

HISTORIC RESOURCES GROUP

MEMORANDUM

Date: March 12, 2009
Project: Paso Robles Commissioner Training
To: Paso Robles Community Development Department
Attn: Ron Whisenand
From: Christy McAvoy
Re: Agenda – Educational Session #2

Paso Robles Planning Commission Training

First meeting: December 9, 2008

Second meeting: March 24, 2009

Third meeting: TBA

SECOND MEETING AGENDA

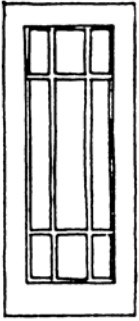
7:00 Introduction & Session Overview

7:10 Review Sample Ordinance Provisions:
Definitions
Structure and Authority
Criteria for Designation

7:50 Break

8:00 Review Sample Ordinance Provisions:
Procedure for Designation
Enforcement
Economic Effect

9:00 End of Second Session Training



HISTORIC RESOURCES GROUP

MEMORANDUM

Date: March 11, 2009
To: City of Paso Robles
From: Historic Resources Group
RE: **Summary of community comments from December 9, 2008 Meeting**

On December 9, 2008, Historic Resources Group conducted the first in a series of Historic Preservation Training sessions for the Paso Robles Planning Commission, City Council, City staff, and interested community members. These sessions are intended to present background information and establish precedent for the development of a preservation ordinance for the City of Paso Robles. The first session included a review of existing preservation language and procedures in the Paso Robles General Plan and Zoning Ordinance, and an overview of the components of an effective preservation ordinance. The session also included an opportunity for community feedback on the status of historic preservation in the city, and the primary goals for the preservation ordinance.

Following is a brief summary of the public comment:

IMPORTANT CONSIDERATIONS:

- Determine how the historic resources inventory list can be used for future planning and decision-making.
- Evaluate the different levels of preservation (for example, historic districts and conservation areas).
- Ensure that historic preservation policies do not contribute to blight.
- Determine who can initiate landmark nominations.
- Incorporate the Main Street plaque program into any recognition program established by the City.

PRIORITIES FOR THE ORDINANCE:

- Establish decision-making process for designation (Commission, Council).
- Use established National Register criteria in the development of a local designation program.
- Address economic considerations and incentives for historic preservation.
- Include standards for the rehabilitation of historic properties.
- Establish a procedure for the evaluation of significant interior features.
- Develop procedures and incentives that will encourage adaptive reuse of historic structures.
- Outline a procedure for the periodic review of the historic inventory, so that it is not a static document.
- Establish incentives for the creation of historic districts, as well as design guidelines for new construction in established districts.
- Incorporate interested stakeholders and create a decision-making body to address historic preservation issues.
- Create clear definitions.
- Implement incentives and procedures to foster pride of ownership.

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For Discussion Historic Preservation Ordinance City of Paso Robles



Prepared by
Historic Resources Group
March 2009

Historic Preservation Ordinance

City of Paso Robles



Prepared for

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March 2009

Historic preservation ordinances are the primary tool used to protect historic resources in a community.¹ Every local government in California has the authority to adopt a local ordinance which provides regulations applicable to historic properties. Because every community has different types of historic resources, populations, development pressures, etc., each local government should create a local historic preservation ordinance that best suits the needs and views of its community. The ordinance should enhance and expand upon existing preservation language found in the City's General Plan and Municipal Code. While there is no standard "model" for what an ordinance should contain, historic preservation ordinances will typically include the following:

- A provision for the establishment of a local historic preservation commission and the responsibilities and powers given to that commission.
- A provision for the establishment of a local landmarks list.
- An explanation of the criteria used to determine what properties can be designated under the ordinance and the process for such a designation.
- A definition of what types of alteration require design review and the process design review entails (including an appeals process).
- A provision for economic hardship in the case that designation or denial of a building permit would cause extreme economic hardship.
- A requirement that property owners maintain resources designated under the ordinance and guidelines for that maintenance.
- A provision including incentives for properties designated as historic resources.

¹ Guidelines for the creation of a preservation ordinance are taken from the California Office of Historic Preservation's Technical Assistance Bulletin 14: *Drafting Effective Historic Preservation Ordinances*.

