

June 13, 2005

2.	Location:	1966-68 San Pablo Avenue and 1972 San Pablo Avenue
	Proposal:	Notice of Intent to Submit an Oakland Landmark Application Form
	Applicant/Phone Number:	Winn Schwyhart (510) 652-1120
	Owner:	Winn Schwyhart -Title Holder City of Oakland Redevelopment Agency – Right to Possession and Use of Property pursuant to Order of Possession issued on March 28, 2005.
	General Plan:	Central Business District
	Zoning:	C-51 – Central Business Service Commercial Zone, S-17 – Downtown Residential Open Space Combining Zone
	Environmental Determination:	Exempt per Sections 15061 and 15331 of the State CEQA Guidelines.
	Historic Status:	1966-68 San Pablo Avenue, 1972 San Pablo Avenue: Potential Designated Historic Property (PDHP), Area of Secondary Importance (ASI) Contributor, Oakland Cultural Heritage Survey Rating C2+.
	Action to be Taken:	Per staff report.
	Service Delivery District:	Downtown Metro
	City Council District:	3
	For Further Information	Contact Joann Pavlinec (510) 238-6344, jpavlinec@oaklandnet.com

On May 25, 2005, a Notice of Intent to Submit an Oakland Landmark nomination for 1966-68 San Pablo Avenue and 1972 San Pablo Avenue was submitted by Winn Schwyhart, Title Holder of the properties. The Oakland Cultural Heritage Survey rating for both buildings is ‘C2+’ (C = Secondary Importance; 2 = In an area of Secondary Importance; + = Contributor to the ASI district).

BACKGROUND

Uptown Mixed Use Project Environmental Review and Entitlements

Both of these buildings are located in the Planned Unit Development (PUD) approved by the Planning Commission on June 1, 2005. The Planning Commission independently reviewed, analyzed and considered the Environmental Impact Report (EIR), including the Historic Architectural, Archaeological and Paleontological Resources section of the EIR (Attachment D) prior to acting on the approvals.

The EIR discusses the historic architectural resources within the project area (See page 206 of Attachment D). Five individual historic architectural properties and a portion of one historic district are within the Project area. Table IV.I.1 (Page 207) and Figure IV.I.1 (Page 208) reference 1966-68 and 1972 San Pablo Avenue as buildings #17 and #18. Table IV.I.1 lists both of these buildings as C2+, Not Historical Resources, and Potential Designated Historic Properties (PDHPs) and are further illustrated and described on page 210. The EIR states that 1966-68 and 1972 San Pablo Avenue are not considered historical resources for the purposes of CEQA, but do meet the definition of a PDHP. Policy 3.8 of the Historic Preservation Element lists:

- 1) All Designated Historic Properties: and
- 2) Those Potential Designated Historic Properties that have an existing rating of “A” or “B” or are located within an Area of Primary Importance;

as properties that constitute Oakland’s Local Register of Historical Resources for the purposes of environmental review. Neither 1966-68 nor 1972 San Pablo Avenue is a historic resource per Policy 3.8. Both are rated C2+. Both are located in an Area of Secondary Importance, the 19th and San Pablo Commercial District.

The EIR addresses the Historic Archaeological Sensitivity of the project area (page 214) including acknowledgement of residential, industrial and commercial land uses that may be associated with businesses and homes between the 1870s and the 1930s. It cites the Chinese neighborhood during the 1870s on the east side of San Pablo Avenue between 19th and 20th Streets, stating that archeological deposits that may exist from this period have the potential to provide information about an ethnic group’s assimilation by a dominant American culture, and the degree to which tradition lifeways were maintained or modified.

Mitigation Measures Hist-2 and Hist-3 (Pages 220-221) reduce potentially significant adverse impacts regarding potential underground cultural resources to less than significant. Mitigation Measures HIST-6 provides for reasonable efforts to relocate the PDHPS, including 1966-68 and 1972 San Pablo Avenue to an acceptable site, if feasible, per Policy 3.7 of the Historic Preservation Element. It also requires documentation of the buildings if the relocation is not feasible. These Mitigation Measures reduce potential adverse impacts to less than significant. Discussion of Impact HIST-7 states that OCHS documentation indicates that the 19th and San Pablo Commercial District’s integrity of setting has been diminished by surrounding uses that “differ in use and visual coherence” from the district’s contributing buildings. Therefore the Project’s effects on the setting of the 19th and San Pablo Commercial District would not significantly impair the district’s integrity. Mitigation measure HIST-8 requires the project applicants to establish a fair division of responsibility to fund mitigation measures to preserve information about the 19th and San Pablo Commercial District for future study. The EIR states that even with extensive documentation, however, a cumulative impact will result from the demolition of buildings in the 19th and San Pablo Commercial District’s contributing buildings. This will result in a significant, unavoidable cumulative impact. Statements of Overriding considerations are attached (Attachment F). The remainder of the impacts are less than significant (See pages 227 to 230).

Based on the June 1, 2005 Planning Commission’s review, and exercising independent judgment, the Planning Commission made a determination that the Uptown Mixed Use Project EIR can be applied to the required entitlements for the proposed Uptown Mixed Use Project.

The Landmarks Preservation Advisory Board (LPAB) had previously reviewed the Draft EIR at its October 6, 2003 regular meeting (LPAB Minutes – Attachment E). Most

Boardmember's comments focused on the Great Western Power Building. Several members suggested that the applicant explore the possibility of incorporating the buildings at 1966-68 and 1972 San Pablo Avenue as part of the project. The applicant, Forest City and the Redevelopment Agency explored several alternatives for this possibility. They were determined to not be feasible. A Boardmember also suggested moving the buildings. The applicant has indicated they will make the buildings available to be moved. One Boardmember did not agree with the Oakland Cultural Heritage Survey rating of C2+, a rating which determined that they would not be considered Historic Resources for the purposes of CEQA (Historic Preservation Policy 3.8). There was not an LPAB consensus or majority recommendation to the Planning Commission.

