



THE CITY OF SAN DIEGO

## Report to the Historical Resources Board

DATE ISSUED: March 9, 2017 REPORT NO. HRB-17-021

HEARING DATE: March 23, 2017

SUBJECT: **ITEM #9 – Ada Tenney Spec House #1**

CHRID: [CHRID Location](#)

APPLICANT: Alliance Real Estate Investments LLC represented by Scott A. Moomjian

LOCATION: 3104 33<sup>rd</sup> Street, 92104, North Park Community, Council District 3  
APN 453-572-30-00

DESCRIPTION: Consider the designation of the Ada Tenney Spec House # 1 located at 3104 33<sup>rd</sup> Street as a historical resource.

### STAFF RECOMMENDATION

Designate the Ada Tenney Spec House #1 located at 3104 33<sup>rd</sup> Street as a historical resource with a period of significance of 1924 under HRB Criterion C. This recommendation is based on the following finding:

1. The resource embodies the distinctive characteristics through the retention of character defining features of the Craftsman style and retains a good level of architectural integrity from its 1924 period of significance. Specifically, the resource retains horizontal wood lap siding, low-medium pitched roof with exposed rafter ends, an Oriental peak roof, exposed roof beams, exposed brick chimney, full width porch supported by tapered wood columns with brick supports, and wood windows.

### BACKGROUND

This item is being brought before the Historical Resources Board in conjunction with a proposed building modification or demolition of a structure of 45 years or more, consistent with San Diego Municipal Code Section 143.0212. The property is located in the North Park community in a predominately single family neighborhood.

The property was located within the boundary of the 2016 North Park Survey Report but was not identified in the survey because the property was not evaluated.

The historic name of the resource, the Ada Tenney Spec House # 1 has been identified consistent with the Board's adopted naming policy and reflects the name of Ada Tenney who constructed the house as a speculation house.

*Referral to the Historic Resources Board under SDMC [143.0212](#)*

On July 15, 2016 a member of the public reported to the Code Enforcement Division of Development Services Department (DSD) possible unpermitted work at the subject house. CE Division confirmed the proper permits were not obtained. On July 26, 2016, CE staff visited the site and notified the workers no additional work will be allowed be done on the site until the work was permitted.

On August 22, 2016, a permit application was filed and plans were submitted to the Development Services Department (DSD). Documentation for the Historic review was submitted on August 30, 2016. Historic staff completed review of the permit application on September 14, 2016 and found that the building was potentially eligible for designation prior to the unpermitted work that had occurred. Additionally, staff determined that the project proposed was not consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation (Standards). Comments provided to the applicant included the option to either revise the project consistent with the Standards (which included specific changes that would need to be made, along with an offer to meet with staff to discuss) or submittal of an historic resource research report that evaluated the building in its condition prior to the unpermitted work.

On December 1, 2016 the applicant submitted a historic resource research report. Staff reviewed the report and deemed it incomplete, requiring revisions to clarify the extent of modifications that existed prior to the unpermitted work. This review was completed on December 20, 2016. A revised report was submitted on January 13, 2017. On February 3, 2017, staff deemed the report complete and an email was sent to the property owner on February 6, 2017 with cycle issue comments. Staff informed the applicant that staff disagreed with the conclusion of the report, and that the property would be forwarded to the Historical Resources Board with a recommendation to designate the building.

#### Building Condition Evaluation

The City Attorney's Office issued a Memorandum of Law (MoL) dated April 18, 2007 which speaks to when the physical condition of a nominated historical resource must be evaluated by the Historical Resources Board for the purposes of designation (Attachment 2). This memo was issued in response to a similar situation where work began before a permit was obtained. The memo concludes that the Board must consider the building's condition at the time a building permit was applied for or should have been applied for. Therefore, the Board can and must evaluate the building prior to the unpermitted modifications.

