



HLC AGENDA: 4-7-10
ITEM: 4.b.

Memorandum

TO: HISTORIC LANDMARKS
COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 5, 2010

COUNCIL DISTRICT: Citywide
SNI AREA: N/A

**SUBJECT: A POTENTIAL ORDINANCE OF THE CITY OF SAN JOSE AMENDING
TITLE 20 TO EXPAND THE ALLOWED USES IN HISTORIC
LANDMARK BUILDINGS, SUBJECT TO A SPECIAL USE PERMIT**

RECOMMENDATION

Planning Staff recommends that the Historic Landmarks Commission discuss and provide input on potential revisions Title 20 of to expand the allowed uses in Historic Landmark Buildings, subject to a Special Use Permit.

OUTCOME

A framework for an ordinance amending Title 20, that would allow the City the discretion to permit a greater variety of uses in Historic Landmark Buildings, which should help the goal of keeping Historic Landmark Buildings occupied.

BACKGROUND

Staff is working to craft an ordinance that would provide additional flexibility for allowed uses in Historic Landmark Buildings, and is looking for feedback on this idea.

The proposed ordinance changes are meant to address the continuing problem of keeping landmark buildings occupied by providing a variety of options for re-use.

The Zoning Code changes would set up a discretionary process for the review of proposed uses that fall outside of the uses allowed by right in the Zoning District. The City would exercise its discretion to ensure that the proposed use is compatible with the subject building and the surrounding neighborhood.

ANALYSIS

Staff has crafted a preliminary version of an ordinance amending Title 20 (Zoning Code) of the San Jose Municipal Code is proposed that would:

Allow compatible uses in a Landmark Building, subject to a Special Use Permit – This revision would amend all of the use tables in the Zoning Code, creating a separately enumerated use entitled “Historic Landmark Building Re-use”, which would allow compatible uses in landmark buildings, with the approval of a Special Use Permit. To ensure compatibility, the provision would be limited to non-residential buildings in all Zoning Districts, and to residential buildings only in Non-residential Districts.

Intent of Historic Landmark Building Re-use, and Additional Findings Required for Historic Landmark Building re-use – This revision would amend Chapter 20.80 of the Zoning Code, the Specific Use Regulations, adding a new Part entitled Historic Landmark Building Re-use. This Part would explain the intent of the enumerated use entitled “Historic Landmark Building Re-use”, define the term Historic Landmark Building, and provide additional Special Use Permit findings specific to the use. For the proposed Code change, Historic Landmark Buildings would be defined to be buildings that are either individually landmarked on the City’s Historic Resources Inventory, individually eligible Candidate City Landmarks, or buildings eligible for either the California or National Registers.

Additional uses, beyond those allowed by right in the District, are allowed subject to a Special Use Permit, as delineated in Part 7 of Chapter 20.100, Administration and Permits.

To obtain approval under this discretionary process, findings would have to be made for the approval of the Special Use Permit. All Special Use Permits require that the Director of Planning, or the Planning Commission on appeal, find that the proposed use is not detrimental to the health, safety, or welfare of the surrounding area.

The required findings for Historic Landmark Building Re-use would also include that the proposed use complies with other Zoning Code requirements, the Building Code, and that the work to the building associated with proposed use would comply with the Secretary of the Interior’s Standards for the Rehabilitation of Historic Buildings. These findings would apply to the Special Use Permit approving the subject use.

In accordance with Title 13, if exterior changes were made to a designated City Landmark building, the applicant would also have to obtain a Historic Preservation Permit, which also requires findings to be made regarding the treatment of the exterior of the building.

The additional required findings would help to ensure the compatibility of the proposed use with both the building and the surrounding neighborhood.

Allow reductions in parking for Historic Building re-uses – This revision would amend Chapter 20.90 of the Zoning Code, Parking and Loading, to allow reductions in the required parking for uses associated with the re-use of Historic Buildings, subject to a Special Use Permit. Findings would need to be made that the parking proposed is adequate for the use.

