



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: October 1, 2008 REPORT NO. 08-132

ATTENTION: Council President and City Council  
Docket of October 6, 2008

SUBJECT: Appeal of the Historical Designation of the Casa del Horizonte, located at  
7417-7427 Olivetas Avenue.

REFERENCE: Historical Resources Board Agenda of March 27, 2008, Item No. 5

REQUESTED ACTION:

Should the City Council reject the March 27, 2008 historical resource designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue in La Jolla, by the City of San Diego's (City) Historical Resources Board (HRB)?

STAFF RECOMMENDATION:

Deny the appeal and do not reject or modify the historical resource designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue.

SUMMARY:

BACKGROUND

This item is before the City Council as an appeal of the Historical Resources Board (HRB) decision to designate the Casa del Horizonte located at 7417-7427 Olivetas Avenue as a historical resource (HRB #858). The item was brought before the HRB in conjunction with a discretionary permit application to demolish a structure 45 years old or older and construct a new townhome project located at 7417-7427 Olivetas Avenue, in accordance with the Historical Resources Regulations (SDMC Section 143.0212, Attachment 1) and the CEQA review process.

Following the submittal of a discretionary permit application for the project site, a Historical Resource Research Report was required during review of the project application in order to determine whether or not the project, which proposes to demolish the existing structures on site, would impact a historical resource. Staff reviewed the Historical Report prepared by Kathleen Crawford of the Offices of Marie Burke Lia, and disagreed with the conclusion of the report that

the property did not meet any local, State or National designation criteria. Staff referred the property to the City's Historical Resources Board for a formal determination and recommended that the property be designated under HRB Criterion A as a special element of La Jolla's historical, cultural, social, economic, aesthetic and architectural development as the only Contemporary style bungalow court in La Jolla; and under HRB Criterion C as a very good example of a post-WWII (1948), Contemporary style bungalow court with high integrity (Attachment 2). Following a one month continuance at the applicant's request, the HRB voted to designate the property under HRB Criteria A and C consistent with the staff recommendation at a noticed public hearing on March 27, 2008, with a vote of 9 in favor, 1 opposed and 0 abstention (Attachment 3).

## DISCUSSION

The City Council may overturn the action of the HRB to designate a historical resource under certain circumstances, consistent with the San Diego Municipal Code Section 123.0203 (see Attachment 4). The Code states that the action of the Board in the designation process is final unless an appeal to the City Council is filed. An appeal shall be in writing and shall specify wherein there was error in the decision of the Board. The City Council may reject designation on the basis of: *factual errors in materials or information presented to the Board; violations of hearing procedures by the Board or individual member; or presentation of new information.* At the public hearing on the appeal, the City Council may by resolution affirm, reverse, or modify the determination of the Board and shall make written findings in support of its decision.

The appeal filed by the office of Marie Burke Lia on behalf of the owner, Olivetas Associates, LLC, states nine grounds for appeal, including seven grounds under "factual errors in materials or information presented to the Board" and two grounds under "presentation of new information", as follows:

### Factual Errors:

1. "The property is a Contemporary or Modern style bungalow court."
2. "The property is a good example of a Modern style apartment courtyard."
3. "The property is the only Contemporary or Modern style bungalow court (other than Minimal Traditional) within La Jolla."
4. "Research by HRB staff has failed to uncover any other Contemporary style bungalow courts in La Jolla, and staff is unaware of other Contemporary style bungalow courts in the City, further illustrating the rarity of this style expressed in this building type."
5. "The property expresses the Contemporary architectural features emerging in the post-1945 period."
6. "The property is significant under HRB Criterion C as a very good example of a post-WWII, Contemporary style bungalow court with high integrity."
7. "The benefits of designation include the availability of the Mills Act Program for reduced property tax."

### New Information:

1. "The City Planning Department violated the San Diego Municipal Code when the historical designation/resolution for the Property was recorded with the County Recorder after the HRB Appeal in this matter had been filed in a timely manner."
2. "It is not economically feasible or practical to incorporate the historically designated buildings into any new on-site development."

