

Practical Application

Putting your Section 106
Knowledge to Good Use

Presented by

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Corona, CA

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Get ready to play a little
game of...

Test your Section 106 Knowledge!

How best to comply with your
Section 106 obligations.

The idea is to have an interactive discussion at this point. We are going to walk through a couple of different scenarios, each with many variables. So go ahead and show off your knowledge... make educated guesses... or speak up if you are confused. The more we discuss, the more comfortable everyone gets with the process!

Project Types

What types projects do you encounter most frequently?

- ▶ Residential or commercial rehabilitation
- ▶ New development

Scenario #1



Residential Rehabilitation



Walk Through the Steps

Step #1

Is there an
Undertaking?



Remember...

An “undertaking” is defined in the regulations as:

“a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.”

[36 CFR § 800.16(y)]

Now you tell me!

Is there an
undertaking
if...



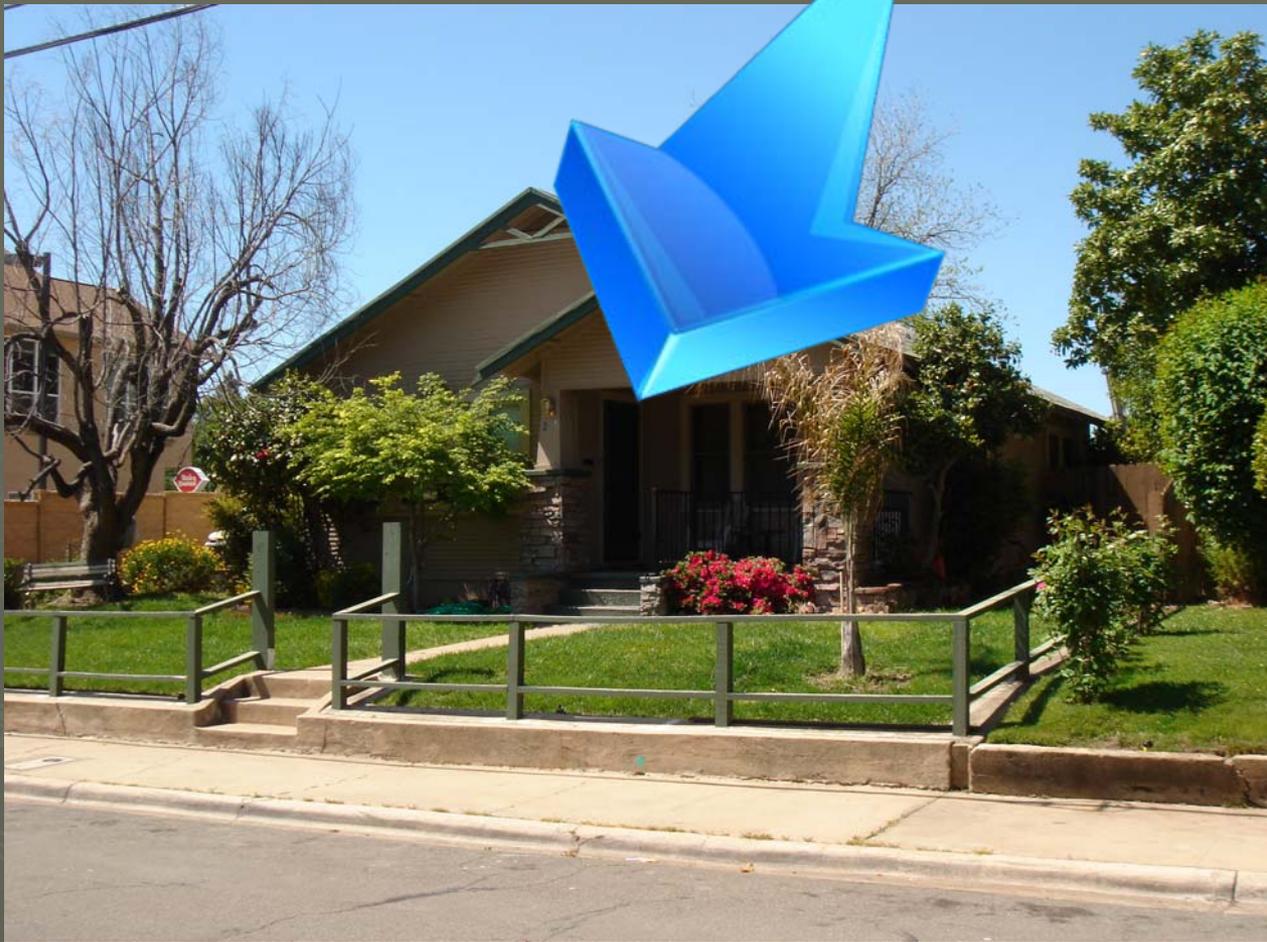
...the windows are being replaced?



