

SAVING THE ARCHITECTURAL JEWELS OF TIME

SUMMARY

The Humboldt County Grand Jury investigated a complaint against the City of Arcata Department of Community Development. The complaint alleged that the design review process for a project in Arcata was contradictory, and that Arcata did not follow the Land Use Code, and as a result, the process was confusing and cost time and money.

We disagree with the complainant that the City of Arcata Department of Community Development did not follow their own municipal code, but we do agree, because of contradicting staff reports, the process was confusing.

BACKGROUND

To understand the discussion section of this complaint, we begin by defining and explaining some important terms and concepts: description of codes and plans used in our investigation, duties of commissions and committees outlined in those codes and plans, and the City Staff's authority to interpret those codes.

The Historic & Design Review Commission's function is to conduct preliminary review of buildings and site designs for proposed projects, and to assist applicants in developing designs compatible with adopted criteria and standards; with powers and duties as specified in the Arcata Land Use Code and as outlined in Arcata Municipal Code § 2212 to 2218.¹ This Commission can call upon the Historical Sites Society and the Historic Landmarks Committee for advice and recommendations concerning any historic resource, such as with the project we investigated. Once a building is deemed historic, the Historic and Design Review Commission has the regulatory power to designate which materials are appropriate to any discretionary permitting process.

The Historic Landmarks Committee's primary functions are to serve in an advisory capacity to the City Council, Commissions, or City Staff, as appropriate, in matters pertaining to structures, sites or neighborhoods having special character or special historic, architectural, cultural or aesthetic interest or value; to develop a Noteworthy Structure List and promote other historic preservation activities; to make recommendations to City Staff regarding the update of the City's historic resources inventory; and to provide community outreach and education concerning historic resource preservation and the benefits of landmark designation². The Historic Landmarks Committee has been tasked with updating the Noteworthy Structures List. Currently they are conducting a survey of Bayview, a Neighborhood Conservation Area, thus following one of their mandates.

The General Plan 2020³ sets goals for the City, and it is the City Council's duty to make sure that city staff is implementing these goals. Some of these goals, summarized below, and with underlining added for emphasis, need to be currently addressed by City Council and staff as to implementation.

The Guiding Principles and Goals in the General Plan’s Historic Preservation Section are the following:

- A. Promote preservation of structures and sites that are representative of the various periods of the city's social and physical development.
- B. Preserve the historical character of the Plaza and the surrounding commercial district.
- C. Encourage owners of eligible structures to seek historic landmark status and to invest in restoration efforts.
- D. Conserve the many examples of early residential building styles found in the city's older neighborhoods, from Bayside to Arcata Heights.
- E. Assure that new construction and additions to existing historically-designated buildings maintain the character and livability of the historic neighborhoods.
- F. Promote interest in and appreciation of the value of Arcata's history and its heritage of historic buildings.
- G. Encourage tourism and economic development through historic resource preservation.
- H. Prevent destruction of archaeological and cultural resources and assure that any artifacts receive proper disposition.

The Land Use Code of Arcata⁴ includes language that has been written to help the Historic and Design Review Commission and the Historic Landmarks Committee make decisions regarding any project requesting changes, upgrades, preservation or maintenance to a historic resource. These codes and plans have sections pertaining to Historical Preservation of Resources, such as Chapter 9.53 of the Land Use Code. Pursuant to this section the City, with the Historic Landmarks Committee’s help, is tasked to survey Arcata for historic resources, conduct historic reviews for buildings over 50 years old, and protect buildings that are considered eligible for inclusion on any register, or landmark status. Currently there is a disagreement between senior staff and the Historic Landmarks Committee as to how these codes are interpreted (see **DISCUSSION** section).

Historic Resource or Historic Landmark

There was confusion within the Grand Jury about the definitions of *historic* and *historic landmark*. We also wondered could a house be declared *historic* or a *historic landmark* without landowners’ approval? The answer to our confusion follows.

