



## Agenda Report

18-1355

Agenda Date: 11/1/2018

### REPORT TO HISTORICAL AND LANDMARKS COMMISSION

#### **SUBJECT**

Public Hearing: Consideration of 2017-2018 Historical Property Preservation Agreement Audit (Mills Act Contracts)

#### **EXECUTIVE SUMMARY**

The Mills Act is an economic incentive program offered in the State of California that allows for owners of historical properties to receive a property tax reduction by entering into a contract with participating local governments, such as cities and counties, through the agreement of repairing and maintaining a historically significant property. This program allows the tax savings achieved to be used towards the initial preservation, restoration, or rehabilitation of the historical property and then towards the continuous long term maintenance of the property. The original contract is binding with all successors in the interest of the owner. Penalty for cancellation for breach of contract conditions is 12.5 percent of the property value at time of cancellation. Attached is the State Guidelines for the Assessment of Mills Act Properties which provides guidance to County Assessors and interested parties.

The Mills Act Contract requires that City staff monitor the progress of each property and conduct periodic reviews to ensure that the contractual obligations are being fulfilled. . Until the most current audit activity in 2017-2018, the last known City audits occurred in the 2007.

State Law with regards to Mills Act Contracts now requires an audit of the program every 5 years. The City has conducted a comprehensive detailed audit and completed the review of all existing agreements. Future audits, in line with the State law, may include mail-in surveys and external inspections for those in good standing.

#### **BACKGROUND**

The 2017-2018 Mills Act Contracts Audit was conducted by the City of Santa Clara and differs from other assessments and surveys conducted by the County of Santa Clara Tax Assessors Office. The City made efforts to work with the property owners to maintain the tax benefits allowed by the contract. Staff made the submission of required information as convenient as possible via regular mail, email or home inspection. Phase I of the audit started on August 31, 2017 calling for participation, and Phase II letters were sent in September 2017 noting the importance of participation, and required on-site home inspections. Copies of Phase I and Phase II letters are attached for your review. Phase III was internal tracking of responses, including review of permit records for work performed.

There were a variety of ways to provide information to the City verifying the progress made on upkeep and maintenance of the property. The City also requested that the items on the ten year maintenance plans be addressed. The City provided a checklist of the requested information and the

corresponding forms to be filled out and also provided copies of the Mills Act Contract or 10 Year Plans to the homeowners.

The comprehensive audit activity was completed in June 2018, and thank you letters were sent to those considered in compliance with the Historical Property Preservation Agreement. Some of the thank you letters included additional notes and recommendations that homeowners need to address within the next 5 years.

At this point in time, the City has identified properties recommended for cancelation or non-renewal based on either non-compliance or substantial lack of compliance. Both conditions violate the California Tax and Revenue Code provision allowing Mills Act agreements. The City as party to the historical property contract may cancel the contract, after notice and a public hearing. If it is determined that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. There are additional provisions within the contracts that call for the cancelation.

There is also a provision within the Contracts where the owners or the City can serve written notice of nonrenewal of the Agreement.

### **DISCUSSION**

As previously stated, the 2017-2018 Historical Property Preservation Agreement Audit was done in three phases. In Phase I, planning staff sent out letters to all Mills Act properties with effective dates up to 2016. Homeowners were provided a choice of submitting information by mail, email, or on-site inspection. In Phase II, Planning staff sent out letters to all homeowners who did not respond to the first letter. Homeowners in Phase II were only offered the option of on-site inspections. During Phase III, Planning staff used the Permit System to check permits issued for such items as foundation repair, furnace, water heater, electrical work and roofing.

The planning staff categorized the results of the survey into three categories, Green (good standing), Yellow (caution, oversight needed) and Red (out of compliance with contract). Additional details on the three categories are provided in the attached Audit Status memo. Also attached is an excerpt of the Property Responses Spreadsheet which lists all of the Mills Act properties in this audit.

City staff is recommending cancellation or nonrenewal of Mills Act Contracts for eleven properties. Cancellation would be for the properties that are within the initial 10 years of the contract. Nonrenewal would be for those properties that are on contract for greater than 10 years. The Mills Act Contract for these eleven properties is attached for your review. The audit forms and selected pictures for the properties are also attached for considerations.

There were three non-responses where the homeowner did not respond to the Phase I or Phase II letters or did not follow thru on home inspections. These properties are listed below:

- 1895 Catherine Street
- 1236 Jackson Street
- 742 Jefferson Street

There are eight properties found to be in breach of the terms of the conditions of their Mills Act contract based on the information provided during the audit or home inspections. These properties

were classified under the Yellow status where 10 Year Plan items have not been completed. Some of the properties are in need of ordinary maintenance on the exterior that is visible to the general public. These properties are listed below:

- 1711 Main Street
- 741 Lincoln Street
- 1751 Benton Street
- 1695 Market Street
- 1212 Pierce Street
- 864 Madison Street
- 758 Jackson Street
- 906 Monroe/1341 Homestead

The 44 live work units located on 1777 Lafayette Street known as the Walnut Factory required additional coordination with the Home Owners Association (HOA) to complete the audit. However, the entire property was found to be in good standing with regards to the terms of their Mills Act Contract.

### **ENVIRONMENTAL REVIEW**

The Mills Act program is exempt from the CEQA environmental review requirements per CEQA Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

### **PUBLIC CONTACT**

Public contact was made by posting the Historical and Landmarks Commission agenda on the City's official-notice bulletin board outside City Hall Council Chambers. The notice of public meeting was mailed to the affected property owners.

Correspondence or responses received since notice of non-renewal or cancelation is attached.

### **ALTERNATIVE**

1. Submittal of application to amend the agreement with a new ten year plan in order to have a list of projects those owners will be committed to completing towards the property, and record such amended Historic Property Preservation Agreement.
2. For those contracts that are within the Renewal period, owners may make a written notice of nonrenewal of the agreement.
3. Any other Commission direction.

### **RECOMMENDATION**

Staff recommends that the Commission note and file 2017-2018 Mills Act Contracts Audit; and Based on the updated 2017-2018 Mills Act Contracts Audit, that the Commission forward a recommendation of cancellation or nonrenewal of Mills Act Contracts for the following properties:

- 1895 Catherine Street
- 1236 Jackson Street
- 742 Jefferson Street
- 1711 Main Street
- 741 Lincoln Street

- 1751 Benton Street
- 1695 Market Street
- 1212 Pierce Street
- 864 Madison Street
- 758 Jackson Street
- 906 Monroe/1341 Homestead

Reviewed by: Yen Han Chen, Associate Planner

Approved by: Gloria Sciara, Development Review Officer

### **ATTACHMENTS**

1. Phase I & II Letters
2. Excerpt of Property Responses Spreadsheet
3. Audit Status (Red, Yellow, Green)
4. Property Evaluations and Select Photos
5. Mills Act Contracts under Consideration
6. State Guidelines for the Assessment of Mills Act Properties
7. Correspondence - 741 Lincoln Street
8. Correspondence or Responses Received since notice of non-renewal or cancellation