies for everything. He argued that this would be a death sentence to development; even if a homeowner pays all that money to obtain all the studies, the City can still deny the application. Mr. Krolkowski stated that the draft ordinance is vague and ambiguous, with language such as "substantial" and "not materially impaired."

Verna Rollinger spoke on behalf of C-rated structures and their owners, arguing that those rights and benefits must not be lost. She noted that C-rated properties could receive incentives that enable flexibility, fees waived, etc., and as a bonus, the City retains its historic neighborhoods. She requested that the Planning Commission accepts the Heritage Committee's recommendation.

Ann Christoph provide a packet that showed examples of C-rated houses that have been recommended to be removed from the Inventory. She expressed her hope that the Planning Commission agrees that these properties have value and should be retained as historic resources. Regarding the sequence of the Heritage Committee's decision, Ms. Christoph stated that the Committee realized the C-rated properties would not be sufficiently protected and could not conclude that they are not historic resources; therefore, the Committee chose to have local standards developed for C-rated properties so those properties are protected but would not have to prepare EIRs. She stated that they want the process to work, and the system has to work better. Ms. Christoph submitted that the problems are solvable without getting rid of the Inventory or getting rid of whole classes of historic resources.

Curt Barwick took a "big picture" approach. He commented that everyone lives in Laguna because they like historic structures. However, he stated that the current ordinance is voluntary and incentive-based whereas the proposed ordinance has mandatory restrictions. He questioned the need for the Inventory and suggested keeping the existing ordinance. Mr. Barwick noted that the

General Plan specifies that the program be voluntary and incentive-based yet the proposed ordinance makes it mandatory; therefore, he argued that the proposed ordinance is inconsistent with the General Plan. Mr. Barwick questioned what the compelling necessity to change the ordinance is and he agreed that the City does not have historic districts.

Barbara Metzger noted that the State requires the City to consider impacts to historic resources and the General Plan requires it. She argued that this proposed ordinance is not a radical departure from the current policy and is a sincere attempt to make the program better. Ms. Metzger noted that the Ordinance has been in effect for more than 30 years and the proposed revision increases benefits and provides for less stringent local guidelines for C-rated properties. She noted that the draft ordinance commits the City to pay for historic assessments and provides for more transparency, making the process more straightforward. She asserted that the draft ordinance is an improvement on the way things are today.

Loraine Mullen-Kress, speaking as a local realtor, recommended that the historic analyses be inexpensive and fast, like RPRs (Real Property Reports). She noted that charming cottages sell for more money per square foot, so asserted that there is no problem with a negative impact on value. She explained her big concern with 24.45.014(B)(1), stating that C-rated properties need to be separated, with their own chapter with the style guide and flexible standards. She agreed that the process is confusing and she recommended eliminating the Heritage Committee review of C-rated properties, which would save applicants time.

Marshall Innins, architect, asserted that the Inventory needs to go. Regarding C-rated properties, he noted that several people objected to being forced into the program and he submitted that the new piecemeal policies take care of the concerns of those that want to protect these properties. Mr. Innins agreed with Mr. Grossman that the Commission should go with staff recommendation #2, because a lot of work needs to be done. He assured that he is not a historic ordinance basher and in fact likes the program, but he wants it simplified, because it has great benefits.

Duane Vajgrt encouraged the Commission to remember that the Heritage Committee's vote was very close, even with their experience. He submitted that many voices were not heard; there is a cohort of people caught in the Inventory, which was supposed to be voluntary. Mr. Vajgrt stated that he found out 12 years later that his property is on the Inventory, when he went to the City with some questions regarding some improvements. He commented that for three years they have been trying to find a resolution on what they can do with their home. He argued that historic preservation should be a voluntary process and assured that he wants to see the City's character maintained. Mr. Vajgrt advised the Commission to look at the preponderance of feelings of the speakers, with the majority against the draft ordinance as it is currently written. He noted the confusion among the Commissioners, which indicates that the ordinance needs to be simplified and made easier to understand; therefore, he recommended going with staff recommendation #2.

Cathy Jurca stated that she moved to Laguna because of its historic character. She commented that she is impressed with the draft ordinance, which includes additional flexibility designed to prevent C-rated properties from having to obtain EIRs. She acknowledged that the ordinance is not easily digested, but noted that it is trying to provide clarity to a confusing law. Ms. Jurca noted that CEQA is not voluntary. Regarding the Inventory, she stated that the City would need a very good reason to remove a property and she encouraged the Planning Commission to recommend that the City Council direct a Citywide comprehensive survey to be done, to address the issue of people

feeling like they were singled out and not understanding why. Ms. Jurca expressed her astonishment that disclosures regarding historic status are not mandatory, stating that they should be legally required.

David Smith, local architect, stated that he was surprised to learn that your house can be newer, yet once your project is before the Design Review Board, you could find out that it may be considered historic, even though it is not on any list. Mr. Smith found this to be scary.

Ralene Strauss stated that they have owned their home for 20 years and only recently found out it was a C-rated property on the 1981 Inventory and has been upgraded to a K. She stated that the determination to upgrade it was made from viewing the property from the perimeter of the home. She stated that they love their home, which was built in 1931, but it had additions that included a bathroom and bedroom in 1951 and therefore is not in its original state. She commented on the home's single-wall construction, which she said is cold and drafty, in need of repair. Ms. Strauss noted the enormous amount of money necessary to invest for such upkeep and repairs, and she stated that many senior citizens are on fixed incomes and cannot afford it. She said that though her family has maintained their home, it will eventually have to be repaired, and they are considering selling it because of the onerous process involved in making any improvements.

Ed Sauls provided a picture collage of his property and referenced the letter he sent. He supported staff recommendation #2. Mr. Sauls noted the photo in the upper left of the collage, taken in 2002 before their major remodel, and then the photo in the lower right that shows the house as it looks today. He argued that there is no historic integrity left of their home today, yet it is rated as a C. He submitted that his home is still on the list because people like it. Mr. Sauls asserted that the voluntary program worked and requested that the Commission recommend that it be kept as voluntary.

Jennifer Welsh Zeiter stated that she has a client on Glenneyre Street with a K-rated house and they had no idea it was on the Inventory until they wanted to do a remodel. She stated that the last storm caused significant damage to the property, so they will have to figure out how to move forward with the remodel. Ms. Zeiter asserted that there is nothing unique about her client's home and she stated that the Inventory is invalid. She stated that the City Attorney has given the City bad advice and now the City will have to defend a lawsuit. Ms. Zeiter suggested that the City have the draft ordinance evaluated by another attorney.

George Reynolds, North Laguna resident, stated that the ordinance seems arbitrary, such as identifying anything before 1955. He suggested that the City not confuse old with historic and he submitted that the voluntary program has served the City well.

Mary Buchanan noted that nothing requires the City to create or maintain an Inventory. She argued that without the Inventory, the program would be voluntary and incentive-based. Ms. Buchanan asserted that mandatory participation raises due process and equal protection concerns. She also requested that the fiscal effects be considered. Ms. Buchanan commented on the confusion surrounding this issue, and she reiterated that the Inventory shifts the presumption and burden from the City to the homeowner.

Mike Johnson, local realtor, commented on the disclosure requirement. He explained that the seller's agent gets an RPR from the City, which lists if a property is on the Inventory or Register.



He stated that the draft ordinance adds layers on top by requiring the agent/seller to tell the buyer if a property has a historic designation, which he argued puts the onus on the agent, who may not know. He argued that such a disclosure should come from the City and he clarified that property owners are required to provide disclosures per State statute. Mr. Johnson noted that RPRs have been incorrect in the past, adding to his argument that such disclosures should be the City's responsibility and not the agent's. Regarding property value, Mr. Johnson agreed that cottages that have been impeccably restored fetch astounding money in the real estate market; however, those in their original condition that need a lot of work do not.

Lorene Auger also supported staff recommendation #2. She supported maintaining an incentivized and voluntary program. She stated that it is shocking that the City can force someone to have a house done how others like it rather than how they want it. Ms. Auger suggested creating a historic district. She noted that this is an art community and she stated that she lives in a historic home that was moved to its current location. Ms. Auger submitted that diversity provides the beauty of Laguna.

**Commissioners' Comments:** Regarding the development of more flexible guidelines, Ms. Caron advised Commissioner Sadler that the style guide is intended to serve that purpose and be developed prior to the adoption of the ordinance, but the City Council must determine the process to develop those guidelines and that development will require hiring a consultant to assist in that effort. Mr. Pfof also explained that staff needs direction on large policy issues before moving forward, including direction regarding the Inventory.

Regarding incentives, Commissioner Sadler agreed with the correspondence received that parking credits should be limited, and he noted that there is no clear criteria on how the percentage is determined. Ms. Caron stated that the proposed ordinance does not modify the existing policy on parking credits; however, Mr. Pfof noted that the Code states "up to" and therefore the City Council does not have to approve the maximum allowed.

Ms. Caron responded to Commissioner Sadler that the City is not required to have an Inventory; however, the City elected to in 1981 and then elected in 2013 to re-evaluate the 1981 Inventory.

Regarding disclosure requirements, Ms. Caron confirmed for Commissioner Sadler that the historic status of surveyed properties is noted in the RPR; however, there is currently no additional requirement for the selling agent beyond providing the buyer a copy of the RPR. Ms. Caron explained that the draft ordinance requires the seller to disclose to the buyer if a property is on the Register. Ms. Caron confirmed for Commissioner Sadler that the City's requirement to disclose that a property may be a historic resource is new; the Heritage Committee was concerned about ensuring that a buyer is made aware of the possibility.

Ms. Caron confirmed for Commissioner McErlane that the City is required to protect historic resources; however, she clarified that the City is not required to have a historic preservation program; without such a program, only California State and National historic resources must be protected. However, once a jurisdiction has a local program, those local resources must be protected as defined in the established ordinance. Ms. Caron responded to Commissioner McErlane that the methods to define what is historic are defined in the ordinance; currently, only properties on the Register are addressed.

Kathy Jenson, City Attorney, confirmed for Commissioner Sadler that the City could opt to get rid of the existing ordinance and simply comply with the State and National standards. However, Ms. Caron explained that the State standards capture properties important to the history of the development of California, whereas the City's standards capture properties important to the history of the development of Laguna Beach. Ms. Caron advised Commissioner McErlane that the California Coastal Commission will have to certify the ordinance because it is an amendment to the City's Local Coastal Program.

Regarding incentives, Ms. Caron advised Commissioner Johnson that all were established by the City, except the Mills Act; however, incentives used by other jurisdictions provided the template for the City.

Ms. Caron responded to Commissioner Johnson that, in the past, the RPR did not always include a property's historic status because this item was sometimes missed.

Ms. Caron responded to Commissioner Johnson that a process for upgrading ratings is in the proposed draft ordinance.

Commissioner Whitin noted that Policy 1.4 in the Historic Element suggests including K and C-rated properties to be eligible for Mills Act Agreements; however, Ms. Caron explained that the Mills Act is intended for more intact properties than what is characterized by C-rated properties. Mills Act properties must first be allowed on the Register, which Ms. Caron submitted is contrary to having flexible standards.

Commissioner McErlane expressed his appreciation of the public's interest in this topic and he agreed that there needs to be more discussion, refinement and clarity. He agreed with the City policy of preserving historic resources and he noted that the real estate goal is to get as much square footage as possible. Commissioner McErlane stated that he would like the ordinance improved and the process clarified rather than throwing out the program. He argued for a more comprehensive program with a complete Inventory to provide clarity on a property's status. He also agreed that C-rated properties should be treated and processed differently from K and E-rated properties. Commissioner McErlane stated that the Mills Act is a valid process and the City needs more work communicating the benefits. He agreed with having local requirements for C-rated properties and agreed that they should not have to meet E and K requirements. Commissioner McErlane reiterated that the City needs to do a better job communicating the benefits of historic preservation to the City, neighborhoods and homeowners and suggested promoting examples of successes and real estate values. Commissioner McErlane also agreed that parking credits should be reviewed. He submitted that the most significant issue is the impact to property owners that were unaware of their property's historic status and negative perceptions because the program is not understood correctly. He recommended that the City Council direct that a comprehensive Inventory of E and K-rated properties be completed.

Commissioner Whitin suggested taking a step back to look at the goal. She commented that people like how Laguna looks, its scale and feel, and so they must determine what is contributing to that look and feel. She submitted that historic structures provide part of it, and part is neighborhood cohesion, the tree streets in North Laguna, Oak Street, etc., and she questioned how the City can maintain its undefinable look and feel. Commissioner Whitin noted that the City has very few really great buildings, but rather a vast sea of C-rated properties that are what contribute to Laguna's look

and feel. She commented that the Register provides incentives for E and K-rated properties and is a voluntary program that works. However, she commented that C-rated properties are fraught with murkiness, confusion and uncertainty and the Inventory is a small percentage of the potential C-rated properties in the City. She noted that unlike the Register, the Inventory is a sort of "purgatory" that property owners cannot get out of voluntarily. She questioned how the City can allow flexibility and maintain civic responsibility, suggesting the use of design guidelines that respect streetscape environment, such as the setback on the lot for certain properties, which would allow flexibility to redevelop properties. She acknowledged that in some cities, just the façade may be maintained; however, she submitted that for C-rated structures, that may not be useful, though it could be for K or E-rated properties. Commissioner Whitin asserted that voluntary participation is important. She stated that the definitions and ordinance are convoluted and everything needs to be simplified for a more transparent process. Commissioner Whitin stated that a lack of certainty is very destructive to people and creates a lot of anxiety, acknowledging that structures are inhabited by people. Commissioner Whitin supported a program that is flexible, clear, fair, incentive-based and gives back to the City by maintaining the scale of neighborhoods. She supported staff recommendation #2.

Commissioner Johnson also supported staff recommendation #2. She recommended adopting the draft Inventory as a resource for the community, staff and property owners, for reference only but not binding. Commissioner Johnson suggested that the Design Review Board evaluates the historic value of a C-rated property; C-rated properties should not have the same requirements as E and K-rated properties. She agreed that a property's historic status needs to be identified in the RPR by the City. Commissioner Johnson noted that the Mills Act and Register work for E and K-rated properties, but she stated that those standards are not good for C-rated, and reiterated that C-rated properties should be handled through the design review process, as a separate category. Commissioner Johnson agreed that Laguna Beach does not have historic districts because the City has too much diversity. She agreed that the 1981 Inventory needs to be updated; however, Commissioner Johnson stated that it should not be a mandatory document, and only used for informational purposes. Commissioner Johnson supported a much more voluntary process and agreed that C-rated properties should not be eligible for the Mills Act.

Commissioner Johnson explained to Commissioner McErlane that if property owners with K or E-rated properties on the Inventory want to have their property placed on the Register to obtain the benefits they can, but they should not be forced into participating in a historic preservation program.

Commissioner Sadler noted that a lot of restrictions are coming from above, from the State with CEQA. He noted that the City could have no Inventory and no historic preservation ordinance, and there would still be the possibility that someone's property will be determined to be a historic resource. He argued that having no ordinance leads to complete uncertainty, because the City must make a determination if a property is a historic resource, and that determination may then require an Environmental Impact Report; the local ordinance creates a categorical exemption. Commissioner Sadler also noted that without an ordinance, there would be no incentives. He submitted that the goal is good and the existing program has served the City well. Commissioner Sadler could not see how the program could ever be completely voluntary. He noted that the draft ordinance provides a process to re-evaluate the historic designation of a property. Commissioner Sadler agreed that C-rated properties should be treated differently, with more flexibility provided in guidelines and not be required to follow the Secretary of the Interior's Standards. Regarding

disclosures, Commissioner Sadler noted that it is already required in the RPR; the proposed draft requires the agent to present that information to the buyer in an upfront manner. However, Commissioner Sadler also acknowledged that the buyer must do due diligence. He supported staff recommendation #2 to further refine the ordinance by reviewing it line by line. He also wanted further clarification on how the Heritage Committee went from the initial recommendation to its final recommendation, so the Planning Commission can evaluate if the initial recommendation is actually a better solution.

Commissioner Whitin noted that the Register is voluntary and incentive-based, yet CEQA, which everyone is subject to, overrides everything. Ms. Caron clarified that local guidelines can be developed in place of CEQA requirements; though the Secretary of the Interior's Standards are referenced in CEQA, they are not part of CEQA. Ms. Jenson added that Ostashay and Associates Consulting recommended that C-rated properties not be treated as historic resources, and instead the City develop local standards for those properties. However, if the City wants to keep C-rated properties as historic resources, then the City can create a CEQA local exemption. Ms. Caron explained that either way, the City must define what modifications are acceptable. Mr. Pfof stated that staff needs direction on how the Commission wants to address C-rated properties in order to revise the ordinance accordingly. In response to Commissioner Whitin regarding the difference in flexibility, Ms. Jenson opined that there is greater flexibility if C-rated properties are not defined as historic resources. Commissioner Johnson reiterated that the C-rated properties can be handled through the design review process; however, Commissioner McErlane submitted that better defined standards are needed. Commissioner Johnson questioned how the C-rated properties could be handled with a categorical exemption considering their variability and Commissioner McErlane responded that it could be relatively easily done. Ms. Caron responded to Commissioner Sadler that the biggest difference in whether the properties are treated as historic resources or not is with the process for demolition; it would be easier for the structures to be demolished if they are not considered to be historic resources.

Commissioner McErlane summarized his recommendation for a more comprehensive Inventory for E and K-rated properties, to separate out C-rated properties with local standards that govern through the Design Review Board process, that C-rated properties not be treated as historic resources and that there is better communication and education on the benefits of the program.

Ms. Caron confirmed for Commissioner Sadler that the concern for not treating C-rated properties as historic resources is that it would allow too much flexibility that could lead to the loss of some properties.

Commissioner Whitin reiterated her need for more clarity on voluntary options versus mandatory requirements.

Ms. Caron responded to Commissioner McErlane that the current ordinance requires Heritage Committee review for C-rated properties; however, the Planning Commission can make a different recommendation. Commissioner McErlane argued that the Heritage Committee review should be removed for the C-rated properties.

Commissioner Whitin questioned the need for an Inventory, to instead review each property case-by-case, using the established guidelines. Ms. Caron advised that once an official Inventory is adopted, the City cannot opt to only use it as a resource document.

Ms. Caron responded to Commissioner Johnson that staff can clarify in the next presentation the differences between the two options for C-rated properties.

Commissioner Kempf agreed with Commissioner McErlane. She noted that the City does not have historic experts and therefore is not well-suited to manage this issue; therefore she suggested using the National Register requirements. Commissioner Kempf submitted that the ordinance adds a Laguna Beach overlay of complication; the ordinance needs to be crafted to make the process more reasonable for people.

Commissioner Whitin also agreed that the issue of parking credits should be revisited.

Ms. Caron confirmed for Commissioner McErlane that guidelines could be developed to deal with the demolition issue. The Commission confirmed for Ms. Caron that they want to review the current proposed ordinance at the next hearing, with drafted local CEQA guidelines, and Heritage Committee review removed from the process for C-rated properties.

Motion AJ Second RM Action Continue Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to the June 7, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

5. **Downtown Specific Plan Update – Receive a presentation and discuss MIG’s proposed amendments to Topic 1 – Village Character and Topic 2 – Identity as an Art Colony of Section III, Issue Statements and Policies, of the Downtown Specific Plan.**

Wendy Jung summarized the staff report.

**Questions of Staff:** Regarding staff concern #3 on the Village Character topic, on page 3 of the staff report, Ms. Jung responded to Commissioner Kempf that an example of the importance of interior preservation is *Taverna* on Ocean Avenue, where significant historical elements are located in interior areas.

**Public Testimony Regarding the Project:** Becky Jones noted additional examples where interior preservation was important, such as the *Forest Avenue Market* (230 Forest Avenue) that was designed in such a way that the entire interior was visible when the doors were open. Ms. Jones explained that with that project, the applicant received parking credits based on the project’s historic preservation, then later changed the plans to not do the interior preservation because the ordinance did not address interior preservation at that time, which gave rise to the current policy. Ms. Jones asserted that otherwise, the City would have shells of historic structures.

Norm Grossman expressed concerns that there is no opportunity for dialogue to obtain public input. He asserted that workshops should be done so members of the public can give their rationale.

**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 4 **DATE:** 4/19/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, CEQA Guidelines Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation.

**BACKGROUND:** On March 13, 2017, staff provided an introductory presentation to the Planning Commission regarding the proposed draft Ordinance. A staff report was prepared that provided the history of the draft Ordinance and suggested topics for discussion. As pointed out in the staff report, the first hearing was held so the Commission could receive an introduction to the draft Ordinance. After receiving public testimony and reviewing the draft Ordinance, the Commission directed staff to: (1) provide a cost estimate for conducting a Citywide Historic Inventory; (2) clarify the process for adopting a local CEQA (California Environmental Quality Act) guideline for C-rated structures; (3) describe the opportunity for historic districting within the City; (4) provide a discussion about eliminating the draft Inventory; (5) provide flowcharts that describe the review processes proposed in the draft Ordinance; and (6) provide discussion in regard to extending the Mills Act Program to C-rated structures. The Commission continued the review of the draft Ordinance to the April 19, 2017 Planning Commission meeting.

**STAFF ANALYSIS:** Further discussion is provided below based on the Planning Commission's recommendations at the March 15, 2017 meeting:

**Preparing a Citywide Historic Inventory:** During this Historic Resources Inventory update (HRIU) and Historic Preservation Ordinance update process, it has been suggested that the City conduct a Citywide Historic Inventory instead of only providing an update to the 1981 Historic Resources Inventory. It is important to note that this option was reviewed and rejected by the City

Council prior to the Council’s selection of a consultant to proceed with the current Historic Inventory update.

On June 19, 2012, the City Council adopted the Fiscal Year 2012-2013 budget that included \$75,000 to re-analyze the structures listed on the City’s 1981 Historic Resources Inventory, a project known as the Historic Resources Inventory Update (HRIU). On October 16, 2012, the City Council authorized staff to release a Request for Proposal (RFP) for the HRIU. This RFP was reviewed by the Heritage Committee on August 20, 2012. At that time, it was also suggested that the future consultant review the City’s historic rating system (“C”, “K” and “E” ratings) as part of the scope of work. (The October 16, 2012 Agenda Bill and August 20, 2012 Heritage Committee Minutes regarding the release of the RFP are attached as Exhibit E.)

