

Proposal:	Mills Act Contract Applications by owners.
Case File Number /Location/ City Council District /Zoning:	<p>1) MA21-003: 1420 Magnolia St. (APN 5-378-21); City Council District 3, Zoning RM-2 S-20</p> <p>2) MA21-004: 1120 Chester St. (APN 4-85-24); City Council District 3, Zoning RM-2</p> <p>3) MA21-001: 1020-22 Bella Vista Av. (APN 23-389-11); City Council District 2, Zoning RM-1</p> <p>4) MA21-005: 671 Longridge Rd. (APN 11-885-21); City Council District 2, Zoning RD-1</p> <p>5) MA21-002: 901 Trestle Glen Rd. (APN 23-436-26-3); City Council District 2, Zoning RD-1</p>
Applicant/Owner:	Multiple, see five individual applications attached
Environmental Determination:	Categorically Exempt per CEQA Guidelines Sections: 15301 (Existing Facilities); 15305 (Minor Alterations in Land Use Limitations); 15306 (Information Collection); 15308 (Actions by Regulatory Agencies for Protection of the Environment); 15331 (Historical Resource Restoration/Rehabilitation); Section 15183 (Projects consistent with the General Plan or Zoning).
Action to be Taken:	Discuss and select applications to recommend for 2021 Mills Act contracts. Forward to Planning Commission as informational item. Forward recommendations to City Council.
For Further Information:	Contact case planner Betty Marvin at (510) 238-6879 or by email at: bmarvin@oaklandnet.com

BACKGROUND

The Mills Act is a California state law passed in 1972 that allows property owners and local governments to contract for a potential property tax reduction for participating historic properties, using an alternate tax assessment formula. The state law establishes a ten-year perpetually renewing contract term and penalties for non-fulfillment of the contract. Local governments (city or county) that elect to participate design other aspects of their own programs, such as eligibility criteria and work program requirements. Oakland requires that the property have local historic designation (Landmark, Heritage Property, S-7, or S-20) and *commits the owner to spending the amount of the tax savings on a pre-approved, recorded program of eligible improvements* that restore or maintain the historic exterior character of the building and/or its structural integrity. The relatively small tax benefit gives owners the means and motivation for high quality historically appropriate improvements, and can be especially beneficial for underutilized or undermaintained properties. Such projects further City goals including creation and preservation of housing, reduction of blight, and enhancement of neighborhoods. Oakland has approved 92 Mills Act contracts since the first contracts in 2008.

A two-year pilot Mills Act program was adopted by the Oakland City Council in 2006-07, partly as a recommended action from the West Oakland and Central City East redevelopment plans. In 2009 the City Council expanded the program and made it permanent. The 2009 ordinance authorized a City property tax revenue loss of \$25,000 a year in new contracts, with additional larger reductions in Redevelopment areas (\$250,000 a year in the Central Business District and \$25,000 a year in each of the other areas). Since the abolition of Redevelopment in 2012, the special Redevelopment tax formula no longer exists, but the (former) Redevelopment areas continue to be targeted for Mills Act contracts. The ordinance also provides that tax losses may exceed any of the limits with approval of the City Council.

To be eligible for a Mills Act contract, a property must be on an official register of historical resources (California Government Code [ARTICLE 12. Historical Property Contracts \[50280. - 50290.\]](#)).

Oakland's Local Register - about 3% of buildings citywide - is an umbrella category defined in Historic Preservation Element Policy 3.8 for the most significant historic resources in Oakland, whether designated by the Landmarks Board or identified by the Survey. It includes buildings with Oakland Cultural Heritage Survey ratings of 'A' or 'B', buildings in Areas of Primary Importance (APIs), and Designated Historic Properties (Landmarks, Heritage Properties, and properties in S-7 and S-20 districts). Oakland's Mills Act program requires that Local Register properties not already formally designated by the Landmarks Board must concurrently obtain Heritage Property or other formal designation from the Board.