Historic Landmark connotes that a historic structure has gone through a formal designation process with the consent of the landowner, and final approval by the Arcata City Council. Then it is officially added to the Historic Landmark list for Arcata. Without the consent of the landowner, a historic resource cannot become a landmark. It is this Historic Landmark list that city staff used in their staff report to make their determination that the Lord House was not a historic resource. The staff for the Historic and Design Review Commission had a different interpretation (see **DISCUSSION** below).

The criteria for determining whether a property is an **Historic Resource** is determined by Arcata's Land Use Code or the California Environmental Quality Act. A structure can be deemed a historic resource without the consent (or knowledge) of a landowner. Within §9.53.040 of Arcata's Land Use Code a building is deemed historic if:

- A. The building, site or area is a significant representative of a distinct architectural period, type, style, or way of life.
- B. The building, site or area is at least 50 years old, or in rare cases has achieved architectural or cultural significance in less than 50 years.
- C. The building, site or area is connected with a person or event important to local, state or national history.
- D. The architect or builder is famous or well-recognized.
- E. The building's style, construction method, materials, or finishes are unusual or significant.
- F. The building contains original materials or craftsmanship of high or unusual value.

According to witnesses, the relevant **California Environmental Quality Act** section pertinent to our investigation is one the City Staff did not use in a memo (see **DISCUSSION** section) when Staff decided that the complainants' structure was not historic. The California Environmental Quality Act §15064.5, and Public Resources Code §5024.1(g), indicate that any building identified in a historic survey shall be presumed to be historically significant. We learned this part of California Environmental Quality Act was not followed by City Staff, this will be outlined in **DISCUSSION** section below.

Also relevant to this investigation is the use of California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, Categorical Exemptions §15331 Class 31 exemptions for projects. When applying to the City of Arcata Department of Community Development, if an owner has a historic resource, and agrees to follow the U.S. Secretary of Interior's Standards, the owner can be granted a Class 31 California Environmental Quality Act Guidelines exemption, and not have to appear before the Historic and Design Review Commission, thus saving the owner and City staff time. If the applicant agrees to follow the U. S. Secretary of Interior's Standards for Rehabilitating Historic Buildings⁵, they are agreeing to restore the building to its original quality, use in-kind materials and craftsmanship, and to retain the original architectural integrity of the structure. We question why the City is not proactive in promoting this streamlined process for agreeable owners. The complainant's project in this investigation could have met these requirements, and would have also followed General Plan 2020 recommendations.

APPROACH

During our review of issues noted in the complaint, we became aware of a well known development project that appeared to highlight many of these issues. We therefore chose to review the processes involved with this project as the focus of our investigation. The building associated with this project is known as the Lord House.

We interviewed witnesses representing the City of Arcata Department of Community Development, the Arcata City Council, the Historic Landmarks Committee, and the Historic and Design Review Commission. We also interviewed a member of the public who assisted in

writing the Land Use Code for the City of Arcata, a contractor on the project, an author of a book listing historic buildings in Arcata, and the complainant.

In addition to the above interviews, we studied the relevant Land Use Code for the City of Arcata, sections of the General Plan 2020 that identify procedures to save historic resources, certain California Environmental Quality Act statutes, certain sections of the California Environmental Quality Act Guidelines, and the Secretary of Interior Standards for reviewing any existing structure as to whether it qualifies as a historic resource or landmark. The sources have all been referenced in the **BACKGROUND** section.

DISCUSSION

Confusion among Arcata City Staff

We discovered there was confusion between city staff, a regulatory commission and an advisory committee as to whether or not this project had a historically significant building on the property. The confusion existed as a result of a memo sent by senior staff on August 16, 2010, outlining an interpretation of the Land Use Code. This interpretation was challenged by a follow-up letter signed by the Historic Landmarks Committee, delivered by its staff liaison to the City Manager on May 8, 2012. The City Attorney gave options as to how to resolve the issue in a legal analysis summarized in a memo of August 17, 2012. There was an annual study session on August 22, 2012, as well as a scheduled city council meeting on this issue.⁶ The City Council did not make a decision in their September 4, 2013 meeting, as to which interpretation of the Land Use Codes to follow, but two council members did voice concern that the Zoning Administrator has no formal background in historic preservation. Another fact that led to our confusion was that the Zoning Administrator's interpretation stating how the Land Use Code should be interpreted, outlined in the August 16, 2010 memo, was posted online, without at least one City Council member's knowledge.

