



The City of San Diego

Staff Report

DATE ISSUED: June 20, 2023  
TO: City Council  
FROM: Development Services Department  
SUBJECT: Appeal of the Historical Designation of the Mission Hills Branch Public Library (HRB #1384) located at 925 West Washington Street

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Council District(s): 3

OVERVIEW:

This is an appeal of the Historical Resources Board decision to designate the Mission Hills Branch Public Library (HRB #1384) located at 925 West Washington Street as a historical resource.

PROPOSED ACTIONS:

Deny the appeal and affirm the Historical Resources Board's September 24, 2020 historical resource designation of the Mission Hills Branch Public Library located at 925 West Washington Street in the Uptown Community or grant the appeal and modify or reverse the designation.

STAFF RECOMMENDATION:

Deny the appeal and affirm the Historical Resources Board's September 24, 2020 historical resource designation of the Mission Hills Branch Public Library located at 925 West Washington Street. 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. Accordingly, a Site Development Permit would be required for proposed demolition or substantial alteration of the designated historical resource. Granting the appeal may result in demolition or substantial alteration of the building which could be perceived as an impact by the historic preservation community.

## DISCUSSION OF ITEM:

### BACKGROUND

The Historical Resources Board (HRB) designated the Mission Hills Branch Public Library located at 925 West Washington Street as a historical resource (HRB #1384) at the September 24, 2020 meeting. The subject item was brought before the HRB in conjunction with an application for historical designation from Mission Hills Heritage consistent with [San Diego Municipal Code \(SDMC\) Section 123.0202](#).

A Historical Resources Research Report (HRRR) (Attachment 1) was prepared for the applicant, Mission Hills Heritage, by Legacy 106 Inc. in conjunction with a historical designation nomination application. The HRRR concluded that the property was significant under HRB Criterion C as a good example of the Googie style. Staff concurred that the property was eligible for designation under Criterion C; however, staff determined that the Contemporary style was a more appropriate classification of the architectural style. The matter was scheduled to be heard by the HRB for a historical resource designation determination.

The subject site containing 925 West Washington Street is located at the southeast corner of the intersection of Hawk Street and West Washington Street, in the Mission Hills neighborhood of the Uptown Community. The site is currently owned by the City of San Diego.

The subject resource is a one-story library building constructed in 1961 in the Contemporary style. The building is generally rectangular in shape and clad in a smooth stucco with its main façade on West Washington Street. Most of the roof is flat with a wide eave overhang; however, the front façade exhibits a dramatic upswept shed roof. The building displays minimal architectural detailing except on the front façade which features a stacked brick wall that extends above the roofline and originally displayed stylized signage for the library. Fenestration includes large, aluminum framed windows on the front portion of the building with smaller windows on the sides. Modifications to the structure were minimal and staff determined that the building retained a significant amount of integrity and was eligible for designation under HRB Criterion C.

At a noticed public hearing of the HRB on September 24, 2020, staff recommended designation of the property under HRB Criterion C as a good example of the Contemporary style (Attachment 2). Following public testimony and HRB discussion, the HRB voted 9-1-0 to designate the property under Criterion C with a period of significance of 1961 for its Contemporary style with "Futurist Modern influences and Googie characteristics" (Attachment 3).

### DISCUSSION

The City Council may exercise its discretion to overturn the action of the HRB to designate a historical resource under certain circumstances, consistent with the [SDMC Section 123.0203](#). This section states that the HRB action in the designation process is final unless an appeal to the City Council is timely filed. An appeal shall be in writing and shall specify wherein there was error in the HRB decision. The City Council may reject designation on the basis of factual errors in materials or information presented to the HRB; violations of bylaws or hearing procedures by the HRB 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 HRB and shall make written findings in support of its decision.

The appellant, Clint Daniels, timely filed an appeal with the City Clerk on September 29, 2020 (Attachment 4) under all three SDMC appeal grounds. On November 30, 2022, Kirk Burgamy, representing the applicant, Mission Hills Heritage, submitted a letter to the Council President's office requesting that the item be docketed for a City Council hearing (Attachment 5). The following documents were included as attachments to the Burgamy letter:

- Historical Resources Board Meeting Minutes (Attachment 3)
- Appeal filed with City Clerk dated September 29, 2020 (Attachment 4)

On March 27, 2023, historical resources staff requested more information from the appellant to substantiate the grounds for appeal. The appellant submitted a letter to the Council President's office on April 3, 2023 requesting that it be considered as the appeal and asserting: three instances of factual errors in materials or information presented to the HRB and five violations of bylaws or hearing procedures (Attachment 6). The following documents were included as attachments to the appellant's letter:

- Email Correspondence, various dates (Attachment 6)

On May 1, 2023, the appellant submitted an addendum to the appeal letter (Attachment 9) which provided additional material to support the third appeal issue under violation of bylaws, attempt to limit public comment.