By State law the Mills Act establishes an alternate method of calculating property taxes for participating properties based on the income method of appraisal. In this method, property value is extrapolated each year from actual or potential estimated rental income, using a capitalization rate or multiplier. Under the Mills Act the capitalization rate, usually around 10%, is adjusted by the County Assessor for "historic property risk" of 4% for owner-occupied residential properties or 2% for all others, giving potentially a 20 to 40 percent reduction of ad valorem property tax to Mills Act ("historical restricted") properties. (Special assessments are not affected.) Assessment may be pro-rated between owner-occupied and income portions of a property, or between historic and non-historic portions ([Revenue and Taxation Code - RTC / ARTICLE 1.9. Historical Property \[439. - 439.4.\]](#); <https://www.boe.ca.gov/proptaxes/pdf/lta05035.pdf> - State Board of Equalization).

Important features of the Mills Act program, established by the State legislation and incorporated into Oakland's Mills Act contracts, include:

- The Mills Act program is a voluntary program.
- The Mills Act contract is between the City and the owner of a designated historic structure.
- The initial contract is for 10 years. At the end of each year, the term is automatically extended one year, unless the owner or the City gives notice not to renew. If notice of non-renewal is given, the contract remains in effect for the balance of the current 10-year term.
- The agreement provides for periodic inspections to determine compliance with the contract.
- The penalty for breach of contract is 12.5 percent of the property's current market value.
- The basic State requirement is that the owner preserve, rehabilitate, and maintain the historical and architectural character of the property. Oakland's program further requires that the entire tax savings be invested back into the property according to a ten-year future work program that is recorded with the contract.
- The contract runs with the property, that is, its benefits and obligations automatically transfer to each new owner and the property is not reassessed to full market value upon sale.
- The largest tax reductions usually occur for properties purchased or reassessed in recent years and at high market values. For properties with existing low assessments, such as long-time owners, taxes cannot increase due to a Mills Act contract, but it is likely that they will not decrease.

CONTRACT CONDITIONS, ALL PROPERTIES

The Secretary of the Interior's Standards for Rehabilitation are incorporated as conditions in the Mills Act agreement (Attachment 6), and apply whenever permits are requested to carry out work program items. Especially in regard to windows, a significant item in most of this year's proposed work programs, attention is called to Standards 5 and 6:

5. **Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.**
6. **Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.**

The Model Mills Act Agreement (8 pages, Attachment 6) spells out obligations and procedures:

... Both Owner and City desire to enter into an Agreement to preserve the Property so as to retain its characteristics of cultural, historical and architectural significance and to qualify the Property for an assessment of valuation pursuant to Section 439.2(a) of the Revenue and Taxation Code of the State of California.

4) Preservation/Rehabilitation and Maintenance of Property (California Government Code Section 50281(b)1) During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:

- a. Owner(s) agree to preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the Property during the term of this Agreement as set forth in the attached schedule of improvements, which has been reviewed by the Landmarks Preservation Advisory Board and approved by the City Council No demolition or other work may occur which would adversely impact the cultural, historical and architectural characteristics of the Property during the term of this Agreement.
- b. All work on the Property shall meet, at a minimum, the Secretary of Interior's Standards for Rehabilitation of Historic Properties, the Office of Historic Preservation of the Department of Parks and Recreation ..., the Minimum Property Maintenance conditions ... the State Historical Building Code as determined as applicable by the City of Oakland and all required review and conditions of the Landmarks Preservation Advisory Board, the Planning Commission, the City Council, and/or the Department of Planning and Building of the City of Oakland.

2021 MILLS ACT APPLICATIONS

Mills Act applications are accepted from January to May of each year, to allow time for processing by the City and recording with the County by December 31. Five completed Mills Act applications were submitted this year and are before the Landmarks Board for review. Four of the five are also applying for Heritage Property designation at this meeting, while one is already a Designated Historic Property in the Oak Center Historic District (S-20 Preservation Combining Zone). All the 2021 applications are for small residential buildings (houses and duplexes).

Geographic Distribution and Outreach

The map on the next page illustrates geographic distribution of all Oakland's current and proposed Mills Act properties. For 2021, two of the five are in West Oakland, one in Bella Vista, and two in Lakeshore-Trestle Glen.

