

HISTORIC RESOURCE COMMISSION
MEETING MINUTES

Regular Meeting

December 15, 2010

The regular meeting of the Coronado Historic Resource Commission was called to order at 3 p.m., Wednesday, December 15, 2010, at the Coronado City Hall Council Chambers, 1825 Strand Way, Coronado, California, by Chairperson Crenshaw.

MEMBERS PRESENT: Crenshaw, Jones, O'Brien, Ryan, St. Denis

MEMBERS ABSENT: None

STAFF PRESENT: Tricia Olsen, Associate Planner
Martha L Alvarez, Recording Secretary/Minutes Preparer

CITY ATTORNEY: Morgan Foley

APPROVAL OF MINUTES

The minutes of November 17, 2010, were approved as amended.

DIRECTOR'S REPORT

Ms. Olsen reported that the Commission meeting of January 5 was cancelled. The next regularly scheduled meeting is January 19, 2011.

ORAL COMMUNICATIONS AND OTHER MATTERS

Rita Sarich, Executive Director, Coronado MainStreet, requested a review of Coronado's Historic Resource Ordinance, specifically as it pertains to commercial properties.

Chairperson Crenshaw welcomed City Attorney Morgan Foley.

PUBLIC HEARING

HAP 2010-08 **CHARLES AND MARIE KARICH** – Request for Historic Alteration Permit for the addition of storage space and alterations at the historically designated property addressed as 826 Tolita Avenue and located in the R-1A (Single Family Residential) Zone.

Ms. Olsen introduced the staff report as outlined in the agenda.

Architect Kevin Rugee provided an overview of the request and answered questions of the Commission.

Commissioner St. Denis asked if the existing fence and gate located in front of the storage units would remain.

Mr. Rugee said yes.

Commissioner Ryan asked if the applicants are aware that the property is historically designated.

Mr. Rugee said his clients are aware of this information.

Commissioner Ryan asked if the applicants intend to, now or in the future, apply for Mills Act.

Mr. Rugee said his clients have requested information about the Mills Act, so there may be some intent to do so.

Chairperson Crenshaw asked if the fence would be replaced with a wood material.

Mr. Rugee said yes.

Commissioner Ryan asked if the proposed design was intended to enable the applicants to eventually apply for Mills Act.

Mr. Rugee said this was correct. He added that his clients do not intend to make many changes to the house other than to clean it up, repaint some things, and possibly add some storage, as this is their second home.

Commissioner St. Denis asked if there were any photographs available of the house before or after the porch was enclosed and before the front windows were replaced by the previous owner.

Mr. Rugee said he has not seen any such photographs.

PUBLIC COMMENT

There were no members of the public wishing to speak at this time.

COMMISSION DISCUSSION

Commissioner St. Denis stated that this house would be a good candidate for a Mills Act application. She said the previous owner had commented that he had replaced the front windows. She said it would be a good idea if the Mills Act tax benefits would be applied to restoring the front windows in a wood material.

Commissioner Ryan said that if the applicants are aware of the parameters for Mills Act, they will not “box” themselves out of qualifying for the Mills Act. Mr. Ryan said it does not appear they are doing this.

Chairperson Crenshaw asked about the City’s requirement for shade trees.

Ms. Olsen said the City’s requirement for the types of shade trees to be used differ on each street.

Vice Chair O’Brien stated that Magnolia trees are no longer allowed in the right-of-way because of its intrusive root system; however, New Zealand Christmas trees and Calatara trees (aka

Golden Rain trees) are allowed.

Commissioner Crenshaw asked about the removal of City trees.

Vice Chair O'Brien said the City removes its trees, or the property owner may do so, provided that it has been approved by the City and a license agreement is signed.

Commissioner St. Denis commended Architect Rugee for the design, which preserved much of the cottage. Ms. St. Denis then asked if the applicant would consider replacing the gravel located in the driveway with grass.

Mr. Rugee said he was sure that his clients would take this into consideration.

COMMISSION ACTION

COMMISSIONER ST. DENIS MADE A MOTION TO APPROVE THE REQUEST AS SUBMITTED, WITH THE RECOMMENDATION THAT THE APPLICANT CONSIDER REPLACING THE GRAVEL MATERIAL LOCATED IN THE DRIVEWAY WITH GRASS.