DEFINITIONS

Effective preservation ordinances will include a thorough and carefully conceived set of definitions for essential terms. The ordinance needs to clearly differentiate between alterations and demolitions, and should outline the types of buildings, structures, or other features that are regulated under the ordinance, and define terms related to process.

SAMPLE LANGUAGE: DEFINITIONS

For the purposes of this ordinance, the following words and phrases are defined:

ADDITION is an extension or increase in floor area or height of a building or structure.

ALTERATION is any change or modification to a "historic resource."

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) means the California Public Resources Code Section 21000 et seq. and its related guidelines as they may be amended from time to time.

CALIFORNIA REGISTER OF HISTORICAL RESOURCES is a listing of archaeological and historic resources that meet the criteria for designation in the Register as defined in California Public Resources Code Section 5020.1, as it may be amended from time to time.

CERTIFICATE OF APPROPRIATENESS is an approved certificate issued for work on a "historic resource."

CERTIFICATE OF HARDSHIP is an approved certificate issued, in conjunction with a Certificate of Appropriateness, to permit demolition of a "historic resource."

CERTIFIED LOCAL GOVERNMENT (CLG) is a local government certified under Federal law by the National Park Service for the purpose of more direct participation in Federal and State historic preservation programs.

CHARACTER DEFINING FEATURES are the elements of a building, structure, or object that help convey the importance of a "historic resource" and were present during the resource's Period of Significance.

DEMOLITION means destruction that is so extensive that the historic character of a "historic resource" is completely removed and cannot be repaired or replaced.

GOOD REPAIR is the level of Maintenance and Repair which clearly furthers the continued availability of a "historic resource" for lawful reasonable uses and prevents deterioration, dilapidation, decay, and neglect of such resource.

"HISTORIC RESOURCE," also referred to as Landmark is a building, structure, object, place, landscape, or natural feature that is a locally-designated historic landmark, as approved by the City Council, pursuant to this Article.

HISTORIC PERSONAGE is an individual whose activities, contributions and impact to an important local, state or national historic context can be demonstrated through scholarly research and judgment. Properties associated with a Historic Personage illustrate (rather than commemorate) a person's important achievements and must reflect the time period in which he or she achieved significance.

HISTORIC PRESERVATION OVERLAY ZONE (HPOZ) is a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

HISTORIC RESOURCES SURVEY is a systematic and standardized process for identifying and gathering data on the City's potential historic resources for the purpose of evaluating the resources per local, State, and/or Federal criteria. A survey should be completed by persons meeting the Secretary of the Interior's Professional Qualifications Standards.

INTEGRITY is the ability of a "historic resource" to convey its significance, with consideration of the following aspects of Integrity: location, design, setting, materials, workmanship, feeling and association.

MAINTENANCE AND REPAIR is any work done to correct or prevent the deterioration, decay of, or damage to a building, structure or lot, or any part thereof, including replacement in-kind where appropriate, and which does not involve a change in the existing design or materials.

NATIONAL REGISTER OF HISTORIC PLACES is the official inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966(16 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63).

OWNER is any person, association, partnership, firm, corporation or public entity identified as the holder of title on any property as shown on the records of the City Clerk or on the last assessment roll of the County of San Luis Obispo, as applicable. For purposes of this section, the term Owner shall also refer to an appointed representative of an association, partnership, firm, corporation, or public entity which is a recorded Owner.

PERIOD OF SIGNIFICANCE is the span of time that a property was associated with important events, activities, or persons, or attained the characteristics that qualify it for designation.

PRESERVATION is the act or process of applying measures necessary to sustain the existing form, Integrity, and materials of a "historic resource."

PROJECT is work that is proposed to a "historic resource."

QUALIFIED HISTORIC PRESERVATION CONSULTANT is a consultant who meets the Secretary of the Interior's Professional Qualifications Standards, as defined in 36 CFR Part 61.

RECONSTRUCTION is the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION is the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

RELOCATION is the act or process of moving a "historic resource" from one site to another site, or to a different location on the same site.

