

**MEMORANDUM**  
**Zoning Administrator Interpretation**

**TO:** Community Development Staff, the Planning Commission, the City Council and Other Interested Parties

**FROM:** Larry Oetker, Zoning Administrator *LPO*

**DATE:** August 16, 2010

**SUBJECT:** Zoning Administrator Interpretation Regarding Design Review Requirements for Structures Constructed Within the "Period of Significance"; Historic Resource Designation Criteria and In-kind One to One Replacement.

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**INTRODUCTION:**

Pursuant to Land Use Code (LUC) Section 9.10.050.A, the Zoning Administrator has the authority to interpret any provision of the LUC. The Zoning Administrator may also issue an official interpretation when the Zoning Administrator determines that the meaning or applicability of any LUC requirement is open to interpretation.

Interpreting any section of the land use code must be done within the context of how that section interrelates to the article, chapters, and sections for with the particular section is a part, as well as, how the particular section which is being interpreted interrelates to the other articles, chapters, and sections that comprise the entire LUC. In order to understand the interrelationships it is critical that "purpose" and "applicability" sections of each chapter and section be carefully reviewed.

The intent of this Zoning Administrator Interpretation is to clarify:

1. When is a building or structure that was constructed within the period of significance is required to obtain Design Review permit for an exterior alteration?
2. What criteria should City Staff utilize to determine if a project that requires a discretionary permit may be a historic resource?
3. What qualifies as a minor repair consisting of in-kind one for one replacement?

**ANALYSIS:**

1. **When is a building or structure that was constructed within the period of significance is required to obtain Design Review permit for an exterior alteration?**

Design Review is covered in Section 9.72.040. Section 9.72.040.B.2. specifies that Design Review is applicable to 1) designated historic resource; 2) noteworthy structure; or 3) building within the period of significance that has been determined to be historically significant by the City. Design Review is applicable to any exterior alteration; interior alterations that affect the exterior appearance; any addition to a structure; and any construction on a parcel with a designated historic landmark.

**Therefore, a Design Review Permit is not required for alterations to a building or structure that was constructed during the period of significance unless the building or structure has been determined to be historically significant by the City or a Design Review Permit is required by another section of LUC.**

“Significant” is the key term, and as a result, the concept is further defined in the glossary section of LUC under Historic Resource Preservation definitions as: “A term ascribed to buildings, sites, objects, or districts that possess exceptional value or quality for illustrating or interpreting the cultural heritage of the community when evaluated in relation to other properties and property types within a specific historic theme, period, and geographical setting. A principal test of significance for historic property is “integrity.””. Historic Integrity is defined in the same section of the glossary as: “The ability of a resource to convey its historical significance.” The LUC threshold of significant is high and was clearly reserved for the resources with “exceptional value or quality”.

Chapter 9.53 Historic Resource Preservation further regulates historic resource. In general Chapter 9.53 outlines the requirements for existing designated historic resources, as well as, the process that the City shall follow to designate new historic resources. Section 9.53.040 specifies that the Council, with a recommendation from the Historic and Design Review Commission (HDRC), is the review authority to designate historical resources. The applicability section of Chapter 9.53 defines period of significance as “Any historical resource that is at least 50 years old shall be subject to the requirements of this chapter.”

**Therefore, unless a building or structure has been designated a historic resource or is proposed to be designated as a historic resource by either the Historical Sites Society of Arcata, HDRC, Planning Commission, or City Council, the alteration of a building or structure, even those constructed during the period of significance, is not subject to Chapter 9.53.**

Attachment A includes the list of designated Local Historic Landmarks; Attachment B lists designated Noteworthy Structures, and Attachment C includes a Map of the Bayview, Arcata Heights, and Central Neighborhood Conservation Areas which have been designated by the Council. All buildings listed in either Attachments A and B and/or within the boundaries of the Neighborhood Conservation Areas are presumed to be designated historic resources or contributes to the historic areas or district and as such require a Design Review Permit.

It is critical to note that this interpretation does not apply to Section 9.53.100 Inadvertent Archeological Discoveries as all ground disturbing projects are subject to the regulations contained in Chapter 9.53.

**2. What criteria should City Staff utilize to determine if a project that requires a discretionary permit may be a historic resource?**

The California Register is the authoritative guide to the state’s historical resources and to which properties are considered significant for purposes of CEQA. The California Register includes

resources listed in or formally determined eligible for listing in the National Register of Historic Places, as well as some California State Landmarks and Points of Historical Interest. Properties of local significance that have been designated by the City Council as per LUC Section 9.53.040 or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC § 5024.1, 14 CCR § 4850).