As in past years, at least weekly phone and email inquiries about the program were received from all parts of Oakland during 2020-2021. Applicants heard about the program from neighbors, real estate agents, neighborhood and preservation organizations, and the City website. In addition, staff mentions the program whenever contacted by owners, permit applicants, or real estate agents about seemingly eligible properties. Staff also emailed reminders to potential applicants from a list of 2019-20 and earlier inquiries. Staff and potential applicants discuss in detail to find out if the property is a good match for the program in terms of building significance, restoration needs, tax status, risk tolerance, commitment to a long-term work program, and more, and applicants ultimately self-select. This year several owners of highly qualified properties decided to wait till next year to apply, citing current economic uncertainty, pandemic conditions, and a desire to take time to better know their buildings. Staff will continue to remind them next year.

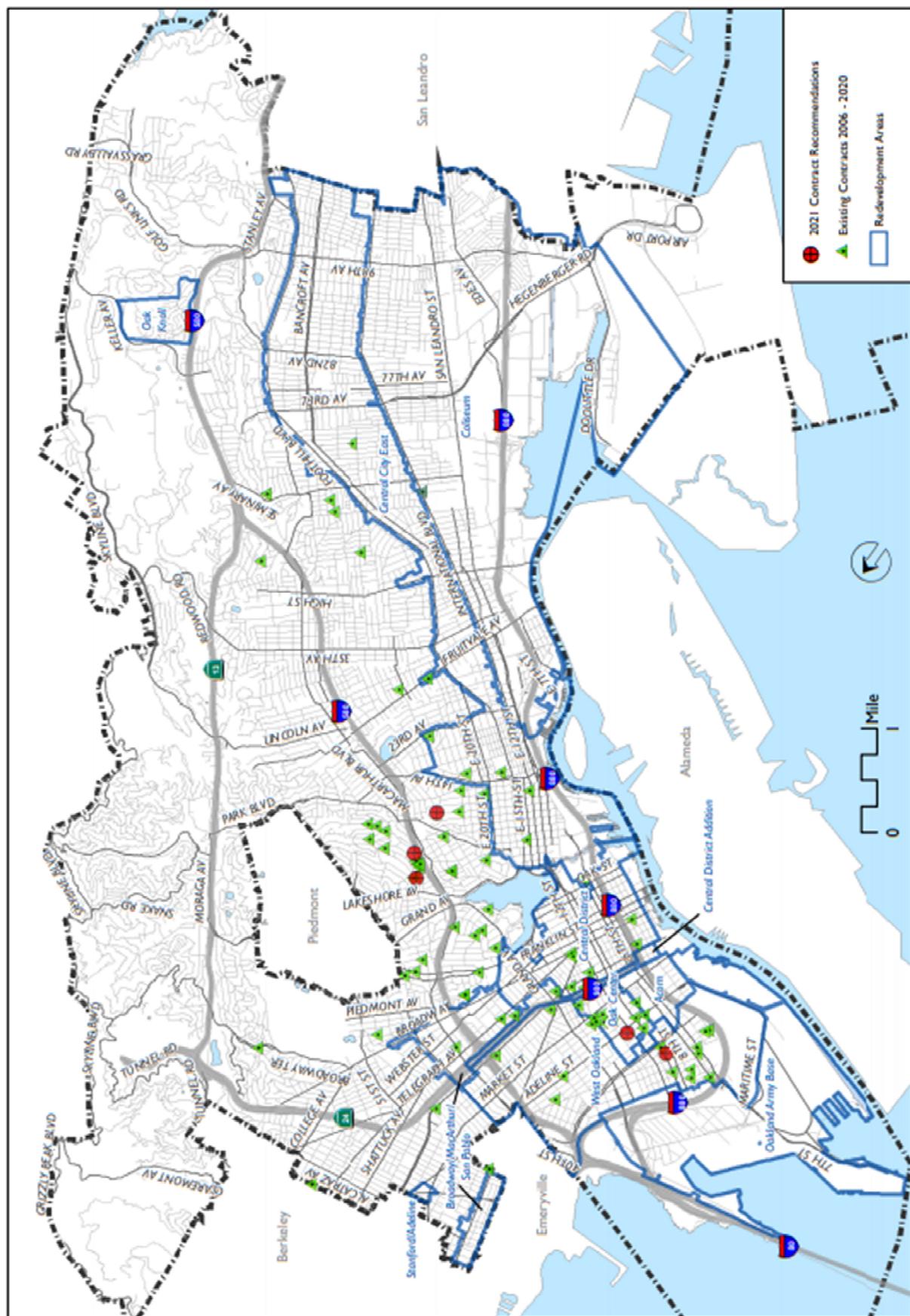
Applications were fewer than last year, and not as diverse in location and building type. Last year and the year before, planners actively encouraged several large-scale adaptive reuse applicants to use the Mills Act to support historically appropriate exterior restoration of significant but challenging properties, but similar projects were not forthcoming in 2021.