YES!



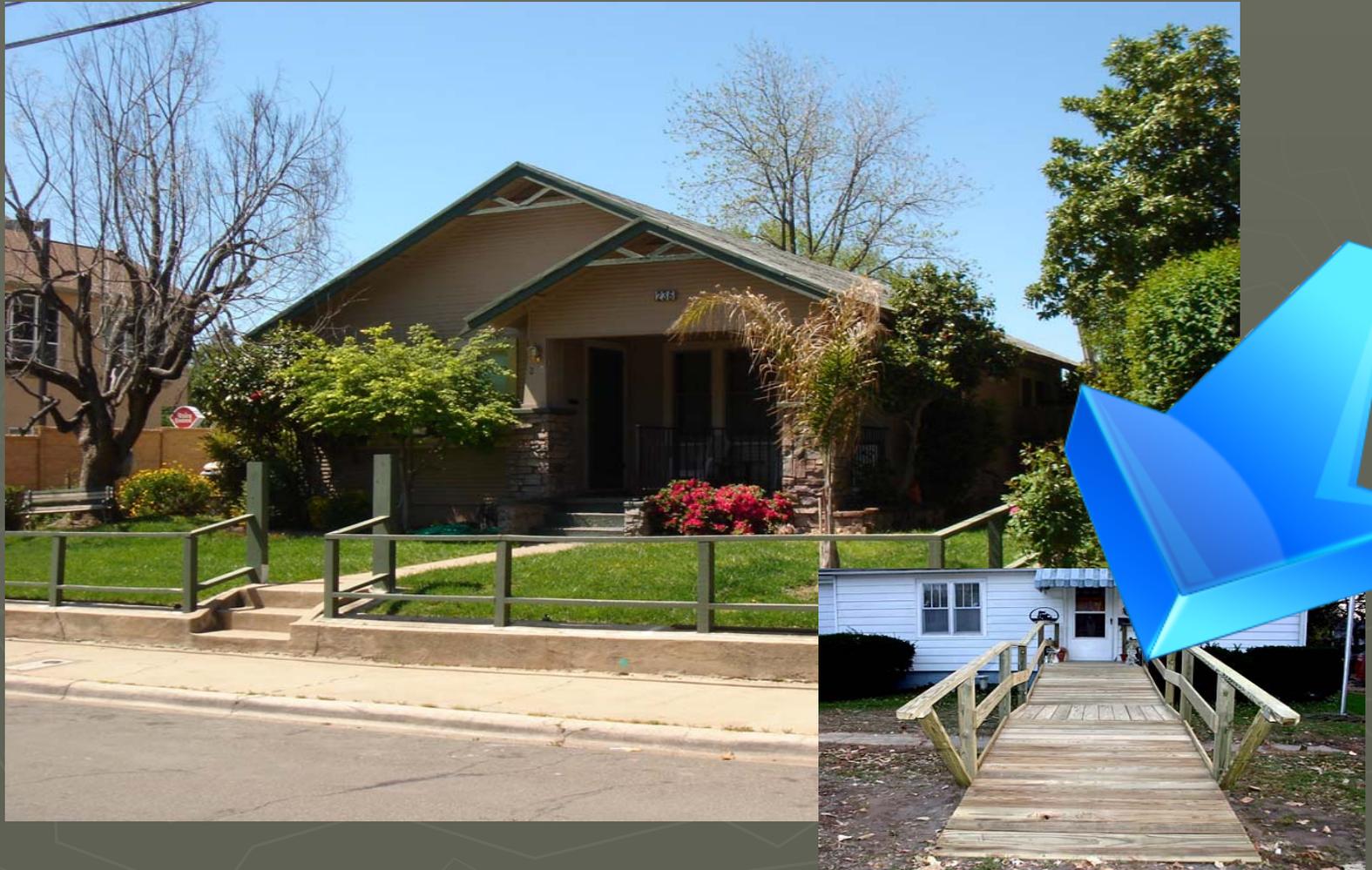
...the door is being repaired?