As per the LUC Sections 9.53.040.A.: “The Council shall have the authority to approve the designation of buildings, structures, sites (prehistoric, historic, traditional ethnic and Native American), objects, districts, and cultural landscapes as eligible for listing at the local State or National level.”

As per PRC §15064.5(a)(4) , the fact that a potential resource is not listed in, or determined to be eligible for listing in the California Register of Historic Resources, not included in a local register of historic resources, or identified in an historical resources survey does not preclude a lead agency from determining that the resource may be an historical resource under CEQA.

In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the California Register criteria prior to making a finding as to a proposed project's impacts to historical resources (PRC § 21084.1, 14 CCR § 15064.5(3)).

**In order for Staff to recommend that the Lead Agency determine that a building is a historic resource one or more of the criteria in either item 3A, 3B, or 3C below must be met.** This determination is intended to clarify the process of analyzing and presenting Staff's recommendation and is not intended to limit the authority of the Lead Agency.

According to PRC § 5024 (c): “A resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:

- (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- (2) Is associated with the lives of persons important in our past.
- (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- (4) Has yielded, or may be likely to yield, information important in prehistory or history.”

According to LUC Section 9.35.040 a resource may be listed as a Local Historic Landmark, Historic District, Cultural Landscape or Neighborhood Conservation Area the district, site, area, or structure should retain historical integrity and meet one or more of the following:

LUC Section 9.53.040B.1 specifies that in order to be eligible for designation as a historic landmark, cultural landscape, or neighborhood conservation area, the proposed resource listing, a district, site, area or structure should retain historical integrity and meet one or more of the following criteria:

- 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.
- g. The building or site's unique location or singular physical characteristic(s) represent an established and familiar visual feature or landmark of a neighborhood, community, or the City.

According to LUC Section 9.53.040C.1: In order to be eligible for designation as a noteworthy structure the proposed resource should have at least one of the following attributes:

- a. Significant representative of a particular architectural style;
- b. Significant representative of a period in the City's historical development;
- c. Associated with the social history of the City;
- d. Of unusual or special design character, as determined by the HDRC; or
- e. Contributing structure to a Neighborhood Conservation Area.

As was mentioned previously significance and integrity are major factors in determining if a resource should be considered a historical resource. The fact that a building or structure is at least 50 years old does not in and of itself meet the significance criteria.

### **3. What qualifies as a minor repair consisting of in-kind one for one replacement?**

According to the document titled: Illustrated Guidelines for Rehabilitating Historic Buildings which can be located at <http://www.nps.gov/history/hps/tps/tax/rhb/>. "When the physical condition of character-defining materials and features warrants additional work **repairing** is recommended. Guidance for the repair of historic materials such as masonry, wood, and architectural metals again begins with the least degree of intervention possible such as patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading them according to recognized preservation methods. Repairing also includes the limited replacement in kind--or with compatible substitute material--of extensively deteriorated or missing parts of features when there are surviving prototypes (for example, brackets, dentils, steps, plaster, or portions of slate or tile roofing). Although using the same kind of material is always the preferred option, substitute material is acceptable if the form and design as well as the substitute material itself convey the visual appearance of the remaining parts of the feature and finish."

**As per Section 9.72.0407.b. minor repairs consisting of in-kind one to one replacements are exempt from Design Review. The City's Building Official shall review all building permit applications that propose any exterior alteration to a 1) designated historic resource; 2)**

noteworthy structure; or 3) building within the period of significance that has been determined to be historically significant by the City to ensure that the character defining features are preserved through one to one replacement. The Building Official shall refer all such projects that do not meet the Secretary of the Interiors Standards as one to one replacement to the City's Planning Department to review Design Review compliance.

