



CITY OF
**PALO
ALTO**

Historic Resources Board Staff Report

**From: Planning and Development Services Director
Lead Department: Planning and Development Services**

**Meeting Date: May 9, 2024
Report #: 2404-2940**

TITLE

Tailored Mills Act Program Recommendation to City Council

RECOMMENDATION

Staff recommends the Historic Resources Board (HRB):

- (1) resume its discussion regarding a draft City of Palo Alto policy for processing requests for historic property preservation agreements as provided by the State of California's Mills Act property tax abatement program, and
- (2) discuss an approach/recommendation to present a Mills Act preservation incentive proposal to City Council. This approach may include requesting the City present a primer on historic preservation in a joint study session with the HRB and Council, where existing and potential preservation incentives could also be discussed.

EXECUTIVE SUMMARY

The HRB has long discussed bringing its Mills Act pilot program concept to City Council. The HRB previously studied and prepared a draft Tailored Mills Act Program document, working toward recommending the City Council establish a Mills Act policy/program. The Tailored Mills Act Program document attached to this report (Attachment A) was updated in January 2018. The other attachments to this report (OHP technical bulletin, Mills Act Fact Sheet, Notes from the June 8, 2017 HRB meeting, and Ad Hoc committee reflections on comparison cities in October 2017) are to assist the HRB in its discussion. During the study, staff and the HRB ad hoc committee collected Mills Act program documents from seven Bay Area jurisdictions, and from San Diego.

BACKGROUND

An HRB ad hoc committee worked with former historic planners in 2017-2018. The HRB 2021-22 Work Plan included reconstituting an HRB Mills Act ad hoc committee for further discussion, research, and refinement of the draft tailored Mills Act program proposal. The 2022-23 Work Plan included a Goal 5, to work toward establishing a tailored Mills Act program, a goal that was

carried forward into the 2023-24 Work Plan, which ends June 30, 2024. The 2023-24 Work Plan noted work on the Mills Act goal would only commence after the HRB concludes the Inventory Update and nomination process. The HRB targeted the May 2024 HRB to resume discussion of a Mills Act program.

Two years ago, at an HRB meeting, a member of the ad hoc committee, former HRB Member Bower, declared that the document (Attachment A) was virtually done, with seven pages of explanations and history prepared by the last historic planner in 2018. The part that was unfinished in 2018 pertained to the acceptable project list, which Bower worked on in December 2021 and January 2022 and talked through with HRB Member Wimmer. HRB Member Bower said the document was ready for the HRB to look at and decide whether or not to move forward with it. He said there is not an application form, but this would be a staff task. He noted there would be a lot of work for the Board to do before moving it ahead to Council. Board Member Wimmer suggested the ad hoc could share the document with the Board, up to the point where the committee left off.

Origin of the Mills Act

The Mills Act is an economic incentive program for owners of historic buildings that are listed in the National Register of Historic Places or on a state, county, or city official register such as the California Register of Historical Resources and the Palo Alto Historic Inventory. It is the single most important economic incentive program available in California for private property owners of qualified historic buildings. The Mills Act was established by the State of California in 1972 to provide historic property owners with significantly reduced property tax breaks in exchange for an agreement to provide a major public benefit by preserving, restoring and maintaining the property. The adoption of the Mills Act was a milestone acknowledgement by the State of California regarding the importance of preservation to the welfare of Californians, just as the adoption of the Williamson Act in 1965 (upon which the Mills Act was modeled) had acknowledged the essential importance to the State of preserving open space (*Attachment A and Attachment B*).

Previous Mills Act Contracts

Despite a lack of official process, the City of Palo Alto previously entered into two Mills Act contracts with property owners, one of which is still active. In 1986, the Juana Briones House, 4155 Old Adobe Road, is the first Palo Alto property to have a Mills Act contract. The home changed ownership and was demolished in 2011. In 1996, the Squire House, 900 University Avenue, became the second property to have a Mills Act contract. The contract is still active, and the property owners and the public receive the benefits of the home's continued preservation. The Council adjusted the contract, per owner request, to remove the "annual public tour" language; the revised contract date was November 29, 2017. Enforcement of the "public tour" by the City for that contract had been inconsistent and irregular. Additionally, the State of California decided the public access component of the Mills Act was detrimental to the spirit of the Act and put unnecessary burdens on homeowners.

