



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: APRIL 23, 2024**

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

SUBJECT: WORKSHOP ON PROPOSED AMENDMENTS TO TITLE 20 (CULTURAL RESOURCES) OF THE RIVERSIDE MUNICIPAL CODE AND FOUR POLICY AREA RECOMMENDATIONS BY THE CULTURAL HERITAGE BOARD

ISSUES:

Conduct a workshop on proposed amendments to Title 20 (Cultural Resources) of the Riverside Municipal Code including, but not limited to, clarification of the Designation process, revisions and clarification of the Certificate of Appropriateness application process, and addition of preliminary review process.

Consider Cultural Heritage Board (CHB) recommended policy areas including noticing for administrative review of ministerial projects, elimination of owner consent for designation, demolition review, and preliminary review.

RECOMMENDATIONS:

That the City Council conduct a workshop and provide direction on proposed Title 20 amendments and Cultural Heritage Board recommended policy considerations.

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 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. 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 determined which policy areas to be included. Subsequently, CHB recommended City Council approve the comprehensive Title 20 update and provided four policy considerations, including the following: 1) Noticing for Administrative Review of Ministerial Projects; 2) Elimination of owner consent for historic designations; 3) Demolition Review; and 4) Preliminary Review. (Attachment 1) Policy considerations 2, 3, and 4 are similar to some of the proposed amendments to Title 20 but included alternate text and/or expansion of the proposed amendment.

The comprehensive update to Title 20 and the four policy areas were presented and discussed at the November 13, 2023 Land Use, Sustainability, and Resilience Committee (LUSR) meeting. LUSRC expressed that the four policy areas warranted discussion with the full City Council. recommended the comprehensive update to Title 20 to City Council, and requested staff prepare draft redline code language for the City Council to consider. (Attachment 2)

At the January 23, 2024 meeting, City Council reviewed the comprehensive update to Title 20 and the four policy considerations. As part of Council discussion, it was determined that further discussion was needed regarding the policy considerations. It was moved by Councilmember Cervantes to remove proposed amendments that were similar in nature to the four policy considerations, hold a workshop before the City Council on the four policy areas, and approve the balance of the comprehensive update.

DISCUSSION:

A comparative table was prepared demonstrating the current Title 20 code sections, the proposed amendments, and potential text for the policy consideration. (Attachment 3). The four policy areas with proposed amendments and CHB recommended consideration are summarized as follows.

Policy Area 1 – Noticing for Administrative Review of Ministerial Projects

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

Proposed Amendments - 1

There are no proposed amendments for this policy area.

CHB Policy Consideration - 1

Chapter:

- 20.15.050.D - Additional noticing requirements

Proposed Change:

- Amend Section 20.15.050.D to include a notice of action for State mandated ministerially projects, such as ADUs, to be sent to persons or entities requesting notice, upon approval

Policy Impacts: This policy consideration would increase public awareness for ministerial projects at historic properties. Mailed notices 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 is not subject to Title 20 appeals. Therefore, noticing

would be informational rather than to obtain public comment or identify an appeal period. Per state mandate, the approval of a building permit for an ADU must be issued within 60-days of a complete application. Building permits may be appealed as set forth in Section 16.04.590 of the Riverside Municipal Code. Appeals shall be in writing and filed within ten days of any final order or determination made by the building official. As required by State law in relationship to the issuance of the building permit, an appeal of the building permit is not likely to impact state mandated timeline. However, there is the potential to impact the streamlined process, the applicant and project construction should a building permit appeal be filed. This would have a slight impact on staff time and additional cost for preparation of mailings. Cost will vary with each mailing depending on notification type.

Policy Implementation: Under this policy consideration, staff would send via postal mail or email to persons or entities requesting notification, within five days of approval of historic preservation review.

Policy Area 2 –Owner Consent for Historic Designations

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. Cultural Resources Overlay Zones are applied to historical designated properties at the time of City Council approval.

