

## **HISTORIC RESOURCES BOARD**

Wednesday, November 5, 1997 - Regular Meeting

8:10 - 11:45 AM

Council Conference Room (First Floor)

Civic Center, 250 Hamilton Avenue, Palo Alto

### **A. ROLL CALL**

Present: Kohler Backlund, Anderson, Willis, Bernstein, Mario, Murden

Absent: None

Staff Present: Riel, White, Warheit, Cauble

Council Liaison Present: Wheeler

Contract Planner Present: Judy

### **B. ORAL COMMUNICATIONS: None**

### **C. AGENDA CHANGES, ADDITIONS AND DELETIONS: None.**

### **D. APPROVAL OF MINUTES FROM THE OCTOBER 15, 1997 HRB MEETING.**

MOTION: BM Anderson moved to approve the minutes as amended by board member comments. The motion was seconded by BM Mario.

VOTE: 5-0-0-2 (Kohler and Bernstein not yet present)

## **I. PUBLIC HEARINGS**

### **1. 420 Maple Street 97-HRB-235**

Kathy and Michael Levinthal

Application for Historic Resources Board review and recommendation to City Council for the City to enter into a Historic Property Preservation Agreement, pursuant to the provisions of the Mills Act of the State of California with the Owners of 420 Maple Street.

BM Mario not participating due to possible conflict of interest.

Staff Report; George White summarized the application, the background of the property, the proposed property preservation agreement, and the requested action from the HRB as being a recommendation to City Council regarding approval or denial of the proposed Mills Act for the subject property.

BM Anderson asked whether it has been established that the landscape design is extant and significant?

White: Its significance has not been confirmed at the moment, but there are indications that the landscape may be significant.

BM Anderson asked why staff had not requested documentation prior to processing the application for the Mills Act?

White: the scope of preservation and historic significance for this property goes beyond the potential merits of the landscape.

BM Anderson asked where in the contract is the 10 year maintenance plan? What of significance is the City getting back in exchange for the requested tax relief?

White: The contract includes a 10-year list of intended maintenance and repairs. Also, the City has negotiated to get interior preservation of significant spaces, and an annual tour of the property.

BM Anderson asked what value is the tax relief?

White replied that the exact amount is uncertain as it had not yet been calculated.

However, it will be based on a formula - note the Staff Report reference to a previous tax payment of \$18,172 - the formula would grant up to 90% relief for this amount.

Chair Willis commented that what is lacking is a policy decision regarding which properties in Palo Alto should receive this relief.

BM Murden commented that in theory all the tax relief should go back into maintenance of the property, but the agreement specifies only \$2,000 to this end.

BM Anderson observed that the total incentive is approximately \$150,000 over the 10-year duration of the contract, with only \$20,000 obligated to go back to maintenance of the house.

White responded that that is correct.

### **Public Hearing**

*Public comment was received from :*

Guy Blase, attorney for the applicant.

Mr. Blase commented that there seems to be some misinformation about the Mills Act. There is no requirement in the Act that the savings be used to preserve the property. In the original act, there was a public access requirement - this inhibited use of the Mills Act. Since its removal, there has been a modest increase in use of the Act.

During the Squire House Mills Act, the public discussion was that this was an important tool to encourage preservation. Both staff and the board seem to be of the opinion that

the applicant should give a great deal to the city in exchange for implementation of a Mills Act. Mr. Blase indicated that he would be glad to help the City develop policy in this regard. Meanwhile, the Levinthals have agreed to an annual tour of no more than 20 people. Most Mills Acts address the exteriors of the property; this agreement is unusual in agreeing to preserve the interiors and the landscape. It is a very interesting landscape; one wall contains shards of Stanford University stones, and there is a wishing well that is interesting.

Comment was received from Michael Levinthal, owner.

Mr. Levinthal added this information; there is a lower garden wall that is constructed of stones reported to come from Stanford University. There are some substantial trees that may be from original planting.

BM Murden asked whether the current remodeling was done by them.

Mr. Levinthal; yes, that project was reviewed by the HRB. A new structure was added, and the existing exterior walls of the garage wing, for example the windows to the courtyard, were altered and the garage doors removed on the north side of the house. The footprint remained unchanged.

BM Bernstein asked for an explanation of why a Mills Act application is being brought forward now.

Mr. Levinthal commented that he and his wife love the house and want to preserve it. They have had to modify the house to update it - things like the kitchen have been remodeled.

BM Backlund asked, given the National Register status, is there a statement that the house is still in the form that it existed when listed on the register?

Mr. Blase responded that the National Register form has not been updated. This is also a Category 2 property, which is the local historic designation, and this status alone should be an adequate historic status to qualify for the Mills Act.

Chair Willis asked again - given the current level of integrity of the property with alterations considered, would the property still qualify for the National Register?

Mr. Levinthal commented that the documentation on the property does not go into detail on the building interiors.

BM Kohler commented that part of the board's goal is to encourage preservation. He recollected some Redwood City projects that received Mills Act contracts that included specific 10-year descriptions of how the money would be used, as contrasted with the

current agreement that is vague on these matters.

Mr. Blase replied that a tremendous investment has been made to put the property in the good condition that it currently is in. Much more than \$2,000 a year will be spent on the property to maintain its condition. The proposed Property Preservation Agreement grants annual tours, limited to 20 people total, once a year, these people to be selected by the Levinthals. Also, the City has the right to inspect the residence once a year.

