



THE CITY OF SAN DIEGO

Report to the Historical Resources Board

DATE ISSUED: March 14, 2019 REPORT NO. HRB-19-015

HEARING DATE: March 28, 2019

SUBJECT: **ITEM #7 – 12th Update to the Land Development Code: Withdrawal of Historical Resource Designation Appeals**

APPLICANT: City of San Diego Planning Department

LOCATION: Citywide

DESCRIPTION: Review and consider the amendments proposed as part of the 12th Update to the Land Development Code to allow appellants to withdraw appeals of historical resource designations.

STAFF RECOMMENDATION

Recommend to the City Council adoption of the proposed amendments to the City's Land Development Code to allow appellants to withdraw appeals of historical resource designations.

BACKGROUND

Presently, the Municipal Code allows an applicant or interested person to appeal the decision of the Historical Resources Board to designate a historical resource if the appeal is filed within 10 business days of the Board's action (SDMC Section 123.0203). However, the Municipal Code does not permit an appellant to withdraw an appeal if they no longer object to the designation of the historical resource. The lack of a provision to allow withdrawal of an appeal means that in order for the designation to become final, the appeal must proceed to a hearing before the City Council, despite the appellant's support for the designation.

This occurred in March of 2018 with HRB Site# 1277, the Klicka Mortgage Company Spec House #1 located at 3623-3627 31st Street, which had to proceed to a hearing before the City Council despite the owner/appellant withdrawing the appeal in writing. The City Council denied the appeal and upheld the designation of the resource; however, the need to proceed to a City Council hearing when an appellant has withdrawn an appeal is a waste of time and resources for everyone involved and is not in the best interest of historical resource preservation.

ANALYSIS

In order to facilitate appellant withdrawals of historic resource designation appeals, an amendment to SDMC Section 123.0203 is proposed. The amendment would leave sub-sections (a) and (b) intact,

without modification. These sections specify who may file an appeal, when, and the basis for the appeal; and how the appeal proceeds to hearing before the City Council. A new sub-section (c) would be added allowing an appellant to withdraw an appeal, as follows:

§123.0203 Appeal From Historical Resources Board Decision

- (a) [No change in text].
- (b) [No change in text].
- (c) The appellant(s) may withdraw an appeal at any time prior to the commencement of the appeal hearing before the City Council. The withdrawal of the appeal must be filed in writing with the City Manager. If all appellants withdraw their appeals, no appeal hearing shall be conducted. The withdrawal of the appeal does not entitle the appellant(s) to any refund of appeal-related costs or fees incurred as of the date of the withdrawal.

Typically, proposed amendments to the Municipal Code related to historical resources would be reviewed by the Policy Subcommittee prior to review and recommendation by the Historical Resources Board. However, because this is a straight-forward amendment that corrects a deficit and oversight in the code, eliminates unnecessary processes, encourages historic resource preservation, and is unlikely to generate any opposition, staff and the HRB/Policy Chair concurred that review by the Policy Subcommittee would not be required for this item. This is not precedent-setting, as staff understands the value of the Policy Subcommittee’s review and feedback on Municipal Code amendments during the amendment process.

CONCLUSION

At this time, staff recommends that the Board recommend to the City Council adoption of the proposed amendments to Section 123.0203 of the City’s Land Development Code. The proposed amendment adding sub-section (c) will allow appellants who no longer object to a Historical Resources Board’s action to designate a historical resource to withdraw their appeal, which would finalize the Board’s designation action and eliminate the need to proceed to a City Council hearing.



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