



Office of the City Manager

CONSENT CALENDAR
October 15, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Timothy Burroughs, Director, Planning and Development Department
 Subject: Mills Act Contract – 1730 Spruce Street

RECOMMENDATION

Adopt a Resolution authorizing and directing the City Manager to enter into a Mills Act contract with Jeff Lipton for the City Landmark property at 1730 Spruce Street.

FISCAL IMPACTS OF RECOMMENDATION

The Mills Act allows owners of historic properties to voluntarily enter into individual contracts with the City in order to obtain property tax reductions in exchange for maintaining and restoring their historic property.

The property tax savings are offered to create an incentive for owners to maintain their historic properties, to designate historic properties that are currently not protected, and to purchase and upgrade already dilapidated historic properties.

Approving the Mills Act contract for the City Landmark property at 1730 Spruce Street would reduce the property tax bills for the owners by an estimated total of \$9,026 in year one, approximately 30% (\$2,707) of which would be diverted from Berkeley's tax revenue (final amounts are determined by Alameda County after contract execution). This will be an annual impact to the City's tax revenue, as the contract runs for ten years (in comparable annual amounts) and automatically renews annually thereafter unless notice of nonrenewal is given. In turn, the work plan commits the owners to spending the anticipated tax savings on restoring the landmarked property. The Mills Act also specifies procedures for cancellation of the contract for a breach of conditions.

Council approval will allow property tax reduction for this property to begin in the 2020-2021 fiscal year.

CURRENT SITUATION AND ITS EFFECTS

On February 24, 1998, the Berkeley City Council passed Resolution No. 59,355-N.S. which authorizes the local use of the Mills Act of 1972, as amended, which is codified in California Government Code Sections 50280-90 and Revenue and Taxation Code Section 439. The Mills Act allows owners of historic properties to voluntarily enter into

individual contracts with the City in order to obtain property tax reduction in exchange for maintaining and restoring their historic property.

On October 16, 1989, the property at 1730 Spruce Street was designated as a City of Berkeley Landmark, making the property owner eligible to take advantage of the Mills Act. The designation included analysis of historic distinguishing features and features to be preserved (see Attachment 2).

On July 2, 2019, the Landmarks Preservation Commission (LPC) reviewed the proposal by the present owner, Jeff Lipton, to enter into a Mills Act contract for 1730 Spruce Street, including a proposed scope of work and maintenance schedule, and voted 6-1-0-1 (Yes: Abranches Da Silva, Adams, Allen, Crandall, Finacom, O'Malley; No: Schwartz; Abstain: none; Absent: Chagnon) to recommend approval of the Mills Act Contract application to City Council, with revisions to work items B-C, to specify in-kind repair and replacement, and work items F-G, to specify that the arbor and wisteria will be repaired and replaced with period appropriate landscaping.

On August 6, 2019, the property owner provided staff with a copy of the revised work plan, consistent with the LPC's direction.

BACKGROUND

The Mills Act provides limited ad valorem tax relief at the discretion of host jurisdictions to encourage rehabilitation and on-going maintenance of historic resources. In Berkeley, owners of those properties designated by the LPC as either a Landmark or a Structure of Merit may apply for a Mills Act contract. The Alameda County Assessor uses a formula, consistent with the provisions of the Mills Act, to determine the amount of property tax reduction, which applies a capitalization rate to the calculated net operating income for the property under the Mills Act contract. The Mills Act application includes a ten-year work plan to restore and maintain the subject property. The total investment in the work plan is intended to equal or exceed the total amount of the property tax relief over the contract period.

In 2011, State law was amended to include more specific requirements regarding inspection, fees, and cancellation. The amendments clarified that the local legislative body may require fees for providing services pursuant to the Mills Act; shall inspect the property prior to a new agreement and then every five years thereafter; and shall cancel the contract if it determines that the owner has breached the conditions of the contract. As a result of these amendments, Land Use Planning fees for the approval and monitoring of these contracts were added in July 2012, and an ongoing inspection program is in place.

RATIONALE FOR RECOMMENDATION

In order to qualify for Mills Act consideration, 1) the property must qualify as historic; 2) the contract must adequately meet the requirements for Mills Act contracts; and 3)

the type of improvements outlined in the work plan must meet the City standards, which require that tax savings be used according to the rules and regulations outlined in the Act.