YES!



...a wheel chair ramp is being added to the entrance?



YES!



...you purchase ADA hand rails
for a shower?



- ▶ No?
- ▶ Maybe?
- ▶ Yes?

And the answer is...

YES!

Are you wondering why the last scenario was an undertaking subject to Section 106 compliance?

If the purchase of the hand rails was part of a bathroom rehabilitation, funded "in whole or in part" with money from HUD, you have an undertaking.

Walk Through the Steps

Step #2

Determine the

Area of Potential Effects



Remember...

When determining the **area of potential effects** (APE) that it is:

- Area directly or indirectly affected by the project
- Determined by nature of the undertaking, not whether you think historic properties are nearby

Defining the APE--What to Consider

- ▶ Direct effects
- ▶ Visual effects
- ▶ Audible effects
- ▶ Socio-cultural effects
- ▶ Indirect or secondary effects

Now you tell me!



What is the APE?



- ▶ The subject parcel?
- ▶ The subject parcel and all adjacent parcels?
- ▶ A ½ mile project radius?

And the answer is...

For a rehabilitation project the APE is typically limited to the subject parcel.

Walk Through the Steps

Step #3

Identification of Historic Properties



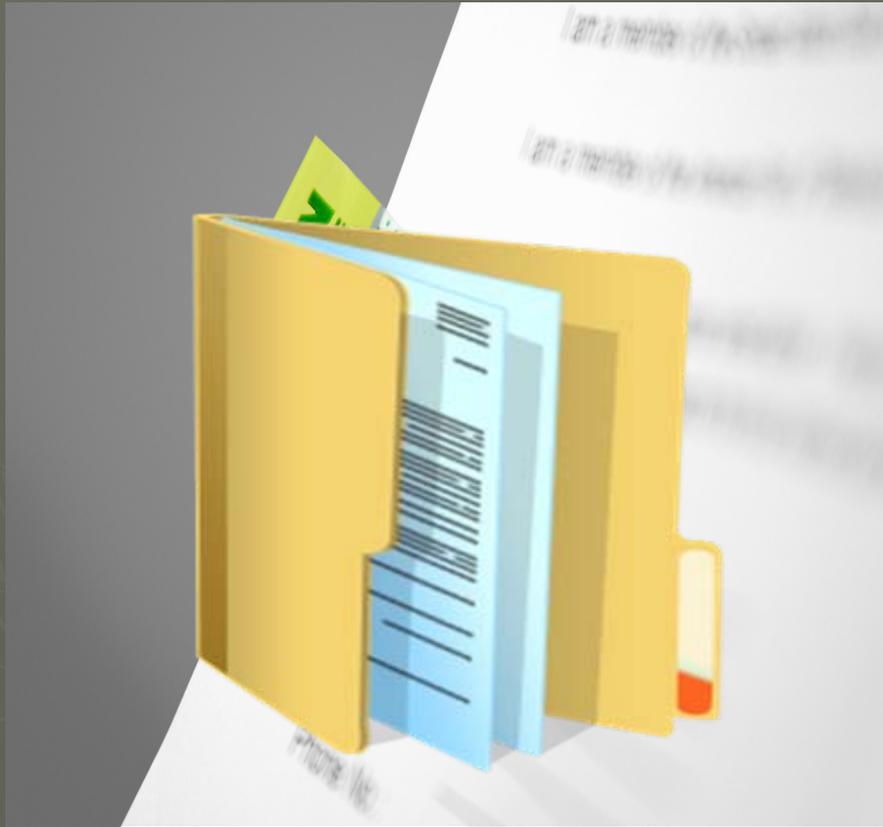
Remember...

A historic property is defined as

“any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places.” [36 CFR § 800.16)

& keep in mind that...

The standard for identification is a “reasonable and good faith effort” to identify history properties.



The project type will determine the amount & type of documentation required.

What constitutes a reasonable & good faith effort?

- ▶ Background research
- ▶ Consultation
- ▶ Oral History
- ▶ Field survey

Now you tell me!

What should you do to document a property for a rehabilitation project?

