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MENDOCINO HISTORICAL REVIEW BOARD

The Historical Preservation District, for the Town of Mendocino, was established with the adoption of the Mendocino County Zoning Ordinance in 1973. The Mendocino County Board of Supervisors (BOS) created the Mendocino Historical Review Board (MHRB) with the purpose and authority to approve demolition, construction, remodeling, excavation, and painting within the Town of Mendocino Historical Preservation District. The Historic District is comprised of Zone A (area west of Highway 1) and Zone B (area east of Highway 1). The Town of Mendocino is a National Register Historic District, allowing building owners to qualify for federal grants and tax incentives for preservation and restoration.

Supportive of this intent is Section 30253(5) of the California Coastal Act (1976) which cites: "New development shall, where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses."

The MHRB has five volunteer members who are appointed for three year terms by the BOS. Board members may serve no more than two consecutive terms.

Reason for Review

The oversight of the MHRB was initiated as a result of a citizen's complaint.

Method of Investigation

The Grand Jury interviewed the following: the complainant, Director of Mendocino County Planning and Building Services, Planning and Building Services Coastal Planner, County Supervisor, MHRB Chairman, Real Estate and Land Use Consultant, and a District Attorney staff member.

Documents reviewed: MHRB meeting minutes, Mendocino Historic Review Board Design Guidelines (1987), Mendocino Town Plan Amendment (June 10, 1992), Mendocino Historical Review Board Permit Application and Mendocino County Ordinance, Chapter 20.760.

Relevant Law

California Coastal Act (1976) Section 30253(5).
Mendocino County Ordinance, Chapter 20.760.

Finding

1. MHRB members must reside within the Historic District. Property ownership in the Historic District is not a requirement. Historically, it has been difficult to find qualified applicants to serve on the MHRB.

Response (Planning & Building Services): Staff has not observed a shortage of eligible Review Board members in recent years.

Response (Board of Supervisors): The Board agrees with the finding that MHRB members must reside within the Historic District. The Board agrees with Planning and Building Services that a shortage of eligible Review Board members in recent years has not been observed.

Recommendation

Residence eligibility to serve on the MHRB could be expanded to include an area outside of the Historic District. This would provide a larger pool from which to select board members. Proximity to the Historic District would assure that they would have a vested interest in the historical preservation of the town.

Response (MHRB): The filling of Review Board positions has not posed a problem for several years and may even improve in the near future. The residence eligibility requirement was carefully considered and discussed at a public meeting in the Town of Mendocino which resulted in the current language which was adopted in 1995. Included in the current language are term limits of two (2) three year terms. This new limit has not been fully realized and it is suggested that applications may increase when there is a vacancy without an eligible incumbent. Historically, there has never been a case where an incumbent applicant has not been re-appointed. Residents of both District A and District B are eligible to apply for appointment. Through the appointment process, the Board of Supervisors has an opportunity to appoint members to the MHRB who have an interest in historic preservation and who want to preserve the historic integrity and character of the Town of Mendocino.

Response (Planning & Building Services): Agree that expanding the residency rule to include an area outside the Historic District would provide a larger pool from which to select board members. In 1994, during the preparation and adoption of the Town of Mendocino Zoning Code, the subject of expanding opportunities for MHRB membership, including non-resident business operators was discussed at numerous public meetings by the Town Zoning Committee, MHRB, Planning Commission and the Board of Supervisors. The Planning Commission and Board of Supervisors voted, at that time, to retain language requiring that MHRB members be residents of the Historic District.

Response (Board of Supervisors): The Board agrees with Planning and Building Services that during the preparation and adoption of the Town of Mendocino Zoning Code in 1994, the Planning Commission and Board voted to retain language requiring that MHRB members be residents of the Historic District after numerous public meetings by the

Town Zoning Committee, MHRB, Planning Commission and Board of Supervisors.

Time Frame for Implementation: Not applicable.

Findings

2. MHRB members and staff are not required to have expertise or experience in historic preservation, architecture or other related fields.

Response (Planning & Building Services): Agree with this finding in that there is nothing specific in County Code or employee job descriptions that require expertise or experience in historic preservation, architecture or other related fields, however, this knowledge and experience is a consideration at the time of appointment.

