

<b>1.</b>	<p><b>Location:</b> 603 Embarcadero, Philbrick Boat Works</p> <p><b>Proposal:</b> Notice of Intent to Submit an Oakland Landmark and S-7 Preservation Combining Zone Application Form for Preliminary Determination of Landmark Eligibility</p> <p><b>Recommendation:</b> LPAB Action:</p> <ol style="list-style-type: none"><li>1. Receive testimony from the applicant, property owner, and interested citizens;</li><li>2. Review the Evaluation Sheet for Landmark Eligibility for accuracy, and if appropriate, make any necessary revisions;</li><li>3. Determine if the appropriate designation to pursue is Landmark or Heritage designation, or determine that Philbrick Boat Works is not eligible for Landmark or Heritage designation;</li><li>4. If the LPAB determines that Philbrick Boat Works is eligible for Landmark designation and if property owner comments have not been received, direct staff to send a second request;</li><li>5. If the LPAB determines that Philbrick Boat Works is eligible for Landmark designation and if property owner comments have been received and considered by the Board, direct the applicant whether to proceed/not proceed with the full application;</li><li>6. If the LPAB determines that Philbrick Boat Works is eligible for Heritage designation, direct staff to provide the applicant with full disclosure of Heritage Property preservation incentives and regulations;</li><li>7. If the application has been determined eligible for Landmark or Heritage Property designation, recommend to the Development Director that as a Mitigation Measure to reduce a significant and unavoidable impact (i.e. demolition of Philbrick Boat Works) to a potential Landmark/Heritage property, a potential Designated Historic Property, that the owner (the Port) relocate Philbrick Boat Works to a location in the Estuary, to mitigate the impact to Less than Significant.</li><li>8. Regardless of the Board's recommendation on Landmark Eligibility, recommend that the Port relocate Philbrick Boat Works elsewhere along the Estuary and that the relocation be included in the Development Agreement.</li></ol>
	<p><b>Applicant:</b> Russ Donovan</p> <p><b>Owner:</b> The Port of Oakland</p> <p><b>General Plan:</b> Estuary Plan Area</p> <p><b>Zoning:</b> M-40 – Heavy Industrial Zone Regulations</p> <p><b>Environmental Determination:</b> Exempt per Sections 15061 and 15331 of the State CEQA Guidelines.</p> <p><b>Historic Status:</b> Oakland Cultural Reconnaissance Survey rated the complex, 'F – less than 45 years old,' in 1986</p> <p><b>Service Delivery District:</b> 3 San Antonio</p> <p><b>City Council District:</b> 2</p> <p><b>For Further Information</b> Contact Joann Pavlinec (510) 238-6344, <a href="mailto:jpavlinec@oaklandnet.com">jpavlinec@oaklandnet.com</a></p>

**INTRODUCTION**

A Notice of Intent to Landmark Philbrick Boat Works at 603 Embarcadero, located within the proposed Oak to Ninth proposal boundaries, was submitted by Russ Donovan on June 14, 2005. The Development Director determined that review of this application by the Landmarks Preservation Advisory Board (LPAB) would run parallel with review of the full Oak to Ninth proposal, with respect to historic resources including any potential historic resources, by the LPAB. The LPAB is reviewing the full Oak to Ninth proposal, with respect to historic resources within the proposal at today's meeting.

It is staff's intention to pursue resolution concurrent with or prior to consideration of the Oak to Ninth Development Project.

**BACKGROUND**

***Historic Status***

This area of the City was not evaluated by the Oakland Cultural Heritage Intensive Survey. In 1986, the Oakland Cultural Reconnaissance Survey rated the complex, 'F – less than 45 years old.'

***Determination of Landmark Eligibility***

Jurisdiction for Initiation of Landmark designation is outlined Chapter 17.144 of the Zoning Regulations. Section 17.144.030C. – Initiation states:

- C. Landmarks Board Initiation: The Landmarks Preservation Advisory Board may initiate action to rezone any property to or from the S-7 zone or to establish, amend, or delete any designated landmark or landmark site. Such initiation shall be for the purpose of reviewing the merits of the proposal and shall not imply advocacy by the Board for the rezoning or other change.