- ▶ DPR 523s
- ▶ Photographs
- ▶ Construction dates
- ▶ Building descriptions
- ▶ Historic Contexts
- ▶ Maps

The 523 Forms...Your Documentation Tool!

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI# _____
Trinomial _____
NRHP Status Code _____

Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page _____ of _____ *Resource Name or #: (Assigned by recorder) _____

P1. Other Identifier: _____

***P2. Location:** Not for Publication Unrestricted

***a. County** _____ **and** (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

***b. USGS 7.5' Quad** _____ **Date** _____ **T** _____ **R** _____ **¼ of** _____ **¼ of Sec** _____ **B.M.** _____

c. Address _____ **City** _____ **Zip** _____

d. UTM: (Give more than one for large and/or linear resources) Zone _____ mE/ _____ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) _____

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries) _____

***P3b. Resource Attributes:** (List attributes and codes) _____

***P4. Resources Present:** Building Structure Object Site District Element of District Other (Isolates, etc.) _____

P5a. Photograph or Drawing. (Photograph required for buildings, structures, and objects.) _____

P5b. Description of Photo: (view, date, accession #) _____

***P6. Date Constructed/Age and Source:** Historic Prehistoric Both _____

***P7. Owner and Address:** _____

***P8. Recorded by:** (Name, affiliation, and address) _____

***P9. Date Recorded:** _____

***P10. Survey Type:** (Describe) _____

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.") _____

***Attachments:** NONE Location Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List): _____

DPR 523A (1/95) *Required information

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # _____
HRI # _____

Page _____ of _____ *Resource Name or # (Assigned by recorder) _____

*NRHP Status Code _____

B1. Historic Name: _____
B2. Common Name: _____
B3. Original Use: _____
B4. Present Use: _____
*B5. Architectural Style: _____
*B6. Construction History: (Construction date, alterations, and date of alterations) _____

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

B9a. Architect: _____ b. Builder: _____

*B10. Significance: Theme _____ Area: _____

Period of Significance: _____ Property Type: _____ Applicable Criteria: _____
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References: _____

B13. Remarks: _____

*B14. Evaluator: _____

*Date of Evaluation: _____
(This space reserved for official comments)

Sketch Map with north arrow required.

DPR 523B (1/95) [ACROBAT WEBDOC Posted 11/98] *Required information

A quality photo of the subject property is an essential part of the information submitted to SHPO for review of a rehabilitation project.

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI# _____
Trinomial _____
NRHP Status Code _____

Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page _____ of _____ *Resource Name or #: (Assigned by recorder) _____

P1. Other Identifier: _____

***P2. Location:** Not for Publication Unrestricted

***a. County** _____ **and** (P2c, P2e, and P2b or P2d. Attach _____ Map as necessary.)

***b. USGS 7.5' Quad** _____ **Date** _____ **T** _____; **R** _____; **¼** _____; **B.M.** _____

c. Address _____ **City** _____

d. UTM: (Give more than one for large and/or linear resources) **Zone** _____ **mN** _____

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc.) _____

***P3a. Description:** (Describe resource and its major elements. Include size, setting, and boundaries) _____

***P3b. Resource Attributes:** (List attributes and codes) _____

***P4. Resources Present:** Building Structure Object Site _____ District Other (Isolates, etc.) _____

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.) _____

P5b. Description of Photo: (view, date, accession #) _____

***P6. Date Constructed/Age and Source:** Historic Prehistoric Both _____

***P7. Owner and Address:** _____

***P8. Recorded by:** (Name, affiliation, and address) _____

***P9. Date Recorded:** _____

***P10. Survey Type:** (Describe) _____

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.") _____

***Attachments:** NONE Location Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List): _____

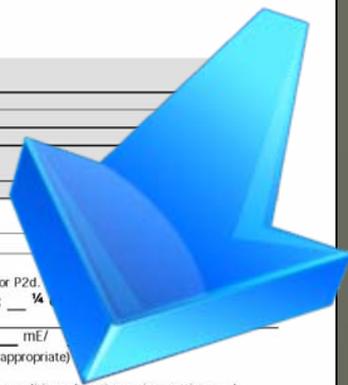
DPR 523A (1/95) *Required information

An accurate and detailed building description of the subject property is necessary.

