Homeowners Were Deceived Regarding the Impact of the 1989 Historic Preservation Ordinance City of Laguna Beach

Laguna Beach City Council Meeting: Historical Survey Final Report August 4, 1981

#### <u>August 4, 1981 – Laguna Beach City Council Meeting: Historical Survey Final Report</u>

Eric Jessen, Advisory Board member, reported 13 members of the committee who had prepared a proposed historic element for the General Plan.

*Kathy Les, Coordinator, presented the master inventory of pre-1940 structures.* "She identified three issues and concerns outlined in the Historical and Architectural Summary: 1) Lack of rehabilitation incentives; 2) The changing streetscapes; 3) Rehabilitation not compatible with the historic nature of a structure. The goals of the proposed element are creation of a protection mechanism, community awareness and appreciation."

"Norm Grossman, Village Laguna, stated the organization would cover the cost to notify the 706 homes identified in the inventory, as the goal of Village Laguna is to preserve and promote the 'village atmosphere.'"

Council motioned the Historical Element to the Planning Commission for public hearing.

Laguna Beach City Council Meeting: Historic Resource Element to Laguna Beach General Plan October 6, 1981

# October 6, 1981 – Laguna Beach City Council Meeting: Historic Resource Element to the Laguna Beach General Plan

Elisabeth Brown, Canyon Acres Neighborhood Association, "supported the element and felt that it was nice to have the smaller, older homes recognized for the feeling they help contribute to the community and that implementation of the element *may encourage the owners to seek low cost loans to help keep their homes up and prevent problems of deterioration*."

Councilmember Dawson "was heartily in favor of this Historic Resource Element and agreed with its approach as written. He felt that *it eased the way for the owners to obtain help in maintaining their property.*"

Council unanimously decided to 1) accept the Planning Commission recommendation; 2) adopt Resolution No. 81.115 enacting Historic Resources Element (General Plan Amendment 81-4)

Laguna Beach City Council Meeting: Resolution No. 82.111 Recognizing Historic Resources Inventory December 21, 1982

# <u>December 21, 1982 – Laguna Beach City Council Meeting: Resolution No. 82.111 Recognizing Historic Resources Inventory</u>

"The reason for proposing that the Historic Resources Inventory be officially recognized results from the City's pending application to the County for \$148,000 in Housing and Community Development Block Grant (HCDBG) funds for an historic preservation/housing rehabilitation program. The staff of the County Housing and Community Development Program office has indicated to the City that in order for the City's funding proposal to be acceptable to the County, there must be an officially recognized roster of historically and architecturally significant buildings. The adoption of the proposed resolution will not change any other existing circumstances regarding the Historic Resources Inventory. Inclusion in the inventory will not, in itself, impose any special obligations or requirements upon the property owner, nor will the City be required to extend any special privileges to the property owner."

Draft Historic Preservation Ordinance March 20, 1989

#### March 20, 1989 – Draft Historic Preservation Ordinance

#### **General Provisions:**

"All structures listed on the Historic Inventory shall be considered to be historically significant and shall be subject to the provisions of this Chapter. Structures identified in the South Laguna Specific Plan as heritage structures shall be considered historically significant and represent part of the City's Historic Inventory. These structures are subject to the provisions of this chapter where applicable. Structures may be removed from the Inventory by action of the City Council."

#### GENERAL PROVISIONS.

1. Laguna Beach Historic Inventory. The City shall maintain a current record of historic structures on the City's Historic Inventory per Resolution No. 82.111. This inventory distinguishes structures into three categories of historical significance, "E" exceptional, "K" key, "C" contributive. For a complete description of these categories see the City's Historic Resources Element. All structures listed on the Historic Inventory shall be considered to be historically significant and shall be subject to the provisions of this Chapter. Structures identified in the South Laguna Specific Plan as heritage structures shall be considered historically significant and represent part of the City's Historic Inventory. These structures are subject to the provisions of this chapter where applicable. Structures may be removed from the Inventory by action of the City Council.

