

DATE ISSUED: September 18, 2002

REPORT NO. 02-204

ATTENTION: Honorable Mayor and City Council
Docket of September 24, 2002

SUBJECT: Appeal of the Historical Designation of the Alfred E. Banks House

APPELLANT: Wells Fargo Bank as Trustees for The Fitzgerald Trust

REFERENCE: Historical Resources Board Agenda of July 25, 2002, Item # 6

SUMMARY

Issue - Should the City Council approve or deny the appeal to the Historical Resources Board action to designate the Alfred E. Banks House as a Historical Resource Site?

Manager's Recommendation - Deny the appeal and uphold the decision of the Historical Resources Board to designate the Alfred E. Banks House as a Historical Resource Site under HRB Criterion C (Architecture).

Historical Resources Board Recommendation - Designate the Alfred E. Banks House as a Historical Resource Site, under HRB Criterion C (Architecture).

Other Recommendations - None.

Fiscal Impact - None.

BACKGROUND

This item is before the City Council as an appeal of the Historical Resources Board (HRB) decision of July 25, 2002, to designate the Alfred E. Banks House as a City of San Diego Historical Resource Site. The appeal was submitted by the owner of the site, Wells Fargo Bank as Trustees for The Fitzgerald Trust, on August 2, 2002. The property is located at 4055 Third Avenue, in the Hillcrest area of the Uptown Community, Council District 3 (See Attachment 1)

The site has three buildings located on it, only one of which was designated by the HRB. The designated building is the Craftsman house toward the front of the site facing Third Avenue. The other two smaller structures at the rear of the site facing the alley were not designated.

Historical Resources Board Review

The Alfred E. Banks House came to the HRB’s attention through the property owner’s submittal of a historical report dated May, 2002. The property is in escrow with a developer, Montana Group. Both the owner and the developer were aware of the City’s Land Development Code procedures for buildings older than 45 years. The owner retained a consultant to prepare a historical report in advance of the submittal of a 10-unit residential project to the Development Services Department. The historical report was prepared by Scott Moomjian in the office of Marie Burke Lia, Attorney-at-Law, who is representing the owners. The report concludes that the Craftsman style house addressed as 4055 Third Avenue is architecturally significant. The report also concludes that the setting context surrounding the site has been significantly altered in the last 30 years. Initially, the applicant’s historical consultant suggested that the house would be moved to another site. Staff discussed with the consultant the idea of taking the planned project to the HRB Design Assistance Subcommittee before scheduling the designation hearing. However, the owner’s representative understood at that time that the home would be relocated and urged staff to place the designation on the consent calendar of the June 27, 2002, HRB meeting. Ms. Lia acknowledged that they would complete an EIR if the future project would relocate the designated house or if it would have a negative effect on the house.

The first HRB meeting was held on June 27, 2002. The staff report stated that the recommended designation was consensual based on the prior discussion with Ms. Lia. However, the developer, owner and representative all communicated to staff that plans to relocate the house had not been successful, and that the parties actually opposed designation. The HRB continued the hearing to July 25, 2002, directing that the developer and their architects meet with the Design Assistance Subcommittee on July 3, 2002, to discuss efforts to find a relocation site and new project integration alternatives to demolition of the house. Although staff’s analysis was that there are design solutions that could preserve the house or the critical façade of the house on the site, the developer did not agree to pursue any design solutions (included in Attachment 5). At the continued hearing held by the HRB on July 25, 2002, the HRB designated the Alfred E. Banks House as a Historical Resource Site by a vote of ten (10) votes in favor and four (4) opposed based on the following factual information:

1. The applicant’s historical report dated May, 2002.
2. The staff reports dated June 13, 2002, and July 11, 2002.
3. A field check of the site by HRB members.
4. Photographs submitted by both staff and the applicant’s historical consultant.
5. Public testimony by the owner’s representative, their historical consultant, the developer and interested members of the public.

SD Municipal Code Appeal Requirements

The SD Municipal Code Section 123.0203 provides for appeals to an HRB decision to designate a site historical within 10 business days following the HRB decision. Said decision may be appealed by an applicant, owner or interested person. The Code requires that the appeal be in writing, specifying wherein there was error in the decision of the HRB. The City Council may reject historical site designation based on:

- Factual errors in materials of information presented to the HRB
- Violations of bylaws or hearing procedures
- Presentation of new information.

Based on the Council's evaluation under the above criteria, the City Council may by resolution affirm, reverse, or modify the determination of the HRB and make written findings in support of its decision.