On December 28, 2012, the Heritage Committee reviewed the proposals submitted in response to the RFP. At that time, the Committee reviewed both the proposed costs for a re-survey of the homes identified on the 1981 Historic Inventory and for a future survey of approximately 3,800 additional structures within the City that are 50 years and older. The estimate for the additional survey work was limited to providing a cost estimate for a windshield survey of the additional structures (50 years and older) in the City and did not include a cost estimate for the preparation of the State-required Department of Parks and Recreation (DPR) forms or any additional property research. Table A, below, shows the proposed costs as presented in 2012:

Table A: Historic Survey Estimates (2012)

	GPA	HRG	OAC	PCR
HRIU (1981 Structures)	\$74,971.50	\$75,850.00	<b>\$72,260.00</b>	\$92,550.00
Future Survey	\$66-141,000.00	\$10,000.00	\$17,680.00	\$33,150.00

After reviewing the proposals, the Heritage Committee unanimously recommended that the City Council award Ostashay and Associates Consulting (OAC) the contract for the HIRU. At that time, it was also noted that the focus of the project should be on an update to the City’s existing Historic Inventory and not a survey of any additional properties.

On January 29, 2013, the City Council reviewed the Heritage Committee’s recommendations and authorized the City Manager to enter into a contract with OAC for the preparation of the Historic Resources Inventory Update. The January 29, 2013 City Council Agenda Bill and Minutes, the January 7, 2013 Heritage Committee Minutes and the December 28, 2012 Heritage Committee Memorandum are attached as Exhibit F.

**Local CEQA Guideline and C-rated structures:** Regarding the C-rated structures, two options have been discussed. The first is an option, recommended by staff and the consultant (OAC), was to acknowledge that the City’s C-rated structures are not historical resources as defined by CEQA, and therefore do not give rise to CEQA compliance issues. No local CEQA Guidelines would be needed under this recommendation. Further, the City could adopt zoning policies and procedures to apply to such structures during the design review process. This option would thereby expand the development flexibility for the C-rated structures. The second option, which was the option eventually recommended by Heritage Committee, was to consider the City’s C-rated structures as historic

resources, and to adopt corresponding local CEQA Guidelines containing exemptions unique to the C-rated structures. The local CEQA Guidelines would provide for more flexibility than the Secretary of the Interior's Standards (SOIS) requirements; however, would not be as flexible as originally proposed by OAC and staff.

Specifically, during the Heritage Committee's review of the draft Ordinance, it was expressed by the Committee that C-rated structures should be given more flexibility for development. This recommendation originated from OAC, and was expanded upon by the Heritage Committee. At the August 25, 2016 Heritage Committee workshop, a majority of the Committee members indicated that they were in support of reclassifying the C-rated properties to clarify that they were not considered historic resources, but still to be given special consideration during design review. The Committee unanimously directed staff to update the draft Ordinance to reflect this recommendation and to include a summary of the benefits of reclassifying the C-rated properties in a memo for City Council review.

However, on September 28, 2016, when the Heritage Committee reviewed the revised draft Ordinance and memo to the City Council, and after hearing public testimony at the workshop and reviewing letters submitted by the public, a majority of the Committee (4-3 vote) modified the original recommendation and instead recommended that C-rated properties continue to be classified as historic resources, and that the City should adopt a local CEQA exemption to facilitate review of future development projects that involve C-rated structures. The Committee noted that this option was preferred to its previous recommendation of downgrading the C-rated properties because a majority of the members felt that it would provide for more protection of the C-rated properties while still providing increased local flexibility. The draft Ordinance includes the aforementioned Heritage Committee recommendation.

As classified under the current draft Ordinance, any exterior alterations to a C-rated property on the Inventory that requires Design Review approval also requires a CEQA determination prior to Design Review Board action. The Design Review Board typically reviews projects that are eligible for a Categorical Exemption, which is assigned to projects that CEQA Guidelines identify as not creating a significant environmental impact. In the case of a historic resource, CEQA Guidelines provide for a specific exemption (Class 31) for a proposed project consistent with the SOIS.

Oftentimes when the SOIS are applied during the CEQA review process, only minimal alterations are allowed to a property. While this may be appropriate for historic structures with key architectural features, it has proved to be cumbersome for a structure that is not individually historic, but simply contributes to the streetscape (i.e., C-rated structures). Recently, there have been situations when the Design Review Board, upon recommendation of the Heritage Committee, has found that the proposed alterations are compatible with the pattern of development and that the contributive nature of a property is not altered, even though the alterations are not consistent with the SOIS. Technically, such alterations do not fit within the Class 31 exemption.

This inconsistency poses a difficult CEQA processing issue. If a project involving a modification to a historic resource is being carried out inconsistently with the SOIS, additional environmental review is required. For projects involving the demolition or modification of historic resources that are not exempt on that basis, CEQA is likely to require the preparation of an Environmental Impact Report



(EIR) prior to the final approval of the project. Mitigated Negative Declarations, which are another form of CEQA determination, are generally not available because of the lack of viable mitigation measures. The Heritage Committee considered two options to remedy this situation, which are to either reclassify the C-rated properties so they are classified as not being historic, or to adopt a local CEQA exemption. The latter was chosen.

As previously indicated, the Heritage Committee recommended (4-3 vote) that the City adopt a local CEQA exemption for the C-rated structures. By adopting local CEQA thresholds, the City could exempt certain development that is predetermined to not create a significant impact to a C-rated structure. Currently, the only exemption available to the City of Laguna Beach is listed as Section 15331, in Article 19 of the State CEQA guidelines. It states that a project can be exempt from CEQA if the project:

*“consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of historical resources in a manner consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.”*

The City of Orange has adopted three local CEQA Exemptions, in addition to the Class 31 Exemption, to facilitate processing of historic development projects. For reference, these exemptions are attached as Exhibit G.

Because local historic exemptions have not been adopted by the City of Laguna Beach, if a project involves a historic resource, and it does not meet the Secretary of the Interior’s Standards, then staff must conduct an Initial Study. However, if local CEQA exemptions were approved with this Ordinance, then certain predefined projects could be exempted from further CEQA review, even if the project did not comply with each guideline in the SOIS. The extent of this exemption would be subject to City Council approval.

As an example, a local exemption could be drafted to provide maximum flexibility for C-rated structures so that they are not treated any differently than other projects that require design review. See the following CEQA exemption example:

*Modifications to C-rated properties that comply with the City’s Design Guidelines are determined to not create a significant effect on the environment because compliance ensures preservation of the Village atmosphere. Village atmosphere shall be characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site.*

Alternatively, the local CEQA exemption could be drafted to allow deviations from the SOIS. See the following CEQA exemption example:

*Modifications to C-rated structures shall comply with the SOIS standards. However, ground-level, front porches that are less than 100 square feet with roofs that do not exceed 10 feet in height shall also be exempt from additional CEQA review.*

Overall, what is important to understand is that local historic CEQA thresholds can be as strict or as flexible as the City desires. At a minimum, CEQA requires that the City only preserve historic resources that are on or are eligible for the California and National Registers. However, if a City

chooses to provide a local Register and Preservation Program (as currently provided by the City of Laguna Beach), above and beyond the requirements of the state, then the flexibility of administering this program is also deferred to the local agency.

**Creation of Historic Districts:** The definition of a historic district as defined by the National Park Service (NPS) is:

*A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.*

The State's definition of a historic district is:

*A definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.*

Staff asked OAC to provide additional information about districts, as it related to the City of Laguna Beach. OAC noted that the definition provided by the NPS is the standard as utilized by preservation professionals, unless a property is being nominated for listing as a State historical resource. Typically, a historic district derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a historic district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. However, a historic district does not have to be completely intact but sufficient enough to truly get a sense of a distinct grouping of historic resources.

OAC stated that in Laguna Beach, there are a number of factors that complicate identifying historic districts. For instance, the topography in some areas disrupts the unity and continuity aspects of properties. Another factor is the inappropriate alteration of many structures in certain neighborhoods, and the introduction of new out-of-scale construction has also restricted the presence of functioning historic districts. Overall, OAC noted that it is difficult to get a sense of historic unity, cohesiveness, and continuity throughout much of the City. Although OAC identified one cluster of structures along Park Avenue and Through Street that potentially contribute to a district (State Status Code 5D3), ultimately OAC recommends that no historic districts be created within the City.

**Elimination of the Inventory:** The Historic Inventory is a list of properties that were identified through a historic survey in 1981 as being eligible for the City's Historic Register. These properties were determined in 1981 to have retained their original appearance and architectural integrity and most represent the former character of Laguna Beach. Because the 1981 Inventory was never updated every five years, the survey is outdated for CEQA purposes. As a result, the Inventory, in and of itself, does not give rise to a presumption that the property is historic. However, this does not mean that the Inventory is invalid for other uses, and it is not illegal.

If the City Council were to adopt the revised draft Inventory, it would provide a valuable planning tool for the City staff and property owners of historic properties. The Inventory serves the purpose of giving advance notice to property owners and the City regarding historic resource status. Specifically, it provides a presumption as to whether a property is or is not a historic resource.

Conversely, properties recommended to be downgraded in historic status (State Status Code 6Z), would also be presumed not to be historic resources.

Further, if the Historic Inventory was adopted, it would only be effective for five years. Afterward, the City would have to update the Historic Inventory every five years. This could be done in a simple manner moving forward, as staff would keep a record of the structures that have been altered or reassessed.

If the City chooses to forgo adopting the draft Historic Inventory, each project involving structures that could be historical resources would be assessed at such time as the owner proposes demolition or alteration. While the 1981 Inventory and the draft updated Inventory would not give rise to any presumption that a structure is a historic resource, they would still serve the purpose of flagging properties that should be more closely examined prior to any alteration. Thus, it should be noted that doing away with the concept of keeping a current Inventory does not mean that certain properties are no longer historic resources. Instead, it means that determination will be left for the future when and if they propose to demolish or alter the property. Without an up-to-date Inventory, property owners and/or the City would have to conduct historical resource assessments for each project involving modifications to, or demolition of, intact structures over 45 years of age. Thus, forging adoption of the draft Inventory is potentially more time-consuming and expensive for property owners. Simply put, elimination of the Inventory does not give a “free pass” for development, because future projects would still need to be reviewed by the City for historical resource impacts.

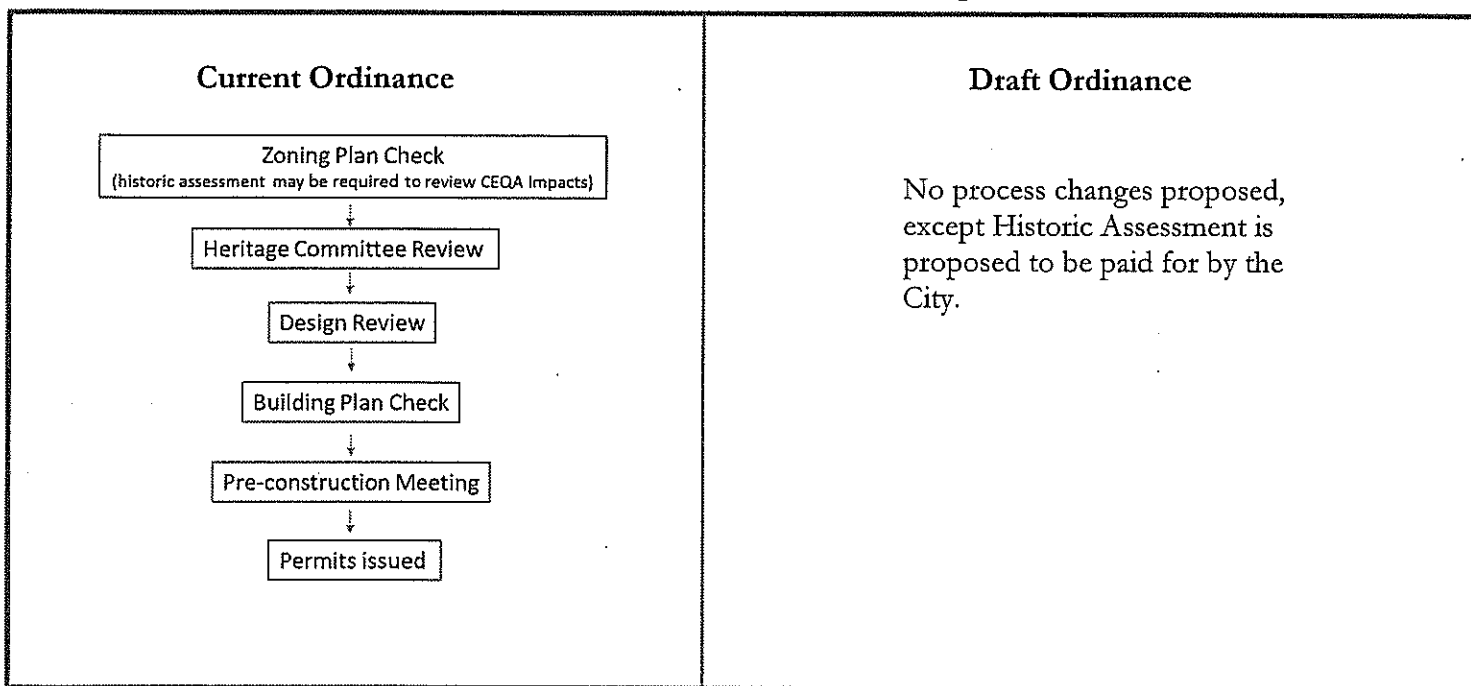
Ultimately, if the Inventory were eliminated, the presumption that a property survey was or was not a resource would concurrently be eliminated. Essentially, the homes that were on the Inventory would be reclassified into the “unsurveyed” group of homes more than 45 years of age. The draft Historic Inventory would then just be kept on file to refer to from time to time as a reference; however, prior to making a decision regarding if the property should be treated as a historic resource, an individual historic assessment would have to be conducted to determine the property’s historic status.

**Proposed Historic Review Processes:** As noted in the March 15, 2017 Planning Commission staff report, the draft Ordinance was revised to address the following processing shortcomings of the current Ordinance:

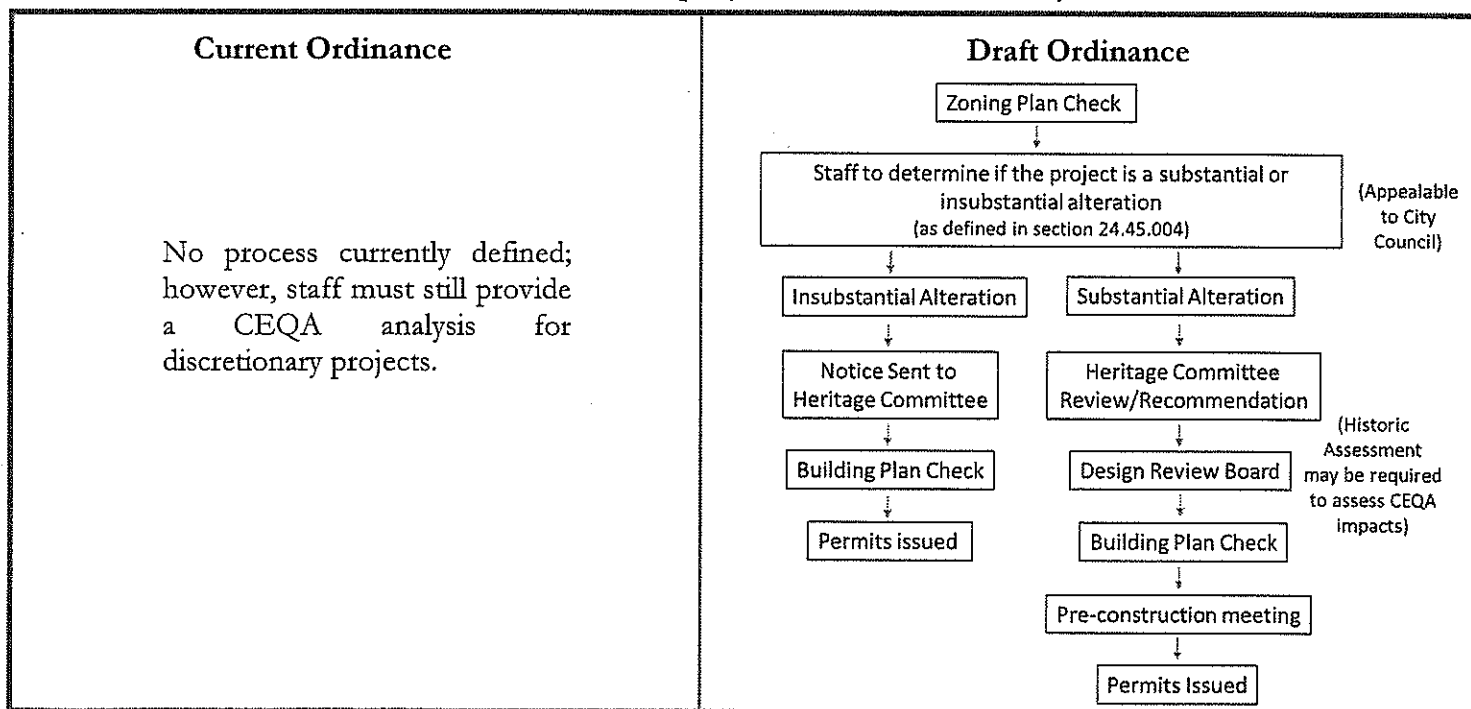
1. The current Ordinance does not provide for a process for the alteration of a property identified on the Historic Inventory;
2. The current Ordinance does not provide for a process for the alteration of a property that is more than 45 years of age, which may be a historic resource, pursuant to (CEQA);
3. The current Ordinance does not provide for a rating review process; and
4. An appeal process of Heritage Committee rating designations is not identified.

The City's current Historic Preservation Ordinance is limited to addressing the process to modify a structure on the Historic Register and to demolish a structure listed on the Inventory or the Register. However, other historic review processes (State and Federal) are required when reviewing projects, especially for CEQA purposes. The draft Ordinance notes these review requirements as well as the additional recommendations from the Heritage Committee. Below, staff has provided a graphic comparison of the City's current historic review processes with the process proposed in the draft Ordinance:

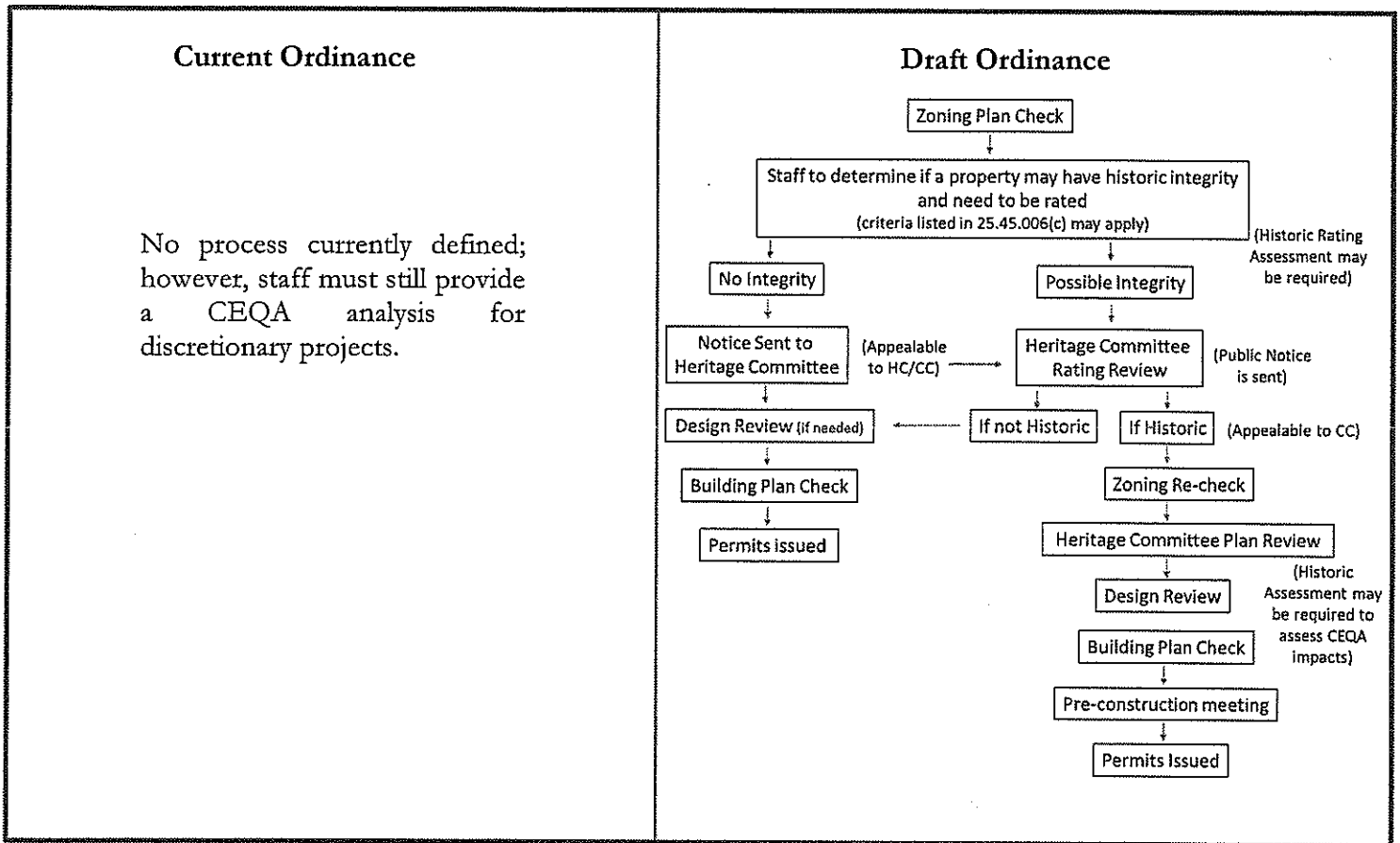
Modification of Structure on the Historic Register



