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Subtle Differences in Designating Historic Landmarks

By Sophie Braccini

According to the National Registry of Historic Places, "the historical and cultural foundations of the Nation should be preserved ... in order to give a sense of orientation to the American people." To encourage property owners to preserve a property as a historic landmark the government offers tax credits. To benefit from tax relief, landmarks must go through a review process.

Lafayette and Orinda have ordinances that regulate this process and Moraga is about to approve its own version. But each jurisdiction has specific rules and, although the findings may be similar, what makes a difference is the role property owners play in the process.

"Our ordinance allows both the property owner and the historical society to submit nominations for landmark designation and does not specifically grant the property owner any veto powers over the nomination," said Niroop Srivatsa, Lafayette's planning director. "When the City Council reviews the application, it does not say in the code that the owner can oppose the process, but the council listens to all parties and takes everyone's concern into consideration, including, of course, that of the property owner."

The code also encourages the Lafayette Historical Society to identify those landmarks that would benefit from being acquired by the city to ensure their preservation, according to Srivatsa.

But in Orinda, "The property owner needs to consent; we can't designate (a historic landmark) if a property owner doesn't want to," said planning director Emmanuel Ursu.

The ordinance that the Moraga Planning Commission recommended for approval to the Moraga Town Council in June also requires the property owner's consent, both at the time a property is nominated as a historic landmark and prior to the council's designation of a landmark. A final decision on the ordinance is expected at the end of the summer.

A historic landmark designation has advantages and constraints. In addition to the federal tax breaks given for maintenance and restoration, property owners can sign a Mills Act Agreement with the city. Orinda is the only Lamorinda jurisdiction that participates in the Mills Act program. "The (Mills Act) contract would reduce the assessed value of the property for tax purposes," explained Ursu. "It is an incentive to maintain, restore and rehabilitate a property." But, he does not know of an existing Mills Act agreement in Orinda.

The flipside of being a historic landmark is that the character of the property must be preserved.

"When Town Hall Theatre was flooded a few years ago, we could restore the interior as needed, but we could not change the exterior, including the color of the outside paint," says Mary McCosker, who sits on the board of the Lafayette Improvement Association, which owns the theater, and is also the president of the Lafayette Historical Society.

The historical society is a big part of the process in Lafayette and the Planning Department asks that property owners wanting to remodel properties of historical interest consult with the historical society - one example is the work currently taking place along Plaza Way. "The owners of the former Pioneer Store on Plaza Way are restoring that strip of buildings, and are working with us, looking at old pictures of the site to preserve the historical character of the landmark as they rebuild it," explained McCosker.

In Lafayette, if the nomination of a property to become a historic landmark is made by the property owner the historical society has a period of six months to investigate and make a recommendation. The Lafayette City Council then conducts a public hearing and provides an opportunity for all interested parties to express their opinions for and against the proposed landmark designation. The final decision is made by the council, which considers a series of criteria that include its historic significance, embodiment of distinguishing characteristics of an architectural type of specimen, and character as part of the development of the city, among other criteria.

In Orinda the Historic Landmark Committee meets once a month to establish a list of proposed historic landmarks for recommendation to the Planning Commission. The process is similar to what happens in Lafayette, but as Ursu noted, the property owner can oppose the designation.

Some of the Moraga buildings that are more than 50 years old and could become historic landmarks include the Hacienda de las Flores, parts of Saint Mary's College, the Moraga Ranch, and the Rheem Theatre. Orinda's historic landmarks include the deLaveaga home and train station, a mural at the BART station, the Orinda filter plant, and Casa Azul. In Lafayette, six properties have been designated as historic landmarks: Lafayette Plaza, the Way Side Inn, the former Pioneer Store on Plaza Way, Town Hall Theatre, a portion of Lafayette United Methodist Church (known as the Old Lafayette Grammar School), and a stone plaque on Happy Valley Road marking the site of the first settlement in Lafayette.

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