



Comments on the Draft Historic Preservation Ordinance.

Two serious problems are evident in this revised draft.

1. The downgrading of C-rated buildings and consequently decreasing their protection and possibility of preservation.
2. Deletion of the demolition section of the present ordinance which clearly spells out the link of demolition historic resources to CEQA.

In addition, the ratings to the inventory structures that were assigned by the consultant have been disputed in detail by both the South Laguna Civic Association and Village Laguna. These submittals have never been responded to. The consultant's ratings have not been reviewed by the Heritage Committee and either accepted or changed where necessary. We cannot proceed with determining the future of the C-rated properties when there is not agreement on the assigned ratings.

This is also the time to raise the issue of incorporating whatever changes are necessary to the ordinance so that Laguna Beach will qualify as a Certified Local Government for historic preservation.

Following are detailed comments: (changes are in regular font underlined or crossed out, *comments and questions are in italics*).

25.45.004 Definitions

Add: *Archaic—from the era of the original construction of the building???*

Character-defining features—the qualities of the historic resource conveyed by its materials, features, spaces and finishes that are the means through which historic character is expressed.

Demolition—removal of part or all of a structure.

Historic character—the appearance and feeling of the historic resource presented at the end of the period of significance.

Historic fabric—all surfaces and materials that are inherent in the character-defining features and the integrity of the historic resource.

Historic preservation, restoration, rehabilitation, and reconstruction

Historic resource-- buildings, sites, structures, objects and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Laguna Beach.

In-kind—exactly as original (with documentation) or existing. For example:

Wood windows would be replaced with new wood windows with the same detailing. Wood siding would be replaced with wood siding of the same dimensions and detailing, not an imitation material.

Integrity—ability of a property to convey its significance as defined by the Secretary of Interior standards. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling and association.

SOI—Secretary of the Interior standards and guidelines

“Insubstantial Alteration”

The second sentence should read, “These changes are preformed in such a way that the significance and integrity of a historical resource is not materially impaired.

*Delete (3) “Landscape alterations and installation, including the removal of trees not specifically designated or listed as contributing features of the property.” *There is no provision in the city’s historic documentation so far to include citing of landscaping as contributing features, so documentation of landscape features, even though significant, is unlikely to have occurred. Until such comprehensive review is accomplished modifications to such landscape features should not be considered “Insubstantial.” In addition the “setting” is one of the key portions of evaluating the integrity of a historic resource under the Secretary of the Interior standards.**

Item (6) It should be clear in the definition of “in kind” that the new windows should match the existing or original ones as applicable. The statement “~~In-kind window replacement is not required for neighborhood properties (C-rated structures)~~” should be deleted. The statement is not a definition and is also unacceptable in terms of historic preservation.

Item (10) related to signs and awnings should be omitted. These items should be reviewed in relation to the character of the historic resource.

Item (13) Should read “Removal of additions intended to restore the original appearance of a building, structure, site, or object if the additions have no historic significance.”

“Neighborhood Property” should be deleted and replaced with Contributive “C” property. Contributive “C” properties would be defined as “structures that contribute to the overall character of the neighborhood and are intact representatives of the era in which they were constructed. They are part of groups of structures that are important to the character of the city of Laguna Beach as well as to their immediate surroundings. They supply a continuity of neighborhood integrity and thus they are historically significant and are protected under CEQA. Properties not identified on the inventory

may also identified by the heritage committee as specified in Section 25.45.022 and Section 25.45.020.

“Substantial Change” means demolition, destruction, relocation, or alterations such that the significance and integrity of a historical resource would be impaired.

25.45.006 (2) The heritage committee will review the application for designation. In its consideration of placement on the register, the heritage committee may request additional information and plans ~~on~~ for any future planned changes to the structure. There shall be no filing fee for placement on the register.

(3) Recordation of a written agreement between the city and the property owner, acknowledging the owner’s obligations and responsibilities to ensure preservation of the historic character of the structure shall be filed after the property is designated. This agreement transfers with the property to subsequent owners.