RESTORATION is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES are the guidelines prepared by the National Park Service for Preserving, Rehabilitating, Restoring, and Reconstructing historic buildings and the standards for historic preservation projects prepared by the National Park Service with the most current Guidelines for Applying the Standards.

SUBSTANTIAL ALTERATION is a proposed Alteration to a "historic resource" that may cause a change in its Character-Defining Features.

STRUCTURE AND AUTHORITY

A preservation ordinance should identify the local entity charged with administering and enforcing the ordinance:

- The preservation commission can be a separate decision-making body within the local government; or
- The Planning Commission may act in the capacity of a preservation commission.

Composition:

- Members of a preservation commission are typically appointed by the City Council.
- Commissions usually consist of 5 to 9 members, but that is flexible depending on the size of the city.
- Term lengths and limits should be discussed so that the commission does not become too closely associated with any one individual.
- The City should consider whether to require professional qualifications for some or all commission members.
 - A broadly based membership can protect the ordinance and its administration from arbitrariness. Also, requiring professional credentials might prevent someone who is well-qualified but not professionally trained.
 - Some argue that the overall quality of preservation and design review suffers if commission members do not have solid credentials.
 - Often there is value in having a mix of backgrounds on a preservation commission.

SAMPLE LANGUAGE: STRUCTURE

For a separate commission:

- a) The Historic Preservation Commission shall consist of (5) members, three (3) public members and (2) Planning Commissioners. The public members shall be appointed by the City Council and the Planning Commission members shall be appointed by the Planning Commission Chair and affirmed by the City Council.
- b) The Commission is comprised of professional and lay members with demonstrated interest, competence or knowledge in historic preservation. Commission members shall be appointed from among the disciplines of architecture, history, architectural history, planning, archeology or other historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology to the extent that such professionals are available in the community. Commission membership may also include lay members who have

demonstrated special interests, competence, experience, or knowledge of historic preservation.

To enable Planning Commission to act as the Preservation Commission:

The Planning Commission shall perform and function as the city Preservation Commission.

Scope of Powers:

Once the composition of the commission is determined, their powers should be outlined. There is no commonly accepted set of responsibilities for a preservation commission, but there are common elements found in most ordinances.

Commission powers typically include:

- Survey and identification of historic resources
- Establishment of standards and procedures for designation of historic resources
- Designation of historic resources
- Review of applications for alteration, construction, or demolition of historic resources and all structures located within historic districts
- Enforcement of ongoing maintenance requirements
- Review of zoning amendments and comprehensive plans relating to historic preservation

Practical and legal requirements will also help shape the scope of powers granted to the commission. Issues to consider include:

- Whether to include control over exterior and interior changes to a historic resource.
- Whether to exempt certain changes or to allow minor changes to be approved by the Planning staff.
- How to provide the commission with adequate power to protect historic resources, which could mean allowing the commission to forbid demolition, and not just delay it.

SAMPLE LANGUAGE: AUTHORITY

The Commission shall have the power and it shall be its duty to perform the following acts:

- (a) Consider and recommend to the City Council additions to and deletions from the register of historic resources.
- (b) Keep current and publish a register of historic resources.
- (c) Make recommendations to the Planning Commission and the City Council on language related to historic preservation in the General Plan.
- (d) Adopt specific criteria for the designation of landmarks and historic districts subject to approval by the City Council.

- (e) Recommend to the city council that certain areas, places, buildings, structures, natural features, having a significant historical, cultural, architectural, community or aesthetic value as part of the heritage of the city be designated as landmarks, or that an area be designated a historic district.
- (f) In coordination with the Main Street Association, confer recognition upon the owner of designated landmarks or historic districts by means of certificates, plaques or markers.
- (g) Recommend that the City Council issue commendations to owners who have rehabilitated their property in an exemplary manner.
- (h) Pursue the designation of historic districts and national register nominations to enable property owners to make use of federal tax incentives.
- (i) Explore means for the protection, retention and use of any designated or potential landmark and historic district including, but not limited to, appropriate legislation and financing, such as encouraging independent funding organizations or private, local, state or federal assistance
- (j) Grant or deny applications for permits for demolition or major alterations to historic resources or potential historic resources.
- (k) Encourage public understanding of and involvement in the unique historic, cultural and architectural heritage of the city through educational and interpretive programs.
- (l) Explore means for the protection, retention, and use of any historic or potentially historic resource or district in the city.
- (m) Encourage private efforts to acquire property and raise funding on behalf of historic preservation; however the Commission is specifically denied the power to acquire any property or interest therein for or on behalf of itself or the City.
- (n) Recommend and encourage the protection, enhancement, appreciation, and uses of structures of historic, cultural, architectural, community, or aesthetic value which have not been designated as historic resources but are deserving of recognition.
- (o) Encourage the cooperation between public and private groups with an interest in historic preservation.
- (p) Advise the City Council and other Commissions as necessary on historic preservation issues.
- (q) Make recommendations on design review applications affecting designated historic resources.
- (r) Perform any other functions that may be designated by the City Council.