THE FOLLOWING FINDINGS WERE MADE:

- A. THAT THE PROPOSED ALTERATION IS CONSISTENT WITH THE PURPOSE AND INTENT OF THIS CHAPTER, THE HISTORIC PRESERVATION ELEMENT AND THE GENERAL PLAN.
- B. THE PROPOSED ALTERATION WILL NOT ADVERSELY AFFECT THE HISTORICAL, ARCHITECTURAL OR AESTHETIC VALUE OF THE HISTORIC RESOURCE.
- C. THE PROPOSED ALTERATION WILL RETAIN THE ESSENTIAL ELEMENTS THAT MAKE THE HISTORIC RESOURCE SIGNIFICANT.
- D. THE PROPOSED ALTERATION WILL NOT ADVERSELY AFFECT THE HISTORIC RESOURCE'S RELATIONSHIP TO ITS SURROUNDINGS AND NEIGHBORING HISTORIC RESOURCES.
- E. THE PROPOSED ALTERATION WILL COMPLY WITH THE SECRETARY OF INTERIOR'S STANDARDS AS SET FORTH IN SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966.

COMMISSIONER CRENSHAW SECONDED THE MOTION.

AYES: Crenshaw, Jones, O'Brien, Ryan, and St. Denis.
NAYS: None.
ABSENT: None.
ABSTAIN: None.

The motion passed with a vote of 5-0.

There is a 10-day appeal period.

MISCELLANEOUS

Commission discussion regarding preservation of Modern resources. (continued from the meeting of November 17, 2010)

Ms. Olsen introduced the staff report as outlined in the agenda. She recommended that if the Commission wishes to explore preservation of Modern resources in more depth, that the Commission pursue direction from City Council for this purpose.

Chairperson Crenshaw said City Council was very supportive of the 75-year age requirement wherein structures are considered historic. She feels that City Council would be more amenable in taking into consideration the architect of record if there were a list. Ms. Crenshaw said the City would be remiss if it did not begin looking at some of its architecture that is less than 75 years of age. She felt that this era should not be overlooked as there some homes which should be saved.

Commissioner St. Denis noted that the list includes not only mid-Century architects but also includes such architects such as Irving Gill, Requa, and so on. She asked if a property has an architect of record (on the list), would it automatically trigger a review, and would the process take one year.

Ms. Olsen said this is not the case in San Diego. Although they do have the list, the Modernism Context Statement is intended to be a tool to assist in identifying properties that are historically significant. However, the properties are not automatically reviewed unless they meet the 45-year threshold. Ms. Olsen said it is similar to how Coronado works with the 75-year rule.

Commissioner Ryan said he supports investing some time into putting something together that City Council will approve. He suggested benchmarking other cities.

Commissioners St. Denis and Jones agreed.

Commissioner Ryan noted that there are only a handful of places in Coronado that fall into this category. The maximum scope is about 150 to 200 homes total out of 9,500 parcels in Coronado. He said that if the Commission saves 20 or 30 more homes over the next 20 years, it would be better for the City. He also noted that there is more than one criterion to consider, not just the age of the structure.

Chairperson Crenshaw asked staff on how the Commission should proceed.

Ms. Olsen suggested that a memorandum addressed to City Council from the Commission, via the Chairperson, would be appropriate.

Attorney Foley suggested that the letter not be circulated amongst the members. He suggested that the Chairperson draft a memorandum with assistance from staff, and that the item be discussed at a future Commission meeting.

Vice Chair O'Brien requested that the Commission's Mission Statement also be forwarded to City Council. He said he was still of the opinion that, as the Commission considers homes that

are not 75 years of age, the homeowners of older homes that volunteer and participate is more important.

Public Comment

There were no members of the public wishing to speak at this time.

DISCUSSIONS

Commission discussion of the definitions of partial demolition and total demolition for the purpose of the Notice of Intent to Demolish review process.

Ms. Olsen introduced the staff report as outlined in the agenda.

Commissioner Ryan said he wanted to be on the same page with City Council and staff on the aforementioned definitions.

