

**Statement by the  
NORTH PARK HISTORICAL SOCIETY  
to the  
City Council Land Use & Housing Committee Historical Resources Meeting  
September 23, 2009**

The North Park Historical Society (NPHS) appreciates this opportunity to address the City Council Land Use & Housing (LU+H) Committee during its meeting dedicated to Historic Preservation issues. The NPHS is a non-profit organization dedicated to the preservation and promotion of North Park's historic resources in neighborhoods developed during the early and middle 1900s. We have published a book primarily written by our premier historian, the late Don Covington, and our members lead historical neighborhood walking tours in four North Park neighborhoods.

1. The NPHS is pleased that the historical survey of North Park will be updated as part of the Plan update, but we are concerned about the apparent lack of action on that survey. Historical Resources Board (HRB) staff indicated that the survey would be conducted by a consultant early this year and, only in response to a direct question, informed us that a consultant had been hired nearly 3 months ago. The NPHS would like to be part of the survey update process.
2. In May of 2007, we submitted the application for the designation of the North Park Dryden Historical District, which encompasses the neighborhood along 28<sup>th</sup> Street and Pershing Avenue from Upas to Landis streets. We discussed HRB staff comments with staff in the summer of 2008, and submitted a detailed Supplemental Application in January 2009. Staff assured Council District 3 that the district would be before the HRB by the end of 2009, but we have heard nothing regarding review of the application. This potential district was identified in the City's 1995 historical survey by Wayne Donaldson and we have followed the HRB guidelines. The NPHS would appreciate an expeditious review of the North Park Dryden Historical District application by the HRB.

The members of the North Park Historical Society are eager to work with City staff, the HRB and City Council in identifying, preserving, documenting and publicizing the historic assets of North Park. Thank you for devoting this LU+H Committee meeting to historical preservation issues.

To be presented by George Franck, NPHS Vice President  
and Katherine Hon, NPHS Secretary

Approved by the NPHS Board of Directors on 09/09/09

***University Heights Community Development Corporation  
& University Heights Historical Society  
4452 Park Boulevard, Suite 104,  
San Diego, CA 92116  
619-297-3166***

September 17, 2009

Todd Gloria, Chair  
Land Use & Housing Committee  
City of San Diego  
202 C Street  
San Diego, CA 92101

SUBJECT: September 23, 2009 "History Day"

Dear Chair Gloria and Members of the Committee:

First of all, as Board Members of the above organizations, we would ask that the LU&H endorse the Uptown Planners Demolition Review Proposal. The proposal's intent is to establish standards and guidelines to provide better oversight for our rapidly diminishing historic resources when new development occurs within our built environment.

Secondly, Board Member Bonn, as a member of the 45 year review team that provides input within the Uptown Planning area during the initial 10 day project review period, has discovered a number of loopholes confirming our concerns on the laxity in the permitting process:

- ❑ Work started prior to permit being issued.
- ❑ Work being completed not included in original permit.
- ❑ Preliminary Review Process removes project from community's 10 day review.
- ❑ One address only shown on permit that involves multiple parcels in project.
- ❑ Demolitions disguised as remodels allowing grandfathered uses to remain.
- ❑ Demolition by neglect without appropriate penalties to protect resource.
- ❑ Inadequate reports by consultants.
- ❑ Complaints having to be filed with Neighborhood Code Compliance.

University Heights was founded in 1888 and is one of the City's oldest streetcar suburbs. The architecture of its built environment provides a visual picture of how development occurred. So, let's fine tune the process while updating our community plans to ensure that responsible development occurs that benefits and complements our neighborhoods as well as respecting our historic resources through the creation of Conservation Areas.

Sincerely,

Ernestine Bonn  
Board Member

Sincerely,

Mary Wendorf  
Board Member

Save Our Heritage  
Organisation

Albatross  
Neighborhood  
Association

Between the Heights

Burlingame  
Homeowners  
Association

Golden Hill Community  
Development  
Corporation

Heart of Kensington

Hillcrest History Guild

La Jolla Historical  
Society

La Playa Heritage

Mission Hills Heritage

Normalites for  
Normal Heights

North Park Community  
Planning Committee

University Heights  
Community  
Development Corp.

University Heights  
Historical Society

# NEIGHBORHOOD HISTORIC PRESERVATION COALITION

*Advocating for measures that preserve our established neighborhoods and historic resources for future generations*

September 23, 2009

Councilmember Todd Gloria, Chair  
Committee on Land Use and Housing  
City of San Diego  
202 C Street, 3rd Floor  
San Diego, CA 92101

Dear Chairman Gloria:

On behalf of the Neighborhood Historic Preservation Coalition, thank you for dedicating this Committee meeting to the recognition of San Diego's significant history. Preserving historic resources not only contributes to the vitality of neighborhoods, promotes heritage tourism, but also helps to distinguish a great city from a fine one.

A growing number of San Diegans share this vision for a great city that protects and preserves its precious historic resources not only for future San Diego generations, but also for the rest of the world to see and appreciate. Through short-sightedness and a focus on short-term gains, our city has already lost scores of homes, businesses, civic buildings, landmarks, and landscapes that have taken bits and pieces of our city's soul with them.

Many community members and groups have contributed countless hours over the years to improve our city's land use planning process for identifying and protecting historic resources. Just in the last two years, the community and the city have interacted numerous times in an effort to improve the city's review process for demolition of potentially historic resources, as outlined in the attached timeline.

