



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: June 14, 2018

TO: Historical Resources Board and Interested Parties

FROM: Suzanne Segur, Associate Planner, Historical Resources, Development Services Department

SUBJECT: **REVISED: ITEM 5 – 6200 Avenida Cresta**

The property at 6200 Avenida Cresta was previously docketed for review by the Historical Resources Board on May 24, 2018, at which time staff was not recommending designation under any HRB Criteria. Prior to hearing the item, the applicant approached staff with a question regarding the application of the City Attorney's Office Memorandum of Law which speaks to the Historical Resources Board's evaluation of the physical condition of a nominated historical resource. With consent from the applicant, the item was continued to the June 28, 2018 meeting without being heard in order to allow staff an adequate amount of time to re-review the Memorandum of Law and respond.

The Memorandum of Law dated April 18, 2007 speaks to the evaluation of the physical condition of a property by the Historical Resources Board. The direction given in the memo applies to changes that have been made to a property *after* a construction permit has 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. Since the unpermitted work in question, the replacement of the wood shingle siding with fiber cement, occurred in 2010 before City staff made a determination about the historic significance of the property, this Memorandum of Law cannot be applied to the property located at 6200 Avenida Cresta. The Historical Resources Board must consider the property with the fiber cement shingles. The replacement of the original wood shingle siding with historically inappropriate fiber cement siding results in a significant loss of integrity and staff continues to not recommend the property for designation under HRB Criterion C.

At the request of Board Member Stankowski, staff encouraged the applicant to provide more information in regards to the archeological development aspect of Criterion A. A letter was prepared by Brian F. Smith which addresses this concern and concludes that no archeological evidence was found at or near 6200 Avenida Cresta. Since no cultural resources are located on this property it cannot reflect a special element of the city's, La Jolla's, La Jolla Hermosa's, or Avenida Cresta's archeological development. Therefore, staff continues to not recommend the property under HRB Criterion A.

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Suzanne Segur
Associate Planner

Handwritten signature of Sonnier Francisco in blue ink.

Sonnier Francisco
Senior Planner/ HRB Liaison

SS/sf

Attachments: 1. Staff Report HRB-18-023 dated May 10, 2018
2. The Applicants Addendum dated June 5, 2018 under separate cover



THE CITY OF SAN DIEGO

Report to the Historical Resources Board

DATE ISSUED: May 10, 2018 REPORT NO. HRB-18-023

HEARING DATE: May 24, 2018

SUBJECT: **ITEM #5 – 6200 Avenida Cresta**

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

APPLICANT: Thomas and Antoinette Keck Trust; represented by Scott Moomjian

LOCATION: 6200 Avenida Cresta, La Jolla Community, Council District 1
APN 357-012-08-00

DESCRIPTION: Consider the designation of the property located at 6200 Avenida Cresta as a historical resource.

STAFF RECOMMENDATION

Do not designate the property located at 6200 Avenida Cresta under any adopted HRB Criteria.

BACKGROUND

This item is being brought before the Historical Resources Board in conjunction with a preliminary review application to determine whether or not the building is historically significant as part of a constraints analysis for future development. A previous owner attempted to bring the property before the HRB for a voluntary designation in 2016. Staff requested edits to the Historical Resources Research Report but before these changes could be made the property nomination was withdrawn by the owner. Because there are two reports with conflicting conclusions, the property must be heard by the HRB for a determination. The subject resource is a single-family home located on a corner lot in the La Jolla Hermosa subdivision of the La Jolla community.

The property was identified in the 2004 Draft La Jolla Survey and given a Status Code of 5B, "locally significant both individually (listed, eligible, or appears eligible) and as a contributor to a district that is locally listed, designated, determined eligible or appears eligible through survey evaluation."

ANALYSIS

A Historical Resource Research Report (HRRR) was prepared by Scott Moomjian with an addendum by Mark Lyon, which concludes that the resource is not significant under any HRB Criteria. Staff

concur that the site is not a significant historical resource under any HRB Criteria. The previous HRRR was prepared by Vonn Marie May and concluded that the resource is significant under HRB Criteria A, B, C and D. 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.

The subject resource constructed in 1937 is in the La Jolla Hermosa subdivision which was La Jolla's first planned residential community and was uniquely intended for year-round residency. The subdivision first opened in 1924 and after a construction lull during the Great Depression continued to be developed after World War II. The subject resource does not exemplify or reflect a special element of the historical development of the La Jolla Hermosa subdivision. The property is not distinct among other houses in the subdivision or surpass any others in significance. 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.

Abbe Wolfsheimer-Stutz purchased the subject resource in 1976 with her first husband Louis Wolfsheimer and lived in the property until her death in 2014. Originally from Chicago, Wolfsheimer-Stutz was a lawyer and politician in San Diego beginning in the 1970's. She was a professor at Western State University Law School for eleven years and won a seat on the San Diego City Council in 1985 and served two terms. She also was a part of a joint-powers authority created to establish the San Dieguito River Park and the San Dieguito River Valley Conservancy. Wolfsheimer-Stutz also served as a Deputy City Attorney from 2004-2008. Additionally, Wolfsheimer-Stutz authored several books and served on a variety of local boards, commissions and charitable organizations.

While the achievements of Abbe Wolfsheimer-Stutz are impressive, they are not demonstrably important to the history of San Diego in a way that surpasses her contemporaries of the same socio-economic status or profession. Additionally, insufficient time has passed to objectively evaluate Wolfsheimer-Stutz's significance. Therefore, staff does not recommend designation under HRB Criterion B at this time.

