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October 2, 2014

Honorable Dale A. Reinholtsen, Presiding Judge
Superior Court of California, County of Humboldt
825 5th Street
Eureka, CA 95501

Richard A. Yeider, Foreperson
2013–2014 Humboldt County Grand Jury
825 5th Street
Eureka, CA 95501

Re: 2013–2014 Grand Jury Report: Saving the Architectural Jewels of Time

The Arcata City Council and the Interim City Manager collectively provide the following responses to recommendations of the 2013–2014 Grand Jury report “Saving the Architectural Jewels of Time.”

F1. *The Historic and Design Review process could be streamlined if the U.S. Secretary of Interior’s Standards are followed.*

The City partially agrees with the finding. However, the City does not agree with the following statement on page 3 of the report:

“..., 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.”

Following the Secretary of the Interior’s Standards allows the applicant to be eligible for a California Environmental Quality Act (CEQA) Class 31 Categorical Exemption. This Categorical Exemption does not authorize an exemption from CEQA or City of Arcata Design Review permit and it also must still be evaluated for other potential impacts to the environment. Such other potential impacts are included in the CEQA Initial Study Checklist and include but are not limited to: hazards and hazardous materials, water quality, air quality, noise and traffic.

As an example, if an applicant proposes exterior alterations to a designated historic resource and has designed the project to fully comply with the Secretary of the Interior's Standards, but the parcel on which the historic resource is located is contaminated with hazardous materials or is going to be used as a bar with loud music in a residential neighborhood, the project may not be eligible for a Class 31 Categorical Exception and an Initial Study with an associated Negative Declaration or Environmental Impact Report may be required.

In addition, a Design Review permit covers much more than alterations to character defining features of potential historic resources. It regulates landscaping, parking, traffic circulation and other design features that may or may not contribute to the historic resource.

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.

The City agrees with the finding.

F3. Arcata City staff was inconsistent as to whether the Lord House was historic.

The City partially disagrees with the finding. The Lord House is not a designated Historic Landmark because the property is not listed as a National, State or Local historic resource. This point was consistently stated in the September 26, October 10, and November 14, 2012, and July 18, 2013 Staff Reports to the City's Historic and Design Review Commission (HDRC).

As the Design Review permit approvals are discretionary, CEQA applies. The HDRC as the decision making authority determines if a proposed project has the potential to impact a historic resource under CEQA. Staff's role is to make a recommendation to the HDRC.

An inconsistency among City Staff existed whether Staff should recommend that the HDRC consider the structure a historic resource and therefore either draft conditions of approval that the project follow the Secretary of the Interior's Standards and utilize the Class 31 exemption, or remain silent on the issue. The following are the basis for this partial disagreement

1. The HDRC referred the project to the City's Historic Landmark Committee and the Historic Landmark Committee on October 4, 2012 and July 18, 2013 did not include as part of their recommendation to the HDRC that the City designate the structure a historic resource.
2. City Staff in neither the October 13, 2012 nor the July 24, 2013 Staff Reports recommended that the HDRC designate the structure a historic resource, nor did City Staff recommend that the HDRC adopt a Class 31 exemption.

- F4. *Confusion exists among Arcata City staff as to the process and protocol in the design review process.*

The City disagrees with the finding.

The Design Review process and protocol is well defined and the City has a well-trained Staff and an experienced HDRC that has followed the same process and protocol numerous times. The City has a Design Review Handout and Checklist of required materials. In general, once the City receives an application it is reviewed for completeness against the Checklist. If additional materials, documents, or clarification are required, such items are requested. Once an application is complete, Staff refers the project to other City departments and outside agencies and committees as required. After all referrals are returned Staff either requests additional materials, documents, or clarification, or drafts Staff recommended conditions of approval, findings, CEQA document, noticing, and a Staff report.

The Staff report provides a written recommendation to the HDRC. If the project involves a structure that is either an existing designated historic resource or is over 50 years old and potentially a historic resource, Staff suggests that the HDRC consider forwarding the item down to the City's Historic Landmark for review and recommendation. The HDRC is the final decision making authority unless their decision is appealed to the City Council.

- 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.*

The City disagrees with this finding based on the City's responses to Findings F-1 through F-4 above, as well as the conclusion of the Grand Jury in the Summary section on page 1 of their report:

"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."

- F6. *The owners/complainants were unclear as to which codes applied to their project.*

The City disagrees with the finding. The City does not know whether the owners/complainants were or were not clear 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 interview of city staff, they gave the jury conflicting and confusing testimony.*

The City disagrees with the finding. City Staff strive to be clear when communicating

to the public and honest when testifying before the Grand Jury. The City regrets any contradictions or confusion that may have occurred.

- 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.*

The City agrees with the finding.

- 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.*

The City partially agrees with the finding. The Lord House is listed in Susie Van Kirk's 1979 book, but the City has no evidence to support the finding that the Lord House is eligible for listing on the National Register of Historic Places. The Grand Jury Report appears to base this finding on the following statement in their report regarding events which reportedly happened over 30 years ago:

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.

The Grand Jury's assertion that the Table HP-2 that was given to them by a member of the Historic Landmark Committee was included in the City's General Plan 2020 but removed in the 2008 revision is not supported by the facts. The General Plan 2020 was adopted by the City Council in 2000 and there is no reference to a table HP-2 List of Noteworthy Structures and Sites in the approved document. General Plan Policy H-2a Noteworthy Structures List directs that a "Noteworthy Structures" list be recommended and kept current, but no initial list was adopted by the Council and neither the HDRC nor HLC has formally recommended a list to the Council.

