

COMMENT	RESPONSE
<i>JUNE 15, 2011 MEETING COMMENTS</i>	
1. Could the Assessor do a pre-assessment to let property owners know their projected savings [under the Mills Act]?	Individual property owners would have to contact the Assessor's Office and request that the office calculate an estimate of their taxes if the property was placed under Mills Act contract.
2. Provide an explanation of how the [Mills Act] formula works.	Staff has provided a link on the webpage http://www.acgov.org/cda/planning/landuseprojects/phpo.htm to various resources from State Office of Historic Preservation that describe how property taxes for properties under Mills Act contract are calculated.
3. Have the Assessor's office present at meetings.	A representative from the Assessor's Office is expected to attend the Subcommittee meeting on July 13, 2011.
4. Why not opt out before the Ordinance is adopted?	The Ordinance has now been revised to an "opt in" program. Under the current draft, property owners that do not want to participate in the County Register are not required to take any action.
5. Opt in should be the method of participation in the Register.	The ordinance has now been revised to an "opt in" program.
6. Create the Register later, after the Ordinance is passed.	Comment noted. The Subcommittee believes that an "opt in" program is the appropriate mechanism to establish the initial Register.
7. Follow up [with State Office of Historic Preservation] to see if owner desire is an acceptable reason to be removed from the Register.	Staff is awaiting a response.
8. The County should only be able to keep the property on the list if they find that it is significant...the owner should not have to demonstrate that it is not.	The Board of Supervisors would be required to find that the property is either significant or not by way of resolution, not the property owner. As is customary with all Planning Department applications, County staff requests all information from the property owner as needed to review their application. That information is then compiled and analyzed in a staff report which, in this case, is transmitted to the Board for their consideration. Staff does not recommend that either sections 17.##.070 or 17.##.080 be changed, as the proposed policy is not inconsistent with the County's current planning practice.
9. Add link to Mills Act information on website.	See response to comment # 2 above.

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10. Can you have both a Williamson Act and Mills Act contract?	Yes. There is no statute that would prevent the County from approving both a Mills Act and Williamson Act contract. Williamson Act contracts are applied to agricultural land, whereas Mills Act contracts are for structures.
11. Research whether or not the Ordinance allows for binding decision making of the PRHC. Is the PRHC still advisory? Compare old Ordinance [Section 2.86] vs. new.	Under this proposed Ordinance, the PRHC would still be an advisory committee. Specifically, they would advise the Planning Director on Certificates of Appropriateness, the Planning Commission on the rezoning of parcels to the "HP" designation, and to the Board of Supervisors on nominations of properties to the County's Register. The Board may choose to assign additional responsibilities to the PRHC as it deems necessary. The Board's ability to delegate additional tasks is consistent with current language codified in Chapter 2.86 of the County's Administrative Code which establishes the PRHC and describes its responsibilities. Staff has prepared a comparison of the current chapter and proposed changes for reference.
12. Starting at pg 23...duties of the PRHC. Make their [PRHC] advisory role explicit.	The role of the PRHC as provided in the draft Ordinance is advisory. The PRHC advises the Board, Planning Commission and Planning Director on their review of projects involving historic preservation, parks and recreation.
13. Make it an opt in	The Ordinance has been revised accordingly.
14. Improve notifications	The County will continue to work on improving its notifications of property owners.
<i>JUNE 21, 2011 MEETING COMMENTS</i>	
1. The Ordinance is described as voluntary; however, the 90 day deadline to opt out makes it involuntary.	The Ordinance no longer requires property owners to opt out of the Register.

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2. Process for removing a property is cumbersome.	The process for removing a property occurs in the same manner as it was added (Section 17.##.080). Presumably, the current or previous property owner has either submitted or offered their consent to evidence being presented to the Board of Supervisors that demonstrates their property's historic significance. That evidence and the Board's action is a matter of public record and must be referenced when considering future land development and/or uses on that property as required under the California Environmental Quality Act (CEQA). As a result, the County should be as fastidious in review of the deletion as it was in its placement. As with placement on the Register, owner opinion carries weight in the Board's consideration; however, it cannot be the sole reason for its actions. Staff believes that this section should not be changed. Staff does not believe that requiring an equivalent level of effort for additions or removals from the Register poses an unnecessary burden upon property owners. Moreover, the practice is consistent with what occurs in other jurisdictions.
3. The Ordinance is not based on a new inventory, but is based on past inventories.	Comment noted. As funds become available the County will consider devoting funding to updating its existing inventories.
4. Problem with the definition of the term "development project"	The term only applies to the chapter where the Historic Preservation Ordinance is codified. The term was included in the chapter as it is intended to make clear what projects would require a "Certificate of Appropriateness" as prescribed in the chapter. However, staff agrees that this term may be confusing to readers and has revised the definition as follows: <i><u>"Development project' for the purposes of this chapter means and includes the following:..."</u></i>
5. How many properties meet the criteria for historic properties? Better policy to create the criteria and then establish a register.	All of the properties were evaluated by an architectural historian and at that time they were believed to be eligible for listing on a local, state or National Register. The opt in program provided in the Ordinance would require that the County conduct a follow up review of a property prior to listing to determine if the property still eligible for listing based upon the criteria contained therein.
6. Prefer to have an inventory that is defensible.	Comment noted.

