



City of Arts & Innovation

City Council Memorandum

TO: LAND USE, SUSTAINABILITY, AND RESILIENCE COMMITTEE **DATE: NOVEMBER 13, 2023**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **WARDS: ALL**

SUBJECT: PLANNING CASE PR-2021-001145: COMPREHENSIVE UPDATE TO AMEND TITLE 20 (CULTURAL RESOURCES) OF THE RIVERSIDE MUNICIPAL CODE

ISSUE:

Planning Case PR-2021-001145 (Title 20 Text Amendment) for proposed comprehensive update to amend Title 20 (Cultural Resources) of the Riverside Municipal Code including, but not limited to, revisions to Approvals and Hearings processes, revisions and clarification of the CEQA process for Cultural Resources, clarification on the Designation process, revisions and clarification of the Certificate of Appropriateness process, addition of preliminary review process, codification of Cultural Resource Report requirement for demolition, addition of an Archaeological and Tribal Consultation Chapter, clarification of Enforcements and Penalties processes, revision of Title 20 amendment findings, clarifications to Definitions, addition of definition for demolition, and revisions of other technical language.

RECOMMENDATIONS:

That the Land Use, Sustainability, and Resilience Committee:

1. Recommend that City Council:
 - a. Determine that Planning Case PR-2021-001145 is exempt from further California Environmental Quality Act (CEQA) review pursuant to Sections 15308 (Actions to Protect Environment), 15060(c)(2) (No Physical Change), 15060(c)(3) (Not A Project), and 15061(b)(3) (General Rule), as the proposed amendment will cause no direct or indirect change to the environment, does not meet the definition of a Project under CEQA, and it can be seen with certainty that the proposed amendment will not have an effect on the environment;
 - b. Approve Planning Case PR-2021-001145 (Title 20 Text Amendment) as outlined in the staff report and summarized in the Findings Section of this report;
 - c. Introduce, and subsequently adopt, an Ordinance amending Title 20 (Cultural Resources) of the Riverside Municipal Code; and
2. Provide direction regarding the four policy areas recommended by the Cultural Heritage Board.

CULTURAL HERITAGE BOARD RECOMMENDATION:

On June 21, 2023, the Cultural Heritage Board (CHB) considered the comprehensive update to Title 20 as well as policy areas for City Council consideration.

Following the staff presentation and discussion, a motion was made to request that City Council:

1. Determine that Planning Case PR-2021-001145 is exempt from further California Environmental Quality Act (CEQA) review pursuant to Sections 15308 (Actions to Protect Environment), 15060(c)(2) (No Physical Change), 15060(c)(3) (Not A Project), and 15061(b)(3) (General Rule), as the proposed amendment will cause no direct or indirect change to the environment, does not meet the definition of a Project under CEQA, and it can be seen with certainty that the proposed amendment will not have an effect on the environment;
2. Approve Planning Case PR-2021-001145 (Title 20 Text Amendment) as outlined in the staff report and summarized in the Findings Section of this report; with technical modifications, and CHB Suggested policy consideration as discussed by the Cultural Heritage Board;
3. Introduce, and subsequently adopt, an Ordinance amending Title 20 (Cultural Resources) of the Riverside Municipal Code; and
4. Designated Chair Gamble to attend the City Council meeting and represent CHB should there be any questions from the City Council.

The CHB voted unanimously on the motion, with one absent.

The June 21, 2023 CHB Staff Report with Exhibits and the meeting minutes are included as attachments to this Staff Report (Attachments 2 and 3).

BACKGROUND:

In 2017, staff began identifying needed revisions and clarifications to Title 20, including Chapter 20.40 – Enforcement and Penalties related to penalties for projects completed without a Certificate of Appropriateness (COA) based on City Council direction. Staff completed the preliminary review of Title 20 and prepared initial recommended amendments for consideration.

From September 2021 through November 2021, Staff worked closely with CHB through workshops at their regularly scheduled meetings. On February 16, 2022, CHB formed a Subcommittee consisting of four members to work with staff on the recommended amendments. The Subcommittee met on a regular basis between March 2022 and April 2023.

