



**Historic Preservation Board  
REGULAR MEETING MINUTES  
Wednesday, March 23, 2022 | 5:00 PM  
City Hall Council Chamber – 70 N. First Street**

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**CALL TO ORDER**

The Regular Historic Preservation Board meeting of Wednesday, March 23, 2022, was called to order at 5:00 p.m. by Chair Walter, and the following proceedings were had to wit:

**ROLL CALL**

HPB Members Present:

Todd Walter, Vice Chair  
Susan Blake  
Laura Taylor Moore  
Rob Corteway

HPB Members Absent

Michael Foulkes, Chair

Staff Members Present:

Rob Eastwood, Community Development Director  
Daniel Fama, Senior Planner  
Bill Seligmann, City Attorney  
Abby Jones, Executive Assistant

**AGENDA MODIFICATIONS OR POSTPONEMENTS**

None

**APPROVAL OF MINUTES**

**1. Approval of Minutes of February 23, 2022**

**Motion:** Upon motion of Member Moore, seconded by Member Corteway, the Historic Preservation Board approved the minutes for the meeting of February 23, 2022, with a correction of the date from April 25th to April 27th, 2022, for the next Historic Board Meeting date, by the following roll call vote:

**AYES:** Blake, Corteway, Walter, Moore  
**NOES:** None  
**ABSENT:** Chair Foulkes  
**ABSTAIN:** None

### **ORAL REQUESTS**

There were none.

### **BOARD AND STAFF ANNOUNCEMENTS**

There were no Board or staff announcements.

### **NEW BUSINESS**

#### **2. Mills Act Audit Review ad hoc Subcommittee Formation and Appointment**

Vice Chair Walter introduced the item.

Senior Planner Fama provided a brief introduction of the item.

Vice Chair Walter asked about the Mills Act audit review of ad-hoc subcommittee formation and appointment.

Senior Planner Fama clarified that this is a follow-up from the last meeting where the Board discussed the potential creation of an additional single member subcommittee to assist staff in completing the audit of the existing contracts. It requires action from the Board to adopt a resolution and to appoint a member to the subcommittee.

Vice Chair Walter asked if there was a need for an audit if the Board moves forward with the subcommittee.

Senior Planner Fama clarified that what he means by audit is verifying compliance with the existing contracts and their obligations under the work plans that were approved. The intent of the new subcommittee is to have Board Member Corteway focus on the review of receipts that have already been tabulated to cross compare the property tax savings and then inform the Council of how much of the savings has been reinvested into the homes.

Board Member Blake stated she has done most of the four audits for the properties she has and needs to know next steps.

Senior Planner Fama responded to Member Blake that those audit tasks will be taken given to Board Member Corteway.

**Motion:** Upon motion of Member Blake, seconded by Member Moore, the Historic Preservation Board adopts Resolution No. 2022-02, forming a

**Mills Act Audit Review Subcommittee and the appointment of (one) Board Member Rob Corteway to serve on the Mills Act Audit Review Subcommittee, by the following roll call vote:**

**AYES: Blake, Corteway, Walter, Moore**  
**NOES: None**  
**ABSENT: Foulkes**  
**ABSTAIN: None**

### **PUBLIC HEARINGS**

Acting Chair Walter read Agenda Item No. 3 into the record:

#### **3. 705 El Patio Dr. – Tier 1 Historic Resource Alteration Permit**

Public Hearing to consider the Application (PLN-2021-70) of Nicholas and Andrea Key to rescind the listing of **705 El Patio Drive** as a Structure of Merit from the City of Campbell Historic Resource Inventory (HRI). Staff is recommending that this project be deemed Categorically Exempt under CEQA. *Project Planner:* Daniel Fama, Senior Planner

Senior Planner Fama stated that this is a public hearing to consider rescinding the property at 705 El Patio from the Historic Resource Inventory (HRI) list.

Senior Planner Fama stated that Architectural Advisor Mark Sandoval prepared a report that was previously provided recommending the City consider removing the property because it no longer satisfies the criteria for inclusion on the City's local list or the State registry. As noted from the last meeting, staff did need additional time to work with legal counsel. City Attorney, Bill Seligmann reviewed a revised resolution that would tie the action to recommend the recission from the HRI subject to payment of a fee in-lieu of restoration. The approach was to identify the reasonable cause to restore the building to its previous state, if that would have been an action the City would have desired, the costs come out to a value of approximately \$45,000.

Senior Planner Fama stated that the resolution provides the legal bases to ensure that we maintain protections against the HRI properties.

Staff recommends that the Historic Preservation Board recommend to the City Council that the property be removed from the HRI subject to payment of an in-lieu fee of \$45,000.00

Vice Chair Walter asked if there were questions from staff before he opens the public hearing.

Senior Planner Fama clarified that the action to remove the property would be contingent

on paying the fee and stated that if the Board feels this fee is not appropriate, they do not need to recommend to the Council. This is just a recommendation, and the Planning Commission will propose an independent recommendation as well.