Proposed Amendments - 2

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

Proposed changes:

- City Council override of owner opposition by a two-thirds (2/3) vote
- Relocate text related to Cultural Resources Overlay Zones from the definitions chapter. This is a non-substantive code clean-up change for code clarity.
- Remove the designation process flow chart, which can be provided by an informational hand out. This is a non-substantive code clean-up item.

Amendment Implementation: Under the proposed Title 20 amendment, City Council authority to override owner opposition by a two-thirds (2/3) vote for unique situations where the property has unique value that necessitates historic preservation efforts. Additionally, when an application for historic designation is submitted without written owner consent, a notice of application would be sent to the property owner for a response. The application would not move forward through the designation process until a written statement of consent or objection is provided by the property owner. Should a response not be received within 90 days the application would move forward to City Council upon recommendation from CHB. This will ensure the property owner is aware of the proposed designation. If a letter of objection is provided or no response received, the project would continue through the COA process and upon recommendation of CHB, it would be at the discretion of City Council to override the objection by a two-thirds (2/3) vote and approve the designation.

CHB Policy Consideration - 2

Chapter:

- 20.20.020 – Removal of text requiring owner consent

Proposed Change:

- Remove the owner consent requirement for designation applications, including the proposed City Council override of owner consent.
- This would replace the currently proposed amendment language under Section 20.20.020.

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.

At the January 23 meeting, City Council raised questions regarding takings and the removal of owner consent for historic designations. In Staff's research, case law surrounding historic designation and takings widely varied based on the case specific details and the extent to which the owner was deprived of economic benefit of the property.

Policy Implementation: This modification differs from the proposed amendment in that it would allow an historic designation request to be proposed without a written statement from the property owner, either in favor or opposition. The designation request would go to City Council upon recommendation for CHB. Notices and letters will be sent to the property owner regarding the public hearings; however, the process would proceed and would not necessitate a response from the property owner. City Council would be provided the documentation sent to notify the property owner.

Other Jurisdictions: Owner consent varies amongst jurisdictions and levels of historic listing. Generally, immediate surrounding jurisdictions require owner consent and those jurisdictions with robust historical programs (e.g. Los Angeles, Pasadena, etc.) do not require owner consent. Several cities surveyed which do not require owner consent, also will not advance designation request if the property owner submits a written objection to the designation. These jurisdictions will send letters to the property owner and attempt to contact property owners via telephone or email. The contact with the property owner will include the benefits and responsibilities associated with historic designation. If contact with the property owner is not able to be made, the designation request will often move forward for approval, but the staff report will reflect the inability to contact the owner. In some jurisdictions, if the owner's objection is received the designation nomination will move forward but the staff report will indicate that the owner has objected to the designation.

The National Park Service does not require owner consent for listing in the National Register of Historic Places or designation as a National Historic Landmark. Additionally, the State Office of Historic Preservation does not require owner consent for listing in the California Register of Historical Resources. Both federal and state law indicate that a privately owned property may not be listed over owner objection. The National Park Service requires owner objection to be notarized.

Policy Area 3 – Demolition Review

Existing conditions: Under Title 20, the demolition of historic resources that have been designated or found eligible for designation requires a COA to be reviewed by CHB. The

demolition of a historic resource would include CEQA review, including a 20 to 45 day comment public period, depending on the level of environmental review. A notice of the public meeting would be sent to property owners and occupants within 300-feet of the property at least 10 days prior to the CHB meeting. The notice includes information regarding the proposed demolition, the proposed project, an invitation to provide comment, and the CHB meeting time and location.

The demolition of structures ineligible for designation does not require review or noticing. Currently, when a demolition permit request is submitted to the Planning division, Historic Preservation staff 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. If the structure is found ineligible, historic preservation and planning staff will sign off on the demolition permit request to be submitted to Building & Safety.