Appellant Request

The appellant to the historical site designation of the Alfred E. Banks House has submitted an appeal claiming "Factual errors in material of information presented to the HRB" and "Presentation of new information" as follows:

- 1) *The Board was advised by staff that the house was a rare type of Craftsman design when its attributes are common to Craftsman structures.*
- 2) *Staff advised the HRB that the house could be incorporated into a three to four story condominium building but that would conflict with the Secretary of the Interior's Standards so staff's incorporation alternatives were not feasible.*
- 3) *Staff discounted the impact to the house's integrity from the loss of historic context and setting.*
- 4) *The owner's representatives were prohibited at the hearing from explaining the economic infeasibility of staff's incorporation alternatives*
- 5) *The Fitzgerald Family has owned the property for 76 years and will suffer severe economic hardship if the property cannot be sold for its fair market value based on the site's zoning.*
- 6) *The structure's Craftsman architecture is very common so its loss will not significantly impact the existing stock of Craftsman homes in the City.*
- 7) *Relocation of the house has proved impossible.*
- 8) *The designation of the house would prohibit new housing on the site and would, thus, be inconsistent with higher density residential zoning and policies to increase the housing supply.*
- 9) *The Mills Act property tax reduction incentive encourages owners to designate their properties, which significantly contributes to the number of designated single-family homes so the loss of this home will not be significant.*
- 10) *The Uptown District has a greater number of individually designated historical resources than any other area of the City, so the loss of this home will not be significant.*

DISCUSSION

Appeal Standard: Factual errors in materials of information presented to the HRB

In the appeal the applicant has raised four arguments related to this standard:

Appellant Argument:

The Board was advised by staff that the house was a rare type of Craftsman design when its attributes are common to Craftsman structures.

Staff Evaluation

The owner's consultant prepared a historical report that concludes that the house is historically and architecturally significant. Although there are many Craftsman homes that are currently designated, there are many different styles of Craftsman homes. This particular home's configuration and specific combination of Craftsman features and elements are what staff and the HRB considered to be rare and worthy of designation based on the historical report.

Appellant Argument:

Staff advised the HRB that the house could be incorporated into a three to four story condominium building but that would conflict with the Secretary of the Interior's Standards so staff's incorporation alternatives were not feasible.

Staff Evaluation

Prior to the July 3, 2002, Design Assistance Subcommittee meeting, staff utilized the planned project site plan and existing building footprint in an exercise to see if a ten-unit project could be designed on the site while preserving all or part of the existing house. Staff formalized this analysis into exhibits that were provided to the HRB at the July 25, 2002 meeting. Staff agrees that the particular design layout of the planned project could not easily fit with the house. However, staff and the HRB members of the Subcommittee stated that the design character and the program for the project may need to be modified to achieve the same or a somewhat lesser density project with the preserved house. With what staff considers to be achievable modifications (including standard floor to ceiling heights versus the proposed 20 foot heights), the project would comply with the Secretary of the Interior's Standards.

Staff and the Design Assistance Subcommittee have offered to work with the developer to achieve this win/win solution, but the developer has not been willing to consider any proposed changes to the project. The HRB has used this integrated historic/new design approach on a number of projects. Sites such as the Otley-Neutra House, the Monteiro Residence, the Gustafson Building, the Park Boulevard Cleaners, the Carey Crest House and the Roper Residence are a few examples of sites preserving historic fabric while accommodating a new development. HRB believes that the same type of solution is possible on the Alfred E. Banks site, and that if the designation is upheld, the extent of economic impact on the owner/applicant will be limited to structural and/or minor building relocation costs on site.

Appellant Argument:

Staff discounted the impact to the house's integrity from the loss of historic context and setting.

Staff Evaluation

The historical report's conclusions that the setting surrounding the site has been altered in the last 30 years is correct. However, this particular house is significant only for its architecture. For such a designation, the National Park Service guidelines state that the most important integrity criteria are "design, workmanship and materials". Less important are "location, setting, feeling and association". The setting of the areas outside the boundaries of the property are especially important within districts, which is not the case with the Banks House. This house retains its original design, materials and evidence of workmanship to a significant degree, which is why the home was designated by the HRB. Additionally, the Third Avenue and other streets in the neighborhood still retain a number of Craftsman houses albeit not of the high architectural quality of the Banks House.

Appellant Argument:

The owner's representatives were prohibited at the hearing from explaining the economic infeasibility of staff's incorporation alternatives

Staff Evaluation

Staff's incorporation alternatives were prepared following the Design Assistance Subcommittee meeting in the absence of any alternatives provided by the developer. The issue of the planned project, and the economic feasibility or otherwise of incorporating the historical house into the project, are matters that would be addressed during discretionary review when the future project is reviewed by the Historical Resources Board after the site has been designated. The decision on whether to designate the home was based on the historical and architectural merits of the house itself as reflected in the owner's historical report.

Appeal Standard: Presentation of new information.