State of California -- The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
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 NRHP Status Code _____

Other Listings _____
 Review Code _____ Reviewer _____



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P1. Other Identifier: _____

***P2. Location:** Not for Publication Unrestricted

***a. County** _____ and (P2c, P2e, and P2b or P2d) _____

***b. USGS 7.5' Quad** _____ **Date** _____ **T** ____; **R** ____; **1/4** ____

c. Address _____ City _____

d. UTM: (Give more than one for large and/or linear resources) Zone _____, _____ mE/

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) _____

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries) _____

***P3b. Resource Attributes:** (List attributes and codes) _____

***P4. Resources Present:** Building Structure Object Site District Element of District Other (Isolates, etc.) _____

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)

P5b. Description of Photo: (view, date, accession #) _____

***P6. Date Constructed/Age and Source:** Historic Prehistoric Both

***P7. Owner and Address:** _____

***P8. Recorded by:** (Name, affiliation, and address) _____

***P9. Date Recorded:** _____

***P10. Survey Type:** (Describe) _____

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.") _____

***Attachments:** NONE Location Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List): _____

Always include the property's original construction date. The date of any substantial modifications is also helpful.

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI# _____
Trinomial _____
NRHP Status Code _____

Other Listings _____
Review Code _____ Reviewer _____ Date _____

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*a. County _____ and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad _____ Date _____ T ____; R ____; ____ ¼ of ____ ¼ of Sec ____; B.M. _____

c. Address _____ City _____ Zip _____

d. UTM: (Give more than one for large and/or linear resources) Zone ____ mE/ ____ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate) _____

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, shape, and boundaries)

*P3b. Resource Attributes: (List attributes and codes) _____

*P4. Resources Present: Building Structure Object Site District Element of District (etc.) _____

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)

P5b. Description (Date, accession number, etc.) _____

*P6. Date Constructed/Age and Source: Historic Prehistoric Both

*P7. Owner and Address: _____

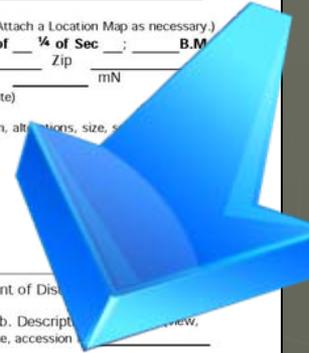
*P8. Recorded by: (Name, affiliation, and address) _____

*P9. Date Recorded: _____

*P10. Survey Type: (Describe) _____

*P11. Report Citation: (Cite survey report and other sources, or enter "none.") _____

*Attachments: NONE Location Map Continuation Sheet Building, Structure, and Object Record Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List): _____



Now you tell me!

You have documented a property for a rehabilitation project.

What comes next?

Evaluate Historical Significance



Remember...

- ▶ To evaluate historical significance you:
 - Apply the National Register criteria to properties identified within the APE
 - Old determinations of eligibility may need to be re-evaluated due to passage of time or other factors

& keep in mind that...

- ▶ Properties must be significant
and
- ▶ Properties must have the integrity necessary to convey their historical significance
 - Integrity depends on why it is significant

Now you tell me!

Is this property eligible for listing on the National Register of Historic Places?



Remember...

- ▶ Sometimes, a single property doesn't seem significant
- ▶ Often, individual properties only take on significance when they are identified as part of a historic district or neighborhood



Now you tell me!

You have completed your documentation and evaluation, and it is time to submit your information to SHPO.

Should your letter
to SHPO say...

...that the local government requests
that SHPO determine if the property is
historic?

And the answer is...

NO!

...that the local government is
requesting SHPO clearance?

And the answer is...

NO!

...that the local government has determined that the subject property is, or is not, eligible for listing on the National Register of Historic Places, and is requesting SHPO concurrence with their determination.

And the answer is...

YES!

Remember...

- ▶ The agency official makes a formal determination of that property does or does not meet the criteria for listing in the National Register
 - Make an affirmative statement
- ▶ SHPO reviews and concurs, or not
 - Formal disagreements referred to Keeper of the National Register

Walk Through the Steps

Step #4

Assess Effects



Remember...

- ▶ If no historic properties are found, or
- ▶ If no effects on known historic properties are found, then
- ▶ Agency official makes determination that no historic properties are affected
 - Agency official must place documentation in a public file prior to approving the undertaking
 - SHPO has 30 days to object

Now you tell me!