A definition of Demolition by Neglect is not currently included in Title 20. However, the code does include language regarding upkeep and maintenance and demolition by neglect is included by reference. Specifically, Section 20.40.010 (Violations), states “No person shall alter or demolish a cultural resource in violation of this title, either actively or passively, including through neglect.” Section 20.35.010 (Duty to Maintain) states that an owner of a historic property “shall maintain and keep in good repair the exterior of that resource, and all interior portions necessary to prevent loss or deterioration of any cultural or structural integrity.” Additionally, Title 20 currently allows the City to cite violations and impose remedies on historic properties as specified in Chapter 20.40 (Enforcement and Penalties), such as restoration, civil penalties, and moratoriums.

Proposed Amendments - 3

Chapters:

- 20.25.010 - Add cultural resource report requirement for the demolition of properties not previously evaluated for historic designation

Proposed changes:

- 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

Amendment Implementation: Under the proposed amendment, historic preservation staff would review demolition permit request. If the proposed demolition will have impact to a structure that has not been formally evaluated for historic listing but appears to meet one or more of the City, State, or National Register historic listing, the Historic Preservation Officer in consultation with the Community & Economic Development Director or designee would require an historic designation eligibility assessment completed.

CHB Policy Consideration - 3

Chapters:

- 20.15.055 – Add demolition review noticing section
- 20.25.010 – Modify proposed cultural resources report requirement to include a 45-year rule and include reference to noticing section
- 20.50.010 – Add Demolition by Neglect definition

Proposed Change:

- Amend Section 20.25.010 (Certificate of Appropriateness Required) to include a 30-day review/comment period for the demolition the primary structure(s) of a property Designated or Eligible Cultural Resource, properties within a Historic District, or contributors to a

Neighborhood Conservation Area

- Require posting of a Notice of Demolition on the property
- For properties found ineligible for designation, a notice of action will be mailed or delivered to adjacent property owners and those requesting notice.
- Adds a demolition by neglect definition including lack of maintenance and inadequate measures to prevent structural collapse.

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. Notice for COAs related to demolition would increase to 30 days from the current 10-day noticing period required for all COAs. The 30-day notice would be completed prior to CHB review and would generally be concurrent with public comment period for CEQA document review, if required. The noticing time would be in addition to the review of the COA application, which is at minimum 30 days.

For properties found ineligible for designation, this policy consideration would require a notice of action upon approval by Historic Preservation Staff of a demolition request for all primary structures throughout the city. Demolition of accessory structures, such as patio covers, garages, and gazebos, would be exempt from noticing requirements. This may affect processing times for submission of building permits and future construction. For properties posing a dangerous condition as determined by the City Building Official a notice of action (after the fact) would be sent to persons or entities requesting notice. The addition of a definition of demolition by neglect would provide a prescriptive method of determining when demolition by neglect has occurred. The definition includes the failure to prevent continued deterioration of a structure through lack of maintenance, inadequate prevention of water ingress, and protection from pests.

Policy Consideration Implementation: Under this policy consideration, for the demolition of a designated or eligible structure is proposed, the applicant will be provided a “Notice of Demolition” to be posted on the property within 5-feet from the property and visible from the public right-of-way. The notice shall be posted at least 30 days prior to the CHB meeting. A notice will also be mailed to property owners and occupants within 300-feet of the property.

For the demolition of structures found ineligible for historic designation, within 5 days of the approval of the demolition staff will mail or deliver a notice of action to adjacent property owners and person or entities requestion notice. The notice would be informational only.

For structures posing a Dangerous Condition in accordance with Section 20.25.015, a notice of action will be sent within 5 days of determination to person and entities requesting notice.

Other Jurisdictions: Demolition permit review levels vary among jurisdictions. Some jurisdictions require historic preservation commission review for the demolition of any structures 50-years of age or older. Other jurisdictions demolition is reviewed at the staff level. Noticing type and periods also vary.

Policy Area 4 – Preliminary Review

Existing Conditions: The application requirements included in Section 20.25.020 of the Riverside municipal code are minimal and specify that application for a COA shall be submitted to the Planning Division but does not provide application procedures.