## APPEAL ISSUES

The appellant's grounds for the appeal along with City staff responses are identified below.

### A. Factual Errors:

#### 1. Staff misrepresented owner's consent

The appellant asserts that the staff report did not accurately reflect the property owner's desired outcome for the designation hearing. Additionally, the appellant asserts that the City's Department of Real Estate and Airport Management (DREAM), formerly the Real Estate Assets Department (READ), was not properly noticed of the HRB hearing. Additionally, the appellant states that the owner, the City of San Diego, did not consent to designation.

#### Staff Response:

The staff report to the HRB issued on September 10, 2020 (Attachment 2) stated that the 925 West Washington Avenue property was "being brought before the Historical Resources Board in conjunction with the owner's desire to have the site designated as a historical resource." Because the designation was applied for by Mission Hills Heritage and not the property owner, the City of San Diego, this information was erroneous. During the September 24, 2020 HRB hearing, staff corrected this error for the record, stating "the property located at 925 West Washington Street is being brought before the Historical Resources Board in conjunction with the applicant's desire to have the property designated as a historical resource. The staff report states that the property is being brought forward for designation by the owner; however, that was done in error and it is the applicant's desire." It was not necessary to continue this item due to an error in the staff report which staff addressed and verbally corrected for the record during the hearing. Furthermore, both the staff report and the agenda (Attachment 7) for the September 24, 2020 hearing clearly state that the applicant for the item was Mission Hills Heritage.

Per [SDMC Section 123.0202\(b\)](#) "the owner of a property being considered for designation by the Historical Resources Board shall be notified at least 10 business days before the Board hearing." On September 10, 2020, ten business days prior to the hearing, a notice (Attachment 8) was sent by HRB staff to READ at their office located at 1200 Third Avenue, Suite 1700. The noticing requirements under the Municipal Code were satisfied as the September 10, 2020 notice was sent to READ. Furthermore, the Municipal Code's Designation of Historical Resources Procedures do not require owner consent to designate a property. Therefore, the HRB's action to designate was not based on a factual error or procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

#### 2. Staff and the applicant have conflicting findings of fact

The appellant asserts that the HRRR should have been sent back to the applicant by the HRB for more information regarding the architectural style.

Staff Response:

The HRRR presented to the HRB determined that the 925 West Washington Street property was eligible for designation under HRB Criterion C as a good example of the Googie style; however, staff determined that Contemporary was a more appropriate style for the property. Staff's determination was based on information in the HRRR including photos and a narrative description of the property. Staff included discussion of how the property exemplifies the Contemporary style in the staff report. Per [SDMC Section 123.0202\(c\)](#) "the decision on whether or not to designate a historical resource shall be based on the information in a research report... If the Board determines, either by public testimony or other documentary evidence presented to it, that the research report is not adequate to assess the significance of the historical resource, the Board may continue its consideration of the property for up to two regular meetings and direct that a research report be prepared by the applicant with specific direction from staff as to the inadequacies of the original report." During the September 24, 2020 hearing, the HRB moved to designate the property under HRB Criterion C as a good example of the "Contemporary style with Futurist Modern influences and Googie characteristics" based on the information in the HRRR, the criteria specified in, and consistent with the procedures of the Historical Resources Guidelines of the Land Development Manual, staff report, other documentary evidence presented during the hearing, and public testimony. Prior to the hearing, a letter from Save Our Heritage Organization's Executive Director Bruce Coons (Attachment 10) stated that the building was an "excellent example of the Contemporary style" and embodied the characteristics of the style including "angular massing, slanted shed roof with deep eaves, stucco and brick cladding, and large aluminum framed windows" The HRB found the HRRR to be adequate to assess the significance of the historical resource and support the motion to designate the property. The HRB, in their discretion, did not vote to send the HRRR back for revisions. Therefore, the HRB's action to designate was not based on a factual or procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

3. Neither Googie nor Contemporary

The appellant asserts that the subject building is not a good example of either the Googie or Contemporary style.