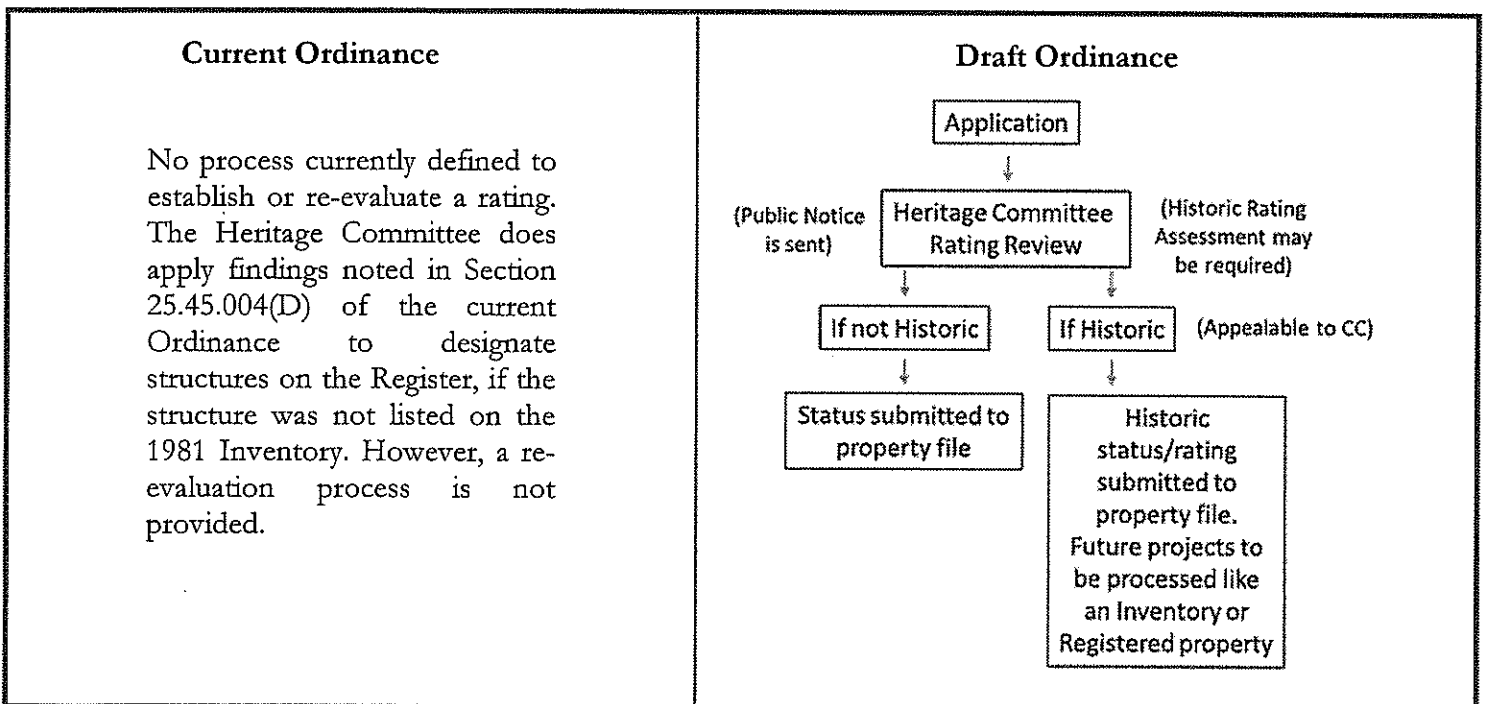
Modification of Historic Property on the Historic Inventory



Modification of pre-1955 Structure



Rating Evaluation Process



**Mills Act for C-rated structures:** One of the most tangible historic preservation incentives available to the City is the Mills Act Program in that it provides discounted property taxes to the owners of historic properties with a Mills Act contract. In the past, the City Council has reserved the Mills Act for the most pristine historic properties, and initially only E-rated structure were eligible for the Mills Act Program. However, in 2006, the City amended the Mills Act Contract eligibility to allow K-rated structures to qualify. Although Policy 1.4 in the City's Historic Resources Element states "Expand the Mill's Act Contract program to include K- and C-rated structures as 'qualified structures,'" the Council has limited the Mills Act Program to K- and E-rated structures because many of the C-rated structures do not exhibit exemplary historic features or architectural integrity.

The Heritage Committee has recommended that more flexibility be given to allow for modifications to C-rated historic structures. Staff feels that this would be contrary to reclassifying C-rated structures as "qualified structures" for the Mills Act Program because flexibility in design does not typically provide for pristine historic properties. However, the City could examine implementing different standards of review for properties on the Mills Act, verses those not under the program. In this instance, intact, original structures could be considered a "qualified structure," and future modifications to C-rated structures could be reviewed under the SOIS. But for a structure not pursuing a Mills Act, more development flexibility could be allowed by a local CEQA exemption. Another option for C-rated properties, which is proposed in the draft Ordinance, would allow a homeowner of a C-rated structures to request a rating upgrade, which if approved could result in eligibility for the Mills Act Program.

**LOCAL COASTAL PROGRAM:** A Local Coastal Program Amendment is required because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** Public Resources Code Section 21080.5, a provision of California Environmental Quality Act (CEQA), and Section 15265(c) of the State CEQA Guidelines, shift the burden of CEQA compliance to the California Coastal Commission in connection with preparation or amendment to a Local Coastal Program (LCP). The Coastal Commission's Local Coastal Program review and approval procedures have been found to be functionally equivalent to the environmental review process. In addition, the revised ordinance is categorically exempt under CEQA section 15308, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. According to the City Attorney, if significant changes are proposed to the draft Ordinance, additional environmental review may be required prior to adoption.

**RECOMMENDATION:** Staff recommends that the Planning Commission review the draft Ordinance and the additional information discussed in the staff report, listen to public testimony and either: (1) direct staff to return with a Resolution recommending that the City Council adopt the draft Ordinance as written; or (2) direct staff to revise the draft Ordinance, based on Planning Commission discussion, and to return with a revised draft Ordinance for review at an upcoming Planning Commission meeting.

- ATTACHMENTS:** Exhibit A: Draft Ordinance (strikethrough of current Ordinance)  
Exhibit B: Draft Ordinance (clean copy)  
Exhibit C: 3/18/17 PC Staff Report and Minutes  
Exhibit D: Frequently Asked Question (2/17/17)  
Exhibit E: 10/16/22 Agenda Bill and 8/20/12 HC Minutes  
Exhibit F: 1/29/2013 CC Staff Report, 1/7/2013 HC Minutes and 12/28/12 HC  
Memorandum to the City Council and the RFP  
Exhibit G: City of Orange's Local CEQA Exemption

proposal to rehabilitate a historic structure that proposes elements that detract from that historic nature. Commissioner Sadler acquiesced that he could accept the reduced version as proposed in the staff report. He stated that he is willing to give the applicant one more opportunity, and then the Commission should vote to approve or deny. He assured that he would like to see the project move forward, but the project does not meet what it should, and he does not want to see the process drag on. He questioned the approach to the project and stated that he is not close to being supportive.

Commissioner Kempf stated that the project has too much program. She stated that she is not in favor of the pool, and she agreed with the other Commissioners' comments. She stated that though she appreciates the value of the property, that is not what the hearing is about. She noted that items pointed out previously have either not been addressed or were nominally addressed, and she noted the correspondence from neighbors concerned about the project.

Commissioner Johnson agreed with Commissioner Sadler that a determination should be made at the next hearing.

The Commission indicated its support of staff's recommendations regarding the pool and rooftop deck, except for Commissioner Johnson, who could not support the pool deck at all. Commissioner McErlane suggested that the pool deck may be better served as parking. Commissioner Whitin requested another alternative for the trash.

Motion AJ Second KS Action Continue the Planning Commission review of the project to the May 17, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

- 3. Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0389 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation. Staff will provide an introductory presentation to the Planning Commission regarding the draft Ordinance, and will be present to answer any questions from the Commission. The City Attorney will also be present. The Planning Commission's review of the draft will be continued to a future meeting where the Planning Commission will provide its comments for future City Council consideration about the draft.**

Item #3 was heard before Item #2.

Communication Disclosures: The Commissioners noted that their own homes are more than 45 years old; Commissioner McErlane reported that his house has a Mills Act agreement.

Martina Caron provided a presentation, explaining the history and the process leading up to tonight's hearing. She noted that properties with State status codes of a 5 or higher rating are considered historic by the State whereas those with a State status code of 6 or lower are not and therefore are not subject to a historic CEQA (the California Environmental Quality Act) review. She also noted that the Design Review Board (DRB) approved the draft Ordinance as written, with a recommendation that the City's definition of "demolition" be revised and that it is clarified that staff will follow-up once a property is determined to be a historic resource to ensure it is reviewed



appropriately. She also noted that one Board member recommended that C-rated properties not be required to obtain Heritage Committee review prior to being reviewed by the DRB, which is different from the process identified in the current draft ordinance.

**Questions of Staff:** Regarding the identification of C-rated properties, Commissioner McErlane expressed concern about the DRB having the ability to make that determination, and he stated that the determination feels arbitrary. Ms. Caron responded that the proposed ordinance includes processes to identify those properties before they go before the DRB. Commissioner McErlane questioned the difference between what the DRB currently does in evaluating projects and the evaluation of C-rated properties. Ms. Caron advised Commissioner McErlane that in the proposed ordinance C-rated properties are eligible for all incentives except for the Mills Act. Commissioner McErlane commented that a property either is or is not historic and there should be no ambiguity.

Ms. Caron explained to Commissioner Kempf the process of how the original 1981 Inventory was created and explained that the different ratings are described in the Historic Element. Ms. Caron explained that the ratings were determined by identifying if the original integrity of the homes was intact and were good representations of those identified styles. Ms. Caron responded to Commissioner Kempf that public hearings regarding the Inventory were held and she believed the individual property owners were notified. Ms. Caron confirmed that the purpose of the recent review of the Inventory was to update the existing Inventory.

In response to Commissioner McErlane regarding any differences in the Inventory if it were started from scratch, Kathy Jenson, City Attorney, advised that there is nothing illegal in starting with an existing list, though it may be under-inclusive. She stated that the City considered the option of doing a Citywide survey, but it would be very expensive; therefore, it was decided to begin with the existing Inventory, to capture those properties that are most significant. Ms. Jenson noted that there will be subsequent hearings for the Inventory update, during which people can express their objections to those specific determinations. Ms. Jenson clarified that the Inventory cannot currently be used as a presumption in determining historic significance.

Ms. Jenson explained to Commissioner Sadler that the Inventory currently does not meet the requirements to create a level of presumption because it is more than five years old. She also noted that there is an issue with the C-rated properties because one of the criteria is that the properties have State code ratings of 1 through 5, whereas the C-rated properties are 6s.

Ms. Caron explained to Commissioner Sadler that because the historic integrity of properties varied when the 1981 Inventory was completed, it was determined that a classification system should be developed; therefore, the E, K, C rating system was created. Ms. Caron confirmed for Commissioner Sadler that the idea was to treat the properties in each category differently, as evidenced with the different levels of incentives in the original ordinance, particularly with parking reductions. Ms. Caron was unable to ascertain for Commissioner Sadler if Laguna Beach's program was modeled after another existing program elsewhere.

Ms. Jenson confirmed for Commissioner Johnson that if the Inventory is eliminated, properties would still be subject to CEQA, because the City must determine if a proposed project impacts a historic structure. Ms. Jenson confirmed for Commissioner Johnson that a local CEQA process could be used, explaining that originally it was recommended to use the City Code to address C-rated properties. Ms. Caron added that some E-rated properties qualify for the California and

National Historic Registers, and would therefore still be subject to CEQA, but those below the State and National levels, given the City's own ratings, such as the K- and C-rated properties, could be processed under local jurisdiction guidelines.

Ms. Caron confirmed for Commissioner Johnson that State guidelines supersede local guidelines in that local guidelines cannot be less restrictive.

Ms. Caron responded to Commissioner McErlane that the goal is to preserve the City's character by preserving both the integrity of the housing stock and historic buildings. Regarding neighborhoods and districts, Commissioner McErlane commented that it seems as if one house carries the historic integrity of the whole block. Ms. Caron explained the nature of the moving scale and what defines a neighborhood, explaining that the historic consultant was only able to find a couple of clustered areas with predominately historic, intact properties; therefore, it was not recommended for the City to use districts.

Ms. Caron responded to Commissioner Whitin that C-rated properties would need to be reclassified in order for the City to adopt the State guidelines as City policy, and allow for voluntary registration of C-rated properties.

Commissioner Whitin noted that she and Commissioner Kempf looked at about 50 of the properties on the Inventory, and many of the Ks and Cs are indistinguishable, whereas it was clear which properties were E-rated. Ms. Caron advised Commissioner Whitin that the City only contracted with one consultant to review the Inventory.

Ms. Caron advised Commissioner Johnson that several properties have been recommended to be removed from the Inventory.

Commissioner Whitin noted a K-rated structure on Aster Street that had been completely torn down and rebuilt, and questioned replicas having E or K ratings. Ms. Caron responded that each rating is property-specific, but she would be surprised if a structure that had been rebuilt maintained a K rating; however, renovations/repairs would be permitted on a K-rated structure.

Regarding the debate of identifying properties 45 years old and older versus those that pre-date 1955, Ms. Caron explained to Commissioner Sadler that CEQA mentions 50 years and the City's design guidelines mention 45 years, taking into account that a property would likely be 50 years old by the time a survey is completed; however, the Heritage Committee was concerned about having a rolling date. Therefore, to provide a cap, 1955 seemed about the end of the timeframe of the older original Laguna structures the ordinance was intended to preserve. Ms. Caron noted that the date helps provide a baseline for review, but is not the only criterion considered in determining historic significance.

Ms. Caron advised Commissioner Johnson that the City currently depends on a consultant to determine if a property may have historic significance, but the proposed new ordinance includes a process for the Heritage Committee to make that determination. Mr. Pfof added that the Director's decision that a property is not historic would be noticed, to allow for that decision to be appealed.

Ms. Jenson explained to Commissioner McErlane that, unlike designating a property as “open space,” making historic determinations is not considered “taking” because “taking” is depriving all reasonable use of a property.

Ms. Caron explained to Commissioner Johnson that if a property has no rating, the historic significance is reviewed as part of the review process, on a case-by-case basis. Ms. Caron added that the Inventory provides a tool to expedite that review. Ms. Caron confirmed for Commissioner Sadler that during the staff evaluation, a property could be determined to be a historic resource, whether it is on the Inventory or not.

Ms. Caron explained to Commissioner Kempf that the current Inventory can be validated using the resurvey completed in 2013/14, which was done by the required standards for Inventories. Ms. Caron clarified that the Inventory is completed using a street-level survey, not a full assessment.

Regarding the Historic Element’s statement regarding voluntary implementation, Ms. Caron advised Commissioner Kempf that CEQA is not voluntary; therefore, if the City allowed property owners to opt out of the Inventory, they would still not be exempt from CEQA, which may be misleading.

Ms. Caron responded to Commissioner Whitin that in order for all properties on the Inventory to be placed on the Register, each property owner would need to submit an application to do so. Ms. Caron stated that those on the Register are treated the same way under CEQA as those that are not; the proposed ordinance addresses those not on the Register.

Ms. Caron confirmed for Commissioner Johnson that local CEQA guidelines can stand in place of State guidelines for anything not eligible for the National and State Registers.

Commissioner McErlane submitted that the largest incentive to be on the Register is the Mills Act and Ms. Caron advised him that the City currently has not limited the number of Mills Act agreements, but that can be done. Ms. Caron responded to Commissioner McErlane that the City, County and State absorb the reduction of those taxes. Mr. Pfof added that the tax reduction costs are identified for the City Council when processing Mills Act agreements.

**Public Testimony Regarding the Project:** Larry Nokes submitted that Commissioner McErlane is a fan of historic preservation in part because he has benefitted from it, whereas people are opposed because they have involuntarily been included. Mr. Nokes acknowledged that Ostashay & Associates re-evaluated the properties on the Inventory; however, he stated that the people who own those properties were not included in the process. He stated that the General Plan talks about a voluntary and incentive-based program, suggesting that the reason is because of the “eminent domain” issue. Mr. Nokes recommended the elimination of the Inventory and that the City just have a voluntary Register.

Barbara Smith, 55-year owner of a K-rated property, commented on the rows of enormous new homes around her property, which she acknowledged are beautiful and unique in their own way. However, she commented that those homes were built by people with the means to make substantial improvements; cottages were sold, torn down and rebuilt taking advantage of every square inch. She stated that views were blocked and light changed dramatically; she now lives in a tunnel. Ms. Smith stated that she accepted these changes because every property owner has a right to do what they want with their property. On the other hand, she noted that her house is 1,000

square feet and was neglected when they bought it, but over five decades they rescued it by working on it a little at a time, resulting in a house that looks quaint from the street, but still with walls that are paper thin. She expressed her anguish regarding the impact of her property now being labelled as historic.

Leo Avallone, 2645 Victoria Drive, emphasized that there must be some way to reasonably appeal a decision made by the historic consultant and the requirements have to be reasonable. He stated that his property was upgraded from a C to a K, but when he appealed the decision, it was sent to the same historic consultant to review again. Mr. Avallone asserted that the determinations are very arbitrary and applicants do not have the right to get another opinion. He also expressed his frustration with doing reasonable repairs, stating that the cost of custom-made elements is five times more than standard items, such as for doors, which he argued is unreasonable to require.

Gale Keller, owner of a K-rated house, noted that when the 1981 survey was done, 10 properties asked not to be on the Inventory; however, she stated that she was not asked. She stated that only 40% of her home is original, and she would like to see the Inventory go away. Regarding CEQA, Ms. Keller asserted that it allows for a huge amount of subjectivity. She also submitted that "looking nice" does not make a property historic.

Thilde Peterson stated that she has lived in Laguna Beach for 14 years, but the same issue exists in her previous city, Ocean City, New Jersey. She asserted that the Inventory should be scrapped, though she acknowledged it means more money, time and work. Ms. Peterson noted a couple of examples of properties that were torn down because people were unaware of the historic significance, but asserted that homeowners should have the right to decide what way to go once they are given the proper information.

Charles Brickell, President of the Laguna Beach Board of Realtors, stated that the Board of Realtors is committed to the preservation of property rights while also preserving the charm of the City with appropriate limitations. He referenced the letter submitted that explains the concerns the Board has with the proposed ordinance. The Board requests that the provision requiring the disclosure of historic status be removed entirely, states that the Inventory should not be used to presume historic significance, and asserts that historic status certainty must be available as soon as possible. The Board submits that a structure that is merely old should not be subject to regulation only on that basis. The Board also agrees that C-rated properties should only be subject to Design Review Board oversight. Mr. Brickell concluded by emphasizing that the Board supports voluntary participation.

Gary Boisen, Laguna Beach Realtors Board of Directors, noted that the ordinance affects a large number of property owners, limiting their rights. He asserted that the proposed ordinance overreaches the General Plan and the guidance provided for the ordinance. He stated that the Board of Realtors strongly believes in voluntary implementation and an incentive-based program. He argued that the current proposal fosters an environment that pits neighbors against neighbors.

Roberta Kansteiner noted that the current ordinance does not provide a process for properties over 50 years of age, as required by CEQA, which the proposed ordinance is trying to fix. She acknowledged that many of the properties on the 1981 Inventory are not historic, but many are, and she asserted that the updated Inventory and ordinance will be better than what the City has at this time.

Jake Medford agreed with the concerns expressed by the previous speakers and noted that most of the people in the room are older than 50, meaning each of them is apparently “historic.”

Kim Friedman stated that she has been here almost 50 years, asserting that longevity and loyalty should be rewarded, not punished. She noted that in her neighborhood, she has one of the few cottages left, but she argued that keeping the façade looking the same but the people inside stressed and suffering is not preserving anything because it is about people as well as houses.

Aaron Talarico reiterated that it is hard to make a village atmosphere without village people; otherwise, it is just a façade. He agreed that the City should stop referencing an invalid Inventory and should use the procedures in the State guidelines. Mr. Talarico noted that his parents bought two properties on Bluebird in the 1970s, which they remodeled in the 1990s to accommodate their growing family, and though the homes are beautiful, they could not do the same thing now.

Maureen Sanchez de Tagle, owner of a C-rated house, stated that they remodeled their home two to three years ago and it was a laborious process. She requested that the C-rated structures are left out of the CEQA process, protected through the City’s design review process. She noted that her property was dropped to a 6 category, which she was happy with, but once under CEQA, any voluntary aspect ends.

Carm Gullo, 31738 Fourth Avenue, expressed his concerns about disclosures. He stated that the Real Property Report did not mention that his property was a C-rated structure, though it did note that the utilities are within easements on the property. He commented that other cities require people to contact the City to determine restrictions, but that is not the case here. He alluded to what would happen if the City puts a “cloud” on all properties 45 years old and older.

Luck Patterson stated that his family bought their house in Woods Cove in 1993, and its historic status was not disclosed, they only found out relatively recently. He said they are uncomfortable with the determination and he questioned why it is difficult to opt out considering the 1981 Inventory is not valid. He said he has dealt with the City on a few occasions and lost his case to the DRB regarding other properties. Mr. Patterson also stated that the new undergrounding district assessed a tax burden on his property equal to or greater than other houses that have incredible views.

David Watkins commented on the invalid Inventory and its arbitrary re-evaluation. He asserted that the Inventory should include every property in the City, listing the State and City ratings, criteria used to determine those ratings, and the property owner’s acknowledgment. He stated that the City Council wanted the Inventory re-evaluated, not the entire program changed. Mr. Watkins stated that he has a K-rated house that he keeps as historic as he can, but his property rights should also be kept intact and historic preservation should be optional.

Mike Johnson, resident since 1992, noted that he is the owner of a home that could turn possibly historic. He acknowledged the good intent, but noted similar cities that have largely volunteer programs done successfully, and suggested that Laguna Beach emulates those cities. He submitted that the City is trying to draw in too many structures, which stifles vitality and new creativity. Mr. Johnson also agreed that there needs to be certainty. He noted that the City has a strong design

review process and he suggested using that process, rather than controlling preservation through other means.

Nampet Panichpant-Michelsen stated that she first saw Laguna in 1964 as a student and eventually bought a cottage in South Laguna in 1983. She explained that her family keeps vintage cottages around the world, cultivating their children to be globally responsible leaders understanding attachments for special spots. However, she asserted that they should have the choice, otherwise it is eminent domain. She remarked that we are living in America.

