




**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: The Honorable Board of Supervisors

FROM: Glenn Russell, Ph.D., Director 

DATE: September 6, 2011

CC: Jeremy Tittle, Mary O’Gorman, Chris Henson, Susan Warnstrom,
Cory Bantilan, Chandra Wallar

RE: Incentives for Obtaining Historic Landmark Status

INTRODUCTION

Pursuant to direction received during the Mattei’s hearing of November 2, 2010, the Board directed staff to research low- and no-cost incentives that would encourage property owners to seek Historic Landmark status, and to report back to the Board as appropriate.

In order for property owners to seek Landmark status, they need to be confident that the benefits of such status outweigh the restrictions. Presently, the major benefit to obtaining County Landmark status is the applicability of the special provisions of the Historic Building Code. Additional incentives may encourage owners to seek special status for their structures.

Possible incentives for applying for special status for historic structures can include both financial incentives and removal of disincentives. Possible incentives relating to historic landmark designation are discussed below. These range from local, no- or very low-cost incentives, to programs with somewhat higher cost. They also vary with regard to the resource’s required level of significance (i.e., eligible at the Federal, State or local level).

Note that these incentives all apply to historic structures but not archaeological sites. The state of California did have a tax incentive program that could be applied to conservation easements for archaeological resources [Natural Heritage Preservation Tax Credit Act of 2000 (Public Resources Code Section 37000 et seq.)], that was suspended in 2002. The act was amended and reinstated effective January 1, 2005; however the amendment [Chapter 226, Statutes of 2004 (SB 1100)] only allowed tax credits to be awarded until June 30, 2008.

INCENTIVES

Existing State and Federal Incentive Programs that do not require Board Action

The Historic Building Code. The Historic Building code is a useful incentive in that it allows a greater than normal flexibility and cost-effectiveness in preserving, reconstructing or rehabilitating historic structures. A “qualified historical building” need not be eligible for Federal or State listing, but instead is defined as any building, group of buildings, district, site or object, which is listed by any level of government as having historic importance. The Code applies to both the interior and exterior of historic buildings. Under the CHBC, the allowable floor area for an historic building may be less than otherwise required by California Building Code, there can be flexibility in application of ADA access standards, buildings may be exempted from California energy standards and may have relaxed requirements for certain “redundant” safety improvements (Chapter 34, Division II of the California Building Code, and Part 8 of Title 24 of the CCR).

Federal Tax Incentives Program. This federal program provides a dollar-for-dollar income tax reduction credit equal to 20 percent of qualified rehabilitation expenditures on income producing properties that are certified historic structures. Certified historic structures are either individually listed in the National Register of Historic Places (NRHP), or are contributors to a NRHP District. The property must be rehabilitated following the *Secretary of the Interior’s Standards for Rehabilitation* (1990). The project costs must exceed either \$5000 or the adjusted basis of the building, whichever is higher (OHP Technical Assistance Series 15).

Preservation Tax Incentives for Historic Buildings: Charitable contributions for historic preservation purposes (Conservation Easements). Internal Revenue Service Code Section 170(h) and Department of Treasury Regulations Section 1.170A-14 provide for income and estate deductions for charitable contributions of partial interests in historic property (principally easements). Valuations usually range from 10-15% of the structure’s fair market value. To qualify, the gift of an easement for conservation purposes such as the preservation of the façade of a certified historic structure must be made to a holding entity and must be protected in perpetuity. The conservation easement donation can be from a structure that is used either for business or non-business. Personal residences as well as commercial properties may take advantage of this provision. The property must only be a “certified historic structure,” which is a property either already listed individually in the National Register of Historic Places or located in a National Register historic district and certified by the Secretary of the Interior as being of historic significance to the district (a “contributor”). The donation is made only once, but the tax deduction may be distributed over a six year period and may usually be claimed on both federal and state tax returns (OHP Technical Assistance 15). Note that while some states also offer state income residential and/or commercial tax credits for historic preservation, California does not offer a rehabilitation tax credit at this time (National Trust for Historic Preservation).

