



Save Our Heritage Organisation

Saving San Diego's Past for the Future

Thursday, October 18, 2018

City of San Diego
Chair McCullough, Historical Resources Board & staff
202 C Street
San Diego, CA 92101

Re: October 25, 2018 agenda, Item 10, Amendments to the Historical District Designation Procedures

Chair McCullough, Historical Resources Board (HRB) members, & staff,

SOHO has specified several concerns about the proposed amendments to the Historical District Designation Procedures to staff and the board, starting when these were first heard at the Policy Subcommittee in July 2018. So far, these issues have received zero public vetting or any proposed solutions. While SOHO does support the increased noticing to property owners, we strongly oppose changing the decision maker for district appeals to the Planning Commission, requiring a majority owner consent, and the addition of a de novo appeal hearing, among other concerns included below.

First, SOHO fully expects these proposed amendments to be vetted through a robust public process, which includes the opportunity for public comment, an important part of the process that was attempted to be dismissed at the Policy Subcommittee meeting in August until the public expressed this as a Brown Act violation. The amendments should be taken back to the Policy Subcommittee to work out the various inconsistencies and unmitigated environmental impacts prior to being heard by the full HRB or City Council. And a charrette or public workshop should be held to inform the many stakeholders throughout the larger community, who are unaware of these proposed changes. It is also sadly ironic that while these proposed changes are partially about increased noticing, the public notice to establish this increase (and other changes) has so far been minimal.

Next, due to existing protections within the current ordinance, many of the proposed changes will weaken the regulation, becoming a CEQA issue, as an environmental impact will be created that cannot be mitigated. This weakening occurs through various means, such as a change in the decision maker to the Planning Commission (PC). The PC is a lateral, not a superior board to the HRB, such as the City Council. This is further problematic in changing the decision maker for historic district appeals only, which is another CEQA concern. Through the PC's establishing ordinance, the PC does not have the expertise to make HRB decisions, nor are they a superior board to hear an appeal. Since the PC is not superior to the HRB, and does not hold the expertise to make decisions on the HRB's behalf, how can they be responsible to determine if findings have been met? Additionally, the proposal for a de novo hearing further weakens the ordinance because a district designation can currently be appealed by any "interested person," such as someone that doesn't live or have any direct connection to the historical district. So, the de novo hearing option creates an unmitigated environmental impact because it enables any San Diego County resident to appeal a district regardless of when 50% of the property owners could support the district.

Further, the Planning Commissioners are appointees of the mayor and without any representatives to serve individual communities, whereas the Council members are accessible to the public, have paid staff to help educate them on topics such as historic preservation, and represent the people of San Diego - as opposed to a single city official. Like the HRB, the PC is also not accessible to members of the public via the Brown Act.

And there are still many other obstacles to work out first, including how neutrality and non-responses are calculated; the inclusion and calculation of renters as stakeholders; and the ability to appeal a non-district designation or a staff determination for the significance of “exceptional districts.” Another unmitigated environmental impact revolves around the demonstration of an “exceptional district,” which is to be included within every nomination in case a property owner majority do not support. However, practically speaking, this caveat will deter any district nomination from being submitted that doesn’t illustrate “exceptional importance,” which also serves to weaken the existing ordinance. And this overlooks the current precedent, that if a district does not have strong owner support, staff does not move it forward (such as the current Park Blvd. district). So codifying a requirement for a majority to support the district when the current polling also illustrates fewer than half the property owners typically respond, not only unfairly puts the burden on the district, but sets up the ordinance so fewer districts will come to fruition. Instead, the majority required to trigger a de novo hearing should be limited to opposing “respondents” only, not total property owners, in that if a majority of the “respondents” oppose a district, then a de novo hearing could occur. Last, another high item of concern pertaining to CEQA is that these amendments aim to treat non-voluntary designations differently when in a district than as an individual resource.

SOHO whole heartedly supports additional noticing to property owners as well as other stakeholders in the district; however, we have strong concern for the change in district appeals to the Planning Commission, and grave concern for the new owner majority requirement and introduction of a de novo hearing, unless this is modified to a majority of respondents in opposition as stated above. The requirement for a majority to voice consent is inconsistent with current individual designation practice, and the addition of a de novo hearing as proposed creates an unmitigated environmental impact, which weakens the existing ordinance and opens these amendments up to CEQA and the need for an EIR to be prepared.

SOHO strongly encourages these amendments to go through a robust and well-vetted public process, and does not support any modifications that weaken existing protections for historical districts or individual designations.

Thank you for the opportunity to comment,

A handwritten signature in black ink, appearing to read "Bruce Coons", with a long, sweeping underline.

Bruce Coons
Executive Director
Save Our Heritage Organisation