From: Priscilla
To: Stanco, Kelley; Segur, Suzanne
Subject: [EXTERNAL] Public Comment Item #4 HRB Policy Oct. 13, 2025
Date: Sunday, October 12, 2025 11:18:32 PM

Kelley Stanco, Deputy Director, Environmental Policy & Public Spaces,

Suzanne Segur, Senior Heritage Preservation Planner,

Please share my suggested edits below with the Historical Resources Board (HRB) Policy Subcommittee members for Public Comment on Item 4: Preservation and Progress – Package A, Part 3.

For clarity, on page HP-28 of the draft Historic Preservation Element, 2nd paragraph, cross out "Historical Society" and insert "History Center," because that is the current name of the institution.

For clarity and consistency, on page HP-11 2nd paragraph last sentence and on page AP-60 5th paragraph last sentence:

- Please edit both pages together to ensure that the architectural styles are the same.
- Please insert "Spanish Colonial Revival" on both pages, since that style is recognized in San Diego and on the National Register.
- Consider inserting a reference to the San Diego Modernism Historic Context Statement for additional styles instead of the term "Modernist," which is not necessarily an architectural style that is recognized in San Diego.

Thank you.

Priscilla Ann Berge, Kensington, San Diego resident

Save Our Heritage Organisation
Protecting San Diego's architectural and cultural heritage since 1969

October 11, 2025

Policy Subcommittee of the Historic Resources Board
C/O Kelley Stanco, Deputy Director
Environmental Policy & Public Spaces Division
City of San Diego, City Planning Department
9485 Aero Drive, MS 413
San Diego, CA 92123
Email: KStanco@sandiego.gov

Re: HRB Policy Subcommittee Meeting – October 13, 2025
Preservation and Progress Package A

Dear Chair Byers and Members of the Policy Subcommittee,

SOHO submits these comments regarding the City's Preservation and Progress Initiative—specifically the proposed designation appeals process and the continued inclusion of the supermajority vote requirement for historic designations.

SOHO has major concerns regarding the proposed changes to the historic designation appeal process in the Municipal Code. As written, these changes create an unfair, one-sided system: only property owners could appeal a decision not to designate a historic resource. All others—community groups, applicants, historians, or interested citizens—would lose that right. That is neither fair nor consistent with the City's stated principles of public participation.

In practice, this means that if a deserving property is wrongly denied historic status, the applicant who invested time and money researching and nominating it would have no way to appeal. Only the property owner, who may oppose designation could do so.

This approach not only favors developers and property owners but also removes the community's ability to ensure that potential historic resources aren't lost through error or bias.

The City's justification that this change would "reduce misuse and delays" does not hold up. There is no evidence that appeals of non-designations have ever been abused.

The proposal contradicts the City's goals of equity and transparency. The Land Development Code states its purpose is to "facilitate fair and effective decision-making and to encourage public participation." The Preservation and Progress Initiative similarly call for an equitable process. Limiting who may appeal does the opposite—it excludes the public and grants one group special treatment.

We do support the provision giving appellants 90 days to submit supporting information. However, once that window closes, no new information should be accepted. This would prevent "last-minute surprises" and keep the process transparent and consistent for everyone involved.

Finally, the proposed new "grounds for appeal" would allow City Council to override the HRB's professional judgment. Adding vague new language permitting appeals based on "other considerations" invites political influence into what should remain an objective, fact-based process. This would weaken the integrity of the HRB's role and the credibility of historic preservation in San Diego.

We recommend and request the removal of the supermajority vote requirement. This rule, requiring six out of nine votes for a property to be designated has prevented countless eligible and significant historic sites from being protected. With the proposed changes allowing only property owners to appeal non-designations, retaining the supermajority rule would make it even harder to safeguard San Diego's historic resources.

We contend that the supermajority rule keeps San Diego out of step with nearly every other major California city and builds inequity into our preservation process. It is our understanding that neither the State Office of Historic Preservation nor the National Park Service recommends such a requirement for local designation.

The existing process already includes staff research and analysis, a professionally qualified board, public hearings, public comment and opportunities for appeal. These layers of review ensure fairness and accuracy without the need for a supermajority.

