



Office of the City Manager

ACTION CALENDAR

June 12, 2007

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Dan Marks, Director, Planning and Development Department

Subject: LPC Appeal: 1300 Martin Luther King Jr. - Maybeck House

RECOMMENDATION

Adopt a Resolution to affirm the decision of the Landmarks Preservation commission (LPC) to designate 1300 Martin Luther King Jr. Way, the Maybeck House, a City of Berkeley Landmark, and dismissing the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

An application to initiate Landmark consideration for 1300 Martin Luther King Jr. Way was received by a petition of at least 50 verified residents of Berkeley, on October 5, 2006. The Landmarks Preservation Commission opened the public hearing on the designation December 7, 2006, and continued the hearing, with additional testimony at each meeting, to January 4 and February 1, 2007. The LPC closed the public hearing and took action on the Landmark designation on February 1, 2007.

The Landmarks Preservation Commission designated 1300 Martin Luther King Jr. Way, the Maybeck House, a City Landmark on February 1, 2007. The Notice of Decision (NOD) was issued on March 6, 2007, and an appeal was filed within 15 days thereafter, on March 20, 2007.

BACKGROUND

The Landmarks Preservation Commission, in its Notice of Decision, noted that the following points brought out in the record provided a basis for the designation of landmark status (NOD "whereases"):

“WHEREAS, the Maybeck House (1300 Martin Luther King, Jr. Way, Bernard R. Maybeck, 1892) was duly initiated for consideration of designation as a City of Berkeley Landmark on October 10, 2006, by petition of 50 citizens of Berkeley; and

WHEREAS, the public hearing for consideration of the Maybeck House was opened by the Landmarks Preservation Commission on December 7, 2006; initial public comment was heard, and the hearing was continued to the January 4, 2007 meeting; and

WHEREAS, the Landmarks Preservation Commission heard additional public testimony on January 4, 2007, and the hearing was continued to the February 1, 2007 meeting; and

WHEREAS, the Landmarks Preservation Commission heard additional public testimony on February 1 2007, and closed the public hearing; and

WHEREAS, consistent with 3.24.110.A.1, the Maybeck House has architectural value as the first significant property of its type in the region and as the prototype of an architectural movement. The House was the first home that Bernard Maybeck designed for himself. Maybeck's experiments on his own house provided the prototype for others that followed. The garden and house are the earliest example of how Maybeck wanted people to live: the home constructed of natural materials and integrated with the surrounding land; and

WHEREAS, consistent with Sections 3.24.110.A. 2 and 3.24.110.A. 4, the Maybeck House has historical and cultural value due to its association with the evolution of the Arts and Crafts movement in Berkeley and the development of the Bay Tradition in architecture. Charles Keeler, Maybeck's first client, began his association with Maybeck in Maybeck's "handmade house," a relationship that spawned the "Hillside Club" and its principle of building in concert with nature;

WHEREAS, consistent with Sections 3.24.110.A. 3, the Maybeck House has educational value as the very first of Maybeck's constructions in Berkeley. It may be studied as the seed from which germinated the rest of Maybeck's oeuvre, helping to define the Bay Tradition in architecture. In his day, Maybeck himself invited students into his home for informal studies in architectural design;

WHEREAS, the Landmarks Preservation Commission recognizes that alterations have been made to the Maybeck House over the years. However, many of the key features that identify Maybeck's work are still visible in the House. Although the Maybeck House has architectural value, the Commission also recognizes that the Maybeck House is also of irreplaceable historical and cultural value to the City of Berkeley."

RATIONALE FOR RECOMMENDATION

The appellants have raised the following points in their appeal (staff's responses follow each point):

**Issue:** The appellant states the reasons for the requested denial and/or modification of the Landmark designation include the claim that any designation of the architectural and historical value of the property is not justified by the available evidence and that the conditions attached to the Decision deny the owner a reasonable economic use of the subject property.

**Response:** The first assertion, that the designation of architectural and historical value of the property is not justified, is addressed in detail in the issues and responses below.

The second assertion states that the conditions attached to the Decision deny the owner a reasonable economic use of the subject property. Nothing in the Landmarks Preservation Commission decision prevents the owner of the property from continuing to use the property. It is not the case that a reasonable economic use of the subject property is denied solely by designation of the property as a landmark.

Moreover, the appellant does not provide additional information on which the assertion of loss of reasonable economic use of the property is based. The appellant may be referring to the statement of "features to be preserved" when referring to "the conditions attached to the Decision". If so, no information is provided to show either that the "features to be preserved" would constitute an unreasonable constraint on future use of the land, or providing information on the economic magnitude of the effect the appellant asserts. There is no basis for additional response.

**Issue:** The appellant requests the Council overturn the landmark designation or in the alternative to modify the decision to exclude the words Landmark site and garden and limit the designation to only the physical structure of the house.