The Landmarks Board adopted rules of procedure to further clarify the process for Preliminary Determination of Landmark or S-7 Eligibility, as follows:

After receiving the Notice of Intent, the Board shall review the Notice and the Secretary's preliminary eligibility recommendation and shall preliminarily determine whether the designation proposal meets either the landmark or the S-7 Zone designation criteria. In making such preliminary determination for proposed landmark designations, the Board may either accept the Secretary's evaluation sheet or prepare its own evaluation sheet. In any event, the Board shall adopt a written statement justifying its actions.

***LPAB Preliminary Evaluation Sheet for Determination of Landmark Eligibility***

Staff has prepared a LPAB Preliminary Evaluation Sheet for determination of Landmark Eligibility (See Attachment A).

Where an evaluation category rating appeared to fall between two of the possible ratings (e.g., VG and G), staff circled both ratings, resulting in an overall range of a rating, with the final determination to be discussed and determined by the Landmarks Board. Please see the attached Preliminary Evaluation Tally Sheets. The overall rating ranged between a high rating of 35.9 = 'A'(35+) and a low rating of 14.7 = 'C' (11-22). The rating range is between a low 'A' and a 'C'. The average rating would be 25.3 = 'B' (23-34).

***Relationship to the Oak to Ninth Project***

Philbrick Boat Works would be demolished as part of the proposal for the Oak to Ninth Project. The business presently leases the building from the Port of Oakland, the underlying property owner.

In the process of responding to the comments received about the Oak to Ninth Draft EIR, Carey and Co., historic consultant, has reviewed the Notice of Intent (See Attachment B). Based on their review of the Notice of Intent Form and supporting materials, a site visit and additional archival research, they have determined that Philbrick Boat Works does not warrant Oakland Landmark status which would require a rating of 'A' or 'B' on the LPAB Evaluation Sheet for determination of Landmark Eligibility. Carey's LPAB Eligibility rating of Philbrick Boat Works is a 'C' (11-22 points). See Attachment F for the Carey & Co. Historic Report.

**LANDMARK ELIGIBILITY CRITERIA AND  
HISTORIC ACTIVITIES**

The General Plan Historic Preservation Element (HPE) description of the Landmark Eligibility criteria describes them as 'very broad and open to interpretation.' The description continues, 'The Landmarks Preservation Advisory Board's "Guidelines for Determination of Landmark Eligibility" were partly intended to clarify the criteria and to improve the consistency of landmark eligibility determination.'

The majority of points for the Philbrick Boat Works preliminary evaluation fall within the History category. Most are familiar with Landmark status being conferred on structures having architectural excellence, and it is more typically the case that the majority of the points fall within the Architectural category. But Landmark status may also be conferred on places with solely historic significance, if the rating point system results in an 'A' or 'B' rating. And, in developing the Landmark Board's criteria, the Board placed greater significance on History, allocating a total of 60 possible points out of 100 to this category.

**January 9, 2006**

Since the majority of points for Philbrick Boat Works fall within the History category, the Board might consider Philbrick Boat Works as a historic, supportive maritime activity, as a possible framework for their discussion. Under the criterion of ‘Supportive Elements’, a category included in the criteria in the Oakland Cultural Heritage Survey (OCHS) but not included in the Landmark’s Board Eligibility criteria, ‘stores, institutions and other tenants located within buildings’ are included. Further description of Supportive Elements in the OCHS state that:

- a supportive element should generally be considered ‘especially fine or unusual,’ if the element is notable enough to warrant a separate evaluation.
- a long-established non-residential tenant or occupant rated at least ‘G’ (G = Supportive elements, but none which are especially fine or unusual) as a supportive element and can be rated higher if the tenant or occupant has special significance as measured by Criterion 7 (Person/Organization).