If the local government and the SHPO concur that no historic properties will be affected by the undertaking, then...?

Congratulations!



**You have successfully met your
Section 106 obligations.**

**That's right,
YOU ARE DONE!**

Now you tell me!

If a property is eligible for the National Register, individually, or as a contributor to a district, how can the local government ensure that the undertaking does not adversely affect the historic property?



Comply with the
Secretary of the Interior's
Standards
for
Rehabilitation

Remember...

▶ No Adverse Effects

- A property that is restored, rehabilitated, repaired, maintained, stabilized, premeditated, or other changed in accordance with the *Secretary's Standards*
- Minor changes that do not adversely impact character defining features

If the local government and the SHPO concur that no historic properties will be adversely affected by the undertaking, then...?

Congratulations!

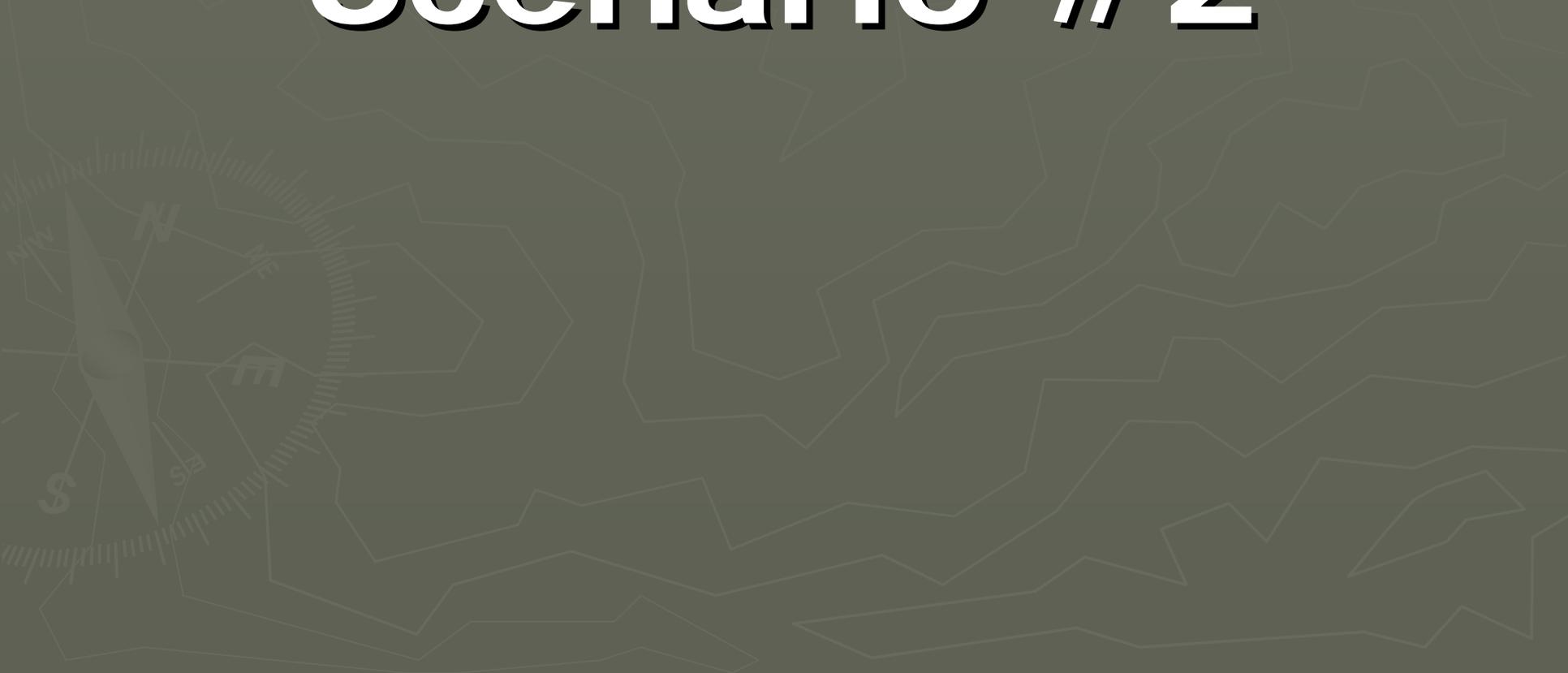


**You have successfully met your
Section 106 obligations.**

**That's right,
YOU ARE DONE!**

Rehabilitation projects typically conclude with a finding of no historic properties affected, or no historic properties adversely affected.