**Response:** The use of the word "garden" is used in the findings contained in the "whereases". The Landmarks Commission's action designated specific "features to be preserved", which are all features of the physical structure of the house: "The central portion of the existing brown shingle structure with the shallow-pitched gable roof with wide eaves with knee braces; the two stacked dormers on the west slope of the roof; the one dormer on the east slope of the roof; on the west

facade, the windows on the south side; on the east façade, the two small first floor bay windows on the south side with their sunshades and existing window configuration”.

The concern expressed by the appellant was anticipated and addressed by the LPC, in that their action identified only features of the physical structure of the house to be preserved; the LPC has not required that any part or aspect of the garden is to be preserved. Thus this basis of the appeal is without merit and no change is needed. With respect to the specification of the landmark site, the Landmarks Preservation Ordinance requires the LPC to specify the “location and boundaries of the landmark site” as a means of identifying the location of the landmark. However this specification, by itself, does not constitute designation of the site as a landmark in itself. Thus, the appellant’s understanding of the NoD as designation of the entire site as a landmark is incorrect, and this basis of the appeal is also without merit.

Issue: “While ‘many of the key features’ of the Maybeck House have some architectural, historical and cultural value to the City, this particular house has been so significantly altered as to have little value as a Maybeck landmark. ... it was the owner’s own remodeling efforts in 1992, for which he received a Berkeley Architectural Heritage Association Award, that returned any of the original Maybeck features to the severely deteriorating building.”

Response: The Landmarks Preservation Commission evaluated the structure as it is now, compared to information submitted into the record about the past status of the house, and determined the landmark designation should include the features stated as “features to be preserved”.

Issue: “Garden” and “Landmark Site” should not be landmarks.

Response: This issue was responded to in the first and second “responses”, above.

Issue: The appellant “argues that the application for landmark status was filed solely to prohibit the proposed construction in the vacant backyard of the property”, and that the “building project should not be restricted” by the Landmark decision. “Modification, by limiting the Decision to only the physical structure of the Maybeck Home, would be a reasonable result of this appeal.”

Response: The timing of filing the application to initiate landmark consideration does not in itself provide reason to question the validity of the

Landmarks Preservation Commission's evaluation of the Landmark Application and all materials submitted into the record. As noted in the first "response", above, the Landmarks Commission confined the identification of "features to be preserved" to features of the physical structure, so the appellant's desire to confine the significant historic features in some manner is attained, simply in a manner that is different from the manner advocated by the appellant.

**Issue:** "Maybeck did not build the original Maybeck House". This statement, with details supporting the statement, is contained in "Response in Opposition to Application for Landmark Status for 1300 Martin Luther King Way," which was submitted to and considered by the LPC prior to the February 1, 2007 decision. This document is also attached as part of the appeal.

**Response:** The LPC took into account the body of information concerning the origins and modifications of the house, including the uncertainties in the historical record, in the course of their deliberation. The LPC concluded that, even though evidence was presented in the record that Maybeck did not design and/or build the original single story house on the site, he did design and build modifications to the structure, resulting in a "Maybeck" building.

**Issue:** "Maybeck lived in the Maybeck House for a limited period of time." This statement, with details supporting the statement, is contained in "Response in Opposition to Application for Landmark Status for 1300 Martin Luther King Way," which was submitted to and considered by the LPC prior to their February 1, 2007 decision. This document is also attached as part of the appeal.

**Response:** As detailed by the appellant, the association of the Maybeck family with the house appears to be from 1893 or 1894 to early 1900. Maybeck traveled in Europe in 1897 and 1898. While the time during which Maybeck lived in the house was limited, the Landmarks Preservation Commission evaluated this information, and determined that with respect to the evaluation required by the Landmarks Preservation Ordinance, "the Maybeck House has architectural value as the first significant property of its type in the region and as the prototype of an architectural movement. The House was the first home that Bernard Maybeck designed for himself. Maybeck's experiments on his own house provided the prototype for others that followed." A long period of residence is not required to establish architectural values.

Issue: “There are no photographs of the front or inside of the house”; “ the lack of photographic evidence makes it impossible to determine the similarity in appearance between the front of the original house and the current house”, and there are no photographs of the interior.

Response: The Landmarks Preservation Commission discussed the lack of photographs during the deliberation on this matter. The only “features to be preserved” on the walls of the house are “on the west facade, the windows on the south side; on the east façade, the two small first floor bay windows on the south side with their sunshades and existing window configuration”. Otherwise, the features to be preserved are roof forms and details: “the central portion of the existing brown shingle structure with the shallow-pitched gable roof with wide eaves with knee braces; the two stacked dormers on the west slope of the roof; the one dormer on the east slope of the roof”.

The Landmarks Preservation Commission took particular care in the specification of features to be preserved to avoid naming features that could not be associated with the historic status of the house through evidence in the record, such as photographs.