Although the Landmark’s Eligibility criteria do not include the Supportive Element category, the criteria include Person/Organization, under Category B. History. Staff’s Preliminary rating for Person/Organization in the LPAB Eligibility Sheet is ‘G’. The preliminary range of points in the entire ‘History’ portion (under which Person/Organization falls) for Philbrick Boat Works is between a low of 19 points and a high of 23 points (Carey and Co. rating – 27 points).

Based on this ‘History’ category rating, the Board may, in their review, consider Philbrick Boat Works as a historic resource in terms of the business activity rather than the building and site, a business that has been identified with Oakland and the Estuary, and through its contributions to the wood boat building industry, is a familiar business within the industry, identified with Oakland and its waterfront maritime industries.

The Board has previously conferred Landmark status on other atypical categories such as trees [e.g., the Arbor Villa Palm Trees (LM77-573), the Old Survivor Redwood Tree in Leona Park (LM80-134)] and sites [e.g., Southern Pacific Mole Westerly terminus of 7<sup>th</sup> Street (LM81-42) and the Site of Adobe Headquarters, Rancho San Antonio (LM75-221)]. This application might be thought of as the counter part to a site designation, an activity designation.

**Draft Implementation of the Historic Preservation Element** (April 5, 2000 Draft of an Ordinance Amending Title 17 (Planning Code/Zoning Regulations) of the Oakland Municipal Code)

Although not adopted, the Draft Implementation of the Historic Preservation Element is used as policy direction. In the April 5, 2000 most recent draft, Section **17.09.040 [DEFINITIONS]** of the Oakland Planning Code is amended to read as follows:

“**Landmark**” means an individual property or physical feature of special character or special historic, cultural, educational, architectural, aesthetic, or environmental interest or

value which has been designated as an HL1 (Class 1 Landmark), HL2 (Class 2 Landmark), or HL3 (Class 3 Landmark) zone by the City Council pursuant to Chapter 17.103A and the Rezoning and Law Change Procedure at Chapter 17.144 of the Zoning Regulations. Such properties include buildings, building components, structures, objects, sites, natural features related to human presence, and activities taking place on or within such properties.

**“Heritage Property”** means an individual property or physical feature of special character or special historic, cultural, educational, architectural, aesthetic, or environmental interest or value which has been designated as a Heritage Property pursuant to Chapter 17.103B. Such properties include buildings, building components, structures, objects, sites, natural features related to human presence, and activities taking place on or within such properties.

Under these definitions, Landmarks and Heritage properties include activities.

The question that arises from this rationale is “What if the activity (business) leaves Oakland for another location within the Estuary or for other maritime locations outside of Oakland or goes out of business?” Staff believes that an analogy can be made between a building and an activity, as a historic resource, as follows.

- *Relocation to another site within Oakland:* If a building is relocated from its original site to another site in Oakland, it would lose points under the category of ‘Site.’ However, loss of these points (between 2-4 points) would most likely not disqualify it. If Philbrick Boat Works were to relocate elsewhere along the Estuary, it would lose 3 points. If the Preliminary LPAB Eligibility were recalculated solely on History, the preliminary range of points would be modified to a low of 11.7 points = to a ‘C’ (11-22) rating to a high of 32.9 points = to a ‘B’ (23-34) rated resource. The Carey rating<sup>1</sup> would also remain a ‘C’ (11-22) rating.
- *Relocation outside of Oakland or Business no longer in existence:* If either of these two possibilities occurred, the historic resource would be considered an ‘inactive Landmark’, as a building that received Landmark designation and later demolished would be labeled ‘demolished Landmark.’

## **LANDMARK BOARD PROCEDURE FOR DESIGNATION**

It is the jurisdiction of the Landmarks Board to review the Notice and the preliminary eligibility recommendation and determine whether the designation proposal meets the Landmark designation criteria. The Board shall also consider owner comments, and any other information received concerning the proposal.

The full Landmark designation process is outlined below:

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<sup>1</sup> The Carey rating gives points only for the History category. The Architecture and Context Totals are ‘0’ in the Carey report.

