

# NEIGHBORHOOD HISTORIC PRESERVATION COALITION

*Advocating for measures that preserve our established neighborhoods and historic resources for future generations*

October 25, 2023

Historical Resources Board  
Attn: Board Members  
202 C Street  
San Diego, CA 92101

Re: Item #1 – *Report from the Office of the Independent Budget Analyst*, October 26, 2023, HRB Agenda

Dear Board Members,

The following is a preliminary response to the July 18, 2023, Office of the Independent Budget Analyst Report, “Response to Request for Analysis of Potential and Designated Historical Resource Review,” (hereinafter, IBA report).

## **BACKGROUND**

In February 2023, City Council President Sean Elo-Rivera submitted an analysis request to the city’s Independent Budget Analyst seeking a “comprehensive analysis of the City’s potential and designated historical resource review processes as they relate to construction permitting” to better understand the impacts of the historical review process. The motivating priority underlying this request was an objective “to get homes approved and built faster and more affordably” and a belief that the “historic resource review process is reportedly a major bottleneck in the construction permitting process, and creates uncertainty, requires significant City staff time to complete, and ultimately delays the creation of new homes, which drives up the cost of housing.”<sup>1</sup>

The Office of the Independent Budget Analyst completed the requested report in July 2023. The IBA report concluded that, based on city staff’s time spent reviewing projects, the historical resource permit review process **did not** delay development projects.<sup>2</sup> While the belief that the historic review process was a “major bottleneck” and increased housing costs was unfounded, the IBA report nonetheless determined that the process may result in “uncertainty for development projects or conflict with other city priorities.”<sup>3</sup> The IBA report offered seven recommendations intended to remedy these supposed flaws in the historic review process.

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<sup>1</sup> Memorandum of City Council President Elo-Rivera, February 13, 2023.

<sup>2</sup> IBA report, pp. 11, 13.

<sup>3</sup> IBA report, p. 14.

Golden Hill & South Park  
Historical Society

Heart of Kensington

Historic Kensington

La Jolla Historical Society

Mission Hills Heritage

North Park Historical Society

Ocean Beach Historical  
Society

San Diego LGBTQ Historic  
Sites Project

Save Our Heritage  
Organisation

Talmadge Historical Society

University Heights Historical  
Society

## GENERAL DEFICIENCIES

To effectively evaluate the IBA report, and before considering the individual recommendations, it is useful to acknowledge some general shortcomings of the report:

1. The IBA report presumes that the historic review process conflicts with city priorities, like the creation of more affordable housing, to justify revisions to historic preservation laws. However, the report fails to provide any quantitative or qualitative data supporting that the historic review process impedes the creation of affordable housing or that destruction of existing housing stock (including historic and potentially historic structures) produces more affordable housing. In short, the IBA report's assumption that historic preservation conflicts with city priorities is unsubstantiated. In the absence of any rigorous studies supporting that historic preservation conflicts with city goals, the need for the recommended revisions falls apart.
2. Totally absent from the IBA report is any recognition, or study of the effect, of past building trends that have, in fact, exacerbated San Diego's alleged housing crisis. Over the years, there has been a loss of historic buildings through the demolition of single occupancy units (SRO) and other older unit types replaced by multi-unit market rate housing. Market-rate high-cost units expanded the number of units but have left the city with drastically fewer affordable options.<sup>4</sup> Given this evidence, it is beyond a doubt that the proposed recommendations, i.e., amending laws related to historic preservation, will not remedy the affordable housing crisis. Yet, the IBA assumes such revisions are a solution to the housing problem.
3. The IBA report only notes some of the benefits of historic preservation. Failure to consider the full panoply of benefits stemming from historic preservation deprives board members from comprehensively understanding the effect of the proposed recommendations. Relative to economic growth, for example, the IBA report only references heritage tourism. Totally absent from the report is any recognition of data supporting that local historic districts provide strong economic value to communities by attracting not only residents, but restaurants, nightlife, specialty retail, and other small businesses. Studies show that these areas incubate and sustain the local economy in ways that newer areas or poorly planned areas do not<sup>5</sup> and also that historic designations generally raise surrounding property values.<sup>6</sup> This concentration of economic activity and growth within historic areas undoubtedly has an overall positive impact on the City's sales and property tax revenues. In short, the macroeconomics of preservation programs must be accounted for to support sound policy decisions.

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<sup>4</sup> "Development across downtown in recent decades has shrunk the number of remaining SRO units in the city from roughly 14,000 in the 1980s to less than 3,000 today." See Garrik, *Mayor pitches major changes for housing*, San Diego Union Tribune (May 17, 2023).