The revised proposed modifications to Title 20 were reviewed in a workshop at the May 17, 2023 CHB meeting. Following the meeting the Subcommittee and staff met to discuss comments from the workshop. Staff completed minor revisions to the proposal based on some of the Board and Subcommittee's comments and presented the redline update to CHB at a public hearing for review and recommendation at the June 21, 2023 CHB meeting.

DISCUSSION:

COMPREHENSIVE TITLE 20 UPDATE

The proposed Title 20 Text Amendments will streamline processes and improve the consistency, clarity, and usability of the City's development regulations related to Cultural Resources. In addition to substantive changes, the amendment includes clarification of ambiguous, conflicting, and/or outdated language, and other minor, non-substantive changes and technical corrections as required to provide clarity, correct errors or remove redundancies.

The following provides a summary of the proposed substantive changes to Title 20. Additional details can be found in the attached redlines (Attachment 1) and the June 21, 2023 CHB Staff Report (Attachment 2).

Amendment 1 – Approvals and Appeal Authority

Chapters:

- 20.15.010 – Revise appeals process
- 20.15.090 – Add referrals

Existing conditions:

- Appeals of CHB to the Land Use, Sustainability, and Resiliency Committee for a recommendation to City Council
- Historic Preservation Fund Committee (HPFC) is not currently listed
- City Council and Mayor referral of CHB action not included

Proposed changes:

- Add HPFC to the approvals table
- Remove the Land Use, Sustainability, and Resiliency Committee
- Add referral of CHB action

Amendment 2 – California Environmental Quality Act Review

Chapters:

- 20.15.020 – Revise California Environmental Quality Act (CEQA) review process

Existing conditions:

- No procedures for Negative Declaration or a Mitigated Negative Declaration, that involves Cultural Resource Impacts, where CHB is not the approving body

Proposed changes:

- Add procedures for CEQA approvals on projects that require a Negative Declaration or Mitigated Negative Declaration
- Incorporated text related to EIR Review from the City's CEQA Resolution (No. 21106)
- Added text regarding the appeal of CEQA determinations

Amendment 3 – Noticing

Chapters:

- 20.15.030 - Add recognitions and derecognitions to the Public Hearing requirements
- 20.15.040 – Increase noticing requirements for CHB reviewed Certificates of Appropriateness (COA)
- 20.15.050 – Increase noticing requirements administratively reviewed COAs

Existing Conditions:

- Recognition of Points of Cultural Interest not included in the Public Hearing requirements
- Notices for COAs sent to the property owner and adjacent properties.

Proposed Changes:

- Recognitions and derecognitions to Public Hearings requirements
- Increase the noticing requirements for COAs to 300 feet
- Add noticing to property occupants and persons or entities that request noticing for Public Hearings and COAs

Amendment 4 – Historic Designations**Chapters:**

- 20.20.020 – Add City Council override of owner opposition
- 20.20.080 - Revise language regarding Cultural Resources Overlay Zones for clarity
- 20.20.120 – Remove designation process flow chart

Existing conditions:

- Written owner consent for City Landmark and Structure of Merit designation
- Cultural Resources Overlay Zone applied to historical designated properties

Proposed changes:

- City Council override of owner opposition by a 5/7 vote
- Relocate text related to Cultural Resources Overlay Zones from the definitions chapter
- Remove the flow designation process flow chart, which can be provided by an informational hand out

Amendment 5 – Certificates of Appropriateness Application Process**Chapters:**

- 20.25.020 - Revise application process for clarity and add cultural resource report requirement for properties not previously evaluated for historic designation, and add applicant requested preliminary review.
- 20.25.021 – Add preliminary review process

Existing conditions:

- Application for a COA shall be submitted to the Planning Division but no application procedures

Proposed changes:

- Clarify and outline the application process, mirroring the application process identified for other planning entitlements and current procedures.
- Codify existing processes and allow the Community & Economic Development Director and Historic Preservation Officer to require a cultural resources evaluation for the proposed demolition of properties, as necessary
- Add preliminary review for CHB reviewed COA requests for projects at City Landmarks and Structures of Merit