Eugene D'Isabella noted that this is his eighth or ninth time voicing his frustration with the program. He stated that he served in the Marines and also served for 46 years with the Laguna Beach Fire Department, when it was a requirement to live in Laguna Beach. He stated that he advised the City that he did not want his property to be on the Inventory in 1981, has gone 20 years with no benefits, then was notified that his property is on the Inventory. Mr. D'Isabella asserted that it should be a choice. He questioned who will buy his home when he is gone, now that it is surrounded by huge houses. He admonished the City to get up-to-date with progress.

Ann Christoph stated that she has a historic house and an office that are on the Register. She said she has had nothing but positive experiences dealing with the City when fixing up and adding onto her properties, and she expressed her joy in having the privilege to have these properties. She requested that others give the program a chance, which she submitted benefits property owners and the City as a whole. However, Ms. Christoph agreed status certainty is needed, which she submitted could be accomplished by completing a whole new Inventory. She asserted that getting rid of the Inventory adds to the uncertainty; if the City has a complete Inventory, then anyone will know that a property is a historic resource if it is on the list or that it is not if it is not on the list. She submitted that the sooner a property's status is known, the better, for the property owner and the public as a whole. She noted the loss of historic buildings because of the uncertainty of their historic status.

Johanna Felder, President of Village Laguna, submitted that the Planning Commission would have benefitted by attending the workshops that were held to come up with the proposed ordinance. She stated that Village Laguna generally supports the approach and provisions, which address issues not addressed in the current existing ordinance. Ms. Felder, followed by Rosemary Boyd, then read the letter submitted by Village Laguna, which notes a couple of concerns. Village Laguna requests that the definition of "demolition" be tailored to the preservation of the integrity of the buildings, arguing that the current definition would allow the historic value and integrity of a historic structure to be compromised. The letter provides a recommended definition to protect the historic character-defining features. The other concern expressed by Village Laguna in the letter is regarding monitoring during construction, because the provision does not require the historic consultant to be included in the preconstruction meeting. Ms. Boyd concluded by noting that the rest of Laguna is out there and wants to preserve its historic qualities.

Loraine Mullen-Kress, speaking as a resident and not as a Design Review Board member, stated that the City should have more consideration for owners that will need to eventually sell their homes, because of the affect assigning a historic status has on the value. She noted that CEQA allows C-rated homes to be handled with local guidelines that would preserve them as historic resources while not requiring approval by the Heritage Committee and would save months of time.

She asserted that buyers and sellers need straightforward answers as soon as possible, mirroring the average length of an escrow, similar to Real Property Reports.

Carolyn Burris requested clarification of the process. She noted that her grandfather built the *Coast Inn* in 1927 and the other side of her family moved to Laguna in 1917. She stated that she has another home, which is not on a list, but apparently may be subject to this ordinance.

Chris Quilter, homeowner of a K-rated property on Myrtle Street, stated that he has the only rated structure on a street filled with adorable homes. He requested clarity in the process, suggested getting rid of the Inventory and doing less instead of more. Mr. Quilter submitted that C-rated properties represent a sizeable amount of affordable senior housing, and these seniors do not need a property tax break, but need to be able to make improvements. He argued that simple home repairs cost an unconscionable amount of money.

Sharon Fudge referenced the "Frequently Asked Questions" document and disputed the statement that CEQA requirements limit the City's flexibility. She argued that the role of CEQA is not to enforce preservation, but to inform and identify ways damage can be avoided, how to reduce and prevent such damage, what should be done if a historic resource is destroyed, and it gives reasons for disclosure. She asserted that CEQA does not require a historic ordinance, the City decided to create one. She stated that CEQA requires that when the City makes a decision, it has to be open to the public, but CEQA does not say the City has to preserve anything.

Curt Barwick stated that the City is not required to have a historic preservation ordinance but rather elected to do so, and the General Plan says it should be voluntary and incentive-based. He argued that the new ordinance adds mandatory provisions and applies them to historic preservation, which means that if a property is on the Inventory, it might as well be on the Register. He submitted that such a program may work well if the City had historic districts, but here there are one to three houses on a street that may be historic, which creates "spot zoning" where not all properties are treated the same. Mr. Barwick warned that the current path is going to lead to litigation, and will have economic consequences.

Mark Fudge asked that the City do away with the Inventory, arguing that the new one is defective because it is incomplete. He submitted that there are two classes, properties that might be historic but missed and ones included, which have very different applications of the zoning law. Therefore, he suggested that either the City evaluates every property or does away with the Inventory and evaluates each property on a case-by-case basis. Mr. Fudge asserted that the program should be voluntary, but if not, those homes should not be treated any differently than any other home.

Mike McFadden, 444 Graceland Drive, stated that he has a C-rated property that is on the Inventory. He supported elimination of the Inventory and voluntary inclusion.

Brooks Guyer spoke on behalf of her mother Diana, noting that her family has been here since the turn of the century. She noted that the Inventory is not valid and asserted that it should be eliminated. She stated that the program should be voluntary and incentive-based and there should be an option to opt out. Ms. Guyer noted that 10 people opted out in 1982, but she asserted that her family was not given that chance. She commented on three houses built in Woods Cove around the same time, noting that the one that was able to opt out of the Inventory had political

connections, and that cottage was torn down and replaced with a monstrosity. Ms. Guyer noted the goal of the ordinance.

Verna Rollinger stated that she witnessed the creation of the program and supports Village Laguna's letter. She asserted that the E, K and C ratings are important and should be preserved, but she agreed that there should be less onerous standards for C-rated properties because it does not make sense to treat them the same. Ms. Rollinger noted that the Inventory was re-evaluated and most properties still qualify, and she submitted that we are here to protect historic resources.

Christina Watson stated that she has lived in Laguna Beach for a long time and supports keeping the program voluntary; otherwise, the City would be going against property rights. She suggested incentivizing people to keep their properties historic, forcing it creates conflict.

Ed Sauls, 742 Summit Drive, noted that his house was built in 1940 and is on the Inventory as a K-rated property. He stated that he has owned the property since 1980 and was originally honored by the designation. Though he was aware of the incentives, he explained that he chose not to engage in the program in order to allow for growth, which he achieved through three hearings before the Design Review Board. Mr. Sauls requested that it be kept a voluntary program. He commented that the Inventory is arbitrary and he submitted that the City needs to decide what it is trying to solve, because a CEQA problem is different from historic preservation.

Lorene Auger state that she came in support of the proposed historic ordinance, but after listening to all the speakers, she has changed her mind. She agreed the program should be voluntary, stating that historic preservation resides within our hearts.

Russell Flutter stated that he lives in an old wood house, noting that such houses take a lot of maintenance. He requested that the City not add an additional layer of bureaucracy, because it is already hard enough to keep up with repairs. He stated that it is not fair that they have to fight for their rights and reiterated his request to not add another layer of burden. Mr. Flutter requested that the City helps keep the community cohesive; adding layers of requirements causes properties to fall into disrepair and is counterproductive.

Roy Gallagher, 787 Manzanita Drive, stated that his father built the house in 1928. He stated that it is C-rated, with a State code of 6L, so is not required to be under CEQA. Mr. Gallagher submitted that the Heritage Committee's 4-3 vote tells a story, considering it consists of people with this specific interest. Mr. Gallagher stated that he has been through the process, and it was painful and costly. He asserted that there are more penalties than incentives, and no incentives that benefit him. He agreed that these homes provide a fabric of the community, but requested that people be allowed to take care of their homes as they deem appropriate.

**Commissioners' Comments:** Commissioner Whitin requested an evaluation of the cost to complete an Inventory for the entire City. She also requested clarification that provides a clear understanding of separating the process from CEQA using local guidelines. Commissioner Whitin also requested more information regarding the possibility of establishing historic districts.

Commissioner Johnson recommended examining the C-rated structures to determine which ones can be removed from the list as historic because of changes that have occurred over time. She also requested clarification on how the process would work, in detail, if the Inventory is eliminated.



Commissioner Johnson also requested recommendations on in-house specialists with the qualifications to provide historic assessments. She concluded that the whole C-rating issue must be examined in detail, particularly regarding the process and cost impact of repairs to those structures, etc.

Commissioner Whitin requested clarification on how C-rated properties could possibly qualify for Mills Act agreements.

Commissioner McErlane commented that the program should be driven by incentives; those with historic properties should be rewarded, not punished. He also stated that there should be a clear appeal process that is not costly. Commissioner McErlane expressed concern and questioned the historic nature of C-rated properties that simply have a historic façade. He also asserted that the Design Review Board should not have the power to designate a property as historic, but should maintain its control ensuring that the design fits the neighborhood. Commissioner McErlane requested clarification on what CEQA requires. He asserted that having an Inventory makes the process more efficient; therefore, he stated that he is in favor of a clear, effective Inventory. He also stated that he is in favor of C-rated properties being controlled by the DRB and not be included in the Inventory. Commissioner McErlane submitted that historic designations and the impacts of those designations need to be equitable to everyone on the block. Regarding disclosures, Commissioner McErlane commented that he bought a K-rated house without knowing it was K-rated, but was not concerned because he knew the DRB will control any changes he may want to make anyway. Therefore, he put his house on the Register to get the benefits. Commissioner McErlane suggested that the City needs to better communicate to the public the program and its benefits because it appears there is a lot of misunderstanding about what happens.

Commissioner Johnson agreed with Commissioner McErlane about the DRB controlling the fate of C-rated properties, but she stated that the DRB must be adequately trained on dealing with these properties and the review should include input from an in-house consultant. Commissioner Johnson requested clarification to address the confusion that any property in town automatically goes through the CEQA process, and she asserted that there needs to be an opt-out process.

Commissioner Sadler noted that the Commission is not making a decision tonight, but is providing guidance on where to go from here. He agreed with the other Commissioners' comments and stated that in general, he supports the concept of historic preservation. He agreed that the program should be incentive-based and should possibly be re-evaluated to increase those incentives, agreeing that the Mills Act is likely the best incentive. Commissioner Sadler noted the successful residential and commercial renovations that have been completed that make Laguna what it is. Commissioner Sadler acknowledged that the original 1981 Inventory may not have been done to the standards of a historic consultant, and is not valid as it is; therefore, the options are to start from scratch or enhance the existing Inventory. Regarding C-rated structures, he agreed that they should not be treated the same as higher-rated structures, such as in regards to addressing repairs and maintenance issues. Commissioner Sadler noted that if the City did not have a historic preservation ordinance, when projects are submitted for review, properties could still be determined to be historic resources. He submitted that there is no such thing as unfettered property rights; there are many restrictions on what a property owner can do. However, Commissioner Sadler stated that he believes there is a way to create an ordinance that will benefit everyone.

Commissioner McErlane commented that the City's excuse that it is costly to do a complete Inventory is irresponsible.

Commissioner Kempf agreed with the other Commissioners. She noted that the Commission is conscious about historic structures, particularly in the downtown, but stated that this review has been an eye-opening exercise. Commissioner Kempf requested that staff provide descriptive flowcharts that explain the process of if something occurs, what would happen.

Motion AJ Second KS Action Review the draft Ordinance, receive the staff presentation on the update to the City's Historic Preservation Ordinance (LBMC 25.45), obtain public comment, provide additional policy topic suggestions to staff to analyze (if needed), and continue its discussion of the draft Ordinance to the April 19, 2017 Planning Commission meeting. Motion carried 5-0.

Vote: Johnson Y McErlane Y Sadler Y Whitin Y Kempf Y

#### REGULAR BUSINESS

4. **Minutes** – The minutes from the March 1, 2017 meeting were approved unanimously, as written (moved by Commissioner Sadler, seconded by Commissioner McErlane).
5. **Departmental Reports** – Mr. Drapkin reported that the City Council approved the Pottery Place project. He also reminded the Commission that the Parking Actual Demand Study will be reviewed at next week's special meeting. Mr. Drapkin estimated that the wayfinding signage project and the Laguna Canyon Planning Study project will be presented to the Planning Commission in April.  
  
Mr. Pfof advised the Commission that Jim Pechous, Assistant Director of Community Development, is now handling the Landscape and Scenic Highways Element project, which is expected to be presented to the Design Review Board in April and projected to be complete by the end of the year.  
  
Mr. Pfof noted that most of the items on Commissioner Whitin's list for suggested topics for the joint City Council/Planning Commission meeting are long-range planning items; therefore, he suggested discussing the topics again during "Departmental Reports" at next week's special Planning Commission meeting.
6. **Commissioners' Reports** – Commissioner Whitin reported that the Planning Commissioners' Academy was very good and she suggested that a staff person attends the next one
7. **Adjourn** – The meeting adjourned at 11:27 p.m. to the special Planning Commission meeting on March 22, 2017, then to the regular Planning Commission meeting on April 5, 2017.

**CITY OF LAGUNA BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**AGENDA ITEM:** No. 3 **DATE:** 3/15/17

**TO:** PLANNING COMMISSION

**CASE:** Zoning Ordinance Amendment 17-0388 and  
Local Coastal Program Amendment 17-0389  
(Historic Preservation Ordinance)

**APPLICANT:** City of Laguna Beach

**LOCATION:** Citywide

**ENVIRONMENTAL  
STATUS:** Categorically Exempt, Section 15265(c) and 15308

**PREPARED BY:** Martina Caron, Senior Planner  
(949) 464-6629

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**REQUESTED ACTION:** Zoning Ordinance Amendment 17-0388 and Local Coastal Program Amendment 17-0289 to amend the City of Laguna Beach Municipal Code Chapter 25.45, relating to historic preservation. Staff will provide an introductory presentation to the Planning Commission regarding the draft Ordinance and will be available to answer questions from the Commission. The City Attorney will also be in attendance. The Planning Commission's review of the draft will be continued to the April 19, 2017 Planning Commission meeting so the Planning Commission can provide its comments for future City Council consideration.

**BACKGROUND:** During the period from July 15, 1980 to July 15, 1981, a historic survey was performed by Heritage Orange County, Inc., with the assistance of a City Council-appointed Historic Survey Advisory Board. This survey identified a total of 852 pre-1940 homes and structures within the City. This Historic Resources Inventory served as a source of documented information about the City's historic resources from which the Historic Resources Element of the Laguna Beach General Plan was prepared and adopted by City Council on October 6, 1981 (Resolution 81.115). The number one implementation goal of the Historic Resource Element was to develop and adopt a Historic Preservation Ordinance in order to preserve and protect the cultural heritage of Laguna Beach.

On December 21, 1982, the City Council adopted Resolution 82.111, which formally recognized the 1981 Historic Resources Inventory "as a listing of the best representative examples of historically significant architecture within the City of Laguna Beach." The Inventory found that approximately 25% of the structures identified had undergone some type of modification in the past; however, many still retained their original architectural integrity. Because changes over time, the survey team instituted a classification system, which separated the historic structures into three categories ("E", "K" and "C"). Exceptional (E-rated) properties were those with outstanding historic architectural integrity and were excellent architectural examples. Key (K-rated) properties had very good

historical architectural integrity and were fine period examples. Contributive (C-rated) properties were those that contributed to the overall character and history of a neighborhood but may “not be unique in and of themselves.”

On August 15, 1989, the City Council adopted the Historic Preservation Ordinance (Ordinance 1179). At this time it was noted that this Ordinance established a “voluntary” Historic Register, which was available to owners of historic structures identified on the Historic Resources Inventory and historic structures listed in the South Laguna Specific Plan. The Ordinance recognizes the Historic Resources Inventory and identifies different incentives offered to owners of properties on the Historic Register to maintain, preserve and improve their historic properties. This Ordinance requires Design Review Board approval for proposed construction, exterior alteration, enlargement or demolition of a building or structure listed on the City’s Historic Register. The Ordinance also established the Heritage Committee in an advisory role (to the Planning Commission or Design Review Board) on matters pertaining to historic preservation. Note that at this time, the Ordinance did not reference the California Environmental Quality Act (CEQA).

On November 21, 1995, the City Council amended the Historic Preservation Ordinance (Ordinance 1309) to revise the parking incentives for Historic Register listed properties. On January 10, 2006, the City Council amended the Historic Preservation Ordinance (Ordinance 1458) and amended/updated the City’s Historic Resources Element of the General Plan (Resolution 06.006). This 2006 amendment introduced the language regarding CEQA into the “Demolition” section and revised the penalty section for illegal demolition to establish different penalties for illegal demolition of structures on the Inventory and the Historic Register.

**HISTORIC RESOURCES INVENTORY UPDATE:** Until recently, the above listed documents satisfied the basic need to guide historic resource development and preservation in the City. However, the Historic Resource Inventory has become outdated as many structures have been altered since 1981 and others have been added to the Historic Register. Additionally, pursuant to State law, a Historic Inventory must be updated every five years. Based on these changes, the Heritage Committee recommended that the City undergo an update of the Historic Resource Inventory. On October 19, 2012, the City issued a request for proposal to update to the City’s Historic Inventory. The request included the following project scope:

1. Evaluate the current status of properties listed on the City’s Historic Resources Inventory and determine if these properties retain enough historic integrity to remain eligible for listing;
2. Analyze whether there are any geographic or thematic groupings of properties that would comprise a potential historic district(s), particularly in the older sections of the City. If so, identify which properties within these areas are eligible as contributors to the potential district(s);
3. Identify properties, if any that are eligible for listing as individual local landmarks, or for the California Register of Historical Resources or the National Register of Historic Places;
4. Identify properties, if any that are no longer eligible for local listing due to alterations or demolition. Identify which properties remain eligible despite alterations;
5. Evaluate the E-K-C Classification System used in the 1982 Historic Resource Inventory and determine if it should be altered or retained;

It is important to note that the project scope was limited to a survey of the properties listed on the original 1981 Historic Inventory, and no additional properties were to be surveyed. Additionally, properties listed on the Historic Register were not included in the survey update as these structures have already been designated as a historic resource under CEQA. Thus, if a structure identified on the original inventory had been placed on the Register, it was not re-surveyed as part of this effort.

On January 29, 2013, the City Council authorized the City Manager to enter into a contract with Ostashay and Associates Consulting (OAC) for preparation of the Historic Resources Inventory Update. From May 2013 to May 2014, OAC conducted a field survey of the properties identified on the 1981 survey based on the aforementioned criteria.

On December 8, 2014, the City held a public workshop to present the draft Historic Inventory survey findings. These findings were presented in a spreadsheet noting the property address, the current property and proposed property ratings. Overall, the draft survey results indicated that a total of 206 structures maintained their original integrity and should remain eligible for listing on the City's Historic Register (68 properties were identified with an "E" rating and 213 structures were identified with a "K" rating). Additionally, OAC recommended that 138 properties identified with a "C" rating, be reclassified, downgraded and no longer be eligible for the Historic Register. OAC noted in the public workshop presentation that these recommended ratings were based on the following reasons:

1. Changes in property integrity since 1980, including demolition or other significant alterations;
2. New policies and guidance at federal level regarding use of historic contexts, application of criteria of significance, aspects of integrity, and identification of character-defining features (1988-1991);
3. Creation and implementation of the California Register of Historical Resources (1992-1998);
4. State's National Register status codes changed to California Historical Resource Status Codes (2003);
5. Refinement of State's Historic Resources Inventory Forms (1995) and definition of historic districts;
6. CEQA regulations and implications.

When staff initially reviewed OAC's recommendation, staff was concerned with the proposal to downgrade the C-rated properties. In an effort to continue to encourage preservation of the C-rated properties, OAC suggested that the City's Historic Preservation Ordinance be updated to implement a "Structure of Merit" program to allow a local review program and to provide incentives for preserving the C-rated properties. This program would ultimately downgrade the C-rated properties so that they were no longer classified as historic resources, and a historic CEQA review would not be required to modify a C-rated structure. However, special local consideration could still be given to these properties in the planning process through guidelines or development standards, as determined by the City Council.

Based on OAC's recommendations, staff determined that the Historic Preservation Ordinance would need to be updated to address the C-rated property's classification prior to finalization of the Historic Resources Inventory Update and identified the preparation of a draft Historic Preservation Ordinance to be the next step in the Historic Resources Inventory Update.

**HISTORIC PRESERVATION AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):** As noted above, one reason that OAC indicated that the C-rated property should be downgraded was based on CEQA regulation and implications. As currently classified, any exterior alterations to a C-rated property on the Inventory, that also requires Design Review approval, requires a CEQA determination prior to Design Review Board action. The Design Review Board typically reviews projects that are eligible for a Categorical Exemption, which is assigned to projects that CEQA Guidelines identify as not creating a significant environmental impact. In the case of a historic resource, CEQA Guidelines provide for a specific exemption (Class 31), which indicates that if a proposed project is consistent with the Secretary of the Interior's Standards (SOIS), a significant impact to the resource would be avoided.

Often times when the SOIS are applied during the CEQA review process, only minimal alterations are allowed to a property. While this may be appropriate for historic structures with key architectural features, it has proved to be cumbersome for a structure that is not individually historic, but simply contributes to the streetscape. Recently, there have been situations when the Design Review Board, upon recommendation of the Heritage Committee, has found that the proposed alterations are compatible with the pattern of development and that the contributive nature of a property is not altered, even though the alterations are not consistent with the SOIS.

This inconsistency poses a difficult CEQA processing issue. Once a project involving a modification to a historic property is determined to be inconsistent with the SOIS, additional environmental review is required, unless the exemption for compliance with the Secretary of Interior Standards is applicable. For such projects that are not exempt, CEQA is likely to require the preparation of an Environmental Impact Report (EIR) prior to the final approval of the project. Mitigated Negative Declarations, which are another form of CEQA determination, are generally not available because of the lack of viable mitigation measures. In summary, if the C-rated properties were reclassified as not historic, but still classified as being contributive to a neighborhood and thus reviewed under additional guidelines, then this processing issue would be avoided.

**HISTORIC PRESERVATION ORDINANCE UPDATE:** On April 28, 2015, a draft Historic Preservation Ordinance was presented to the Heritage Committee at a publically noticed workshop. The staff presentation included a comprehensive review of the current Historic Preservation Ordinance/Historic Resources Element and the existing preservation program. Additionally, a revised draft Ordinance was presented, which included discussion about the proposed "Structure of Merit" program, the State status codes, CEQA and the proposed draft changes. During the meeting, staff noted that the draft was revised to address the following shortcomings of the current Ordinance:

1. The current Ordinance does not provide for a process for the alteration of a property identified on the Historic Inventory.
2. The current Ordinance does not provide for a process for the alteration of a property that is more than 45 years of age, which may be a historic resource (CEQA).
3. The current Ordinance does not provide for a rating review process.
4. The current Ordinance does not provide for a process to disclose a historic resource.
5. Historic definitions are not provided.