Ms. Olsen stated that staff is taking a conservative approach on what is brought before the Commission in terms of partial demolition.

Commissioner Ryan asked staff to clarify the process that staff follows when processing such requests.

Ms. Olsen explained that when a request involving a home that is over 75 years of age is received by Building Division staff, the Planning Division becomes involved. The plans, or concepts of the plans, are reviewed with the homeowner by a Planner. If there are any concerns by staff, it is brought to the attention of the Commission. Staff has become more aware of the types of details that need to be included on the plans to ensure that it is not a demolish-in-disguise.

Commissioner Ryan asked about the interim inspection process.

Ms. Olsen said that both Building and Planning Division staff inspect the property during the construction process, using the approved plans and notes.

Commissioner Ryan asked if there are any consequences to working beyond the extent of the permitted plans.

Ms. Olsen said that Building Division staff would handle these types of matters on an administrative level.

Attorney Foley clarified that if a complaint is received and staff finds that the scope of the permit has been exceeded, staff cites the site and posts a "stop work order" until conformance has been reached. The administrative citation process begins if there is non-conformance, and there are penalties if it is a repeat violation, which are \$500 per violation per day. If necessary, an injunctive relief and a court order to restore is obtained. Attorney Foley said it is a progressive type of proceeding and staff is trained on the issuance of citations to stop the work that may be in excess of the permit.

Commissioner Ryan said that the City should be protected from having its historic homes demolished without a permit. He said the City in many cases is not proactive; it is more reactive. Mr. Ryan said the Commission had discussed putting some type of mechanism in place that would prevent such types of incidents.

Ms. Olsen said that if it is determined that a partial demolition may occur, based on the definition that is provided, the item should be heard by the Historic Resource Commission. If it is an alteration but is not significant enough to be considered a partial demolition, it would not be heard by the Commission.

Chairperson Crenshaw said she was having issues with the definition of “substantial.”

Ms. Olsen said that when staff reviews plans at the counter, they take into consideration whether the proposed addition is visible from the public right-of-way. If it is not, it is not considered a substantial modification.

Chairperson Crenshaw said there have been incidents in the past where plans have been submitted at the counter which do not show a demolition; however, the structures have subsequently been demolished.

Vice Chair O’Brien said there is the potential that the Commission would be reviewing minor changes to a structure’s façade.

Ms. Olsen said the definitions that are provided are taken from the 2004 Municipal Code.

Attorney Foley suggested that a discussion by the Commission with a recommendation to City Council for a modification to the Ordinance (Section 70.22 Historic Alteration/Demolition) would be helpful to further define what a “substantial portion of the exterior” means. Attorney Foley also suggested that an added definition be included which outlines the process carried out by staff when a permit request that involves an historic structure is received by the City.

Ms. Olsen suggested that this item be added to the memorandum addressed to City Council.

Public Comment

Chris Ackerman said that the replacement of windows or the removal and replacement of finished materials should be reviewed by the Commission.

Kevin Rugee said he recently had a project permitted in the City of San Diego. One of the requirements was to provide a Wall Demolition Matrix, which requires that the linear footage of the wall be provided as well as the portion being removed. He suggested that the City of Coronado require designers to be very clear on what they are and are not doing. The City of San Diego also has many definitions on what constitutes demolition of which there are many variables. He suggested that the City of Coronado will eventually need to provide some format that is very specific—more than just counter approval. Mr. Rugee said there needs to be an understanding that the exterior materials, i.e., wood, stucco, on the houses will at some point need to be replaced. He also suggested that with the older homes, the Commission should consider having different levels of restoration (different descriptions for the type of work), similar to how the Secretary of Interior Standards are written. Mr. Rugee said this would be a

way to categorize restorations. He said there may be some projects that are more of a replication because the existing house is in such bad shape that there is no other choice but to replace the windows and studs, and so on. Even if it is rebuilt, it would be a distinction that should be noted.

Chairperson Crenshaw said she would also add this item to the memorandum addressed to City Council.

Commission discussion of scaling the Mills Act Tax Benefit based on the degree of alterations to a historically designated property.