Issue: “The backyard is not a significant part of the house”.

Response: The backyard was not specified by the Landmarks Preservation Commission as a “feature to be preserved”. See comments under second “response” above.

Issue: The building lacks remaining Maybeck design. When the owner bought the property in 1992 it “had become what Jacomena Maybeck called a ‘slum’ for which the family was ‘ashamed’.” The appellant provides detail about the scope of changes that had occurred to the structure. Along with many specific details changed, the “original external structure on both the North and South sides of the building has been completely covered by subsequent additions. Regardless of how the North and South sides looked in 1895, today those sides simply do not exist since they have been replaced by new additions. The conclusion of the Keeler book is absolutely accurate the house was ‘unrecognizably altered.’ (p. 53) and Freudenheim agrees, ‘the house, though still standing on Grove St. near Berryman St., has been considerably altered from its original appearance.(p. 47)”

Response: The features to be preserved include features the Landmarks Preservation Commission found were likely to have been associated with Maybeck. The appellant notes that the North and South facades have been altered. The Landmarks Preservation

Commission has not designated any features to be preserved on those wall faces.

**Issue:** The Maybeck House is a poor example of a Maybeck design. Also, “No wonder the State Historic Resources Inventory concludes that in 1997 the property was ‘deteriorated’, considerably altered’, ‘no longer looking handmade’, and ‘is a prime candidate for restoration’ but it was not recommended for landmark status.”

**Response:** During the deliberation on this matter, the Landmarks Preservation Commission considered the importance of Maybeck as not only a Bay Area designer, but a nationally and internationally influential architect. As his career is of special importance, this building merits inclusion as a City landmark because it is part of the Maybeck body of work. The LPC noted that the Maybeck House has architectural value as the first significant property of its type in the region. Protection of an example of Maybeck’s early career is warranted to allow future generations to observe the genesis of his work through seeing actual projects from early in his professional career as well as during the peak of his creative life.

The actual date of the State Historic Resources Inventory (SHRI) form was October 2, 1977 (not 1997). Staff could not find any indication on the SHRI form that the form was intended to convey a recommendation as to landmark status, so on the basis of the SHRI form, it is not meaningful that the SHRI form did not make a recommendation for landmark status.

**Issue:** The acknowledged leading authority on Maybeck, Kenneth Cardwell, stated in his chronological list of Maybeck’s works and projects that 1300 Martin Luther King was purchased as a one story cottage in 1892, and remodeled and extended during the years 1892-1902. The Report submitted in support of the landmark application ignored the very important fact that Maybeck did not build the house from scratch, but purchased it as a one-story cottage.

**Response:** This information came to light during the hearing, and was documented by the appellant in his document titled “Response in Opposition to Application for Landmark Status” received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007. The work done to remodel and extend the building after it was bought by Maybeck represents Maybeck’s work.

- Issue: A photograph from the book the Simple Home, by Charles Keeler, was included in the application, but the full text of the caption in the book was not. The caption actually states that ‘... this first house of Maybeck’s still stands, **unrecognizably altered**, ...’ The omitted text is significant “because it gives an expert opinion of the current non-Maybeck condition of the house.”
- Response: This information came to light during the hearing, and was documented by the appellant in his document titled “Response in Opposition to Application for Landmark status” received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007.
- Issue: “The Report implies that the Berkeley dwelling on Berryman represents Maybeck’s ‘certain image of the influential Hillside Club’ (see Report footnote 12 referencing Longstreth). In fact, Longstreth contains only a passing reference to the Maybeck house which he said was being erected, ‘piecemeal’ (p. 326) and at this time he considered that Maybeck’s efforts ‘does not suggest the hand of a well trained architect’ whose ‘ability lacked aplomb.’ (p. 326)”
- Response: This information was provided to the Landmarks Commission by the appellant in his document titled “Response in Opposition to Application for Landmark Status”, received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007.
- Issue: “The Report states that the Berryman-Grove house helped develop ‘Maybeck’s vision of transforming Berkeley’s grass-covered rolling hills into an Arcadian garden landscape.’ (See Report footnote 17 referencing Limmerick) In fact, Limmerick, as with Longstreth, makes a limited reference to the Maybeck House which he says Maybeck discovered as an ‘odd rustic North Berkeley farmhouse he was remodeling for his family.’ (p.52) He also specifically identifies ‘Maybeck’s vision’ as being the Keeler house which he says was Maybeck’s ‘first opportunity to assimilate his thoughts from the Ecole.’”
- Response: This information was provided to the Landmarks Commission by the appellant in his document titled “Response in Opposition to Application for Landmark Status”, received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007.