The current rule allows a small minority to block designations—even when a clear majority and staff agree that a site is significant. This has happened repeatedly, especially when one or two board members are absent.

Important resources have slipped through the cracks simply because not enough members were present, not because the properties didn't qualify. The rule contradicts the City's stated goals of fairness and public participation. Both the Land Development Code and the Preservation and Progress Initiative emphasize equity and access, yet this rule penalizes qualified nominations and undermines public trust and lessens equity.

These two issues diminish and weaken the role of HRB members, undermining the integrity of their professional expertise and public service. SOHO urges the Policy Subcommittee to remove the supermajority requirement and to preserve a balanced, transparent appeals process that allows full public participation. These changes are essential to maintaining fairness, credibility, and trust in the City's preservation program.

Thank you for the opportunity to comment,

Bruce Coons
Executive Director
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--A community organization dedicated to preserving the character, charm and historical resources of the Mission Hills neighborhood.

October 10, 2025

Policy Subcommittee of the Historic Resources Board
C/O Kelley Stanco Deputy Director
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Re: HRB Policy Subcommittee Meeting – October 13, 2025
Non-Agenda Comment Regarding Designation Process

Dear HRB Policy Subcommittee Chair Byers and Members,

Staff has presented their recommendations under Package A of the Preservation and Progress Initiative (P&P Initiative). Missing from these recommendations is removal of the supermajority requirement of SDMC §123.0202(e),[1] a revision that preservation groups and community members have repeatedly advocated in favor of during the comment period without response from City staff. Because application of the supermajority requirement frequently results in non-designation of meritorious resources, which under the current proposed amendments is only appealable by record owners, it is appropriate to consider the continued validity of the requirement alongside the appeal process amendments.

We, thus, present this letter as a non-agenda comment in support of removal of the supermajority requirement. Please note, these comments were prepared without the benefit of the "Benchmarking Study," which informs many of City staff's recommendations and which has not been released despite prior assurances.

Retaining the "supermajority" requirement makes San Diego an outlier and enshrines inequity in the historic resource regulations.

[1] SDMC §123.0202(e) provides, "The action to designate shall require the affirmative vote by six members of the Board."

- **The normative standard for designation decisions in the largest California cities is by majority vote.** See Los Angeles Charter, Art. 1, § 22.171.5 (powers of Cultural Heritage Commission shall be exercised by and adopted by "majority vote"); San Francisco Planning Code, Art. 10, §1004.3 ("The Board of Supervisors may approve, modify and approve, or disapprove the designation by a majority vote of all its members."); Long Beach Municipal Code, Title 2, § 2.63.060 (b)(2)(indicating recommendation for designation "shall be by a majority vote of the [Cultural Heritage] Commission."). To our knowledge, neither the California Office of Historic Preservation nor the National Park Service recommend supermajority vote for local designation.

- **Adequate safeguards exist to ensure fair and objectively accurate designations, which makes retention of the supermajority vote superfluous**. These safeguards include professional staff analysis, the requirement that the Historic Resource Board is comprised of experts, public notice and hearing requirements, and appeals of both designation and non-designation decisions. There is no valid reason to treat historic preservation as an exceptional land use decision when these multiple safeguards exist.

- **Retention of the supermajority vote undermines procedural fairness and discourages preservation of meritorious resources.** A supermajority vote requirement creates a minority veto problem, wherein a small block of members can prevent a designation even when staff and a majority of board members believe the nomination should be approved. The supermajority vote requirement has blocked multiple designations over the years when board member turn-out was low, but a simple majority agreed the resource was significant. See, e.g., William & Bertha Niemann Homestead, July 22, 2021, Item #7 (votes 5-1-2 in favor, with two absences and two recusals); 820 Fort Stockton Drive, September 28, 2023, Item #1 (5-3-0 in favor, two recusals and one absent); Alywn & Emily Patterson House, March 28, 2024, Item # 6 (5-3-0 in favor, two absent); 3320 Dale Street, November 24, 2024, Item #1 (5-3-0 in favor, two absent); Leona & Albert Winger Bungalow Court, January 23, 2025, Item #1 (5-2-0 in favor, with three absent); 2726 Angell Avenue, April 24, 2025, Item #2 (votes 5-2-0 in favor, with three absent).