Staff Response:

According to the City of San Diego Historical Resources Board's [Guidelines for the Application of Historical Resources Board Designation Criteria](#) a resource may be designated as a historical resource by the HRB if it meets one or more of the designation criteria. To be eligible for designation under Criterion C, a resource must embody "distinctive characteristics of a style, type, period, or method of construction or is a valuable example of the use of indigenous materials or craftsmanship." Guidance for evaluating modern architectural styles, including Futurist-Googie and Contemporary, is given in the [San Diego Modernism Historic Context Statement](#). For each style, both primary and secondary character defining features are established as well as additional evaluation criteria specific to the style. As discussed in the staff report to HRB (Attachment 2), the Futurist-Googie and Contemporary styles have similar character defining features including distinctive roof forms, large aluminum framed windows and a variety of exterior finishes. Staff determined that the Contemporary style was a better classification for the property because it did not evoke a connection with the "Space Age" and did not use an extreme appearance to attract consumers. During the HRB hearing, the HRB moved to designate the property under Criterion C as a good example of the "Contemporary style with Futurist-Googie influences and Googie characteristics." The motion, which closely followed staff's

recommendation, cited “angular massing, upswept shed roof with wide overhanging eaves, stucco and stacked brick cladding, and large aluminum framed windows” as character defining features. The features highlighted in the motion are supported by the primary and secondary character defining features called out in the *San Diego Modernism Historic Context Statement*. The HRB’s designation of the subject property as a good example of the “Contemporary style with Futurist-Googie influences and Googie characteristics” is consistent with the guidance given in the *San Diego Modernism Historic Context Statement*. Therefore, the HRB’s action to designate was not based on a factual or procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

B. Violations of Bylaws or Hearing Procedures by the Historical Resources Board

1. Disposition of Surplus Lands

The appellant asserts that the subject property is surplus land and historic designation could potentially conflict with the laws of the California Department of House and Community Development (HCD).

Staff Response:

According to DREAM staff, the City has not declared the former Mission Hills Branch Public Library located at 925 West Washington Street either surplus land or exempt surplus land because the City is not pursuing a sale or lease of the property at this time. On April 21, 2023, HCD staff informed City staff that the historical designation of the property does not require HCD’s review under the Surplus Lands Act (SLA). According to HCD, the property would be subject to the SLA at the time the City decides to sell/lease the property. Therefore, the HRB’s action to designate was not based on a procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

2. Failure to Designate with 90-day window under municipal code

The appellant asserts that the designation is not valid because the HRB did not designate within 90 days of receipt of the nomination.

Staff Response:

Contrary to the appellant’s argument, the Municipal Code does not require that a historic designation nomination voluntarily submitted by any member of the public be heard by the HRB within a certain timeframe. [SDMC Section 123.0202\(c\)](#) states that “if a final decision is not made within 90 calendar days of receipt of a nomination for designation, the consideration of the property by the Board shall terminate unless a continuance has been granted at the request of the property owner.” This requirement under the Municipal Code must be evaluated in its context as part of a Municipal Code section that addresses the adequacy of the research report. SDMC Section 123.0202(c) prevents the HRB from sending the report back to the applicant multiple times for revisions and delaying a decision regarding the historical significance of the property. Historical Resources staff has consistently interpreted and applied this Municipal Code section to prohibit the continuance of an item due to inadequacy of a research report for more than 90 days. The 90-day timeframe has never been applied to the period in which staff receives the nomination report to when the HRB makes a decision regarding designation. Further, Historical Resources staff has consistently interpreted and applied the language, “receipt of a nomination for designation” under SDMC Section 123.0202(c) to mean the date of the first hearing when the nomination for designation is considered by the HRB. It is infeasible for staff to docket items for an HRB hearing within this limited 90-day timeframe. The nomination report for 925 West Washington Street was submitted to staff on August 16, 2019 and heard by the HRB on September 24, 2020 after sitting in a queue along with other nomination reports.

Additionally, the [HRB Procedures](#) (Section II. Business of the Board. A. Processing of Designation Requests Submitted by Members of the Public) provide that designation requests submitted by members of the public will be accepted by Historical Resources staff on a first come, first served basis, and staff shall review the application and reports as workload capacity allows and in the order received. The HRB Procedures further provide that designation requests will be scheduled with other business of the HRB in accordance with agenda management procedures. As discussed above, the Municipal Code does not require that a historic designation nomination voluntarily submitted by any member of the public outside of the permit review process be heard by the HRB within a certain timeframe. Therefore, the HRB's action to designate was not based on a procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

3. Attempt to selectively limit public comment

The appellant asserts that HRB Chair David McCullough attempted to silence public comment against designation during the hearing. Additionally, the appellant asserted in an addendum to the appeal that the HRB does consider future use of a property when deciding to designate a property.

