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REPORT TO THE HISTORICAL RESOURCES BOARD AND STAFF

BOARD AUTHORITY TO MAKE RECOMMENDATIONS ON THE TREATMENT OF
NON-DESIGNATED ARCHAEOLOGICAL SITES

INTRODUCTION

Recently, the Archaeology Subcommittee of the Historical Resources Board (Board) convened to discuss issues of concern to local Native Americans. During the discussion, Board members and the public raised concerns about the treatment of archaeological resources of import to Native American tribal communities. In response, Board member Berge requested a report from this Office on whether the Board has the authority to make recommendations on environmental documents that analyze non-designated archaeological sites.

Currently, the Board reviews environmental documents in conjunction with its recommendations on Site Development Permits for projects that would result in more than a minor alteration to a designated historical resource or historical district. Board staff is not required to seek Board review and provide California Environmental Quality Act (CEQA) documents for projects that may impact non-designated historical resources. Thus, the issue is whether the Board has the authority to consider impacts to such non-designated historical resources, including non-designated archaeological sites.

DISCUSSION

The City Council, by ordinance, established the Board as an advisory body in accordance with San Diego Charter section 43(a). SDMC § 111.0206(a). The San Diego Municipal Code provides that the Board has the following powers and duties:

- (1) To identify and designate *historical resources* for preservation in accordance with the designation process described in Chapter 12, Article 3, Division 2 (Designation of Historical Resources Procedures).

- (2) To review and make a recommendation to the appropriate decision making authority on applications for *development permits* involving *designated historical resources* in accordance with the decision making procedures of the Land Development Code.
- (3) To adopt specific guidelines for designating *historical resources* and to identify specific areas that may be exempt from the requirement for a site-specific survey in accordance with Section 143.0212(a).
- (4) To adopt standards and guidelines to be used by the Board in reviewing applications for *development permits* involving *designated historical resources*.
- (5) To compile and maintain an up-to-date register of *designated historical resources*. A description of the resource and the reasons for designation shall be included in the register.
- (6) To recommend to the City Council that the City Manager apply for, receive, or expend any federal, state, or private grant, grant-in-aid, gift, or bequest and to make recommendations to the City Council regarding the acceptance of any grant, gift, or other interest relative to property located in the City in furtherance of the general purposes of historical reservation.
- (7) To prepare an annual report to the Mayor and City Council on the activities, decisions, and other work of the Board.
- (8) To perform any other functions consistent with the purpose of the Board or any functions that may be requested by resolution or direction of the City Council, including promoting educational programs pertaining to *historical resources* and investigating and reporting to the City Council on the use of various federal, state, local, or private funding sources and mechanisms available to promote *historical resource* preservation.
- (9) To establish criteria and provide for an *historical resources* inventory of properties within the City and recommend to the City Council and Planning Commission procedures to use the *historical resource* inventory results in the planning process.

- (10) To provide information and guidance, at the request of property owners or tenants, on the financial and physical aspects of the restoration, alteration, rehabilitation, landscaping, or maintenance of any *designated historical resource*.

SDMC § 111.0206(d).

In 1986, the State Office of Historic Preservation certified the City as a Certified Local Government (CLG) to carry out historic preservation responsibilities in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.* City of San Diego General Plan, Historic Preservation Element § HP-6. The City's Board was established by ordinance as the City's historical resources review commission, as required by the CLG program. City of San Diego Certified Local Government Program—2007-2008 Annual Report, p. 5; *See also, 2010 Certified Local Government Program Application & Procedures*, California Office of Historic Preservation Department of Parks and Recreation Local Government Assistance, p. 9.

Accordingly, the Municipal Code requires that at least one Board member be appointed from among professionals in each of the following disciplines to meet the CLG criteria of the State Office of Historic Preservation: architecture, history, architectural history, archaeology, and landscape architecture. SDMC § 111.0206(b)(2). The City, as a CLG, has the responsibility to involve the Board in CEQA review associated with project or planning approvals. *Certified Local Government Program Application & Procedures*, California Office of Historic Preservation Department of Parks and Recreation Local Government Assistance, p. 7.

Currently, the Board reviews the final environmental document in association with its review of projects requiring a Site Development Permit for the alteration of a designated historical resource or an historical district. SDMC §§ 111.0206(d)(2); 143.0210. At this time, there is no process established in the Municipal Code that would interject a Board recommendation prior to approval of a project that may impact a non-designated archaeological site. Consideration of projects that could impact archeological sites that are not designated historical resources could be considered within the Board's purpose. Thus, the Board could request that the City Council adopt enabling legislation establishing such a process in the Municipal Code.¹

CONCLUSION

There is no formal approval process established under the Municipal Code to require or allow the Board to make recommendations on the treatment of non-designated archaeological sites. If the

¹ While not specific to the Board, any person can request to be mailed a notice when a lead agency intends to adopt an environmental document for the purposes of reviewing the document and providing comments during the public comment period. Cal. Pub. Resources Code § 21092. Therefore, the Board, like anyone else, may request such notice and provide comments during the applicable CEQA comment period.

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Board wants to be involved in the project approval process for projects that may impact non-designated archaeological sites, that would require further policy discussions which could lead to Municipal Code amendments. Of course, this Office stands ready to assist with the drafting of any proposed ordinances, as necessary.

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