The grounds for appeal are redundant, and center largely on the classification of the building as a Contemporary style bungalow court. Therefore, the stated grounds for appeal will be addressed in groupings as appropriate:

Factual Errors 1, 2, 5 and 6:

1. *"The property is a Contemporary or Modern style bungalow court."*
2. *"The property is a good example of a Modern style apartment courtyard."*
5. *"The property expresses the Contemporary architectural features emerging in the post-1945 period."*
6. *"The property is significant under HRB Criterion C as a very good example of a post-WWII, Contemporary style bungalow court with high integrity."*

Staff Response:

The classification of the resource as a Modern style and/or Contemporary style building is not a factual error. The Contemporary style is a sub-style of the Modernist movement which emerged following World War II. The Contemporary style can be identified by a number of features and stylistic elements as outlined in architectural style guides and the City's own adopted Modernism Context Statement (funded through a grant from the State Office of Historic Preservation), which includes a guide for identifying the sub-styles of Modernism, including the Contemporary style. As outlined in detail in the staff report to the Board dated February 14, 2008 (see Attachment 2), the subject property exhibits all of the primary character-defining features and most of the secondary character-defining features of the Contemporary style.

In addition, the classification of the resource as a bungalow court is not a factual error. The appellant claims that HRB staff cited a *Journal of San Diego History* article entitled "Bungalow Courts in San Diego: Monitoring a Sense of Place" as the only authority for the concept of bungalow courts and contends that the resource was built outside the 1909-1945 period identified in the article as the period of development for bungalow courts. Staff never asserted that the article was the only authority for the concept of bungalow courts, but referenced it as it addressed bungalow court construction in San Diego and identified the various configurations typical to the bungalow court. The article notes that this type of construction fell out of favor following WWII in exchange for more dense, generic housing types. However, the article did not include a comprehensive survey of all bungalow courts in the City, and the fact that building preferences shifted away from this housing type following the War does not mean that it ceased altogether. As outlined in detail in the staff report to the Board dated February 14, 2008, the subject property exhibits the characteristics of the "Attached Full" bungalow court type. Therefore, the appellant's assertion that the classification of the resource as a Contemporary style bungalow court is a factual error is incorrect.

Factual Errors 3 and 4:

3. *"The property is the only Contemporary or Modern style bungalow court (other than Minimal Traditional)" within La Jolla."*
4. *"Research by HRB staff has failed to uncover any other Contemporary style bungalow courts in La Jolla, and staff is unaware of other Contemporary style bungalow courts in the City, further illustrating the rarity of this style expressed in this building type."*

Staff Response:

The identification of the resource as the only Contemporary style bungalow court in La Jolla known to staff is not a factual error. Staff conducted primary research and field work and failed to uncover any other Contemporary style bungalow courts, as evidenced in the information presented in the staff report to the Board dated February 14, 2008. While there are other Contemporary style structures in La Jolla and other bungalow courts of other styles in La Jolla, including Craftsman, Spanish Revival, Minimal Traditional and Ranch; staff failed to identify any other buildings which meet both the definition of a Contemporary style structure and a bungalow court. In addition, the examples identified by the appellant cannot be identified as both Contemporary and bungalow court. The appellant identified bungalow courts which could be classified as Minimal Traditional, another sub-style of Modernism identified in the Modernism Context Statement; as well as Contemporary style apartment complexes which could not be classified as bungalow courts due to their massing and configurations which are inconsistent with commonly accepted bungalow court construction types. In addition, any examples which may have been identified by the appellant outside of La Jolla are irrelevant, as the designation under Criterion A was premised on the fact that the resource was the only known Contemporary style bungalow court in La Jolla, not City-wide. To date, no information has been provided to show that the identification of the resource as the only Contemporary style bungalow court in La Jolla is a factual error.

Factual Error 7:

*"The benefits of designation include the availability of the Mills Act Program for reduced property tax."*

Staff Response:

This statement is not a factual error. As a designated historical resource, the subject property would be eligible for a Mills Act contract and associated property tax reduction in accordance with Council Policy 700-46 (Attachment 5). The Policy does require that "the Owner must allow visibility of the exterior of the structure from the public right-of-way." The structure is visible from the public right-of-way, and is partially obscured by overgrown junipers along the Olivetas Avenue frontage. While any future Mills Act contract for the property would likely be conditioned to require pruning and maintenance of the junipers in order to increase visibility of the resource, the Mills Act program is available to the property owner, should they choose to enter into a contract with the City and abide by the conditions of the contract.