Response (Board of Supervisors): The Board agrees with Planning and Building Services' response that although there is nothing specific in the County Code or employee job descriptions that requires expertise or experience in historic preservation, architecture or other related fields, this is a consideration at the time of appointment.

3. Testimony has shown that some members of the MHRB do not possess sufficient technical expertise.

Response (Planning & Building Services): Supervising Planner, Doug Zanini, writes: "During my time as the Executive Secretary (to MHRB) I have observed that very little of what the Review Board does requires technical knowledge or expertise in architecture. I have also found that there are not many architects who specialize in historical preservation nor am I aware of any architects in the local area that have bona fide credentials as an historical preservation architect. What is more important than technical knowledge is an intimate knowledge of the town and its history, ability to read architectural drawings, a passion for and a track record in historical preservation, and familiarity with the Design Guidelines."

Response (Board of Supervisors): The Board agrees with Planning and Building Services that, although it would be beneficial, the Review Board's responsibilities do not necessarily require technical knowledge or expertise in architecture. The Board also concurs with the Department's observation that there are very few architects who specialize in historical preservation in this community.

4. The Mendocino County Department of Planning and Building Services provides staff to support the MHRB. The staff is a Coastal Planner working out of the

Fort Bragg office. The primary function of the staff is to provide support to the MHRB as follows:

- a. prepares reports on applications
- b. schedules site views
- c. provides posting notices to property owners
- d. takes minutes at MHRB meetings
- e. posts notices at various public places
- f. investigate violations.

Response (Planning & Building Services): Agrees with this finding.

Response (Board of Supervisors): The Board agrees with this finding.

5. The staff does not make recommendations to the MHRB other than procedural.

Response (Board of Supervisors): The Board agrees with this finding.

Recommendation

At least some MHRB members and/or staff should have some expertise in architecture, historic preservation or other related fields. Professional staff should be better utilized to advise the MHRB in reaching decisions.

Response (MHRB): Although MHRB members are not required in the application process to have expertise or experience in historic preservation, architecture or other related fields, members bring unique talents which contribute to a balanced Board. Currently the Review Board consists of members who are or have been business owners, a former city mayor, members of the National Trust for Historic Preservation, The California Preservation Foundation and the Mendocino Historical Research, Inc. One of the members attended a four day National Trust Conference on Historic Preservation held in Santa Fe in 1996. In 1999, a MHRB subcommittee researched the Americans Disability Act as it pertains to access in the Historic District, and arranged for a public seminar on that topic. Copies of the committee's report are available to the public at the Fort Bragg Planning Office. Other seminars on preservation concerns have been spearheaded by members of the Review Board, including a visit from four officers from the State Office of Historic Preservation who conducted a "walk through" the town to evaluate various Landmark structures. When specific advice is needed, board members, as well as planning staff, have access to preservation and architect experts at the State Office of Historic Preservation and the California Building Standards Commission. These important sources are available to

supplement members' knowledge and provide "sufficient technical expertise" which any individual member may not possess on any one of the many items that come before the

The staff provides a valuable function in preparing the agenda, the applications, and supporting data in a timely way to the Board. A specific recommendation may not necessarily be appropriate but any information, legal or otherwise, to facilitate a good decision is always helpful to the Board. A review and update of the MHRB Guidelines, which were published in 1987, would be especially useful to the Board. The Board would like to see this project as a high priority for the staff.

Response (Planning & Building Services): Agrees with the finding that some MHRB members and/or staff **should** have some expertise in architecture, historic preservation or related fields. As written by Doug Zanini:

"If there is a requirement that people have professional credentials, the applicant pool will be that much smaller. I believe that most of the Review Board members have some expertise in historic preservation. Currently most of the Review Board members are on second terms and have several years experience reviewing projects. I believe that all current Review Board members either own or have owned historic structures in the Historic District and are therefore personally aware of the challenges and limitations of development within the District.

"I served as the Executive Secretary for the Review Board for a year and a half and I supervise the current Executive Secretary. I have been a California registered landscape architect for over eight years. I hold a Bachelor of Landscape Architecture (BLA) a professional degree, from the College of Architecture at the University of Florida. The BLA curriculum included two years of undergraduate work identical to that of architectural majors. I have worked with development in historic districts in California for over eight years and have attended several workshops pertaining to historical preservation. These credentials and technical skills, however, are not necessary to be effective as the Executive Secretary of the MHRB. It is more important that MHRB staff be familiar with local, state and federal laws pertaining to historic preservation. It is also important for staff to have good meeting facilitation skills and public speaking skills.