(C) Criteria for Historic Register Listing. Properties identified on the inventory with an “E” or “K” rating are eligible for listing on the register as the structures have been found to have individual historical, cultural, or architectural significance. “C” rated properties are also eligible for listing on the register as components of groups of structures that are important to the character and historic integrity of the city of Laguna Beach as well as to their immediate surroundings. ~~properties (“C”-rated structures on the inventory) are not eligible for placement on the register.~~ Other structures that have not been surveyed, but are found to meet one or more of the following criteria may also be eligible for the register...

(D) Findings of the Heritage Committee. Upon review of the application and any supporting material, the heritage committee shall adopt findings that the registered property does or does not meet the criteria for listing on the register, contained in this chapter. The findings of the heritage committee shall contain the following information:

- (1) Explanation of the significance or lack of significance of the property under consideration;
- (2) Explanation of the integrity or lack of integrity of the property under consideration;
- (3) Identification of the important character-defining exterior architectural and site/landscape features of the property under consideration;...

~~(G) C-rated structures that have been placed on the register prior to the adoption of this ordinance will remain as historic resources unless an application to remove the property from the register has been filed pursuant to 25.45.006(E).—This provision is unnecessary since C rated structures will continue to be eligible for the register...~~

25.45.008 (B) last sentence

Repair or replacement of existing materials with in kind similar materials, in the same location, does not require design review approval....

(D) Environmental Determination. During its review, the design review board will adopt the appropriate environmental determination pursuant to the California Environmental Quality Act (CEQA). A historic assessment prepared at the applicant's expense will be required to evaluate a projects potential environmental impact and to identify and define a property's character-defining features, historic fabric and historic context.

(E) Pre-construction Meeting. Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector, assigned to inspect the structure, a city staff member, peer review historic preservation consultant hired by the city and paid for by the owner, and the project architect or designer. This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects in protecting and avoiding destruction of the identified historic fabric that is to be retained. Similar periodic reviews shall occur throughout the construction process to assure that the intent of the historic preservation effort is accomplished.

25.45.010

(4) Designated "E"-rated structures located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy- five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, ~~and only if,~~ integral to the historic building design.

(B) Building Permit and Planning Application Fees. All building permit and planning application fees for structures placed on the register will be refunded for those projects if, prior to the finalization of the building permit, the heritage committee finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund. *Setback flexibility and other deviations will not require application for a variance? What would be the procedure for granting these if not through a variance where the historic preservation justification would be used? Applicant should not have to pay for the privilege of obtaining these incentives if he/she needs a variance to get them*

(F) Rear Yard Setback Relief. New structures, or additions to existing structures, may be constructed within five feet of a rear property line if these additions are continuing the building line of an existing historic structure. *Encroachment shall be evaluated for impacts by the heritage committee and design review without having to consider it a variance.* New improvements may not encroach into a blufftop setback. ...

25.45.012

(C) Review. The director will review the proposed changes for compliance with this chapter and will evaluate if the project constitutes a substantial or an insubstantial modification as defined in Section 25.45.004 and present his/her conclusions to the heritage committee for their recommendation.

25.45.014 Historic inventory property preservation incentives

(A) Incentives. Structures listed as an “E”, ~~K~~ or “C” rated structures on the inventory are eligible to apply for the following preservation benefits if the properties are placed on the historic register:

What is the justification for granting incentive to properties on the inventory without requiring a commitment from the property owner to preserve the historic resource by listing it on the register? E, K and C properties should all receive the incentives as defined upon putting the properties on the register.

25.45.016 Procedures for the alteration of a neighborhood property (“C” rating).

(A) Purpose and Intent. Neighborhood properties contribute to the overall character and history of the neighborhood, ~~though they are not unique or distinctive. These properties are not considered historic resources under CEQA.~~ In an effort to preserve these structures’ contribution to the village atmosphere and neighborhood character, special consideration should be given to these properties during the design review process...