New Information 1:

*"The City Planning Department violated the San Diego Municipal Code when the historical designation/resolution for the Property was recorded with the County Recorder after the HRB Appeal in this matter had been filed in a timely manner."*

Staff Response:

New information presented in support of an appeal must be relevant to the significance of the resource. The information presented by the appellant in regard to the designation Resolution was a processing error made by staff following the designation, and is not new information which might affect the Board's decision to designate the property as a significant historic resource. SDMC Section 123.0204 requires that the City Manager record the designation of a historical resource with the County Recorder following the

final decision to designate; however, SDMC Section 123.0203 states that a decision to designate a historical resource is not final if an appeal is filed with the City Clerk within 10 business days after the action of the Historical Resources Board. The designation of the property at 7417-7427 Olivetas Avenue was filed within 10 business days from the date of the Board's action and therefore the designation is not final until the Council acts on the appeal. Therefore, the resolution should not have been recorded with the County Recorder and appears to have been an error in processing following the designation. However, this error did not occur prior to the Board's action, is not relevant to the historical significance of the property, and is not grounds for an appeal under the Municipal Code. Furthermore, the owner and their representatives did not inform staff of the error until the appeal materials were submitted on September 13, 2008. If the error had been brought to staff's attention earlier, a correction removing the resolution from the title could have been recorded with the County Recorder immediately.

New Information 2:

*"It is not economically feasible or practical to incorporate the historically designated buildings into any new on-site development."*

Staff Response:

Financial hardship is not relevant to the historical significance of a resource and is not grounds for appeal of a historic resource designation under the Municipal Code. The financial impact of retaining a designated historic resource is addressed as part of the permit process and is included in the permit findings for substantial alteration or demolition of a designated historic resource under SDMC Section 126.0504(i) (Attachment 6).

## CONCLUSION

The San Diego Municipal Code limits the findings for an appeal to the following:

1. *"factual errors in materials or information presented to the Board"*
2. *"violations of hearing procedures by the Board or individual member"*
3. *"presentation of new information"*

The required findings for the appeal cannot be made. No factual errors in material or information presented to the Board have been identified; no violations of hearing procedures by the Board or individual member occurred; and no new information relevant to the designation of the property has been provided. The designation was processed in accordance with the Municipal Code regulations for Designation of Historical Resources (Chapter 12, Article 3, Division 2).

Therefore, staff recommends that the City Council deny the appeal and do not reject or modify the historical resource designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue.

## ALTERNATIVES

Grant the appeal and overturn the designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue. This alternative would remove the historical designation from the property, which would no longer be subject to the Historical Resources Regulations of the Municipal Code.

FISCAL CONSIDERATION:

None identified.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

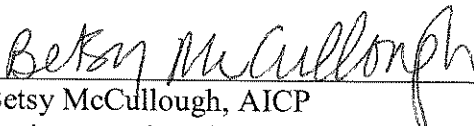
COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

A noticed public hearing was held on February 28, 2008 and March 27, 2008. Notices of Public Hearing were sent to the property owner and their representative prior to each hearing before the Historical Resources Board, consistent with Municipal Code requirements. The property owner has been sent public notice of the appeal hearing.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholder is the owner of the property, Olivetas Associates, LLC. The owner has hired an attorney, Scott Moomjian of the Office of Marie Burke Lia, to represent them during their appeal. If the designation is upheld, the property owner will be required to maintain their property consistent with the U.S. Secretary of the Interior's Standards and the City's Historical Resources Regulations; and would be required to process a Site Development Permit if demolition or substantial alteration of the resource were proposed.

Respectfully submitted,

  
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- Attachments:
1. SDMC Section 143.0212
  2. Staff report dated February 14, 2008 with attachments
  3. Minutes of the Historical Resources Board meeting of March 27, 2008
  4. SDMC Section 123.0203
  5. Council Policy 700-46
  6. SDMC Section 126.0504(i)