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August 6, 2016

Mr. Kurtis Steinert  
San Diego Senior Environmental Planner  
City of San Diego Planning Department  
1010 Second Avenue, MS 413  
San Diego, CA 92101

*Sent Via Electronic (E-mail) Transmittal*  
[PlanningCEQA@sandiego.gov](mailto:PlanningCEQA@sandiego.gov)

**Re: Uptown Community Plan Update**  
**Project Number: 21002568; SCH No. Pending**

Dear Mr. Steinert:

I am writing this letter in order to express my strong concerns regarding the Uptown Community Plan Update ("Plan Update") Program Environmental Impact Report ("PEIR") as they relate to the proposed treatment, processing, consideration, and disposition of potential historical resources within the Uptown community.

My background in the field of historic resources is extensive. Over the past twenty six years, I have worked on hundreds of projects involving historic properties. In the past sixteen years, I have represented owners of historic properties achieve their objectives with local, state and federal government agencies that supervise or regulate such properties. Where appropriate, I have nominated them to local and national historic registers. I have also prepared or consulted on historical reports for historic properties throughout the County. A significant portion of my work has involved facilitating the rehabilitation of buildings or the redevelopment of sites containing historic resources. I am a qualified historical consultant by the City of San Diego, and my professional qualifications meet the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation (1995)* in the disciplines of Architectural History, Historical Preservation, and History.

I have reviewed the relevant environmental documents associated with historical resources prepared in conjunction with the project, including but not limited to, the Plan Update

and PEIR dated June 10, 2016 (“Historical Resources, Section 6.7.2.2); the Uptown Community Plan Area Draft Historic Resources Survey Report (“Survey Report”) dated November 2015 and revised May 2016 (Appendix G-2) with Appendices A-G; the undated City of San Diego, Planning Department “Potential Historic Districts Fact Sheet” for the Uptown, North Park, and Golden Hill communities; and proposed San Diego Municipal Code section revisions. I am also well familiar with previous historic surveys conducted in the Uptown area, including the *Historic Resources Inventory for “Uptown Area,” San Diego California* (1981), and the draft *Uptown Historic Architectural & Cultural Landscape Reconnaissance Survey* (2007) (“Draft Uptown Survey”). It should be noted that to date, that no historic surveys or historic resource inventories for the Uptown community have been formally reviewed or adopted by the City of San Diego.

The scope of my comments herein presented will be limited to problems associated with (1) the proposed Draft Historic Resources Survey Report; (2) the proposed regulatory framework for potential historic districts (PHDs); and (3) Multiple Property Listings (MPLs), specifically the Bungalow and Apartment Court MPL. Collectively, each of my arguments substantiate the inherent deficiencies and flaws in the Survey Report and proposed City action. As a result, they should be rejected in their entirety.

#### **(1) Proposed Draft Historic Resources Survey Report**

As an initial matter, there are thousands of properties located within the boundaries of the Uptown Community Plan Area and the geographic area is massive. According to the Survey Report, the Planning Area encompasses nearly 2,700 acres and contains the communities of Park West, Middletown, Mission Hills, Hillcrest, the Medical Complex area, as well as the western half of University Heights. While the earlier Draft Uptown Survey (2007) surveyed 11,104 properties and identified 2,192 properties as potentially significant (59 of which were located in potential historic districts), the new Survey Report identified 11,109 properties, and found that 2,134 are potentially eligible for designation as individually significant properties, including properties identified as part of potential MPLs. An additional 1,454 properties were found to be potential contributing resources to 23 potential historic districts. Finally, 6,808 properties were identified and documented in the survey, but were not determined potentially historic upon initial visual inspection. While not directly cited in the Survey Report, there are therefore, a total of approximately 3,588 properties which exist in the Uptown community, either as potentially significant individual resources, or as potentially significant contributors to a historic district. The Survey Report, however, fails to account for the true number of *buildings* which may be potentially significant in the Uptown community because it identifies only the number of *properties* (i.e. by parcels and address), and not the actual number of structures on a property (*see discussion of bungalow/residential courts within the MPL below*).

According to the Survey Report, the *Uptown Historical Context and Oral History Report* prepared for the Draft Uptown Survey (2007) was “discarded in its entirety” and replaced by a new historic context statement prepared by City Planning Staff. Further, due to the fact that the assignment of Status Codes (which provide “a summary assessment of the resource”) undertaken as part of the Draft Uptown Survey were “flawed,” new Status Codes within the Survey Report



were assigned.<sup>1</sup> More specifically, those Uptown properties which were determined ineligible for local designation (assigned a “6Z” code) by the Draft Uptown Survey, were reclassified as “Identified in Reconnaissance Level Survey: Not evaluated” (reassigned as a “7R” code).

