



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
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NOTICE OF PUBLIC HEARING

EUREKA CITY HISTORIC PRESERVATION COMMISSION

NOTICE IS HEREBY GIVEN that the Eureka City Historic Preservation Commission will hold a public hearing on Wednesday, November 7, 2018 at 4:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California, to consider the following application:

Project Title: Demolition of 2135 California Street

Project Applicant: City of Eureka/Public Works Code Enforcement

Case No: HPO-18-0007

Project Location: 2135 California Street; APN: 010-014-014

Zoning and General Plan Designations: RM-2500 (Multifamily Residential)/MDR (Medium Density Residential)

Project Description: The applicant is requesting the demolition of the subject property on the grounds the property is a public nuisance per section 150.163 of Eureka’s Municipal Code (EMC).

All interested persons are invited to comment on the project either in person at the scheduled public hearing, or in writing. Written comments on the project may be submitted at the hearing or prior to the hearing by mailing or delivering them to the Community Development Division, 531 K Street, Eureka, and CA 95501. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. The project file is available for review at the Development Services Department, Third Floor, and City Hall. If you have questions regarding the project or this notice, please contact Raquel Menanno, Assistant Planner; phone: (707) 441-4113; fax: (707) 441-4202; email: rmenanno@ci.eureka.ca.gov



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CITY OF EUREKA HISTORIC PRESERVATION COMMISSION

STAFF REPORT

November 7, 2018

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Project Description: The applicant is requesting the demolition of the subject property on the grounds the property is a public nuisance per section 150.163 of Eureka's Municipal Code (EMC).

Contact Person: Raquel Menanno, Assistant Planner; phone: (707) 441-4113; fax: (707) 441-4202; email: rmenanno@ci.eureka.ca.gov

Staff Recommendation: Staff recommends that the Commission adopt a Resolution of the Historic Preservation Commission finding the subject property is unsafe and a hazard to the public as a result of the 2010 earthquake and approve demolition of the structure and non-historic accessory structure.

Recommended Motion: *"I move that the Historic Preservation Commission adopt a Resolution of the Historic Preservation Commission finding the subject property is unsafe and a hazard to the public as a result of the 2010 earthquake and approve demolition of the structure."*

Background:

The property is on the Local Register of Historic Places and is currently owned by Keith and Connie Combs. The structure is listed as originally being owned by S. Steele, and described as a "one-story frame cottage with hipped roof and full front porch, decorative frieze, and column brackets".

On January 9, 2010, Humboldt County experienced a magnitude 6.5 earthquake causing the structure to fall from its post and pier foundation, landing on the ground to the south of the structure's original position on the site. A code enforcement case was begun in October, 2010 with a final notice given on September 13, 2013 to the current owners, Keith and Connie Combs, requiring repair or demolition of the residence as it was deemed a public nuisance (see chronology under Code Enforcement below). The most recent action includes a courtesy notice sent January 10, 2017, stating the owner had renewed a building permit for repair of the foundation, but no work or inspections had taken place. According to Brian Issa, Deputy Director of Public Works-Field Operations, the owner had been told if the house was not up on a foundation within six months that the City would proceed with a court authorized receivership for the property. However, due to the costliness of this procedure, the City of Eureka did not proceed with this option.

Site Visit Images:



Figure 1: Front View of 2135 California



Figure 2: Front View of 2135 California



Figure 3: Front View of 2135 California



Figure 4: Front View of the Accessory structure



Figure 5: Front View of the Accessory structure

Required Findings and Analysis:

Title 15, Chapter 157, of the Eureka Municipal Code, Section 157.005(A) outlines the findings required for the Commission to grant approval of demolition:

- (A)** No structure on a designated property shall be demolished unless the city shall make one of the following three findings, following notice to the extent required by § 157.005 and hearing(s) pursuant to this chapter.
 - (1)** The designated structure is unsafe or a hazard to the public as a result of an unforeseen event such as a fire or earthquake. Said demolition shall only be undertaken if in accordance with City of Eureka Municipal Code, Volume 2, Chapter 150: Building Regulations, and Cal. Pub. Res. Code § 5028;
 - (2)** Taking into account the potential value to the owner of the property of all available city and other accommodations and incentives including transferable development rights, zoning ordinance modifications, alternative building code

standards or provisions, loans, grants, reimbursements and tax reductions, one or more of the following circumstances exist;

- (a) The current or most recent use of the property is not permitted under the current planning code (except as a nonconforming use) and adaptive reuse is not economically feasible;
- (b) The adverse impact on the owner of the property is unreasonably large in comparison to the public benefit from denying demolition;
- (c) The demolition would further a substantial community interest or result in a net community benefit;
- (d) Denying permission to demolish would result in a taking or would violate state or federal law.

- (3)** Demolition must be allowed pursuant to the State Housing Law (Cal. Health and Safety Code §§ 17900 et seq.) or other applicable state or federal law.

Based on the fact the Public Works Department has declared the structure unsafe and hazardous as evidenced by the abatement letters and administrative citations issued by the Public Works Department, the finding required by EMC Section 157.005 (A)(1) can be made.