Staff Response:

During the [September 24, 2020 HRB hearing](#), the appellant had the opportunity to provide public testimony and completed his comments opposing the designation although Chair McCullough interrupted his public comment. The appellant was speaking to a potential permanent supportive housing project on the 925 West Washington Street site during his public comment when Chair McCullough interrupted him. Per [SDMC Section 123.0202\(e\)](#) the HRB's decision to designate a historical resource must be "based on criteria specified in, and consistent with the procedures of the Historical Resources Guidelines of the Land Development Manual." Historic designation must be based on the City's designation criteria as explained in the City of San Diego Historical Resources Board's *Guidelines for the Application of Historical Resources Board Designation Criteria*. The HRB's decision should not be influenced by the potential for any future projects on the site of the property being considered for designation. Chair McCullough's actions during public testimony were an effort to keep his fellow boardmembers focused on the application of the designation criteria consistent with the SDMC as any potential project on the site of the property is not relevant to the designation criteria.

In the addendum submitted on May 1, 2023 (Attachment 9), the appellant claims that the HRB did consider a potential future project when making a decision to designate a property at the April 27, 2023 hearing. This information is not relevant to the merits of the appeal and does not speak to the designation of the 925 West Washington Street property as it concerns the designation of a different property during an HRB hearing in April 2023. The addendum does not address the grounds for appeal under new information or violation of hearing procedures. Therefore, the HRB's action to designate was not based on a procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

4. Failure to Recuse in a Quasi-Judicial Hearing

The appellant asserts that HRB Boardmember Andrew Bowen failed to recuse himself from the 925 West Washington Street item during designation hearing.

Staff Response:

Per [SDMC Section 27.3561](#), it is unlawful for a HRB boardmember to make a decision in which they have a disqualifying financial interest. A boardmember would have a disqualifying financial interest in a municipal decision if that decision will have a "reasonably foreseeable material

financial effect” on themselves, their immediate family, or any of their economic interests in business entities, real property, sources of income, sources of gifts or their own personal finances. Additionally, the HRB Procedures state that Board members are to recuse from voting on an action of the HRB for reasons of conflicts of interest. During the September 24, 2020 designation hearing, Boardmember Bowen disclosed an ex parte communication for the record that he attended a community meeting as a citizen at which the 925 West Washington Street property was discussed. Boardmember Bowen determined that he could be a fair and impartial decision-maker and further stated for the record that he did not feel that his attendance at the community meeting made him bias towards the decision to designate property in any way. The appellant also claims that Mr. Bowen has a business interest in the Mission Hills neighborhood because of his past work on restoring Craftsman style homes. Here, there is no evidence in the record of any conflict of interest or bias that required Mr. Bowen to recuse. from the decision to designate the 925 West Washington Street property. Therefore, the HRB’s action to designate was not based on a procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

5. Failure to Amend the Research Report

The appellant asserts that because staff disagreed with the research report’s conclusion regarding the subject resource’s architectural style that the Board should have sent the report back to the applicant for more information.

Staff Response:

The HRB has the discretion, under [SDMC section 123.0202\(c\)](#), to direct that the HRRR be sent back for revisions to address the inadequacies of the HRRR. As discussed under A.2., the second factual error appeal issue, the HRB found the HRRR to be adequate to support the motion to designate the property under HRB Criterion C as a good example of the “Contemporary style with Futurist Modern influences and Googie characteristics” and did not vote to send the report back for revisions. The HRB based the motion to designate on the information in the HRRR, the criteria specified in, and consistent with the procedures of the Historical Resources Guidelines of the Land Development Manual, staff report, other documentary evidence presented during the hearing, and public testimony. Therefore, the HRB’s action to designate was not based on a procedural error and staff does not agree that a finding can be made to grant the appeal on this ground.

City Strategic Plan:

This action relates to the Strategic Plan’s Priority Area: Protect & Enrich Every Neighborhood by preserving local historical resources for San Diegans to experience on their own terms and by providing equitable access to cultural opportunities that improve quality of life.

Fiscal Considerations:

There are no fiscal considerations or impacts as a result of the historical designation appeal itself.

Charter Section 225 Disclosure of Business Interests:

N/A

Environmental Impact:

Pursuant to Section 15060(c)(3) of CEQA Guidelines, the activity is not subject to CEQA because the activity is not a project as defined in Section 15378 of CEQA Guidelines.

Previous Council and/or Committee Actions:

None. Appeals of historical resource designations are heard directly by City Council without Committee action.





Key Stakeholders and Community Outreach Efforts:

Key stakeholders are the owners of the property, the City of San Diego's Department of Real Estate and Airport Management (DREAM), Mission Hills Heritage, and SOHO represented by Bruce Coons, Executive Director.

A noticed public hearing was held on September 24, 2020 Notices of Public Hearing were sent to the property owner, the applicant and their representative prior to the hearing before the Historical Resources Board, consistent with Municipal Code requirements.

Elyse Lowe

Department Director

Casey Smith

Deputy Chief Operating Officer, External Services