

MINUTES APPROVED AT THE HPC MEETING ON DECEMBER 12, 2023

Historic Preservation Commission Meeting Hybrid Meeting September 12, 2023 5:30 p.m.

MINUTES

Roll Call:

Vice Chair C. Hibma called the meeting to order at 5:44 p.m.

Present: Vice Chair Caitlin Hibma; Commissioners Fatema Crane, Jonathan Haeber, Linda Hemmila, and Michael Hibma

Absent: Chair Joann Pavlinec and Commissioner Gretchen M. Stromberg

Staff: Roberta Feliciano and Estefanny Casas

Approval of Minutes:

The August 8, 2023 minutes were continued to the next meeting.

Meeting Procedures:

Vice Chair C. Hibma announced that because the item was a study session, there is no appeal process.

Public Forum:

No speakers

Liaison Reports:

There was no liaison present and no reports.

Consent Calendar:

None

Public Hearing:

1. **PLN23-253 MILLS ACT CONTRACTS**

Description STUDY SESSION TO PROVIDE COMMENTS ON DRAFT ZONING TEXT AMENDMENTS TO RICHMOND MUNICIPAL CODE (RMC) SECTION 15.04.303.160 – MILLS ACT CONTRACTS, INCLUDING A DRAFT HISTORICAL PROPERTY PRESERVATION AGREEMENT AND ASSOCIATED POLICIES.

Location CITYWIDE

APN VARIOUS

Zoning VARIOUS

Applicant TBD

Staff Contact ROBERTA FELICIANO Recommendation: PROVIDE COMMENTS

Ms. Feliciano read the title of the item into the record. She shared that planning staff and a subcommittee made up of Chair Pavlinec, Commissioner Haeber, and Commissioner M. Hibma worked together to draft the Zoning Text Amendment, the template agreement for a Mills Act

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(draft agreement), policies and guidelines. Staff recommended holding a study session, discussing the documents, and providing feedback where necessary.

Attached to the staff report as exhibits were the proposed Zoning Text Amendment, the draft agreement, draft documents describing the implementation of the proposed changes as well as the calculator. The calculator was constructed by a consultant and Ms. Feliciano noted that the calculations were based on 2021 records.

Julie Cooper, Economic and Planning Systems (EPS), confirmed EPS worked with the City and the subcommittee on the Mills Act Tax Calculator in 2020/2021. The exhibit attached to the staff report explained the methodology that was used for the calculator as well as several examples of case studies that were identified in consultation with staff. She explained there were three ways in which a county assessor was to assess the value of a property that was under a Mills Act Contract. The first approach was called Restricted Value and the approach treated the property as if it were an income-generating property. An estimated net operating income was identified using market rental rates with typical operating expenses eliminated. A special civilization rate, that was established by a State Board, was then used to divide the net operating income rate and that provided the Restricted Value. The second approach for assessing a property was Fair Market Value. That considered comparable properties that had recently sold which helped establish a current market value. The third approach was the Base Year Value, and it was the exact assessed value of the property at the time of the contract. The county assessor used the lowest of the three values to calculate the property tax for the subject property. The calculator allowed potential Mills Act applicants to understand what their rough estimate of tax savings would be for their property. Through the various examples, it was identified that properties that were recently assessed received the highest tax savings. She noted the income approach that was used to assess a property's value was used even for an owner-occupied property.

Commissioner Haeber mentioned property values were currently in decline and asked if properties that were assessed several years ago would see a benefit from having a Mills Act Contract. Ms. Cooper concurred that was possible. Commissioner Haeber inquired if staff should use the calculator internally or if the calculator should be shared with the public. Ms. Cooper stated it was up to the City how it wanted to proceed forward. If City staff were to guide applicants on how to properly use the calculator, having the calculator available to the public could be beneficial. She noted the local property tax rate and the interest rate component had to be manually updated by staff annually.

Commissioner Crane understood out of the seven examples of the calculator, the first and last examples were the only examples showing a decrease in taxes, but those properties would be the only ones interested in a Mills Act Contract. Ms. Cooper confirmed that was correct. She predicted the other cases did not show a tax decrease because the properties had not been assessed recently as well as the type of property they were. Ms. Feliciano added that properties that had been held for 5 years or longer did not show a benefit. Commissioner Crane asked what the process for property owners was to exit out of the Mills Act Program. Ms. Cooper explained once a property entered a contract, the property's assessed value was set at the lowest value and then tracked with inflation rates. A typical contract was 10 years.