**January 9, 2006**

- Notice of Intent to Submit an Oakland Landmark Combining Zone Application Form (*Applicant submitted Notice in June 2005.*)
- Schedule Notice of Intent for Board Consideration (*Scheduled for January 9, 2006.*)
- Notification to Property Owners of Board consideration of Notice of Intent; Request for Property Owner Comments (*Letter sent December 22, 2005.*)
- Preliminary Determination of Landmark Eligibility (*Before the Board for consideration on January 9, 2006.*)
- Second Request for Property Owner Comments
- Oakland Landmark Combining Zone Application Form
- No discussion of Landmark Prior to Board Deliberations
- Final Determination of Landmark Eligibility
- Resolution Initiating Landmark Designation

**Summary of Applicant-Submittal - Significance**

Please review the preliminary material submitted by the applicant (Attachment B). The “Philbrick Boat Works” has occupied and built boats in the Port of Oakland Building since 1946. The warehouse built on Clinton Wharf in 1935 is timber frame construction and covered in the original galvanized corrugated sheet metal. It is unaltered and the last remaining example of the working wharf warehouse district which was critical to Oakland’s maritime history.

Don Philbrick started the Philbrick Boat Works in 1934. He moved his boat building business to this site in 1946 and has manufactured, repaired and restored wooden boats continuously at this site. Philbrick Boats built all of the “El Toro’s” and “Melodies” sail boats used for recreation on Lake Merritt. Philbrick Boat Works is known nationally for their brand new boats as well as their award winning concourse restorations. Philbrick boats are prized as examples of craftsmanship and the boat builder’s art and have been the subject of Oakland Museum displays. Philbrick Boat Works is the last remaining original wooden boat builder left in Oakland. The Boat Works has produced over 5,000 handcrafted runabouts using tools, patterns, techniques materials and personal are more common to history than modern mass production.

**OPTIONS FOR BOARD DIRECTION**

Based on the above information, there are several directions the Board might pursue including:

- 1) Heritage Property Designation
- 2) Landmark Designation
- 3) Determination that Philbrick Boat Works is not eligible for Landmark or Heritage designation.

**1) Heritage Property Designation**

All Preliminary LPAB Eligibility evaluations (staff/Carey & Co.) have concluded that the proposal is minimally rated ‘C’. The Landmarks Board could determine that Philbrick Boat Works is eligible for “Heritage Property Designation.” Policy 2.5 of the Historic Preservation Element States:

- (a) Properties which definitively warrant preservation but which are not Landmarks or Preservation Districts will be eligible as Heritage Properties and may be so designated by either the Landmarks Preservation Advisory Board or the City Planning Commission.
- (b) Owners of properties being considered for Heritage Property designations will receive ample opportunity to comment on designation proposals.
- (c) Demolition, removal or Specified Major Alterations of Heritage Properties may normally be postponed for up to 120 days.
- (d) Heritage Properties shall constitute an officially adopted City register or inventory of historically or architecturally significant sites or places as defined by the State Historical Building Code.
- (e) The Heritage Property eligibility criteria, designation procedure and preservation regulations are set forth in the tables entitled “Heritage Property Eligibility Criteria and Designation Procedure (See Attachment C).

**Heritage Property Eligibility Criteria**

The Historic Preservation Element outlines Eligibility Criteria for Heritage Property designation (See Attachment C). A property is eligible for Heritage Property designation if it either:

- (a) has received an existing or contingency rating of “A”, “B”, or “C” according to the methodology of the Intensive Survey.

This area of Oakland has not yet been selected for an Intensive Survey. The OCHS Intensive Survey standards would be part of a comprehensive context, such as “Resources on the Estuary, 1850-1960” or “Maritime Activity in Oakland 1850-1960.” Single buildings are not evaluated under the OCHS Intensive Survey procedures, which require full original research. Therefore, Philbrick Boat Works would not qualify as eligible for Heritage Property designation under this criterion.

- (b) has received an existing or contingency rating of “A” or “B” from the Reconnaissance Survey;

The Oakland Cultural Reconnaissance Survey rated the complex, ‘F – less than 45 years old,’ in 1986. This area has not had a Reconnaissance Survey since 1986, when Philbrick Boat Works did not meet the age criterion for evaluation. Therefore, Philbrick Boat Works would not qualify as eligible for Heritage Property designation under this criterion.