Amendment 6 – Certificate of Appropriateness Review Process**Chapters:**

- 20.25.030 - Revise administrative COA list of projects to streamline review
- 20.25.050 – Revise Principles and Standards of Site Development and Design Review

Existing conditions:

- Provides list of project types to be reviewed administratively
- Provides one set of review principles and standards for all projects
- No principles for review of projects at non-contributors to historic district

Proposed changes:

- Clarify and revise administrative COA list for minor projects (e.g. fencing, awnings, signage, etc.)
- Clarify and add two-story Accessory Dwelling Units (ADU) at any Cultural Resource, except Landmarks, to administrative review in order to be in line with state law
- Revise principles and standards of review to include principles for 1) individually significant Cultural Resources; 2) contributors to Historic Districts and Neighborhood Conservation Areas; and 3) non-contributors to Historic Districts (for more flexibility in implementation.)

Amendment 7 – Archaeological and Tribal Cultural Resources

Chapters:

- 20.26 - Add new chapter related to Archaeological and Tribal Cultural Resources

Existing conditions:

- Non-codified process for Cultural Resources Reports for projects that have the potential to have impact on archaeological and Tribal Cultural Resources.

Proposed changes:

- Codify existing practices and includes project site conditions that would trigger the requirement of a Cultural Resources Report
- Specifies that Tribal Consultation on development projects are to be conducted in accordance with CEQA.

Amendment 8 – Enforcement and Penalties

Chapters:

- 20.40.050 – Clarify remedy implementation
- 20.40.080 - Code Enforcement case updates

Existing conditions:

- Outlines the procedures and process for implementation of remedies and penalties for violation of the title

Proposed change:

- Clarify that remedies are cumulative to each other
- Specify that retroactive COAs are to be reviewed in compliance with the procedures established in Chapter 20.25 (Certificate of Appropriateness).
- Codify that CHB can request an update on Code Enforcement cases.

Amendment 9 – Structure of Merit

Chapters:

- 20.50 – Revise Structure of Merit criteria

Existing conditions:

- Structure of Merit designation criteria that is vague and has redundancies.

Proposed change:

- Clarify the intent and remove redundancies.

CULTURAL HERITAGE BOARD RECOMMENDED POLICY CONSIDERATIONS

In addition to the proposed amendments presented by staff, CHB discussed policy areas to be forwarded to the City Council for consideration. For each policy area, CHB held a straw poll to determine policy areas to be included. The following provides a summary of the four policy considerations. Additional details can be found in the sample redline text (Attachment 4) and the June 21, 2023 CHB Minutes (Attachment 3). If directed by the City Council to explore one or more of these policy considerations, staff will work to develop a code text amendment for review.

Policy Consideration 1 – Noticing for Administrative Review of Ministerial Projects

Chapter:

- 20.15.050.D - Additional noticing requirements

Existing Conditions: Noticing requirements in Section 20.15.050 (Meeting and notice for Administrative Certificates of Appropriateness) require a 10-day notice for Administrative Certificates of Appropriateness. Ministerial Projects, such as demolition of non-historic structures and the construction of an Accessory Dwelling Unit (ADU), do not require noticing.

Proposed Change: This policy consideration would amend the proposed Section 20.15.050.D to specify that notice shall be given on projects requiring historic preservation review (e.g. Administrative COA) which are also mandated by the State of California to be completed ministerially, such as ADUs. The policy would require notices be sent to persons or entities requesting notice for Administrative COA applications. CHB agreed to forward this policy to the City Council with a vote of 6 ayes and 1 no.

Policy Impacts: This policy consideration would increase public awareness for ministerial projects at historic properties. Under this policy consideration, notice would be given on projects that are mandated by Assembly Bill 3182 to be reviewed ministerially and streamlined. As such, historic preservation review is completed administratively and are not subject to Title 20 appeals. Therefore, noticing would be informational rather than to obtain public comment or identify an appeal period. Noticing would also extend processing timelines for a ministerial project. If this policy consideration is considered, staff will need to review and confirm that there would be no impacts to state mandated time periods intended to streamline the review of ADU permits.