The applicant's report provides an evaluation of the building prior to the unpermitted alterations, and includes Google street view photos of the building prior to the start of work. The analysis provided in this report will evaluate the building's eligibility under each Criterion based upon its condition and appearance prior to the unpermitted work, based on available photographs as well as information provided in the applicant's report.

## ANALYSIS

The Historical Resource Research Report prepared by Scott Moomjian concludes the resource is not significant under any HRB Criteria. Staff disagrees and finds that the site is a significant historical resource under HRB Criterion C. This determination is consistent with the *Guidelines for the Application of Historical Resources Board Designation Criteria*, as follows.

*CRITERION A - Exemplifies or reflects special elements of the City's, a community's or a neighborhood's historical, archaeological, cultural, social, economic, political, aesthetic, engineering, landscaping or architectural development.*

Research into the history of the property at 3104 33<sup>rd</sup> Street did not reveal any information to indicate that the property exemplifies or reflects special elements of the City's or North Park's historical, archaeological, cultural, social, economic, political, aesthetic, engineering, landscaping or architectural development. Therefore, staff does not recommend designation under HRB Criterion A.

*CRITERION B - Is identified with persons or events significant in local, state or national history.*

Research into the owners and tenants of the property at 3104 33<sup>rd</sup> Street did not reveal any individuals who could be considered historically significant in local, state or national history. Furthermore, no events of local, state or national significance are known to have occurred at the subject property. Therefore, the property is not eligible for designation under HRB Criterion B.

*CRITERION C - Embodies distinctive characteristics of a style, type, period or method of construction or is a valuable example of the use of natural materials or craftsmanship.*

Constructed in 1924, the subject property sits on a corner lot and fronts on to 33<sup>rd</sup> Street. The house features a low-medium pitched roof sheathed with asphalt shingles. The roof displays exposed rafter tails, a vergeboard that extends past the roof line with diagonally cut ends and an Oriental peak at the roof line. The exterior of the subject house is sheathed with horizontal wood lap siding with a beveled edge. The porch is full width and is supported by tapered wood columns supported by solid brick piers. The front entrance is centrally located on the porch. The entrance is flanked by two tripartite windows. Each window set features a centered fixed window with divided lights and a 1/1 double hung on either side. Above the front porch at the apex of the gable end is a slated vent. Additionally, the gable end features exposed roof beams.

The south side of the house features a brick chimney that pierces the roof line. The chimney starts wide at the base and narrows as it protrudes through the roof. The chimney is flanked by small windows on either side. At the center of this façade is a larger double hung window with four smaller sized windows at the southwest corner of the house. The north side features the ribbon driveway that provides access to the single car garage. The garage is similar to the main house with horizontal wood lap siding and a gable roof. The north side of the house features multiple windows spaced evenly on the plane. The west façade features windows that wrap the corner from the south side, a single access door with two additional windows north of the door.

While the report notes that the windows had all been changed to aluminum prior to the purchase by the current owners in 2016, the Google street view photos dated January 2015 indicate that there were a number of original wood windows in place as evidenced by the thick rails on the window sashes. There are no other photos of the house prior to the unpermitted changes to substantiate the assertion that all of the windows had been modified prior to the purchase of the property. The windows on the front façade, the large window on the south façade and the large windows on the north exhibit the larger sash rails consistent with wood windows. The small windows flanking the chimney and the small windows at the southwest corner all appear to be replacement jalousie windows. The other modification noted in the report is the exterior window security grills. The addition of security bars over the windows does not result in the loss of original historic fabric or features, and are not considered significant alterations in any way.

With origins in the British Arts and Crafts movement, born in response to the overly ornate Victorian aesthetic and the highly mechanized Industrial Revolution, Craftsman style architecture was popular in the United States largely between 1905 and 1930. Early examples by Greene and Greene were highly publicized in magazines, thus familiarizing the rest of the nation with the style. As a result, a flood of pattern books appeared, offering plans for Craftsman bungalows. One story vernacular examples are often called simply bungalows. Character defining features of Craftsman architecture include a low-pitched, gabled roof with wide, unenclosed eave overhang; exposed roof rafters; decorative beams or braces; full or partial-width porches supported by tapered columns or pedestals; decorative attic vents; wood or stucco cladding; and wood frame and sash windows in fixed, double hung and casement varieties.