The property located at 1730 Spruce Street is eligible for the Mills Act contract because it is designated as a City of Berkeley Landmark. The contract format has been reviewed by the City Attorney's Office for conformance to all relevant City and State regulations. Finally, the contract includes a comprehensive work plan that the property owners have agreed to complete within the first ten-year contract period and that provide for the property "use, maintenance and restoration as to retain its characteristics as property of historical significance." The LPC has concluded that the proposed work plan meets the standards adopted by the City Council, and the costs of the proposed improvements are anticipated to equal or exceed the tax savings afforded the owners.

ENVIRONMENTAL SUSTAINABILITY

Approval of the contract would encourage historic resource rehabilitation, materials conservation, and construction and demolition waste diversion.

ALTERNATIVE ACTIONS CONSIDERED

The Council could deny the application if it found that it did not satisfy the requirements of the Act or other criteria for approval.

CONTACT PERSON

Timothy Burroughs, Director, Planning and Development Department, 510-981-7401
Fatema Crane, Senior Planner, 510-981-7413
Alison Lenci, Assistant Preservation Planner, 510-981-7544

Attachments:

1. Draft City Council Resolution
2. LPC Resolution, Landmark Designation, October 16, 1989
3. Revised Rehabilitation Work Program, received August 6, 2019
4. LPC July 2, 2019 Staff Report

RESOLUTION NO. ##,###-N.S.

AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A MILLS ACT CONTRACT AND ANY NECESSARY AMENDMENTS WITH JEFF LIPTON, FOR THE MAINTENANCE AND RESTORATION OF A HISTORIC PROPERTY LOCATED AT 1730 SPRUCE STREET, IN RETURN FOR THE OWNER TO OBTAIN A PROPERTY TAX REDUCTION

WHEREAS, on February 24, 1998, the Berkeley City Council adopted Resolution No. 59,355-N.S. which authorized the use of Mills Act contracts; and

WHEREAS, on October 16, 1989, 1730 Spruce Street was designated as a City of Berkeley Landmark and became eligible to take advantage of the Mills Act; and

WHEREAS, on July 2, 2019, the Landmarks Preservation Commission reviewed the proposed projects listed in the Mills Act Contract Application for 1730 Spruce Street, and recommended that the City Council enter into a Mills Act contract with the property owner, with revisions to work items B-C, to specify in-kind repair and replacement, and work items F-G, to specify that the arbor and wisteria will be repaired and replaced with period appropriate landscaping; and

WHEREAS, the City of Berkeley Mills Act program requires each contract to be approved by the City Council and signed by the City Manager; and

WHEREAS, the City Council, in light of all evidence, finds that the contract is consistent with the purposes of the Mills Act program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized and directed to execute a Mills Act Contract and any necessary amendments with Jeff Lipton for the maintenance and restoration of the historic property located at 1730 Spruce Street and in return offer a property tax reduction for a period of at least ten years, with a recorded copy of such contract and amendments to be on file in the Office of the City Clerk and Alameda County Clerk-Recorder.



City of Berkeley



Landmarks Preservation Commission
Martin Luther King, Jr.
Civic Center Building
2180 Milvia Street
Berkeley, California 94704
Telecommunications Device for the Deaf (415) 644-6915

(415) 644-6570

NOTICE OF DECISION

FOR MEETING OF: October 16, 1989

PROPERTY ADDRESS: 1730 Spruce Street

Also Known As: The Loring House

OWNER OF PROPERTY: Robert L. Hoover

330 Chaplin Lane San Luis Obispo, CA 93401

APPLICANT: Landmarks Preservation Commission

2180 Milvia Street Berkeley, CA 94704

WHEREAS, a public hearing has been duly and regularly held upon the above property, and the Landmarks Preservation Commission, being fully advised, has voted to APPROVE the application to designate 1730 Spruce Street a City landmark:

It was MSC (Jones/Marsh) that the Commission designate 1730 Spruce Street - the Loring House a City of Berkeley Landmark because the house embodies the distinctive characteristics of a period of construction, represents the work of John Hudson Thomas, a master architect, and because the property is listed on the National Register of Historic Places.