Commissioner Ryan said the County Assessor uses a formula to scale back or discount improvements made to a Mills Act home. He suggested that the public be made aware of the consequences should they chose to make improvements to their Mills Act home. He reminded the Commission of Mills Act property owners who requested that solar panels be placed on their property, which were visible from the public-right-of-way, based on the new California solar law which offered property owners discounts on their SDGE bill. Mr. Ryan suggested that the benefits of the Mills Act be scaled back.

Chairperson Crenshaw said that a memorandum from the City Attorney's office previously addressed the issue of solar panels.

Attorney Foley said he would be pleased to review the memorandum with the Commission at a future meeting.

Commissioner St. Denis said she understood that, by law, the Commission cannot deny a homeowners' right to place solar panels on their property. She asked if their Mills Act benefits can be denied based on the property owners' choice to place solar panels on their property.

Attorney Foley said the Mills Act agreement is always discretionary with the City Council. The City Council could deny it if, in fact, the property owner has altered the structure so substantially with the placement of solar panels that the City Council feels it should not receive the same benefit through the Mills Act Program.

Commissioner Jones asked, based on the Mills Act being renewable every 10 years, if the City has the option to refuse to continue the Mills Act if a property owner has substantially altered the front façade by the placement of solar panels.

Commissioner Ryan said the City should have the option of scaling back the Mills Act if the property owner chooses to substantially alter the property with the placement of solar panels.

Attorney Foley clarified that the Mills Act agreement already stipulates that the property owner shall not alter or eliminate any of the historical features of the property otherwise they are in breach of the agreement, which could result in forfeiture of tax benefits. Attorney Foley reiterated that he would be pleased to review the agreement for discussion at a future meeting.

Commissioner Olsen said the memorandum from the City Attorney stated that the Commission cannot deny the placement of solar panels for any reason other than if it poses a health and safety risk. However, it does not mean that if the Commission considers the placement of solar panels to not be consistent with the Secretary of the Interiors Standards that the Mills Act must stay in

place. The City can issue a Notice of Non-Renewal and the Mills Act will terminate over the next 10-year period. The property owner would receive less of a benefit every year for ten years until the benefits cease to exist. The idea of a scaled-back tax benefit does exist to a degree in the Notice of Non-Renewal process. Ms. Olsen said there is a penalty of 12.5% of the current market value of the house that the property owner must pay upon the Notice of Non-Renewal. This process can be triggered by a modification by a property owner that is not consistent with the Secretary of the Interior Standards.

Commissioner Jones noted that the Commission allowed the placement of solar panels at the rear of the roof at a home located on B Street. The solar panels were not visible from the public right-of-way and did not detract from the appearance of the house.

Commissioner Ryan suggested that the memorandum addressed to City Council include the suggestion that property owners be advised of the potential forfeiture of the Mills Act agreement if they choose to modify their Mills Act home by placement of the solar panels.

Ms. Olsen said the Commission could say that they do not believe the modification is consistent with the Secretary of the Interior Standards. She asked if Commissioner Ryan was looking for a way to deny the historic alteration permit.

Commissioner Ryan replied that if it was not possible for the Commission to deny the request, he would suggest communicating to the property owner of the potential forfeiture of their Mills Act agreement.

Attorney Foley said he would not suggest denying the alteration permit. He suggested communicating to the property owner that in reviewing the alteration permit, there are consequences to the property owner should he choose to disrupt the architectural significance of the home. Attorney Foley suggested explaining to the property owner that the solar panels be placed away from the front façade and out of public view. If the property owner chooses to disagree with the recommendation, the property owner should be advised that the item will be placed on the Commission's agenda and a recommendation to City Council will be made to take up action for non-renewal at the next 10-year renewal period.

Ms. Olsen asked if this would be done through a Resolution at the time of the historic alteration permit hearing.

Attorney Foley responded that this would be appropriate.

Chairperson Crenshaw said she would add this item to the memorandum addressed to City Council.

Public Comment

Chris Ackerman said that although the Mills Act is a state act, it is based on the national standards. He asked if the national standards are usurped by state law, and if the national standards take precedence?