Significance Statement: The house continues to convey the historic significance of the Craftsman style by embodying the historic characteristics associated with the style; including horizontal wood lap siding, low-medium pitched roof with exposed rafter ends, an Oriental peak roof, exposed roof beams, exposed brick chimney, full width porch supported by tapered wood columns with brick supports, and wood windows. Therefore, staff recommends designation under HRB Criterion C.

*CRITERION D - Is representative of a notable work of a master builder, designer, architect, engineer, landscape architect, interior designer, artist or craftsman.*

Research into the construction of the property at 3104 33<sup>rd</sup> Street failed to conclusively identify a builder, designer or architect. Therefore, the property is not eligible for designation under HRB Criterion D.

*CRITERION E - Is listed or has been determined eligible by the National Park Service for listing on the National Register of Historic Places or is listed or has been determined eligible by the State Historical Preservation Office for listing on the State Register of Historical Resources.*

The property at 3104 33<sup>rd</sup> Street has not been listed on or determined eligible for listing on the State or National Registers. Therefore, the property is not eligible for designation under HRB Criterion E.

*CRITERION F - Is a finite group of resources related to one another in a clearly distinguishable way or is a geographically definable area or neighborhood containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles in the history and development of the City.*

The property at 3104 33<sup>rd</sup> Street is not located within a designated historic district. Therefore, the property is not eligible for designation under HRB Criterion F.

OTHER CONSIDERATIONS

Designation brings with it the responsibility of maintaining the building in accordance with the Secretary of the Interior's Standards. The benefits of designation include the availability of the Mills Act Program for reduced property tax; the use of the more flexible Historical Building Code; flexibility in the application of other regulatory requirements; the use of the Historical Conditional Use Permit which allows flexibility of use; and other programs which vary depending on the specific site conditions and owner objectives. If the property is designated by the HRB, conditions related to restoration or rehabilitation of the resource may be identified by staff during the Mills Act application process, and included in any future Mills Act contract.

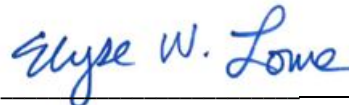
Since this item is associated with a permit, if the property is designated by the HRB, the applicant would have to process a permit to restore the property to its appearance prior to the unpermitted work. If the applicant wanted to maintain its current appearance, they would need to process a Site Development Permit per [SDMC §126.0504\(j\)](#). The applicant would also have the option to appeal the designation per [SDMC §123.0203](#).

CONCLUSION

Based on the information submitted and staff's field check, it is recommended that the Ada Tenney Spec House #1 located at 3104 33<sup>rd</sup> Street be designated with a period of significance of 1924 under HRB Criterion C as a good example of the Craftsman style.



Jodie Brown, AICP  
Senior Planner



Elyse W. Lowe  
Deputy Director  
Development Services Department

JB/ks/el

Attachment(s):

1. Draft Resolution
2. City Attorney Memorandum of Law dated April 18, 2007
3. Applicant's Historical Report under separate cover

RESOLUTION NUMBER N/A  
ADOPTED ON 3/23/2017

WHEREAS, the Historical Resources Board of the City of San Diego held a noticed public hearing on 3/23/2017, to consider the historical designation of the **Ada Tenney Spec House # 1** (owned by Alliance Real Estate Investments LLC, PO Box 928769, San Diego, CA 92192) located at **3104 33rd Street, San Diego, CA 92104**, APN: **435-572-30-00**, further described as PAR 2 in the City of San Diego, County of San Diego, State of California; and