NOW, THEREFORE, BE it Resolved by the Landmarks Preservation Commission of the City of Berkeley that the decision is deemed final unless it is reversed, upon appeal, by the Council of the City of Berkeley.

Motion Carried: Aye: Bright, Cerny, Gordon, Jones, Kusmierski, Marsh, McGlibery, Roha; Nay: - ;Abstain: -; Absent: Aroner

DATE NOTICE MAILED: 11-2-89 THE APPEAL PERIOD EXPIRES AT 5 PM: 11-17-89
FILE APPEAL WITH CITY CLERK BY THIS DATE

cc: City Clerk
Codes and Inspection

ATTEST: Mark Paez
Mark Paez, Secretary

Feature (with reference to Work Program items)	Location	Character Defining?	Condition	Recommended Treatment	Schedule	Budgets (from quotes-see notes)	Notes
Stucco cladding and wood work (work items A-C)	All	Yes	Fair	Repaint exterior stucco and wood work, including doors, windows and trim work	2025	\$40,000	1
Exterior Windows (work items B-C)	Front and rear	Yes	Fair	Repair and replace in-kind	Repair 2023; replace 2025	\$36,000	2
Roofs, roof drainage and flashing (work item D)	All	Yes	Fair-poor	Reroof, including drainage assembly repair, selective replacement	Repair 2021-25; reroof 2028	\$23,340	3
Structural repair and strengthening (work item E)	All	Yes	Poor-fair	Make seismic improvements to historic structure	2025	\$57,000	4
Front porch, walk and yard (work items F-G)	Front	Yes	Fair	Repair porch steps; replace entry walkway paving to match existing; repair and replace irrigation system, arbor, and wisteria with period appropriate	2025	\$21,000	5
Total Estimated 10yr. Budget						\$177,340	

NOTES:**1. Exterior Repairs and Repainting:**

- Remove all loose and failed material.
- Sand and clean all surfaces scheduled for painting work.
- Epoxy any small areas of rotted out wood and perform small scale repairs as needed.
- Full prime to all surfaces scheduled for finish paint.
- Patch and repair cracks where necessary and closely match existing texture and patterns when possible.
- Spot prime where patched.
- Caulk wood joints.
- Finalize selection and apply finish coats.

2. Windows:

- In kind replacement of 7 units, 5 at rear Dining Room bay, 2 at First Floor front, to match original/existing.

3. Reroofing:

- Remove existing roofing material and replace with new IB PVC Heat Welded Roofing system.

4. Structural:

- Construct new foundations and custom Hardi-frame panels and shear walls.
- Selectively remove and replace exterior materials to match existing.
- Construct interior shear wall at downstairs kitchen wall.
- Construct interior shear walls, bolts, etc at crawlspace areas.

5. Site work at Front Yard:

- Per recommendations, add new site lighting, and repair and replace irrigation system, arbor, and wisteria with period appropriate landscaping.



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N
S T A F F R E P O R T

FOR COMMISSION ACTION
JULY 2, 2019

1730 Spruce Street

Mills Act Contract Application LMMA2019-0002 for a single-family residence and designated City of Berkeley Landmark, The Loring House.

I. Application Basics

Parties Involved:

- Applicant/Property Owner: Jeff Lipton
1730 Spruce Street
Berkeley, CA 94709
- Historic Resource Consultant: Mark Hulbert
Preservation Architecture
446 17th Street, #302
Oakland, CA 94612