Notice of Public Hearing May 2, 1989

#### Notice of Public Hearing: Tuesday, May 2, 1989

"Your property is listed on the City's Historic Inventory and is therefore eligible for preservation incentives and is subject to the provisions of the ordinance."

Your property is listed on the City's Historic Inventory and is therefore eligible for preservation incentives and is subject to the provisions of the ordinance.

City of Laguna Beach City Council Meeting: Introduction of Zoning Ordinance Amendment 88-09 Establishing a Historic Preservation Program May 2, 1989

#### May 2, 1989 - Laguna Beach City Council Meeting

Property owners requested clarification on the procedure for adding to or deleting houses on the City's Historic Inventory.

Mayor Gentry said "it was the consensus of the Council that this go back to the Planning Commission." Robert Klatz, felt "we should require an affirmative statement from owners."

Council unanimously decided to "send the ordinance back to the Planning Commission with specific instructions that any private property proposed to be placed on the register be done at the pleasure of the owner, not the City; and to encourage the Commission to increase the incentives, paying particular attention to the 40 structures with an 'E' rating."

News Article - "Council gives historic homeowners a win" May 4, 1989

#### May 4, 1989 – "Council gives historic home owners a win"

"As written, the ordinance would have set limits on the owner's ability to alter their property, without allowing them to refuse to participate."

Mayor Bob Gentry, "with the instructions that any private property placed on the list is done at the pleasure of the property owner, and not the city."

"Gentry also asked that notices be sent to all historic home owners when the item appears on the Planning Commission agenda."

Chris Palumbo, owner of Ray Family Mortuary, "As long as I have my right to choose, I'm happy," he said.



News Article - "Crowd Cheers as Historic Building Ordinance Is Sent Back for Revision" May 5, 1989

## May 5, 1989 – "Crowd Cheers as Historic Building Ordinance Is Sent Back for Revision"

Council sent "amendment back to planning commission with the direction that only people interested in being listed on a historic building register would be included."

"Drafters of the ordinance said it was intended to preserve historic buildings in Laguna Beach by providing incentives to those on the inventory to keep their homes in good repair."

"Both points were sticking points for some, but it appeared that inclusion in the inventory list was the greatest problem."

Mayor Robert Gentry, suggested the item be set aside. "He said later it was never the city's intention to force residents to join the historic house list against their wishes. Why force someone to join a historic house list if they don't want to. It was never our intent that this be anything but voluntary."



Stephen Crawford, Chairman of Laguna Beach Heritage Committee to Homeowners April 24, 1992

## <u>April 24, 1992 – Stephen Crawford, Chairman of Laguna Beach Heritage Committee to Homeowners</u>

"Hopefully, you already know that being on the Inventory means that you are automatically eligible for placement on the City's Historic Register and that *participation in the City's Historic Preservation Program is completely voluntary.*"

Hopefully, you already know that being on the Inventory means that you are automatically eligible for placement on the City's Historic Register and that participation in the City's Historic Preservation Program is completely voluntary. Once placed on the Register, however, your property is eligible for a number of preservation incentives. These incentives include reduced parking requirements, flexible set backs, density bonuses and even building and planning application permit fee waivers.

# Historic Preservation Ordinance 2017

City of Laguna Beach

The only "Historic Resources" in the city are buildings listed on the REGISTER.

The "inventory" listings do not create a presumption of historicity because the inventory was not properly maintained.

CEQA creates a duty to avoid substantial adverse change to "historic resources."

"shall not preclude a lead agency from determining . . ." THIS IS NOT MANDATORY LANGUAGE.

#### PRC 21084.1

A project that may cause a **substantial adverse change in the significance of an HISTORICAL RESOURCE** is a project that may have a significant effect on the environment. For purposes of this section, **an historical resource is** a resource listed in, or determined to be eligible for listing in, the **California Register** of Historical Resources. Historical resources included in a **local register** of historical resources as defined in

#### 25.45.004 – Definitions.

- "Contributive property" means a property containing a structure that contributes to the overall character and history of the neighborhood and village atmosphere, but does not qualify as a historic resource.
- These structures are **intact** and are **good representations** of the era in which they were constructed.
  - This is too broad.