Historic Preservation Staff Review

Selection criteria for Mills Act applications were developed by a Landmarks Board committee and adopted by the Board during the first year of the Mills pilot program, to screen and rank applications, as well as to direct applicants as they develop their applications. Evaluation focuses on:

- *significance* of the property;
- immediate *necessity* of the work to prevent deterioration;
- *scope* of the work in relation to the estimated tax reduction;
- *visibility* of the work proposed, to act as a catalyst for neighborhood revitalization;
- *neighborhood* diversity, to spread the program to as many neighborhoods as possible;
- *building type* diversity, to illustrate use of the Mills Act for different types of properties;
- *thoroughness* of the application above and beyond being minimally complete.

Staff is recommending selection of all five 2021 Mills Act contract applications, as satisfying the applicable criteria for both historic designation and Mills Act participation. The Class of 2021's Mills and Heritage applications are all well researched, documented, and explained, and all present thoughtful plans to address significant restoration needs. Two properties are in the targeted former Redevelopment area of West Oakland (19 contracts so far), and the other three are east of the Lake in the enthusiastically participating Lakeshore-Trestle Glen neighborhood (12 Mills contracts so far) and in nearby Bella Vista. Further details are provided in the individual property summaries on the following pages and in the full applications, Attachments 1 through 5.



Mills Act Contracts and Contract Recommendations



Financial Impacts - 2021 Mills Act Applications

A simplified calculator on the City website <https://www.oaklandca.gov/search?query=mills+act> allows applicants to make a *rough estimate* of tax outcomes: see table of estimates for 2021 applications on the next page. Calculations are based on tax assessment data from Alameda County records and rental estimates from applicants.

Columns 2 and 3 list the current assessed value and ad valorem property tax for each property (note that special assessments – about \$1000 to \$1500 a year for most properties - are not affected by the Mills Act and are not reflected in the table).

Column 4 lists the *estimated* Mills Act ad valorem tax, using the state formula based on square footage and hypothetical or actual rent.

Column 5 lists the difference between current taxes and the *estimated* tax under the Mills Act.

Column 6 is 27.28% of the estimated change in taxes due to the Mills Act formula. The City receives approximately 27.28% of ad valorem property taxes, so 27.28% of the change is the estimated first-year reduction of property tax revenue to the City.

The range of estimates confirms the rough nature of these figures, especially as 2021-22 assessments have not been published at the time of this report. The 2022-23 Mills Act or “historical restricted” assessments based on the Assessor’s judgment of market rents will not be calculated and billed by the County until 2022.

Since the 1970s when the Mills Act program was created by the California legislature, and even since 2007-09 when Oakland’s program was adopted, tax outcomes of the Mills formula have been affected by changes in the California real estate market. Inflation of real estate prices and the Proposition 13 system under which properties are reassessed to market value only at change of ownership mean that new owners are likely to benefit much more than long-time owners. Because the Mills Act assessment formula is based on the income method of appraisal (using a hypothetical market rent), rising rental prices mean that Mills Act savings may be less than in early years of the program. According to staff at the Assessor’s office in 2016, “higher rents will have an impact on Mills Act restricted assessments. The restricted [Mills Act] assessment will be calculated using market rent as of January 1. An increase in market rents would yield a higher restricted assessment.” Assessment is done property by property in the new tax year (i.e., in 2022 for 2021’s contracts). Applicants were advised to put a higher rent per square foot in the calculator (at least \$2.50 to \$3 in 2021, vs. \$1.25 when the calculator was designed by consultants Economic Planning Systems Inc. in 2006). Lower Mills Act savings for owners would, of course, also mean less revenue reduction for the City.