Figure 1: Vicinity Map

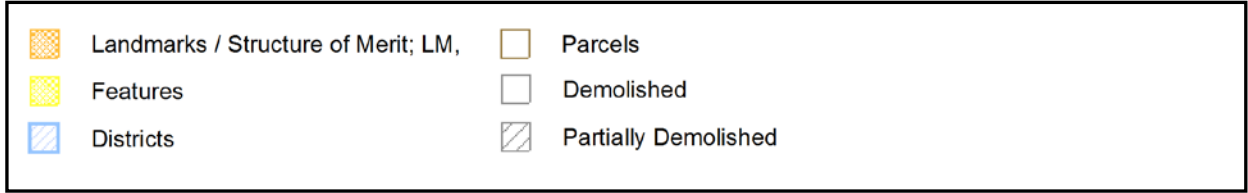
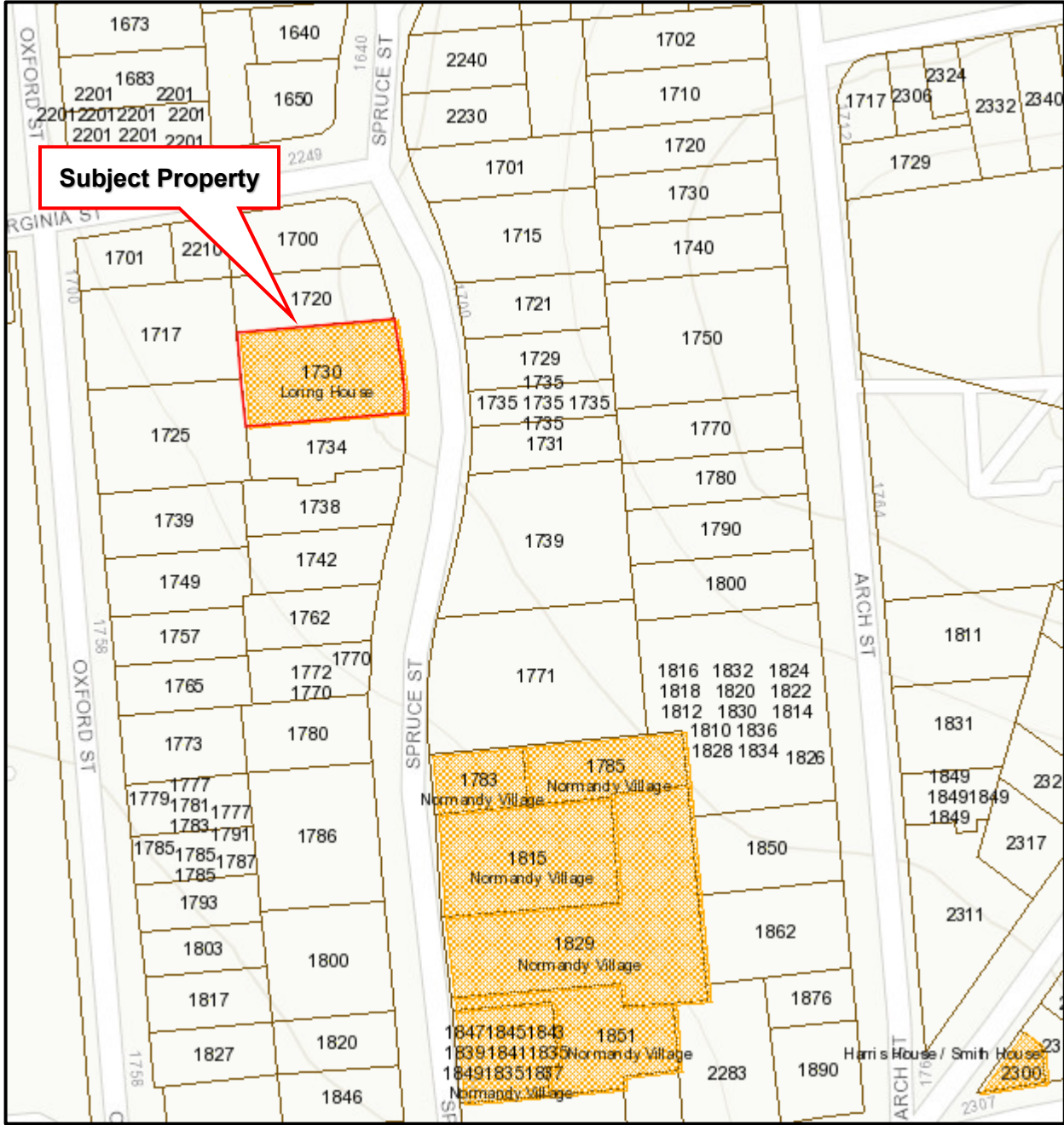


Figure 2: Subject Property, current site conditions (Google streetview, 2019)



Figure 3: Subject Property, National Register Designation (Anne Bloomfield, 1988)



II. Background

On May 16, 2019, the applicant and owner submitted a Mills Act Contract Application for the property located at 1730 Spruce Street.

