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VIA EMAIL ONLY

Clerk of the Board
Mendocino County Board of Supervisors
501 Low Gap Rd., Rm. 1010
Ukiah, CA 95482
(bos@mendocinocounty.gov)

Re: MHRB Case No. 2023-0019; Appeal of Mendocino Historical
Review Board Denial of Re-roofing Permit; July 9, 2024 Agenda
Item 4 (e)

Dear Honorable Board of Supervisors:

I. Introduction

I represent Hardy and Kimberly Hodges, who are the owners of 10450 Lansing Street, in Mendocino, California.

I understand the Department of Planning and Building Services, in consultation with County Counsel's Office, is recommending that you grant my clients' appeal and reverse the decision of the Mendocino Historical Review Board ("MHRB") denying their right to re-roof the subject property with direction that the application and appeal fee be refunded.

My clients and I are grateful for, and supportive of, Planning and Building Services' thoughtful and deliberative examination of this matter. We agree with the recommendation of staff and only submit this brief letter to underline the correctness of Planning and Building Services' recommendation.

II. Factual Background

My clients own the real property commonly known as 10450 Lansing Street, in Mendocino, California. The real property is improved with a commercial structure that houses various businesses. The structure is not of the Victorian era that exemplifies

Mendocino architecture, but dates to 1923 when it began life as a gas station. Unlike any of the neighboring properties, the structure is currently roofed with a deteriorating sheet metal roof. The neighboring properties instead have shingle roofs.

The roof is in need of repair, but when local roofing provider Redwood Roofers proposed a shingle roof in conformity with what is on virtually every other building in the Town of Mendocino, the MHRB shot down the idea.

III. Planning and Building Services Correctly Notes the Installation of Shingles Is Exempt from MHRB Review

As Planning and Building Services correctly notes, the installation of roofing shingles is exempt from MHRB review under Mendocino County Code section 20.760.005, subdivision (K), which excludes “[c]hanges to existing roofing materials provided that the Planning and Building Services Department has determined that the roof is to be of wood shingles, or composition or other fire retardant material, which gives the appearance of wood.” This alone points dispositively in favor of granting the appeal. Notwithstanding as much, my clients have expressed a willingness at every stage to work with the County on aesthetic considerations such as color. They want to be good neighbors and good citizens in Mendocino.

IV. Even If The Exclusion Did Not Apply, the MHRB’s Decision Was Unsupported by Their Guidelines

The MHRB is a creature of County Code tasked with applying fixed guidelines in a uniform manner. Because the MHRB functions as a quasi-judicial (rather than legislative) body, its decisions must be supported by factual findings with a legal nexus to an ultimate decision. (Code Civ. Proc. § 1094.5.) “[T]he agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) The findings must be sufficient “both to enable the parties to determine whether and on what basis they should seek review and, in the event of review, to apprise a reviewing court of the basis for the [administrative] action.” (*Id.* at p. 514.)

In adopting MHRB Guidelines for the Town of Mendocino, this Board found and declared that:

Mendocino and its immediate environs represents a unique and outstanding example of *early* California architecture and town development associated with the redwood lumber industry along the Mendocino Coast in the *last half of the 19th century*. [I.e., 1850 to 1900.]

The Town of Mendocino exhibits those qualities typical of a small Northern California coastal lumber town from that era by combining a balance of residential and commercial development with the forces of nature and the natural environment.

(Mendocino County Code § 20.760.005 (emphasis added).)

Mendocino County Code section 20.760.065 enumerates three broad guidelines to consider, which are whether:

- 1) “The exterior appearance and design of the proposed work is in harmony with the exterior appearance and design of existing structures within the District and with that of the existing subject structure;”
- 2) “The appearance of the proposed work will not detract from the appearance of other property within the District;” and,
- 3) “Where the proposed work consists of alteration or demolition of an existing structure, that such work will not unnecessarily damage or destroy a structure of historical, architectural or cultural significance.”

Faithfully applying these guidelines, a sheet metal roof on a 1923 building stands in stark contrast to the Victorian homogeneity of shingle roofed homes that are in accord with the guidelines by which the MHRB is bound.

As can be seen from the photograph below, even when the subject building was new, neither the building nor its metal roof exemplified the Victorian architecture of the Town of Mendocino.



The above does not describe the appearance of a late 1800s Victorian lumber town. In fact, the only written comment submitted to the MHRB in opposition to the project did not cite to any historical consideration with which the MHRB is actually tasked, but only emphasized that the roof was incongruent with its setting. That comment remarked that the building was not in harmony with the Town of Mendocino as a whole, but “stands out from its surroundings, calling attention to its uniqueness.”

Re-roofing the building with shingles will only promote the desired visual continuity that the MHRB guidelines seek. It will promote historic preservation. A quality shingle roof will also protect the building as a whole, allowing the building to be preserved and remain part of the community rather than becoming at risk of a teardown.

V. The MHRB Has a History and Tradition of Approving the Replacement of Sheetmetal Roofing with Shingles

The MHRB’s refusal to permit the requested re-roof would also be arbitrary and capricious because the MHRB has a pattern of previously permitting the replacement of metal roofs with composite shingle.

In just the last few months, the MHRB permitted what was once a sheet metal roof at 10550 Lansing Street to be replaced with a composite shingle roof as depicted below:



Before



After

Similarly, circa 2006, the Mendocino Hardware Store property adjoining Harvest Market at Mendoza's on Lansing Street was authorized to have a metal roof replaced with composite shingles as depicted below.



Mendocino Hardware Store with Composite Shingle Roof

Here, however, the MHRB did nothing to explain how the same board that previously made requisite findings of fact in conformity with Mendocino County Code section 20.760.065 could refuse to make such findings at present. The polestar of historical conformity in the Town of Mendocino is a Victorian past that is fixed in time and unmoving. The MHRB cannot alter that past lodestar to fit its whims.

VI. A Metal Roof's Warranty Would Be Void from the Start

Aside from these legal and aesthetic considerations, to require a metal roof would also be to require my clients to install a roof that would have a void warranty from the start. As can be detailed at hearing, a potential metal roof's warranty only applies if the metal roof is installed at least 1100 yards from a salt water environment. The subject structure is only about 308 yards from the salty Pacific Ocean. The shingles that are almost uniformly in use throughout the town, however, have no disclaimer as to being installed in a salty environment and can possess a forty-plus year warranty.

A local architect named Ann Zollinger who submitted written correspondence to the MHRB in support of my clients' application also testified before the MHRB that sharp javelin-like chunks of roof were rusting off her home's quickly failing metal roof. Similarly, a local contractor and former member of the MHRB named Ishvi Aum testified at the hearing below in support of the present application that he had "terrible experiences" with steel roofs on the coast. To require a property owner to spend substantial sums on a roof that is going to be defective from the start takes money away from other historic preservation activities on which that money can be spent, such as painting and landscaping.

VII. Conclusion

For the above reasons, Hardy and Kimberly Hodges, respectfully pray that this Honorable Board grant the present appeal, reverse the decision of the MHRB to deny a permit for the re-roofing of 10450 Lansing Street, and refund the application and appeal fee.

Respectfully submitted,



Colin W. Morrow