Existing County Programs that do not require Board Action

HLAC: Technical Assistance with the Landmark Process. Individuals wishing to nominate a structure as a Santa Barbara County Historic Landmark must submit an application to the

County's Historic Landmarks Commission (HLAC). The HLAC's web page is accessed through the P&D web site's "Boards, Commissions and Committees" link. This page explains the purpose of the HLAC and contains links to the County's list of Historic Landmarks and Places of Merit. HLAC members are listed and links are provided to future HLAC meeting dates and agendas, past agendas and minutes, and public hearing dates. The site also has links to pages addressing frequently asked questions, a County Landmark Information Sheet, a Landmark or Place of Merit nomination form and detailed instructions for completing the form.

The instructions in the Landmark Information Sheet indicate that in order to nominate a structure for Historic Landmark status, an application form must be completed and submitted to P&D or an HLAC member. The application must explain how and why the structure is believed to qualify for historic status. The application is circulated to HLAC members and the item is agendaized for a public hearing, where the HLAC hears comments and decides whether the property qualifies as a Landmark or Place of Merit. An HLAC nomination expires if it is not approved by the Board of Supervisors at a noticed public hearing within 90 days.

Application assistance. The HLAC website and its supporting pages provide detailed and clear information about how to nominate a property. However, it emphasizes that "Incomplete or incorrectly prepared nominations will be returned without review by the committee". While this is a reasonable requirement, the nomination form contains questions that are not easily answered by a lay person who is not well-versed in the study of historic architecture. Also, the County guidance does not emphasize the utility of obtaining a qualified person to conduct background research, perform an evaluation and assist with nomination language. Experienced researchers will find information about the property not otherwise readily available, and help present a clearer case to the HLAC. Encouraging applicants to seek professional assistance, and/or offering free or discounted technical support would make this process easier for them.

Outreach. The County maintains an informal list of buildings that are more than 50 years of age and may have historic significance. However, most of these have not been evaluated. Contacting owners and informing them of the benefits of Landmark status, and offering technical assistance with property evaluation and nomination, may encourage them to seek historic designation for their properties.

NRHP. Once a structure is determined to be qualified for County Landmark Status, owners should be encouraged to pursue its listing on the California Register of Historical Resources (CRHR) or the National Register of Historic Places (NRHP). As described above, there are State and Federal incentives available for these resources that are not available to properties that are only eligible at the local level.

Web Page Update. Currently, incentives to historic designation are mentioned on a secondary page that is linked to the main HLAC website. After the County has developed an incentive program, the HLAC webpage should be updated so that these incentives are the first thing that a visitor sees.

Incentive Programs that require Board Action to Implement

The Mills Act. The Mills Act Property Tax Abatement Program is probably the single most important preservation incentive program in California. It provides for as much as a 50 percent reduction in property taxes for privately owned historic properties, whether they are income-producing or not. In redevelopment areas, the state offsets the resulting revenue loss, reimbursing the property tax to the government entity. An important feature of the program is that the City or County may elect to establish a cap on the number of contracts per year and/or the amount of tax revenue that would be lost annually through implementation of the program. (Los Angeles, for example, has a cap of \$1 million annually in the property taxes it is willing to forgo for its Mills Act program).

Mills Act contracts are between the property owner and the local government granting the tax abatement. Each local government establishes their own selection criteria and determines how many contracts they will allow in their jurisdiction. As determined by the implementing government, structures can be eligible by being on a local historic properties list; they need not be eligible at the State or Federal level. The property tax relief is calculated by the county assessor using the capitalization of income method to reflect the Mills Act restrictions placed on the property. (The State Board of Equalization has provided guidelines for county assessors for use in assessing properties under the Mills Act). A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Local authorities may charge a fee to implement the program (such as an application fee) and also may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

The Marks Act. The Marks Historical Rehabilitation Act of 1976 authorizes California cities, counties and RDAs to issue tax-exempt revenue bonds to finance the rehabilitation of significant historic buildings, and it applies to locally designated structures; however there appear to be problems with its implementation because of the low upper limit of the size of the bond (OHP Technical Series 15).