Larry P Oetker

Larry Oetker, Zoning Administrator

8-16-10

Date

**TABLE HP - 1 DESIGNATED HISTORICAL SITES LIST**

#	NAME	Street Address	Built	Historic Period
1	Fry House	290 12th Street	1874	Settlement Period
2	Dillon House	188 11th Street	1886	Settlement Period
3	Cates House	185 12th Street	1884	Settlement Period
4	Malvich House	1030 C Street	1914	Craftsman Period
5	Moore House	930 D Street	1903	Transitional Period
6	Shuman House	965 A Street	1906	Transitional Period
7	Aaron Alden House	947 A Street	1908	Transitional Period
8	Putnam-McCready House	913 A Street	1910	Transitional Period
9	Simms-Hunt House	855 A Street	1905	Transitional Period
10	Phillips House	71 7th Street	1855	Settlement Period
11	Beacom House	68 12th Street	1889	Settlement Period
12	Maronich House	87 12th Street	1889	Victorian Period
13	Susan House	67 11th Street	1874	Settlement Period
14	Leveque House	320 Park Avenue		
15	Ca. Central Creameries Plant	2151 9th Street	1918	Craftsman Period
16	Thomas Devlin House	885 K Street	1900	Transitional Period
17	Burrows House	453 F Street		
18	Simpson House	493 G Street		
19	Truesdell House	494 H Street	1876	Settlement Period
20	Fleckenstein-Newton House	588 H Street		
21	Monette House	665 F Street	1885	Settlement Period
22	Senevey-Menefee House	513 I Street	1880	Settlement Period
23	Baiocchi House	895 7th Street	1925	Craftsman Period
24	Selvage House	609 J Street	1874	Settlement Period
25	Eddy-Greene House	987 8th Street		
26	Vaissade House	927 J Street	1905	Transitional Period
27	Nixon House	1022 10th Street	1858	Settlement Period
28	Minor Theatre	1013 H Street	1914	Craftsman Period
29	Minor Building	1015 H St.	1914	Craftsman Period
30	Epicurean Restaurant	1057 H Street	1884	Victorian Period
31	First National Bank	1000 H Street	1913	Craftsman Period
32	Arcata Theater	1036 G Street	1937	Modern Period
33	Seely & Titlow Building	970 I Street		
34	Chevret House	739 10th Street		
35	Murray House	987 F Street	1901	Victorian Period
36	Hotel Arcata	780 9th Street	1915	Craftsman Period
37	Hunt House	839 9th Street		
38	Plaza	Block 167	1850	Settlement Period
39	Union Building	898 G Street	1890	Victorian Period
40	KXGO Radio/ Western Auto	826 G Street		
41	Old Post Office Building	735 8th Street		
42	Jacoby Building	791 8th Street	1857	Settlement Period
43	Packer's House	630 11th Street	1870	Settlement Period
44	Sowash House	1160 G Street	1914	Craftsman Period
45	Morgan House	1192 G Street	1901	Victorian Period
46	Miller House	1193 G Street	1900	Transitional Period

NAME	Street Address	Built	Historic Period
94* Morrell-Christie House	1465 G Street		

\*Numbers do not appear on map.

[Revised by Ordinance No. 1377, September 2008]

## 5.6 IMPLEMENTATION MEASURES

#	IMPLEMENTATION MEASURE	RESPONSIBLE PARTY	TIME FRAME
LU-1	<p><b>Historic Landmarks, conservation easements (LUC Amendment)</b></p> <p>A. Revise development standards for designated landmarks (delete additional uses, restrict conversion of res. structures in res. zones to non-residential uses, add other incentives).</p> <p>B. Revise Historical Landmarks combining zone re: demolition controls.</p> <p>C. Add authority for conservation (facade) easements.</p> <p>D. Define role of Historic and Design Review Commission.</p> <p>E. Add requirement for demolition permit.</p> <p>F. Create authority for Mills Act contracts.</p>	Community Development Dept./ Planning Commission	Year 1
H-1	<p><b>Create Historic and Design Review Commission</b></p> <p>The City shall appoint a Historic and Design Review Commission for the purpose of pursuing Certified Local Government status, developing a Noteworthy Structure List and promoting other historic preservation activities. This includes coordinating with HSU for listing of State owned historic structures.</p>	City Council	Year 1
H-2	<p><b>Historic resources inventory</b></p> <p>Update historical resources inventory (add structures throughout the City based on age, and add Bayside area to inventory).</p>	Comm. Devel. Dept./ Historic and Design Review Commission	Year 2
H-3	<p><b>Certified local government status</b></p> <p>Apply to the State Office of Historic Preservation for Certified Local Government status.</p>	Historic and Design Review Commission	Year 2
H-4	<p><b>Training and information program</b></p> <p>Develop a design brochure(s) and a brochure on benefits of landmark designation.</p>	Historic and Design Review Commission	Year 2
H-5	<p><b>Noteworthy Structures List</b></p> <p>The Historical and Design Review Commission shall prepare and maintain a noteworthy structures list.</p>	Historic and Design Review Commission	Year 1

## **Attachment B**

No Designated Noteworthy Structures

as of August 16, 2010.