Issue: “The Report in its item ‘15. Description ‘ appears to be quoting directly from the wording of the BAHA’s Resource Inventory, property #287. (SHRI) Significant phrases and comments from that inventory survey, however, have been intentionally omitted and distorted for the sole purpose of inflating the perceived value of the Maybeck House. “

Response: This information was provided to the Landmarks Commission by the appellant in his document titled “Response in Opposition to Application for Landmark Status”, received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007.

Issue: The Maybeck House was not identified in any one of several books on Berkeley architecture researched by the appellant. It was not identified in any of the books as a noteworthy property, or listed on any Berkeley tour map, or shown in any of several Berkeley landmark books. It was not considered to be interesting or special enough to be included in any of the books devoted to important Berkeley buildings.

Response: This information was provided to the Landmarks Commission by the appellant in his document titled “Response in Opposition to Application for Landmark Status”, received January 24, 2007 and considered by the Landmarks Commission when they deliberated the decision on the landmark status on February 1, 2007.

#### ALTERNATIVE ACTIONS CONSIDERED

Section 3.24.300 of the City of Berkeley Municipal Code provides that the attached appeal of a decision by the LPC may be disposed of by any of the following three Council actions:

1. Affirm LPC Decision: If the facts stated in or ascertainable from the application, the notice of appeal, the written statement of the commission setting forth the reasons for its decision, and other information constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the commission and dismiss the appeal; or
2. Set for Public Hearing: If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place of said hearing in the same manner as is provided for giving notice of the time and place for hearing before the commission as set forth in Section 3.24.140. The City Council may reverse or affirm wholly or partly, or modify any decision, determination or requirement of the commission and may make decisions or determinations or may impose such conditions as the facts

warrant and its decision or determination shall be final. Any hearing may be continued from time to time. If a public hearing is set on the appeal pursuant to the above, the Council must decide the appeal within thirty days from the date that the public hearing on the appeal is opened. If the Council is unable to act on such appeal within such time, the decision of the commission shall be automatically affirmed; or

3. Remand to LPC: The Council may refer the matter back to the commission for further consideration, in which case the commission shall conduct such further investigation as it shall deem advisable and report its conclusion to the City Council.

Staff believes that affirming the decision of the Landmarks Preservation Commission (alternative 1 above) is appropriate, because as stated above, the Landmarks Preservation Commission weighed the information provided by all parties, considered the criteria contained in the Landmarks Preservation Ordinance, and made the determination with appropriate reference to the criteria in the ordinance.

Alternative 2 is not recommended because there isn't new information or a demonstration of error on the Landmarks Preservation Commission's part for the City Council to consider.

Alternative 3 is not recommended because there isn't new information for the Landmarks Preservation Commission to consider.

#### CONTACT PERSON

Mark Rhoades, AICP, Land Use Planning Manager, Planning and Development Department, 981-7410

#### Attachments:

- 1: Resolution
- 2: Appeal Letter
- 3: Administrative Record Index
4. Administrative Record: Appeal of Landmarks Preservation Commission Decision to designate 1300 Martin Luther King Jr. Way a Landmark
5. Summary and Partial Transcript of LPC hearing conducted Dec. 7, 2006; Jan. 4, 2007; and Feb. 1, 2007

RESOLUTION NO. ##,###-N.S.

AFFIRMING THE DECISION OF THE LANDMARKS PRESERVATION COMMISSION TO APPROVE THE DESIGNATION OF 1300 MARTIN LUTEHR KING JR. WAY, THE MAYBECK HOUSE, AS A CITY OF BERKELEY LANDMARK AND DISMISSING THE APPEAL

WHEREAS, 1300 Martin Luther King Jr. Way, the Maybeck House, was duly initiated by petition of 50 citizens of Berkeley on October 10, 2006, and

WHEREAS, on December 7, 2006, the Landmarks Preservation Commission opened the public hearing and heard public testimony; and

WHEREAS, the Landmarks Preservation Commission continued the hearing open and took heard additional public testimony at the regular Landmarks Preservation Commission meetings of January 3, and February 1, 2007; and

WHEREAS, at its February 1, 2007 meeting, the LPC closed the public hearing and found 1300 Martin Luther King Jr. Way worthy of designation as a Landmark, and designated the site a landmark by a vote of 5-4; and

WHEREAS, on March 20, 2007, the property owner filed an appeal regarding the decision of the LPC; and

WHEREAS, on June 12, 2007, the City Council considered Staff's recommendation to uphold the decision of the Landmarks Preservation Commission and the public record and the reports and analyses presented at the LPC meetings and those prepared by staff, and voted to affirm the Landmark Preservation Commission decision to approve the designation of 1300 Martin Luther King Jr. Way, as a City of Berkeley Landmark.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley dismisses the appeal and affirms the Landmarks Preservation Commission decision to approve the designation of 1300 Martin Luther King Jr. Way, the Maybeck House, as a City of Berkeley Landmark.