Planning and Permit Fee Waivers, and Zoning Incentives. City and County governments can easily implement building permit fee waiver programs, providing a relatively low-cost and direct incentive to the owners of historic homes. Many jurisdictions have created committees to formulate and propose a combination of such incentives to take to decision-makers. Some examples are provided below.

Waiver of Fees. In Chicago, owners of a designated Chicago Landmark or a contributing structure in a Chicago Landmark District are eligible for a waiver of building permit fees on any

project that requires the approval of the Commission on Chicago Landmarks (Getty Handbook, p. 40). Fees for other planning permits or consultations could also be waived. In Riverside, planning department fees are waived for the design review of cultural resources or for new construction within historic districts, and fee reductions are available for the relocation of historic single-family residences. In another example, the City of Belvedere enacted an ordinance providing a 50 percent waiver on building-related permit fees, up to \$10,000, for those properties that have received historic designation status from the City.

Conditional Use Permit / Zoning Code Relief – Flexibility of Use (potential). An example of this type of incentive is used in Spokane, Washington, where a permit allowing a non-conforming use may be granted to an historic property by the City or County Zoning Board (the property and use may be declared eligible by the Landmarks Commission). For a designated landmark in Seattle, the P&D Director may authorize a use not otherwise permitted in a given zone, providing flexibility of use to encourage the preservation and use of historic buildings. The Riverside Zoning Code also has a provision that allows the owner of a historic home to use that home for an office, retail business, or bed-and-breakfast without the need to rezone the property to a commercial or office zone (with the approval of a Minor CUP). Other zoning incentives often cited are waivers of height limits and parking requirements.

Floor Area Bonuses, Transfer of Development Rights (potential). Density or floor area bonuses and transfer of development rights (TDR) can also discourage demolition of landmarked structures. For example, in qualifying structures, basements and attics can be excluded from floor area ratio calculations. In Seattle, projects that cause the destruction of any designated features of a landmarked structure are prohibited through these two methods from gaining additional floor area. Seattle operates a “TDR Bank” where development rights purchased from Landmark sites can be banked and sold to developers as needed. They promote its use by requiring that a specified percentage of the floor area added to a project through TDR and bonus incentives be acquired through Landmark TDR if available. The value of the transfer is negotiated between the sending and receiving owners, and the TDR from the sending to receiving lot lasts for the life of the receiving lot.

Expedited Permitting. This free incentive is self-explanatory and can be applied at any stage in the permit process.

Sales Tax Waivers. Local sales tax waivers on the cost of construction materials are another relatively low-cost and direct incentive that can be easily implemented by a municipality. The City of Boulder, Colorado, waives city sales tax for up to \$12,500 worth of construction materials used for improvements on a designated landmark or a building located within a designated landmark district, provided at least 30 percent of the value of the materials is used on the building’s exterior. For example, using a sales tax rate of 8.25 percent—the rate in Los Angeles when the Getty Guidebook was published—a property owner could realize a savings of \$1,031.25 on a \$12,000 purchase of materials (Getty Guidebook p. 40).

