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

October 17, 2018

The City of San Diego
Historical Resources Board
202 C Street
San Diego, CA 92101

Re: Proposed Amendments to HRB Historical District Designation Procedures
HRB Hearing Date: October 25, 2018

Dear Chair McCullough and HRB Board Members:

Staff is proposing several major changes to the historical district designation and appeal procedures. Except for the proposal for enhanced outreach to property owners, we have significant concerns regarding the proposed changes, discussed as follows:

HRB HISTORICAL DISTRICTS DESIGNATION PROCEDURES.

Staff is proposing changes to the historical districts designation procedures to include enhanced outreach to owners and a new requirement that a district must demonstrate “Exceptional Importance” if the designation is opposed by a majority of owners.

1) Property Owner Outreach Initiative. The additional noticing and outreach procedures could be very useful and may actually help dispel false information about negative impacts of historic districts that is often circulated when historical district nominations move forward. Therefore, we support these recommendations.

2) Property Owner Support and Opposition/Exceptional Importance. Staff proposes adding a new requirement that, if a majority (50% plus 1) of property owners are opposed to the designation of the district, the district cannot be designated unless it demonstrates “Exceptional Importance,” as that term is defined in federal guidelines. Each nomination report would need to

include a discussion in the statement of significance as to whether or not the district is of “Exceptional Importance.” As a practical matter, this requirement will tend to discourage the nomination of any potential historical district unless the district can demonstrate “Exceptional Importance.” Staff and residents will have less incentive to spend time and energy preparing a nomination that cannot demonstrate “Exceptional Importance” due to the lower chance of being designated. Also, any admission in a district nomination that a proposed district does not demonstrate “Exceptional Importance” would very likely suppress support and encourage opposition, thus lowering the chance of designation. This provision would add a new layer of complexity to the designation process that will likely become a new focus of dispute for any proposed historical district.¹ For the above reasons, we oppose these provisions.

PROPOSED AMENDMENTS TO MUNICIPAL CODE.

Staff is also proposing amendments to the San Diego Municipal Code regarding appeals of historic district designations. The changes would create a different appeal track for historical districts and change the type of hearing based on the level of owner support.

1) Change of Decision Maker for Appeals. For historical districts only, staff proposes changing the decision maker from the City Council to the Planning Commission. This is very problematic. The Planning Commission is a board that is lateral to the HRB, not superior, and it is not better equipped than City Council to hear an appeal of a district designation. The Planning Commission does not have staff to help review the often complicated documentation involved with historical districts or to analyze and research issues raised in an appeal. Nor is the Planning Commission accessible to members of the public in order to receive and discuss comments. Any justification for changing the decision maker for appeals of historical district designations is undercut by the fact that the City Council will still hear appeals for individual designations. Therefore, we oppose changing the decision maker for appeals to the Planning Commission.

2) Certain Appeals Will Trigger *De Novo* Review. For historical districts only, staff also proposes a change that the appeal hearing involve a review of all information provided to the HRB (*i.e.*, *de novo* review) in the instance where a majority (50% plus 1) of all property owners—not just those responding to a survey—did not support the designation of the district. Firstly, this change will likely trigger *de novo* review more often than not. Polling response rates for historical districts are often well below 100%; response rates for owners of potential non-contributing properties are especially low since they have less motivation to respond. It will be difficult to demonstrate majority support in many or most instances, thus triggering the *de novo* hearing. Additionally, neither the Planning Commission nor the City Council is equipped to handle the detailed factual finding necessary to approve an historical district—which takes two hearings at the HRB level. This change would create a significant new roadblock to the designation of historical districts.

¹ There is a technical flaw with this proposed change, in that Section 6.VI, Board Review, does not include any requirement that the HRB actually make any finding as to whether the district demonstrates “Exceptional Importance.”

Staff has not offered a valid rationale for these proposed changes to the appeal process and we oppose both changes. These changes should not even be considered without addressing the most significant flaw in the existing process—that the appeal procedure is one-sided in that only a designation can be appealed, not the *denial* of a designation.

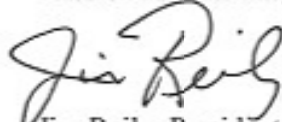
CONCLUSION.

Except for the additional noticing and outreach procedures, we oppose all of staff's proposed changes. As it stands, potential historical districts take many years, and sometimes decades, to make it to the point of moving forward through the process and already face an uphill battle once they proceed. These changes would only add new hurdles and lessen the chances of designation for historical districts. Any discussion about changes to the appeal process should not take place without discussing the most significant flaw in the existing appeal process by adding a right to appeal the denial of designation.

We are also concerned that these significant proposed changes have not been publically vetted since being released to a limited list of recipients just two months ago in August. We strongly recommend that any decision be delayed until staff can hold a public workshop or other forum to allow community stakeholders to review the proposals and provide feedback. Thank you for taking these comments and concerns into consideration.

Sincerely,

Mission Hills Heritage



Jim Reily, President

CC: Councilmember Chris Ward
Save Our Heritage Organisation