WHEREAS, in arriving at their decision, the Historical Resources Board considered the historical resources report prepared by the applicant, the staff report and recommendation, all other materials submitted prior to and at the public hearing, inspected the subject property and heard public testimony presented at the hearing; and

WHEREAS, the property would be added to the Register of Designated Historical Resources as **Site No. 0**, and

WHEREAS, designated historical resources located within the City of San Diego are regulated by the Municipal Code (Chapter 14, Article 3, Division 2) as such any exterior modifications (or interior if any interior is designated) shall be approved by the City, this includes but is not limited to modifications to any windows or doors, removal or replacement of any exterior surfaces (i.e. paint, stucco, wood siding, brick), any alterations to the roof or roofing material, alterations to any exterior ornamentation and any additions or significant changes to the landscape/ site.

NOW, THEREFORE,

BE IT RESOLVED, the Historical Resources Board based its designation of the Ada Tenney Spec House # 1 on the following findings:

(1) The property is historically significant under CRITERION C for its distinctive characteristics through the retention of character defining features of the Craftsman style and retains a good level of architectural integrity from its 1924 period of significance. Specifically, the resource retains horizontal wood lap siding, low-medium pitched roof with exposed rafter ends, an Oriental peak roof, exposed roof beams, exposed brick chimney, full width porch supported by tapered wood columns with brick supports, and wood windows. This finding is further supported by the staff report, the historical research report, and written and oral evidence presented at the designation hearing.

BE IT FURTHER RESOLVED, in light of the foregoing, the Historical Resources Board of the City of San Diego hereby approves the historical designation of the above named property. The designation includes the parcel and exterior of the building as Designated Historical Resource **Site No. 0**.

BE IT FURTHER RESOLVED, the Secretary to the Historical Resources Board shall cause this resolution to be recorded in the office of the San Diego County Recorder at no fee, for the benefit of the City of San Diego, and with no documentary tax due.

Vote: N/A

BY: \_\_\_\_\_  
COURTNEY ANN COYLE, Chair  
Historical Resources Board

APPROVED: MARA W. ELLIOTT,  
CITY ATTORNEY

BY: \_\_\_\_\_  
CORRINE NEUFFER,  
Deputy City Attorney

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1100  
SAN DIEGO, CALIFORNIA 92101-4178  
TELEPHONE (619) 533-5800  
FAX (619) 533-5856

**Michael J. Aguirre**  
CITY ATTORNEY

**MEMORANDUM OF LAW**

**DATE:** April 18, 2007

**TO:** Historical Resources Board

**FROM:** City Attorney

**SUBJECT:** When the Physical Condition of a Nominated Historical Resource Must Be Evaluated by the Historical Resources Board for Purposes of Designation.

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**INTRODUCTION**

This memorandum arose following the unauthorized, partial demolition of a private property, *after* a construction permit had been applied for, *after* the applicant was told by the City that the property may be historically significant, *but before* the City or the Historical Resources Board had had an opportunity to review the property, as required, in conjunction with the permit review process prescribed by the local Land Development Code. This matter caused the Historical Resources Board to question when a potential historical resource, in terms of its physical condition, must be evaluated for purposes of designation. The memorandum resolves this issue for historical resources whether nominated by the Historical Resources Board, the City Manager or, the City Council, or any member of the public.

**QUESTION PRESENTED**

What is meant by “current condition” for purposes of the Historical Resources Board designating an historic resource pursuant to its duties under the San Diego Municipal Code [SDMC] section 111.0206(d)?

**SHORT ANSWER**

When the Historical Resources Board evaluates a historical resource, where the nomination arises from SDMC section 143.0212, the “current condition” of the resource refers to when a project application is submitted to the City. The Board evaluates and designates historic properties, as part of the land development review process, in reliance on the information provided to the City at the time of project submittal. Where nominations arise outside SDMC

section 143.0212, the “current condition” of the resource refers to when a research report or similar documentation, prepared pursuant to the Historical Resources Guidelines, is submitted to the Board, as such submission, like a project application submitted to the City for a permit, triggers review for designation.