In effect, by changing a prior determination of ineligibility to a new determination of potential eligibility through a non-evaluation code, the Survey Report has essentially eliminated a former presumption of insignificance in favor of future potential significance.<sup>2</sup> By effectuating a change in Status Codes, the Survey Report has subtly undermined some of the prior evaluations undertaken as part of the Draft Uptown Survey, and cast a new “net” over these properties as potentially significant. Properties captured in this manner are now presumed to be potentially significant, rather than presumed to be ineligible for local designation. The change in Status Codes actually increases the potential for the designation of properties which were formerly determined by the survey to be ineligible for designation. Such action interjects less assurance and more uncertainty and cost for property owners in the historic review and historic designation process.<sup>3</sup> Based upon the foregoing deficiencies associated with the Survey Report, it should not be adopted by the City for use in the Uptown Community Plan Update.

## **(2) Proposed Regulatory Framework For Potential Historic Districts (PHDs)**

The Survey Report states that the “The 2007 Draft Uptown Survey identified nineteen (19) potential historic districts that meet one or more of the City’s local designation criteria for historical sites. In addition, City staff and members of the Uptown Community have identified four (4) additional historic districts – Allen Terrace, Avalon Heights, Hillcrest and the San Diego Normal School/San Diego City Schools Education Complex historic districts – that also appear to meet one or more of the City’s local designation criteria.” In total, therefore, the Survey Report proposes a total of 23 potential historic districts for the Uptown community, with a total of 1,454 properties that were found to be potential contributing resources to the 23 potential historic districts. Review of the historical documentation related to the 23 potential historic districts (PHDs) and their contributors generally appear to be inadequate in terms of historic methodology, historic source material, and scholarly/academic historic interpretation and analysis.

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<sup>1</sup> The Survey Report strongly implies that the Draft Uptown Survey, which was commissioned and paid for by the City, with oversight and input provided by the Planning Department, was inherently deficient. According to the Survey Report, “based upon the limited level of the survey work and the quality of the original Historic Context Statement on which survey was based, assignment of such a Status Code [6Z] was not appropriate.” of the original Historic Context Statement

<sup>2</sup> This is supported by the statement in the Survey Report that “[w]hile these properties have not been identified as potentially significant as part of this Survey Report, they *have not been cleared as not historic*, and would be evaluated in the future for historic significance at the parcel level consistent with the requirements of the City’s Municipal Code. *Italics added.*

<sup>3</sup> “Based on the results of the Initial Determination, if there is evidence that the site contains a historical resource, preparation of a historic evaluation is required.” With the change in Status Codes, the owner of an Uptown property who submits a development application will not be able to rely upon the previous determination of ineligibility as “evidence” that the property is not significant. In such a case, since the property is included in the Survey Report, but “not evaluated” a property owner will inevitably have to spend more money and time for the preparation of a site-specific historic study.



According to the PEIR, “to further increase protection of potential resources—specifically potential historic districts—the City is proposing to amend the Historical Resources Regulations to include supplemental development regulations to assist in the preservation of specified potential historic districts until they can be intensively surveyed and brought forward for designation.”<sup>4</sup> The City proposes to “protect” potential, historic districts by amending the San Diego Municipal Code as part of the Community Plan Update process (specifically Sections 143.0210-143.0255, *Potential Historical District*; Section 126.0402-126.0404, *Neighborhood Development Permit Requirement*; and Section 132.1601-132.1604, *Potential historic District Overlay Zone*). Such amendments would, in part, “limit modifications [to the affected property] within the front 2/3rds of the original building footprint” and allow changes to occur only “in the rear 1/3<sup>rd</sup> of the building footprint or accessory buildings.” By establishing a new regulatory framework of this type, merely for the specific protection of potential, historic districts that may never come to fruition, the City will severely and adversely affect an Uptown property owner’s right to otherwise develop property in a reasonable and appropriate manner.

In terms of the time and cost associated with the processing of the 23 PHDs, City Staff has indicated that each historic district would take 1-2 years to process at a cost of approximately \$85,000 per district.<sup>5</sup> Accordingly, it would take approximately 23-46 years to process all 23 PHDS at a cost of approximately \$1,955,000. In addition, if each eligible contributing historic district property (1,454 total properties) were designated and subject to a future Mills Act agreement, the City could anticipate a loss to the General Fund of approximately over \$3.3 million.<sup>6</sup> The overt development restrictions, lengthy processing time, and enormous costs involved in such a process certainly outweigh the alleged “benefits” that come from the “protection” of contributing properties to any potential, future historic districts. Based upon the overly restrictive regulations resulting from the establishment of PHDs in the Uptown community, as well as the time and costs associated with those policies and procedures, the City should reject the proposed regulatory framework for PHDs. To do otherwise would be both arbitrary and capricious.

