



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: November 10, 2011

TO: Councilmember Lightner and Members of the Land Use and Housing Committee

FROM: Kelly Broughton, Director and Cathy Winterrowd, Principal Planner, Development Services Department

SUBJECT: Historical Resources Follow-up to "History Day" at LU&H

This memo provides a status update of a number of issues related to the permit review process for potentially historic properties that have been discussed at various Land Use and Housing Committee meetings during the last few years, as well as, an update on the Mills Act program.

Permit Review Process for Potential Historical Resources

LU&H made a number of recommendations to expand the noticing and public input process, to address fines and penalties for unpermitted work resulting in adverse alterations (demolitions and remodels) to historical resources, to extend the timeframe for the historical resources preliminary review and ministerial review processes, to make additional historical resources data available online for the public, to establish a qualified consultant list, to require review of a new project for a site that proposes demolition of an existing building, and to incorporate conservation areas/design guidelines in community plan updates. As discussed with LU&H in 2010, a number of recommendations have been implemented, including changes to the Historical Resources Guidelines related to public input during the review process.

Extending the preliminary review process from five to 10 business days or from 10 to 15 days for initial determination of need for historic report is not being pursued. However, now that Planning has merged with Development Services, notification to the public input working group is occurring much sooner in the process, which provides some additional time for input. Expanded noticing to the public, review by the community planning groups and increased involvement of the Historical Resources Board in initial determinations for ministerial demolition and building permits is likewise not being pursued. The community is significantly involved in the historical resource review process through the public input working group and staff has found this involvement to be beneficial in the determination of potentially historic buildings. Staff has also found there to be only minimal disagreements with community

members over the significance of older buildings and when there is a disagreement, based on valid documentation, the property is taken forward to the Historical Resources Board for a designation hearing. Between approximately April 2008 and September 2011, historical resources staff has reviewed 3,427 project applications involving buildings 45 or more years old; members of the public provided input on 1,056 or 31% of these applications. Approximately 81% (2,791) of the projects were cleared as non-historic, 592 (17%) were determined to be potentially historic with the proposed project consistent with the Secretary of the Interior's Standards and the Historical Resources Regulations, and 44 (>2%) were determined to be potentially historic and a research report was required.

Several recommendations have been reviewed by Development Services and are now underway or are still under review, while other recommendations are not currently being pursued, as discussed above. The attached table has been updated since "History Day" in 2010 and addresses the current status of these recommendations. Recommendations that were previously implemented have been removed from the list. Additional information is provided below for those recommendations that are currently being pursued.

Fees for Unpermitted Work

The action item before the Land Use and Housing Committee today would amend the Municipal Code to allow assessment of fines for unpermitted work adversely impacting a historical resource and deposit of the fine into the Historic Preservation Fund, established by the City Council for the purpose of funding local historic preservation programs and incentives.

Increased Public Information on Website

An expenditure of \$2,000 from the Historic Preservation Fund for improvement of technology to support public access to historical resources data was approved by the City Council in October 2011. These monies will be used to pay for necessary staff time and software, including continued support for the City's database upgrade to CHRID, resulting in improvements in the public's access to survey and project review data. It is anticipated that we will also be able to post information on projects with buildings 45 or more years old each day, as they are checked in with the Historical Resources staff.

Online Survey Data

The City acquired the California Historical Resource Inventory Database, or CHRID, in order to manage our historical resources data and provide public access to that data. CHRID is a very powerful database tool that will allow staff to track a variety of resource types, including designated properties, historic districts, surveyed properties, properties pending designation, and appealed properties; and most importantly, it will allow us to make that information available to the public online in a readily searchable format. CHRID was brought online and made accessible to the public in September 2011 with the first grouping of resources that have been entered.

The level of information and manner in which it is displayed varies based on the resource type. A resource summary page that provides locational and architectural information as well as a photo of the resource is available for all resources. Surveyed resources will also display a Primary Record DPR form; however the level of detail on that form will vary from survey to survey, depending on the scope of the survey and the consultant contract. Designated resources will display a Local Designation form that summarizes the designation and provides a link to the staff report, the nomination report, and the final resolution.