Despite the significant investment of community and city time, energy, and input into improving this process, loopholes and weaknesses persist, which have allowed for the continuing destruction of historic and potentially historic properties.

Therefore, on this day, "History Day", we would like to take this opportunity to describe our concerns about the review process for demolition of potentially historic resources and make recommendations for improving it.

## **Community Concerns Regarding the Review Process for Demolition of Potentially Historic Resources**

The present review process of applications for demolition and other construction permits contains inadequacies which have allowed many potential historic resources to be demolished or inappropriately altered over the years. In a report to this committee in May 2008, the City Attorney's office identified the primary problem: The current review process for demolition permits and other ministerial projects does not include a CEQA level analysis (as required by State law) for potential historical resources

In that report, the City Attorney recommended adopting a program of “advanced” ministerial review or true discretionary review for demolition and construction permits for all properties over 45 years old. The following measures were recommended by the City Attorney to bolster the review process:

- Review by planners who specialize in historical resources and architecture.
- Verification of photographs and building records provided by permit applicants.
- Providing more than ten (10) days to decide on a site-specific survey.
- Developing an efficient, reliable mechanism for public notice and comment.

Since May 2008, the City has implemented procedures that involve a “task force” of individuals and community groups that help review properties that are the subject of demolition or construction permits. However, loopholes still exist in the process. For example, not all properties that are older than 45 years are properly flagged for review and many properties that are flagged for review are still cleared without adequate analysis. These loopholes and weaknesses must be resolved. Part of the solution can be to increase input by public and community groups into the review process, especially in the determination of whether a potential historical resources exists on a property.

Additionally, the City has created an alternative review process known as “Preliminary Review” which is described in Bulletin 513. For a preliminary review, a project owner can pay a fee to have City staff answers specific questions about their property *before* a project is submitted, and receive a response within five (5) working days. The City allows a project owner to use the process to inquire as to whether their property contains any potentially historic resources. The City will then treat the staff response as binding once a permit application is submitted. This process completely circumvents the review by the “task force” described above.

### **Recommendations to Improve the Review Process for Demolition of Potentially Historic Resources**

We offer the following suggests for changes to strengthen the review process and comply with State CEQA requirements:

1. Amend the Land Development Code (LDC) at § 143.02129(c) to increase the time to determine the need for a site-specific survey from within 10 business days of application to within 15 business days from the point that notification is given to “local individuals and groups with expertise.” *Reason: This will allow more opportunity for individuals and community groups to provide input as to whether a potential historical resource is present, as required by Historical Resources Guidelines (HRG), Section II(A)(1).*
2. Amend the Land Development Code to extend notification distance from 300-feet to 1,000-feet around properties with pending land use projects.
3. Amend the HRG Section II(A)(1) to require the City to seek input from “local individuals and groups with expertise” for use in determining whether a potential historic resource exists, even in situations where a site-specific survey has been submitted by a project applicant, not just to help determine if a site-specific survey will be required. *Reason: As it stands now, the HRG only requires input by “local individuals and groups with expertise” in order to determine whether a site-specific survey will be required. Therefore, a project will bypass public input when a “site-*

*specific survey” is supplied by the project owner at the time of project submittal. However, staff does not have time to verify all information and conduct its own intensive research when the survey states the opinion that no resource exists. Requiring that the City seek public input regardless of whether a site-specific survey has been submitted will improve the review process.*

4. Clarify in the LDC and/or HRG that no process, such as the “preliminary review” process [Info Bull. 513] can be used to bypass input from individuals and community groups regarding the existence of potential historical resources. *Reason: The preliminary review process should not be used to avoid the review process described in the HRG, including seeking input from “local individuals and groups with expertise.”*
5. Revise the approval process for demolition and ministerial construction permits so that such permits are not final until the permit applications are published on the City’s website and five (5) working days have passed from such publication. *Reason: Many project owners avoid historic review altogether by providing incomplete or incorrect information about the age of their property, whether intentionally or otherwise. By delaying approval of permits until after publication, the public will be able to identify potential historical resources that have not been flagged for review.*
6. Require that any site-specific survey submitted by a project applicant must be prepared by a qualified consultant meeting Secretary of Interior Standards for a historical or archeological consultant. *Reason: This will increase the likelihood that a historical report will be thorough and accurate.*
7. Amend the HRG to require that any staff person who makes decisions about the potential historicity of a property must meet Secretary of Interior Standards for a historical or archeological consultant, and that the staff person’s decision cannot be overruled by management or other department members.
8. Require that any staff reports submitted to the HRB for use in considering historical designation of a property, must be prepared by staff who meet Secretary of Interior Standards for a historical or archeological consultant.
9. Amend the HRG to require that, when staff disagrees with public recommendations from “local individuals and groups with expertise” for a site-specific survey, the project must be forwarded to an appropriate HRB subcommittee [such as Design Assistance] for determination as to the need for a site-specific survey, and that the deadline for making the determination is suspended until the HRB subcommittee makes a decision.
10. Reviews to be sent to locally-designated Community Planning Groups.

