



THE CITY OF SAN DIEGO

Report to the Historical Resources Board

DATE ISSUED: May 11, 2017 REPORT NO. HRB-17-031

HEARING DATE: May 25, 2017

SUBJECT: **ITEM #7 – Graham and Mary McVicker House**

RESOURCE INFO: [California Historical Resources Inventory Database \(CHRID\) link](#)

APPLICANT: Edward Berki represented by Scott A. Moomjian and Brian F. Smith & Assoc.

LOCATION: 2937 Perry Street, 92106, Peninsula Community, Council District 2
APN 448-081-2000

DESCRIPTION: Consider the designation of the Graham and Mary McVicker House located at 2937 Perry Street as a historical resource.

STAFF RECOMMENDATION

Designate the Graham and Mary McVicker House located at 2937 Perry Street as a historical resource with a period of significance of 1959 under HRB Criterion C. This recommendation is based on the following finding:

The resource embodies the distinctive characteristics through the retention of character defining features of the Contemporary style and retains integrity from its 1959 period of significance. Specifically, the resource exhibits a low-pitched, gable roof with deep overhangs; exposed roof beams; large aluminum frame windows; triangular shaped windows; various exterior cladding including brick veneer; vertical tongue and groove siding, concrete block veneer, and stucco; prominent masonry chimney; angular massing; exterior living spaces including a balcony and courtyard; and an obscured entry.

BACKGROUND

This item is being brought before the Historical Resources Board in conjunction with a proposed building modification of a structure of 45 years or more, consistent with San Diego Municipal Code Section [143.0212](#). The property contains a one-story single family residence with a basement constructed in 1959 in the Contemporary style.

The property has not been identified in any historic surveys, as the subject area has not been previously surveyed.

The historic name of the resource, the Graham and Mary McVicker House, has been identified consistent with the Board's adopted naming policy and reflects the name of Graham and Mary McVicker, who constructed the house as their personal residence.

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

Prior to the current project, a permit application for the property at 2937 Perry Street was filed and plans were submitted to the Development Services Department (DSD) on October 21, 2015. Documentation for the Historic review was submitted on the same day. Historic staff completed review of the permit application on November 4, 2015 and found that the building was potentially eligible for designation. This permit was never issued because the project could not be determined consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation (Standards).

On October 10, 2016 a member of the public reported to the Code Enforcement (CE) Division of Development Services Department possible unpermitted work at the subject house. The applicant applied for a permit for an interior remodel on October 27, 2016 but work was also being done to the exterior of the property. CE confirmed the proper permits were not obtained. On November 14, 2016, CE staff visited the site and notified the property owner to obtain permits with a scope that accurately reflected the work that was being done to the property.

On November 21, 2016, a permit application was filed and plans were submitted to DSD for the current project with documentation for the Historic review submitted on the same day. Historic staff completed review of the permit application on December 5, 2016 and determined that the project proposed was not consistent with the 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 19, 2016 the applicant submitted a historic resource research report. Staff reviewed the report and deemed it incomplete, requiring multiple revisions to be made. This review was completed on December 23, 2016. Several revised reports were submitted until staff deemed the report complete on April 19, 2017. An email was sent to the property owner the same day 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 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 photos of the building prior to the start of work. The analysis provided in this report evaluates 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

A Historical Resource Research Report was prepared by Brian F. Smith and Associates, which concludes that 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 2937 Perry Street did not reveal any information to indicate that the property exemplifies or reflects special elements of the City's or Peninsula'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 2937 Perry 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.

The subject property contains a one-story single family home with basement constructed in 1959 in the Contemporary style. The building is clad in a variety of different materials including stucco, brick veneer, vertical tongue and groove siding, and concrete block brick veneer. A strong, low pitched gable roof with a wide eave overhang shelters the structure. The roof also displays exposed rafters and beams. The front façade features large aluminum framed windows in rectangular and triangular forms. The basement of the front façade contains a garage and a large porch is located on the first floor. A brick stair leads to the main entry which is located on the west façade. On the east façade is a large, wide brick chimney and brick planter that reaches the first floor. Additionally, a courtyard with floor to ceiling aluminum windows is located on the basement level of this façade. The structure also contains its original windows in their original openings on all facades.