Revolving Funds and Loan Programs. A revolving fund is a pool of capital created for a specific purpose, such as the acquisition and rehabilitation of threatened historic structures, with the condition that funds expended will be returned and reused on future projects. Generally

revolving funds operate in one of two ways. Some purchase threatened properties and resell them to preservation-minded owners, placing a restrictive covenant on the property stipulating that it will be renovated and/or maintained according to preservation standards. Others operate by making loans to groups or individuals who engage in preservation activities. Funds may be administered by nonprofit organizations or by local governments and have proven to be an effective and sustainable method of preserving historic structures (Getty Handbook p. 40). Redevelopment agencies in California often also utilize Tax Increment Financing (TIF) pooled funds to assist projects in areas pursuing revitalization, and using various other funding sources, often have established façade grant programs and loan programs for specific purposes. (San Buenaventura Conservancy). The OHP Technical Assistance Series No. 15 also describes the possible use of special assessment districts to generate funds.

Grants. Historic preservation grants are especially appealing to property owners. Whether or not they are directed at moderate-income homeowners, most are competitive and require that applicants submit a project proposal. Many local jurisdictions maximize their limited preservation dollars by structuring their grants as matching funds, requiring that the property owner make a financial contribution to the rehabilitation project. Local preservation grant programs have been funded out of general revenues, Community Development Block Grant funds, and by more creative means, such as special taxes or bond programs (Getty Guidebook p. 41). Funds for preservation of cultural resources may also be available from the California Cultural and Historical Endowment established by AB 716, which is not limited to historic structures (the Endowment's purpose is to help preserve and demonstrate the physical and cultural history and folk life of the many groups, who have made important contributions to California's history, development and identity). Funding for the projects comes from voter-approved bonds from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002, more commonly known as Proposition 40.

Design Assistance and Technical Support. Design assistance and technical support can be offered to encourage owners of historic homes to make renovations in an appropriate fashion. Technical support may also include activities such as assisting with the research and writing of landmark nominations or tax credit applications. Services of this type have been offered in other locales by state historic preservation offices, municipalities, and by nonprofit organizations. It is more common for public agencies to provide this type of assistance to the owners of commercial buildings than to residential, though property owners in both categories can benefit greatly (Getty Guidebook p. 42).

One possible source of funding to provide assistance of this type could be the existing **Certified Local Government (CLG) program**. A CLG is a local government whose historic preservation program has been certified by the Office of Historic Preservation and the National Park Service. General requirements include a preservation ordinance, a qualified historic preservation review commission established by local law, a survey and inventory program, and adequate public participation in the local historic preservation program. Any local government is eligible to apply for certification. The Historic Preservation Fund (HPF), a line item in the federal budget, provides an annual grant to each state historic preservation office. At least ten percent of the state's annual HPF allocation is passed through to CLGs on a competitive basis. HPF grants are awarded to CLGs on a 60/40 (federal/local) matching basis. It is worth noting that Community

Development Block Grant (CDBG) funds are federal funds that may be used as local match for federal grants such as CLG grants. In California, CLG grants can be used for historic preservation planning activities, but not for bricks and mortar projects. Allowable projects include historic preservation ordinance revisions, architectural, historical and archeological surveys and resurveys, district nominations to the National Register of Historic Places, archeological preservation plans, training programs, historic structure reports, information technology projects and web page development (OHP Technical Assistance Series 15). The County of Santa Barbara is currently not a CLG, but could be evaluated for eligibility and potential application.

Sources:

San Buenaventura Conservancy: Incentives. <http://www.sbconservancy.org/incentives.htm>

Incentives for the Preservation and Rehabilitation of Historic Homes in the City of Los Angeles A Guidebook for Homeowners. The Getty Conservation Institute. 2004, the J. P. Getty Trust. <http://www.preservation.lacity.org/getty-incentives>

The OHP Technical Assistance Series No. 15, *Incentives for Historic Preservation.* http://ohp.parks.ca.gov/?page_id=24626

Mills Act. http://www.ohp.parks.ca.gov/default.asp?page_id=21412

California State Library, California Cultural and Historical Endowment: <http://www.library.ca.gov/grants/cche/>

Incentives. http://www.seattle.gov/Neighborhoods/preservation/incentives_state.htm

Spokane Historic Preservation Office, Incentives. <http://www.historicspokane.org/incentives>