



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: January 22, 2014 REPORT NO. 14-009

ATTENTION: Council President and City Council
Docket of January 28, 2014

SUBJECT: Appeal of the Sanford B. Myers Spec House #1, located at 1619 J Street

REFERENCE: Historical Resources Board Agenda of May 25, 2006, Item No. 6
City Council Docket of November 21, 2006, Item 331
City Council Docket of February 20, 2007, Item 332

REQUESTED ACTION:

Should the City Council grant the appeal and reverse the May 25, 2006 historical resource designation of the Sanford B. Myers Spec House #1 located at 1619 J Street in Downtown, by the City of San Diego's Historical Resources Board?

STAFF RECOMMENDATION:

Deny the appeal and do not reverse or modify the historical resource designation of the Sanford B. Myers Spec House #1, located at 1619 J Street.

SUMMARY:

BACKGROUND

This item is before the City Council as an appeal of the Historical Resources Board (HRB) decision to designate the Sanford B. Myers Spec House #1 located at 1619 J Street as a historical resource (HRB #751). The item was brought before the HRB in conjunction with a proposed building modification or demolition of a structure of 45 years or more, consistent with San Diego Municipal Code Section 143.0212 (Attachment 1).

A Historical Report dated March 2006 was prepared by Kathleen Crawford, which concluded that the building was not eligible for designation under any HRB Criteria (Attachment 2). Staff reviewed the report and referred the property to the City's Historical Resources Board for a formal determination. At a noticed public hearing on April 27, 2006, staff recommended designation of the property under HRB Criteria A and C as a one of only three homes of a similar style remaining in East Village, and as a representative example of working class, transitional vernacular residential architecture during the third phase of development on East Village beginning in 1906 and ending in 1921 (Attachment 3). The item was continued to the following month at the request of the owner (Attachment 4) in order to provide additional information (Attachment 5). At the May 25, 2006 meeting, staff continued to recommend

designation under HRB Criteria A and C (Attachment 6). The HRB considered all information presented, and voted to designate the property per the staff recommendation in two motions with a vote of 8 in favor, 1 opposed and 0 abstention (Attachment 7).

The designation was appealed to the City Council on June 2, 2006 (Attachment 8) and docketed for the November 21, 2006 meeting as Item 331 (Attachment 9). The staff recommendation provided in the Report to Council was to deny the appeal and not reject or modify the designation (Attachment 10). The item was not heard and continued to the February 20, 2007 meeting for further review (Attachment 11). At the February 20, 2007 meeting the matter was docketed as Item 332 and returned to the Mayor at the request of the applicant without being heard (Attachments 12 and 13). Since the designation and appeal, the property has been sold and is now owned by the Navarra Trust. On May 25, 2013 Scott Moomjian, on behalf of the new owner, resumed the appeal proceeding by providing a new packet of supporting information (Attachment 14).

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 (Attachment 15). 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 in 2006 by Scott A. Moomjian on behalf of then-owner, Katalyst LLC, identified 21 grounds for appeal, including nine grounds under “factual errors”, four grounds under “violation of hearing procedures” and eight grounds under “new information”. These findings were addressed in the prior Report to Council, which concluded that the findings could not be made.

The additional appeal materials provided by Scott Moomjian in May 2013 are largely identical to the prior material, with a few minor exceptions. First, many of the appeal findings related to “new information” have been dropped, as they related to the economic feasibility of reusing the building, which is not relevant to the question of historic significance. Second, one additional appeal finding was added, although it is restating a prior appeal issue under a different finding. This Report will address only the new appeal finding. The prior Report to Council has been provided in Attachment 9 to address findings previously raised.

Factual Errors in Information Presented:

1. Issue 9: “The improper application and/or misuse of the Secretary of the Interior’s Standards for the Treatment of Historic Properties.”