6. Current City ratings are not consistent with the Office of Historic Preservation or the State status codes.
7. An appeal process of Heritage Committee rating designations is not identified.

After staff's presentation, the Heritage Committee and the public had many questions. Specifically, there were concerns expressed that the draft Ordinance did not include an opt-out provision. Additionally, there appeared to be confusion regarding the Ordinance and implementation procedures and the applicability of the California Environmental Quality Act (CEQA) to historic structures. At the end of the meeting, staff recommended that an additional workshop be held to allow for the City Attorney and OAC to provide a focused discussion.

On September 15, 2015, the City held a public educational workshop with the Heritage Committee. Jan Ostashay, Historic Consultant, was present to discuss the draft Inventory survey and the survey methodology. Kathy Jenson, City Attorney, was also present to discuss how the CEQA relates to the review of historic properties. A memo from the City Attorney (Exhibit D) was circulated, which included a list of Frequently Asked Questions about CEQA, Historic Preservation and a potential opt-out provision. After receiving further Heritage Committee and public input, it was clear that some confusion regarding the Historic Preservation Ordinance still remained; therefore, staff suggested a series of topical workshops be held so that the Heritage Committee and the public could learn more about each topic.

**Topical Workshops:** From October 2015 to March 2016, five public workshops with the Heritage Committee were held on several of the topics within the draft Ordinance. Ultimately, the workshop discussion and Heritage Committee direction were used to prepare a revised draft Ordinance. Details about each of these topical workshops and the Heritage Committee's recommendations at each workshop can be found in the attached Staff Report prepared for the Design Review Board (Exhibit F).

**Heritage Committee Review of the Draft Ordinance:** On June 16, 2016, the Heritage Committee reviewed a second draft Ordinance. At the workshop staff gave a presentation noting the proposed changes to the draft, as recommended by the Heritage Committee in the topical workshops. In summary, the draft Ordinance included the following changes:

1. Preservation incentives be offered to both structures on the Register and the Inventory;
2. Additional preservation incentives;
3. A process for the alteration of a structures identified on the Historic Inventory;
4. A process to review structures that were constructed before 1955, but have never been surveyed;
5. A rating re-evaluation process;
6. All historic assessments will be paid for by the City;
7. Historic property disclosure procedures;
8. Historic definitions;
9. An appeal process.

During its review, the Committee was generally in support of the draft Ordinance as written but several additional recommendations were discussed. Additionally, the Committee was divided in regard to the classification of C-rated properties and toward the end of the workshop, staff

suggested that a draft memo noting its recommendations to the City Council be prepared for the Committee to review on July 7, 2016.

At the July 7, 2016 workshop, the Heritage Committee reviewed a revised draft Ordinance and the draft memo to the City Council. At the meeting, members of the Committee and the public requested that the discussion be continued to allow for more time to review the workshop materials, the revised draft Ordinance, and new information that was submitted by the public. Additionally, the Heritage Committee noted that requiring all un-surveyed structures 45 years in age or older to be evaluated for historic significance was too inclusive, and recommended this threshold to focus on preserving what was part of the historic character of the City. As such, the Committee recommended that the draft Ordinance focus on "pre-1955 structures."

At the August 25, 2016 workshop, a majority of the Committee members indicated that they were in support of the draft Ordinance and that they were in support of re-classifying the C-rated properties. The Committee unanimously directed staff to update the memo and the draft Ordinance to reflect minor additional draft Ordinance recommendations and to include a summary of the benefits of reclassifying the C-rated properties in the memo for City Council review.

On September 28, 2016, the finalized draft Ordinance and Memo to the City Council was reviewed. After hearing public testimony at the workshop and reviewing letters submitted by the public, a majority of the Committee (4-3 vote) modified their recommendation and recommended that C-rated properties continue to be classified as historic resources, but that the City should adopt a local CEQA exemption to facilitate review of future development projects. The Committee noted that this option was preferred to its previous recommendation of downgrading the C-rated properties because a majority of the members felt that it would provide for more protection of the C-rated properties while still providing increased local flexibility. The draft Ordinance includes the Heritage Committee's final recommendations, which includes the recommendation that C-rated properties continue to be eligible for the Historic Register.

In addition to the recommended revisions to the draft Ordinance, the Heritage Committee recommends the following changes for the Historic Preservation Program:

1. A staff planner be hired with a background in historic preservation.
2. Increase Heritage Committee training opportunities.
3. The City adopt a Historic Preservation Style Guide (which is defined in the draft) with definitions (to be prepared in the future by a Historic Consultant). A preferred vender list (doors, windows and other building materials) be created.
4. A historic window/station at the public counter be provided.
5. A Shoppers Parking Pass be provided for property owners of a structure listed on the Historic Register.
6. Street-sweeping tickets be waived for owners of a C, K, or E-rated structure (first 4 tickets).

The Heritage Committee's finalized memo to the City Council is attached as Exhibit E.

#### **Design Review Board Review of the Draft Ordinance:**

On November 10, 2016, staff provided an introductory presentation to the Design Review Board regarding the draft Historic Preservation Ordinance and the Heritage Committee's



recommendations to the City Council. The staff presentation focused on: 1) the current Historic Preservation Ordinance and its shortcomings; 2) the Heritage Committee's finalized Memorandum to the City Council; and 3) the format and information provided in the draft Ordinance. A staff report was provided to the Board (Exhibit G), which included additional details about the update process, and the draft Ordinance was distributed for review. Staff also answered questions from the Board and provided clarification about past workshops. After reviewing public testimony, the Board unanimously continued the review of the draft to January 26, 2017, to allow the Board further opportunity to review the draft Ordinance and so Board questions could be provided to staff in advance of the next meeting. The Board also requested that the City Attorney attend the next meeting.

On January 26, 2017, the Design Review Board discussed the draft Historic Preservation Ordinance. Staff and the City Attorney were present to answer questions from the Board. Overall, the Board was in support of the Ordinance as drafted and noted that the draft added clarity to the review and evaluation processes for historic resources. The Design Review Board recommended that the City Council approve the Ordinance as drafted with the following recommendations: 1) the Ordinance's definition of demolition be reevaluated and 2) once the Design Review Board or Heritage Committee determines that a property is historic, staff ensures that it is reviewed as a historic resource. Additionally, during the Board discussion, one Board member recommended that the draft be changed so that C-rated structures be solely reviewed by the Design Review Board, so to not require Heritage Committee review in an effort to streamline the review process. However, a majority of the Board did not agree with this recommendation and noted that it valued having Heritage Committee recommendations. The Design Review Board minutes and memorandum to the City Council are attached as Exhibit F.

**STAFF ANALYSIS:** The Planning Commission is required to consider amendments to the Zoning Code prior to City Council action. Because the Historic Preservation Ordinance is included within Title 25, which is part of the City's Local Coastal Plan (LCP), an amendment to the LCP is also necessary. The draft Ordinance attached reflects the finalized recommendations of the Heritage Committee. The attached draft (Exhibit A) provided compares the proposed draft Ordinance with the current Ordinance in strike-through format. In addition, a "clean" (non-strikethrough) version has also been provided as Exhibit B.

The proposed draft Ordinance includes several controversial policy topics, which should be reviewed by the Planning Commission prior to making a recommendation to the City Council. In preparation for this next meeting, staff intends to provide a focused policy analysis regarding the key policy issues associated with the draft Ordinance to facilitate Planning Commission discussion. Key topics to analyze include the following:

1. Classification of C-rated Structures;
2. Adoption of the revised/re-surveyed Historic Inventory;
3. Providing expanded incentives to all historic properties;
4. Proposed review process for historic structures and rating evaluations;
5. Preparation of Local CEQA Guidelines (as recommended by the Heritage Committee);
6. Preparation of a Historic Preservation Style Guide;
7. Disclosures of Historic Properties;
8. Historic Assessments for modifications and historic evaluations.

If the Planning Commission believes that additional topics should be addressed, staff can also analyze additional topics as requested.

Historic Preservation Frequently Asked Questions:

Recently, despite the many community workshops, the City became aware that there seems to be misinformation circulating in the community regarding the current Historic Preservation Program and the proposed draft Ordinance. To help provide clarification on these topics, staff prepared Frequently Asked Questions handout (updated February 27, 2017) regarding the City's Historic Preservation Ordinance and Inventory Update (Exhibit C). This handout was mailed to all the owners with homes listed on the Historic Inventory on March, 6, 2017.

**LOCAL COASTAL PROGRAM:** A Local Coastal Program Amendment is required because all amendments to the City's certified Local Coastal Program, which includes Municipal Code Title 25 (Zoning Ordinance), require Coastal Commission approval.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:** Public Resources Code Section 21080.5, a provision of California Environmental Quality Act (CEQA), and Section 15265(c) of the State CEQA Guidelines, shift the burden of CEQA compliance to the California Coastal Commission in connection with preparation or amendment to a Local Coastal Program (LCP). The Coastal Commission's Local Coastal Program review and approval procedures have been found by Resources Agency to be functionally equivalent to the environmental review process. In addition, the revised ordinance is categorically exempt under the CEQA section 15308, which provides an exemption for actions taken by local agencies, authorized by local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment. The proposed ordinance enhances the current preservation program as it will continue to provide a historic preservation program to ensure protection of the City's historic resources. According to the City Attorney, if significant changes are proposed to the draft Ordinance, additional environmental review may be required prior to adoption.

**RECOMMENDATION:** Staff recommends that the Planning Commission review the draft Ordinance, receive the staff presentation on the update to the City's Historic Preservation Ordinance (LBMC 25.45), obtain public comment, provide additional policy topic suggestions to staff to analyze (if needed), and continue its discussion of the draft Ordinance to the April 19, 2017 Planning Commission meeting.

**ATTACHMENTS:** Exhibit A: Draft Ordinance (strikethrough of current Ordinance)  
Exhibit B: Draft Ordinance (clean copy)  
Exhibit C: Historic Resource Update Frequently Asked Questions (2/17/17)  
Exhibit D: City Attorney Memo/Frequently Asked Question (9/8/15)  
Exhibit E: Heritage Committee's Finalized Memo to the City Council (9/28/16)  
Exhibit F: DRB Memorandum and Minutes (11/10/16 & 1/26/17)  
Exhibit G: DRB Staff Report and Staff Memo (11/10/16 & 1/26/17)

# MEMORANDUM

**DATE:** March 9, 2017  
**TO:** City Council  
**FROM:** Design Review Board  
**SUBJECT:** Historic Preservation Ordinance

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On January 26, 2017 the Design Review Board reviewed the Draft Historic Preservation Ordinance, received and considered public comments and made the following comments and recommendations for the City Council's consideration:

- Overall, the Design Review Board supported the Draft Historic Preservation Ordinance because it adds clarity to the review and evaluation of historic resources while protecting those resources.
- Reevaluate the Ordinance's definition of demolition. The Board was concerned that the Ordinance defines demolition as "any act that removes all the existing exterior wall and roof framing" Instead they recommend the definition be broadened to include:  
"Demolition for the purposes of this chapter, means any act or failure to act which destroys, removes in whole or in part a historical resource such that its historic or architectural character, character-defining features and/or significance are materially altered, Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code."
- Clarify that once the Design Review Board or Heritage Committee determines that a property is historic, staff follows up to ensure it is reviewed as a historic resource.

Board member Mullen-Kress recommended that alterations to "C"-rated properties not be subject to Heritage Committee review, and go directly to the Design Review Board to streamline the process. She opined:

"With all due respect to my fellow Board members do not share my real estate knowledge and background or understanding on how significant to a property's value it will be if "C" rated homes have to comply with a Heritage Committee Review, which would add two to three months to the review process. I need to emphasize the importance of streamlining the historical analysis process to accommodate serious real estate considerations. Because there are so many "C" rated structures. As Senior Planner Martina Caron points out, staff can apply "C" rated local standards to development projects which could appropriately bypass the Heritage Committee and move directly to Design Review."

The other four members of the Board disagreed with the idea of bypassing Heritage Committee review for "C" rated structures, stating that they valued having the Committee's recommendation prior to Board review.

MINUTES  
BOARD OF ADJUSTMENT/DESIGN REVIEW BOARD  
REGULAR MEETING AND NOTICED HEARING  
JANUARY 26, 2017

A regular noticed meeting of the Board of Adjustment/Design Review Board of the City of Laguna Beach, California, convened at 6:00 p.m. in the City Council Chambers on January 26, 2017.

**Present:** Caren Liuzzi, Loraine Mullen-Kress, Deborah Neev, Monica Simpson

**Absent:** Meg Monahan

**Staff Present:** Nancy Csira, Jim Pechous, Greg Pfof, Monique Alaniz-Flejter, Martina Caron, Melinda Dacey, Chris Dominquez, Evan Jedynek, Margaret Brown

**1. HERITAGE PRESERVATION DRAFT ORDINANCE DISCUSSION**

Ms. Caron gave a brief update on the draft ordinance to be discussed.

**Board Questions:** Ms. Liuzzi asked if the City will no longer rely on the current Inventory and historic status will be considered on a case by case basis. Ms. Caron said what is currently proposed is modifications to the draft ordinance. Additionally there is a draft inventory that will ultimately be reviewed by the Heritage Committee and presented to the City Council for adoption. The Heritage Committee recommended that the inventory be adopted and the draft ordinance will implement the process for modifying a structure on the inventory. The new ordinance will now address structures that have never been surveyed and the draft will provide for a requirement that staff review properties as these come in for development regardless of whether they've been surveyed or not. Ms. Liuzzi verified currently State and CEQA provides for that as well as the Design Review guidelines. She verified the inventory to be approved by Council will include C rated structures.

Ms. Mullen-Kress asked if it is the City's option, having adopted the historic preservation ordinance, to give property owners the choice of whether or not to be on the historic inventory; does the City have that unilateral decision-making ability. Kathy Jenson of Rutan and Tucker said yes, however, it doesn't make sense to be able to opt off of an inventory. It's one thing to say you wouldn't put something on the Register, but an inventory is a different thing - you don't have to have an inventory. It's up to the City. The current Inventory is so old that it no longer gives rise to a presumption that items listed are for CEQA purposes an historic inventory. It is totally up to the Board if the City wants to go forward and have an inventory. If it has an inventory, it's kind of like a survey, and opting out of the survey doesn't mean the property is not historic. A property not on an inventory or on a list still has the potential for being considered an historic resource. There is no real 'opt out' procedure envisioned. Ms. Mullen-Kress asked if the City has authority to eliminate a property from the inventory if they so choose. Ms. Caron said the City does have a choice, but allowing an opt out without an evaluation process to determine whether or not the structure is historic, opting out would be meaningless because when it comes in for a development application it would still be historic. The Committee recommended there not be an opt out provision because they didn't want to create a misleading situation for a homeowner who opted out because they thought their structure wasn't historic but coming in for development they are still historic.

They recommended an opt out being coupled with an evaluation to determine if they are historic or not and those not qualifying would be downgraded or opt out. Ms. Mullen-Kress asked if the City decided that homeowner – for whatever reason – the City could decide to remove that property from the inventory. Ms. Caron said if it's on the inventory or considered to be historic they would have to provide proof it's not historic in order to do that. Ms. Jenson said because under CEQA once it's on an inventory if the inventory is valid it does give rise to the presumption though the City is taking it off it still was on an inventory. The better approach would be in advance of the preparation of the inventory if people wanted to opt out and never have their property inspected. So they never ended up on the inventory to begin with and then they wouldn't be opting out. Once you're on you're on until you're proven to be off. Ms. Mullen-Kress verified this is a state CEQA issue. Ms. Neev said "provided it was a valid inventory" – we don't currently have a valid one? Ms. Jenson wouldn't say it's not valid inventory" but part of CEQA is that it's reviewed every five years and it hasn't been, so she asked if we no longer have a valid inventory. Ms. Jenson said we can no longer rely on it solely in and of itself for determination that the building identified as historic is still historic because the inventory out of date. It could be valid for other local purposes. Ms. Neev said it was her understanding if it is a valid inventory and a property is taken off, then it does trigger CEQA because it has environmental impact. Ms. Jenson said there could be an argument for that but properties would be better off to be eliminated somehow by the City before the ordinance is adopted rather than have people try to opt out after it's an adopted inventory – that would be a meaningless act. Ms. Neev feels there is a good argument for saying that something that was on the inventory in the 80's after a succession of owners may not now be historic. This comes up often. Ms. Jenson said if the idea was to get off because the property doesn't belong there, this ordinance has a provision for that. But if they want to get off just because they don't want to be on it and it's a valid assessment, that's the problem.

**Public Testimony:** Attorney Larry Nokes said the inventory needs to be scrapped and have no reference to the inventory in the new code and if the City wants to make a new inventory they can do that. But if we make a new inventory give people notice they are being considered; have ratings consistent with state historic codes, have a hearing and tell people the rating assigned and give them an opportunity to be heard on that issue. This is taking the current inventory and moving into a state of validity. He feels we are losing track of what historic preservation ordinances are about. He read from a case in South Pasadena: 'the state historical building code is therefore clear. To allow in the case of historical buildings alterations which otherwise would not meet the standard of regular prevailing building code such as the uniform building code.' The City in this case was trying to compel someone not to do improvements to their house. The Court concluded it wasn't the intent of these statutes to give the City more authority to regulate people's conduct than would ordinarily be given under regular State building codes.

Mike McFadden, 444 Graceland Drive, said this ordinance leaves out the owner and owner's rights. He asked the Board to consider that in their recommendations to Council.

Paul Their, 237 Woodland Drive, asked why this is not voluntary. He feels the benefits are at the expense of a few and will open the City up to litigation.

James Hamilton, 895 Cliff Drive, has substantially remodeled his K rated home and seriously questions if it would qualify as an historic property in its current condition. He agrees with Mr. Nokes' view that there should be a procedure for people to have input on properties

designated.

Dean Harbold, 615 Thalia Street, said the Heritage Committee wants to assign his C rated house and he wants it taken off because he never allowed it to be put on.

A woman who lives in North Laguna asked for it to be optional to be included and that those who want to be left alone to maintain their houses in an appropriate way be allowed to do so.

Mike Johnson, 1375 Bluebird Canyon Drive, spoke representing the Laguna Board of Realtors. The realtors have three concerns (1) it should not have any additional seller and/or agent disclosure requirement during property sale. The Real Property Report and the City data base should be the source for any disclosure of historic status; 2) knowing the impact of historical status on a property owner's rights, the City should be able to provide certainty to the historic survey for all the properties in town and 3) that C-rated structures - if they remain in the category in the approved ordinance when designated by a historian and the Heritage Committee - should only be subjected to Design Review for improvements.

Eugene Disabella, 387 Holly Street, said he was told in 1981 that he could be on it or not and now has a letter saying he's on the list. He said a Council member suggested if you want to be on the list, sign a contract; you shouldn't be put on it if you don't want to be.

Patrick Shenahan, representing owners at 532 Oak Street, said his house was bumped from a C to an E rating. He sent a letter asking how that happened and has not had a response. He feels this is confusing and punitive. He asked that it be scrapped and started over.

Nampet Panichpant-Michelsen, has lived in a historical city in Thailand and has been active in World Heritage. She objects to the process; asked the City to save its money from lawsuits and bad international press. She asked the City to scrap what's proposed.

Patricia Truman, 416 Anita and 1223 Laguna Canyon Road, said this used to be voluntary and her understanding of CEQA is that it came into being for monumental, beautiful buildings - mainly commercial - and was not meant for single-wall beach cottages that have outlived their economic life. She thinks it's illegal; a more democratic process is needed and that this undermines property rights.

Gayle Waite, 31786 Fifth Avenue, has owned C rated properties. Before she buys another she hopes the ordinance is straightened out and has rational guidelines. She is a real estate broker and her fear is that the ordinance will grow to be constrictive, capture more properties in historic status limbo and create animosity in our community.

Roy Gallagher, 787 Manzanita Drive, has a concern about C rated houses which he said are City-rated and don't fall under CEQA. He said he has personal knowledge of the expense of replacing windows to comply with historic standards. He feels his daughter can't afford to live there and maintain it as a historic structure.

Dan Summerl, 31942 Sunset Avenue, thinks the idea there are 700 homes worthy of historic designation is ridiculous. He understands people are unhappy about mansionization but feels having a phony historic ordinance is not the way to go about this.

Joanna Felder said there is so much misinformation and she hopes the Board can take care of some of that. She said C rated homes do fall under CEQA. She hopes this will bring a better method and understanding to keep the City's character. Historic preservation is an important part of doing that and is adopted as part of the General Plan and the California Environmental Quality requirements. All properties in Laguna have different factors - having

an historic resource on properties is one those. Design Review tries to address all the factors and still provide the owner the benefits of use of his property. They try to strike a balance and achieve fairness. To include properties, the ordinance provides a review of properties built before 1955. Another method would be to produce an updated inventory. It would be good for the Board to weigh in on this and on how it could best be achieved.

Ann Christoph, 31632 Wildwood Road, said Heritage tried to strike a balance between property owners' concerns, CEQA requirements, the need to comply with the General Plan and to have an Historic Preservation plan that works. The Board has tried to implement that piece by piece as projects come before it. The Board needs to weigh in on the definition of demolition. The ordinance definition says 'any act that removes all the existing exterior wall and roof framing.' When those have been removed the building has no historic character left. We need a definition that talks about maintaining the integrity and historic character. Once that is compromised that defines demolition in terms of the historic ordinance. The Board has reviewed projects and said the historic is going to be preserved. They go back in a couple of months and find the siding, roof, and windows gone and the integrity is compromised even though it was part of the approval that it be preserved. She feels that's another provision the Board should consider addressing in the ordinance.

Ralene Strauss, 437 Shadow Lane, has a K rated home. She feels the City needs to start the inventory over again. Today she would not buy a house on the historic inventory.