The first grouping of data that is available online includes all designated resources from 2009 to the present and the recently completed Barrio Logan and San Ysidro survey data collected for those community plan updates. Newly designated resources will be added to CHRID monthly, and staff will continue to work backward from 2009 to add older resources, as time allows. The local Register of Designated Historical Resources that is currently on our website will remain on the website and will continue to be updated and maintained as an alternative searchable database for the public. In addition, new survey data compiled in concert with community plan updates, such as Uptown, North Park, Greater Golden Hill, Old San Diego, and Midway will be added as it becomes available.

Qualified Consultant List

Establishing a Qualified Consultant List may result in better quality historical resource research reports and an ability to remove a consultant for sub-standard work. The City does not now maintain a qualified list and will need to go through an open process for qualifying individuals and set standards that can be measured. The County of San Diego went through this process a few years back. We anticipate it will be time consuming and involve the City Attorney's Office.

Conservation Areas/Design Guidelines

Design Guidelines and Conservation Areas are being considered as part of several community plan updates at this time. Community Planning staff is working with the planning groups and update advisory groups to select an area that is a priority for this type of land use control. Ultimately, we anticipate identifying a single area within the community that retains desirable character and would benefit from application of design guidelines for new or infill development. The details of the implementation are still being addressed as part of the plan update process.

Mills Act Program

We processed 42 applications for new Mills Act agreements in calendar year 2011; this is one less than last year and again significantly higher than the 12 in 2009. Three applications came from properties located in Council District 1, 19 from Council District 3 and 20 from Council District 2. The Uptown community again had the highest number of applications at 17, with Kensington, Peninsula and North Park at seven, six and five, respectively. We received three applications from La Jolla, two from Greater Golden Hill and one each from Ocean Beach and Centre City. The fiscal analysis indicated that these 42 new agreements will result in a reduction of approximately \$62,000 in the City's share of property taxes, which is well below the \$200,000 threshold. One property owner was granted a low income waiver of the fees. The other

applicants paid a total of \$44,362 in fees for processing the agreement and their first inspection. These agreements are on schedule to be recorded before the end of the calendar year and the tax reduction will be realized in 2012.

We began inspections of existing Mills Act agreements in 2010, starting with the oldest 200 properties and continued this year requesting fees from the next oldest 200 properties. Of the 200 property owners contacted, 175 paid the fee, three were granted low income waivers and five chose to non-renew the agreement rather than pay the fee. The non-renewals generally are receiving very little or no tax benefit and are offered the non-renewal option. The property remains designated and protected under the City's historical resources regulations. With these inspections, we again found the vast majority to be in compliance with their agreement and the Standards. Only 27 of the 183 inspections identified issues related to unpermitted alterations or deferred maintenance that needs immediate attention. We will work with these property owners and anticipate that all will be brought back into conformance.

Conclusion

In conclusion, the historical review process has proven to be very effective in the identification and protection of San Diego's historical resources. Working with Council offices and community members over the past three years, the process has significantly improved through increased public involvement and the professionalism of qualified historic staff. We look forward to bringing forward several historic preservation issues during the next few years including new historic districts, utilizing additional historic preservation funds in support of the General Plan, completed surveys associated with ongoing community plan updates, and code revisions that provide incentives to historic property owners.