- **The supermajority vote requirement is contrary to principles of equity embodied by both the P&P Initiative and the Land Development Code.** The P&P Initiative aims to make the historic resources program more equitable, and the overall intent of the Land Development Code is to ensure fairness and encourage public participation. See SDMC §111.0102 ("The intent of these procedures and regulations is to facilitate fair and effective decision-making and to encourage public participation."). Yet, the supermajority requirement has worked to preclude likely meritorious designations because of arbitrary absences of board members – a fundamentally unfair result.

Conclusion & Recommendation: For the foregoing reasons, the Policy Subcommittee should direct staff to remove the supermajority requirement from SDMC §123.0202(e) and require that only a majority vote is necessary for an action to designate.

Respectfully Submitted,

Mission Hills Heritage,
By: Robert Jassoy, President

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--A community organization dedicated to preserving the character, charm and historical resources of the Mission Hills neighborhood.

October 10, 2025

Policy Subcommittee of the Historic Resources Board
C/O Kelley Stanco Deputy Director
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Re: HRB Policy Subcommittee Meeting – October 13, 2025
Preservation and Progress Package A, Part 3, and Continuing Discussion of Designation Appeals Process

Dear HRB Policy Subcommittee Chair Byers and Members,

Enclosed is our response to City staff's recommended amendments of the historic designation appeal process provisions of San Diego Municipal Code. Please note, these comments were prepared without the benefit of the "Benchmarking Study," which informs many of City staff's recommendations and which has not been released despite prior assurances.

(1) The appeals process amendments, SDMC § 123.0203(a) and (b), create asymmetrical appeal rights that are fundamentally unfair.

- **The proposed appeal process raises Equal Protection Concerns under the U.S. and California Constitutions.** The Equal Protection Clause of the U.S. and California Constitution protects against uneven application of the laws. Thus, when similarly situated groups are treated differently under a statutory scheme and a non-suspect class is not involved, the government must show the scheme has a rational basis.

  Here, the amendment treats two similarly situated groups differently: Appellants who are record owners of property and appellants who are not (all other "interested persons" and applicants), with only the former group being permitted full appeal rights of both

designations and non-designations and the latter being permitted only appeals of designations.[1] Thus, disparate treatment of similarly situated groups exists.

This classification is not rationally related to the purpose of the historic resource regulations, which is to promote the preservation of historical resources. Instead, limiting appeals of non-designations to only record property owners works against this goal by precluding potentially legitimate claims of error on appeal and allowing potentially meritorious resources to go unprotected. Precluding meaningful judicial review and relief—especially in the instance where the appellant brought the nomination but is not the record owner and is an aggrieved party—cannot realistically be a legitimate state interest. Moreover, the proposed disparate treatment bears no relationship to any factual circumstances. As originally proposed, this amendment limiting appeals of non-designations to record property owners was to "reduce misuse and delays."[2] Yet, the disparate classification does not meet this end, since the same "delays" will stem from appeals of affirmative designation decisions and there remains a potential for abusive appeal practices of both designations and non-designations.[3] In other words, the disparate classification does not fix the alleged problem it was proposed to address and, thus, cannot be rationally related to the government interest of reducing delays and preventing malicious appeals. In sum, the disparate classification scheme is not rationally related to a legitimate government purpose and arguably violates the Equal Protection Clause.

- **The amendment is contrary to the intent and purpose of both the Land Development Code and the Preservation and Progress Initiative.** Giving appeal rights for non-designations only to record property owners favors developers and property owners, because it precludes other "interested parties" (individuals, applicants, community and/or preservation groups who participated in the nomination or hearings) from appealing a non-designation and precludes them from public participation. In the instance the would-be appellant was an applicant before the HRB, the proposed language will block this aggrieved party's access to judicial review. This result is contrary to the purpose of the

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[1] The SDMC §113.0103 defines "interested person," to mean "person who spoke at a public hearing from which an appeal arose or a person who expressed an interest in the decision in writing to that decision maker before the close of the public hearing."