"I believe that it is incorrect for staff to make recommendations on projects. The MHRB meetings have been running very smoothly over the past two years. I have observed that the Review Board functions best without staff adding their professional or personal opinions on project designs. Design is a very subjective thing. The Design Guidelines are very flexible. The decisions made by the Review Board are based on a deliberation by five individuals who have different but legitimate views on how the town's historical character is to be

preserved. During the time that I was Secretary to the Review Board and during the time that I have been supervising the Secretary to the Review Board, I have not seen any decisions that were not given complete scrutiny. In the 2-1/2 years since I have been with Mendocino County, I can only recall one appeal of an MHRB decision (the Temple of Kwan Tai) to the Board of Supervisors. In that appeal, the BOS agreed with the Review Board's action. Staff will, however, continue to provide guidance to the Review Board on procedural matters and code interpretation.

"Working with MHRB takes up approximately ¼ of staff's overall work responsibilities. I don't think that it would be feasible to hire a qualified historical preservation specialist given the small employment pool, low pay and the small amount of hours needed to perform the duties."

Response (Board of Supervisors): The Board agrees that it would be beneficial for MHRB members and/or staff to have some expertise in architecture, historic preservation or other related fields. However, the Board also concurs with the Department that the more important attributes are that MHRB members and/or staff: a) have an intimate knowledge of the Town and its history, b) have the ability to read architectural drawings, c) have a passion for and a track record in historical preservation, and d) be familiar with the Design Guidelines. The Board also agrees that staff should have good meeting facilitation and public speaking skills, and be familiar with local, state and federal laws pertaining to historic preservation. The Board believes that these qualities do exist within the current members of the Review Board and its staff support.

Finding

6. Public notices are posted at the following locations: Post Office, Recreation Center, bulletin board at Wilkes-Bashford Building, property in question and an agenda is sent to the Mendocino Beacon newspaper and local radio stations. Adjacent property owners are not specifically notified.

Response (MHRB): The above mentioned postings should be continued and, in addition, there should be a posting in a secure location where the notice cannot be removed or covered over. MHRB agrees that property owners within 300 feet of the subject property should be notified by mail in a timely way. This could be limited to applications requiring the higher fee, signifying a large scale project.

Response (Planning & Building Services): Agrees with this finding.

Response (Board of Supervisors): The Board agrees with this finding.

Recommendation

Notices should be mailed to all property owners within 300 feet of the subject property.

Response (Planning & Building Services): Disagrees with this recommendation. Over the past several years there has been a tremendous emphasis on **reducing** the fees for processing an MHRB application. Fees have recently been reduced on the belief that it will result in fewer violation cases and will facilitate the timely maintenance of historic buildings. The application fees are based on the cost to the County of ushering a project through the process. Increasing costs may result in increased application fees.

Because of the small parcel sizes in the town of Mendocino, a 300 foot mailing (which also typically includes tenants within 100 feet of the property) would create additional cost for the applicant and would be time consuming for an already overburdened clerical staff.

Any major project that includes an intensification of land use or a new structure also requires the issuance of a Coastal Development Permit (CDP). Notice of CDP's are mailed to neighboring properties. The most recent CDP in the town of Mendocino required 66 mailings to owners and tenants. As an alternative to mailings, Planning and Building Services proposes the following to improve public noticing:

- The poster paper be changed from white/yellow to bright orange or bright pink. A heavier card stock could be used to resist wind and rain damage.
- The wording: "OFFICIAL NOTICE - DO NOT REMOVE" will be added to the agendas posted around town.
- Staff will post all the project sites rather than the applicant. This will ensure that the postings are in the most visible location available to the public.
- Staff will include the Planning and Building Services Internet site on the letterhead of the posters so that those who wish can view and print copies of the MHRB agenda off of their computer.