<sup>5</sup> See National Trust for Historic Preservation, *Older, Smaller, Better: Measuring How the Character of Buildings and Blocks Influences Urban Vitality* (May 2014) <[https://cdn.savingplaces.org/2023/07/14/14/23/09/514/NTHP\\_PGL\\_OlderSmallerBetter\\_ReportOnly.pdf](https://cdn.savingplaces.org/2023/07/14/14/23/09/514/NTHP_PGL_OlderSmallerBetter_ReportOnly.pdf)>; Place Economics, *Twenty-Four Reasons Historic Preservation is Good for Your Community* (January 2020) <<https://www.placeeconomics.com/wp-content/uploads/2020/01/City-Studies-WP-Online-Doc.pdf>>.

<sup>6</sup> Narwold, *Estimating the Value of the Historical Designation Externality*, available at [https://www.sohosandiego.org/resources/estimating\\_historic.pdf](https://www.sohosandiego.org/resources/estimating_historic.pdf)

## THE RECOMMENDATIONS

Some of the IBA report's recommendations should be outright rejected or, at the very least, viewed with a heavy skepticism. The remainder of this letter responds to the IBA report's recommendations.

**Recommendation 1: Historical preservation decisions should be made with consideration of other citywide priorities, and costs and benefits of historical preservation should be assessed when making decisions affecting future development opportunities of historical resources to ensure preservation goals are balanced with other City priorities. The Municipal Code could be revised to allow the City Council to overturn historical designation decisions on a broader basis.**

### **This recommendation should be rejected.**

Considering first, the proposal that city priorities and costs/benefits analysis become part of the historic review process, this recommendation wrongly suggests that these considerations are not part of the process. Only one to two development projects per year (or less than 1%) are affected by historic designation. In these instances, once the building has been designated historic and a project is proposed, the matter is forwarded to HRB assistance where re-use or demolition is considered. In this context, costs and benefits and city priorities are considered.

Next, the IBA report has not provided any quantitative data or qualitative studies that the historic review process thwarts city priorities, which would necessitate the proposed amendment. Less than 5% of the city's building stock is historical or potentially historical and less than 1% would qualify for designation. Further, the fact that historic designation affects less than 1% of development projects per year negates any contention that the historic preservation process impacts city priorities in any meaningful way.

Relatedly, considerations of other priorities or costs/benefits analysis are not relevant to determining whether a property is historic. The deliberation whether a property is historic is "siloed" for good reason: Introducing concepts like the costs and benefits of future development or other city priorities into the determination injects politics into the process. The end result would be to create more uncertainty in the historic review process as political whims change over time. Of note, the IBA report does not reference any other jurisdiction that considers other priorities, like future use, or applies a cost-benefit analysis, in determining whether a property is historic. Adoption of this recommendation would not only inject uncertainty into the process, but also make San Diego an outlier.

Turning to the recommendation that City Council be empowered to overturn a designation on broader bases than those currently allowed in the municipal code, this proposal is simply bad policy. To the extent the report suggests that other city priorities or costs and benefits should be considered on appeal, allowing this broader review injects politics into the process, reduces certainty in decision making, and hands broad authority to councilmembers. With due respect, councilmembers are ill-equipped for the job: councilmembers are non-experts on issues of historical structures, with little time to devote to understanding preservation programs. Moreover, liberalizing the provisions for designation appeals could result in more appeals and increase staff workloads, resulting in a less streamlined process. City council's standard of review should be retained because it ensures certainty in the review process.

**Recommendation 2: A robust historical survey and historical district program should be developed to provide greater certainty to future development and help streamline permit review process.**

**Recommendation 3: A public database for potential and designated historical resources should be developed to help ensure compliance with historical resources regulations through historical resource review.**

**Recommendation 4: District specific standards consistent with the U.S. Secretary of Interior's Standards could be established to provide greater certainty and consistency to developers and property owners and provide clear public guidance on redevelopment of historical properties.**

**These recommendations should be adopted.**

A robust, city-wide historical survey and historical district program would provide certainty to homeowners, developers, and preservationists and, overtime, would reduce staff workloads in the evaluation and permitting processes.

Further, because existing city databases are poorly designed and not easily queried to determine the historic potential of a given property, the creation of a public database that will display potential and designated historical resources, including designated historical districts and surveys that the preservation community has conducted, will add certainty and efficiency to both project review and rehabilitation/maintenance of historic and potentially historic resources.

Likewise, the development of district specific standards consistent with the U.S. Secretary of the Interior's Standards will give developers guidance on how to create compatible new developments in neighborhoods where they have not built before. This recommendation is in-line with state laws governing infill in residential housing, such as SB9 and SB10 that have included allowances for objective design standards.