Two Contradicting Staff Reports

This confusion led to two conflicting staff reports generated in this permitting process. One report, prepared by senior staff, using the interpretation of the Land Use Code summarized in the August 16, 2010 memo, declared that the structure on the property to be renovated was not a historic resource. Specifically the staff report read "The Lord House is not a local Historic Landmark, nor is it on the Noteworthy Structures list. Furthermore, the Lord House is not on the National or State registers, nor has it been nominated to these registers. Finally, Historic Listing of the Lord House has not been initiated. Per the city's zoning ordinance, the project is not subject to the Historic Preservation section of the Land Use Code".

We agree with the first part of this finding that the Lord House was not on the Historic Landmarks list for Arcata, for this would require the owners' consent, and they stated repeatedly they were against any listing. We learned the Lord House was referenced in at least two important lists. First, it was mentioned in Susie Van Kirk's compilation of historically significant structures in her 1979 book "Reflections of Arcata's History: Eighty Years of Architecture". This book, a compilation of approximately 145 of the city's most architecturally important buildings,

funded by the State of California's Office of Historic Preservation, was done for the City of Arcata Planning Department. Furthermore, after her compilation of these structures, two leading experts in historic preservation came to Arcata and viewed every photo that was in her survey as to their local historic significance and National Register eligibility. During that visit, they decided that the Lord House was not only a significant historic resource, but is eligible for the National Register for Historic Places, the highest designation of preservation in the United States.

Second, we learned the Lord House was included in a list of Noteworthy Structures within Arcata, brought to our attention by a member of the Historic Landmarks Committee. The Grand Jury received hard copies of this list, indicating that it was referenced as Table HP-2, List of Noteworthy Structures and Sites, in the General Plan 2020 Design and Preservation Section. The Grand Jury discovered that this list was removed in the 2008 revision of the General Plan 2020, and we are unaware of its current status.

Historic or Not?

As to whether or not the Lord House is a historic resource, which is the fundamental issue in this investigation, witnesses referred to California Environmental Quality Act §15064.5, and Public Resources Code §5024.1(g) and reported that any building identified in a historic survey, shall be presumed to be historically significant. So by the California Environmental Quality Act, this building is to be considered historic. This was stated in a second City staff report to the Historic and Design Review Commission; this report identifies the Lord House as historic, follows the Historic Landmarks Committee interpretations of the code and processes the discretionary project properly. It is during the Historic and Design Review Commission review process of the alteration to the Lord House's exterior, with consultation from the Historic Landmarks Committee and the Historic Sites Society of Arcata, that we believe the Historic and Design Review Commission followed code, and used their regulatory power, as defined by Land Use Code, to require any replacement windows be of redwood. Here we disagree with complainant that the city did not follow their own municipal code, but we do agree, because of the contradictory staff reports, the process was confusing. It is at this stage of the review process that the owners had an opportunity to appeal the materials requirement imposed by the Historic and Design Review Commission, and they chose not to, citing time limits and the approximate \$2,000 cost of the appeals process.

When the project first came to the City of Arcata, the City could have applied the U.S. Secretary of Interior's Standards. The City staff could have followed the goals of the General Plan 2020 (see Background); by helping the owners understand the significant tax breaks they would have received by following the Standards. This could have expedited the process by the applicant receiving a California Environmental Quality Act Guidelines Class 31 exemption (see Background) to bypass the Historic Design Review Commission. If the City Council were to follow its General Plan, it would encourage the city staff to educate owners about the benefits of owning a historic resource.