The following characteristics are typical of a contributive property:

(1) The structure remains intact and has not been **substantially altered** since the time of original construction.

- (2) Structures which have been updated with <u>insubstantial modifications</u>, but retain their <u>original form</u>, character and scale should also be considered.
  - Every modification is defined as unsubstantial.
- (3) The structure is <u>located in an area largely intact</u> to its original development and which contains several structures similar in scale which were also constructed during the time period.
  - House is defined by its surroundings.
- (4) The property maintains a <u>similar appearance</u> to the time in which it was associated with an important person or persons who significantly contributed to the cultural, artistic, or other important developmental aspects of the city, region, state, or nation.
  - "Similar" Very broad and subjective.

- "<u>Historic preservation style guide</u>" means a publication that has been developed to assist in the identification of historic resources and 6L properties through providing expanded examples and definitions which define each historic rating category."
- "This document will provide preferred design examples and guidelines for the alteration of historic structures."
- "<u>Historic resource</u>" means a property or structure that is on the city's local register or that satisfies the criteria identified in OHP status codes 1 through 5.

- Individual structures that exemplify special aspects, character, interest or value as part of the heritage of the city. Examples include good and/or excellent representations of structures designed in the Craftsman, Bungalow, Beach Cottage, Period Revival, Provincial, Settlement, Moderne and Mid-Century Modern styles;
  - (2) The property retains sufficient architectural integrity to continue to evoke the sense of place and time with which it is historically associated;
  - (3) The location as a site of significant historic event;
  - (4) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;

- (5) The exemplification of a particular architectural style or way of life important to the city;
- (6) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.
- (7) It represents the work of a notable builder, designer, architect, or artist;
- (8) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city;
- (9) It is one of the few remaining examples in the city, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen;
- (10) It is a noteworthy example of the use of indigenous materials or craftsmanship.

#### "Insubstantial alterations"

Any alteration that does not independently require design review approval as specified in Section 25.05.040 and other alterations that would not result in the destruction, relocation, or alterations that would materially change a historic resource's character-defining features, historical significance, or its exterior appearance.

- (2) Maintenance, repair, restoration, or in-kind replacement of severely deteriorated architectural features or building components.
- (3) Installation or replacement of electrical and/or plumbing equipment, utility work, or other mechanical and other building systems, including rooftop appurtenances not significantly visible from a public street and that would result in no change in the general appearance of the historic property.

- (4) Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to match existing material, form, and general appearance.
- (5) Replacement of severely damaged or deteriorated windows when the replacement is done in-kind to match the existing materials, type, shape, and general appearance.
- (6) Replacement of window panes in-kind or with double or triple glazing so long as the glazing is clear and untinted and the window does not alter the existing window material or general appearance. The replacement of existing archaic or decorative glass is not included in this exclusion.

- (7) Repair or replacement of roofing, when replacement is done inkind to match the existing in form and general appearance.
- (8) Repair or replacement of roadways, driveways, and walkways when work is done in-kind to match the existing in material, form, shape, style and general appearance.
- (9) Repair or in-kind replacement of historically correct build or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed, including gates, fences, walls, hedges, freestanding walls, pergolas, gazebos and planting beds.
- (10) Repointing and repainting of bricks on the exterior of a property, with no change in appearance.

(11) Removal of additions intended to restore the original appearance	
of a building.	

(12) Other insubstantial rehabilitation work as determined by the director.

• "Replacement In-Kind" means the replacement of a building material or finish with the exact same materials as existing, or with a historically accurate replacement.

# 25.45.006 – Procedures for the alteration/demolition of structures 70 years or older not listed on the historic register.