Respectfully submitted:



Cathy Winterrowd
Principal Planner



Kelly Broughton
Director

KB/cw

Attachment: Updated Table of Recommended Actions and Responses

Table of Recommended Actions and Responses

Issue Number	Recommended Action	Response		
		Being reviewed (timing)	Not being pursued	Notes
1	Revise the process to allow 10 days for public input on a Preliminary Review for Historical Resources (current process allows for a five-day review period)		X	Public input working group is receiving notification sooner providing additional time for their review and determination may change if significant new information is made available during project review.
2	Develop policy language pertaining to fines for unpermitted destruction of potentially historic resources	X (short term)		Action item before LU&H on November 16, 2011
3	Amend the Land Development Code to require posting of demolition permits on the project site		X	Not required for other ministerial actions; would increase applicant's costs; difficult to enforce
4	Provide additional information about demolition permits to the public via the City's website	X (short term)	⊗	Will be able to provide some level of noticing of potentially historic reviews via the website using approved Historic Preservation Fund monies.
5	Process demolitions and controversial projects with buildings 45 years or older through community planning groups to better address cumulative impacts		X	Process would be too lengthy; would increase applicant's costs; not appropriate for ministerial reviews
6	Request City Attorney opinion on Ministerial review process for potential historical resources	X (unknown)		DSD and the City Attorney's Office continue to discuss these issues and are working on resolution.
7	Arrange SOHO and City Attorney training for DSD staff on CEQA		X	Annual training for Boardmembers and staff occurs consistent with our CLG requirements.
8	More intensive investigation should be required for properties that are 65 years or older after reconnaissance surveys are adopted		X	Intensive investigations are required for all potentially significant historic properties when substantial alterations or demolition are proposed
9	Provide survey data online for City Departments and the public	X (short term)		City's CHRID has been available to the public and other City Departments since September 2011; additional data is continually added to this database
10	Preliminary review should be part of Community Planning Group meeting process ³		X	Process would be too lengthy; would increase applicant's costs; if a subsequent project review is discretionary it is reviewed by the Planning Group
11	Remove consultants from the City's list when reports repeatedly leave out facts or conclusions are unjustified	X (long term)		Will work with City Attorney's Office when staffing levels and workload allow
12	Require environmental documents under CEQA fair argument rule before demolition permits are issued when consultant reports leave out facts or conclusions are unjustified		X	Qualified staff independently review consultant reports for errors; working on establishing a Qualified Consultant List that would deter inadequate reports
13	Demolition permits should not be issued without review of a new project including zoning and planning issues for all parcels involved in project	X (long term)		Will work with Code Update staff when staffing levels and workload allow

Issue Number	Recommended Action	Response		
		Being reviewed (timing)	Not being pursued	Notes
14	Create, maintain and make available to the public a database of cumulative impacts related to built, planned and future projects		X	Not practicable for staff given workload
15	Implement a substantial and punitive interim penalty until all details of the revised code enforcement penalties are adopted		X	Revised Code language before LU&H on November 16, 2011
16	Revise definition of remodel to removal of 25% or less of building similar to definition in Coastal Zone		X	Definition of substantial alteration of a historical resource is not based on the square footage calculation
17	Implement Conservation Areas/Design Guidelines for older communities as part of community plan updates	X (short and long term)		Being implemented with community plan updates that are currently in process
18	Limit number of community plan updates each year		X	Already limited based on staffing and workload
19	Amend the Land Development Code to increase the time to determine the need for a site-specific survey from 10 to 15 days after public notification of pending action		X	Public input working group is receiving notification sooner providing additional time for their review; impracticable to have separate review times for one type of ministerial review
20	Amend the Land Development Code to extend notification distance from 300 feet to 1,000 feet around properties with pending land use projects		X	Would increase applicant's cost
21	Revise the approval process to delay issuance of demolition and ministerial construction permits until five working days after posting of notice of pending permit on City's website		X	Would increase applicant's costs
22	Revise the Historical Resources Guidelines to require staff decisions made by individuals meeting Secretary of the Interior's Qualifications and staff decision cannot be overruled by management or other department members		X	The Code rests authority for historical resource determinations with the Mayor or designee
23	Require any staff report submitted to the Historical Resources Board for use in considering historical designation be prepared by staff meeting Secretary of the Interior's Qualifications		X	Reports are reviewed by staff meeting Qualifications

Updated 11/10/2011