Final Review Authority:

Related to the scope of power is the issue of where final authority rests for designating structures and reviewing permit applications. Options include:

- Granting the preservation commission advisory authority only regarding designations and permit reviews, with no absolute power.

- Splitting the authority between the preservation commission, and the City Council. For example, the preservation commission makes decisions on permit reviews, which are appealable to the City Council; the City Council makes decisions on designations with advisory input from the preservation commission.
- Granting final review authority over designations and permit reviews with the preservation commission, with appeal to the City Council.

If other entities exist besides the preservation commission, such as a design review body, then the relationship between those entities should be carefully considered so that the jurisdiction of each entity is clearly defined and there are no duplicative review procedures.

CRITERIA FOR DESIGNATION

The most effective preservation ordinances are supported by methodical studies and surveys of the community's historic resources.

- The survey should be periodically reviewed and updated.
- Local officials can look to the survey for guidance when presented with development applications.
- Inclusion of a building, structure, site or district in a survey of potentially eligible historic resources is not the same as designation. A survey is only the first step toward affording a structure or district protection under an ordinance.

An effective ordinance should do more than state that the preservation commission can designate structures of "historical merit" without giving meaning to such terms:

- The National Park Service and the State of California have developed similar designation criteria for historic resources.
- While it is not required that local governments adopt similar criteria for their own designation programs, there are substantial advantages in doing so, including being relevant to environmental reviews conducted under CEQA and Section 106.
- For a resource to be designated as historically significant, it must meet at least one of the City's historic resources designation criteria and retain integrity, or the ability to convey its significance. It is important to note that integrity does not mean the physical condition of the property.

EXISTING MUNICIPAL CODE LANGUAGE:

The City of Paso Robles Municipal Code Chapter 17.16: Demolition of Buildings & Structures includes language for determining historic or architectural significance, which can be used as criteria for a local designation program:

17.16.040 *Determination of Historic or Architectural Significance*: Upon receipt of an application for a permit to demolish a building or structure, the city planner shall determine whether the building or structure is a potential historic or architectural resource using the following criteria:

- A. Inclusion on any list of historic and cultural resources, including, but not limited to, the National Register of Historic Buildings, the state list of significant historic buildings, the 1981-1984 Historic Resources Survey conducted by the community development department or any other recognized source of historic and cultural resources for the City of El Paso de Robles; and
- B. An evaluation of the building or structure based upon the following criteria:

1. Whether the building or structure reflects special elements of the city's historical, archaeological, cultural, social, economic, aesthetic, engineering, or architectural development; or
2. Whether the building or structure is identified with persons or events significant in local, state, or national history; or
3. Whether the building or structure embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or whether the building or structure represents an established and familiar visual feature of a neighborhood or community of the city.

When drafting designation standards, there are several important points to consider:

- Age should not be the only factor in determining historic status. Some ordinances will only consider a building that is over 40 or 50 years of age for historic status, but such a standard risks eliminating a number of worthy historic resources.
- A uniform age standard as a requisite to designation may prevent federal certification of the local ordinance for federal tax credit and other benefits.
- The ordinance should also recognize the need to regulate non-landmark buildings that serve as a setting or are adjacent to significant structures.
- The ability to designate resources related to each other in a distinguishable way or in a geographically definable area as historic districts should also be included in the ordinance.