**January 9, 2006**

- (c) contributes or potentially contributes to any area potentially eligible for Preservation District designation.

OCHS did not include Philbrick Boat Works in a preliminary district, but it could have been annexed to the 5<sup>th</sup> Avenue Marina ASI. Therefore, Philbrick Boat Works would not qualify as eligible for Heritage Property designation under this criterion.

**Draft Implementation of the Historic Preservation Element** (April 5, 2000 Draft of an Ordinance Amending Title 17 (Planning Code/Zoning Regulations) of the Oakland Municipal Code)

As outlined above, Historic Preservation Element Table 4-4: Heritage Property Eligibility Criteria eliminates properties that do not fit into any of the three above categories from possible Heritage Designation. Although not adopted, the Draft Implementation of the Historic Preservation Element is used as policy direction. In the April 5, 2000 most recent draft, Section 17.103B.110 Heritage Property eligibility criteria addresses this issue, as follows:

If not already included in the Historical and Architectural Inventory, the property shall be evaluated to verify its eligibility and added thereto prior to its designation.

Based on this direction, OCHS staff has filled out the OCHS Evaluation Tally Sheet (See Attachment D) based on the information submitted by the applicant for a total of 25 points = C (18-27 points). As stated earlier in this report, the Draft Implementation of the Historic Preservation Element definition of Heritage Property includes activities. Based on this, Philbrick Boat Works would qualify for “Heritage Property Designation” under the Historic Preservation, Heritage Property Eligibility Criteria (a).

**Heritage Property Designation Procedure**

The Historic Preservation Element outlines the first step of the Designation Procedure as follows (See Attachment C):

- (a) Heritage Properties may be designated by either the Landmarks Preservation Advisory Board or City Planning Commission after owner notification and acceptance. Full disclosure of Heritage Property preservation incentives and regulations are provided as part of owner<sup>2</sup> notification. Owners have 60 days to respond to designation proposals. If the owner objects to the designation or does not respond within 60 days, the Heritage Property can be designated by the Board or Commission for a period of time, during which the Heritage Property can be either designated permanently or de-designated. Owners are notified of such designations and advised on the appeal process.

While the owner has been notified of the Notice of Intent, submitted by the applicant, the owner has not been notified of a possible Heritage Property designation. Also, under Historic

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<sup>2</sup> Criteria for permanent Heritage Property designation over owner objection attached (See Attachment E, from Draft Implementation of Historic Preservation Element).

**January 9, 2006**

Preservation Element Policy 3.8, ‘Designated Historic Properties’<sup>3</sup> are included in the City of Oakland’s Local Register of Historic Resources. Therefore, if Philbrick Boat Works were designated a ‘Heritage Property’ by the LPAB, it would be considered a historic resource for purposes of environmental review under the California Environmental Quality Act. If the Board determines that Heritage Property Designation is the appropriate designation to pursue, staff recommends that the Board:

- 1) advise staff to notify the owner as outlined in (a) above;
- 2) recommend to the Development Director that as a Mitigation Measure to reduce a significant and unavoidable impact (i.e. demolition of Philbrick Boat Works) to a potential Heritage Property, that the owner (the Port) relocate Philbrick Boat Works to a location elsewhere along the Estuary, to mitigate the impact to Less than Significant.

**2) Landmark Designation**

If the Board determines that the application is preliminarily eligible for Landmark Designation, the Board shall consider owner comments before directing the applicant to move forward with the full application. The owner has been notified by letter (dated December 22, 2005) of the Notice of Intent via Registered Mail. As stated earlier in this report, the Draft Implementation of the Historic Preservation Element definition of Landmark includes activities. Also, under Historic Preservation Element Policy 3.8, ‘Designated Historic Properties’<sup>4</sup> are included in the City of Oakland’s Local Register of Historic Resources. Therefore, if Philbrick Boat Works were designated a ‘Landmark’ by the LPAB, it would be considered a historic resource for purposes of environmental review under the California Environmental Quality Act. If the Board determines that Landmark Designation is the appropriate designation to pursue, staff recommends that the Board:

- 1) recommend to the Development Director that as a Mitigation Measure to reduce a significant and unavoidable impact (i.e. demolition of Philbrick Boat Works) to a potential Landmark, a potential ‘Designated Historic Property’, that the owner (the Port) relocate Philbrick Boat Works to a location elsewhere along the Estuary, to mitigate the impact to Less than Significant; and,

If the property owner comments have not been received:

- 2) Direct staff to send a second request for property owner comments; and

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<sup>3</sup> An individual property that (1) is a designated landmark, (2) is located in a designated preservation District, or (3) is a designated as a Heritage Property. Any building, structure, or other feature located on a Designated Landmark Site or within the boundaries of a designated Preservation District is a Designated Historic Property.

<sup>4</sup> An individual property that (1) is a designated landmark, (2) is located in a designated preservation District, or (3) is a designated as a Heritage Property. Any building, structure, or other feature located on a Designated Landmark Site or within the boundaries of a designated Preservation District is a Designated Historic Property.

**January 9, 2006**

- 3) Set a date not less than 21 days nor more that 75 days after the date of the Board's preliminary determination of eligibility to consider and respond to owner comments on the proposal; Or

If the comments<sup>5</sup> were submitted to the Board, and they have been discussed by the Board:

- 4) Take the comments into consideration, and direct the applicant to proceed/not proceed with the application.

**3) Determination that Philbrick Boat Works is not eligible for Landmark or Heritage designation.**

The Board may determine that the application does not meet the eligibility criteria for either Heritage or Landmark Designation.

**RECOMMENDATION**

1. Receive testimony from the applicant, property owner, and interested citizens;
2. Review the Evaluation Sheet for Landmark Eligibility for accuracy, and if appropriate, make any necessary revisions;
3. Determine if the appropriate designation to pursue is Landmark or Heritage designation, or determine that Philbrick Boat Works is not eligible for Landmark or Heritage designation;
4. If the LPAB determines that Philbrick Boat Works is eligible for Landmark designation and if property owner comments have not been received, direct staff to send a second request;
5. If the LPAB determines that Philbrick Boat Works is eligible for Landmark designation and if property owner comments have been received and considered by the Board, direct the applicant whether to proceed/not proceed with the full application;
6. If the LPAB determines that Philbrick Boat Works is eligible for Heritage designation, direct staff to provide the applicant with full disclosure of Heritage Property preservation incentives and regulations;
7. If the application has been determined eligible for Landmark or Heritage Property designation, recommend to the Development Director that as a Mitigation Measure to reduce a significant and unavoidable impact (i.e. demolition of Philbrick Boat Works) to a potential Landmark/Heritage property, a potential Designated Historic Property, that the owner (the Port) relocate Philbrick Boat Works to a location elsewhere along the Estuary, to mitigate the impact to Less than Significant; and
8. Regardless of the Board's recommendation on Landmark Eligibility, recommend that the Port relocate Philbrick Boat Works elsewhere along the Estuary, and that the relocation be included in the Development Agreement.

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<sup>5</sup> Criteria for Landmark Designation over owner objection attached (See Attachment E, from Draft Implementation of Historic Preservation Element).

**January 9, 2006**

Respectfully submitted:

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CLAUDIA CAPPIO  
Development Director

Prepared by:

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Joann Pavlinec  
Planner III, Historic Preservation  
Major Projects

Attachments:

- A) Preliminary Eligibility Evaluation Forms for Landmark Eligibility and Evaluation Criteria and Ratings
- B) Notice of Intent to Landmark and Supporting Material
- C) Historic Preservation Element, Table 4-4: Heritage Property Eligibility Criteria and Designation Procedure
- D) Oakland Cultural Heritage Survey Evaluation Forms and Evaluation Criteria and Ratings
- E) Criteria for Landmark Designation over owner objection and Criteria for Permanent Heritage Property designation over owner objection, from Draft Implementation of Historic Preservation Element, April, 2000
- F) Carey & Co. Historic Report