### **BACKGROUND**

On September 5, 2006, the owner of a single-family home located at 4004 Lark Street applied for a construction permit with the City. On October 5, 2006, pursuant to SDMC section 143.0212, because the project application indicated the home was over 45 years old, the City required a site-specific historic research report to assess the historical significance of the property. On November 15, 2006, neighbors notified the Historical Resources Board staff and Neighborhood Code Compliance that partial demolition had begun on the property. On or about November 22, 2006, the City issued the owner a Notice of Violation, for failure to obtain a permit before starting work. The non-permitted work included removal of two windows, part of the roof, a brick chimney, the entry door, concrete stairs, and original clapboard siding. These modifications are considered an “adverse impact to an historical resource,”<sup>1</sup> according to a January 11, 2007 staff report, recommending designation of the subject property. January 11, 2007 Historical Resources Board Staff Report No. HRB-07-004, Item #9 – August and Mabel Blaisdell Spec House #1, p. 3. On November 28, 2006, the owner submitted a site-specific historical research report which concluded the property is not significant based on its demolished condition. At the January 25, 2007 meeting of the Historical Resources Board, a motion was made to designate the property as an historical resource, as a good example of a Craftsman bungalow structure, pursuant to the local designation criterion C in the Draft Guidelines for the Application of Historical Resources Board Designation Criteria," November 2006, p. 11-13. The property owner countered that the property could not be designated because the property no longer possessed sufficient integrity in its current condition meaning at the time of the vote. Board members then questioned whether the property should be evaluated based on its condition at the time of the hearing or at the time the project was submitted for permit review. Pursuant to SDMC section 123.0202 (d) the item was continued at the request of the property owner.

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<sup>1</sup> A substantial adverse change to an historical resource under the California Environmental Quality Act (Pub. Res. Code § 21000 et. seq.) “. . . includes demolition, destruction, relocation or alteration such that the significant of an historical resource would be impaired Pub. Res. Code § 5020.1(q). While demolition and destruction are fairly obvious significant impacts, it is more difficult to assess when change, alteration, or relocation crosses the threshold of substantial adverse change. The CEQA Guidelines provide that a project that demolishes or alters those physical characteristics of an historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource's significance." See “California Environmental Quality Act (CEQA) and Historical Resources,” California Office of Historic Preservation, Technical Assistance Series # 1, at p. 9.



## ANALYSIS

### **I. Fair and Effective Decision Making Can Only be Facilitated by Using a Consistent Point of Review for Designation Depending on the Origination of the Designation.**

An essential ingredient of the Land Development Code is to “facilitate fair and effective decision making” by establishing uniform procedures to apply land use regulations. SDMC § 111.0102 The Historical Resources Board operates under the Land Development Code. In exercising its duties pursuant to SDMC section 111.0206 (d), the Board plays an integral role in resource protection. For example, upon nomination by City staff during the permit review process, the Board advises the City as to whether such projects will potentially impact significant historic resources. Nominations may also originate from other sources as enumerated in SDMC section 123.0202 as follows:

Nominations of a historical resource to become a designated historical resource may originate from the Historical Resources Board, the City Manager, the City Council, or any member of the public including the property owner by submitting a research report or similar documentation, as identified in the Historical Resources Guidelines of the Land Development Manual, to the Board's administrative staff for consideration by the Board. Nominations from the City Manager may originate as a result of a site-specific survey required for the purpose of obtaining a construction or development permit consistent with Section 143.0212.

In the instant matter, 4004 Lark Street was nominated by the staff as a result of a site-specific survey pursuant to SDMC section 143.0212, which states (emphasis added):

The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a construction permit or development permit for development proposed for any parcel containing a structure that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps.