DESIGNATION PROCEDURES

- The preservation ordinance should set forth a procedure to ensure that an owner of a property proposed for designation is given notice of the proposed designation and an opportunity for a hearing.
- The owner should be provided an opportunity to participate in the public hearing, but owner consent for a property to be designated is not encouraged. It is difficult to craft an effective historic preservation ordinance if owner consent is required. In addition, in other regulatory processes, such as zoning ordinances, individual property owners are not allowed to opt out of a zoning classification because it would render the system ineffective; the same consideration should be applied to preservation ordinances.
- The challenge is to balance preservation goals and the needs of the community as a whole, and to bring property owners into the preservation process in a positive way.

SAMPLE LANGUAGE: DESIGNATION

Historic resources and historic districts shall be designated by the city council upon the recommendation of the preservation commission in the following manner:

Initiation of Designation. Designation of a historical resource, an outstanding historical resource, or an historic district may be initiated by the preservation commission, by any resident of Paso Robles, or by the owner of the property that is proposed for designation. Applications for designation originating from outside the commission must be accompanied by such historical and architectural information as is required by the commission to make an informed recommendation concerning the application.

Public Hearing. The commission shall schedule a public hearing on all proposed designations, whether originating with the commission or with another party. If an application for designation originates from outside the commission, the public hearing shall be held within ninety days of the receipt of a complete application.

Work Moratorium. While the commission's public hearing or the city council's decision on the commission's recommendation is pending, the city council upon the commission's recommendation may declare a work moratorium. During the moratorium, any work that would require an alteration permit if the improvement were already designated a historical resource or outstanding historic resource or if it were already located in a historic district shall not be carried out. The work moratorium will end upon the earlier of the city council's decision on the proposed designation, the moratorium termination date designated by the city council, or one hundred eighty calendar days event from the date of commencement of the moratorium.

Notice. In the case of a proposed designation of a historic resource or outstanding historic resource, notice of date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of the property,

and to property owners within three hundred feet of the property, at least ten days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once in a daily newspaper of general circulation at least ten days in advance of the public hearing. The commission and city council may also give other notice as they may deem desirable and practicable. In the case of a proposed historic district, notice of the date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of all properties within the proposed district, and to all property owners within three hundred feet of the proposed boundary, at least ten days prior to the date of the public hearing, using the name and address of the owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised five consecutive days in a daily newspaper of general circulation at least ten days in advance of the public hearing.

Commission Recommendations. After the public hearing, but in no event more than thirty days from the date set for the public hearing, the commission shall recommend approval in whole or in part or disapproval of the application for designation in writing to the city council, setting forth the reasons for the decision.

Approval of Commission Recommendations. The city council, within sixty days of receipt of the commission's recommendations concerning proposed designations, shall by ordinance approve the recommendations in whole or in part, or shall by motion disapprove them in their entirety. If the city council approves a proposed designation, notice of the city council's decision shall be sent to applicants and owners of a designated property.

Amendment or Rescission. The commission and the city council may amend or rescind any designation of an historical resource, an outstanding historical resource, or historic district in the same manner and procedure as are followed for designation.

Conservation Districts:

The City may consider creating conservation districts which are geared to preserving the character rather than the historic fabric of existing neighborhoods, as an alternative to more stringent historic district regulations. Conservation districts typically do not meet criteria for a local, state, or national historic designation, but have important cultural, visual, or other importance.

Conservation districts can be established as either base districts or overlay zones within the local zoning ordinance.

ENFORCEMENT

The preservation ordinance will only be effective if provisions for its enforcement are included. Enforcement procedures should consider:

- Remedies for noncompliance.
- Maintenance and upkeep requirements.
- Ordinance administration.

Enforcement provisions should be strong enough to deter violations, but not so stringent that they become unreasonable. The City can consider monetary fines based on the degree of the offence, as well as provisions to prevent demolition by neglect.

SAMPLE LANGUAGE: ENFORCEMENT

Purpose and Intent. The purpose and intent of this subsection is to preserve, protect, and perpetuate the elements of the historic fabric unique to the historic resource or site and to stabilize the historic authenticity of the historic resource, building or site to prevent need for demolition or destruction due to neglect of important resources in the City's history. For purposes of maintenance and repairs, every effort shall be made to stabilize the resource, building or site so that its historical integrity is preserved in a manner consistent with the Secretary of the Interior's Standards.