The subject building at 1730 Spruce Street was designed by Master Architect John Hudson Thomas (1875-1945) and constructed in 1914 for property owner Ernest L. Loring and designated as a City of Berkeley Landmark in 1989. The property is also listed on the National Register of Historic Places (Designation #89000857) under criterion C at the local level of significance.

III. Issues and Analysis

The historic resource consultant's *Historic Architectural Report for Mills Act Application* is provided as Attachment 1. This document includes the consultant's list of *Character Defining Features* (on page 4), *the Mills Act Work Program* for maintenance and repairs (page 4 - 5), and the City's financial analysis spreadsheet for estimating the potential Mills Act tax savings for this request. The proposed *Rehabilitation Work Program for Mills Act Application* (Attachment 2) outlines proposed building exterior and site improvements for the subject property over a projected 10-year period. Improvements to the exterior of the City Landmark building include, but are not limited to: replacing the existing roof, drainage and flashing, seismic improvements to the building, repainting exterior stucco and wood work, and repairing and repainting exterior windows and doors. Improvements to the site include replacing entry walkway paving to match existing, new lighting, landscaping and irrigation at the site.

Any future work on the exterior of the building that would not be considered ordinary maintenance and repairs would require review and approval by the Landmarks Preservation Commission in advance of completing the work.

All improvements included in the Rehabilitation Work Program are historic, character defining features of the building and site, except the irrigation system and landscaping. Please see Attachment 2, for the complete Rehabilitation Work Program.

The work plan items appear to be justifiable in that they constitute restoration, repair, rehabilitation and continued maintenance of the subject property. Further, they would provide for the property's "use, maintenance and restoration as to retain its characteristics as property of historical significance," as provided for in the Mills Act, Government Code Sections 50280 et. Seq., as authorized by the Berkeley City Council per Resolution No. 59,355 – N.S. For these reasons, staff concludes that the proposed tasks represent improvements that are consistent with the requirements of the Mills Act.

IV. Mills Act Contract Proposal

The intent of the Mills Act is to provide property tax relief so that the property owners entering into Mills Act Contracts with the City will spend the property-tax money that is

saved through the Contract on preserving and/or restoring their property. The applicant's proposed 10-year plan of improvements is summarized in Table 1 below.

Feature	Treatment (as recommended by historic resource consultant)		Estimated Year of completion
Exterior stucco cladding and woodwork	A - C	Repaint exterior stucco and wood work, including doors, windows and trim	2025
Exterior windows	B - C	Repair	2023
		Selective replacement (7 windows) to match existing	2025
Roof, drainage & flashing	D	Repair & maintain	2021-2025
		Re-roof, including drainage assembly repair & selective replacement	2028
Structural repair and strengthening	E	Construct new foundation, selectively remove and replace exterior materials to match existing, construct exterior shear wall at lower level kitchen wall & construct interior shear walls and bolts at crawlspace areas	2025
Front porch, walkway, lighting and plantings	F - G	Repair porch steps, replace entry walkway to match existing, new site lighting, and new landscaping	2025

The working financial analysis spreadsheet provided by the applicant at time of submittal, estimates that the cost of the owner's proposed improvements over a 10-year period is approximately \$177,340 and the estimated total tax savings over the 10-year period is approximately \$99,163, starting at an annual savings of \$9,026 and then decreasing to approximately \$8,950 by the tenth year of the program.

V. Recommendation

Staff has determined that all work proposed in the Mills Act Contract work plan provides for the properties "use, maintenance and restoration as to retain its characteristics as property of historical significance", and advises the Commission to recommend that City Council approve the Mills Act Contract request for the subject property.

Attachments:

1. Historic Architectural Report for Mills Act Application, received May 16, 2019
2. Rehabilitation Work Program for Mills Act Application, received June 25, 2019
3. 1730 Spruce Street Landmark Notice of Decision (1989)

Prepared by: Alison Lenci, Assistant Planner; alenci@cityofberkeley.info (510) 981-7544