Additionally, Title 20 does not currently include CHB preliminary review of project prior to final

action. COA applications 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 with Title 20 and applicable design guideline. For larger projects and projects including a prominent historic structure or districts, staff strongly encourages the applicant to hold to request a workshop with CHB early in the process.

Proposed Amendments - 4

Chapters:

- 20.25.020 – Revise application process for clarity and add applicant requested preliminary review.
- 20.25.021 – Add preliminary review process

Proposed changes:

- Clarify and outline the application process, mirroring the application process identified for other planning entitlements and current procedures.
- Add preliminary review for CHB reviewed COA requests for projects at City Landmarks and Structures of Merit. This would not include Administratively reviewed projects as specified in Section 20.25.030, such as fences, repairs, landscaping, restoration of historic features, ADUs, and small additions or accessory structures at Structures of Merit.

Amendment Implementation: This policy consideration would require a CHB workshop during the initial review period for CHB reviewed COAs at City Landmarks and Structures of Merit and would be voluntary for all other CHB reviewed projects. When a COA application is received for a project requiring preliminary review, staff will complete a 30-day review. The project would subsequently be scheduled for workshop with CHB. Following the workshop, staff would work with the applicant to address CHB suggestions and bring the project into consistency with applicable code and guidelines. When the application is deemed complete by staff, it will be added to the CHB agenda for final action.

CHB Policy Consideration - 4

Chapter:

- 20.25.021 – Modify proposed preliminary review section

Proposed Change:

- Expands the proposed preliminary review requirement to include:
 - All projects subject to CHB review involving:
 - Designated and Eligible Landmarks and Structures of Merit
 - Properties within Historic Districts and Neighborhood Conservation Areas
 - Non-residential projects within a Historic District when visible from the public right-of-way and exceeds \$250,000 in valuation

Policy Impact: This policy would require a workshop for projects subject to CHB review, 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 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 (non-contributors in a historic district). This policy would increase processing times, require additional review time and cost to the entitlement process. The policy would also add CHB preliminary review for projects at non-residential 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.

Policy Implementation: The process for preliminary review would follow the same as previously discussed. This policy consideration differs from the proposed amendment as the proposed Title 20 amendment will introduce preliminary review by CHB for projects specifically at City Landmarks and Structures of Merit (Section 20.25.021) and the policy consideration would expand preliminary review to all CHB reviewed projects. Additionally, for non-residential projects within a Historic District when visible from the public right-of-way and exceeds \$250,000 in value that are not subject to CHB review, staff would work with the applicant following the workshop to meet suggestions and requirements, then will issue final approval.

Other Jurisdictions: Preliminary review of projects is generally completed at the staff level in most jurisdictions. Staff reviews proposed projects for consistency with applicable codes and guidelines, then make recommendation to appropriate approving body.

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 no cost recovery associated with the review of COA and Historic Designation to encourage historic preservation efforts. The proposed amendments to Title 20 will have no additional 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 COA and demolition permit requests with an average of an additional 30-days or review time being added each review.

Staff processes an average of three to four ministerial projects monthly. The preparation and transmittal of noticing would require approximately one to two hours of staff time. Staff reviews an average of approximately eight demolition permits monthly. Review of demolition permit requests will vary based on the complexity of the project with an average of four to eight hours staff time per review and transmittal of notices. The Cultural Heritage Board reviews approximately three to four COA annually. Preliminary review would require approximately eight to ten hours for the preparation and presentation of workshop materials.

Additionally, policy considerations 3 would increase noticing costs by adding notices for reviews that currently do not include this requirement. Notices cost will vary based on the cost of postage and the number of notices to be mailed. Policy consideration 1 could be accomplished via email; therefore, no additional noticing cost would be required for this policy consideration. Policy consideration 2 will have no additional fiscal impact as it could be included as part of review of Historic Designation requests.

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Approved as to form:	Phaedra A. Norton, City Attorney

Attachments:

1. CHB Minutes – June 21, 2023
2. Policy Consideration Potential Redlines
3. Amendment-Policy Area Comparison
4. Letter Received
5. Presentation
6. CHB Chair Presentation