Disclaimer (accompanies calculator on the City website and in instructions to applicants):

The online calculator that produces these estimates is an interactive spreadsheet based on the Mills Act formula for tax assessments, which uses a modified version of the income approach to appraisal. It gives a rough estimate of potential tax savings. The City makes no warranties or representations about the accuracy of the calculator – it is an information tool that applicants may use at their sole risk, and does not replace legal counsel or a financial advisor. Actual tax reductions, if any, will be calculated by the County Assessor’s Office after the Assessor has received the executed Mills Act contracts at the end of the calendar year.

ESTIMATED TAX RESULTS, 2021 MILLS ACT APPLICATIONS

1 Mills Act Application	2 Assessed Value 2021 (land & imps - county record)	3 Current ad valorem property tax (county rec.)	4 Mills ad valorem tax from calculator (based on owner's rent estimate)	5 Change in taxes (current less Mills estimate)	6 City Revenue Loss, Year 1 (27.28% of tax change)
MA21-003, Magnolia	\$836,000	\$11,676	\$3,267	(\$8,409)	(\$2,294)
MA21-004, Chester	\$652,000	\$9,128	\$2,756	(\$6,372)	(\$1,738)
MA21-001, Bella Vista	\$1,150,000	\$16,100	\$6,406	(\$9,694)	(\$2,645)
MA21-005, Longridge	\$2,189,000	\$26,221	\$9,044	(\$17,177)	(\$4,686)
MA21-002, Trestle Glen	\$1,052,383	\$14,457	\$7,760	(\$6,697)	(\$1,827)
TOTAL estimated taxes and reductions		\$77,582	\$29,233	(\$48,349)	(\$13,190)

An estimated City revenue reduction of \$13,190 for the five residential properties applying this year is well below the annual City revenue loss limit of \$25,000 for new Mills Act contracts. The City's share of ad valorem property tax revenue, and therefore of any tax reduction to the owners, is 27.28%. Since property owners must reinvest the *entire* tax saving in the restoration program, the City tax reduction leverages almost four times its value in reinvestment in Oakland's historic buildings. As the Mills work programs are carried out, this reinvestment will in turn result in higher assessed property values as well as tax revenues arising from the actual labor, materials, and permit fees.

Next Steps

Following Landmarks Board recommendation at this meeting, the selected Mills Act applications will be presented to the Planning Commission as an information item, to City Attorney and Budget for review, to City Council for a resolution authorizing the contracts, and to the City Administrator's office for review and signatures. After contract execution by the City and the applicants, contracts must be recorded with the County by the end of the calendar year. Heritage Property applications for the four properties that are not already designated are being reviewed by the Landmarks Board at this meeting. Staff has reviewed the applications and preliminarily determined that the nominated properties are all eligible for Heritage Property designation and Mills Act participation.

MILLS ACT CONTRACT APPLICATIONS

MA21-003: **1420 Magnolia Street** (APN 5-378-21) (see Att. 1)

Ellen Wyrick-Parkinson house, Stick-Italianate cottage, 1886-87

Applicants: Naveed Namaky and Victoria Hernandez, owners/residents

1980



OCHS Rating: C2+ (intensive, 1992), secondary importance or superior example.