Policy Consideration 2 – Elimination of Owner Consent for Historic Designation

Chapter:

- 20.20.020 – Removal of text requiring owner consent

Existing Conditions: Title 20 requires prior written consent of historic property owners before a property can be designated as a City Landmark or Structure of Merit. Under the current proposed

Title 20 amendment, City Council authority to override owner opposition by a 5/7 vote for unique situations where the property has unique value that necessitates historic preservation efforts.

Proposed Change: This policy consideration would remove the owner consent requirement for designation applications, including the proposed City Council override of owner consent. CHB agreed to forward this policy to the City Council with a vote of 6 ayes and 1 no.

Policy Impacts: The elimination of owner consent would allow a property that meets Landmark or Structure of Merit criteria to be designated without approval of the property owner; thereby, allowing for better protection of the City's Cultural Resources. This policy consideration would apply Title 20 regulations and additional review requirements for proposed modifications to the property that were designated without owner agreement and consent for all projects meeting the criteria including but not limited to COA review and preliminary reviews, as included in the current proposed amendment.

Policy Consideration 3 – Demolition Review

Chapters:

- 20.25.010 – Add demolition review text
- 20.50.010 – Add Demolition by Neglect definition

Existing conditions: Under Title 20, the demolition of historic resources that have been designated or found eligible for designation require a COA to be reviewed by CHB. The demolition of structures ineligible for designation does not require review. Historic Preservation staff currently reviews all demolition permit requests over the counter to confirm the structure is not eligible for designation and/or require an evaluation for eligibility as necessary.

Proposed Change: This policy consideration would amend Section 20.25.010 (Certificate of Appropriateness Required) to include a 30-day review/comment period for all demolitions within the City including posting of a Notice of Demolition on the property. This would include all structures whether they are designated, eligible for designation, or found ineligible for designation. Additionally, this policy consideration includes an alternate definition of demolition and a definition of demolition by neglect, such as the allowing the structure to go without repair and maintenance until it is beyond repair. CHB agreed to forward this policy to the City Council with a vote of 6 ayes and 1 no.

Policy Impacts: The addition of demolition review noticing requirements would increase public awareness of and opportunity to comment on the demolition of existing and eligible Cultural Resources. Noticing for demolition of ineligible structures is currently not required and processed over the counter. This policy consideration would add a 30-day notice for the demolition of an ineligible structure. Noticing for COAs related to demolition would increase to 30 days from the current 10-day noticing period required for all COAs. The noticing time would be in addition to the review of the COA application, which is at minimum 30 days. The policy consideration would require noticing for all demolition permits, including those determined to have no impact on Cultural Resources. This would include, but is not limited to, demolition of structures found ineligible for designation, demolition of structures posing unsafe conditions, and demolition of unpermitted structures. This would increase processing times for all demolition permits and may affect processing times for submission of building permits and future construction. The addition of a definition of demolition by neglect would allow the City to cite violations and impose remedies on historic properties that are left to deteriorate.

Policy Consideration 4 – Preliminary Review

Chapter:

- 20.25.021 – Add preliminary review text

Existing Conditions: Title 20 does not currently include CHB preliminary review. Certificates of Appropriateness application are reviewed by staff during an initial review period for consistency with Title 20, applicable design guidelines, and the Secretary of the Interior Standards for the Treatment of Historic Properties. During the initial review period staff provides comments to the applicant to bring the project into consistency. Under the current proposed Title 20 amendment, preliminary review by CHB for projects at City Landmarks and Structures of Merit (Section 20.25.021) is proposed. This policy consideration would require a CHB workshop during the initial review period for all Certificates of Appropriateness that are subject to CHB review.

Proposed Change: The policy consideration proposed by CHB expands the proposed preliminary review to require workshop by CHB for a project at any properties which contributes to historic districts and neighborhood conservation areas, new construction within a historic district, and work on a property within a historic district that is visible from the public right-of-way and exceeds \$250,000 in value at a public, commercial, or non-residential project. CHB agreed to forward this policy to the City Council with a unanimous vote.