City Council Direction to Staff

In December 1997 the Palo Alto City Council, consistent with the recommendation of the Historic Resources Board, voted to postpone a Mills Act application for 420 Maple Street until a policy and implementing procedures for Mills Act agreements had been developed by staff and presented to the council. Representatives of 420 Maple had reached out to the City again on May 24, 2017, to inquire about becoming a Mills Act property. The City Council further voted that no further Mills Act application be accepted by staff until “appropriate policies and procedures” are adopted by the Council). In its comments the Council emphasized its concern that reductions in local taxes by the Mills Act would reduce the income of the Palo Alto Unified School District (PAUSD), widely considered the City’s most important service apart from services for community safety and security. The Council was especially concerned that a Mills Act program, if it resulted in a number of qualified applications for property tax reduction, could significantly impact the operations of PAUSD; consequently, the Council concluded, PAUSD issues need to be taken into careful consideration by the Council when reviewing proposed criteria for eligibility for the Mills Act.

The Council has recognized the widespread support in Palo Alto for incentive-based historic preservation and has acknowledged the potential value of the Mills Act program in compelling the perpetual preservation and the major rehabilitation and restoration of significant properties. In evaluating applications for the Mills Act, the 1997 Council commented that three historic issues were paramount: the significance of the property to the community, the development pressure on the site, and the need for rehabilitation. To address the funding reduction for PAUSD that would result from any Mills Act agreement, the 1997 Council commented that the number of new Mills Act agreements would need to be limited and that each agreement must provide a major public benefit. When the Mills Act contract for 900 University returned to Council, there was further discussion about a need for a program.

PAUSD Webpage Information on Property Taxes

Staff reviewed the PAUSD's webpage¹ on the 2023-24 adopted budget, which provides a statement about property taxes:

"As of May 2023, Santa Clara County projected our secured property taxes to increase 6.23% for 2022-23. Taking the county-wide \$26M potential tax roll correction into consideration, the net secured property tax increase is approximately 6.23%. The next update from Santa Clara County will be on June 2, 2023. The unsecured property tax increase is approximately 6.58%."

A Board member had asked staff to provide a current PAUSD budget for HRB discussions. The PAUSD webpage² also provides the following statements about the Palo Alto parcel tax:

- "Since 2001, Palo Alto schools have benefited from a voter-approved parcel tax that now provides over \$15 million per year in locally controlled funding that cannot be taken by the state. For 19 years stable and predictable parcel tax funding, has protected local schools from dramatic fluctuations in education funding from the state and other sources."
- "Although we feel the pinch of high property taxes, we are fortunate in that the high value of our houses drives our tax bill up more than the actual tax rate, which is comparatively low."

Staff Response to City Council Direction

Former historic staff members had responded to both the 1997 direction and the 2016 Council direction regarding an appropriate Mills Act policy for Palo Alto by developing the draft policy. A subcommittee of HRB members worked with the last historic planner until March 2018. The program had the following characteristics:

- The program will prioritize properties that are threatened under developmental pressure, have an immediate need for rehabilitation, have an element of public use, contribute to affordable or denser housing or are considered the most significant to a community and Palo Alto's identity.
- The program will promote heritage tourism, encourage seismic safety, foster civic pride and safeguard a sense of place.
- The Mills Act contracts will be granted to properties whose significance has been verified by expert authority.
- Each Mills Act application will include an enforceable plan for an exceptional public benefit and *educational purposes*.
- Each local Mills Act will include the State contract requirements for such agreements.

¹ Link to PAUSD's adopted budget 2023-24:

<https://go.boarddocs.com/ca/pausd/Board.nsf/goto?open&id=CSQMR6E2D58>

² link to PAUSD webpage on parcel tax <https://www.pausd.org/about-us/funding/parcel-tax>

HRB Meetings 2021-2023: Mills Act Discussions

The HRB has held a number of meetings in 2021 and 2022, prior to kicking off the inventory update and nomination process the HRB just completed. Staff provides links to reports and minutes and brief summary from seven meetings.

September 9, 2021

The September 9, 2021 HRB staff report³ included discussion and background documents in preparation for a Mills Act retreat topic to decide how best to proceed. The report attachments included the Draft Palo Alto Mills Act Tailored Program, a May 3, 2006 HRB Staff Report City Policy on Mills Act, a December 15, 1997 City Manager's Report (Policy), and the November 5, 1997 HRB Minutes including Mills Act discussion. The meeting minutes⁴ from September 9, 2021 are provided via a link below.

October 28, 2021

The October 28, 2021 HRB report⁵ transmitted the Chair's memo proposing the creation of three teams of HRB members, where Team 3 would work on:

- Developing a "starter" Mills Act proposal including criteria for evaluation, a "trial" period, and formulated primarily to encourage current owners to upgrade knob and tube wiring, foundations and address other life safety issues.
- Identifying topics to discuss with Council.

December 9, 2021

The December 2021 HRB meeting staff report reflected a pivot to focus on the State Law Senate Bill (SB) 9 (urban lot split and development of single family residential properties) signed into law in October 2021 and addressed via Council adoption of an urgency ordinance. The HRB refocused on the inventory update as a priority, noted in the staff report⁶.