Code Enforcement Chronology

First Notice October 2010; Owners-David and Theresa Brady (Attachment A)

According to the first notice dated October 13, 2010, then owners David and Theresa Brady were notified to abate code violations and a public nuisance per sections 10.39 and 10.45 of Eureka's Municipal Code (EMC) for the damage to the structure caused by the earthquake. Referencing EMC 150.162 (K), the structure was identified as an unsafe building. The Notice also states, "The damaged residence now constitutes a public nuisance and must be repaired or demolished as soon as possible."

Final Notice August 2011; Owner-Fannie Mae (Attachment B)

On August 3, 2011, a final notice was issued stating that no action had been taken in the past nineteen months to repair the structure, and warning that the structure must be repaired or demolished as soon as possible based on the following nuisance conditions: EMC 150.162 (B)(1) Deteriorated or inadequate foundations and EMC 150.162 (K). According to this notice, Fannie Mae owned the property at the time and was responsible for its condition and maintenance.

First and Final Notice May 2012; Owner-Jim Collins (Attachment C)

On May 17, 2012, Jim Collins, JC Gemini II, LLC, was issued a first and final notice to abate Code Violations and Public Nuisance at the site. As the owner of the property, JC Gemini was responsible for the structure's condition and maintenance. The letter states that "...failure to take action would result in an Administrative Citation and Fine pursuant to EMC Section 10.45."

Notice of Administrative Citation and Fine June 2012; Owner-Jim Collins (Attachment D)

To date, no action had been taken to repair the property and so an Administrative Citation was issued to JC Gemini II, LLC in the amount of \$100.00 on June 28, 2012.

First and Final Notice July 2012; Owners-Keith and Connie Combs (Attachment E)

According to Brian Issa, the Deputy Director of Public Works-Field Operations, the property was purchased by Keith and Connie Combs in May of 2012. On July 9, 2012, Keith and Connie Combs were issued a first and final notice to abate Code Violations and Public Nuisance at the site. As the owners of the property, they were now responsible for the structure's condition and maintenance. The letter states that "...failure to take action would result in an Administrative Citation and Fine pursuant to EMC Section 10.45."

Final Notice September 2013; Owner-Keith and Connie Combs (Attachment F)

The previous nuisance conditions were directed to be abated once again (EMC 150.162 (B) (1) Deteriorated or inadequate foundations and EMC 150.162 (K), still under the ownership of Keith and Connie Combs.

Notice of Intent to Seek Receivership June 2014; Owners-Keith and Connie Combs (Attachment G)

A permit was issued for work on the structure, but the extent of the work that had been performed was not considered to be significant progress given the number and type of violations involved and the time that had already elapsed. It was stated that "...if the project is not completed with all final inspections performed by that date [May 1, 2014], the City will seek a court-appointed receiver for the property." Receivership is a process whereby the City would petition the circuit court to appoint a third party in control of the property for the purpose of rehab or demolition, the costs of which would become an encumbrance on the property and/or a personal liability of the owner.

Notice of Citation and Fine February 2016; Owners-Keith and Connie Combs (Attachment H)

On February 12, 2016, the owners were issued an Administrative Citation and fine of \$50.00 per day as there was a lack of "significant progress" in abating the code violations. The letter states that "...if the violation were to continue, they will be guilty of a separate offense and fine for each and every day the violation is committed, continued, or permitted by such person." If the code violations were not resolved within 90 days (05/12/2016), another citation amounting to \$4500.00 will be issued.

Courtesy Notice January 2017; Owners-Keith and Connie Combs (Attachment I)

On January 10, 2017 a courtesy notice was issued stating that "...if the house is not affixed to a foundation by April 11, 2017, we [the City] will begin the receivership process." Previously the owners, Keith and Connie Combs, renewed the building permit (B16-0768) to repair the foundation, but no work had taken place yet again. If the house was not on a foundation within six months of October, 2017, the City informed the applicant they would proceed with a court authorized receivership.

Summary of Code Enforcement Materials Conclusions:

1. This case has been ongoing and unresolved since 2010 and has been under the ownership of four separate entities.
2. The damaged residence continues to constitute a public nuisance and must be repaired or demolished.
3. The conditions ((EMC 150.162 (B)(1) Deteriorated or inadequate foundations and EMC 150.162 (K) Unsafe Building)) are considered to be a public nuisance as defined in EMC Section 150.163 and a violation of EMC Section 10.99.
4. The current owners have been given ample time and information to complete the repair of the structure.
5. The owners of the property are responsible for the condition, and repair and maintenance of their property.
6. Even though the owner obtained a building permit to repair the foundation, repairs have not been diligently pursued.
7. The historical significance of the structure may be visible, but the structure itself is a public nuisance and as such is a threat to public safety and health.
8. The current owners, while well intentioned, do not appear to have either the will or the financial means to rehabilitate the property and based on past inaction, are unlikely to make any substantial improvements.
9. The type and amount of repair work necessary to rehabilitate the structure is substantial and unlikely to be undertaken by any owner given the location.
10. The property has been the site of multiple and ongoing calls for service to both code enforcement and the Eureka Police Department. The dilapidated nature of the structure serves as an attractive nuisance, drawing the attention of transients. The likelihood of a structure fire at the property is significant given the vagrant traffic at the property, despite efforts to thwart entry. Any fire at this property is likely to spread to surrounding structures due to proximity and the type of materials used in construction in the area.