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7. Rather than an opt out should have a 90 day opt in.	The program has been changed to allow property owners to opt in within 180 days of the Ordinances adoption by the Board of Supervisors.
8. Support page 17 of the draft—"No nomination shall proceed without the consent of the property owner."	Comment noted.
9. Need to clarify Section 17.##.100(B). Paragraph refers to a staff report for additions/deletions. Process should not be initiated by anyone but the property owners.	Staff has added additional text to sections 17.##.080, 17.##.100 and 17.##.110 to strengthen protections for property owners and to prevent applications for proceeding without their consent.
10. Is demolition policy new, or existing?	The demolition review process as described is an existing policy of the Planning Department.
11. Definition of a certificate of appropriateness should be included in the beginning of the document.	The following definition has been added: <i>"Certificate of Appropriateness' means a permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed on the Alameda County Register pursuant to the provisions of this chapter."</i>
12. Certificate of Appropriateness-Small Project Review: Energy efficiency projects could fall under small project review. Could act as a disincentive for energy efficiency work that is mandate under the Community Climate Action Plan. Ordinance may make changes difficult and upgrades infeasible.	Staff has reviewed the policy and found that while it is possible that a property owner's desire to improve the energy efficiency of their property could lead them to consider solutions that may affect the structure's aesthetic or historical integrity, evidence from other jurisdictions, particularly the City of Berkeley which has had a Energy Conservation Ordinance affecting both residential and commercial properties and while maintaining a strong commitment to historic preservation, suggests that the adoption of the proposed Historic Preservation Ordinance would not undermine the goals of the County's Community Climate Action Plan. Rather than revising the policies pertaining to small project reviews the County should consider monitoring applications for Certificates of Appropriateness to see if problems arise, and then amend the Ordinance accordingly.

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13. Dangerous Buildings---what is “reasonably necessary” should be defined.	It would not be possible, or appropriate, to specify what the term means as what is “reasonably necessary” would likely change from case to case. Generally, work described as reasonably necessary would fall into one or more categories: 1) preventing further deterioration of the structure; 2) improving site security; and 3) stabilizing the foundation or other structural elements of the building. Staff has added language specifying that the County’s Building Official would be responsible for determining what work, up to and including demolition, would be necessary to correct unsafe building conditions. Section 17.##.270 (B) should read as follows: <i>Only such work <u>that has been found</u> reasonably necessary <u>as determined by the County’s building official</u> to correct the unsafe or dangerous condition may be performed pursuant to this subsection.</i>
14. Is the property owner obligated to rebuild a restructure?	Whether or not a person would be required to reconstruct an illegally demolished structure would determined by a judge, not the County.
15. What are the trigger points for demolition?	It is not entirely clear what was meant by that comment.
16. Who would enforce the minimum maintenance requirement?	Enforcement for the provisions set forth in the Ordinance are specified in Section 17.##.340.
17. Enforcement and Penalties-Does the misdemeanor mean a fee or jail time?	The penalty would be determined by a judge. The County’s Grading Ordinance (Chapter 15.36 of the County’s Ordinance Code) also allows violators be charged with a misdemeanor, although there are provisions for an “Administrative Violation”.
18. Responsibilities of the PRHC-grants the Commission broad oversight, what is the oversight of the oversight. Review could add considerable time and cost.	Staff believes that the proposed responsibilities are consistent with those already established for the PRHC. Please see the response to Comment #11 received during the June 15, 2011 meeting for additional information.
<i>JUNE 29, 2011 MEETING COMMENTS</i>	
1. Look into re-roofing and the impact on historic gutters.	A proposal to re-roof a structure would be evaluated by the Planning Director under a Certificate of Appropriateness-Small project Review.

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2. How are additions evaluated?	Properties that are on the County Register would be required to apply for a Certificate of Appropriateness in order to alter their property. Generally, alterations or additions must conform to the Secretary of the Interiors Standards.
3. Why do I have to ask to get off a list that I never asked to be on? No one has a right to list my property.	The revised Ordinance asks that property owners opt in rather than opt out. Under the current draft, property owners that do not want their property to be listed would not need to submit any form or document to request that their property not be listed.
4. Would like to see a blank Register.	The revised Ordinance asks that property owners opt in rather than opt out. This would eliminate any administrative burden on property owners not wanting to participate in the County Register
5. Don't interfere with my property rights.	Comment noted.