Comment was received from Ted Carlstrom.

Mr. Carlstrom indicated that he will not comment on the specifics of the contract, but would like to address the broad policy issue. Essentially, preservation of private property has two government approaches. One is the voluntary incentives approach - including the Mills Act - and the other approach is mandatory and imposes involuntary requirements - such as the Interim Historic Ordinance. He encourages pursuing the Mills Act because it is cooperative. The other approach results in confusion and anger. If there is going to be imposition of involuntary requirements, then the Mills Act ought to be extended across the board to owners of all qualified historic structures and create a community/property owner cooperative partnership in preservation.

Levinthal commented that the tour would work with the city and would be done in cooperation with a local historic society.

*Public hearing closed.*

**Discussion:**

Chair Willis commented that the Mills Act can serve us well in Palo Alto, and we are looking forward to it. Perhaps it will be extended to all major landmarks and perhaps even some contributing buildings. But this particular residence is not threatened, and that fact may give us the time to develop a comprehensive incentives policy.

BM Backlund commented that he supported the Staff Report direction. The Historic Preservation portion of the Comprehensive Plan was approved last night, including endorsement of an incentives plan and preservation goals as proposed by the HRB. The HRB should support a Mills Act request that meets these goals. The residence appears to be a qualifying historic building fit for the Category 1 or 2 designation, with intact exteriors and an interesting garden.

MOTION: BM Backlund moved that the HRB and City Council support a Mills Act for 420 Maple Street.

BM Murden seconded the motion.

BM Anderson commented that he is a supporter of the Mills Act, but will not support this proposal because of the modest public benefit contained in the proposed agreement when compared to other Mills Acts. Also, the preservation program will be better served if we wait for a permanent ordinance with a policy to address granting this act among other incentive options. Also, it is worrisome that the landscape may not be significant. Finally, the contract doesn't tell us what will happen to the house each year - it should be clearly defined. Overall, the arrangements are too loose. Also, this property has already been rehabilitated and this sets a bad precedent for alteration of a significant structure as it is retroactive application of the incentive.

BM Kohler commented that he is struggling with this a bit. The Mills Act conference he attended left him with a distinct sense that during the 10-year period there would be a definite return in preservation. The proposed format is too vague. With more staff/applicant work toward definition, it might be supportable. Also, recollecting the last Council discussion of this issue in which the Council stated that they wanted a developed policy regarding the Mills Act, we need to be careful now because the early Mills Acts set a precedent for later ones.

Chair Willis commented that immediate development pressure and the need for rehabilitation are reasons for speedily deciding on a Mills Act. As these are not issues for the subject property, the HRB may defer acting. It may ultimately be legitimate to reward the owners of 420 Maple for a good rehabilitation job. However, there is a need to assess the whole tool - the Mills Act and other incentives - with Council input. It may be that a decision will be made to use the Mills Act only sparingly to encourage preservation where it would not otherwise occur.

BM Murden concurred with comments by other board members, but added that this house is very important to preserve, as it is among the most important in the city. Also, it would not be for rewarding the work to date, but rather to ensure a continued high level of preservation. The future of any building is uncertain - the Mills Act is a vehicle to ensure preservation and reduce that uncertainty.

VOTE: 3-3-1-0 (Willis, Anderson and Kohler against; Mario not participating)  
(Motion fails)

MOTION: BM Anderson moved that the Mills Act proposal for 420 Maple be denied, as the public benefit is not strong enough when balanced with the return to the applicant. The contract should be more detailed, with the monies dedicated to preservation efforts defined for each year of the contract.

Chair Willis seconded the motion.

BM Backlund commented that he was concerned about the basic rules of the Mills Act. For example, if due to voluntary choice one Mills Act property goes beyond the

requirements of the act - this approach should not be imposed on all properties.

BM Murden asked whether it is realistic, when some maintenance is done as needed - to predict maintenance needs.

Chair Willis commented that the Mills Act allows the latitude for the local community to define these matters. However, the key policy issues need to be worked out in the context of larger considerations of tax dollars and other incentives. This is not an appropriate time to recommend that the City make these commitments, as the broader discussion of these issues is still pending.

BM Kohler commented that he does not fully support the current motion. His issue is the that the contract is not clear. Actually, it is possible to have a list of anticipated work items, and introducing them into this contract would make himself and perhaps others more comfortable with the request.

SUBSTITUTE MOTION; BM Kohler moved that the contract be amended to address work to the building for the 10-year period of the contract in detail - reference p. 4, item 10 - this is the item of the contract that would be augmented by more detail. (Motion failed due to lack of a second.)

Riel observed that in light of today's discussion, staff's preference would be to delay the matter rather than deny it.

MOTION (Revised): BM Anderson revised his motion to state that the matter of granting a Mills Act for 420 Maple Street be postponed until the broader context of Mills Act policy is resolved.

BM Bernstein seconded the motion.

VOTE: 4-2-0-1 (Backlund and Murden against; Mario not participating)

Cauble summarized the effect of this action:

The intent of the HRB motion was to recommend deferral of action on the item, as immediate action is not appropriate in light of pending discussion of the permanent ordinance and related policy.

That recommendation will go forward to the City Council with this motion being the recommendation from the HRB to the Council.

**2. 730 Bryant:** Application for Historic Merit Evaluation of a single family residence constructed prior to 1940 in the RM-30 Zone District (File No. 97-HRB-233).