



Stanford Campus Residential Leaseholders, Inc.

October 13, 2009

Santa Clara County Historical Heritage Commission
County Government Center
70 West Hedding Street, East Wing, 7th Floor
San Jose, CA 95110

RE: Proposed Amendment of Historic Preservation Ordinance To
Remove Owner Consent Requirement

Dear Commissioners:

Stanford Campus Residential Leaseholders, Inc (SCRL) recently learned that the Historical Heritage Commission (HHC) is considering a possible amendment of the Historic Preservation Ordinance (“Ordinance”) that would remove the owner consent requirement for designating a property as a landmark. On behalf of SCRL, I strongly urge you to oppose this change. The owner consent requirement is a critically important part of the Ordinance. It balances historic preservation goals with the rights and interests of property owners. The requirement reflects extensive public comments and testimony presented during the County’s lengthy process of Ordinance development. The current Ordinance is working well; no issues have been raised that impacted the County’s ability to designate eligible Landmarks. And there are important reasons, some summarized below, to retain this Ordinance provision.

1. Requiring owner consent preserves the value of historical properties; imposing extensive financial obligations and burdens over homeowner objection would have the opposite effect. Unlike historic preservation ordinances that contain a balance of incentives and penalties, the County’s Ordinance is almost entirely punitive. The only incentive it offers is taxpayer relief under the Mills Act. The Ordinance imposes many financial and other hardships on homeowners, hardships pointed out during the lengthy period of Ordinance development. The owner consent requirement, inserted by the Board of Supervisors in 2006, provides balance to an otherwise punitive Ordinance. It encourages the County to offer incentives for Landmark designation rather than punishing people by designating homes as landmarks over owner objections. The balance brought by the owner consent requirement is fair and reasonable and preserves property values, while providing robust protections for historic properties. In contrast, a designation process that ignores owner consent would deter potential buyers because the Ordinance’s requirements could prove too burdensome.

2. Homeownership is precarious enough; removing owner consent could impose large costs on families. An owner of a designated property is forced to pay costs of a burdensome and extensive permitting process to make important home improvements to enhance access for the disabled, promote energy efficiency, or ensure safety. For example, before installing an exterior wheelchair ramp, the owner of a designated property would be required to pay thousands of dollars to a special consultant to prepare the permit application required by the Ordinance for a County Landmark—extra money that many families simply do not have.
Now is not the time to make homeownership even harder.

3. The County decision-makers should not disregard the overwhelming public opinion expressed on this issue. From 2000 until the Ordinance was adopted in 2006, there was extensive public feedback. Public feedback included specific discussion of why owner consent was crucial. County residents wrote letters, sent emails, and attended county meetings to speak out on this issue. Overwhelmingly, County residents opposed a compulsory ordinance. Although different jurisdictions may adopt different ordinances, the process that led to this County's Ordinance was thorough, public, fair and democratic. As a result the Board of Supervisors included a requirement for owner consent. For the County now to disregard that process would be inappropriate.


4. There is no reason for such a sweeping change to the Ordinance. In the September 17, 2009 recommendation to the Historical Heritage Commission, prepared by Dana Peak, Ms. Peak noted that in the three years since the Ordinance was adopted, (1) the HHC has recommended nine County-owned properties for Landmark designation, (2) the owners of six properties *voluntarily* applied for Landmark designation and (3) "no issues have been raised that impacted the Board's ability to designate eligible Landmarks..." The Ordinance as it currently exists is working well and needs no change.

It is my understanding that an ordinance was needed originally for the County to qualify for Mills Act funding. The existing Ordinance satisfies this requirement. The Montebello School situation, which apparently prompted the proposal to remove the owner consent provision, presents a narrow issue of property transfer between owners during the designation process. It does not justify erasing the owner consent requirement. Elimination of the owner consent requirement would be an overly broad action not needed to address the Montebello School issue. This unique situation, according to staff, is the *only* problem the County has encountered in designating Landmarks since the adoption of the Ordinance.

Finally, I take issue with the statement in the HHC staff report that "By removing the owner consent requirement, the Board would have a full range of options for action regarding Landmark designations." The Board *already* has options appropriately protective of historic resources, including listing properties on the Heritage Resource Inventory. In reality, the Board's full range of options will be limited by human behavior, finances, and the reduced number of buyers willing to purchase properties subject to Landmark designation without their consent. Eliminating the owner consent requirement would not further the objectives of historic preservation; it would have the opposite effect.

The SCRL considers this an extremely important issue. Kim Bomar, another Stanford homeowner familiar with the Ordinance, and I would be happy to discuss this issue with you. I can be contacted at jim.sweeney@stanford.edu, 650-723-2847 (office), or 650-787-4333 (mobile phone). In the meanwhile, thank you for your serious consideration of this matter; I urge you to oppose removal of the owner consent requirement from the Ordinance.

Sincerely yours,



James L. Sweeney
President, SCRL Board of Directors