³ Link to September 9, 2021 report <https://www.cityofpaloalto.org/files/assets/public/v/2/agendas-minutes-reports/agendas-minutes/historic-resources-board/2021/hrb-9.9-retreat.pdf>

⁴ Link to meeting minutes of 9/9/21: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/historic-resources-board/2021/hrb-10.28-sept-9-minutes.pdf>

⁵ Link to October 2021 HRB report with Chair's memo: <https://www.cityofpaloalto.org/files/assets/public/v/2/agendas-minutes-reports/agendas-minutes/historic-resources-board/2021/hrb-10.28-city-official-2.pdf>

⁶ Link to December 9, 2021 staff report: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/historic-resources-board/2021/hrb-12.09-sb9-update-and-retreat.pdf>

January 27, 2022

The retreat staff report⁷ and minutes⁸ are provided via links below. During the meeting, the City's consultant presented on the Mills Act, noting it is one of the strongest incentives to preservation but does take staff resources. Board Member Bower noted he had been working on the Mills Act with Board Member Wimmer (the two member ad hoc committee) and it was as far along as the subcommittee was able to push it.

February 24, 2022

The HRB reviewed the Work Plan and carried forward "Tailored Mills Act Program discussion" from 'consider reconstituting an ad hoc committee for further discussion, research, and refinement of a draft' to 'finalize outreach approach and bring forward program report to City Council.' This was viewed as a third quarter activity 'unless other projects are not finished', as a lower priority goal contingent upon finishing other, higher priority, goals. Member Bower pointed out the changes shown in red on the program document reflected the updated language changes the ad hoc proposed since they worked on the Mills Act document. The meeting minutes⁹ are viewable via the below link.

March 10, 2022

This meeting had extensive conversation about the Mills Act program as reflected in meeting minutes¹⁰. In addition to the comments at the start of this report's Background section, Member Bower clarified:

- the program was not designed for one particular group or another and that they essentially have the Mills Act proposal ready to be reviewed, that just as in other cities with programs, the elected officials, City Council would have to approve every Mills Act contract, so they will be the ones who control the entire spending part
- the school district gets 45% of every property tax dollar, City of Palo Alto gets 9% and the State and County get some, such that that the actual property tax consequence of \$150,000 of property tax redirection means that the school district would have \$67,500 less money in their budget of approximately \$365 million.

⁷ Link to staff report for January 29, 2022 retreat:

<https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/historic-resources-board/2022/hrb-01.27.2022-retreat.pdf>

⁸ Link to HRB retreat minutes: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/architectural-review-board/2022/hrb-03.10.2022-minutes-january-27-2022.pdf>

⁹ Link to February 24, 2022 meeting minutes:

<https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/historic-resources-board/2022/hrb-03.24.2022-minutes-february-24-2022.pdf>

¹⁰ Link to meeting minutes of March 10, 2022 HRB:

file:///C:/Users/afrench/Downloads/Meetings783Summary%20Minutes_20221208111256836.pdf

- people who have lived a long time in Palo Alto pay very low tax rates and when they sell, the property taxes rise dramatically. This is a huge income boost, mostly for the school district, so the Mills Act proposal would have an infinitesimal impact on school revenue.

HRB member Wimmer noted:

- the number of people who would want to step forward to participate in the Mills Act would be rare because it is, in fact, an arduous task and not free money; and would involve a lot of paperwork and processing of documents that the City would require, so there should be a focus on who is going to do that, and how that will happen.
- the number of people legitimately interested, educated about it and willing to participate in the Mills Act is probably a relatively low number, unless the HRB could somehow make it much easier
- given all that has been put into the proposal, they need to move it forward and not assume that it can't be done because of potential pushback
- launching a program with one to three property owners who want to participate in a pilot program is the idea. In this process they could train them, get their feedback and maybe taper the program as they witness the owners actively participating. This would allow for them to establish the rules from the start, but also be able to change them as they move through with a type of pilot program.

April 14, 2022

Member Bower noted his interest in the full board discussing creation of a pilot program rather than ad hoc committee, stating they have to have a Mills Act before deciding as a Board what to recommend to the Council, which he suspected would be a single project. In response to a member's question about using the program for commercial properties, Bower added that the Mills Act is a state-defined program, and he did not feel they should go to the Council and just ask for a commercial program. He stated there needs to be an overall definition of what the Mills Act Program in Palo Alto will be, then the Council can decide how to apply it; he suggested they should have a single version for all rather than a specific version for each type of building.

PROJECT DESCRIPTION: DRAFT TAILORED MILLS ACT POLICY/PROGRAM

Introduction

An important feature of the State's Mills Act program is its flexibility. Although the State has certain requirements that all jurisdictions must include in the Mills Act policies, the program allows jurisdictions to develop additional requirements to ensure that unique local goals and needs are met. The Mills Act policy requirements at both the State and local levels are of two main types: the criteria for eligibility and the contract requirements. There are also required penalties for termination of contract.