Notice of Intent

The Notice of Intent states that a Chinese merchant tailoring business, Hing Chong & Co. was established at 1966-1968 San Pablo Avenue by 1908. This business was part of a thriving Chinese garment district that formed along San Pablo Avenue in the late 1800s and early twentieth century. Also the Notice of Intent states that a recent draft archaeological plan notes the rich archaeological potential for this Uptown area.

The EIR certified for the Uptown Project acknowledges this historic Chinese neighborhood; information presented in the Notice of Intent is consistent with what was previously known and believed regarding these buildings and sites (See pages 206 to 210 of Attachment D).

As outlined in the EIR and discussed earlier in this report, the buildings do not meet the definition of historical resources for the purposes of CEQA. The project applicant will publish advertisements in local newspapers to notify the public of the buildings' availability for relocation. If relocation is not feasible, the demolition would constitute an adverse impact, but would not be considered a significant impact under CEQA. Mitigation Measures have been adopted to address the Chinese neighborhood and its potential for archaeological deposits (Mitigation Measures HIST-2 and HIST-3).

For purposes of the Uptown Mixed Use Project, the Notice of Intent does not change the applicability of the EIR because the Notice of Intent does not present any significant new information and the EIR acknowledged the historic presence of a Chinatown at the site, consistent with the information provided in the Landmarks application and no new analysis is required (Per CEQA Guidelines Section 15162). In addition, the Oakland Redevelopment Agency, holding an order of possession for the properties, has submitted an objection to the application to the Planning Commission for the record.

Eminent Domain

The Redevelopment Agency of the City of Oakland filed a Complaint in Eminent Domain to acquire the property interests for the two buildings under consideration for Landmark Designation. The Court issued an "Order for Possession" to the Agency on January 19, 2005, which was effective March 28, 2005. Thus the Agency has the right to possession and use of the subject property. However, pursuant to an agreement between the parties, defendant Winn Schwyhart has been allowed to continue to remain in

possession of the property until July 1, 2005 without waiving any of the rights of the Agency under the Order of Possession.

Based on the Agency's "Order for Possession," the terms of the disposition and development agreement as well as the approved Uptown Plans, the Agency has objected to the proposal for landmark designation (Please refer to the Redevelopment Agency letter dated June 1, 2005 – Attachment B). Per the General Plan Historic Preservation Element Policy 2.3d:

If a property owner submits a written objection to a proposed Landmark designation the designation will be approved only if the City Council determines either that (i) the objection is without substantial merit or (ii) the proposed Landmark is of Exceptional significance.

As stated in the Agency's objection letter, the proposal for the Notice of Intent is based on the assumption that the supporting evidence constitutes new information about the historic importance of the buildings. However, as stated earlier in this report, the information is consistent with what was previously known and believed regarding the sites and does not indicate any increased level of significance as a resource with regard to the buildings or other features of the site. Staff believes that based on the above discussion and the administrative record, neither of these findings can be made.

SUMMARY

A Notice of Intent to Landmark the referenced buildings in the Uptown project area was submitted on May 25, 2005. The Redevelopment Agency has been in the process of implementing the redevelopment of the Uptown project area for the last five years. The Landmarks Board reviewed and commented on the Draft EIR for the Uptown project, including demolition of these two buildings, on October 6, 2003. There was not any consensus or majority recommendation made by the LPAB. The administrative record for this project has adequately documented the historic significance of these buildings, including their use as part of the Chinese settlement of the area between the 1870s and the 1930s. This Notice of Intent to Landmark does not present any significant new information that would change these findings.

The EIR acknowledged and addressed (through Mitigation Measures that reduced the potentially significant adverse impacts to less-than-significant) the historic presence of a Chinatown at the site, consistent with the information provided in the Notice of Intent application before the Board. Therefore, no new CEQA analysis is required per CEQA Guideline 15162 – Subsequent EIR's and Negative Declarations. On June 1, 2005 the Planning Commission reviewed and approved entitlements for the Uptown Mixed Use Project based on the Uptown Mixed Use Project EIR.

The Redevelopment Agency (Right to Possession and Use of Property pursuant to Order of Possession issued on March 28, 2005) has objected to the Notice of Intent to Landmark. The City has received an objection to the Notice of Intent to Landmark from the

Redevelopment Agency. In order Landmark the buildings, the City Council would need to make findings that the owner's objections are without substantial merit or that the proposed buildings are of exceptional significance. Staff believes that neither of these findings can be made, and recommends that the application proceed no further.

RECOMMENDATION

Based on the information in this report and its attachments, staff recommends that the LPAB:

1. Receive testimony from the property owner, and interested citizens.
2. Make a recommendation to the Development Director to not proceed with the landmark designation.

Respectfully submitted:

CLAUDIA CAPPIO
Development Director

Prepared by:

Joann Pavlinec
Planner III, Historic Preservation,
Major Projects

ATTACHMENTS:

- A. Notice of Intent to Submit an Oakland Landmark and S-7 Preservation Combining Zone Application Form.
- B. Letter dated June 1, 2005 to Historic Preservation Planner from the Director of Redevelopment, Economic Development, Housing and Community Development
- C. Oakland Cultural Heritage Survey – 1966-68 San Pablo Avenue and 1972 San Pablo Avenue
- D. Historic Architectural, Archaeological and Paleontological Resources section of EIR
- E. LPAB Minutes – 10-6-03
- F. Statement of Overriding Considerations