Board member Corteway asked for the opportunity to make a proposal to vote on an alternate version of the solution that is being proposed.

Senior Planner Fama responded that it depends on the scope of the proposed revision.

Board member Corteway asked what the best way is to rationalize the calculation of the fees and is there legal precedent to create a Zoning Code Amendment when there is a violation that has happened in the past.

City Attorney Seligmann responded to Board member Corteway by stating that he is not aware of this being done in the present context. He stated the law exists. There are state statutes that allow the imposition of in-lieu fees and development impact fees. City Attorney Seligmann clarified that we don't have to adopt a new rule we just need to confirm it applies to the situation where someone removed a city resource from the HRI and now is essentially asking the city to legalize the action after the fact. Removing the property is a discretion action by the City Council, HPB and Planning Commission. In exercise of the discretion, it is accepted and recognized legal practice that we can condition a permit, and one of the ways to condition a permit is by imposing a fee subject to the existing statutory structure.

Board Member Moore mentioned how long she's been on the board and stated during her time on the board that there have been plenty of people have said they didn't want a historic home and the Board let them off the list without violation. Board member Moore stated this fee is not reasonable or fair nor would it encourage preservation work. Board Member Moore stated she would like to see the City have a Mills Act available for anyone who'd like to participate in historic preservation.

Vice Chair Walter asked if Staff has ideas on what other cities charge for similar situations.

Senior Planner Fama responded to Chair Foulkes that the fee is to disincentivize unpermitted demolition or alteration.

Vice Chair Walter opened the public hearing.

Mr. Key, Owner/Applicant knows he broke the rules and believes this is a learning experience as he was not aware of the laws regarding his house. Mr. Key believes the historic value cannot be re-added. He came to the Board for guidance on moving forward and he stated a reasonable compromise would be to maintain the aesthetics of the home and is more than willing to pay a fee. Mr. Key stated he is concerned that penalties can be imposed without his knowledge and that he would've changed the work done to his property had he been aware of such fees being imposed.

Vincent Cortana, Campbell resident, stated that his house was deemed Historic at the

same time as Mr. Key's house and the City never disclosed that they could potentially be fined for improving their house. Mr. Cortana stated that if he knew he would have asked the City to not put his house on the HRI list. Mr. Cortana mentioned that the work Mr. Key's did to the house improved the neighborhood and thinks it is ridiculous for Mr. Key's to be fined for the work he's done.

Tim O'Connell, Campbell resident, stated support of Mr. Keys, that the work done to the property has improved the neighborhood.

Tammy S., Campbell Resident, mentioned that they are shocked at the fees proposed on the Key's. The Key's home draws attention in a positive way and the home at 705 El Patio was a reason they almost did not purchase in the neighborhood. The improvements made by the Key Family, absolutely gave the neighborhood value.

Vice Chair Walter closed the public hearing

Board Member Cortway recommended charging a lower amount. Believes that there something in place to disincentivize property owners in the future from taking unpermitted actions.

The Board discussed the proposed in-lieu fee amount.

**Motion:** Upon motion of Member Moore, seconded by Member Cortway, the Historic Preservation Board adopts resolution 2022-03, recommending that the City rescind the designation of 705 El Patio as a structure of merit from The City of Campbell's Historic Resource inventory subject to an in-lieu fee of property restoration of \$5000.00, by the following roll call vote:

**AYES:** Blake, Cortway, Walter, Moore

**NOES:** None

**ABSENT:** Foulkes

**ABSTAIN:** None

## **OLD BUSINESS**

### **2. Mills Act *ad hoc* Subcommittee Report and Program Update Discussion**

Staff and/or the Subcommittee will report on the status of the Mills Act Program.

Vice Chair reported that he and Board member Blake met to discuss enhancing the outline of the recommended changes to the Mills Act contract and they are further in developing it and will be submitting a packet with recommendations to the board for the next meeting. He would like for all Members to be present for this meeting. One of the components will be in-lieu fees related to similar situation as today.

Senior Planner Fama stated that the City Council has not made the Mills Act a formal workplan for the department. Once the audit of existing contracts has been done, the

Board will go before the Council to advise them of what the subcommittee has been working on.

Board member Blake asked if the Historic Preservation Ordinance will need to be updated to include the in-lieu of fees.

Senior Planner Fama responded they will seek Council authorization when the matter reaches them.

Board member Blake asked if the in-lieu fees are for removing the property from the HRI.

Senior Planner Fama responded the in-lieu fees are just for this application and in the future, it will be a fine.

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**ADJOURNMENT**

Adjourned at 6:14 PM to the next Regular Historic Preservation Board meeting scheduled for April 27, 2022, at 5:00 PM, in the City Hall Council Chambers, 70 North First Street. Campbell, California

PREPARED BY: \_\_\_\_\_  
Abby Jones, Executive Assistant

APPROVED BY: \_\_\_\_\_  
Michael Foulkes, Chair

ATTEST: \_\_\_\_\_  
Daniel Fama, HPB Staff Liaison