Curt Barwick, 385 Locust Street, said we already have a Historic Preservation ordinance, talking about modifying that will impact those on inventory that shouldn't be subject to restrictions. CEQA - sometimes says the City's hands are tied. That's wrong. CEQA shifts the burden of proof and that's important. If it's on the inventory, the burden shifts to prove it's not historic. The burden should be on the State and not on the individual. He feels the problem isn't the registration - it works; the problem is with the inventory. The entire City should be inventoried. The ordinance is poorly written and should be rejected; mandatory ordinances are rare.

Gil Salinas, 470 Osgood Court, has a home built by Carl Abel. He was invited to the historic register with incentives. He didn't want the incentives and the restrictions that go along with it. He still maintains the house as it was.

Becky Jones, said the Heritage Committee worked to give incentives and flexibility to C rated houses so they would no longer have to meet Secretary of Interior standards which has been eliminated. Past difficulties with CEQA were due to the City not having flexible local standards to address local issues. She suggested asking owners of C rated homes to participate and see if these are things they can live with. If all C rated structures in town were gone - not just houses - it would make a difference to the look and feel of the town and to the cultural record of our history and then by law it would be covered by CEQA. Our job is to make that coverage as easy as possible, creating guidelines homeowners can live with. She would like the City Attorney's opinion on the inventory being adopted by Resolution 82-111 and being part of the General Plan which gives it a different status than most surveys.

Paulette Adams, 590 North Coast Highway, was told eighteen years after she bought her property that it was historic. There is a picture of it with the C rating. There's nothing charming in the picture with 60's windows that wind out and didn't exist when she purchased it. What's depicted in the file photo doesn't exist and didn't exist when she purchased it.

Anthony Mack, 131 Chiquita Street, said preservation is important to him and to others but it comes at a cost. He would opt out because of costs. The incentives aren't enough to cover the costs or all would opt in. The City has to come up with a better way so homeowners aren't burdened with preserving old Laguna.

Sam Goldstein, owns the historic E rated Heisler Building and has spent millions on it. He feels trying to put a blanket over everything existing is a taking without compensation. Nothing has been done for 25 years and to put everything in the world on it is a miscarriage of justice. If you have something worthwhile you will chase the City down to put it on there.

Greg Abel said as a design professional he is proud of doing historic work but it is the choice of the landowner to say if a house is historic - not the right of the City. He feels it's the right of the owner to accept it or not.

Architect Marshall Innis believes in doing away with the inventory, doing away with C, K, and E rating system, making this more simplified and would like to see it done for a benefit and not for parking and street sweeping ticket relief. We need a way to find out what's really historic. Little cottages look cute and have style but he feels not many of them are historic. He thinks we need to look at the guidelines that make them historic and provide good benefits for people to pursue getting them on the Register or whatever they want to do. The idea of trying to capture 500 to 600 homes already on the inventory and everything from 1955 into this process is a grab and unfair.

**Board Questions:** Ms. Liuzzi asked what you are currently told if you come in to the counter for remodeling a house that's not on the inventory but was built prior to '55. Ms. Caron said the current historic preservation ordinance doesn't address that issue. If the project requires Design Review, it will be reviewed for compliance with CEQA. It will be reviewed to determine if it has historic or other potential impacts whether on the inventory or not. Ms. Liuzzi verified the Heritage Committee has recommended hiring a Planner with a specialty in that area. She said if a building is taken off the inventory you are still bound by CEQA because state trumps local - unless it's coupled with a reevaluation of the status and determined not historic. The Board heard a project at 1470 Catalina that the Board thought was historic. They got a report, came back to the Board and the Board concurred down and approved demolition. Ms. Speare said an additional recommendation in the draft is that the cost of the assessment would be absorbed by the City. Mr. Pfof said one aspect of the ordinance is trying to deal with that exact issue - which sometimes happens later in the process where there may be a redesign or a demo - the ordinance creates a process to deal with those issues up front in an effort to save all parties money and it provides an appeal process to review any determination which is currently not possible.

Ms. Mullen-Kress asked if the City is considering hiring a certified historian to determine if a structure is historic prior to development. Ms. Caron said the Heritage Committee's recommendation was to hire a staff planner with the expertise in historic preservation but ultimately the historic rating determination would be made by the Heritage Committee.

Ms. Mullen-Kress read 'requiring agents now to additionally disclose about historical status with enforcements penalties of a thousand dollars per day and possible jail time.'...the realtors cannot be responsible, it's the City's disclosure obligation. Ms. Caron said for clarification the ordinance does include a requirement for agent disclosure but only for structures on the Register - not for those on the inventory or pre-1955 structures and there is no monetary fine included. Ms. Mullen-Kress believes the City's Real Property Report to be



sufficient. Ms. Caron said no, the ordinance is updated to include that a real estate agent would have to provide to the client that a structure is on the register and second is that the City would also be required to include if it's on the register, the inventory or pre-1955. If a realtor is representing a home on the register they are required to tell their client. Ms. Mullen-Kress verified they would learn this from the real property report, the property file or a list. Ms. Mullen-Kress said an agent is not legally required to go to the City, it would have to be changed and her recommendation is that the City's disclosure via the real property report is the disclosure. She believes the City wouldn't lose anything if they eliminated the inventory. She knows people who own K and E homes and are proud of them, some want to upgrade K's to E's - those people will welcome being put on the inventory. Regarding C rated homes, the Design Review Board is in sync with protecting the charm and cottage look that Laguna is famous for. The Board understands the importance homes contributing to the neighborhoods and won't let it be ruined. To the current Board, the rating of contributive properties is irrelevant and not needed; making the process voluntary could be sufficient. But the Board appointees change so there is a risk of losing the contributing homes if you get Board members who don't care. Some people who buy don't care if it's historic and would be happy to tear down and build something completely out of sync with the neighborhood. There is a need for C rated properties but the City does have the flexibility of having local standard guidelines for them which would have nothing to do with E and K. The City is required under CEQA to preserve historic resources. If a property is going to be sold an owner should be able to submit an application for a nominal fee, the City's historian makes a visual inspection - a 10 day process - and this would eliminate most of the homes in Laguna. The historian could indicate on their report it has contributive merit - it's a C and would be allowed extreme flexibility even demolition if the replacement property would contribute to the neighborhood. If it appears to be a K or E that would be different and there would be a further process. If E or K, changes would have to go to Heritage Committee and then to the Design Review Board as we do now. If there's a C, it bypasses the Heritage Committee and that would save months of time. Much needs to be changed in this ordinance.

Ms. Liuzzi fully respects the Heritage Committee, the work done by Staff and feels this ordinance is exactly what some of these speakers talked about - a compromise. She firmly believe there's a misunderstanding out there. CEQA supersedes everything. If a house was built before 1955 you are bound to be looked at as historic at some point or another. This ordinance is to make you aware of it and get it done early enough that you haven't hired an architect and then come to Design Review and find out it's an issue. Many times when it goes to Heritage when it's a C rated structure, you want to add on and they have no issue - it goes on to Design Review and gets approved. It's not as dark as some seem to think it is. She defers to Heritage and to staff who were instructed to come up with this because the City hasn't done its inventory as the law required. Everyone on there who didn't ask to be added has been on there since 1981. It was supposed to be redone every five years; and if it had there would be more on it because she's seen many houses that were missed. She feels the work has been done, it's a compromise and understands some people are upset with the inventory. But it doesn't matter, because if you are off the inventory you are bound by CEQA. A house at 31031 Coast Highway came to Design Review. The Board deemed it was historic, asked to get an historic study. Instead they withdrew the project, went over the counter, took off all the stucco, windows and tile and now looks like it's from Mission Viejo. In her opinion she feels the ordinance should stand and with the two corrections - the definition of demolition and once either Heritage or Design Review deems it to be historic it

goes through proper channels before it's allowed to be considered by staff not historic.

Ms. Neev also thinks CEQA trumps anything else. But she thinks the main concern has to be not so much not with those on the register but with those on the inventory. The City has been remiss in not updating every five years. Many that have had many changes since 1981 and they no longer belong on the inventory. A lot of work has gone into this but the Board's biggest concern lies when a request for demolition comes in without a presentation of what will replace it. It's important when looking at demolition whether a building is truly historic or contributive. She thinks the biggest concern is having something that is really completely not neighborhood compatible replacing it. Adopting a definition of demolition is important - knowing what it is and what's going up there. She recommends we take a very hard look at the inventory and attention has to be paid to updating and revising it. Other than the inventory piece this has been a great job; it has a lot of incentives. She has a concern with reporting. Only if it's on the register does it appear it might trigger something. If we look at the inventory going forward it's imperative that there be a disclosure process of some sort that needs to be discussed more thoroughly. It's important to have a disclosure process for a buyer to know if they have the intent of upgrading or enlarging a home.

Ms. Simpson appreciates the work and truly believes there is more flexibility than people think and this ordinance will make it easier for all. If something has been altered over time it won't be considered historic. The Board sees that all the time. And because a structure is rated C doesn't mean you can't do anything to it. This ordinance helps clarify things. A lot can be done with homes built before 1955, the Board has approved that. It's unfortunate that it's very complicated but staff has done a good job. Demolition is good to add in and this is a fair compromise to a very complex subject.

Ms. Mullen-Kress said if the inventory was eliminated the historic merit of properties would be identified at the time of sale or development. If we're going to use this ordinance we need a new chapter for C's. There are so many remarks throughout this that would confuse C with E and K. C needs its own chapter beside the style guide.

Ms. Liuzzi asked if other Board members would like to weigh in on monitoring construction.

Ms. Simpson said the Board does that anyway but it would be good to have it clearly stated so people understand the requirements. Ms. Caron clarified it's for houses that are required to have an historic construction monitor. Ms. Caron said the suggestion submitted includes a pre-construction meeting for projects that are historic with the historic consultant present. Ms. Liuzzi suggested when the Board recommends something it not be ignored. Ms. Caron said the new ordinance will catch those kinds of situations.

Ms. Mullen-Kress repeated she feels it's very important that C rated properties don't need to go to Heritage, the Design Review Board can handle them. E and K should go through the Heritage Committee before coming to the Board. Ms. Liuzzi likes the ordinance as is with regard to that issue. Ms. Mullen-Kress said if it's C rated and you want to make changes you have the style guide. If you have to go to Heritage first that's 30 days in addition to their development process. The style guide is very clear in what you may or may not do. Ms. Simpson said some Board members are not that versed in historic and she values the Committee's input. Ms. Mullen-Kress feels the style guide would be very thorough and if the project was not compliant with the style guide, staff would make those recommendations to the Board. There is a difference of opinion as Ms. Simpson, Ms. Neev and Ms. Liuzzi said they disagree. Mr. Pfof recapped that this discussion is just to get the Board's opinion on the

matter. It will go on to the Planning Commission and to City Council. He would like to present that in a memo format that the Board can review in their next meeting or if the Board is fine with the ordinance, they can so indicate. Ms. Simpson said it can move forward with the two changes indicated. Ms. Mullen-Kress feels it needs to move forward with a lot of changes. She feels it's way off base to only make those changes that a quorum suggests when she doesn't feel the experience is behind those decisions.

Ms. Pfof said everything discussed tonight will not be recommending any changes to the ordinance. They are looking for feedback from the public and the Board. The Minutes from tonight's meeting will be forwarded to the Planning Commission and City Council and all these concerns will be vetted again by the Planning Commission and by Council before any decision is made for changes to the ordinance. This is not a final decision - the final decision is by the City Council.

## **CONSENT CALENDAR**

### **2. 742 BARRACUDA WAY (ENRIGHT), APN 656-053-28 APPROVED**

DESIGN REVIEW 11-0217, COASTAL DEVELOPMENT PERMIT 11-0039 AND A CATEGORICAL EXEMPTION [Section 15301, Class 1(e)]

City staff: Jim Pechous, Assistant Director of Community Development (949) 497-0320  
jpechous@lagunabeachcity.net

The applicant requests a one-year extension of time. In 2013, approval was given for a new single-family dwelling. This is the final request.

Ms. Neev made a motion, seconded by Ms. Liuzzi, to approve a final one-year extension of time for Design Review 11-0217, Coastal Development Permit 11-0039 at 742 Barracuda Way. Motion carried unanimously 4-0.

Motion DN Second CL Grant Y Deny\_\_\_ Cont\_\_\_ Unan. 4-0

Liuzzi Y Monahan Absent Mullen-Kress Y Neev Y Simpson Y

## **REGULAR BUSINESS**

### **3. 991 SANTA ANA STREET (KEYSER), APN 644-463-01 (Staff Assist) APPROVED WITH CONDITIONS**

DESIGN REVIEW 16-2486 AND A CATEGORICAL EXEMPTION [Section 15301, Class 1]

City Staff: Chris Dominguez, Associate Planner (949) 497-0745 cdominguez@lagunabeachcity.net

The applicant requests design review for modifications to a prior approval in the R-1 (Residential Low Density) zone. Modifications include additions totaling 594 square feet (a portion of which is upper level), a 343 square-foot deck addition, two new skylights, grading, a new pool and spa, air conditioning and landscaping.

Ms. Neev recused herself as she lives within the noticing area.

**Project Representative:** Architect Stan Andrade said there was a high space over the garage of a somewhat split level house. The owner wanted to capture that space for a child's bedroom. There was just enough room to get minimal garage height and to utilize the dormer proposed and stay within the building code for height percentage. They propose putting a pop-up in the roof to help create the space. The bulk of increased program is within the building envelope. There is also a little extension of the master to capture space internally for a nicer master bath.

MINUTES  
BOARD OF ADJUSTMENT/DESIGN REVIEW BOARD  
REGULAR MEETING AND NOTICED HEARING  
NOVEMBER 10, 2016

A regular noticed meeting of the Board of Adjustment/Design Review Board of the City of Laguna Beach, California, convened at 6:00 p.m. in the City Council Chambers on November 10, 2016.

**Present:** Caren Liuzzi, Meg Monahan, Loraine Mullen-Kress, Deborah Neev, Monica Simpson

**Absent:** None

**Staff Present:** Nancy Csira, Martina Caron, Melinda Dacey, Chris Dominquez, Monique Alaniz-Flejter, Greg Pfof, Margaret Brown

**1. INTRODUCTION TO HISTORIC PRESERVATION ORDINANCE CONTINUED TO 1/26**

City staff: Martina Caron, Senior Planner (949) 464-6629 mcaron@lagunabeachcity.net

Director of Community Development Greg Pfof said staff has been working with the Heritage Committee on the ordinance for over a year and we now have a draft ordinance and cover memorandum from the Heritage Committee. Many workshops have been held and the Heritage Committee has recommended this draft ordinance to City Council with an attached memo. The Board was asked to opine upon the ordinance and give the Board's recommendations to Council which they would like formulated in a memo to Council. From there it goes to the Planning Commission who will also review the ordinance and make a recommendation to Council; then it goes to Council. There are a lot of policy issues in this ordinance. Staff will make a presentation, hear any Board questions and public comments and Board direction and there will be a continuation to a subsequent meeting - probably in January to give time to address Board questions and prepare something to present back to the Board. At that next meeting hopefully the Board can reach a consensus.

Senior Planner Martina Caron gave a visual presentation on the inventory's history with an overview providing an update on the historic inventory resource; review of the current ordinance and a review of the Heritage Committee's final recommendations for the ordinance.

**Board Questions:** Ms. Mullen-Kress verified at this time the City is not going out to identify any City property that could be historic but just to reevaluate the structures originally identified on the inventory. Mr. Pfof added City isn't intending to do that although the ordinance provides for a process to identify future historic properties not currently on the inventory. Ms. Mullen-Kress also verified the City has not yet identified an historic district. Ms. Caron explained the Heritage Committee recommended using the current C, K and E ratings. She presented the state status codes as that was a part of the process and is referenced in the ordinance but the intention is to continue to call them C, K and E. Any structure in town would be a 5 or higher, but would not be referred to as such. The status codes provide consistency throughout the preservation profession for those not familiar with our City's C, K and E codes. She verified a CEQA review is not needed for C rated because the intention is to have its own criteria established. Demolition would be the exception and that would go through the normal CEQA process.

Ms. Liuzzi said the Design Review Board and the Heritage Committee would consider what

would be okay to change or not. If not otherwise requiring Design Review, this ordinance would trigger it. Interior remodels are exempted and Ms. Liuzzi asked for a definition of interior remodels, specifically in regard to removing exterior walls to the studs. Ms. Caron said modifying the exterior would be a substantial alteration per the ordinance and subject to Design Review when currently it's not. Ms. Liuzzi asked about notification to the buyer of an historic property. Ms. Caron said the Real Property Report currently discloses whether a structure is on the register or inventory but does not disclose if it could possibly be historic; the ordinance proposes if the owner would like an evaluation they can request it of the City. The ordinance does provide if it's a pre-1955 structure the City will divulge it could be historic resource. If they want to pursue that, there is a process for it. Ms. Liuzzi said her observation is that it seems to be a problem going through CEQA, and asked why. Ms. Caron said when a historic resource is being reviewed for CEQA it's to determine if there is an adverse environmental impact. The CEQA guidelines provide if the project is consistent with the Secretary of Interior standards it could be exempt from CEQA review and eligible for a categorical exemption. Staff is finding the application of those standards to structures - particularly C rated - is limiting because C structures don't have any architectural or key elements that the standards focus on. The Standards wouldn't allow for some minor modifications that Heritage and Design Review would allow. It could trigger an environmental impact report for something as small as a front porch for a C rated structure. For some small modifications that aren't consistent with the standards it's a processing problem. The historian usually makes that determination. If not exempted by staff, the historian would review it. Ms. Neev asked if staff would develop what might and might not be exempt for C structures. Ms. Caron said that recommendation could be brought prior to finalizing the ordinance. Mr. Pfof said that exemption has to be staff approved but also has to be approved by Council as well. When those criteria are developed, staff will have a better process for those exemptions. Ms. Neev asked if there would be a list of possible exemptions or if it would be determined case by case. Ms. Caron said it could include part of the Heritage review to help determine that exemption; it's not yet been determined. The Design Review Board would have to approve the exemption as part of the project approval. Ms. Monahan verified Ms. Caron's definition of 'intact' meaning not altered from its original state. Ms. Monahan said her understanding is if something was deteriorating the pieces deteriorating could be replaced in kind. Ms. Caron said that was possible in an effort to restore the property but it's important to be historically accurate. With some documentation restoration should be possible. Ms. Monahan said as time goes on more properties may be eligible to be on the inventory but there is no process except for the owner to bring it in and ask that it be inventoried. Ms. Caron reiterated the current ordinance doesn't provide for going out to get new properties unless they are coming in for development. Ms. Monahan said the Board sees properties that could be historic but are not on the inventory and asked about those situations. Ms. Caron said if something was constructed before 1955, remains intact and not modified, the draft ordinance provides it will enter into some sort of review to determine its historic status as defined in the ordinance. Heritage recommends a style guide to identify and elaborate on these features and details. If the structure fits one of those categories, it would go to Heritage for review as to whether it's historic or not. Ms. Monahan asked structures built in 1966 or earlier. Heritage has recommended a style guide be created to identify historic elements and significant architectural types; if the structure meets one of those categories it would be reviewed by the Heritage Committee. Ms. Monahan asked if the ordinance provides relief from zoning ordinances to do foundation repair and maintain nonconforming setbacks. Ms. Caron feels they would qualify under the ordinance. There is an exemption from the major remodel threshold if done in a respectful manner. Ms. Mullen-Kress suggested the City employ a certified historian that upon

request by an owner would provide a rating evaluation - similar to a Real Property Report - An Historic Rating Report would be ordered - maybe for a two or three hundred dollar fee. The City Historian would visit and determine visually if the structure has historic significance and what the potential rating would be - if any. That simple exterior visual Historic Rating Report evaluation will eliminate many properties not historic and will determine if it's C, K or E rated. Any changes to a C rated property would be allowed based on the Local Guideline criteria and it wouldn't be necessary for Heritage to review C rated properties because of the Local Guidelines used for allowed changes which would be DRB approved. The Heritage Committee review would be reserved for K and E rated structures. Ms. Caron said that's not what Heritage recommended. Perhaps Board could discuss that as a change from what Heritage recommended. Ms. Caron pointed out there was omission in the published draft to reference modifications of structures in section 25.45.012, there was an omission of C rated structures in that section. It was not noted that they are included.

**Public Testimony:** Leopold Avallone, 2645 Victoria Drive, asked how it will be resolved if changes are made due to earthquake codes and fire issues. The new codes mandate structural changes, improved building materials - for example fiberglass windows - and he feels there should be more flexibility than he's hearing.

Greg O'Loughlin, 31262 Brooks Street, spoke for the South Laguna Civic Association with concerns regarding C rated structures as he has raised in his memo to the Board. The Heritage Committee has recommended keeping the C's as historically significant.

Maureen Sanchez de Tagle, 31211 Brooks Street, has a C property and did a remodel seven years ago. She went twice to Heritage and she feels what she achieved could have been done just by coming to Design Review. She advocates dropping the C properties to a lower level where they don't have to go to CEQA. She feels CEQA adds to the complications and she feels the City can preserve them without going through other processes. She feels houses built in 1955 years and older should be voluntary. Those people going to evaluate properties should be using a simpler process.

A man has said he has a C property but with two nonconforming legal units. One in the back was added on in 1970 and he asked what he could do with it. Ms. Simpson advised he should talk to staff, the Board can't discuss specific properties.

Eugene Disabella, 387 Holly Street, is concerned no one might want to buy his house. He wants an 'opt out'. Ms. Mullen-Kress advised the ordinance addresses an 'opt out' provision.

Attorney Larry Nokes, said everyone is upset the about inventory as it needs to be done and maintained in compliance with the law. This was created by 'the environmental coalition of Orange County'. He feels the C, K and E rating system has to go - it's too vague, you can't work with it. The State has created status codes that are widely used and he asked why we can't use those. He said we continue to refer to the inventory; he asked why we continue to breathe life into it with this new ordinance. It wasn't maintained according to the law. It's not alive any more so it's no good to write that into the ordinance. Any historian can look at a house and another historian can disagree with them. Anyone who doesn't want to be on the inventory shouldn't be on there. This is a property rights issue that needs to be addressed.

