



9

DESIGN REVIEW &
PRESERVATION BOARD

CITY OF SACRAMENTO
CALIFORNIA

915 "I" STREET
New City Hall
3ND FLOOR
SACRAMENTO, CA
95814

September 06, 2006

TO: Honorable Mayor and Members of the City Council

FROM: Design Review & Preservation Board

SUBJECT: **Ordinances creating a Design Commission and a Preservation Commission and establishing notice and hearing authority and procedures for design and preservation review (M06-017)**

After a five year process, the Design Review and Preservation Board (DRPB) reviewed the four proposed ordinance packages and the accompanying staff report at its meetings on August 30, 2006 and September 6, 2006. The DRPB is hereby forwarding the following comments and recommendations to the City Council for its adoption of the four ordinances.

The Board was disappointed at the timing and the "finality" of the ordinance revisions. Discussions to amend the Design Review and Preservation ordinances were initiated years ago by the Development Oversight Commission, which held a number of spirited meetings in which current and past DRPB members provided valuable input. These were followed by numerous DOC sub-committee meetings, focused on specific aspects of the overall objective, each of which had direct DRPB involvement. Finally, then Development Services Manager Ray Kerridge brokered a series of meetings between City staff, the DRPB, and other stakeholders. Neighborhood leaders thankfully were also heavily involved throughout this entire process. These meetings moved toward a consensus plan to balance the need to streamline project review and to provide certainty for development interests, with the needs for certainty and quality of life for neighborhoods and the benefits of public discourse on how our City should grow. At the end of each session, the group asked staff to show in writing how the changes to these ordinances might look, but never received these changes as part of this process.

As a direct outcome of this exhaustive multi-year process, the DRPB expected that the proposed City ordinance packages would fully implement the results of these negotiations. To our surprise and dismay they did not, in several areas. Overall, streamlining of project review is expressed, but many neighborhood and public involvement interests were substantially weakened or entirely removed.

Additionally, the DRPB was informed that the timetable for City Council adoption had already been set. As such, we were expected to merely provide cursory review and comment on the only set of proposed ordinances we had seen, and to forego the opportunity to directly influence their overall form and content. We fully realize that if adopted, these ordinances will mainly affect that portion of City process over which the DRPB currently exercises the greatest influence. As such, we hope that you will consider and implement the comments and recommended changes that are presented below.

- The Board endorses the proposed policy focus of the new Commissions and the proposed new project review thresholds that will allow this new policy focus.
- The Board recommends that there be a process for a periodic assessment of the effectiveness of the new thresholds and a process to submit its recommendations for any amendments to the thresholds to the City Council.

- The Board's recommendation on early notification (Attachment 2) is based upon its position that, in return for a streamlined project review process, the public is afforded the opportunity to provide timely input on projects.
- The Board recommends that the term "guidelines" be changed to "guidelines and standards" to provide increased certainty of project compliance.

The DRPB feels that, though our comments are numerous and substantive, they represent the input of one reviewing body. The DOC, Planning Commission, and Law and Legislation Committee of the City Council will also provide their own comments, and perhaps, conflicting input. As such, it seems unreasonable and short sighted to present such myriad input to the City Council on a final set of important proposed ordinance revisions for your consideration on October 10. We request that the City Council require the crafters of these ordinance changes to go back and incorporate all of the input they have received and to produce a draft for one last vetting process. We understand that this would require pushing the deadline for implementation beyond January 1, 2007. But we feel that this multiyear process should not be rushed through at its most critical juncture simply to meet an arbitrary deadline. We hope you agree that a fully vetted set of ordinance changes, that may push an arbitrary deadline perhaps another month or two, is much more representative of the transparency the city desires, than the current situation placed before us.

The Board strongly recommends the specific ordinance language changes, per Attachment 1, be made to accommodate the key issues itemized above.

Attachments

ATTACHMENT 1.