## Questions Regarding the Review Process for Demolition of Potentially Historic Resources

In addition to the concerns and recommendations outlined above, we have the following questions regarding the review process for demolition of potentially historic resources:

1. How can DSD develop an efficient, more reliable mechanism for public notice and comment on proposed building applications, for example, posting permit applications on the city's web site?
2. How can projects with multiple addresses be required to include all addresses on permits that require review?
3. How can the DSD requirement that digital color photographs be included in permit applications be enforced?
4. How can permit applicants be penalized for submitting false information on applications?

As many of San Diego's older neighborhoods turn 100 or more years old, we believe it is vital to turn a critical eye to the processes designed to protect and preserve our city's irreplaceable historic assets.

We appreciate your consideration and respectfully request that these recommendations be docketed in the near future for formal review and adoption by the Land Use and Housing Committee.

Sincerely,

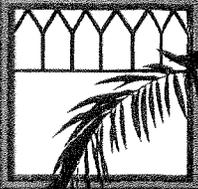


Ronald V. May, RPA, Chair  
Neighborhood Historic Preservation Coalition

**TIMELINE**  
**REVIEW PROCESS FOR DEMOLITION OF POTENTIALLY HISTORIC RESOURCES**

- 1/31/07 Greater North Park Community Planning Committee (GNPCPC) issues *Position on Demolitions and Remodels with Substantial Alterations*.
- 6/14/07 Toni Atkins issues memo to Mayor Sanders requesting docketing of the 45-year review process at a Land Use and Housing Committee meeting.
- 10/6/07 HRB staff conducts training of DSD staff on *How to Identify and Protect Historical Resources*.
- 10/31/07 SOHO lawyer sends letter to DSD regarding General Plan Update and EIR.
- 11/16/07 Bill Anderson issues memo to Toni Atkins in response to her memo of 6/14/07, with recommendations for improving the 45-year review process.
- 12/14/07 Toni Atkins issues memo to LUHC Chair Ben Hueso requesting docketing of 45-year review process.
- 12/17/07 UPHRS issues draft recommendations for improving review process for demolition of potentially historic resources.
- 1/17/08 Kristin Harms, Chair of the Uptown Historic Preservation Coalition (UHPC) sends California Public Records request to Kelly Broughton requesting staff communication about the 45-year review process from January 1, 2006 through December 31, 2007.
- 1/23/08 NHPC, UPHRS, GNPCPC, and SOHO present issues and recommendations at LUHC meeting regarding the review process for potentially historic resources.
- 3/20/08 HRB sends letter to representatives of officially recognized community groups requesting consultation on "review of projects in your community planning area."
- 4/14/08 Janet O'Dea of NHPC sends letter to Kelly Broughton requesting that information about building permits be made more accessible to the public by posting on the City's web site.
- 4/16/08 Grand Jury issues report on *San Diego City Development Services Department: Professionals In A Maze*.
- 5/8/08 HRB staff convenes first meeting with representatives from recognized community groups to discuss process for obtaining community input on site-specific surveys for potentially historic properties.
- 5/13/08 Bill Anderson and Kelly Broughton issue report to LUH to "Provide input on progress made on addressing issues raised by Councilmembers and the public regarding the review of demolition permits in the City of San Diego."
- 5/21/08 City Attorney Mike Aguirre issues report to LUHC on "The Legal Requirements Of CEQA And The San Diego Municipal Code For The Issuance Of Demolition Permits For Potentially Significant Historical Structures 45 Years Or Older."
- 5/1/09 Associate Planner position moved from DSD to CPCI to be a permanent part of the Historical Resources staff to administer the review of permits for properties 45 years and older.
- 6/12/09 HRB Staff convene a first anniversary review of the Over-45 program.

LA JOLLA  
HISTORICAL SOCIETY



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September 9, 2009

Land Use and Housing Committee  
City of San Diego  
202 C Street  
San Diego, CA 92101

**SUBJECT: Endorsement of Uptown Planners Demolition Review Proposal**

The La Jolla Historical Society strongly supports the proposal by the Uptown Community, entitled *Land Use and Housing Demolition Policy Concerns & Proposed Solutions*, addressing illegal demolitions of older buildings that if properly evaluated, could potentially be historically significant to the city of San Diego.

As with so many other older communities throughout the city of San Diego, La Jolla has experienced many such cases, and has found that there is seemingly little the city is willing or able to do to address the problem after the fact. Only recently, after years of repeated requests, pleas and formal complaints, the La Jolla Historical Society was finally asked to give advice and counsel to city staff in the review of 45-year-old and older sites. Unfortunately, we remain in the dark with regards to the ultimate disposition of various resources in question after a final decision by staff has been made. In fact, we frequently discover – with little advance notification – that a new structure is going up on sites that we have reviewed and recommended historical studies be conducted.

We sincerely respect the talent and judgment of city staff and believe they generally make the correct call on these projects. However, the serious – and irreversible – subject of demolitions in historic neighborhoods is one which we believe deference to local stakeholders like community historical societies is lacking. Moreover, there are projects that are submitted for Preliminary Review that we hear nothing about and only discover the resource is lost when demolition has started or the lot has been cleared. Frequently, the La Jolla Historical Society is notified of interior improvements or minor additions to which we rarely have objections, to later discover the whole street façade of the building forever altered without proper historical review. This has been the case with a site at 1429 La Jolla Rancho Road and another one on Neptune Place, to name two recent examples.

Once these various actions occur, the community is forever robbed of an older, potentially significant structure that speaks to its heritage and character. This irreversible damage to our historical fabric is the legacy we risk leaving to future residents.