Environmental: This project is subject to environmental review in accordance with the California Environmental Quality Act (CEQA). The project qualifies for a Class 21 Categorical Exemption under Section 15321, Article 18, Title 14, Chapter 3 of the California Code of Regulations: Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered

or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

- (1) The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement;
- (2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

The City has already declared the structure and site are hazardous to the public health and safety and a public nuisance. Approval of the demolition will allow the City to enforce the regulations to abate the nuisance, and remove the risk to health and safety.

Recommended Motion: *“I move that the Historic Preservation Commission adopt a Resolution of the Historic Preservation Commission finding the subject property is unsafe and a hazard to the public as a result of the 2010 earthquake and approve demolition of the structures.”*

Support Material:

Attachment A	First Notice 2010.....	page 7
Attachment B	Final Notice 2010	page 7
Attachment C	First and Final Notice 2012	page 7
Attachment D	Notice of Administrative Citation and Fine 2012	page 8
Attachment E	First and Final Notice 2012.....	page 8
Attachment F	Final Notice 2013.....	page 8
Attachment G	Notice of Intent to Seek Receivership 2014	page 8
Attachment H	Notice of Administrative Citation and Fine 2016.....	page 8
Attachment I	Courtesy Notice 2017.....	page 9

Raquel Menanno
Assistant Planner

Rob Holmlund
Director of Development Services

RESOLUTION NO. 2018-__

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF EUREKA APPROVING THE DEMOLITION OF THE STRUCTURE AT 2135 CALIFORNIA STREET.

WHEREAS, the applicant has requested approval from the Historic Preservation Commission to demolish 2135 California Street in Eureka, which is on the Local Register of Historic Places (LRHP); and

WHEREAS, Title 15, Chapter 157, of the Eureka Municipal Code, Section 157.004, specifies that a property on the LRHP may be demolished, following written application by the owner of record or initiation by the Commission; and

WHEREAS, the Historic Preservation Commission must find that the designated structure is unsafe or a hazard to the public as a result of an unforeseen event such as a fire or earthquake; and

NOW THEREFORE, BE IT RESOLVED by the Historic Preservation Commission of the City of Eureka that the proposed demolition as described in the Staff Report, is approved. The decision to approve the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); project file; and, the evidence submitted with the permit application. The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the Historic Preservation Commission’s decision.

1. Humboldt County experienced a magnitude 6.5 earthquake in January, 2010 causing the structure at 2135 California Street to fall from its post and pier foundation, landing on the ground to the south of the structure’s original position on the site.
2. The City of Eureka Director of Public Works Department, pursuant to Eureka Municipal Code § 150.162 (K), deemed the structure an unsafe building in a Notice dated October, 2010 which stated, “The damaged residence now constitutes a public nuisance and must be repaired or demolished as soon as possible.”
3. Since 2010, a total of ten separate Notices, including Courtesy, First, Final, and First and Final Notices, as well as Notices of Citation and of Intent to seek Receivership have been issued, including Notices sent to the current property owner.
4. Based on the fact the Public Works Department declared the structure unsafe and hazardous, the finding required by EMC Section 157.006(A) can be made that the designated structure is unsafe and a hazard to the public as a result of the 2010 earthquake.

5. This case has been ongoing and unresolved since 2010 and has been under the ownership of four separate entities.
6. The owners of the property are responsible for the condition, and repair and maintenance of their property.
7. The current owners have been given ample time and information to complete the repair of the structure.
8. Even though the current owners obtained a building permit to repair the foundation, repairs have not been diligently pursued.
9. The historical significance of the structure may be visible, but the structure itself is a public nuisance and as such is a threat to public safety and health.
10. The current owners, while well intentioned, do not appear to have either the will or the financial means to rehabilitate the property and based on past inaction, are unlikely to make any substantial improvements.
11. The type and amount of repair work necessary to rehabilitate the structure is substantial and unlikely to be undertaken by any owner given the location.
12. The property has been the site of multiple and ongoing calls for service to both code enforcement and the Eureka Police Department. The dilapidated nature of the structure serves as an attractive nuisance, drawing the attention of transients. The likelihood of a structure fire at the property is significant given the vagrant traffic at the property, despite efforts to thwart entry. Any fire at this property is likely to spread to surrounding structures due to proximity and the type of materials used in construction in the area.
13. The project qualifies for a Class 21 Categorical Exemption under Section 15321, Article 18, Title 14, Chapter 3 of the California Code of Regulations: Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. The City has already declared the structure and site are hazardous to the public health and safety and a public nuisance. Approval of the demolition will allow the City to enforce the regulations to abate the nuisance, and remove the risk to health and safety.

PASSED, APPROVED AND ADOPTED by the Historic Preservation Commission of the City of Eureka in the County of Humboldt, State of California, on the 7th day of November, 2018 by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS

ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Ted Loring, Chair, Historic Preservation Commission

Attest:

Rob Holmlund, Executive Secretary