## MEMORANDUM

**DATE:** September 28, 2016  
**TO:** City Council  
**FROM:** Heritage Committee  
**SUBJECT:** Historic Inventory and Historic Preservation Ordinance Update

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**Background:**

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

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

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

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

On September 28, 2016, the revised “Draft” Ordinance and Memo to the City Council was reviewed. After hearing the public testimony at the workshop and reviewing letters submitted by the public, a majority of the Committee modified its previous recommendation, and voted to recommend (4-3 vote) that “C”- rated properties continue to be classified as historic resources, but that the City adopt a local CEQA Exemption to improve the development review process as it relates to Contributive “C”- rated properties. The Committee noted that this would provide for more protection of the “C”- rated properties, while still providing more flexibility than the current process.

**Committee Recommendations:**

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

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

**Historic Evaluation Triggers:** At the June 16, 2016 workshop, the Committee requested that staff provide clarification of the events that would “trigger” a historic evaluation of a property. This would particularly pertain to structures that have not been identified on the “Draft” Inventory or placed on the Register. The proposed “Draft” Ordinance requires that a historic assessment be conducted during the review of a development application for the modification of a pre-1955 structure. Specifically, “Draft” Section 25.45.014 states that an application to demolish, relocate, or substantially change a pre-1955 structure be submitted to the Director of Community Development (or his designee, like a staff historic planner), who will preliminarily determine if the property is a potential historic structure. If this is determined, then a structure would be required to go through the evaluation process identified in “Draft” Code Section 25.45.016 and the Heritage Committee would review the historic status of a structure. If at any time in this review process a historic assessment is desired, as proposed, it would be prepared at the cost of the City. All determinations by the Director or Committee may be appealed to the City Council.

The “Draft” Ordinance also notes in “Draft” Section 25.45.018(C), that the City will reasonably attempt to provide a notation on any future Real Property Report (RPR) indicating that a pre-1955 structure may require a historic review during the development process. This notation would be similar to the notation which is currently provided for structures listed on the Historic Register and the Historic Inventory. Once reviewing this disclosure, if a potential buyer would like to have a historic assessment completed, then the buyer may make an application (with permission from the property owner) for a property rating evaluation pursuant to “Draft” Section 25.45.016. If at any time in this review process a historic assessment is desired, as proposed, the assessment would be prepared at the cost of the City. It is important to note that a “C”- rated properties may be upgraded



to a “K”- or an “E”- rating, thereby allowing the structure to qualify for the Register. The revised “Draft” also notes that once an evaluation has been completed pursuant to Section 25.45.016, the property will then be added to the Inventory with the determined property rating.

Incentives to All Historic Property Categories: At the June 16, 2016 workshop, the Committee discussed expanding the historic preservation incentives to all property categories (“E”, “K” and “C”) and requested that the same also incentives be given to all historic properties, identified on the Register, the Inventory. The only incentive that is not available to all properties is the Mills Act, as Mills Act agreements are only available to those structures listed on the City’s Historic Register. Currently, the City Council has determined that only “K” and “E” –rated Historic Register Structures are eligible for the Mills Act.

At the August 25, 2016 workshop, the Committee also recommended that the multiple Historic Preservation Incentive Sections be incorporated into one section for clarity. Staff has revised the “Draft” to reflect this request and now all of the historic preservation incentives are located in one location in the “Draft” (see Section 25.45.008).

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

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

As indicated above, this incentive would be extended to all historic properties, identified on the Register and the Inventory.

South Laguna Civic Association (SLCA) Recommendations: At the June 16, 2016, workshop, the South Laguna Civic Association (SLCA) submitted a letter which included several suggested modifications to the “Draft” Ordinance. At the workshop, the Committee recommended that staff update the “Draft” Ordinance to include these recommendations. A majority of the recommended changes have been incorporated into the “Draft” Ordinance, as recommended by the Heritage Committee.

Demolition: At the August 25, 2016 workshop the Committee requested that the “Draft” Ordinance be revised to re-incorporate a section that discusses demolition of historic structures. The Committee felt that including a “Demolition Section” in the “Draft” Ordinance would provide further clarification as it relates to historic structures. Staff has included Section 25.45.020 which provides the procedures for demolition of a historic structure. Additionally, staff has provided the following definition in the “Draft” for further clarification:

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

Change the term “Neighborhood Property” to “Contributive Property”: The Committee directed staff to revise the term “Neighborhood Property” to “Contributive (“C”-rated) Property” to remain consistent with the current historic preservation terminology. Staff indicated that the term “contributive” is typically associated with a structure in a historic district and that there are no historic districts within the City, but that there was no problem with incorporating this recommendation into the “Draft” Ordinance. All references to “Neighborhood Property” have been updated with the term “Contributive (“C”-rated) Property.”

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

1. Staff planner to be hired with a background in historic preservation.
2. Increased Heritage Committee training.
3. Historic Preservation Style Guide (which is defined in the “Draft”) with definitions (to be prepared in the future by a Historic Consultant). Preferred vendor list (doors, windows and other building materials).
4. Historic window/station at the public counter.
5. Free Shoppers Parking Passes for property owners of a structure listed on the Historic Register.
6. Street-sweeping tickets waived for owners of a “C”, “K”, or “E”-rated structure (first 4).

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

The previous “Draft” acknowledged that these structures are historically important, but proposed to reclassify them so that SOIS compliance was not required. As initially proposed, “C”- rated properties would no longer be eligible for placement on the Historic Register. However, these properties would still have been eligible for all of the historic preservation incentives provided in the “Draft” Ordinance (excluding the Mills Act). The redefined “C”-rated property category was proposed to provide more local flexibility and to streamline the CEQA review process. Since these

properties contribute to the streetscape, the previous “Draft” Ordinance would have established a review process to examine applications to modify a “C”- rated property with the streetscape in mind. The process introduced in the previous “Draft” required Heritage Committee Review prior to Design Review for all “substantial alterations” to “C”- rated properties. Additionally, Design Guidelines were also included to be considered during project review to ensure continued compatibility with the streetscape.

Based on these issues, the Committee had been in favor of the reclassification of “C”-rated properties. However, at the September 28, 2016 workshop, after hearing public testimony at the workshop and reviewing letters submitted by the public, a majority of the Committee modified its recommendation and recommended (4-3 vote) that “C”- rated properties continue to be classified as historic resources, but that the City adopt a local CEQA Exemption to facilitate the review of future development projects. Additionally, the Committee also suggested that local design guidelines be created in the Historic Preservation Style Guide to help administer this Exemption. The majority of the Committee noted that this option was preferred to its previous recommendation of downgrading the “C”-rated properties because a majority of the members felt that it would provide for more protection of the Contributive (C-rated) Properties while still providing increased local flexibility than the current process. It was recommended that the proposed CEQA Exemption consider the following:

- Local flexibility;
- Contributive, “C”-rated Properties are still acknowledged as historically significant to the streetscape, but that a Historic Analysis (SOIS compliance) not be required during review.
- If a “C”-rated structure was rehabilitated to restore its original historic value, under the SOIS, it may be upgraded to a “K”- or an “E”-rated structure, thereby becoming eligible for a Mills Act;
- Heritage Committee and Design Review approval is required for any/all substantial alterations.

**Heritage Committee Recommendation:**

Based on the forgoing, the Heritage Committee recommends City Council adoption of the attached “Draft” Ordinance, in addition to the other non-related Ordinance items noted in this memorandum.

**Attachments:**

Exhibit A: Revised “Draft” Ordinance (11/4/16)

## MEMORANDUM

**TO:** Heritage Committee  
**FROM:** City Attorney *PK*  
**DATE:** September 8, 2015  
**RE:** Historic Resource Inventory and CEQA Issues

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We were asked to review and respond to certain preliminary issues concerning the City's ability to adopt regulations regarding historic resources and associated California Environmental Quality Act (CEQA) matters. A summary of our research determinations is presented below in a Question-and-Answer format for ease of reference. In considering the information contained in this Memorandum, it should be borne in mind that the intent was to address some basic notions in a fairly abstract context so as to facilitate the initial discussion of relevant issues. Consequently, this Memorandum should not be viewed as expressing an opinion or conclusion with regard to a specific factual situation.

### Questions Concerning the Age of Structures

1. **Q: Does a structure need to be a certain age to be considered a historic resource?**  
A: No. The law does not establish a minimum age requirement for a structure to be considered historically significant.
2. **Q: Is there a "rule of thumb" or practice applicable to the age of structures?**  
A: Generally. To the extent there is a common approach, a structure typically must be at least 50 years old in order to be considered an historic resource.
3. **Q: Are there age requirements associated with the National Register or the California Register?**  
A: Yes. The expectation for both the National Register and the California Register is that the structure must be at least 50 years old, but there are exceptions. The exceptions generally recognize there must be some exceptional significance of the structure.
4. **Q: Does the City have the discretion to designate a structure as an historic resource even though it is less than 50 years old?**  
A: Yes, assuming there is substantial evidence to support the determination. In this regard, it is notable the City's design review regulations state that "destruction or alteration to properties with historic significance, as identified in the city's historic

Heritage Committee  
September 8, 2015  
Page 2

resources inventory or historic register, should be avoided whenever possible. Special consideration should be given to any structures over forty-five years old.” (Laguna Beach Municipal Code section 25.05.040(H)(6).) Also, by way of example, the Instructions For Recording Historical Resources developed by the State Office of Historic Preservation recommend using a 45-year standard.

Questions Concerning the California Environmental Quality Act (CEQA)

5. **Q: How does CEQA classify properties that may be considered to be historic resources?**

A: CEQA identifies three types of classifications – (1) mandatory historic resources, (2) presumptive historic resources and (3) properties that may be found historic at the discretion of the local agency based upon substantial evidence.

6. **Q: What are “mandatory historic resources”?**

A: A mandatory historic resource is one that must be considered to be historically significant. Mandatory historic resources have been formally listed, or determined to be eligible for listing in, the California Register of Historical Resources.

7. **Q: What are “presumptive historic resources”?**

A: A presumptive historic resource is one that is presumed to be historically significant. There are two kinds of presumptive historical resources: (1) properties on a local register of historical resources, which is defined to include properties officially designated or recognized as historically significant by a local ordinance or resolution; or (2) properties not on a register, but determined to be historically significant by reason of an approved, valid historical resources survey.

8. **Q: Is the presumption that a structure is an historic resource conclusive simply because the structure is designated on a local register or an historical resources survey?**

A: No. The presumption may be overcome if the local agency determines on the basis of substantial evidence that the structure is not historically significant despite its listing.

9. **Q: Has the Laguna Beach City Council approved a local register of historic structures that satisfies the first type of presumptive historic resources?**

A: Yes. The City’s historic register regulations are contained in Laguna Beach Municipal Code chapter 25.45.

Heritage Committee  
September 8, 2015  
Page 3

10. **Q: Does the City's approved historical resources survey that satisfies the second type of presumptive historic resources?**

A: Probably not. In order for a structure to be considered an historic resource as a result of a historical resources survey, state law requires that the survey meet certain requirements. In the case of Laguna Beach, the survey performed for the City's historic resources inventory list was completed in 1981. State law requires an historical resources survey to be updated if it is more than 5 years old. Because the City's survey was not updated within the past 5 years, structures listed on the City's inventory cannot be presumed to be historically significant.

11. **Q: If the City does not presently have an updated historical resources survey to satisfy the second type of presumptive historic resources, does that mean that the City's current historic resources inventory should not be used as a basis for determining if a structure has historical significance?**

A: Not necessarily. The absence of a valid historical resources survey means only that properties listed on the City's historic resources inventory cannot be presumed to be historically significant on that basis alone. The City may, on the basis of independent substantial evidence derived in the course of assessing a proposed project, still determine a structure to be a historically significant resource. Generally, such a qualifying structure or property must (1) be associated with events that have made a significant contribution to the broad patterns of California history and cultural heritage, (2) be associated with the lives of persons important in our past, (3) embody the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values, or (4) have yielded, or may be likely to yield, information important in prehistory or history. The fact that a property is listed in an outdated inventory may be viewed as an indication that a further assessment should be performed prior to making the appropriate CEQA determination, and can be the basis for requesting that a project applicant supply additional information (e.g., a consultant report) regarding potential historic resources.

12. **Q: What about the third classification of properties that may be found historic at the discretion of the local agency?**

A: This category deals with properties that are neither a mandatory historic resource and nor presumed to be historically significant, but the property nonetheless may meet the requirements of an historical resource in accordance with CEQA. CEQA states that when a project may cause a substantial adverse change in the significance of an historical resource, it should be viewed as a project that may have a significant effect on the environment. Whether or not a property is listed on the City's register

Heritage Committee  
September 8, 2015  
Page 4

or has been surveyed, if a project proposes to materially alter or demolish a structure on the property, then the City is not precluded from considering a potential impact to an historic resource based on the specific facts and circumstances presented.

13. **Q: If a property is not on the historic register or the historic resources inventory, how should the City treat the property if it more than 50 years old and the owner is proposing to make structural modifications?**

A: The mere fact of a structure's age, by itself, does not establish that the structure is a significant historic resource. Nor does the age of a structure, by itself, create a presumption of significance. If a discretionary entitlement is otherwise necessary for the activity (e.g., design review), then CEQA applies and the City will need to assess whether the structure is historically significant. If there is any evidence of the possible existence of an historical resource, the applicant can be required to supply additional information about the structure and potential historical significance, such as a report from a qualified consultant. On the other hand, if only a ministerial (over-the-counter) permit is required for the project, then the project is likely to be exempt from CEQA; however, other regulations independent of CEQA (e.g., an historic preservation ordinance) may be applicable to the proposed activity.

Questions Concerning Opt-Out Processes

14. **Q: Can property owners request and obtain approval for the removal of their properties from the historic register?**

A: Yes. Laguna Beach Municipal Code section 25.45.004(E) provides that a property may be removed from the register subject to City Council approval with a recommendation from the Heritage Committee. The Municipal Code does not describe any specific procedures or decision-making standards for the City Council's determination.

15. **Q: Can property owners request and obtain approval for the removal of their properties from the historic resources inventory?**

A: Not at the present time. The City's regulations do not provide for the removal for properties from the inventory. Nevertheless, the City Council may choose to adopt such a procedure.

Heritage Committee  
September 8, 2015  
Page 5

16. **Q: If the City Council wishes to allow a process for removal of properties from the historic resources inventory, what might be some relevant considerations?**

A: Several possible reasons for allowing properties to be removed from the historic resources inventory have been suggested at prior public meetings. Some persons have proposed, for example, that certain structures should not have been included on the inventory in the first place, either because the affected property owner did not receive notice of the proposed inclusion of the property on the inventory or the property owner did not consent to the proposed listing. Other persons have proposed that removal might be appropriate where either that the property did not meet the criteria at the time for being listed on the inventory, or that while the property may have been properly included on the inventory when it was prepared, circumstances have since changed that warrant removal from the inventory (for example, the applicable criteria are no longer satisfied).

17. **Q: If the City Council wishes to allow a process for removal of properties from the historic resources inventory, what procedures and review criteria should be considered?**

A: The procedures and review criteria for requests may be different depending on the reasons why the City Council may be willing to consider the approval of a removal process. (For example, see the above-described possible scenarios.) They may also depend on whether the City Council determines to permit removal as a matter of right or subject to specified standards. Eventually, the procedures and review criteria selected, if any, should be correlated to the relevant justification for a removal request.

18. **Q: Will the possible approval of an opt-out process from the current historic resources inventory raise CEQA considerations?**

A: Probably not. As noted above, the current historic resources inventory does not create a presumption of historical significance because it has not been updated within the past 5 years. Therefore, removal of a property from the inventory would not have a significant effect on the environment. That is, whether or not a property is listed on the inventory would not change what will happen if remodeling or demolition is proposed. As also noted above, however, even if a property is not listed on the inventory, or even if the underlying survey is outdated, the City would not be precluded from independently determining on the basis of substantial evidence that the property is historically significant for the purpose of assessing a proposed project.



Heritage Committee  
September 8, 2015  
Page 6

19. **Q: If the City Council approves an opt-out process that allows properties to be removed from the current historic resources inventory, and a property owner requests removal and the City subsequently approves the request, how will the City evaluate future requests for modifications to the structure on the property from the standpoint of CEQA?**

**A:** As noted above, whether or not a property is listed on the historic resources inventory, CEQA will still apply if the City determines on the basis of substantial evidence that a historically significant resource is located on the property and that a project may cause an adverse change in the significance of the resource. That is, a determination that a building should not be listed on the City's register or inventory does not relieve the City of its obligation to exercise its discretion to determine whether the building is an historical resource. (As an aside, the significance of an historical resource is considered to be materially impaired where the exterior physical characteristics that convey its historical significance are demolished or materially altered – that is, interior modifications not generally visible are usually insufficient to trigger CEQA considerations.)

cc: John Pietig, City Manager  
Gregory Pfof, Community Development Director  
Ann Larson, Assistant Director of Community Development  
Martina Speare, Senior Planner  
Nancy Csira, Zoning Administrator



## Historic Preservation Ordinance Update Frequently Asked Questions February 27, 2017

### 1. What is the Historic Inventory?

The Historic Inventory is a list of 706 pre-1940 homes that were identified through a historic survey in 1981 as being eligible for the City's Historic Register. These homes were determined to be those which have most retained their original appearance, and architectural integrity and which most represent the former character of Laguna Beach.

The Inventory is a valuable planning tool as the Inventory provides a preliminary property rating designation which indicates if a property should be reviewed as a historic resource during the evaluation of a project.

### 2. What is the Historic Register?

The Historic Register is a list of approximately 300 properties which have been officially designated on the City's Historic Register. These properties were all voluntarily placed on the Register by its property owner, at some point in time since 1989. The owner of each property has signed an agreement to preserve the property. These agreements are recorded with the County. The current Historic Preservation Ordinance (Municipal Code Section 25.45.006) notes that properties on the Register are eligible to apply for preservation benefits such as parking reductions, setback flexibility and financial incentives for properties listed on the Register.

A majority of the properties listed on the Historic Register were identified on the 1981 Historic Inventory (approximately 250), but other homes not identified in the Inventory have also been designated over time pursuant to Municipal Code Section 25.45.004. The current Ordinance requires Design Review approval, with a recommendation by the Heritage Committee for exterior changes proposed to a property listed on the Historic Register. The same procedure is proposed in the proposed draft Ordinance.

### 3. How are the City's Historic Ratings defined?

The following definitions were adopted by the City Council (Resolution 82.111) in 1982:

#### *E- Exceptional:*

Buildings with this classification are outstanding historic architectural examples. Most have been recommended eligible for the National Register and those which are not may be considered for National Register status in the future. Buildings in this category are usually in excellent architectural condition and are typically unique or excellent historical and/or historical architectural examples.

***K- Key:***

Buildings with this classification are very good historical architectural examples which strongly retain their original integrity. These buildings have significant architectural, historical, and/or aesthetic value and are fine period examples.

***C- Contributive:***

Buildings with this classification are those which contribute to the overall character of and history of the neighborhood, though they are not unique in and of themselves. The great preponderance of these buildings contribute greatly to the visual fabric of Laguna Beach and are important in a more general historical architectural context. The many beach bungalows built in Laguna during the 1920's are examples of buildings in this category. While contributive buildings are not architecturally outstanding, without them the streetscape of many Laguna neighborhoods would be very different.

**4. What is the Draft Inventory?**

The draft Inventory is a survey which was initiated by Ostashay and Associates in 2014. The survey was conducted to re-evaluate those properties originally identified on the Historic Inventory in 1981. The draft inventory provides a recommended property rating for all of the properties listed on the Inventory, which have not been placed on the Register. These ratings are preliminary and are subject to City Council approval, upon a recommendation from the Heritage Committee. No additional properties were evaluated as part of this survey effort. This inventory is still in draft form, and it will be reviewed by the Heritage Committee and then ultimately presented to the City Council.

**5. What is the “existing” Historic Preservation Ordinance?**

The “existing” Historic Preservation Ordinance was originally adopted in 1989. This Ordinance established the City’s current historic preservation program and includes sections which provide for the process to designate a property to the Historic Register, to modify a property on the Historic Register, and lists the incentives available for properties listed on the Register. Penalties for illegal demolition of historic properties are also included. The current Historic Preservation Ordinance does not include a review process to modify properties listed on the Historic Inventory, or potentially historic properties that have never been surveyed. The following is a list of the sections provided in the current Ordinance. Note that a process to alter a property listed on the Historic Inventory, or a rating re-evaluation process is not included in the existing Ordinance.

25.45.002 Intent and purpose.

25.45.004 General provisions.

25.45.006 Historic register preservation incentives.

25.45.008 Procedures for the alteration of historic register structures.

25.45.010 Procedures for demolition.

25.45.012 Unsafe or dangerous conditions.

25.45.014 Illegal demolition—Penalty for violations.

**6. What is the “proposed” Draft Historic Preservation Ordinance?**

The proposed draft Historic Preservation Ordinance is a proposed revision to the originally adopted Historic Preservation Ordinance. The proposed draft Ordinance includes several expanded topics and processes, and appeal provisions. The following is a list of the proposed Sections in the Ordinance. Note that a process to alter a property listed on the Historic Inventory, or a rating re-evaluation process is now included in the existing Ordinance:

- 25.45.002 Intent and purpose.
- 24.45.004 Definitions.
- 25.45.006 Properties listed on the historic register.
- 25.45.008 Historic property preservation incentives.
- 25.45.010 Procedures for the alteration of historic register structures.
- 25.45.012 Procedures to alter a property on the historic inventory.
- 25.45.014 Procedures for the alteration of a structure constructed before 1955.
- 25.45.016 Property rating evaluation.
- 25.45.018 Historic property disclosure.
- 25.45.020 Procedures for demolition of a historic structure.
- 25.45.022 Unsafe or dangerous conditions.
- 25.45.024 Property owned by public agencies.
- 25.45.026 Property maintenance required.
- 25.45.028 Illegal demolition Penalty for violations.
- 25.45.030 Appeals.

**7. What is CEQA and how does CEQA relate to historic properties?**

The California Environmental Quality Act (CEQA) requires that the lead agency (the City of Laguna Beach) review a project for environmental impacts, including impacts to historic resources, prior to the discretionary approval of that project. Projects which require design review are considered discretionary projects and are therefore subject to CEQA review.