Attorney Foley said that the state incorporates the national standards into the Secretary of Interior Standards as a matter of right or convenience. Rather than develop their own standards,

the state chose to rely on the Federal Secretary of Interior Standards. However, the state law governs the City and the City must comply with state law. Attorney Foley added that the Solar Act is a matter of statewide concern.

Mr. Rugee asked if this could be looked at in terms of not denying the property owner the opportunity to place solar panels but also not allowing the property owner to place the solar panels in specific locations.

Ms. Olsen said the memorandum from the City Attorney's office communicated that staff can guide and assist an applicant in finding a proper location for the solar panels. However, if the property owner does not agree with the location, the City cannot deny the permit.

Commissioner Ryan asked if there was a way to notice property owners to not place solar panels in locations that are visible to the public.

Ms. Olsen said this request would be reviewed as part of the historic alteration permit. Staff's recommendation would be to have the solar panels placed in a location that is out of the public's view. If the property owner's plans propose that the solar panels be located in the public view, the Commission can make the same recommendation.

Attorney Foley reminded the Commission that the agenda item being discussed involves the scaling of the Mills Act agreement, and suggested that discussion be focused on same.

Commission discussion regarding the City Council's action on historic preservation items at their meeting of December 7, 2010.

Ms. Olsen introduced the staff report as outlined in the agenda.

Chairperson Crenshaw commented on the item regarding 1125 Flora Avenue. She stated that the Commission had placed a condition on approval which directed the property owners to include in the construction a tandem garage. The City Council had concerns about the zero setback and recommended that the item be heard again by the Commission. Ms. Crenshaw stated that the item was not heard again by the Commission as recommended by the City Council. She asked if, per the rules of protocol, Vice Chair O'Brien is able participate in today's discussion of this item.

Attorney Foley explained that the agenda item is for informational purposes only and will not lead to any future decisions. He said that the real question is whether the discussion would lead to a decision that would have a material financial effect on Vice Chair O'Brien or any other commissioner. He confirmed that Vice Chair O'Brien may listen to discussions today.

Chairperson Crenshaw said there was a misunderstanding on the City Council's part about what was understood during discussions between the Commission and Architect Dorothy Howard at the public hearing regarding property line issues. She said she felt misled on the location of the markers. She reiterated that the item was not heard a second time by the Commission and therefore further clarification on this issue was not possible. She said that the City Council approved the item at its meeting of December 7; the decision is final and there is no appeal process. Ms. Crenshaw asked if there was anyone else wishing to speak on this item.

Attorney Foley explained that the item is intended for review of the decision by City Council. He stated that it is inappropriate for the Commission to add new information to an item that is no longer in the purview of the Commission as the City Council has already rendered its final decision.

Ms. Olsen agreed with Attorney Foley that the intent is not to bring up new information that would lead to non-productive discussion because a decision has already been made by City Council.

Commissioner Jones commented on the item regarding 1125 Flora Avenue. She understood that there was an error involving the survey marker for the applicant's house. It was mistaken for survey markers which were placed for a house across the alley.

Ms. Olsen confirmed this information was correct.

Commissioner St. Denis commented on the item regarding 1125 Flora Avenue. She said that she would have had a completely different discussion had she understood that the property line was to be moved 18 inches into a yard that has been intact for 100 years.

Ms. Olsen clarified that the property line is not being moved.

Commissioner St. Denis said that discussion had centered on an incorrectly assumed property line. She asked if there is any resource for the property owner.

Attorney Foley said he was trying to avoid the public from asking the Commission to take action on this item. The property owners as well as the public are welcome to comment on this item; however, he cautioned that any discussions cannot lead to any type of decision by the Commission on this project. He added that the property owners can seek any remedies they feel are appropriate with respect to this development. He reiterated that the Commission has no jurisdiction to initiate any new action on this project.

Chairperson Crenshaw displayed a photograph of the lot line for 1125 Flora Avenue. She stated, for the record, that had she been provided the information that City Council assumed she had been given, she would have chosen to continue the item. She understands there is no recourse at this time.

Attorney Foley said he was not present at this meeting to defend the City Council. However, he stated that the plans presented to City Council reflected a different footprint of the garage.