Staff Response:

This finding focuses primarily on the comment in the written Staff Report to the Board that some of the minor modifications that had occurred to the building over time were reversible. The applicant contends that consideration of whether or not the modifications were reversible was an error, and cites the appeal of the Harwood Tichenor Building. This contention fails to take into consideration the context in which “reversibility” is discussed. When evaluating whether or not a building retains

integrity, one must consider the modifications that have occurred and whether or not they have impaired the building's ability to convey why it is significant. A building either retains integrity in its current condition, or it does not. If a modification does not result in a loss of integrity, and the building is eligible for designation regardless of that modification, then simply noting the minor, reversible nature of the modification is not inappropriate and is not an error in information presented to the Board. However, the Board cannot designate a building on the condition that modifications be reversed. Therefore, to state that a building should be designated because the modifications that have resulted in a loss of integrity could be reversed is inappropriate. Such was the case with the Harwood Tichenor Building, but not the subject property. Therefore, the statement in the designation staff report that the minor modifications that had occurred are reversible was not a factual error (nor is it a violation of bylaws or procedures); and staff does not agree that a finding can be made to uphold the appeal on this ground.

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. Therefore, staff recommends that the City Council deny the appeal and not reverse or modify the historical resource designation of the Sanford B. Myers Spec House #1 located at 1619 J Street because 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).

ALTERNATIVES

Grant the appeal and reverse the designation of the Sanford B. Myers Spec House #1 located at 1619 J Street. 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:

The designation was appealed to the City Council on June 2, 2006 and docketed for the November 21, 2006 meeting as Item 331. The item was not heard and continued to the February 20, 2007 meeting for further review. At the February 20, 2007 meeting the matter was docketed as Item 332 and returned to the Mayor at the request of the applicant without being heard.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

A noticed public hearing was held on April 27, 2006 and May 25, 2006. Notices of Public Hearing were sent to the property owner and their representative prior to the hearing before the

Historical Resources Board, consistent with Municipal Code requirements. Notices were also sent to interested parties including former Council District 2, the San Diego Historical Society, the Centre City Advisory Committee, Centre City Development Corporation, and SOHO. In addition, the agenda of the HRB meeting was posted on the City's website.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

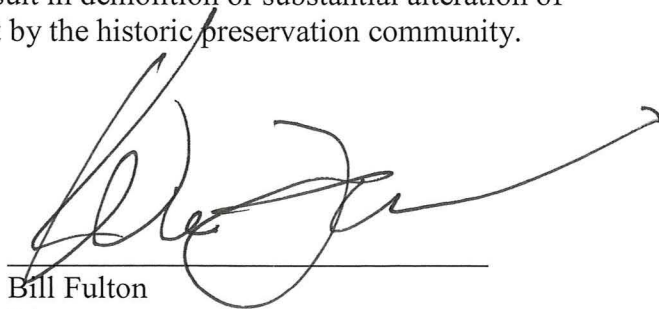
The key stakeholder is the owner of the property, the Navarra Trust. The owner has hired an attorney, Scott A. Moomjian, to represent them during their appeal. If the designation is upheld, the property owner will be required to maintain their property consistent with the U.S. Secretary of the Interior's Standards and the City's Historical Resources Regulations. Staff and the Historical Resources Board's Design Assistance Subcommittee are available to assist property owners in developing a project that is consistent with the Standards. However, were a project proposed that is not consistent with the Standards, such as demolition or substantial alteration of the resource; the applicant would be required to process a Site Development Permit.

Additional stakeholders include historic preservationists and SOHO, represented by Bruce Coons, Executive Director. Approval of the appeal may result in demolition or substantial alteration of the building, which could be perceived as an impact by the historic preservation community.

Respectfully submitted,



Cathy Winterrowd
Interim Deputy Director
Development Services Department



Bill Fulton
Director
Planning, Neighborhoods & Economic
Development Department

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- Attachments:
1. SDMC Section 143.0212
 2. Applicant's Historical Assessment prepared by Kathleen Crawford, dated March 2006
 3. Staff Report dated April 13, 2006
 4. Minutes of the Historical Resources Board meeting of April 27, 2006
 5. Applicant's Supplemental Information, dated May 10, 2006
 6. Staff Memo dated May 18, 2006
 7. Minutes of the Historical Resources Board meeting of May 25, 2006
 8. Appeal Materials Submitted by the Applicant, dated November 7, 2006
 9. City Council Agenda of November 21, 2006
 10. Report to City Council No. 06-165, dated November 15, 2006
 11. Minutes of the City Council meeting of November 21, 2006
 12. City Council Agenda of February 20, 2007
 13. Minutes of the City Council meeting of February 20, 2007
 14. Applicant's Additional Appeal Information, dated May 25, 2013
 15. SDMC Section 123.0203