The time has come for historic conservation and preservation to be an integral part of the *total* project review process, including the early stages of permit review, final permit approval, building inspection of construction, and prior to granting occupancy permits. Any violation of the rules should be accompanied

by punitive measures that are meaningful and feature a high degree of intended deterrence. There must be consequences to intentional subversion of laws and regulations in order for community preservation efforts to succeed.

There also must be greater consistency and unity in the interpretation of regulations amongst the City's various departments responsible for reviewing projects, particularly between Developmental Services and Historic Resources. It has been our observation that these two entities, in particular, are frequently unaware of the actions of one other with regards to projects that affect potentially historic properties.

We encourage you, the elected City Council, to protect the city's historic neighborhoods and meet the Council's own policies for historic preservation, neighborhood conservation and neighborhood character as stipulated in community and City-wide plans. The La Jolla Historical Society believes the Uptown Planners' proposal provides the robust guidelines necessary for city leaders to ensure responsible development and historic preservation are managed effectively.

Respectfully,

A handwritten signature in black ink, appearing to read "John Bolthouse", written over a horizontal line.

John Bolthouse  
Executive Director

cc: Councilmember Sherri Lightner  
Councilmember Todd Gloria



NORTH PARK PLANNING COMMITTEE

[www.northparkplanning.org](http://www.northparkplanning.org)

September 17, 2009

Land Use and Housing Committee  
City of San Diego  
202 C Street  
San Diego, CA 92101

**SUBJECT: Endorsement of Uptown Planners Demolition Review Proposal**

North Park is a treasure of eclectic buildings dating back to the turn of the century that contribute substantially to the fabric and diversity of our urban community. On Tuesday, September 15, 2009, the North Park Planning Committee (NPPC) voted to endorse the *Land Use and Housing Demolition Policy Concerns & Proposed Solutions* document approved by Uptown Planners on September 1, 2009.

The NPPC has a long history of working to protect and preserve our historic resources with particular attention given to inappropriate demolitions and the development review process that can be manipulated and violated with little or no consequence.

We encourage the council to support the Uptown Planners' model that provides the robust guidelines necessary to ensure responsible development and appropriate protection of San Diego's historic resources.

Sincerely,

Rob Steppke  
Chair, North Park Planning Committee

## Land Use and Housing Demolition Policy Concerns & Proposed Solutions

Recently, there has been considerable effort by City Staff and neighborhood groups to support historic review of applicant projects in the older areas of San Diego. The most successful results of the process have been with applicants who are working in good faith. However, lax enforcement and some processes that obscure public involvement have pointed to a variety of process issues. The results have been shocking because those who seemingly intend to bypass the system or use political influence to bend the rules in favor of their own interests and are granted demolition permits. Examples of abuses in the system continue and much can be achieved by correcting deficiencies in these systems through often-simple process changes, by adjusting regulations and adjusting policies. When the system supports more transparency it seems that it will be easier to identify those who do not intend to comply to regulations before there is actual demolition.

Results of the changes to the current codes, regulations and policies would have the overall positives effects:

- Preserving San Diego’s historic architecture and cultural heritage
- Providing applicants a clear path to navigate the process
- Decreasing landfill waste and discarding quality materials such as old growth lumber
- Enable more cost effective reinvestment into the established communities and maintaining the rhythm and scale of the streetscape, which invites aesthetic upgrades and staves off blight.
- Complying with CEQA and reducing the city’s liability exposure.

Specific actions that Land Use & Housing can take to address the issues concerning demolitions are listed as proposed solutions in the below table.

### Open Issues

	Issue	Proposed Solutions
1.	<b>Communication with Stakeholders</b>	<b>Proposals</b>
	<p>A. Community Member/Stakeholders are not given timely or accurate notice of pending demolition permits, which inhibits action at the time an actual permit is issued.</p> <p>B. Community Stakeholders have trouble verifying when permitted work or unpermitted work is being done and often only have access to information after the fact. Permits are not on buildings and building addresses are not required to be visible during construction/demolition</p>	<ul style="list-style-type: none"> <li>• Provide on-line notices of pending and issued permits in real time, or delay granting the applicants permit until the actual notice is published and available to the public.</li> <li>• An option immediately available for implementation is to process demolitions and upcoming controversial projects or those sites with buildings 45 years or older through the community-planning groups since they may be in a better position to understand the cumulative impacts.</li> <li>• Require permit notices and addresses to be posted and visible on any construction/demolition site.</li> </ul>