State Policy Requirements

State Criteria for Eligibility

As set forth in California’s Government Code 50280.1, a property is eligible for the Mills Act as follows: “Qualified historical property” for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (1) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2 (b) of Title 26 of the Code of Federal Regulations.
 - (2) Listed in any state, city, county or city and county official register of historical or architecturally significant sites, places or landmarks.
- (Staff comment: A local jurisdiction is allowed to define “qualified historical property” in a more restrictive manner if this furthers the overall goals of the jurisdiction).*

<i>State</i>	<i>Contract</i>	<i>Requirements</i>
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As set forth by California Government code 50281, the following requirements must be included in the language of any Mills Act contract:

- (1) The term of the contract shall be for a minimum period of 10 years.
- (2) Where applicable, the contract shall provide the following:
 - (1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior’s Standards for Rehabilitation, and the State Historical Building Code.
 - (2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary to determine the owner’s compliance with the contract.
 - (3) For it to be binding upon and inure to the benefit of all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

Local Policy Requirements

The City of Palo Alto Mills Act policy must include all the State contract requirements above. In addition, staff is proposing to include the following more restrictive criteria to balance historic preservation with the significant competing goals of the community, which is allowed under the State’s Mills Act program.

<i>Local</i>	<i>Criteria</i>	<i>for Eligibility</i>
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As allowed by the State, the program could include the three following local modifications of the term “qualified historical property:”

- (1) Properties applying for the Mills Act must be listed on the City’s Historic Inventory as Category 1 or 2, 3 or 4 (as defined in Section 16.49.020 of PAMC), or
- (2) Individually listed on the National Register of Historic Places or California Register of Historical Resources, or

- (3) Contributing to one of the four historic districts: Professorville, Ramona Street, Green Gables or Greenmeadow.

These criteria would allow for maximum inclusivity, given the need to preserve a wide range of resources, including residential, commercial and industrial, in order to best represent the storied past of Palo Alto. The program could also be limited to accepting no more than three (3) Mills Act contracts a year during the pilot program run.

<i>Local</i>	<i>Contract</i>	<i>Requirements</i>
As allowed by the State, the program could propose the following local additions to the State's contract requirements:		

- (1) A ten-year rehabilitation and maintenance plan will be required to be submitted for attachment to the Mills Act contract. The rehabilitation plan must include extensive restoration of the identified character defining features of the property (including missing historic features if they can be photo-documented) and the removal or compatible replacement of incompatible alterations. The rehabilitation plan will be restricted to the exterior of the property unless the property owner elects to include work on interior features of identified significance. Rehabilitation and restoration work that commenced up to two years before the establishment of the contract may be indicated on the ten-year rehabilitation plan. An annual report detailing the rehabilitation and restoration work performed during the past year along with the overall cost of the work performed will also be required.
- (2) The property will be inspected every one to five years by the Historic Preservation Planner, accompanied by the Building Official, if necessary, to determine compliance with the Mills Act contract.
- (3) For educational purposes, property owners will be required to fund and display an interpretive panel along the public right of way and their home and that is visible to the public. The panel will include information on the history and architectural merit of the home for the public to enjoy. The property will also be used for exterior home tours at the discretion of the City and other promotional material.
- (4) Staff considers that the scope of the required rehabilitation plan will ensure that all applications for a Mills Act will bestow a major public benefit on the community by extensively restoring and perpetually maintaining extraordinary historic properties.
Public access to private homes is not a requirement.

RESOURCE IMPACTS

Because a Mills Act contract results in a tax relief incentive for the property owner, it also results in a reduction in the annual revenue of the Palo Alto Unified School District and a small reduction in City General Fund revenue. While the impact of any single Mills Act contract is relatively minor, the cumulative impact of a number of Mills Act contracts could be significant for PAUSD because Palo Alto is a "basic aid" city. A policy document to forward to the City Council would ideally contain recommended administrative procedures and an analysis of

potential impacts of a Mills Act program on the income of the Palo Alto Unified School District. The City may consider consulting with a tax advisor or economic analyst subconsultant.

ATTACHMENTS

Attachment A: Palo Alto Mills Act Tailored Program

Attachment B: State OHP Technical Bulletin: "Mills Act Property Tax Abatement Program," published by the California Office of Historic Preservation, December 2004

Attachment C: "Mills Act Fact Sheet," prepared by Emily Vance, Historic Preservation Planner for the City of Palo Alto, 2017 (Expanded from the "Mills Act Fact Sheet," published by the City of Riverside, California).

Attachment D: June 2017 HRB meeting notes

Attachment E: Subcommittee notes from October 2017

Attachment F: December 1997 City Manager's Report on Policy

Attachment G: Minutes from November 5, 1997 HRB meeting

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