### **(3) Bungalow and Apartment Court Multiple Property Listing (MPL)**

The Survey Report introduces the concept of “Multiple Property Listings” (MPLs) which are defined as “a group of related significant properties with shared themes, trends, and patterns

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<sup>4</sup> “The proposed potential historic district regulations would provide supplemental protections until a more detailed historic district survey can be completed” (City of San Diego, Planning Department “Fact Sheet”).

<sup>5</sup> Kelley Stanco, Senior Planner & HRB Liaison, “Interim Protections For Potential Historic Districts,” Presentation, March 2016.

<sup>6</sup> This amount was conservatively estimated by determining the median sale price for homes within the Uptown (92103 area code) at an amount of \$572,000 ([www.trulia.com](http://www.trulia.com)). Assuming an average Mills Act property tax reduction of 40% (per City Staff) based upon property taxes of \$5,720 per year (at 1% rate), results in a property tax savings of \$2,288. The amount of this reduction times the number of contributing properties with a Mills Act agreement (1,454 total properties) results in a loss to the General Fund of approximately \$3,326,752. Note that this amount is substantially higher if it were to include those individually significant Uptown properties (2,134) and MPLs subject to a Mills Act agreement (an additional \$4,882,592 loss to the General Fund). A total financial loss could exceed \$8.2 million



of history.” The Survey Report identifies three “thematically related property groupings” that appear to be significant as MPLs, including the “Bungalow and Apartment Court” MPL. This MPL is defined as a “discontinuous grouping of approximately 150 residential courts” located throughout the Uptown survey area. The Survey Report indicates that these properties derive significance under Historical Resources Board (HRB) Criterion A (Community Development) “as special elements of the Uptown Community’s social history related to multi-family housing, and its architectural development associated with local transportation patterns,” as well as Criterion C (Architecture) for “distinctive characteristics of courtyard design.” However, these assertions are not thoroughly supported or justified by any new or meaningful historical evidence.

Over the past several years, City of San Diego HRB Staff has entertained a certain fascination and admiration over local bungalow/residential courts as “significant” property types. The genesis behind the history of San Diego’s bungalow courts occurred with the publication of “Bungalow Courts in San Diego: Monitoring a Sense of Place” (Spring 1988) in the *Journal of San Diego History*. Subsequently, documentation of bungalow courts as a housing type within the City was discussed further in the Draft Uptown Survey (2007). In addition, one consensual HRB historic designation involving a bungalow court occurred in 2007, and three involuntary HRB historic site designations involving bungalow courts occurred between 2007-2008.

According to “Bungalow Courts in San Diego: Monitoring a Sense of Place,” bungalow courts were “well-designed, small houses carefully arranged around a planned open space.” They were primarily built in the *hundreds (if not thousands)* throughout Southern California during the 1920s and 1930s and ceased to be built around 1940. Most courts were built along new streetcar lines of the period in some variation of the Mediterranean/Mission style and covered with bougainvillea. The typical bungalow court came to feature a group of six to ten small, individual houses placed around a communal garden. Usually two standard lots were enough. According to the article, bungalow courts were classified into four categories, based upon spatial arrangement. These classes included the (1) detached, full court - the “classic” court consisting of individual cottages arranged around a spacious central garden (2) detached, narrow court - individual cottages arranged around a long, narrow, garden-like walkway (3) attached, full court - when two or more of the bungalows share a common wall, and (4) attached, narrow court. Since the term “court” implies an enclosed, designed space, in all cases the building arrangement included an end structure and a proper garden.

In reliance upon the above cited article, the Draft Uptown Survey (2007) identified a potential “Bungalow & Apartment Court Thematic Historic District” within the Uptown community. Although it should be noted that no present “Bungalow & Apartment Court Thematic Historic District” exists within Uptown or any other part of the City, the survey identified a total of 144 bungalow and apartment courts which were determined to be potentially significant as *district contributors only*, not individually significant, and not as MPLs.

According to the Draft Uptown Survey, which has been essentially adopted as part of the Survey Report, bungalow courts feature well-designed, small houses carefully arranged around a



planned open space. The typical bungalow court consisted of a group of six to ten individual houses around a communal garden. Most bungalow courts in San Diego sit on two regular (50' X 100') lots. In several instances, the courts were built in two phases, with one side completed first, and the other side constructed when the land became available.