Response (Board of Supervisors): The Board disagrees with this recommendation. As explained by the Planning and Building Services Department, fees have been recently reduced on the belief that it will

result in fewer violation cases and will facilitate the timely maintenance of historic buildings. Because of the small parcel sizes in the town of Mendocino, a 300 foot mailing would create additional cost for the applicant and would be time consuming for clerical staff. Increasing costs may result in increased application fees and over the past several years there has been tremendous emphasis on reducing fees for processing MHRB applications. Notices of Coastal Development Permit applications are mailed to neighboring properties for any major projects that include intensification of land use or a new structure.

The Board concurs with the Planning and Building Services Department's recommendation for improving the public noticing to include:

- Notices posted are produced on heavier card stock poster paper (to resist wind and rain damage) in bright orange or pink.
- "OFFICIAL NOTICE – DO NOT REMOVE" shall be added to agendas posted around the town.
- Staff will post all project sites rather than the applicant, which has been past practice, to ensure postings are in the most visible location available to the public.
- Staff will include Planning and Building Services internet site on the letterhead of the posters so that interested parties can view and print copies of the MHRB agenda for themselves.

Findings

7. The County ordinance does not give the legal right to enforce violations to MHRB. Enforcement, under the jurisdiction of the Department of Planning and Building Services, does not always happen. Violations are handled in the following manner:
 - a. Violations are received as complaints to the MHRB and referred to staff.
 - b. Staff investigates to verify the complaint and sends a letter to the violating party.
 - c. If compliance is not forthcoming after 30 days, a second letter is sent. Currently this process takes three months due to staff workload.
 - d. If compliance does not occur after the second letter, the matter is referred to the Code Enforcement Section of the County Planning Department.
 - e. Compliance can ultimately be forced by issuance of a citation, which can result in a court hearing; the entire process may be delayed due to the priorities of the Coastal Planner and Planning Department Code Enforcers.

(Priority is given to more important matters on their schedules, such as new permit applications or inspections involving public health or safety.)

Response (Planning & Building Services): The Department agrees with this finding. As stated in 7e, the Department prioritizes violation cases based upon limited staff availability, other matters or duties such as permit processing and whether or not the public health or safety is threatened.

Response (Board of Supervisors): The Board concurs with this finding. The Board concurs with the Department's policy of prioritizing violation cases based upon staff availability and whether or not public health and/or safety is threatened.

8. The present system takes too long to resolve issues primarily because staff prioritize work according to relative importance. Consequently, issues such as signs, banners, and paint color, can extend for months before being resolved. The result is the perception that MHRB is an impotent entity. Testimony has questioned the value of MHRB rulings if they are not acted upon. There is also a perception that too much attention is being placed on "trivial" matters.

Response (Planning & Building Services): Agrees with this finding. However, I would note that the last sentence appears to conflict with the first sentence in this finding.

Response (Board of Supervisors): The Board agrees with this finding as it relates to staff prioritization of work according to relative importance.

Recommendation

The process for dealing with code violations should be revised and simplified. Issues that require code enforcement should be handled in a more expeditious manner. Computer technology, which is available to all County Departments, could be employed by generating compliance letters automatically.

Response (MHRB): Some violations are reported directly to the Office of Planning and Building. An additional Code Enforcement Officer was recently appointed and the MHRB expects to see the system implemented with due diligence and with a high priority for the Coastal Planner. The Board should be kept up to date as to status of compliance. As to the perception that too much attention is being placed on "trivial" matters, the MHRB was established to "preserve the architecture and character of the Historic District" and takes this duty very seriously. Seemingly small changes can have a cumulative impact on the character of the town and the Board gives all matters thoughtful consideration. Each applicant before the MHRB deserves

the Review Board's full attention and consideration regarding their project. The Review Board strives for fairness to all applicants and consistency in its decisions.

Response (Planning & Building Services): Agrees with this recommendation. A number of changes have been made to improve code enforcement activities in the Town of Mendocino over the past few months. As of this date, all known MHRB violations have been documented and owners have received notice from the Planning Division. The notices included the remedies to correct the violation and provided a time frame to achieve compliance. Any case where the recipient does not respond to the notice of violation within the specified time frame is forwarded immediately to Code Enforcement for further action. The Code Enforcement Division will be reminded of the need to commit time and resource to enforcement in the Town of Mendocino in accordance with the February 8 memorandum discussing protocol and staffing for code enforcement.