Ms. Olsen said that the plans that were originally presented to the Historic Resource Commission showed the existing footprint of the garage. The Commission, upon its first review, placed a condition of approval on the project that the existing garage be demolished and a new two-car tandem garage be constructed. The applicants returned before the Commission with the plans for a new garage represented on the plans.

Attorney Foley said that the plans show the actual property lines and survey pins, which have not moved.

Ms. Olsen said that the same survey pins were used when the original and revised plans were drawn.

Public Comment

Milt McColl said he was supportive of the Historic Resource Commission and the process in place, and displayed a photograph of his historic home located at 1118 Loma Lane. Mr. McColl commented on the item regarding 1125 Flora Avenue. He stated that the new footprint of the potential lot line was different from what he has always considered to be the accepted property line, and said he would prefer to resolve the property line issue with the new property owner.

Chris Ackerman said he understands that a City Council member who voted with the majority on an item can present new information for review by City Council.

Attorney Foley said the City Council has its own policies—they can take up reconsideration of an item. He stated that this is not the appropriate forum to make this type of suggestion.

Chris Ackerman requested that the plans (for 1125 Flora Avenue) be displayed in order to review the property lines.

Carrie O'Brien commented on the item regarding 1125 Flora Avenue. She said she represented her brother, Milton McColl, at the City Council meeting because they understood there was a discrepancy which involved the pin that was being used for the lot line. She said it is difficult to read the plan and suggested that the Commission may not have picked up on any changes and, therefore, did not question this change any further.

Cara Clancy commented on the item regarding 1125 Flora Avenue. She said that the Commission's intentions are good; however, she noted that the applicant, during the public hearing, did not request the addition. The Commission made this request. She suggested that the process needs to be taken more seriously, and field visits by the Commission should be done in the future. She said that when concessions are being granted to applicants to encroach on someone else's property, at the bare minimum, that person being encroached upon should be present at the meeting, or at least be notified. Ms. Clancy also commented, with regard to placement of solar panels, that if the Commission does not allow concessions, the property owner can subsequently place the solar panels on the side of their garage, which would ultimately affect their neighboring property owner. Ms. Carey cautioned the Commission to be very careful when making concessions.

Attorney Foley made a cautionary statement. He stated that this issue (regarding 1125 Flora Avenue) is very passionate and appears to be headed toward possible litigation. The Commission is part of the City regardless of their opinion on the decision made by the City Council and whether the decision was made based upon all of the facts. Attorney Foley asked that the Commission not express their opinions as to whether the City Council made the correct decision. If there is litigation involving the City, he will need to defend all statements made by members of this Commission as well as the City Council. Attorney Foley stated that he would prefer, in defending the City, if necessary, that the record be as clear as possible as to what the Council's decision is as opposed to what the Commission feels the City Council's decision should have been. Attorney Foley cautioned the Commission that any statements made at this

meeting from this point forward may become part of the record in any proceedings that challenge the decision of the City Council.

Commissioner Jones stated that she was not present at the Commission's October 6 meeting.

Commissioner Ryan stated, for the record, that he takes exception to some of the public testimony because he feels that the Commission works hard and asks as many questions as possible. He stated that he does not recall being told or shown the specific lot lines. He said that maybe the Commission assumed or should have asked more questions. Mr. Ryan confirmed that he does not recall there was a conflict involving the survey markers.

Chairperson Crenshaw said she will "stick" to the minutes that were approved by the Commission. She stated that the minutes were very inclusive and, as noted, the minutes reflect discussion of what she sincerely believes was happening. Ms. Crenshaw stated, for the record, that the issue regarding the two survey markers never returned to the Commission for further discussion even though she was notified that the City Council was reconsidering the item.

Commissioner St. Denis said that the property line dispute was not known until 30 minutes before the City Council meeting of November 16, 2010.

Commission Action

Chairperson Crenshaw made a motion to place on a future agenda a discussion item regarding commercial historic properties in Coronado.

Commissioner Ryan seconded the motion.

Ayes: Crenshaw, Jones, O'Brien, Ryan, St. Denis
Nays: None.
Absent: None.
Abstain: None.

The motion passed with a vote of 5-0.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:11 p.m.

Rachel A. Hurst, Director of Community Development,
Redevelopment & Housing Services