The proposed ordinance is tentatively scheduled for City Council consideration before the June 2010 Council break. The Commission's feedback will be incorporated into the proposal prior to taking the Code change forward to Planning Commission and City Council.

POLICY ALTERNATIVES

The primary policy alternative is to leave the Zoning Code unchanged, and to not afford Historic Buildings additional use opportunities, which in turn would also not increase the economic viability of landmark buildings, and the de facto protection that use affords.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This proposal has been posted to the HLC web page, and will be distributed via e-mail to the Historic Stakeholders group prior to taking it forward to the Planning Commission.

COORDINATION

This proposed ordinance change is being coordinated with the City Attorney's Office.

CEQA

Exempt, CEQA Guidelines Section 15331.


for JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact John Davidson, at 535-7895.

Potential Code Changes, Historic Landmark Building Re-use

4/5/2010

To be added: to Table 20-30 (OS Open space and A Agricultural District Land Use Regulations), Table 20-50 (Residential Districts Land Use Regulations), Table 20-90 (Commercial Land Use Districts Regulations), Table 20-120 (Industrial Districts Land Use Regulations), and Table 20-140 (Downtown Districts Land Use Regulations):

a separately enumerated use entitled “Historic Landmark building re-use”, which would allow any other enumerated use contained in the Zoning Code, and not mentioned in the pertinent Table, in a Landmark Structure, subject to a Special Use Permit. There would also be a reference to Code Sections 20.100.820 (Special Use Permit Findings) and 20.80.2100, Historic Landmark Building Re-use.

In Table 20-50 (Residential Land Use Designations), there would be a note that the use applies only to non-residential buildings.

To be added to Chapter 20.80, Specific Use Regulations:

Part 22 **Historic Landmark Building Re-use**

20.80.2100 Intent, Historic Landmark Building Re-use

The intent of this Part is to facilitate the continued use and occupancy of Historic Landmark Buildings by allowing the widest variety of potential uses through the creation of a discretionary process for the approval of uses not otherwise allowed in a particular District.

20.80.2120 Applicability

- A. For this Part, Historic Landmark Buildings are defined to be buildings that are either individually landmarked on the City’s Historic Resources Inventory, individually eligible Candidate City Landmarks, or buildings eligible for either the California or National Registers.
- B. This part is limited to non-residential buildings in all Zoning Districts, and residential buildings in non-residential districts.

20.80.2130 Permitting Process

Additional uses, beyond those allowed in the applicable District, are allowed subject to a Special Use Permit, as delineated in Part 7 of Chapter 20.100, Administration and Permits. The Director of Planning or Planning Commission on appeal, is also required to make the additional findings for Historic Landmark Building re-use in Section 20.80.2140 below.

20.80.2140 Additional Findings, Historic Landmark Building Re-use

- A. In addition to any findings required by any other Section of this Title, the Director, or Planning Commission, may issue a Special Use Permit only if the additional findings can also be made:
 - 1. The proposed use is compatible with the surrounding neighborhood.
 - 2. Any changes proposed to the Historic Landmark Building, structure, or site as part of the project, will comply with the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings.
 - 3. The proposed re-use of the Historic Landmark Building or Structure complies either with the Uniform Building Code, or the State Historic Building Code.
- B. The Director, or Planning Commission, shall deny the application where the applicant and/or presented at the Public Hearing fails to satisfactorily substantiate such findings.

To be added to Section 20.90.220, Reduction in Required Off-street Parking Spaces, Subsection E, Other Uses:

- 1. A reduction in the required off-street parking for SROs, emergency residential shelters, residential care/service facilities and convalescent hospitals, hotels/motels, bed and breakfast inns, senior housing uses, indoor recreation uses, performing arts rehearsal space uses, ***and Historic Landmark Building Re-use***, may be approved with a Development Permit provided that such an approval is based on the findings of Subsection B. of Section 20.90.200.