Historic resources are protected under CEQA. For purposes of CEQA, the “environment” includes objects of historic significance. A project that involves modification or demolition of a historic resource will normally be viewed as having a “significant impact” on the environment. CEQA contains certain exemptions, which predetermine that a project will not create a significant effect on the environment. Exempt projects typically require no environmental analysis before they can be acted upon by the City. The CEQA Class 31 Exemption provides that if modifications proposed to a historic property are consistent with the Secretary of the Interior’s Standards (SOIS), then a project can be exempt from additional environmental (CEQA) review. If a project is not consistent with the SOIS, then additional environmental review (initial study, negative declaration, mitigated negative declaration or an environmental impact report) would be required. Hence, it is important to determine if a property is historic when initially reviewing a discretionary project to determine if the existing property has any historic value. If the property is determined to not have significant historic value, then the discretionary project could be processed without considering the CEQA impacts to a historic resource. However, if the discretionary project includes modifications to a historic resource, then the City must determine what appropriate CEQA analysis would be required for the project (exemption, initial study, negative declaration, mitigated negative declaration or an environmental impact report). Further information regarding this can be found in the attached (9-8-15) memorandum from the City Attorney.

**8. Can I “opt-out” of the Historic Inventory?**

The City’s General Plan notes that the Historic Preservation Ordinance proves a tool for implementing the Historic Resources Element. It notes that “the [Historic Preservation] Ordinance promotes voluntary implementation and provides incentives for adding to and modifying historic structures while ensuring the preservation of the original architectural integrity of the structure.”

During the process of updating the Historic Inventory and Historic Preservation Ordinance, the question has been raised as to if a property owner can request that their property be removed from the Inventory, or essentially if they can “opt-out” of the Inventory. Because historic properties are protected under CEQA, the current Ordinance does not include a “stand-alone” “opt-out” provision which would allow property owners to simply remove their property from the Inventory at the owner’s discretion. However, the proposed draft Ordinance does include a process to re-evaluate a property’s historic rating in an effort to remove a historic classification. During this proposed re-evaluation process, if it is determined that the property no longer warrants historic consideration, then the property rating would be adjusted to reflect that the property is not historic.

It is important to note why an “opt-out” provision is not included in the proposed draft Ordinance. If a “stand alone” “opt-out” provision were incorporated into the draft, and the re-evaluation process was omitted from this process, then “opting out” alone would not be sufficient to discount the potential historic significance of a property. Therefore, if a project is submitted for development in the future, at that time, the project would still need to be reviewed by the City for historical impacts. The requirements of CEQA limit the flexibility of the City and ultimately reduce the City’s opportunity to provide a completely voluntary preservation program.

**9. What if I disagree with the current property rating of my home?**

The current Ordinance does not provide a re-evaluation process for a property so at this time, there is not a defined method to change or remove an existing historic rating. However, as part of the review of the proposed draft Inventory, property owners who feel their proposed property rating is not correct, or that their property should not be considered historic, are encouraged to submit documentation (to the Planning Department) indicating why the proposed property rating is not accurate. Further, the proposed draft Ordinance provides (under Section 25.45.016) a defined process to evaluate the historic rating of a property and allows for an application to be submitted to either establish, elevate, downgrade or remove a property rating.

Specifically, the proposed process allows for a property owner, or the Director of Community Development to file an application to the Heritage Committee to evaluate the historic rating of the property through a publically noticed hearing. Neighbors within 300 feet and tenants within 100 feet of the subject property would receive notice of this hearing. During its review, the Heritage Committee may request that a historic assessment be prepared to evaluate the property at the cost of the City (currently proposed in the draft Ordinance). After consideration of all testimony and evidence presented at the public hearing, the Heritage Committee shall determine if the property should be classified as an “E”, “K” or “C”-rated property, or if the

property has no historic significance. This determination is appealable to the City Council. This new process, which is not currently provided in the current Ordinance, is important as it provides a property owner the understating of how their property is rated, or not, as a historic resource prior to moving forward with a discretionary project subject to CEQA.

#### **10. What if the Historic Inventory was Eliminated from the City's Historic Preservation Program?**

The Historic Inventory is a list of properties that were identified through a historic survey in 1981 as being eligible for the City's Historic Register. These properties were determined to have structures which have most retained their original appearance, and architectural integrity and which most represent the former character of Laguna Beach. The City began the process to update this Inventory in 2014, but the updated Inventory is still in draft form and has not been approved or adopted by the City. As noted above, an updated Inventory would be a valuable planning tool because, with regard to the properties surveyed, it provides some level of certainty. Specifically, it provides rebuttable presumption as to whether a property is or is not a historic resource. Properties identified on the Inventory as not being historic resources are presumed not to be historic resources that are entitled to protection under CEQA. Properties that are designated on the Inventory as historic resources are presumed to be historic resources that are granted protection under CEQA. The Inventory serves the purpose of giving advance notice to property owners and the City regarding historic resource status. If the City chooses to forgo completing the Inventory, that decision would have no impact whatsoever on whether any structure is or is not a historic resource. Instead, its elimination would mean that property owners and the City would have to conduct historical resource assessment from scratch for each project involving modifications to, or demolition of, structures over 45 years of age. This is time consuming and expensive, and the results may take many property owners by surprise. Simply put, elimination of the Inventory does not give a "free pass" for development; all future projects would still need to be reviewed by the City for historical resource impacts. Essentially, the homes that were on the Inventory would be reclassified into the "un-surveyed" group of homes more than 45 years of age.

#### **11. Will the proposed draft Ordinance diminish my home's value?**

It has been inferred by some that having a historic rating may diminish a property's value for it may limit the development potential of a property. It is true that there may be some limitations on the types of improvements made to a historic property, but that varies widely upon the condition of the property and its historic value. However, current development subject to design review, for both historic and non-historic properties will often be less than the maximum allowed by the code because of localized conditions identified during the design review process. In some cases, there may even be tax advantages to having a historic property. What is important to understand is that the proposed draft Ordinance will not change the current historic status of any existing property. As previously noted, under CEQA, the City is required to review potential impacts to historic resources when any development application is submitted. Thus, today, even if your property does not have a historic rating, if you propose improvements that required a discretionary approval, pursuant to CEQA, the property can be identified as a historic resource. Currently, the Municipal Code provides design criteria stating that: "destruction or alteration to properties with historic significance, as identified in the City's historic resources inventory or historic register, should be avoided whenever possible. Special

preservation consideration should be given to any structures over forty-five years old.” This review requirement was implemented in 1997 by state CEQA law.

The existing Ordinance only provides for a process to alter a property on the Historic Register, but does not provide for a process to alter a historic resource, which is not on the Register. This has become problematic for property owners, as during design review, after embarking on a substantial investment in project plan preparation, the property has been determined to be a historic resource. The proposed draft Ordinance outlines a process to identify historic resources earlier in the development process. Additionally, the draft Ordinance proposes to implement appeal procedures for these processes/determinations, which are not currently provided in the existing Ordinance.

#### **12. Will I be able to update my historic property?**

Yes. Another misconception is that a historic property cannot be altered, thereby reducing development potential and reducing a property’s value. This is simply not true. Alterations are frequently approved for modifications to historic properties within the City. Subject to design review, additions exceeding fifty percent of the existing floor area are often approved for smaller cottages to provide a more functional and updated home. In some situations, these additions also include upper level additions, new garage structures etc.

#### **13. What is the CURRENT process to remove a property from the Historic Register?**

Currently, removal from the Register can be initiated by the property owner or by the City and shall be subject to City Council approval with recommendation from the Heritage Committee. The decision to remove a property from the historic register shall be considered at a public hearing by the City Council and shall take into consideration repayment or restoration of any utilized historic benefits/incentives as set forth in Section 25.45.006 of this chapter when (a) the property owner or the City initiates a request to remove the property from the historic register; or (b) anytime unauthorized modifications to the historic property are made including demolition and partial demolition of an historic property.

The current Ordinance does not include any criteria for removal, and it does not indicate that the historic resource status would change as a result of this decision. However, the proposed draft Ordinance requires that a property be removed from the Register, only if it does not qualify as a historic resource. This is important because simply allowing for removal without reviewing the historic integrity of the property would be misleading, because pursuant to CEQA, if a project is submitted for development in the future, at that time, the project would still need to be reviewed by the City for historical impacts.

#### **14. What is the PROPOSED process to remove a property from the Historic Register?**

The proposed Ordinance provides for the same process as the current Ordinance to remove a property (as noted above), however it is required that the application provide evidence that the property no longer retains its historic integrity and/or that the property does not meet any of the criteria listed in Section 25.45.006(C). A historic assessment may be requested as part of the application and will be paid for by the applicant. The decision to remove a property from the Register shall be considered at a public hearing by the City Council with recommendation from the Heritage Committee. Repayment of fees and benefits shall also be considered as in the current Ordinance.

As stated above, the proposed draft Ordinance requires that a property be removed from the Register, only if it does not qualify as a historic resource. Because subject to CEQA, if a project is submitted for development in the future, at that time, the project would still need to be reviewed by the City for historical impacts.

**15. What is the current Historic Register criteria?**

The current Ordinance notes that if you have been identified on the Inventory, the property is eligible to be placed on the Historic Register, subject to approval of the Heritage Committee. The Ordinance also provides that if a property was not listed on the historic inventory, but the owner desires inclusion of the property on the Historic Register, then an application can be made to the Heritage Committee. Any property considered for placement on the Historic Register must be at least fifty years old and the following criteria shall be used in consideration:

- (a) Structures that most retain their original appearance and architectural integrity using the rating system of “E,” “K” and “C” as described in the historic resources element of the general plan;
- (b) Structures that most represent character, interest or value as part of the heritage of the city;
- (c) The location as a site of significant historic event;
- (d) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;
- (e) The exemplification of a particular architectural style or way of life important to the city;
- (f) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.

The proposed draft Ordinance proposes to expand this criteria to clarify the criteria listed above and to better express the criteria that would be recognized under CEQA. The criteria proposed in the proposed draft Ordinance is listed below:

- a) It exemplifies or reflects special aspects, character, interest or value as part of the heritage of the city
- b) The property retains sufficient architectural integrity to continue to evoke the sense of place and time with which it is historically associated;
- c) The location as a site of significant historic event;
- d) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;
- e) The exemplification of a particular architectural style or way of life important to the city;
- f) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.
- g) It represents the work of a notable builder, designer, architect, or artist;
- h) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city;
- i) It is one of the few remaining examples in the city, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen;
- j) It is a noteworthy example of the use of indigenous materials or craftsmanship.



## **16. What disclosure is required of the City for Historic Properties?**

Section 24.45.018 of the proposed draft Ordinance states that the City is required to provide language identifying that the property is, or may be a historic resource on any Real Property Report (RPR) prepared for a property listed on the Inventory, the Register or a pre-1955 property which has not been surveyed. The proposed draft Ordinance would require that the City provide something similar to the following on all Real Property Reports prepared for a property listed on the Inventory, the Register, or a structure constructed prior to 1955:

*The California Environmental Quality Act (CEQA) and the associated CEQA Guidelines require that a proposed discretionary development project, which proposes a substantial adverse change to a historic resource to be avoided or adequately mitigated to qualify for a CEQA exemption or mitigated negative declaration. An Initial Study is required to be prepared to document and support a proposed mitigated negative declaration. If the proposed project cannot be mitigated to below a level of significance, an Environmental Impact Report must be prepared and processed according to the City and CEQA processing guidelines prior to project entitlement review and consideration. Alterations proposed to this property will have to be evaluated for environmental impacts. To assist in doing so, a Historic Resources Assessment Report prepared by a qualified historic preservation consultant may be required in order to determine if any proposed change, alteration or relocation of the historic property on the property will be a substantial adverse change or a change to a historic resource.*

## **17. What will happen when I sell my property?**

Currently, a Real Property Report is required to be provided by a seller of any real property within the City. The proposed draft Ordinance does not propose to change this requirement. However, the proposed draft Ordinance does propose that the City disclose on the Real Property Report if a property is on the Inventory, the Register or if the structure was constructed prior to 1955, to help identify a potential historic resource at the point of sale. If at that time, a homeowner disagrees with the historic status of a property, a homeowner can request a rating evaluation. The proposed draft Ordinance, under Section 25.45.016, now provides a process to evaluate the historic rating of a home. At any time, a property owner may request that the Heritage Committee review the property's historic rating. This decision is appealable to the City Council. Ultimately, this means that at any time, like prior to a sale of the property, the historic rating can be determined. Currently, there is no such process.

## **18. What disclosure is required of real estate agents in the proposed/draft Ordinance?**

The current Ordinance does not require any agent disclosure for historic resources. Based on a recommendation of the Heritage Committee, Section 25.45.018 of the proposed draft Ordinance would require that when a real estate agent is listing a property on the Historic Register for sale, he or she must disclose in that listing if a property is listed on the Historic Register. No agent disclosure is required by City Ordinance for properties listed on the Historic Inventory or properties which have not been surveyed. The Municipal Code provides penalties for not providing a real property report. The proposed draft Ordinance does not implement any new penalties or fines.

**19. What incentives are proposed for historic properties in the proposed draft Ordinance:**

The current Ordinance provides incentives only to properties on the Historic Register. The proposed draft Ordinance provides an expanded list of incentive and would offer incentives not only to properties on the Register, but also to properties on the Inventory. Below is a comparison list of the incentives that were recommended by the Heritage Committee, which are included in draft Section 25.45.008:

Historic Category	Current Ordinance	Draft/Proposed Ordinance
<p><b>Historic Register</b></p>	<ul style="list-style-type: none"> <li>· residential parking reductions</li> <li>· commercial parking reductions</li> <li>· building and planning fees refunded</li> <li>· historic building code exemptions</li> <li>· setback flexibility</li> <li>· density bonuses in DTSP and LBP</li> <li>· historic plaque eligible</li> <li>· Mills Act (E/K rated properties)</li> <li>· Non-conforming building exemptions</li> </ul>	<ul style="list-style-type: none"> <li>· residential parking reductions</li> <li>· commercial parking reductions</li> <li>· building and planning fees refunded</li> <li>· historic building code exemptions</li> <li>· setback flexibility</li> <li>· rear setback flexibility</li> <li>· density bonuses in DTSP/LBP, <b>R-2 and R-3 zones</b></li> <li>· free historic plaques</li> <li>· Mills Act (E/K rated properties)</li> <li>· <b>Expanded non-conforming, major remodel exemptions</b></li> <li>· Historic Plaques</li> <li>· Bed and Breakfast Incentives</li> </ul>
<p><b>Historic Inventory (C/K/E- Rating)</b></p>	<p>None</p>	<ul style="list-style-type: none"> <li>· residential parking reductions</li> <li>· commercial parking reductions</li> <li>· building and planning fees refunded</li> <li>· historic building code exemptions</li> <li>· setback flexibility</li> <li>· rear setback flexibility</li> <li>· density bonuses in DTSP/LBP, <b>R-2 and R-3 zones</b></li> <li>· free historic plaques</li> <li>· <b>Expanded non-conforming, major remodel exemptions</b></li> </ul>

**20. What is the process to modify the exterior of a historic or potentially historic property?**

Historic Category	Current Ordinance	Draft/Proposed Ordinance
The Historic Register (C/K/E rating)	Exterior changes (except minor exterior modifications) require design review approval, based on a recommendation from the Heritage Committee. If a historic assessment is required, then it is paid for by the property owner. [Section 25.45.008]	No changes are proposed to this section, with the exception that the "minor exterior modifications" are re-defined as "in-kind replacement of historically appropriate materials". [Section 25.45.010]
The Historic Inventory (C/K/E rating)	Not addressed, no additional review required under the current Ordinance. However, in order to comply with CEQA, staff has been requiring a historic assessment for exterior modifications. If a project is subject to design review, then a recommendation of the Heritage Committee is also obtained.	Substantial alterations <sup>1</sup> require design review approval, based on a recommendation from the Heritage Committee. If a historic assessment is required, then it shall paid for by the City. [Section 25.45.012]
Pre-1955 structure that has not been rated	Not addressed, no additional review required. However, this has become problematic as CEQA requires that projects be reviewed for environmental impacts prior to a discretionary approval. Given this, for projects requiring design review, staff has been working to obtain historic assessments (paid for by the property owner) to determine if a proposed project would create a substantial change to the environment. Since this requirement is not outlined in the current Municipal Code, it has posed problems for recent design review projects, as architectural plans have been completed prior to obtaining an assessment.	When an application is submitted to substantially alter a pre-1955 structure, the director shall make a determination of whether the property is eligible to be classified as an "E", "K" or "C"-rated property. In making this determination, the director may apply the eligibility criteria and factors specified in Section 25.45.006(C). The director may also request that a historic assessment at the cost of the City be prepared to evaluate the property. (1) If the director finds that the property may be eligible to be classified as an "E" or "K"-rated property or as a neighborhood property ("C"-rated), then the proposed exterior modifications shall be forwarded to the Heritage Committee for a rating review (as prescribed by draft Section 24.45.022) to determine the appropriate rating of the property. Once a rating is determined, then the proposed project would follow the review procedures set forth in 25.45.012. (2) If it is determined by the director that the property does not warrant historic consideration, then a notice of this determination will be sent to tenants within 100 feet, and property owners within 300 feet of the subject property. (3) Any decision rendered by the director, which concludes that a property does not contain any historic significance, may be appealed to the Heritage Committee. Any decision of the Heritage Committee may be appealed to the City Council.

1. Substantial alteration means demolition, destruction, relocation, or alteration such that the significance and integrity of a historical resource would be impaired. This would include any act or failure to act that destroys, removes, or relocates, in whole or part, a historical resource in such a way that its historic or architectural character and significance are materially altered. Major Remodels, as defined in section 25.08.024, are considered "substantial alterations". Examples of insubstantial alterations can be found in draft Ordinance Section 25.45.004.

## California Historical Resource Status Codes

<b>1 Properties listed in the National Register (NR) or the California Register (CR)</b>	
1D	Contributor to a district or multiple resource property listed in NR by the Keeper. Listed in the CR.
1S	Individual property listed in NR by the Keeper. Listed in the CR.
1CD	Listed in the CR as a contributor to a district or multiple resource property by the SHRC
1CS	Listed in the CR as individual property by the SHRC.
1CL	Automatically listed in the California Register – Includes State Historical Landmarks 770 and above and Points of Historical Interest nominated after December 1997 and recommended for listing by the SHRC.
<b>2 Properties determined eligible for listing in the National Register (NR) or the California Register (CR)</b>	
2B	Determined eligible for NR as an individual property and as a contributor to an eligible district in a federal regulatory process. Listed in the CR.
2D	Contributor to a district determined eligible for NR by the Keeper. Listed in the CR.
2D2	Contributor to a district determined eligible for NR by consensus through Section 106 process. Listed in the CR.
2D3	Contributor to a district determined eligible for NR by Part I Tax Certification. Listed in the CR.
2D4	Contributor to a district determined eligible for NR pursuant to Section 106 without review by SHPO. Listed in the CR.
2S	Individual property determined eligible for NR by the Keeper. Listed in the CR.
2S2	Individual property determined eligible for NR by a consensus through Section 106 process. Listed in the CR.
2S3	Individual property determined eligible for NR by Part I Tax Certification. Listed in the CR.
2S4	Individual property determined eligible for NR pursuant to Section 106 without review by SHPO. Listed in the CR.
2CB	Determined eligible for CR as an individual property and as a contributor to an eligible district by the SHRC.
2CD	Contributor to a district determined eligible for listing in the CR by the SHRC.
2CS	Individual property determined eligible for listing in the CR by the SHRC.
<b>3 Appears eligible for National Register (NR) or California Register (CR) through Survey Evaluation</b>	
3B	Appears eligible for NR both individually and as a contributor to a NR eligible district through survey evaluation.
3D	Appears eligible for NR as a contributor to a NR eligible district through survey evaluation.
3S	Appears eligible for NR as an individual property through survey evaluation.
3CB	Appears eligible for CR both individually and as a contributor to a CR eligible district through a survey evaluation.
3CD	Appears eligible for CR as a contributor to a CR eligible district through a survey evaluation.
3CS	Appears eligible for CR as an individual property through survey evaluation.
<b>4 Appears eligible for National Register (NR) or California Register (CR) through other evaluation</b>	
4CM	Master List - State Owned Properties – PRC §5024.
<b>5 Properties Recognized as Historically Significant by Local Government</b>	
5D1	Contributor to a district that is listed or designated locally.
5D2	Contributor to a district that is eligible for local listing or designation.
5D3	Appears to be a contributor to a district that appears eligible for local listing or designation through survey evaluation.
5S1	Individual property that is listed or designated locally.
5S2	Individual property that is eligible for local listing or designation.
5S3	Appears to be individually eligible for local listing or designation through survey evaluation.
5B	Locally significant both individually (listed, eligible, or appears eligible) and as a contributor to a district that is locally listed, designated, determined eligible or appears eligible through survey evaluation.
<b>6 Not Eligible for Listing or Designation as specified</b>	
6C	Determined ineligible for or removed from California Register by SHRC.
6J	Landmarks or Points of Interest found ineligible for designation by SHRC.
6L	Determined ineligible for local listing or designation through local government review process; may warrant special consideration in local planning.
6T	Determined ineligible for NR through Part I Tax Certification process.
6U	Determined ineligible for NR pursuant to Section 106 without review by SHPO.
6W	Removed from NR by the Keeper.
6X	Determined ineligible for the NR by SHRC or Keeper.
6Y	Determined ineligible for NR by consensus through Section 106 process – Not evaluated for CR or Local Listing.
6Z	Found ineligible for NR, CR or Local designation through survey evaluation.
<b>7 Not Evaluated for National Register (NR) or California Register (CR) or Needs Reevaluation</b>	
7J	Received by OHP for evaluation or action but not yet evaluated.
7K	Resubmitted to OHP for action but not reevaluated.
7L	State Historical Landmarks 1-769 and Points of Historical Interest designated prior to January 1998 – Needs to be reevaluated using current standards.
7M	Submitted to OHP but not evaluated - referred to NPS.
7N	Needs to be reevaluated (Formerly NR Status Code 4)
7N1	Needs to be reevaluated (Formerly NR SC4) – may become eligible for NR w/restoration or when meets other specific conditions.
7R	Identified in Reconnaissance Level Survey: Not evaluated.
7W	Submitted to OHP for action – withdrawn.

12/8/2003