It would promote unfair decisions and eviscerate a core function of the Board if a permit applicant could avoid historic designation by altering or demolishing evidence supporting designation before the Board has had an opportunity to evaluate the property. To promote decisions that do not give unfair advantage to some applicants (and not to others) the Historical Resources Board must evaluate potential designations in a consistent manner. As the Land Development Manual, Historical Resources Guidelines, p. 1) (emphasis applied) states:

The intent of the guidelines is to ensure consistency in the management of the City's historical resources, including identification, evaluation, preservation/mitigation and development.

Accomplishing consistent evaluation of nominations will depend on the origin of the designation since not all designations originate with the City staff upon submission of an application for a permit under the Land Development Code (SDMC Chapters 11-14).

**II. When a Historical Designation Originates Under SDMC section 143.0212, Then “Current Condition” Means When an Application is Submitted Because That is When the Historical Designation Review Process Begins.**

When the Historical Resource Board evaluates a potential historic resource based on its “current condition,” when that evaluation originates from the specific-survey requirement under SDMC section 143.0212, it refers to when a project application is submitted to the City. The Board evaluates and designates historic properties, as part of the land development review process, in reliance on the information provided to the City at the time of project submittal. The permit application process is built on the condition of potentially significant resources at the time an application is submitted. To wit, the Land Development Code at SDMC section 143.0211 requires an applicant, as a prerequisite, to submit certain documentation to obtain a project permit. The Land Development Manual, which spells out the “submittal requirements, review procedures, standards and guidelines” (SDMC section 111.0106 (a)) that implement the Land Development Code, explains to permit applicants, at Volume 1, Chapter 1, at page 3 (emphasis added):

City staff must determine if your proposed site contains one or more elements of a historical resource and then further, if a site-specific survey is required to properly evaluate the resource . . . If your project site . . . proposes demolition or external alteration of a structure that is 45 or more years old, then your project is subject to this review and additional submittal information will be requested . . . Determination of the need for a site-specific survey is made by staff based upon the Parcel Information Checklist submitted as part of the General Application Package.

At Volume 1, Chapter 1, at page 4, the Manual adds:

If potential historic resources are identified, then the proposed project is referred to the Historical Resources Board for possible designation.

The Historical Resources Board functions as an extension of the permit review process. So when evaluating a property undergoing City regulatory assessment, the Board must make the date of its examination congruent with the same date the City starts its review, which is the day an application is submitted.

On September 5, 2006, the owner of 4004 Lark Street submitted an application to the City for a construction permit. On October 5, 2006, City staff required a site-specific historic research report. This was because the application showed the property was over 45 years old. On November 28, 2006, the owner submitted such report. It concluded the property was not significant. This was based on the condition of the property after the non-permitted demolition work started but before the Historical Resources Board was able to review the property. On January 25, 2007, City staff recommended to the Board the property be designated consistent with the local Draft Guidelines for the Application of Historical Resources Board Designation Criteria," November 2006, p.11-13, under Criterion C, as a good example of Craftsman bungalow.<sup>2</sup> Staff properly made its determination based on the condition of the property at the time the project permit application was submitted.<sup>3</sup>

The San Diego Municipal Code does not define the term "current condition." Yet the property owner relies on a January 11, 2006, Historical Resources Board staff report, prepared for an entirely different property, to assert that this term refers to the condition of the property the day of the Board vote. In a power point presentation the owner cites the staff report:

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<sup>2</sup> Criterion C of the local draft guidelines is analogous to and modeled on both federal Criteria C for design/construction, as set forth in, "How to Apply the National Register Criteria for Evaluation," U.S. Department of Interior, National Register Bulletin #15, at pp. 2, 17-20, as follows:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and . . . C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction . . . "

and, on state criteria at Title 14 CCR 4852 (b)(3):

An historical resource must be significant at the local, state, or national level under one or more of the following four criterion . . . (3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values . . .