**Recommendation 5: Update the Mills Act to require an annual update to City Council accounting for revenue loss from Mills Act contracts to allow for proper fiscal oversight of the program and possibly establish an annual cap for revenue loss incurred by the General Fund.**

**This recommendation should be amended to account for the economic gains generated by historic properties and historic districts.**

This recommendation completely fails to account for the larger economic context in which the Mills Act operates and only accounts for reductions in revenue due to Mills Act contracts. To determine the true impact of the Mills Act, the larger context of increased economic activity and tax revenues generated by maintenance and adaptive re-use of historic properties and historic districts must be considered. Studies demonstrate that historic designation of properties raises surrounding property values, increasing overall tax revenues; historic districts attract more residents, tourists, and businesses

that generate more property and sales tax revenues than newer areas or areas with poor city planning; and, re-use generates more economic growth, which again increases overall tax revenues.<sup>7</sup> The reallocation of funds by Mills Act participants must also be accounted for: Expenditures dedicated to property maintenance circulate through the economy, benefiting local businesses and flowing back to the city in the form of tax revenues.

Ultimately, eliminating or reducing Mills Act contracts could have the perverse effect of reducing tax revenues over time as fewer people or developers will see the value in maintaining historic structures, thereby eroding the historic areas of San Diego that attract people and cultivate economic growth. Considering the alleged tax reduction related to the Mills Act in isolation will not produce a sound policy decision.

**Recommendation 6: The city’s historical designation criteria should be holistically evaluated to ensure that designation criteria are written with precision and apply to properties truly worth preserving; a “higher designation standard” is suggested so that only properties “truly worth preserving” are designated.**

**This recommendation should be rejected.**

This recommendation is without legal or factual support. First, the report concedes that the city’s criteria are not significantly different from those of other jurisdictions. Indeed, a comparison of San Diego’s local designation criteria with that of the California and National Register historical resources criteria, shows that the city’s criteria largely mirror the criteria required at the state and federal level. Tellingly, the report fails to provide any evidence supporting that the city’s criteria as written are overly broad or vague. For example, there is no citation to any legal authority striking down designation-criteria language similar to the city’s designation criteria.

Second, the report only analyzes criterion A as allegedly too subjective, purportedly allowing for properties to be designated under criterion A when they are not, in fact, historic. Yet, the report provides no examples, or data, supporting this outcome under criterion A or any other criteria. Further, the Board should also be aware that the IBA Report incorrectly reports that criterion A is unique to San Diego, when in fact, the City of Redondo Beach’s ordinance contains substantially the same language.<sup>8</sup> Moreover, to the extent criterion A is more expansive and diverges from that of the California and National Register criteria, it should be noted that cities are granted broad authority to protect historical resources under state law<sup>9</sup> and, consistent with principles of federal supremacy, local criteria are encouraged to be more inclusive, but cannot be more restrictive than federal criteria.

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<sup>7</sup> See Narwold, *Older, Smarter, Better*, and *Estimating the Value*, *supra* notes 5 & 6. Also, 78% of U.S. leisure travelers engage in cultural-heritage tourism and spend nearly \$400 more on average than non-heritage tourists. See National Trust for Historic Preservation, *10 Benefits of Establishing a Local Historic District*, <<https://savingplaces.org/stories/10-on-tuesday-10-benefits-of-establishing-a-local-historic-district>>.

<sup>8</sup> The City of Redondo Beach’s criterion A provides, “It exemplifies or reflects special elements of the City’s cultural, social, economic, political, aesthetic, engineering, or architectural history.” RDCMC 10-4.201(a)

<sup>9</sup> California Government Code Section 25373(b) authorizes local governments to protect historical resources.

While it is certainly important that clear criteria are crucial to a successful preservation ordinance, the current language meets this standard and is not so vague or broad as to provide no basis to support a decision. In fact, California courts permit a certain amount of vagueness within local ordinances. *Novi v City of Pacifica*, 169 Cal App 3d 678 (1985).

Because the IBA Report's criticisms are legally and factually baseless, this recommendation appears to be motivated by an unfounded fear that properties that are not historic are being designated historic. A recommendation based on such speculation should be rejected.

**Recommendation 7: The inventory of historical resources that could be viable for adaptive reuse to provide housing units should be assessed, and the city could pursue facilitating and incentivizing adaptive reuse of historical resources through an ordinance based on that assessment.**

**This recommendation should be adopted.**

An adaptive reuse ordinance should be adopted to facilitate rehabilitation of historic properties to provide affordable housing. Such a program could allow for an expedited permitting process and allow developers to take advantage of various tax programs.

## CONCLUSION

Recommendations 1, 5, and 6 of the IBA report suffer from serious flaws. Most glaringly, none of these recommendations are supported by any type of quantitative data or qualitative studies, such as surveys, questionnaires, or case studies. Absent evidence supporting the alleged problems with the historic preservation process that these recommendations are intended to remedy, the recommendations are neither justified nor necessary. Moreover, the IBA report makes no attempt to account for any of the detrimental policy effects of these recommendations, by providing any mitigations or some type of safeguard measures. Given that the IBA report did little to study the economic costs and benefits of the city's preservation program, recommendations 1, 5, and 6 appear to be nothing other than a bald power-grab in favor of developers and must be rejected.