We conclude this project was a prime example of a missed opportunity to streamline the historic review process, saving both City staff and the homeowners time and money.

FINDINGS

- F1.** The Historic and Design Review process could be streamlined if the U.S. Secretary of Interior's Standards are followed.
- F2.** The Zoning Administrator is empowered to interpret Land Use Code as to whether or not a building is eligible to be a historic resource in compliance with the California Environmental Quality Act.
- F3.** Arcata City staff was inconsistent as to whether the Lord House was historic.
- F4.** Confusion exists among Arcata City staff as to the process and protocol in the design review process.
- F5.** The City of Arcata, as lead agency, did not go through the review process as outlined in their Land Use Code or California Environmental Quality Act as to whether or not the Lord House was eligible as a historic resource.
- F6.** The owners/complainants were unclear as to which codes applied to their project.
- F7.** The Arcata City Staff sent out contradictory memos during the design review process for this project, and during interviews of city staff, they gave the jury conflicting and confusing testimony.
- F8.** A difference exists between how City Staff and the Historic Landmark Committee interpret Arcata's Land Use Code with respect to the designation of the Lord House as a significant historic resource.
- F9.** The Lord House is listed in Susie Van Kirk's book, a compilation of notable historic resources compiled by the city in 1979. Furthermore, the Lord House was found eligible for listing on the National Register of Historic Places, the highest designation for a historic structure.
- F10.** The Zoning Administrator's interpretation of the City of Arcata's Land Use Code is posted on the City of Arcata's website without approval of the Arcata City Council.
- F11.** The appeals process cost of approximately \$2,000 may be prohibitive to many landowners.

RECOMMENDATIONS

- R1.** The City of Arcata should direct staff to use the U.S Secretary of Interior's Standards for projects that have historic resources, thus streamlining the historic and design review process, saving both City staff and the affected homeowners time and money. (F1, F4, F5, F6, F7, F8, F10)

- R2.** The City of Arcata needs to continue its inventory of all architectural resources to assist the Historic and Design Review Commission and the Historic Landmarks Committee. (F2, F3, F5, F6, F7, F8, F9)
- R3.** The City of Arcata should simplify the design review process and make it less confusing for all applicants. (F4, F5, F6, F7, F8, F10)
- R4.** The City of Arcata needs to become proactive in educating landowners as to the benefits of owning a historic property. (F1, F6, F7, F8)
- R5.** The City of Arcata should request staff to provide applicants who have potentially eligible historic structures clear and unambiguous requirements for the permit process. (F1, F4, F5, F6, F8, F10)
- R6.** Documents pertaining to land use policy, codes and ordinances should be approved by the Arcata City Council prior to posting on the City’s website. (F2, F10)
- R7.** The appeals process should be less monetarily prohibitive. (F11)

REQUESTS FOR RESPONSES

Pursuant to Penal Code § 933.05, the Grand Jury requests a response from the following:

- The Arcata City Council to respond to Recommendations 1-7.

The Grand Jury invites a response from the following:

- The City Manager of Arcata to respond to Recommendations 1-7.
- The Historic and Design Review Commission to respond to Recommendations 1-7.
- The Historic Landmarks Committee to respond to Recommendations 1-7.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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BIBLIOGRAPHY

1. www.cityofarcata.org/government/commissions/historic-design-review-commission
2. www.cityofarcata.org/government/committees/
3. www.cityofarcata.org/departments/building-planning/regulations/general-plan-2020

4. www.codepublishing.com/ca/arcata/
5. The Secretary of the Interior's Standards for Rehabilitation (Rev. 1990) and guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior, National Park Service, Preservation Assistance Division, Washington D.C., 61pages
6. The meeting and cited memos can be viewed by taking the following steps:
www.cityofarcata.org/
click - Council Meetings
click - Year 2012
select - August 22, 2012 - City Council Study Session w/Planning and Historic & Design Review
click on video