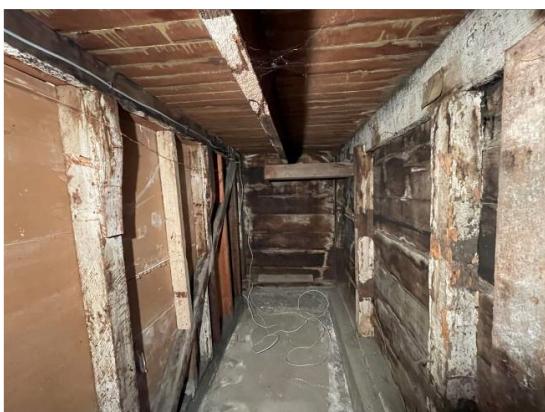
Designated Historic Property as contributor to Oak Center S-20 Preservation Combining Zone.

Work Program (Attachment 1):

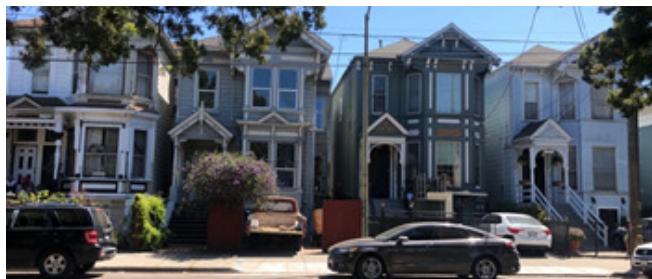
- anchor foundation, install shear walls, transfer ties, and blocking
- repair brick chimney
- restore windows from aluminum sash to authentic wood replica sash
- repair and restore ornamental woodwork, especially at front porch; paint house
- replace roof and gutters, repair eaves, fascia, and trim at roofline

Application Strengths:

- systematic repair program
- maintaining elaborate millwork
- 20th Mills Act project in West Oakland, 8th in Oak Center
- illustrates importance and quality of builder-designed houses in the neighborhood
- City Landmark potential as 40-year home of community activist Ellen Wyrick-Parkinson



MA21-004: 1120 Chester St. (APN 4-85-24) (see Att. 2)
 Carter (George & Mollie) house, Stick-Eastlake house, 1887
 Applicants: Reuben Tomar and Dylan Denicke, owners/residents



OCHS Rating: C1+ (intensive, 1989), indiv. secondary importance, Oakland Point API contributor
 Heritage Property Eligibility Rating: B (34/29 points) Determined eligible for National Register

Work Program (Attachment 2):

- seismic retrofit – replace brick foundation with concrete
- repair siding and trim and paint house
- double-hung wood-sash windows to replace aluminum throughout
- rebuild front stairs and railings; rebuild and restore Victorian entry door and transom

Application Strengths:

- thorough repair and reversal of alterations, hands-on understanding of building's needs
- highly visible project with catalyst potential for Prescott neighborhood
- 21st Mills Act project in West Oakland, target area in original Mills ordinance



MA21-001: 1020-22 Bella Vista Av. (APN 23-389-11) (see Att. 3)

Myers (J. S.) – Taylor (Fred & Elizabeth) house, Colonial-Craftsman, 1900-01, Leo Nichols arch., C. M. MacGregor bldr. Applicants: Nora Brereton and Patrice Chiquet, owners/residents



Right side of house – asbestos siding, original vs aluminum sash



Rear – stabilize upper sunporch as part of foundation work

OCHS Rating: Dc2+ (San Antonio survey, 1996): secondary imp., altered, district contributor

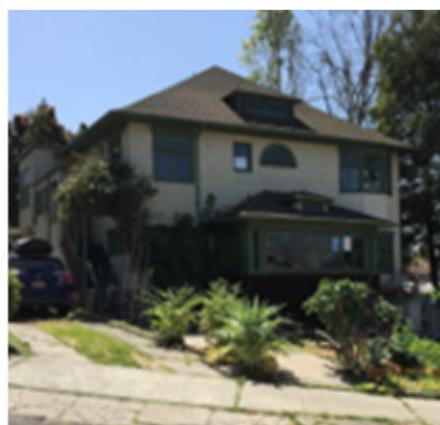
Heritage Property Eligibility Rating: B/C (33 points without deduction for alterations/20 as altered)

Work Program (Attachment 3):

