

To: City Council  
From: Otis-Russell Street Neighbors of 2901 Otis  
Prepared by D. Mayeron (1927 Russell St. Tel. 510 8411800)  
Date: Nov. 6, 2005  
Re: Landmark Corner Frank R. Hull House (Structure of Merit #284)  
2901 Otis-Failure to Comply with Calif. Environmental Quality Act  
(CEQA)

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DM

#### Recommendations

1. Order City staff to remove the recommendation of granting of Categorical Exemption.
2. Order City staff to prepare an Initial Study pursuant to CEQA.
3. Deny ZAB's Notice of Decision as premature.

#### Points and Authorities

1. Chronological Sequencing of City's Planning Process Cannot Absolve City of CEQA Requirements.

The timeline of the permit process for the subject project may explain the Categorical Exemption given by staff and the lack of requiring an Initial Study by ZAB as Lead Agency. However, the facts now in front of the Council (Property designated a Structure of Merit by LPC on July 11, 2005 and categorized a demolition by staff) require the Council to recognize that the project is subject to full CEQA review. The recommendation of a Categorical Exemption by staff and subsequent approval of a Categorical Exemption by ZAB was premature and inappropriate. Therefore the permit must be nullified. (CEQA Guidelines, Section 15300.1)

Quoting from the Governor's Office of Planning and Research:  
Overview of the California Environmental Review and Permit  
Approval Process:

The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may file a Notice of Exemption. If the project is covered by CEQA, the lead agency must prepare an Initial Study to determine whether the project may have a significant adverse impact on the environment. The Initial Study

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must be completed within 30 days after an application is accepted as complete. (found at [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/intro.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/intro.html))

Therefore City Council should deny the permit, remand the application to ZAB with instructions to order staff to prepare an Initial Study under CEQA guidelines.

## 2. Removal of LPC's Designation as Structure of Merit by the City Council Does Not Grant the City Exemption from Conducting Full CEQA Review

City Council is now on notice that LPC with task and expertise to determine whether a structure has historical significance has determined that the Hull House property is a historic resource. This fact stands even if the LPC decision is countermanded by the Council. Therefore the City still has the duty to comply with CEQA Guidelines. (*Architectural Heritage Assoc. vs City of Monterey* (#H026443, Ct. of Appeals of Calif., 6th App. Dist.))