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 is a one-story Custom Ranch style single-family residence designed in 1937 by architect Thomas Shepherd. The house has a moderately pitched side gable roof, U shaped plan centered around a central courtyard and is located on a corner lot. Due to the shape of the lot, three sides of the house are visible from the public right of way. The house is mostly clad in wood shingle siding; however, the lower portions of the west and south facades are covered in stucco. The wide north façade facing Avenida Cresta emphasizes the structure's horizontal massing. In the center of the façade is a recessed brick porch accented with board and batten siding. Visible from Avenida Cortez, the courtyard sits behind a stucco wall and is accessed from the street by a door within the wall. The courtyard features several bay windows and a massive brick chimney. At the

south end of the property is a wing which contains the house's living rooms. On the exterior, this wing is clad with fiber cement shingles above and stucco on the basement level which is exposed on this elevation. Additionally, there is a small porch on the main floor behind a stucco wall. The garage is located on the basement level and accessed from Avenida Cortez. Fenestration consists of a variety of multi-pane windows and French doors of both wood and vinyl.

Several modifications have been made to the property since its construction in 1937. In 1965 Thomas Shepherd remodeled the house to include a suite in the basement of the south wing and a garage. This remodel also included the addition of the stucco site wall around the courtyard. In 2010 the majority of the original wood windows and French doors were replaced with vinyl simulated divided light windows and doors within the original openings. Additionally, at this time the wood shingle siding of the east and south facades of the south wing was replaced with fiber cement shingles. The replacement of windows on a single family dwelling within the existing openings does not require a permit; however, a permit was required for the replacement of the wood shingles with fiber cement but Development Services has no record of a permit for this work on file. This work would not have been deemed consistent with the Secretary of the Interior's Standards by historic resources staff.

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 1). This memo was issued in response to a 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 reshingling of the structure (Attachment 2).

The Custom Ranch style of architecture was popular between 1950 and 1975 and is differentiated from Tract Ranch homes because they were typically custom-designed with a specific client in mind. The Ranch style became the era's most prevalent type of residential construction in San Diego. Custom Ranch homes are generally more lavish than their tract counterparts, but like Tract Ranch housing, materials and detailing are generally traditional. Primary character defining features include horizontal massing, wide to the street; usually single story; custom details; and prominent low-sloped gabled or hipped roofs with deep overhangs. Secondary character defining features include a sprawling floor plan frequently "L" or "U" shaped around a central courtyard; large attached carports or garages; and expensive building materials such as wood shingle roofing, wood siding, brick, stone, and adobe which are usually much more generous in materials and craftsmanship than tract homes.

The house features some of the character defining features of the Custom Ranch style and the addition designed by Shepherd in 1965 does not impact the property's integrity. The inappropriate replacement of the wood shingle siding cannot be considered; however, the replacement of the majority of the original wood windows and French doors has resulted in a loss of integrity. The use of vinyl and simulated divided lite is historically inappropriate and gives a false sense of history. Additionally, the house cannot be considered a good example of the Custom Ranch style. While the house is large, wide to the street and features a sprawling "U" shaped plan, it does not reach the level of significance necessary for individual designation. Also, the house was built in 1937, well

before the period of popularity defined by the San Diego Modernism Historic Context Statement. Therefore, staff does not recommend 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.

Thomas Leroy Shepherd was born in 1897 in Wisconsin and matriculated at the University of Wisconsin and Columbia University in New York, where he studied architecture. However, his designs were clearly influenced by his travels in Europe, particularly in the Mediterranean region. He moved to southern California in the 1920s and worked in Pasadena, as well as for the noted architect George Washington Smith in Santa Barbara.

In 1926, he relocated to La Jolla and designed primarily residences in new subdivisions in La Jolla, but also throughout the San Diego region. He briefly entered into partnership with Herbert Mann, also a Master Architect. This partnership was dissolved in 1932, prior to the construction of the subject house. Homes that Shepherd designed or contributed to and have been designated by the HRB include: the Darlington House (HRB Site #327), which established him as a Master Architect by the HRB on July 26, 1995; the Mabel Scruggs/Thomas L. Shepherd House (HRB Site #514); the Henry and May Turner/Herbert Mann-Thomas Shepherd House (HRB Site #560); the Katharine Smith/Thomas Shepherd House (HRB Site #630); and the Philip Barber/Herbert Mann and - 3 - Thomas Shepherd Spec House No. 1 (HRB Site #829). In addition to his houses, he designed the Marine Room at the La Jolla Beach and Tennis Club, the Shepherd Building at 1117 Wall Street, and contributed to the design of an addition to the La Valencia Hotel. His architectural influence on La Jolla is substantial as he designed buildings and homes primarily in the community throughout his lengthy and prolific fifty-year career. He passed away at the age of 82 in 1979.

Shepherd designed the subject resource in 1937 as well as its 1965 addition. The replacement of the property's original windows has severely impaired the integrity of Shepherd's original design, intent and aesthetic. Additionally, the property is not one of Shepherd's notable works and cannot be considered a rare example of his work in any style or building type. He designed many residential properties in the Custom Ranch style. 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 6200 Avenida Cresta 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.

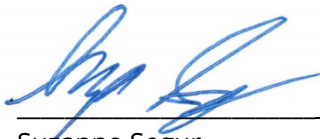
The property at 6200 Avenida Cresta is not located within a designated historic district. Therefore, the property is not eligible for designation under HRB Criterion F.

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.

CONCLUSION

Based on the information submitted and staff's field check, it is recommended that the property located at 6200 Avenida Cresta should not be designated under any adopted HRB Criteria.



Suzanne Segur
Associate Planner



Sonnier Francisco
Senior Planner/ HRB Liaison

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Attachment(s):

1. City Attorney Memorandum of Law dated April 18, 2007
2. Google Streetview Photo of property prior to unpermitted modifications
3. Applicant's Historical Report under separate cover

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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

Google Streetview Photo 2008

East Façade Prior to Unpermitted Replacement of Siding