Design Review & Preservation Board Recommendations for specific changes to language in the four ordinances

DRPB recommendations on proposed
DESIGN REVIEW ORDINANCE – 17.124

1. **Section 17.320.040.C Design Commission Seats (pg. 3):** Recommend the following modifications to the Commission Seats:
 - Seat 1: is former Seat 2 Licensed Architect
 - Seat 2: is former Seat 3 LEED Accredited Architect
 - Seat 3: is former Seat 5 Licensed Landscape Architect
 - Seat 4: is former Seat 6 Licensed Contractor
 - Seat 5: is former Seat 7 but specify that it must be a Licensed Structural Engineer
 - Seat 6: Change to At-Large Member with preference for training or experience in Urban Planning and Urban Design (specifically recommend this modification to ensure neighborhood representation on the Commission)
 - Seat 7: Change to At-Large Member with preference for training or experience in real estate development, real estate brokerage, or real estate financing (specifically recommend this modification to ensure neighborhood representation on the Commission)
2. **Section 17.132.050 Design Commission Term of Office (pg. 4):** Recommend adding language about timely appointments of successors, including maximum advertising time, etc. Recommend modification to the initial terms to be a minimum 2 year appointment.
3. **Section 17.132.080.C Design Commission Quorum (pg. 5):** Recommend modification to quorum to be no less than one half of Commission seats currently filled.
4. **Section 17.132.160.B.1 Procedure for Establishing Design Review Districts (pg. 6):** Recommend that the Design Commission also be given authority to initiate establishment of Design Review Districts.
5. **Section 17.132.170 Guidelines for Design Review Districts (pg. 7):** Recommend that design guidelines be made standards, where feasible.
6. **Section 17.132.290.A Authority to Review (pg. 10):** Recommend adding language that gives authority to the Design Commission to elect to elevate a Design Director Hearing on a development project to a Commission Hearing.
7. **Section 17.290.F Determination Regarding Applicability of Chapter 17.132 and Chapter 17.134 (pg. 12):** Recommend that language be added to allow joint hearings of the Design Commission and Preservation Commission for projects which are subject to both types of review, and when a Design project is adjacent to a Landmark or Historic District. In addition, add language such that when Section 17.134 applies, review is conducted subject to that section and applicability under Section 17.132 would not occur.

8. **Section 17.132.310.B Early Notice (pg. 13):** Recommend adding more specificity that includes the framework, intent, goals, methods, and area of notification. (See Attachment 2)
9. **Section 17.132.310.C.3 Review by Zoning Administrator (pg. 15):** Recommend that this be a joint hearing with Design Review and ZA rather than just consultation.
10. **Section 17.132.310.D.2 (pg. 15) and 17.132.310.E.2 (pg. 16) Decision and Notification for Design Director and Commission Hearings:** Recommend that notification be transmitted to neighbors, community groups, and other interested parties, in addition to the applicant.
11. **Section 17.132.310.F Final Plan Certification (pg. 16) :** Recommend adding language that requires any modifications to approved plans to return for review and certification by the Design Director prior to issuance of permits.

General comments:

12. Numerous small changes (e.g., modification language on pre-approved plans to read “substantial deviation”) were made on several pages of the document; staff will record these and give to the city attorney for changes to the document.
13. The Board requested that definitions of the terms “ministerial” and “discretionary” be added to the ordinance.
14. The Board recommends that authority be added in the Design ordinance to review public interior spaces visible from the exterior and impacting the exterior design, such as lobbies in new high-rises on DR projects, similar to the Preservation ordinance that allows review of public spaces in Landmark structures.

Article I. General Provisions 17.134.020 Definitions

15. **Contributing resource (page 3):** Clarify that individually listed Landmarks might also be contributing resources in a historic district.
16. **Demolition 2. b. (page 3)** Change wording to:
“ b. the remodeling or other alteration of the landmark or contributing resource, where the [delete “demolition”; add “proposed work”] affects or may affect significant features or characteristics...”
17. **Demolition 2. c. (page 4)**
Add, “ ...and has been determined will affect the significance...”
18. Add definition of “discretionary”
19. Add definition of “disturb” “disturbed” “disturbing”
20. **Feature or characteristic (page 4)** Add, “massing” in first sentence.
21. Add definition of “ministerial”

Article II. Preservation Commission

22. **17.134.040 Preservation commission – Appointment and qualifications C. (Seats) (pages 6 - 7)** Reorder and change seats to:
 1. Seat 1. ...licensed historical architect...
 2. Seat 2. ...architectural historian...
 3. Seat 3. ...registered structural engineer...
 4. Seat 4. ...licensed contractor...
 5. Seat 5. ...landscape architect...
 6. Seat 6. At large, with preference for persons with experience and expertise in historic preservation and/or urban planning
 7. Seat 7. At large, with preference for persons with experience and expertise in history of Sacramento, the region, Northern California...
23. **17.134.050 Preservation commission – Term of office. (pages 7-8)**Change initial members terms to two, three and four years, vs. one, two and three years.
24. **17.134.080 Preservation commission – Organization and procedures C. (Quorum) (page 8)** Recommend modification to quorum to be no less than one half of the Commission seats currently filled.