Ms. Cooper provided a visual demonstration of how to use the calculator.

Commissioner Crane stated if a property were under a Mills Act Contract but sold, it may be in the interest of the new buyer to use the calculator and assess whether they wish to continue with

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the contract. She understood that every time a property was reassessed, that would be in the favor of the owner. Commissioner Haerber confirmed the contract went with the property and the new owner may receive a higher tax reduction than the previous owner because of the assessed value of the home. Commissioner Haerber mentioned that the City could establish a policy of when the Mills Act Contracts should sunset.

Commissioner Haerber commented that some folks in other jurisdictions are surprised to find their benefit is less than what they predicted. He understood the only variable that the County Tax Assessor would change was the market monthly rent value. Ms. Cooper confirmed that was correct but stated that the rental amount could be in a wide range of values.

Commissioner M. Hibma asked how effective the calculator would be if the City was involved in setting the square footage rate if that value was up to the assessor. Ms. Feliciano explained staff would contact the County and get their square footage per month value. Then work with the property owner to determine if a Mills Act would be beneficial.

Commissioner Crane inquired if commercial properties could use the Mills Act and Ms. Cooper confirmed commercial properties could enter a Mills Act contract.

Commissioner Haerber understood the assessed value differed for commercial properties. Ms. Cooper concurred, and that value was regulated by the State of California.

Commissioner M. Hibma shared that the zoning change language was provided by EPS in 2021. The subcommittee discussed and compared that language to the County's template and drafted the proposed contract. The subcommittee also discussed ways to raise awareness of the Mills Act process. Potential incentives were fee waivers and combining Landmark Applications with the Mills Act in the beginning.

Commissioner Haerber mentioned the subcommittee did not want to restrict applicants to the Secretary of the Interior's Standards if they wanted to reconstruct a structure. Another concern discussed was how owners with a larger taxation may use the Mills Act. The subcommittee discussed limiting the Mills Act to parcels of certain square footage or limiting it to residential only.

Commissioner Crane asked what the current Mills Act fee was and Ms. Feliciano answered \$5,000 and the Landmark Designation was \$2,500. The subcommittee had not discussed waiving the landmark designation fee, only the Mills Act fee.

Ms. Feliciano asked if the City of Berkeley had a limitation on how many Mills Act contracts, they accepted annually. Commissioner Crane stated they had no limit and typically received one to two a year.

Commissioner Crane asked if there were points within the 10-year contract where the City would collect a fee from the applicant. Ms. Feliciano confirmed the ordinance required there to be an inspection. Commissioner Haerber recalled the inspection fees were flexible. Also, one HPC Member, along with the Zoning Administrator, would conduct the inspection and report back to the full Commission. The inspection would be performed at the 5-year mark of the contract.

Commissioner Haerber asked if the Zoning Administrator could inspect on their own if an HPC Member could not attend. Vice Chair M. Hibma answered the Commission Members were more

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versed in the Secretary of the Interior's Standards than the Zoning Administrator and Vice Chair C. Hibma agreed.

Commissioner Haeber suggested the language be changed to the Zoning Administrator or their designee and at least one member of the HPC.

Vice Chair C. Hibma agreed with that suggestion.

Commissioner Haeber also wanted to see at least one member present during the inspection.

Commissioner M. Hibma believed having two members present during an inspection was excessive but wanted to discuss it further. He inquired what the Commission thought of having an HPC Member present at the 5-year inspection. Vice Chair C. Hibma agreed a member should be present because that was when the work items would be checked.

Commissioner Haeber raised a concern about what would happen if the Commission were disbanded or there was not a quorum to monitor the Mills Acts.

Commissioner M. Hibma asked how that was addressed in other jurisdictions.

Commissioner Crane said the draft language was not specific about who was doing the inspection/check-ins.

Ms. Feliciano recommended the language for the 5 years inspection reflect the language for the original inspection.