- seismic retrofit of foundation including support for rear porch
- window repair and casement restoration including dry rot repair, sealing, and painting
- replacement of non-original windows with wood windows of matching design
- removal of asbestos siding to be based on exploratory assessment
- replacement and/or repair of shingles, siding, and wood trim

Application Strengths:

- transformative restoration of distinguished and prominently located house
- catalyst for neighborhood and example for other owners of asbestos-clad buildings
- sequence of work carefully thought out to suit owners' budget and comfort level
- foundation work coordinated with City's Brace and Bolt program
- first application in little-known historic Bella Vista Area of Secondary Importance



MA21-005: **671 Longridge Rd.** (APN 11-885-21) (see Att. 4)

Dowell-Chambliss house, Beaux Arts eclectic house, 1919-20, Albert Farr architect

Applicants: Bradley and Susie Cohn, owners/residents



2011>



OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor

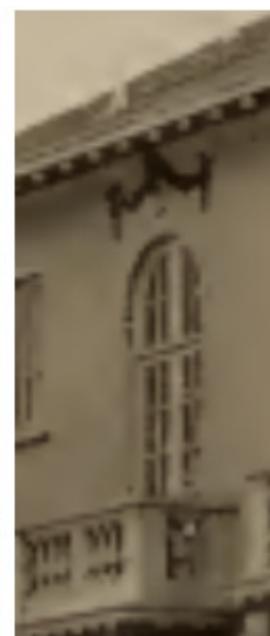
Landmark/Heritage Property Eligibility Rating: B (33/25 points)

Work Program (Attachment 4):

- seismic retrofit of foundation including support for rear porch
- retain eroding hillside on southwest property line
- replace fiberglass windows with period-appropriate wood windows
- restore cantilevered balconette on north (front) façade
- exterior stucco repair and paint

Application Strengths:

- addresses widespread problem of site stability on Lakeshore's hilly contoured lots
- 1921 published photo available to guide restoration
- first Mills application representing work of major California architect Albert Farr
- 13th application in Lakeshore Homes neighborhood, seeds of possible district designation



MA21-002: **901 Trestle Glen Rd.** (APN 23-436-26-3) (see Att. 5)

Tucker - Garden house, Normandy Revival-Moderne house, 1941, William E. Schirmer, architect
Applicants: Stephen and Laura Geist, owners/residents



OCHS Rating: C2+ (prelim., 1986): secondary importance, contrib. to Lakeshore-Trestle Glen ASI
Landmark/Heritage Property Eligibility Rating: B (34 points)

Work Program (Attachment 5):

- structural reinforcement: completing extensive foundation work over culvert
- repair steps, paths, driveway, garden features, etc. due to sinking ground
- repair windows and doors throughout
- wood shingle roof replacement, gutters and downspouts, rebuild failing upper chimney
- repair original copper light fixture
- exterior stucco repair and paint

Application strengths

- work addresses ongoing challenges of site over creek and culvert
- ambitious and comprehensive work program
- unusual 1940s Period Revival house by major Oakland architect W.E. Schirmer
- location marks effect of 580 freeway construction on the Lakeshore district
- 14th application in Lakeshore Homes neighborhood, seeds of possible district designation



RECOMMENDATIONS

1. Receive any testimony from applicants and interested citizens;
2. Discuss and provide recommendations on Mills Act applications for 2021; and
3. Based on the above discussion:
 - a. Recommend all or selected applications to City Council for 2021 Mills Act contracts;
 - b. Forward the recommendations to the Planning Commission as an informational report.

Prepared by:



Betty Marvin
Historic Preservation Planner

Approved by:



Catherine Payne
Acting Development Planning Manager

Attachments:

1. Application, work program, and photos: MA21-003: **1420 Magnolia Street**
2. Application, work program, and photos: MA21-004: **1120 Chester Street**
3. Application, work program, and photos: MA21-001: **1020-22 Bella Vista Avenue**
4. Application, work program, and photos: MA21-005: **671 Longridge Road**
5. Application, work program, and photos: MA21-002: **901 Trestle Glen Road**
6. Model Mills Act Agreement, including Secretary of the Interior's Standards for Rehabilitation