[2] Members of the HRB's Policy Subcommittee unanimously adopted the asymmetrical appeal process, disallowing appeals of non-designations from applicants or interested parties, at the August 7, 2025, subcommittee meeting after presentation by Jennifer Ayala of Nexus Planning & Research. In her written comments, Ms. Ayala requested that appeals of non-designations be limited to record property owners, as follows:

> Appeals of Non-Designations – Please limit appeals of non-designations to property owners or voluntary nominations to reduce misuse and delays, which supports the goal of making historic determinations more efficient and protecting truly significant resources. [See Public Correspondence of Jennifer Ayala attached to August 11, 2025 Meeting, available at https://www.sandiego.gov/sites/default/files/2025-08/20250811_preservation_progress-package-a-part-1_comments-from-nexus.pdf.]

[3] The only abusive appeal practice in MHH's recent memory relates to the unmeritorious appeals of designation decisions by Clint Daniels, who regularly pulled items off the consent agenda and appealed affirmative designations to City Council. There are no facts to support abuse of appeals of non-designation decisions.

Land Development Code, which is expressly intended to "facilitate fair and effective decision-making and to encourage public participation," SDMC §111.0102, as well as the purpose of the P&P Initiative to ensure equity in the historic resource regulations.

Conclusion & Recommendation: An even-handed appellate procedure, where both interested parties and property owners can appeal non-designations, would be consistent with equal-protection principles and honor the purpose of both the Code and the P&P Initiative. Language allowing interested parties the right to appeal non-designations should be added.

(2) The amendment to SDMC § 123.0203(e) should preclude submission of additional evidence after the 90-day period.

We support the proposed amendment allowing for submission of additional information in support of the appeal within 90 days of filing the appeal. The section should be further amended to preclude submission of additional information after the 90 calendar days. This will disallow an appellant from submitting additional information at, or immediately before, the hearing. Such "surprise" introduction of evidence is prohibited by most court rules and the rationale for prohibiting the introduction of such information applies equally to administrative adjudication. The additional proposed language is included below in blue:

> Upon the filing of the appeal, the appellant shall submit additional information in support of the stated grounds for appeal within 90 calendar days or the right to appeal will be forfeited and the decision of the Board to designate or not to designate shall become final. T~~t~~he City Clerk shall set the matter for public hearing ~~as soon as is~~ practicable ~~-~~ no later than 90 calendar days after the date on which the additional information in support of the appeal is submitted by the appellant and shall give written notice to the property owner and the appellant of the time and date set for the hearing. Failure to hold the hearing within the time frames specified above shall not limit the authority of the City Council to consider the appeal. At the public hearing on the appeal, the City Council may by resolution affirm, reverse, or modify the determination of the Board and shall make written *findings* in support of its decision. **No additional information other than that information submitted within 90 calendar days of the filing of the appeal shall be considered at the hearing.**

Conclusion & Recommendation: Language precluding the introduction of information after 90 days of the date the appeal was filed should be added.

(3) The appeals process amendment, SDMC § 123.0203(a)(3) and (b)(3), provides a new ground for appeal that potentially allows City Council to supplant the HRB's designation determination with its own judgment or political preferences.

We do not support adding this new ground for appeal for the reason stated. Further, with respect to the appeal of a decision to not designate, the new ground that the decision "to not designate the property is a not supported by the information" constitutes a confusing double negative. The ground should be restated to indicate that "the designation is supported by the information provided to the Board, contrary to the Board's decision to not designate."[4]

[4] At staff's October 8, 2025, "Virtual Public Workshop on Preservation & Progress Package A," staff indicated an intent to further amend this provision given feedback that the language was "vague." To the

Conclusion & Recommendation: The new ground for appeal in SDMC § 123.0203(a)(3) and (b)(3) should be stricken. If retained, revise language of SDMC § 123.0203(b)(3) to remove the double negative language.

Respectfully Submitted,

Mission Hills Heritage,
By: Robert Jassoy, President

extent that staff introduces new proposed language at this subcommittee hearing related to these grounds to appeal, the subcommittee's consideration of such language is precluded under the Brown Act because any new amendments have not been properly noticed. Cal Gov. Code § 54954.2(a)(1) ("At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.").