<sup>3</sup> As stated earlier, under SDMC section 123.0202, nominations may also originate, not from a permit application under the Land Development Code SDMC Chapters 11-14 but from City Council, a member of the public, or the Board itself. Such nomination is, as the ordinance states, triggered by, ". . . submitting a research report or similar documentation, as identified in the Historical Resources Guidelines of the Land Development Manual, to the Board's administrative staff for consideration by the Board . . ." (SDMC section 123.0202(a)). When such research report is submitted to the Board, just like a project application submitted to the City for a construction or other type of permit, it is the submission of the report that triggers review by Board staff, for designation. Thus "current condition" refers to the date the research report is submitted to the Board.

The Board, as it is aware, may not condition designations to require restorations or modifications. All properties considered for designation must meet the criteria and be eligible for designation in their current condition.” (Slide 12, January 25, 2007, power point presentation by Scott Moomjian, entitled “4004 Lark Street,” citing to an October 12, 2006 Historical Resources Board Staff Report No. 06-046, Item # 7- 4374 Cleveland Avenue, p. 3) (emphasis applied by Moomjian not in original)

The property owner takes the meaning of the term “current condition” out of context. The October 12, 2006 staff report was to remind the Historical Resources Board that it may not designate a resource based on the potential or future promises to restore a property to the level of integrity required for designation. The property at 4374 Cleveland Avenue, at the time the project was submitted to the City for a project permit, had already been so modified it had lost its historical integrity. Pers. Comm., April 3, 2007, Kelly Saunders, Senior Planner, City of San Diego, Planning Department, Historical Resources Board.

. . . [T]he cumulative effects of multiple modifications to the house has substantially and adversely impacted the historical integrity of the property. . . Furthermore, despite the [historical survey] report’s contention that the modifications are ‘minimal alterations, which ‘can easily be changed to restore the home to its original appearance, the Board as it is aware, may not condition designations to require restorations or modifications. All properties must be considered in their current condition.” (October 12, 2006 Historical Resources Board Staff Report No. 06-046, Item # 7- 4374 Cleveland Avenue, p. 3) (emphasis applied)

By contrast, the property owner of 4004 Lark Street caused a substantial adverse change to the property *after* the project application was submitted and, significantly, *after* being notified by City staff that the house would be evaluated for historical significance. The San Diego Municipal Code nowhere specifies that the concept of integrity is restricted to the physical condition of a resource when the Historical Resources Board votes on a proposed designation. Thus the property owner’s reliance on the October 12, 2006, Historical Resources Board Staff Report No. 06-046, Item # 7- 4374 Cleveland Avenue is misplaced.

Indeed, the property owner not only misplaces reliance on a staff report irrelevant to 4004 Lark Street but also incorrectly equates “current condition” with the concept of “integrity” as it is applied under state law to the designation of historical resources:

Integrity is the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance . . . and retain enough of their historic character or appearance to be recognizable as historical resources

and to convey the reasons for their significance. Historical resources that have been rehabilitated or restored may be evaluated for listing. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance. It is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data. See "California Environmental Quality Act (CEQA) and Historical Resources," California Office of Historic Preservation, Technical Assistance Series # 1, Appendix C, at p. 31. See also Title 14 CCR 4852 (c). (emphasis added)

### CONCLUSION

The "current condition" of a potential historic resource, where its nomination arises from SDMC section 143.0212, refers to the date a project application is submitted to the City. The local permit review process is predicated on the information provided by an applicant when it submits a project to the City. The application submittal date, in essence, tolls and locks the condition of a property, for purposes of fair and equitable review, thus avoiding the situation, as in the instant case of 4004 Lark Street, whereby an applicant could avoid designation by demolishing a resource before it can be evaluated by the Historical Resources Board pursuant to SDMC section 111.0206 (d).

MICHAEL J. AGUIRRE, City Attorney

By

Marianne Greene  
Deputy City Attorney

MG:ca  
ML-2007-7

cc: Betsy McCullough, Deputy Director, Planning Department  
Cathy Winterrowd, Senior Planner, Planning Department  
Robert A. Vacchi, Chair, Historical Resources Board