



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Administrative Code Amendment

HEARING DATE: MAY 15, 2019
90-DAY DEADLINE: JULY 8, 2019

Project Name: Mills Act Amendment
Case Number: 2019-006426PCA [Board File No. 190391]
Initiated by: Supervisor Peskin / Introduced April 9, 2019
Staff Contact: Michelle Taylor, Preservation Planner
michelle.taylor@sfgov.org, 415-575-9197
Reviewed by: Timothy Frye, Historic Preservation Officer
tim.frye@sfgov.org, 415-575-6822
Recommendation: **Approval**

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ADMINISTRATIVE CODE AMENDMENT

Ordinance amending Administrative Code Chapter 71 to allow applications for Mills Act contracts for historic properties to be filed concurrently with applications for designation of the same properties; and affirming the Planning Department's determination under the California Environmental Quality Act.

The Way It Is Now:

Chapter 71 implements the Mills Act, California Government Code Sections 50280 et seq. The Mills Act authorizes local governments to enter into a Historical Property Contract with owners of private property who will rehabilitate, restore, preserve, and maintain qualified historical property. As consideration for the rehabilitation, restoration, preservation and maintenance of the qualified historical property, the City and County of San Francisco may provide certain property tax reductions in accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code. Currently, eligibility is limited to those properties that are listed or designated on or before December 31 of the year before the application is made.

The Way It Would Be:

Properties that show a demonstrated need for repairs, restoration, seismic upgrades, accessibility, and other life-safety upgrades, but are not designated at the local level, **may apply for a Mills Act contract concurrent with local designation** as a Landmark under Article 10 of the Planning Code or a Significant or Contributory Building under Article 11 of the Planning Code. Local designation status remains with the property after the contract expires.

BACKGROUND

Enacted in 1972, the Mills Act legislation grants participating local governments the authority to enter into contracts with owners of qualified historic properties who actively participate in the rehabilitation, restoration, preservation, and maintenance of their historic properties while receiving property tax relief.

A formal agreement, known as a Historical Property Contract (Contract), is executed between the City and the property owner for an initial ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to rehabilitate, restore, preserve, and maintain the property in accordance with *Secretary of the Interior's Standards for the Treatment of Historic Properties* ("Secretary's Standards"), the State Historical Building Code, and conditions identified in the contract.

San Francisco adopted the Mills Act Program in 1996. In 2012, the Mills Act underwent several legislative changes to promote the Program, and to make the process more predictable and affordable for San Francisco's historic property owners. The changes included a timeline that guarantees completion of the application by city agencies in a timely manner and the application fees were reduced. Prior to 2012, the City held seven Mills Act Contracts.

The proposed amendment to permit local designation to be considered concurrent to consideration of a pending Mills Act application is consistent with application of the Mills Act Program in other municipalities throughout the state.

ISSUES AND CONSIDERATIONS

The Historic Preservation Commission discussed the proposed amendment at its February 7, 2018 hearing. The case report is attached for reference. At that time the HPC was supported of the proposed amendment.

General Plan Compliance

The proposed Ordinance is consistent with the Urban Design Element of the General Plan in that it will partner a financial incentive that with local designation to encourage the protection of historic and cultural resources associated with San Francisco and its communities. The proposed Ordinance will provide a financial incentive for newly designated properties to leverage resources for the care of rehabilitating these important historic and cultural assets.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

Existing designation requirements would remain the same; however, the designation timeframe would change. Eligible properties with a demonstrated need for restoration, rehabilitation and preservation could apply for Article 10 or 11 designation at the same time as the Mills Act. Modification to the designation timeframe would expand eligibility to more property owners with a preservation need and give property owners more of an incentive to seek historic designation. OHP has stated that other municipalities allow a similar parallel process. This policy change would require a modification in the way the Department promotes the Mills Act Program and would require the proposed amendment to San Francisco Administrative Code 71: Mills Act.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A: Draft Historic Preservation Commission Resolution
- Exhibit B: Letters of Support/Opposition or other supporting documentation, etc.
- Exhibit C: Board of Supervisors File No. 190391
- Exhibit D: [Link to HPC Case Report, Discussion of Proposed Amendments Relating to the Mills Act Program dated February 7, 2018](#)



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Draft Resolution

HEARING DATE MAY 15, 2019

Project Name: Mills Act Amendment
Case Number: 2019-006426PCA [Board File No. 190391]
Initiated by: Supervisor Peskin / Introduced April 9, 2019
Staff Contact: Michelle Taylor, Preservation Planner
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND ADMINISTRATIVE CODE CHAPTER 71 TO ALLOW APPLICATIONS FOR MILLS ACT CONTRACTS FOR HISTORIC PROPERTIES TO BE FILED CONCURRENTLY WITH APPLICATIONS FOR DESIGNATION OF THE SAME PROPERTIES; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 9, 2019 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190391, which would amend Chapter 71 of the Administrative Code to allow applications for local designation concurrent with filing of a Mills Act application;