Article IV. Sacramento Register of Historic and Cultural Resources

25. **17.134.160 Sacramento Register B. (where Register is filed) (page 10)** Add, at end of sentence, "...and made available on the City's internet web site."
26. **17.134.190 Procedures for deletion of listed resources from the Sacramento Register 4. Early Notification (Page 17)** Provide language concerning the intent of early notification, and general goals related to the timing and breadth of early notification, not necessarily the specific procedures, which may change from time to time. (See Attachment 2.)

Article VI. Development Project Review

17.134.290 Review of development projects – Authority to review.

26. **A. Projects Subject to Preservation Commission Review and Hearing (Page 22)**
-- **NEW:** Provide ability for Commission to call up a project for its review.
27. **D. Projects Exempt from Preservation Review. 2. (Page 23)** Add, "Routine non-abrasive cleaning, except sanding, etc., as required to prepare surfaces for repainting."
28. **F. Determination Regarding Applicability of Chapter 17.134 and Chapter 17.132. (Page 24)**
 - Specify circumstances when this process would be needed, such as projects that cross more than one property, with one or more property containing a Landmark and the adjoining property that does not contain a listed historic resource or is not within an historic district.
 - Specify types of criteria for making these decisions
 - Clarify that projects involving nominated and listed Landmarks and within nominated and listed Historic Districts are subject to preservation review process, not design review process.
29. **17.134.320 Procedures for preservation review B. Early Notice (Page 24)** Provide language concerning the intent of early notification, and general goals related to the timing and breadth of early notification, not necessarily the specific procedures, which may change from time to time.(See Attachment 2.)
30. **17.134.320 Procedures for preservation review. 3. Review by Zoning Administrator (page 26)** Change language, "...the zoning administrator shall act on the preservation review in conjunction with the other entitlements, [delete "after"; add in consultation] with the preservation director or his or her designee."
31. **NEW:** Provide opportunity for joint Preservation Director / Zoning Administrator Hearings
32. **NEW:** Add provision in this Article for Preservation Director or designee to consult with other agencies, commissions or staff on projects that adjoin historic resource properties.

33. **NEW:** Add provision this Article to provide a process to ensure that the conditions of preservation project approvals will be met through the building plan check and field inspections process, and/or if modifications to approved preservation conditions need to be considered, that the proposed modifications return for preservation review and approval.
34. **NEW:** Add section this Article: Modifications per subsection C. of 17.132.320, Design Review ordinance.

Article VII. Dangerous and Immediately Dangerous Buildings, Structures or Resources

35. **17.134.410 Demolition of immediately dangerous structures – Listed historic resources. A. (Page 31)** Last two sentences, change to read:
 “Whenever a provision of this section requires that an action be taken by the building official and the building official is absent or otherwise unavailable, then the code enforcement manager shall be authorized to take the action. If the code enforcement manager is absent or otherwise unavailable, then the designee of the [~~code enforcement manager~~; add, building official] shall be authorized to take the action.

17.134.420 Lawful demolition, removal, or disturbing of listed historic resource – Deletion – Restrictions (Page 32)

36. **A.** Last sentence, add, “Landmark(s) in which a majority of the significant features(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the neglect by, or to the willful or intentional action of the owner...”
37. **B.** First sentence, add, “...the city clerk upon notice from the preservation director thereof, shall cause such listed historic resource...”

Article IX. Preservation Incentives.