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.

The City agrees with the finding. It is not a common practice, nor would it be practical for the City Council to approve in advance every Zoning Administrator decision that is posted on the City's Web site.

F11. The appeals process cost of approximately \$2,000 may be prohibitive to many landowners.

The City disagrees with the finding. The City's fee for filing an appeal is a fixed \$1,690. With a fixed fee, there are no additional noticing fees or other time and materials charges added to the City's appeal fee. The City contacted other jurisdictions and found that the City's appeal fee is higher than some jurisdictions but lower than others.

Jurisdiction	Fee – Appeal to PC or Council/Board of Supervisors	Contact
Rio Dell	\$250 Flat Fee	Kyle Knopp
Ferndale	\$710 + \$58/hour after deposit is exhausted	Jay Parrish
Eureka	\$ 795 Administrative Decision \$2,060 Discretionary Action	Website
Fortuna	\$425 Flat Fee for Administrative and PC appeal to the Council	Liz Shorey
Blue Lake	Same as "filing fee" (i.e. application fee). Average fee @ \$430	John Bachtold
Humboldt County	\$ 750 Appeal to PC or B of Supervisors PLUS \$ 488 County Council cost for appeal \$ 240 Appeal or Rehearing fee (in addition to others) \$1,478 Total cost	Website

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)

The City has implemented the recommendation. Utilizing the Secretary of Interior Standards is a valuable tool for streamlining the historic review process and the City intends to encourage applicants to design their historic restoration projects in compliance with the standards. If a project is a designated historic resource, follows Secretary of Interior Standards, and has no other potentially significant issues under CEQA, Staff generally recommends that the historic and design review commission utilize the Class 31 CEQA exemption to the extent no other potential impacts would remove the exemption eligibility.

- 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)*

The recommendation has been implemented.

The City Council has directed that Staff complete an inventory of the Bayview Conservation Area. City Staff have completed their review and provided a recommendation to the HLC on all 280 structures in the Bayview Conservation Area. Staff provided its recommendation to the City's HDRC and recommended that the HDRC refer the item down to the City's HLC and request that the issue be returned with a recommendation. The Committee has taken Staff recommendations and has completed its review of all 280 structures in the Bayview Conservation Area. The item will now go back to the HDRC and their recommendation will be provided to the City Council. The Council has directed that City Staff schedule a neighborhood meeting in the Bayview Conservation Area and notify all 280 property owners of the meeting. At the meeting, Staff is to provide the neighborhood and individual property owners with the HDRC, HLC, and City Staff recommendation as to whether each individual structure is either an existing designated historic resource; potentially historically significant, or not historically significant.

After the neighborhood meeting, the inventory will be brought before the City Council and the Council will be asked to make a policy decision on whether the City should designate structures historic resources. On completion of this process, the City intends to begin to inventory other neighborhoods in the City that have a high probability of containing historic resources.

- 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)*

The City will implement the recommendation.

On August 20, 2014, the Council and HDRC held a study session and at the conclusion Staff was directed to work with the HDRC to draft amendments to the Land Use Code that clarify which projects require a Design Review permit and which projects do not. Staff was also directed to develop more graphic-oriented design standards instead of the traditionally descriptive design standards in an effort to provide more visual clarity of what the City's design objectives are for projects. These amendments should be completed within the next 18 months.

- R4. *The City of Arcata needs to become proactive in educating landowners as to the benefits of owning historic property.*

The City has implemented the recommendation. Pursuant to Section 2277(D) of the Arcata Municipal Code, the City's Historic Landmarks Committee (HLC) is directed: "To provide community outreach and education concerning historic resource

preservation and the benefits of landmark designation. The Committee shall engage public involvement and education in preserving Arcata's heritage of older buildings." The HLC has developed several educational materials and currently has an educational display in the City Hall lobby. Staff will continue to work with the HLC to proactively educate landowners.

- 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)*

The City will implement the recommendation. After the City has identified potentially eligible historic structures, the City will provide these property owners with checklists and handouts that clearly outline the requirements for the permit process.

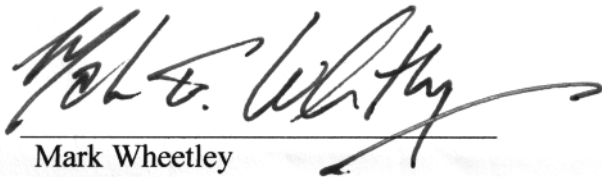
- R6. *Documents pertaining to land use policy, codes and ordinances should be approved by the Arcata City Council prior to posting on the City's website. (F2, F10)*

The recommendation will not be implemented. It is impractical for the City Council to approve every item that is posted on the City's website. If the City were to implement this Recommendation, Council meetings would be bogged down with a minutia of administrative tasks.

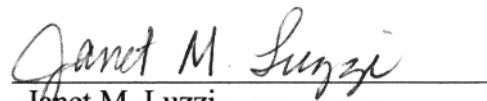
- R7. *The appeals process should be less monetarily prohibitive. (F11)*

The recommendation will not be implemented. The City's appeal fee was established based on City cost. It is comparable with other jurisdictions in the area.

Respectfully submitted,



Mark Wheatley
Mayor
City of Arcata



Janet M. Luzzi
Interim City Manager
City of Arcata