Minimal alterations have been made to the property since its construction in 1959. At some point between 1967 and 2007 the carport was enclosed to create a garage and the brick planter was added to the east façade. These modifications do not significantly impair integrity of design, materials, workmanship or feeling.

Unlike earlier styles which are generally defined by exterior decorative details, the Contemporary style focused on interior spaces and their relation to the outdoors. Emphasis was placed on integrating the indoors with the outdoors by utilizing windows and exterior living areas such as balconies and courtyards. The style was popular in San Diego in the 1950's and 1960's largely because it could be easily adapted to hillside lots. Character defining features include strong roof forms with deep overhangs and exposed beams; large, aluminum framed windows; non-traditional exterior finishes including vertical wood siding, concrete block, stucco and flagstone; sun shades, screen or shadow block accents; broad masonry chimneys; and distinctive triangular, parabolic or arched forms. Contemporary houses often incorporate angular massing; attached carports or garages; courtyards or balconies; obscured or recessed entries; and split-level designs.

The property at 2937 Perry Street is an excellent example because it incorporates character defining features of the Contemporary style beyond those identified in the City of San Diego's Modernism Context Statement. As evaluated in the Historic Resources Research Report, the structure exhibits all three of the primary features and two of the secondary features of this style as described in the Modernism Context. Additionally, the house includes features identified in *A Field Guide to American Houses* including exposed roof beams, prominent masonry chimney, exterior living spaces and an obscured entry. Furthermore, the property retained a high degree of integrity until unpermitted modifications occurred in 2016.

Significance Statement: The house conveys the historic significance of the Contemporary style and retains integrity from its 1959 period of significance. Specifically, the resource exhibits a low-pitched, gable roof with deep overhangs; exposed roof beams; large aluminum frame windows; triangular shaped windows; various exterior cladding including brick veneer; vertical tongue and groove siding, concrete block veneer, and stucco; prominent masonry chimney; angular massing; exterior living spaces including a balcony and courtyard; and an obscured entry. Therefore, staff recommends designation of the subject property 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.

The subject property at 2937 Perry Street was designed by Grant King. Grant King has not been established by the Historical Resources Board as a Master Architect, Designer or Builder, and there is insufficient information to designate him as such at this time. Therefore, staff does not recommend 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 2937 Perry 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 2937 Perry 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\(i\)](#). 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 Graham and Mary McVicker House located at 2937 Perry Street be designated with a period of significance of 1959 under HRB Criterion C as an excellent example of the Contemporary style.



Suzanne Segur
Assistant Planner



Elyse W. Lowe
Deputy Director
Development Services Department

SS/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 5/25/2017

WHEREAS, the Historical Resources Board of the City of San Diego held a noticed public hearing on 5/25/2017, to consider the historical designation of the **Graham and Mary McVicker House** (owned by Edward Berki, 322 A Street, Coronado, CA 92118) located at **2937 Perry Street, San Diego, CA 92106**, APN: **532-362-03-00**, further described as BLK 156 LOT 2 /EXC S 50 FT/ E 50 FT 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 Graham and Mary McVicker House 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 Contemporary style and retains integrity from its 1959 period of significance. Specifically, the resource exhibits a low-pitched, gable roof with deep overhangs; exposed roof beams; large aluminum frame windows; triangular shaped windows; various exterior cladding including brick veneer; vertical tongue and groove siding, concrete block veneer, and stucco; prominent masonry chimney; angular massing; exterior living spaces including a balcony and courtyard; and an obscured entry. 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: _____
DAVID MCCULLOUGH, 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.

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,”¹ 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.

¹ 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.² Staff properly made its determination based on the condition of the property at the time the project permit application was submitted.³

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:

² 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 . . .

³ 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