The appeal submitted identified six items of additional information that the owner claims were not available at the HRB hearings. These are generally summarized as: A) the Alfred E. Banks House is a common architectural style of which many are already designated, so the loss of this home will not significantly affect the stock of historical single family homes in general and Craftsman homes in particular; B) the incorporation of the house into a project on the site is infeasible, so the site could not yield a project with the higher residential density for which it is zoned; and C) the owners will suffer a severe economic hardship if they are unable to sell the property for its fair market value based on the maximum zoning allowed on the site.

- A) *The structure's Craftsman architecture is very common so its loss will not significantly impact the existing stock of Craftsman homes in the City; the Mills Act property tax reduction incentive encourages owners to designate their properties, which significantly contributes to the number of designated single-family homes; the Uptown District has a greater number of individually designated historical resources than any other area of the City, so the loss of this home will not be significant.*

At the July 25, 2002, meeting, the HRB was provided with a letter from Marie Burke Lia claiming that many Craftsman homes have been designated in the last two years and that the loss of this house would not be significant (see Attachment 6). Neither in adopted policies or

regulations has the City Council established any threshold that would stop the historical screening process or designations when “enough” historical buildings have been designated. The issue is not how many historical sites the City has, but making sure that those buildings and structures that best represent the City’s historical and architectural heritage are preserved. Although there are many Craftsman style homes that are currently designated, there are many different styles of Craftsman homes. This particular home’s configuration, architectural detailing and combination of Craftsman features and elements are unique and not reflected in other designated sites.

B) *Relocation of the house has proved impossible; incorporation alternatives are infeasible; higher density residential zoning and policies cannot be met.*

The HRB did consider information provided about the developer’s efforts to relocate the house. The information was provided at the June 27 meeting, and distributed to the HRB in advance of the July 25 hearing. The HRB also received the minutes of the July 3 Design Assistance Subcommittee meeting where the developer stated that incorporation of the home into the project was not feasible, and could not yield the targeted number of housing units. Therefore, this information is not new, and was fully considered by the HRB.

C) *The owners will suffer a severe economic hardship if they are unable to sell the property for its fair market value based on the maximum zoning allowed on the site.*

As stated previously, the economic hardship caused by the preservation of the home on the site, or caused by the inability to relocate it, would be considered by the HRB at the appropriate time. When a project will impact a designated historical resource, economic hardship findings are required as part of the Site Development Permit for the project. Public testimony at the July 25 hearing included statements about the economic impact of the designation.

Conclusion

It is staff’s conclusion that the Alfred E. Banks House is an architecturally significant structure under HRB CRITERION C (Architecture). Built 92 years ago (1910) the building has weathered its age well, and is in good condition. In particular, the cross gabled roofs, wood beams and trusses, and wrap-around brick and clinker brick porch at the front and right sides of the home reflect exemplary elements of the Craftsman style. The home is one of the few remaining homes of the 1910 era constructed when the Hillcrest Development Company planned and developed the neighborhood.

If the historic designation is upheld, the owner may still proceed with a new project on the site that could include preservation of all or a part of the building’s fabric, use the State Historical Building Code, and design flexibility to meet the requirements of the U. S. Secretary of the Interior’s Standards. Alternatives have been studied showing that the building could be preserved and integrated with a new building complex. The HRB has been very effective in working with applicants to assist in the preservation of historically designated structures, and if the HRB designation prevails, the HRB and its staff will ably assist the owner in developing an

outstanding “win-win” project. The potential for economic hardship would be considered and evaluated during the discretionary review process for the project.

Staff believes that there are no grounds for appeal based on factual errors of information presented to the HRB or new information not considered by the HRB as shown in the discussion section. The HRB had extensive information available regarding the Alfred E. Banks House prior to the hearing and during the hearing. In reviewing the appeal information submitted by the developer, staff has not identified any new information which was not considered by HRB that could now be considered by the City Council and would warrant a reversal of the HRB designation.

ALTERNATIVES

1. Approve the appeal, overturn the HRB action, and require that the applicant produce as-built drawings and a photograph record. This alternative would allow future generations to study the architectural methods and features of the by-gone era, but would not preserve any physical evidence on site which would have important historical and marketing value.
2. Approve the appeal and overturn the Historical Resources Board action. This alternative would result in the destruction of an important architectural resource.

Respectfully submitted,

S. Gail Goldberg, AICP
Planning Director

Approved: P. Lamont Ewell
Assistant City Manager

GOLDBERG/TD

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

- Attachments:
1. Location Map
 2. Historical Study by Scott Moomjian, Esq., Office of Marie Burke Lia, Attorney at Law
 3. Excerpt from McAllester Book, Craftsman Style
 4. HRB Staff Report dated June 13, 2002
 5. HRB staff Report dated July 11, 2002
 6. Letter from Marie Burke Lia, Attorney at Law, dated July 10, 2002