	<p>C. Permits are issued for properties but notices are delayed and verification is difficult.</p> <p>D. Permit notices are inconsistent and don't provide the planning area or current zoning. Also permits don't list all of the properties involved in the project. Demolition permits don't provide information connecting it to current or future projects.</p> <p>E. The Code Monitoring Team and the Technical Advisory Team have not undertaken these issues. Yet unpermitted work goes on all of the time and is pervasive in our older communities. The unpermitted work eliminates the ability for the process to work as it was intended and ultimately affects our quality of life.</p>	<ul style="list-style-type: none"> <li>• Permits provide consistent information regarding all of the addresses/parcels involved in the application, the planning area and zoning information on the permit notice.</li> <li>• Put forward language for these proposals to coincide with the next Land Development Manual "LDM") or Code or otherwise request staff to make policy and regulation changes effective immediately. Additionally, include community member oversight of the legislative process and changes in the LDM or LDC as they affect demolition policies and historic preservation.</li> </ul> <p><b>Results:</b> Opens up the process to the stakeholders in the community and makes the process more transparent. Also makes code enforcement easier.</p>
2.	Legal Issues	Proposals
	<p>A. The City's process of taking permit applications out of the Ministerial process to review it for the 45-Year analysis should in and of itself require it to be moved into a Discretionary process. Ministerial projects are for straightforward projects that don't require intervention/evaluation by staff. Once pulled out of the Ministerial track the project is inherently Discretionary. The city does not abide by this and routinely pulls and reinserts applications returning them back on the Ministerial track. This opens the city to unnecessary liability.</p> <p>B. Buildings must be considered historic under CEQA if there is a fair argument that they are eligible for the California register even if they are not already designated. If there is simply a fair argument that the structure is eligible the impacts must be assessed and an environmental document is required. Also the current and foreseeable new project needs analysis because of the</p>	<ul style="list-style-type: none"> <li>• Request an evaluation and opinion from the City Attorney on current practices for project applications that are presented as Ministerial but require extra handling during processing. Including how the current handling of applications conforms/does not conform with CEQA and the LDC, and practical recommendations in processing applications to reduce liability.</li> <li>• Arrange SOHO and City Attorney co-sponsored training for DSD Staff on interpretation of CEQA law.</li> <li>• Adhere to the environmental review and analysis required by CEQA when buildings are over 45 years old and analyze the foreseeable future projects cumulative impacts when stakeholders, consultants and/or City Staff raise concerns about historical resources (CEQA fair argument). Compliance with CEQA is not optional.</li> </ul>

	<p>cumulative impacts. Demolitions are granted for historic buildings when a fair argument has been made but the CEQA analysis is not provided for both the proposed new project/demolition. Therefore demolitions occur without full and complete analysis or mitigation.</p> <p><b>Effects:</b> These practices allow for substantial loss of historic buildings in our established communities and may put the City in a position of liability exposure.</p>	<ul style="list-style-type: none"> <li>• When a disagreement occurs pertaining to the historic status of a building between staff and/or community stakeholders this triggers the fair argument standard of CEQA and the application should then follow a Discretionary process.</li> <li>• Provide a database system to ensure that cumulative impacts are properly monitored including air quality, water quality and waste.</li> </ul> <p><b>Results:</b> Enforcement of the CEQA, laws and regulations, increased staff and community input. Analysis of potential environmental impacts and alternatives and mitigation to the community through the process or by review of environmental documents (NMD, ND or EIR) when necessary.</p>
3.	<b>Community Plan Historic Surveys and EIR</b>	
	<p>A. It is widely accepted that a reconnaissance windshield survey cannot reveal all of the character defining features or historic references related to a given property. The change in the 45-year review process is an example of what can be found while looking at properties more closely. In 2006, the draft Uptown Survey was submitted but not adopted. Concerns were raised at that time because of the potential elimination of further investigation on over half of the properties in Uptown. City Staff now plans to adhere to the State status codes and is working towards adoption of new Surveys in preparation of Community Plan Updates.</p> <p>The older communities become vulnerable if a more in-depth analysis for the oldest properties in our established San Diego communities is not required before demolition permits are issued.</p> <p>B. An EIR was not conducted before adoption of the General Plan but must be done as part of the Community Plan updates for North Park, Golden Hill and Uptown because these affect some of our oldest communities.</p>	<p>Not all properties can be given intensive study but further investigation should be warranted for the oldest properties, as has been the case citywide with the current 45-year process.</p> <ul style="list-style-type: none"> <li>• City staff should require more intense investigation such as when properties are 65 years or older after reconnaissance surveys are adopted.</li> <li>• Make survey data available on-line within City departments and to the public.</li> <li>• EIRs should be conducted during the Community Plan updates.</li> </ul> <p><b>Results:</b> Research of the oldest resources in San Diego’s older communities relate to the historic context of the community and contribute to the story of San Diego’s history. These older properties should be given more in-depth analysis before demolition permits are issued.</p> <p>An EIR for each community plan update will include alternatives and mitigation as part of the discussion and offer opportunities for</p>