Scenario #2



New Development



Walk Through the Steps

Step #1

Is there an
Undertaking?



Now you tell me!

Is there an
undertaking
if...



...a low income multi-family housing complex will be constructed?



YES!



...land will be acquired that will later have a senior housing complex constructed on it?



YES!



Now you tell me!

In the last situation,
what is the project?

- ▶ The purchase of the land?
- ▶ The land acquisition, and the later development?

And the answer is...

the land acquisition, and the later development.

Walk Through the Steps

Step #2

Determine the

Area of Potential Effects



Again, remember to consider the...

- ▶ Direct effects
- ▶ Visual effects
- ▶ Audible effects
- ▶ Socio-cultural effects
- ▶ Indirect or secondary effects

For New Development APEs

- ▶ Think broadly
- ▶ There is more chance to adversely affect the surrounding properties during new development undertakings

Now you tell me!



What is the APE?



- ▶ The subject parcel?
- ▶ The subject parcel and all adjacent parcels?
- ▶ A ½ mile project radius?

And the answer is...

For a new development project the APE is typically the subject parcel and all adjacent parcels.

Walk Through the Steps

Step #3

Identification of Historic Properties



Don't forget that...

The standard for identification is a "reasonable and good faith effort" to identify history properties.

Now you tell me!

What should you do to research & document a property for a new development project?

The SHPO needs to review...

- ▶ Photographs
- ▶ Construction dates
- ▶ CHRIS record search
- ▶ Cultural Resource Reports/Surveys
- ▶ Drawings
- ▶ DPR 523s
- ▶ Maps
- ▶ Native American contact or outreach documentation

Remember...

For undertakings involving new development you must gather information from Indian tribes and Native Hawaii organizations about properties to which they attach religious and cultural significance, while remaining sensitive to any concerns they may have about the confidentiality of this information.

& keep in mind...

Archeology,

Archeology,

Archeology!!!

Whenever an undertaking involves ground disturbing activities, you **MUST** have a records search performed for the project APE at your regional California Historical Resources Information System center.

CHRIS record search results are a critical portion of your submittal to SHPO for new development projects!

- ▶ California Historical Resources Information System (CHRIS)
- ▶ Eleven regional information centers
 - Information about the built environment
 - Information about archeological properties
 - ▶ (some information is confidential with limited access to non-professionals)
 - ▶ http://ohp.parks.ca.gov/?page_id=1068

Walk Through the Steps

Step #4

Assess Effects



Remember...

- ▶ If no historic properties are found, or
- ▶ If no effects on known historic properties are found, then
- ▶ Agency official makes determination that no historic properties are affected
 - Agency official must place documentation in a public file prior to approving the undertaking
 - SHPO has 30 days to object

So, congratulations!



**You have successfully met your
Section 106 obligations.**

**That's right,
YOU ARE DONE!**

Now you tell me!

If a property or site within the undertaking's APE is eligible for the National Register, and the undertaking will adversely affect the property or site, what should the local government do?

Remember...

- ▶ Continue consultation among the local government official, SHPO and consulting parties
- ▶ Local government official must notify ACHP when adverse effects are found and invite them to participate
- ▶ Local government official is obligated to provide project documentation to all consulting parties at the beginning of the consultation to resolve adverse effects.

& remember...

- ▶ Local government official must provide an opportunity for members of the public to express views
- ▶ Enter into a Memorandum of Agreement (MOA)
- ▶ MOA does not reduce the adverse effects to a no adverse effect determination
- ▶ Formal conclusion of the Section 106 process

New development undertakings typically conclude with a finding of no historic properties affected, or an agreement document.

Questions & discussion...



Contact Information

- ▶ Shannon Lauchner, State Historian II, Local Government Unit, California Office of Historic Preservation
 - Slauchner@parks.ca.gov
 - (916) 653-5649
- ▶ Lucinda Woodward, Supervisor of Local Government Unit, California Office of Historic Preservation
 - Lwoodward@parks.ca.gov
 - (916) 653-9116