Additionally, it should be noted that the Board of Supervisors has approved an additional Planner position for the Fort Bragg office within the 2000/2001 County Budget. The addition of this Planner position will enhance code enforcement efforts.

Response (Board of Supervisors): The Board agrees with this recommendation and has approved an additional Planner position for the Fort Bragg Office in the 2000/01 Final Budget. The Board further agrees with the improved code enforcement activities in the Town of Mendocino. As noted in the Planning and Building Services response, all known MHRB violations have been documented and owners have received notices that include remedies to correct violations, and time frames to achieve compliance. Recipients that do not respond to the notice within the specified time frame will have their case forwarded immediately to Code Enforcement for further action.

Findings

9. MHRB findings and decisions can be appealed to the BOS within 10 days.

Response (MHRB): The ability of an applicant to appeal a MHRB decision to the Board of Supervisors ensures a "check and balance" in the approval process. Applicants are advised at the meeting of this appeal option and are advised to delay starting their project for 10 days in case an appeal is filed.

Response (Planning & Building Services): Agrees with this finding

Response (Board of Supervisors): The Board agrees with this finding.

10. Often, property owners who want to make changes to their property, claim that they were unaware of the historic preservation requirements when they bought property in the Historic District.

Response (Board of Supervisors): The Board can neither agree nor disagree with this finding, as information substantiating this claim has not been received.

Recommendation

Real estate agencies and property owners that list properties for sale in the Historic District should be required to inform potential buyers, in the form of a disclosure, of the historical preservation requirements which exist. A positive effort must be made to notify property owners of the historical preservation requirements in the Historic District.

Response (MHRB): MHRB concurs with the Grand Jury's recommendation. Real estate agencies and property owners that list properties for sale in the Historic District should fully inform potential buyers of the requirements mandated in the code. A copy of code Section 20.760.030 (attached) should be provided to each buyer with a signature receipt. A representative of the MHRB or a Planning staff person should present the Ordinances and related information to real estate agents at one of their monthly Coastal Mendocino Association of Realtors meetings to better inform and update agents in the area.

Response (Planning & Building Services): I will refer this recommendation to County Counsel to first advise this Department of the legal implications of the Grand Jury's recommendation regarding disclosure.

Response (Board of Supervisors): The Board agrees with the Department of Planning and Building Services that this issue should be addressed by County Counsel. The Board has been informed that County Counsel is presently reviewing this recommendation and once an opinion determined, the Planning and Building Services Department will bring to the Board for further discussion.

Time Frame for Implementation: The Planning and Building Services Department anticipates scheduling this issue for further discussion and direction by the Board of Supervisors for a January or February 2001 meeting. By letter dated October 3, 2000, Planning and Building Services requested that local title companies and the

Coastal Mendocino Board of Realtors comment, no later than November 17, 2000 on the Grand Jury's' recommendation.

Comments

The MHRB has a daunting task. The Town of Mendocino is a unique entity, being one of only two areas in California designated as a National Historic District. As a result, the town and its residents have the responsibility to preserve and enhance this unique town. This is never an easy task. People have different points of view and interpretations of standards, which have been set as guidelines for historic preservation in the Historic District. Perhaps it is appropriate for the MHRB, the BOS, Building and Planning Department, and the residents of the Town of Mendocino to re-evaluate their approach to historic preservation, especially with regard to the utilization of professional help and enforcement.

The Grand Jury wishes to acknowledge the help and cooperation given by all persons interviewed.

Response (MHRB): There are other Historic Districts in California but Mendocino is different in that the whole town is considered to be a National Historic District. It is more usual for a particular section, such as the downtown area of a town, to be considered a Historic District. Mentioned above is the need to review and update the 1987 Design Guidelines. This review and updating could provide an opportunity, through public meetings and work sessions, for the BOS, Building and Planning Department, and the residents of the Town of Mendocino to re-evaluate their approach to historic preservation, as suggested. The support of the BOS, through the Planning & Building Department, is essential in enforcing the Code requirements relating to the MHRB. The Board would like to have this enforcement high on a priority list.

The members of the Mendocino Historical Review Board commend the Grand Jury for their diligent investigation and for providing this opportunity for the Board to respond.

Response Required

Mendocino County Board of Supervisors

Response Requested

Mendocino Historical Review Board
Mendocino County Department of Planning and Building Services