Commissioner Crane found the language confusing on who carried what role and who had the authority to grant or deny an application. Vice Chair M. Hibma understood the HPC could deny an application and then the applicant could appeal that decision to the City Council.

Commissioner Crane explained in another jurisdiction, the preservation body was a recommendation body to the City Council. The City Council approved or denied the recommendation based on that body's recommendation.

Commissioner Haeber was concerned the Commission would recommend denial of the contract but then the contract be approved by City Council. Commissioner Crane stated the Commission could recommend denial but stated it would approve the contract if specific components were changed. That recommendation and changes would be forwarded to the Council for consideration.

Ms. Feliciano understood the proposal was to incentivize the applicant to agree to the recommendation by the HPC to have their application moved to the Council for approval. If the HPC denied the application, then the application would not go Council per the proposed language.

Commissioner Crane recommended the opening line in paragraph one say "the HPC may approve or approve with modifications an application. The City Council shall authorize the City Manager to enter into a contract."

Commissioner M. Hibma suggested the process for Landmark Designation applications be used for the Mills Act.

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Commissioner Haeber understood that if the HPC denied an application, that denial would not have to be forwarded to the Council for consideration. Ms. Feliciano concurred that the application would not be moved forward with a denial from the HPC.

Commissioner Crane recommended again tweaking the language to paragraph one and leaving the language as is for paragraphs two and three.

Ms. Feliciano shared that for the landmarking process, it was either to recommend approval in whole, or in part, or disapproval of the application. She noted a Landmark Designation application did not require an inspection like the Mills Act did.

Commissioner Haeber recalled the draft language was consistent with State Law and suggested any changes be consistent with State Law as well.

Ms. Feliciano asked if the Commission was comfortable with the recommendation to waive the fees for the first three applications.

Commissioner Crane said if the first three receive a fee waiver and the applications are due by June 1. She asked when the first application would be allowed to be submitted. Ms. Feliciano answered it would be June 2 of the previous year. Commissioner Crane understood there may be a backlog of applications and Ms. Feliciano predicted the City would not receive three applications in the first half of the year.

The Commission agreed that the first three in total shall receive a fee waiver.

Commissioner Crane recommended staff define the application period and include a start date.

Ms. Feliciano asked if a commercial property located in a residential zone would be eligible for the Mills Act. Commissioner Crane stated if the focus was on residential properties, then it was important to say residential properties.

Vice Chair C. Hibma mentioned the purpose of the Mills Act was to preserve historic buildings and was concerned about limiting it to just residential. With that said, she wanted to see the process be fair and equitable to applicants.

Ms. Feliciano recommended the language regarding residential properties be removed.

Commissioner Haeber supported allowing an applicant to use the calculator. Commissioner Crane agreed and Vice Chair C. Hibma agreed.

Commissioner M. Hibma believed it would be helpful to explain to applicants that the cost savings were over 10 years.

Ms. Feliciano said the maximum number of applications of three was proposed to match the fee waiver. She predicted the City would not receive three applications.

Commissioner Haeber recommended HPC and City Council reconsider the fees for Mills Acts because other cities charged less and higher fees for disincentivized participation.

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Commissioner M. Hibma recommended language be added to Section 2 (a) to make it clear that only the first three applications would receive a fee waiver.

Commissioner Hemmila commented she supported the recommendations that had been made, but confessed she was not familiar with the Mills Act process.

Ms. Feliciano recalled Chair Pavlinec recommended that the first three applications meet with a subcommittee to discuss their scope of work and how it would apply to the 10-year schedule.

Commissioner Crane asked if the scope of work was required to be prepared by a consultant. Ms. Feliciano answered no.

Vice Chair C. Hibma commented there was not a lot that a consultant contributed other than advising what qualified as preservation.

Ms. Feliciano announced staff would make the recommended updates as discussed and return the item to the Commission as an action item.

Commissioner M. Hibma encouraged staff to schedule the action meeting on a night the Council liaison could attend. He believed that would help the Council understand the Commission's process if a Council Member was present at the meeting.

Commission Business:

- A. Commission member reports, requests, or announcements – None.

Adjournment - The Commission adjourned at 7:22 p.m. to October 10, 2023.