		substantive dialogue and consideration pertaining to the quality of life factors in our communities.
4.	<b>Permit Process Aberrations</b>	
	<p>A. The Preliminary Review process bypasses the 45-year review (a 10 day review by the community) that also results in issuance of demolition permits. It is a loophole that results in land use decisions without adequate analysis or review. This process was used issuing one permit to demolish six houses on Centre Street and the resulting development of the site should not be Ministerial bypassing community input but because its scope should have triggered a CEQA review and Discretionary process.</p> <p>B. When inadequate research is presented by the applicant and there is not enough time for a community response then bad decisions are made simply because the time is up. Once the resource is demolished, the report, if inaccurate, is the only documentation left behind and it does not adequately represent the history or legacy.</p> <p>C. Those who profit from demolishing historic properties pay consultants who leave out facts or misinterpret analysis with apparent intent to bypass CEQA.</p> <p>D. Demolition by neglect is accepted as a persuasive argument to demolish historic buildings instead of promoting adaptive reuse.</p> <p><b>Effects:</b> Demolition of historic properties and changes to the historic context of our communities and the Preliminary Review process sidesteps the 45 year review and other community input processes. Often investors neglect or don't maintain the building or property to attempt to make a case that the building is not significant because they have not kept it up. Paid consultants with an agenda to suit their clients submit inadequate, and biased reports pertaining to applicants' projects and cause a loss of confidence and</p>	<ul style="list-style-type: none"> <li>• Review of all demolition permits by staff meeting the Secretary of Interior Standards qualifications.</li> <li>• Preliminary Review should not bypass securing community input so instead it should be part of the Community Planning Group meeting process.</li> <li>• Abide by CEQA and provide a mechanism to take projects out of the Ministerial or Preliminary Review process when they require more community input– Such as potentially historic properties, controversial projects or large projects such as the application to demolish six old houses on Centre Street.</li> <li>• City staff should provide better oversight of historic reports including reference and data checking with conclusions based on evidence or supportive documentation.</li> <li>• Provide community members and City Staff with a feedback mechanism to remove consultants from the city's consultant list when reports repeatedly leave out facts or conclusions are unjustified.</li> <li>• When consultant reports leave out facts or conclusions are unjustified consider community input under CEQA fair argument standards and require environmental documents as the next step, before any demolition permits are issued.</li> <li>• Promote adaptive reuse and enforce code compliance issues since it encourages improving communities.</li> </ul> <p><b>Results:</b> Reduce rushed demolitions of properties that are historic in nature, less vacant lots and reduced losses of the historic integrity of the</p>

	<p>integrity in the process because there is little City supervision or adjustment to mitigate the faulty or inadequate reports. Permits processed for the sake of a bonus instead of quality of the review perpetuates these problems and leads to unjustified demolition of historic properties.</p>	<p>community. Beautify and improve the built environment. Improve integrity of the historic review process. Also provide incentives for quality historic research reports by enabling City Staff to raise the standards for submitted reports which may be the only documentation pertaining to the resource. Enforces CEQA and codes while protecting historic assets from reckless demolitions</p>
<p>5. CEQA and Mitigation for Non-Compliance</p>		
	<p>A. Permits are issued after demolition takes effect.</p> <p>B. Demolition permits are separated from the foreseeable project and there is no analysis of the cumulative impacts.</p> <p>C. Simple permits are issued but are not relevant to the work being completed. (Permit for a water heater does not pertain to siding being removed/installed).</p> <p>D. Penalties are too low to discourage unpermitted demolitions.</p> <p>E. Errors in processing applications by staff or mis-information by applicants resulting in demolition of significant properties.</p> <p><b>Effects:</b> Cumulative impacts are not addressed and are out of CEQA compliance</p>	<ul style="list-style-type: none"> <li>• Projects including demolitions on a particular site should not be partitioned. Thus permits for a demolition would not be issued as a bureaucratic process but in context with the proposed new project, zoning, site, planning area and all affected parcels.</li> <li>• Posted addresses and permits during notice and all phases of construction will help inspectors and community members verify the work that is being done matches the issued permit.</li> <li>• DSD should maintain and make a database available to the public that shows the cumulative impacts related to built, planned and future projects (per zoning) for better analysis as projects come forward.</li> <li>• Substantially increasing enforcement and meaningful fines are in the work plan and need to be completed. A substantial and punitive interim penalty should be established until all the details of the fine in the work plan are fully approved.</li> </ul> <p><b>Results:</b> Projects include the plan for the demolition so that it can be viewed thoughtfully and comprehensively in accordance with CEQA analysis of the whole record. Fines will deter those who wish to circumvent the system and could provide mitigation to the community by funding other preservation projects. Issues with projects would be discovered earlier when enforcement actions are more meaningful.</p>

6.	Other Policy Issues and Impacts to Older Undesignated Structures	
	<p>A. Remodels and demolitions differ and need to be permitted differently. Demolitions disguised as remodels cheat the community out of input as well as review of parking requirements. Coastal Commission requirements are clear and could be the model for city codes.</p> <p>B. Applicants obtain legitimate permits for a minor item or partial permit but exceed and cheat the permit resulting in major demolition/losses. (i.e. kitchen remodel permit results in tear down)</p> <p>C. Zoning creates pressure on commercial historic resources in high-density zones and Conservation Areas need to be implemented. There is currently no mechanism to do so.</p> <p>D. Ministerial projects bypass the goals set out in the community plan and erode the unique character of San Diego communities over time.</p> <p>E. Spot planning by frequent community plan amendments undermines the community planning process.</p>	<ul style="list-style-type: none"> <li>• Revise the definition of a remodel so it is limited to 25% or less of the building and include language in requirements effecting remodels mirror the provisions enforced by the Coastal Commission.</li> <li>• An ongoing inspection at various thresholds to ensure that demolition of existing resources is not excessive.</li> <li>• Issue fines and provide mitigation measures for projects that exceed permitted actions.</li> <li>• LDC &amp; Procedures for Design Guidelines is missing from General Plan Actions – Implementation of Conservation Areas need to be established for older areas now because they are undergoing plan updates.</li> <li>• Ministerial projects need to show conformance and be subject to the Community Plan.</li> <li>• Limit the number of introductions/adoption of Community Plan updates each year.</li> </ul> <p><b>Results:</b> The public would be clear on the project permitted when remodels and demolitions are clearly distinct. Conservation Areas with complementary zoning that recognizes the benefits of historic commercial areas reduces pressure to radically alter the established character of these areas.</p> <p>Ministerial projects that adhere to the community plan will appear complementary to the established streetscape.</p>

Thank you for taking the time to address these topics. In order to make these proposals actionable we request that a motion is made to support proposals as presented including changes to the land development code, regulations and policies.