38. **17.134.470 California Historical Building Code (page 34-35)**
 Make provision for a Preservation Director list of properties that can be determined eligible to utilize the Historical Building Code prior to listing in the Sacramento Register. Per the Executive Director of the State Historical Building Safety Board, such a listing would need to require use of historical building code for all future work on property; this list could be most helpful for properties that would be considered contributing resources in potential historic districts, in situations where the historic district survey has not begun, or has not been completed. In instances where the property would be eligible for Landmark listing, a Landmark nomination application should be submitted by the property owner within X days of initial determination of eligibility.

General Comments:

39. **Throughout ordinance, references to Early Notification.** Provide language Item #9

concerning the intent of early notification, and general goals related to the timing and breadth of early notification, not necessarily the specific procedures, which may change from time to time.

- 40. Throughout ordinance, references to “Notice of Decision” or “Decision and Notification”:** Expand persons to receive the notice of decision mailing beyond the applicant to include property owners within the specified radius of the project, community groups and other interested parties.

DRPB Recommendations on proposed
HEARINGS & APPEALS ORDINANCE 17.200

41. **17.200.010 & .020 (pages 1-5)** Add, “electronic forms of notification”

DRPB Recommendations on proposed
“CLEANUP” ORDINANCE amending various sections of Title 1, Title 2, Title 8, Title 12, Title 15, Title 17, and Title 18 of the Sacramento City Code relating to the Design Commission and the Preservation Commission.

42. **Section 6. G: of Section 2.84.080 of Title 2 (page 3)** Add “Design Review Director and Preservation Director actions”

43. **Section 7. Section 8.100.040 of Title 8 (page 3 & 4)** California Historical Building Code

Section 10. Section 15.44.020 of Title 15:

44. **A. General Rule (page 4)** Add, ...obtain a permit from the preservation director. The preservation director may require...”

45. **C. Demolition of Structures Adjacent to Historic Resources (page 5)**
Clarify reference to “director” this section, does it refer to preservation director or building official?

46. **Section 11. Section 15.48.010 of Title 15 A. General – Permit Required (page 8)**
Correct title of director of planning and development

47. **Section 14. Section 15.72.030 of Title 15 (page 9)** Clarification of criteria for triage, ensuring that applications involving Landmark properties or properties within Historic Districts are reviewed pursuant to the Preservation review process.

48. **Section 17. Section 17.96.020 of Title 17 Urban design... (page 11)**
If there is to be a provision for a body to amend the design guidelines where such amendment will aid the accomplishment of the policies for downtown design, it should be the Design Commission, not the Planning Commission.

ATTACHMENT 2.

Early Notification – goals, timing, methods, and breadth of notification

A. Two components

1. Voluntary early notification – urging the applicant to work with neighbors and neighborhood association(s) to address concerns prior to completing a detailed submittal to the City. At this phase, it is expected that the applicant is not locked in to the specifics of his/her design and is therefore more open to potential modifications. Working early with neighborhoods also increases buy-in for the project.
2. Formal early notification – City notifies neighbors and neighborhood association(s) as soon as a project is submitted for review. Neighbors and neighborhood associations are urged to provide comments prior to or at the same time that City staff is developing their own comments on the project. City staff should meet with the applicant and neighbors/neighborhood association(s) to work out issues before the project is scheduled for hearing or decision.

B. Goals

1. Get the applicant to work with neighbors and neighborhood association(s) early increases the chance that a project will not become controversial and the parties will not become adversarial.
2. Working out differences early in the process lessens the chance that parties at a hearing will be confrontational.
3. Increases buy-in by neighbors and neighborhood association(s) on projects.
4. Increases mutual trust between neighborhoods and development interests.
5. Reduces the chance that project decisions will be appealed.

C. Methods – maximize the use of electronic methods of communication – saves time and money for all – eliminate US Postal Service mail for those parties who elect to use electronic means

1. Post submitted project information, including plans and elevations, on the City web site.
2. Provide links to the posted project information in notices.
3. Use email notification whenever feasible to reduce delays in parties receiving the information and increasing their time to comment.
4. Post projects and links to project information in a weekly electronic newsletter, as is done by the Preservation Office.
5. Allow interested parties to subscribe to project notifications for their area of the City and/or type of project (list serve system).

D. Breadth of Notification

1. Neighbors
2. Neighborhood Associations that cover the area in which project is proposed.
3. Interested Parties (list serve sign-up)