WHEREAS, The Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 15, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby **approves** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Currently, eligibility is limited to those properties that are listed or designated on or before December 31 of the year before the application is made.
2. Eligible properties with a demonstrated need for restoration, rehabilitation and preservation could apply for Article 10 or 11 designation at the same time as the Mills Act.
3. Modification to the designation timeframe would expand eligibility to more property owners with a preservation need and give property owners more of an incentive to seek historic designation.
4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The proposed Ordinance will partner a financial incentive that with local designation to encourage the protection of historic and cultural resources associated with San Francisco and its communities.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

The proposed Ordinance will provide a financial incentive for newly designated properties to leverage resources for the care of rehabilitating these important historic and cultural assets.

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 15, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: May 15, 2019

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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May 6, 2019

Planning Department
Attn: John Rahaim
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Mr. Rahaim:

On April 9, 2019, Supervisor Peskin introduced the following proposed legislation:

File No. 190391

Ordinance amending the Administrative Code to allow applications for Mills Act contracts for historic properties to be filed concurrently with applications for designation of the same properties; and affirming the Planning Department's determination under the California Environmental Quality Act.

The proposed ordinance is being transmitted pursuant to the Rules of Order 3.22 for review and comment. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

- c: Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Sarah Jones, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Laura Lynch, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Administrative Code - Requirements for Mills Act Applications]

2
3 **Ordinance amending the Administrative Code to allow applications for Mills Act**
4 **contracts for historic properties to be filed concurrently with applications for**
5 **designation of the same properties; and affirming the Planning Department's**
6 **determination under the California Environmental Quality Act.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings.

16 (a) Environmental Findings. The Planning Department has determined that the
17 actions contemplated in this ordinance comply with the California Environmental Quality Act
18 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
19 the Clerk of the Board of Supervisors in File No. ___ and is incorporated herein by reference.
20 The Board affirms this determination.

21 (b) Referral to Historic Preservation Commission. On _____, the Historic
22 Preservation Commission considered this ordinance, and thereafter submitted written
23 comment to the Board of Supervisors regarding the effects of the ordinance on historic
24 resources, as required by Charter Section 4.135. Said written comment is on file with the
25 Clerk of the Board of Supervisors in File No. ___ and is incorporated herein by reference.

1 Section 2. The Administrative Code is hereby amended by revising Section 71.2, to
2 read as follows:

3 SEC. 71.2. ELIGIBILITY.

4 (a) Qualified Historical Property. An owner, or an authorized agent of the owner, of a
5 qualified historical property may apply for a historical property contract. For purposes of this
6 Chapter 71, "qualified historical property" shall mean privately owned property that is not
7 exempt from property taxation and that either has submitted a complete application for listing or
8 designation, or has been listed or designated in one of the following ways on or before
9 December 31 of the year before the application is made:

10 (1) Individually listed in the National Register of Historic Places or the California
11 Register of Historical Resources;

12 (2) Listed as a contributor to a historic district included on the National Register
13 of Historic Places or the California Register of Historical Resources;

14 (3) Designated as a City landmark pursuant to Planning Code Article 10;

15 (4) Designated as contributory to a historic district designated pursuant to
16 Planning Code Article 10; or

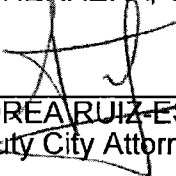
17 (5) Designated as Significant (Categories I or II) or Contributory (Categories III
18 or IV) pursuant to Planning Code Article 11.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By:


11 ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Requirements for Mills Act Applications]

Ordinance amending the Administrative Code to allow applications for Mills Act contracts for historic properties to be filed concurrently with applications for designation of the same properties; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The Mills Act is a state law that authorizes local governments to enter into contracts with owners of qualified historical properties who will rehabilitate, restore, preserve, and maintain those properties. As consideration for the rehabilitation, restoration, preservation and maintenance of the qualified historical properties, the City provides certain property tax reductions to the owners.

Chapter 71 of the Administrative Code implements the Mills Act in San Francisco. It sets forth, among other things, the processes for application and approval of a Mills Act contract in the City, eligibility criteria, and fees. As part of the eligibility criteria, Chapter 71 requires a property to be listed in the National or California registers of historic properties, or landmarked under City law, in order to apply for a Mills Act contract.

Amendments to Current Law

This Ordinance would amend Chapter 71 of the Administrative Code to allow a property owner to apply to landmark his or her property concurrently with applying for a Mills Act contract.

Background Information

This Ordinance would make the process to obtain a Mills Act contract easier, by allowing the Mills Act contract application to be processed concurrently with a landmarking application.

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