Uptown Planners  
September 1, 2009

## Land Use and Housing Committee Meeting - Sept. 23, 2009

Allen Hazard  
Resident, District Two, Mission Hills 92103

Item #5 (ACTION ITEM)

### So-called - “Remodeling” Problems and Solutions:

1. **When is a remodel really a demo?** Demolitions are being cleverly disguised as “remodeling” – a homeowner will tear gut the place, tear down nearly the entire home, leave up one wall and call it a *remodel*...

This is a farce – this is a serious loophole that is, in essence removing many of historic homes. Generally, the **Remodel becomes a huge McMansion**, you have to really search for any remaining original fabric.

Often times, a smaller bungalow has become a 5,000 sq ft. Monster Tuscan Villa! **This is currently allowed and must be stopped immediately.**

2. **A kitchen remodel is not a demo permit** – Another big Swiss Cheese loophole is when an applicant will get a kitchen (or similar) *remodel* and tears 99% of the historic home down (**example, 4337 Valle Vista in Mission Hills**).

**These LOOPHOLES exist and hurts our historic communities.** Please do not throw the community a bone or two today – I am asking you to make real and significant changes to protect our historic resources now, not tomorrow.

**Please solve the problem now and Revise the Definition of Demos and Remodels –**

**Solution** – create new language that states that a demo means more than 25% of the street facing wall must be kept intact and more than 50% of all original walls. More of the original historic fabric must remain.

**Inspect and Stop non-permitted work.** When the applicant has gone behind the permit, *usually way beyond*; applicant must be ordered to stop all work and go through a re-evaluation with HRB. Don’t inspect AFTER the “remodel” has been built – the community gets “stuck” with inappropriate McMansions.

**A permit is a contract.** Require owner, architect, engineer, and contractor to sign a contract stating such with REAL penalties outlined clearly. Issue real and meaningful fines that will deter such reckless action.

Inspections also need to be ongoing as many homeowners lie on their applications; they know that the city will do nothing outside of a gentle slap on the wrist.

I support the Uptown Planner's proposals; the La Jolla Historical Society, the North Park Planning Group, Mission Hills Heritage and the Congress of History also support these common sense solutions.



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*--A community organization dedicated to preserving the character, charm and historical resources of the Mission Hills neighborhood.*

September 21, 2009

Land Use & Housing Committee  
The City of San Diego  
c/o Steve Hill, Consultant  
202 C Street, 12 Floor  
San Diego, CA 92101

Subject: Historic Preservation  
Hearing Date: September 23, 2009  
Item Nos. 3-6

Dear LU&H Committee Members:

Please consider the following comments from Mission Hills Heritage regarding several issues that will be discussed at the September 23rd committee meeting.

As you know, a growing number of San Diegans believe that preservation of historic resources is critically important and are concerned about the ongoing loss of precious historic resources through demolition and other development activity. We are appreciative of the time that City Staff has spent over the last year working with the community and the attention that this committee has given regarding these issues. Unfortunately, we feel that the staff report dated September 17, 2009 does not respond adequately to a number of concerns.

### **Background**

Some of the most significant problems arise in the review process for demolition and other development permits. Unless a property has already been designated as historic, the application for a demolition or other permit is the first, and perhaps last, opportunity for a review of the property to determine if a historic resource is present. Thus, the permit application and review process has been a primary focus of concern about shortcomings in the City's current system of land use regulation. The most striking example of the current system's failures occur when potentially historic resources are suddenly demolished without any warning or notice to the public. Every older community in San Diego has witnessed many such demolitions. A recent example occurred at 4337 Valle Vista in Mission Hills. In April 2009, this minimally altered, 1910 Craftsman bungalow was almost completely demolished without any public notification or input, except for the publication of the already issued permit on the DSD website the Friday evening before demolition began. The project bypassed the newly created "public input working group" because the project owner submitted a consultant's report as part of a "Preliminary

Review.” Staff reviewed the project and agreed with the consultant’s opinion that the property was not potentially historic. However, the report overlooked publically-available historical photos that arguably contradicted conclusions reached in the consultant’s report. After reviewing the consultant’s report and available historic photographs, we disagreed with the consultant’s opinion. However, without public input, there was no opportunity to submit evidence that the property was potentially historically significant, before demolition took place.

The “Preliminary Review” for 4337 Valle Vista avoided any public input:



This 1910 Craftsman was almost completely demolished after staff agreed with the conclusion in a consultant’s report that prior “alterations” to the front had resulted in a loss of integrity to the house such that it was not potentially historic. There was no public review of this project prior to demolition.



However, historic photographs that were not included with the report suggest that the alleged “alterations” existed as early as 1927. After viewing current photographs, we also disagreed with the consultant’s conclusions that the shingles, the front door and other features were not original.

With this example as a backdrop, we have the following specific comments to portions of the report and recommendations:

### **Applicability of the California Environmental Quality Act (CEQA)**

Underlying many of the problems with the permit application and review process is the fact that the current demolition process is ministerial by definition of the Land Development Code, and is therefore not subject to environmental review under CEQA. The staff report indicates that the City Attorney’s office is currently considering whether the review process for potentially historic resources should be a discretionary action.