(D) Design Review Approval. A building permit shall not be issued for any exterior alteration or enlargement of a building or structure listed on the inventory (with a “C” rating) without receiving design review approval, with recommendation of approval provided by the heritage committee, unless the project is determined to be an insubstantial change as defined in Section 25.45.004. Windows and doors may be replaced in kind in the existing opening ~~with similar or new materials.~~ ..

25.45.018 Neighborhood property preservation incentives.

(A) Purpose and Intent. Structures identified by the heritage committee as a neighborhood property or properties with a “C” rating on the city’s inventory, are eligible to apply for preservation benefits if they are placed on the register. ~~These properties are not considered historic resources under CEQA.~~ However, in an effort to preserve these structures’ contribution to the village atmosphere and neighborhood character, these properties may qualify for the following preservation incentives: ...

24.45.020 Procedures for the alteration of structure 45 years or older.

(A) Application. Application to demolish, relocate, or substantially change a building structure 45 years or older shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director, including a historic resources report if applicable.

25.45.020

(B) Heritage Committee Determination. Within thirty (30) days of receipt of an application as described in subsection (A) of this section, the director shall make a ~~determination of staff recommendation on~~ whether the property is eligible to be classified as an “E” or “K”-rated property or as a neighborhood property (“C”- rated). In making this ~~determination recommendation~~ the director ~~may~~ shall apply the eligibility criteria and factors specified in Section 25.45.006(C). The director may also request that a historic assessment at the cost of the city be prepared to evaluate the property.

(1) ~~If the director finds the property may be eligible to be classified as an “E” or “K”-rated property or as a neighborhood property (“C”-rated), then the proposed exterior modifications shall be forwarded to the heritage committee shall for review as prescribed by Section 24.45.022 to determine the appropriate rating of the property.~~

(2) If the heritage committee determines that the property is not eligible to be classified as an “E”, “K” or “C”-rated property ~~or as a neighborhood property (“C”-rated)~~, the permit to demolish, relocate, or substantially alter the property shall be issued processed in the normal course without further restrictions under this chapter.

(3) Appeals of the heritage committee determination can be made per Section 24.45.034.

25.45.024 Historic property disclosure.

(A) Definitions. For purposes of this section, the following terms shall have the meanings set forth below:

(1) “Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.

(2) “Offer to purchase” means a written contract executed by a buyer ~~acting through a selling agent~~, which becomes the contract for the sale of the real property upon acceptance by the seller. *Isn't an offer an offer regardless of whether there is an agent or not?*

(3) “Owner” means any person, co-partnership, association, corporation, or fiduciary having legal or equitable title or any interest in real property.

(4) “Real property transaction” means a transaction for the sale of real property ~~in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.~~

(5) “Sale” means a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of California Civil Code Section 2985, and transactions for the creation of a leasehold exceeding one year’s duration.

(6) “Selling agent” means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

(B) Agent Disclosure. If real property has been included in the register or inventory by the city of Laguna Beach, the owner or the selling agent of the property shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property’s historic status. The owner or the selling agent shall provide the notice to the buyer before expiration of any inspection contingency period, and in any event before transfer of title.

(C) City Disclosure. If a real property is more than 45 years of age, then the city will to the best of its ability, identify the year of construction and state that the property could be considered as a historic resource and that this status has implications for decisions and permits on changes to the property, including demolition permits, during the development process. This information will be provided on a real property report.

(D) Penalty. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in chapter 14.76.090 of the municipal code.

25.45.028 Property owned by public agencies. Public agencies that own property in the city shall be notified of the provisions of this chapter, its relationship to CEQA and to requirements for the City's issuance of Coastal Development permits and they shall be encouraged or required, as applicable, to comply with this chapter seek the advice of the heritage committee before the construction, alteration, demolition, or relocation of any potential historic resource. ..

~~(C) Before the city attorney files a complaint in municipal court for failure to maintain the property on the listed site, If after notification of the property owner, lessee, or occupant by city the heritage committee or the director shall notify of the need to repair, maintain, or restore the property, and shall give the owner after allowing a minimum of thirty days to perform such work, the city attorney may file a complaint in municipal court for failure to maintain the property on the listed site.~~

Insert provisions for demolition from the existing ordinance.