- 70 year standard makes no sense. CEQA does not mandate a time trigger. We are imposing this on ourselves.
- "(B)(1) If the director finds that the property may be eligible for an OHP status code of 1 through 5, or 6L, then the director will submit a rating evaluation application to the heritage committee for review as prescribed by Section 25.45.008 to determine the appropriate rating of the property."

### 25.45.008 – Property rating evaluation.

- "(A) <u>Intent and Purpose</u>. The property owner, the owner's authorized agent or the director (pursuant to 25.45.006) may request that the heritage committee review a property to determine the appropriate property rating with regard to its historic character."
- "(D) <u>Heritage Committee Review</u>. The heritage committee shall make the following findings as part of the review:
  - Explanation of the significance or lack of significance of the property under consideration;
  - Explanation of the integrity or lack of integrity of the property under consideration;
  - Identification of or lack of the important character-defining exterior architectural, site or landscaping features of the property under consideration;

Any development application proposed to demolish, relocate, or substantially alter a building on a property that is rated with an OHP status code of 1 through 5 or 6L or structure shall be subject to either section 24.45.012 or 25.45.014 of this chapter."

For "E" and "K" rating, presumption of historicity. This is illegal shifting of burden.

Heritage Committee determines. They are not property trained to do this.

# 25.45.010 – Property preservation incentives.

• Are they binding?

# 25.45.012 – Procedures for the substantial alteration of a historic resource.

- "(B)...Interior changes shall not be reviewed unless the changes involve interior elements that are integral to the historical building design or if the interior area is part of a public space."
- "Repair or replacement of existing materials with in-kind or historically appropriate materials, in the same location, does not require design review approval."
- "(C) Historic Assessment. If a historic assessment has not be prepared for the property, the heritage committee or the design review board may request that a historic assessment paid for by the city be prepared prior to the review of the project to evaluate the project impacts to the property."

- "(D) Environmental Determination. During its review, the design review board will adopt the appropriate environmental determination pursuant to the California Environmental Quality Act. A historic assessment may be required to evaluate a projects potential environmental impact. Projects that comply with the Secretary of the Interior's Standards may be eligible for a categorical exemption. In addition, projects that are consistent with the design guidelines may be found to not significantly impact the historic resource."
- OHP status code 1 through 5 Are opposed to an "historic resource." That means the city is required to clarify every property.

# 25.45.014 – Procedures for the substantial alteration of a contributive (6L) property.

- "(B) Review. Prior to the issuance of a building permit to substantially alter a property with an OPH status code of 6L, the design review board shall review the proposed changes in accordance with Chapter 25.05 of this title and determine whether the proposal is consistent with the city's design guidelines. Windows and doors may be replaced in the existing opening with similar or new materials without design review."
- This makes 6L properties "historic resources."
- Should be subject only to Design Review.

## 25.45.016 – Historic Register Designation.

- "(B) Designation Procedures.
  - (1) The property owner shall complete the application for the proposed designation on a form provided by the department, include all information required and file the application with the department."

#### 25.45.018 – Historic property disclosure.

- "(B) Penalty. Any person who violates the provisions of subsection (A) of this section shall be subject to the penalties and remedies specified in chapter 14.76.090 of the municipal code."
- We are not in favor of adding penalties for non-compliance with an ordinance we do not want.

# 25.45.020 – Procedures for demolition of a historic resource.

• Heritage Committee not properly trained to make these technical determinations.

25.45.022 – Unsafe or dangerous conditions.

• No problem.

25.45.024 – Property owned by public agencies.

• No problem.

## 25.45.026 – Property maintenance required.

- "(A) The city's intention is to preserve from deliberate or inadvertent neglect the exterior portions of any historic resource and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion."
- "(C) Before the city attorney files a complaint in municipal court for failure to maintain.."
- Require mandatory maintenance of old houses not on register.
- Negative impact of low or fixed income homes. More punishment.

25.45.028 – Illegal demolition-Penalty for violations.

More penalties