Policy Impact: This policy would require a workshop for all projects subject to CHB review, thereby allowing CHB to provide early feedback to the project applicant on the proposed project. Workshops on proposed projects are currently not addressed in Title 20 but have been held through an ad-hoc process when requested by the applicant and/or recommended by staff. The current proposed amendment would add a preliminary review for CHB reviewed projects at City Landmarks and Structures of Merit. This proposed policy consideration would expand preliminary review to all projects subject to CHB review and some that would be reviewed administratively. This policy would increase processing times, require additional review time and cost to the entitlement process. The policy would also add a CHB preliminary review for project contributors and non-contributors to historic districts that would typically be administratively reviewed by staff when the project exceeds a valuation of \$250,000; therefore, adding additional review time for certain administrative COAs.

ENVIRONMENTAL REVIEW

The proposed amendments are exempt from additional California Environmental Quality Act (CEQA) review pursuant to Sections 15308 (Actions to Protect Environment), 15060(c)(2) (No Physical Change), 15060(c)(3) (Not A Project), and 15061(b)(3) (General Rule), as the proposed amendment will cause no direct or indirect change to the environment, does not meet the definition of a Project under CEQA, and it can be seen with certainty that the proposed amendment will not have an effect on the environment.

FINDINGS

Cultural Resources Code Amendment Findings pursuant to Chapter 20.45.020:

1. The proposed amendment is generally consistent with the goals, policies, and objectives of the General Plan;
2. The proposed amendment will not adversely affect surrounding properties; and
3. The proposed amendment complies with the purposes of this title as set forth in Chapter 20.05.

STRATEGIC PLAN ALIGNMENT

The proposed Title 20 Text Amendment aligns with Strategic Priority No. 2 – Community Well-Being, and more specifically with Goal 2.3 – Strengthen neighborhood identities and improve community health and the physical environment through amenities and programs that foster an increased sense of community and enhanced feelings of pride and belonging citywide. In addition, the project aligns with the five Cross-Cutting Threads as follows:

1. **Community Trust** – The Title 20 comprehensive update aligns with the Community Trust Cross-Cutting Thread as the amendment is reviewed at a public meeting, allowing for public comment.
2. **Equity** – The Title 20 comprehensive update aligns with the Equity Cross-Cutting Thread as it applies to all historic properties throughout the City.
3. **Fiscal Responsibility** – The Title 20 comprehensive update aligns with the Fiscal Responsibility as no General Funds, outside of staff time, are being used for the update.
4. **Innovation** – The Title 20 comprehensive update aligns with the Innovation Cross-Cutting Thread as it incorporates new approaches to historic preservation review.
5. **Sustainability & Resiliency** – The Title 20 comprehensive update aligns with the Sustainability & Resiliency Cross-Cutting Thread as it works to maintain the historic character of the City for generations to come.

FISCAL IMPACT:

On September 8, 2015, City Council approved Resolution No. 22904, which included a full subsidization of cost associated with the review of Certificates of Appropriateness and Historic Designation to encourage historic preservation efforts. The proposed update to Title 20 will have no fiscal impact as the update will clarify and streamline processes already completed by staff, which are included in the approved Community & Economic Development Department Budget.

Policy considerations 1, 3, and 4 will increase staff time for the review of Certificate of Appropriateness and demolition permit requests. Additionally, policy considerations 1 and 3 would increase noticing costs by adding notices for reviews that currently do not include this requirement. Policy consideration 2 will have no additional fiscal impact as it could be included as part review of Historic Designation requests. Depending on the Land Use, Sustainability, and Resiliency Committee's direction, the fiscal impact of these policy considerations will be further analyzed and included in the report to the City Council.

Prepared by:	Jennifer A. Lilley, Community & Economic Development Director
Certified as to availability of funds:	Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by:	Rafael Guzman, Assistant City Manager
Approved as to form:	Phaedra A. Norton, City Attorney

Attachments:

1. Title 20 Amendments Redlines

2. CHB Staff Report and Exhibits – June 21, 2023
3. CHB Minutes – June 21, 2023
4. Policy Consideration Sample Redlines
5. Presentation