However, this issue has already been studied by the City Attorney’s office. The City Attorney’s report to the LU&H in May 2008 explained that deciding whether a structure 45 years or older is a potential historic resource is not a ministerial determination. As stated in that report, it is not merely determining whether the “zoning allows the structure to be demolished in the requested location, or where the structure would meet the strength requirements in the Uniform Building Code,” (State CEQA Guidelines § 15369) both of which merely require checking plans against charts and tables that do not require subjective interpretation. Rather, determining whether a property is potentially historic requires specialized discretionary judgment. As stated by the City Attorney, the decision to issue a demolition permit for a structure 45 years or older clearly involves a mixture of ministerial and discretionary action. As such, the City Attorney recommended changing the review process to either an “advanced ministerial review” or mandatory discretionary review. The City Attorney recommended several changes to the review

process, including providing more than (10) days to decide on the need for a site-specific survey and developing an efficient, reliable mechanism for public notice and comment. The City should accept this conclusion and recommendations now and adopt appropriate reforms.

### **Closing Loopholes in the Review Process**

As noted in the staff report, the Council's adopted Historic Resource Guidelines (HRG) require the City to consult with and consider input from local individuals and groups with expertise in historic resources of the San Diego area to determine the need for site-specific surveys for a permit for properties 45 years or older. We feel such input is critically important to the review process. Public input fosters honesty and transparency in the review process, provides more information on which to make a decision, and leads to a better result.

Despite the formation of the "public input working group," many reviews still avoid public input. This occurs when the applicant either (1) submits a historic report with their application, or (2) asks for a historic determination through the "Preliminary Review" process.

On the first point, as it stands now the HRG only requires input by "local individuals and groups with expertise" in order to determine whether a site-specific survey will be required. Therefore, a project will bypass public input when a "site-specific survey" is supplied by the project owner at the time of project submittal. However, staff does not have time to verify all information and conduct its own intensive research when the survey states the opinion that no resource exists. We recommend that the HRG be amended to require that the City seek community input on the determination of whether a historical resource exists, not just the need for a site-specific survey.

On the second point, City Staff has allowed the "Preliminary Review" process to be used such that it completely bypasses the input process required by the Land Development Code (LDC) and HRB Section II(A)(1), and results in a determination in less time (5 days rather than 10 working days<sup>1</sup>). While the "Preliminary Review" process is a useful device to obtain input from the City before a project is submitted, it should not be allowed to circumvent a process required by ordinances and adopted regulation. As such, the "Preliminary Review" process is being used illegally by City Staff. Any determination made on the basis of "Preliminary Review" should require the same historical review (including public input and complying with time requirements) as an application for a demolition permit.

Additionally, in circumstances where the opinion of staff and those of individuals and groups who have provided input conflict as to the whether a specific property is potentially historic, the decision should be forwarded to the full Historic Resources Board (HRB) for decision.

Lastly, publishing applications for demolition and other development permits would allow greater community input and keep the process transparent. Many project owners avoid historic review altogether by providing incomplete or incorrect information about the age of their property, whether intentionally or otherwise. By delaying approval of permits until after publication, the public will be able to identify potential historical resources that have not been flagged for review. Therefore, we recommend that the approval process be revised such that

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<sup>1</sup> As suggested by the City Attorney, ten (10) working days is not enough time to gather necessary input for the determining whether a potential historical resources is present. We recommend that the review time be extended.

demolition and other permits are not final until the permit applications are published on the City's website and five (5) working days have passed from such publication.

### **Conservation Areas**

We strongly support the concept of using conservation areas, and are pleased that this concept may be moving forward. However, the staff report does not discuss any enabling regulation to allow such areas to be established. Additionally, while the report mentions conducting a survey to identify "conservation areas," we are concerned that such a survey could take years to complete, given the financial constraints of the City. We recommend that the community plan update process be used to identify the "conservation areas" and draft proposed development guides, which may differ from one community to the next.

### **Conclusion**

While the staff report discusses many of the concerns raised by the public and community groups, it is short on specifically implementable action. Many of these issues have already been exhaustively studied over the last few years. It is time to enact real changes that will help protect historical resources and comply with state laws, including CEQA.

In summary, we recommend the following actions:

1. Amend the HRG Section II(A)(1) to require the City to seek input from "local individuals and groups with expertise" for use in determining whether a potential historic resources exists even in situations where a site-specific survey has been submitted by a project applicant, not just to help determine if a site-specific survey will be required.
2. Clarify in the LDC and/or HRG that no process, such as the "preliminary review" process [Info Bull. 513] can be used to bypass input by individuals and community groups into the existence of potential historical resources.
3. If there is a disagreement between staff and the public as to whether a specific property is potentially historic, the decision should be forwarded to the full HRB for determination.
4. Revise the approval process for demolition and ministerial construction permits so that such permits are not final until the permit applications are published on the City's website and five (5) working days have passed from such publication.
5. Adopt enabling regulation for conservation areas and utilize the community plan update process to identify the potential areas and to draft proposed development guidelines.

Thank you for your careful consideration of these items.

Sincerely,

Patricia "Rusty" Reily  
President, Mission Hills Heritage

Barry E. Hager  
Board Chairman

Cc: Cathy Winterrowd, Senior Planner, CPIC, Historical Resources  
William Anderson, Director, City Planning & Community Investment