In August 2007, the "Dr. Chester Tanner Office Bungalow Court" was designated by the City of San Diego's Historical Resources Board (HRB) under HRB Criterion C as "an excellent example of both the Spanish Eclectic architectural style and as an example of a unique 1927-1935 Spanish Eclectic Office Bungalow Court." The property, located in the Uptown community, was determined to be significant due to the fact that it was identified in the draft survey; were constructed as medical office buildings (rather than residential structures); and featured many characteristics of the Spanish Eclectic architectural style.

In 2007, two bungalow court properties were referred to the HRB for involuntary historic site designation. The first property, located at 104-118 Dickinson Street in the Uptown community, was referred to the HRB for designation consideration under HRB Criterion C (Architecture) in November 2007 by City Staff on the basis that it, "drawing heavily from the Minimal Traditional style" was a "a good example of Streamline Modern architecture expressed in the apartment courtyard building type." When considered by the HRB, several Board Members found the property to be more Modern Minimal in style. The HRB refused to designate the property. Similarly, the second property, located at 7522-7534 Herschel Avenue in the La Jolla community, was referred to the HRB for designation consideration under HRB Criterion C (Architecture) in November 2007. City Staff believed the property to be significant on the basis that it was "a very good example of a Minimal Traditional apartment courtyard." Again, the HRB failed to designate the property.


In March 2008, another bungalow court property was referred to the City of San Diego's Historical Resources Board (HRB) for involuntary historic site designation. This property, located at 7417-7427 Olivetas Avenue in the La Jolla community, was referred to the HRB for designation consideration under HRB Criterion A (Community Development) as "the only Contemporary style bungalow court in La Jolla, a limited building type in the community" and under HRB Criterion C (Architecture) "as a very good example of a post-WWII, Contemporary style bungalow court with high integrity." At the hearing, the HRB designated the property, pursuant to the Staff Recommendation, despite a wealth of information supporting the conclusion that the property was not historically and/or architecturally significant. Subsequently, in October 2008, the property was appealed to the San Diego City Council and the designation was overturned on the basis that factual errors in materials and information were presented to the HRB at the time of hearing, and upon the submittal of new information indicating that the property was not significant.

The fundamental problem with the present Survey Report is that it alleges that bungalow/residential courts derive significance from their very *nature* as a property type (defined as a "grouping of grouping of individual properties based on shared physical or associative characteristics"). This theory essentially holds that the bungalow/residential court is

significant because of its multi-family residential use within the Uptown community. By logical extension, would a single-family residence in the Uptown community be considered significant, in and of itself, because it was originally built as a single-family home and has maintained this use over the years? In no instance does the Survey Report establish precisely why the location, design, or the use of the bungalow/residential court as “discontinuous groupings” are any more significant than other similarly-situated multi-family structures, single-family homes, commercial buildings, or other structures built throughout Uptown from the 1920s-1960s.<sup>77</sup> Moreover, the Survey Report does not include any additional, substantial information regarding bungalow/residential courts above and beyond much of the information previously generated as part of the Draft Uptown Survey. The Survey Report also fails to explain why the concept of a bungalow/residential court MPL has been advanced when the earlier Draft Uptown Survey proposed the establishment of a potential “Bungalow & Apartment Court Thematic Historic District” within the Uptown community. Finally, the Survey Report is *misleading* when it asserts that “approximately 150 residential courts” located throughout the Uptown survey area would be included within the MPL and ultimately be “designated as part of a city-wide MPL of San Diego residential courts.” This is especially true when one considers the fact that each bungalow/residential court, by definition, has between 6-10 individual homes on each parcel, thereby bringing the total number of *actual structures* eligible for designation to between 900-1,500. If designated, each eligible bungalow/residential court property subject to a Mills Act agreement could potentially cost the City’s General Fund hundreds of thousands of dollars in lost revenue. Based upon the foregoing deficiencies associated with the Survey Report, it should not be adopted by the City for use in the Uptown Community Plan Update.

In conclusion, I appreciate the opportunity to comment on the Plan Update and the PEIR. I look forward to receiving written responses to the issues I have raised in this letter. Please do not hesitate to contact me should you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, reading "Scott A. Moomjian". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott A. Moomjian  
Attorney at Law

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<sup>77</sup> Additionally, the Survey Report does not explain or reconcile why the “period of significance” of bungalow/residential courts was extended to 1960, when all other prior authoritative sources have conclusively determined that the construction of bungalow/residential courts generally ended in 1940 (prior to the Second World War).