25.45.010 Procedures for demolition.

The following procedures shall be applied to all historic structures listed on the historic register and those structures listed on the historic inventory.

(A) Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code.

(B) Applicants for demolition of historic buildings which appear on the city's historic inventory or register or as required in this chapter shall make application for a demolition permit with the department of community development.

(C) Upon receipt of the application to demolish, the department of community development shall, within thirty days, solicit input from the heritage committee prior to scheduling the request for public hearing before the design review board. Public notice for the design review board hearing shall be subject to the provisions of Section 25.05.065, except that if a coastal development permit is required pursuant to Chapter 25.07, noticing for that type of permit shall instead be carried out through the public notice provisions of Section 25.07.014.

(D) Design Review Board Action. After the appropriate environmental review, pursuant to the California Environmental Quality Act (CEQA), the design review board shall receive a recommendation from the heritage committee and shall address and mitigate the cumulative impacts of allowing the demolition of structures that contribute to the overall neighborhood character or streetscape, but which may be individually insignificant. After conducting the public hearing, the design review board shall take the

following action:

Approve permit, subject to a waiting period of up to ninety calendar days to consider relocation and/or documentation.

(1) During the waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the city once a month for the first two months following the design review board's hearing. Such advertisement shall be one-quarter page in size and shall include a photograph of the structure, the address at which the structure proposed for demolition is located, information as to how arrangements can be made for relocation and the date after which a demolition permit may be issued. Evidence of this publication must be submitted to the department of community development prior to issuance of a demolition permit.

(2) Any application for relocation of the structure shall be filed within the specified waiting period as determined by the design review board.

(3) The design review board may extend the waiting period up to one hundred eighty days if it determines that relocation is imminent.

(4) During the continuance period, the heritage committee may investigate relocation of the building or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

(5) During the continuance period, the applicant may pursue plan approval.

(E) Findings. Prior to the issuance of a demolition permit, the design review board shall make one of the following findings:

(1) The action proposed is consistent with the purposes of the ordinance and the historic resources element of the general plan; or

(2) There are no reasonable alternatives to demolition. (Ord. 1577 § 11, 2013; Ord. 1555 § 11, 2011; Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

25.45.32 Illegal demolition penalty for violations.

(A) Penalties. The following penalties shall be determined by the city council after a public hearing.

(1) The removal or demolition, partial or complete, of any structure listed on the register without an approved demolition permit shall be required to provide a historic study evaluating the condition of the structure and making recommendations for reassembling and restoring it in compliance with the Secretary of Interior standards. This reassembling and restoring shall be accomplished prior to any further issuance of permits except those needed to accomplish the reassembling and restoring. Illegal demolition shall result in up to a five-year stay in the issuance of a building permit except for reassembling and restoring, for any new construction at the site previously occupied by the historic structure. Demolition is defined under the definition of major remodel in Section 25.08.024.

(2) The removal or demolition of any structure listed on the inventory, or a structure more than 45 years of age, without an approved demolition permit shall be required to provide a historic study evaluating the condition of the structure and making recommendations

for reassembling and restoring it in compliance with the Secretary of Interior standards. This reassembling and restoring shall be accomplished prior to any further issuance of permits except those needed to accomplish the reassembling and restoring. Illegal demolition shall result in up to a two-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure. Demolition is defined under the definition of major remodel in Section 25.08.024.

(3) In addition to the repayment or restoration provisions of Section 25.45.010 of this chapter, any person who partially or completely demolishes a structure listed on the inventory or register may be subject to an administrative penalty of up to one hundred thousand dollars for each violation. The determination shall be based on the extent of the partial demolition, the amount of reassembling and restoring, and extent of the historic elements which have been removed and the benefits received, including setback and parking incentives.

Thank you,

Sincerely,

A handwritten signature in black ink, appearing to read "G. O'Loughlin". The signature is written in a cursive style with a large initial "G" and "O".

Greg O'Loughlin
President - South Laguna Civic Association