Maintenance Requirements. To help meet the purpose and intent, the following maintenance requirements are established:

- **Water Protection.** Structures shall be maintained in a watertight condition to preclude intrusion by dry rot and other decay problems caused by water. Deteriorated, insufficient, or ineffective waterproofing or weather protection of exterior walls, roofs, foundations, floors, windows, or doors shall be promptly addressed and repaired to prevent further decay, deterioration, or possibility of injury to members of the public and/or property.
- **Facade.** The facade shall be properly maintained through repair, paint, or any necessary treatment, so as to prevent decay, water or moisture intrusion, damage to the structure, and/or injury to the public. Defective or insufficient weather protection for exterior treatments and facades, including lack of paint or protective covering shall be promptly addressed, and repaired or stabilized to prevent further decay, deterioration, and possibility of injury to members of the public and/or property.
- **Structure.** Roof, foundation, and structure shall be maintained through proper treatment and repair, to prevent decay, demolition by neglect, loss of historic materials and features, damage to the structure, and/or injury to the public. Defective materials or deterioration which may cause any or all

portions of roofs, foundations, walls, or other structural members to deteriorate shall be promptly addressed, and repaired or stabilized to prevent further decay, deterioration, loss of historic fabric, and possibility of injury to members of the public and/or property.

- Character Defining Features. The buildings elements such as cornices, chimneys, etc. shall be properly maintained to prevent decay, demolition by neglect, loss of historic fabric, and possibility of injury. Deteriorated or defective building elements shall be promptly addressed, and repaired or stabilized to prevent further decay, deterioration, loss of historic fabric, and possibility of injury to members of the public and/or property.

In addition to any other penalty authorized by law, failure to do so maintain shall constitute a public nuisance resulting in the issuance of an order that the owner perform the maintenance necessary to comply with this section. Any failure to comply with such an order shall entitle the City to cause the maintenance to be performed at the owner's expense and in addition to the penalties provided by this code for violation thereof, such cost may be recovered of such owner or occupant by civil action in any court of competent jurisdiction. In addition, any such costs shall become a lien against the property.

CONSIDERATION OF ECONOMIC EFFECTS

An effective ordinance will also typically include provisions for economic incentives and assistance to encourage preservation. Examples include:

- Mills Act property tax relief
- Reduction in parking requirements
- Allowance of a broad range of allowable uses
- Assistance programs to obtain private financing for rehabilitation
- Reduction in fees for necessary building permits
- Expedited processing of permit applications
- Use of the Historic Building Code

The ordinance must also include a procedure that allows a property owner to make a case that enforcement of the ordinance will cause unusual and extreme economic hardship. Considerations for economic hardship include:

- Whether the preservation regulation limits the economic return of the property, or if the regulation makes the property economically unviable.
- If the owner has made a bona fide attempt to rent or sell the property. If no attempt has been made and the owner is holding on to the property with plans for demolition, it is difficult to make a hardship case.
- If the owner can demonstrate that the existing use is not profitable, and it is not feasible to renovate or adaptively reuse the property.

If the owner can satisfy the preservation commission that preservation restrictions are causing an economic hardship, then the commission should have the flexibility to grant relief.

SAMPLE LANGUAGE: ECONOMIC EFFECT

An owner of a designated historic resource may request that he be allowed to alter the building in such a manner that will adversely affect its distinctive significance, or that he be allowed to remove the structure, on the basis of extreme financial deprivation or adversity.

The Preservation Commission shall be authorized to request the applicant furnish material evidence supporting his request for a Certificate of Economic Hardship. The Commission shall review all the evidence and information required of an applicant and make a determination within ninety (90) days of receipt of the application as to whether the denial of a Certificate of Appropriateness will deprive the owner of the property of all reasonable use of, or economic return on, the property.

If the applicant presents facts and evidence demonstrating to the Commission that failure to approve the application will cause an immediate hardship because of conditions peculiar to the particular structure or other feature involved, and the damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community, the Commission may approve such certificate.