



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: June 21, 2007

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the authority of the Heritage Preservation Commission (HPC) to take action on the proposed project by virtue of the 60-day rule. Appeal of a Certificate of Appropriateness approval condition action of the HPC addressing the location of a cellular installation at 414 7th Avenue SE by T-Mobile (BZH-25056).

Recommendation: The HPC adopted the staff recommendation May 15, 2007 to conditionally approve a Certificate of Appropriateness to allow the construction of a cellular installation on the roof of the Andrews House Apartment building's three-story contemporary addition.

Previous Directives: N/A

Prepared or Submitted by: Erik Carlson, Senior Planner, 612-673-5348

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Erik Carlson, Senior Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
 Other financial impact (Explain):
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 3

Neighborhood Notification: The Marcy-Holmes Neighborhood Association was notified of the appeal on June 11, 2007.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: The end of the 60 day decision period is June 22, 2007

Other: Not applicable.

Background/Supporting Information Attached: The appellant received zoning approval to construct a cellular installation on July 18, 2005 on the roof of the Andrews House Apartment building. City staff did not identify this property at that time as being a contributing structure to the locally designated 5th Street SE Historic District. Any major alteration to this building requires HPC review. No review of the impacts to historic resources by City Staff or the HPC was done. T-Mobile had partially constructed the structure when the City requested that T-Mobile return to receive HPC review. The HPC, as a part of six conditions of approval, required that the installation be relocated to a site other than on the wing of the original building. The HPC voted to approve Certificate of Appropriateness on May 15, 2007.

The apartment building has two parts: an original structure that once was the St. Andrews Hospital which is 5 stories tall and unoriginal wing 3 stories tall which was added when the Hospital was later converted to apartments. The partially constructed cellular installation is now located on the roof of a penthouse on the roof of the 5-story original building.

T-Mobile is the owner and operator of the cellular equipment and is leasing the space from the owners of the Andrews House Apartments, Remington Campus Apartments LLC.

The Marcy-Holmes Neighborhood Association considered appealing the HPC decision. However they declined after T-Mobile appealed. The Association did submit an appeal application from for the record to convey their perspective and intent.

Supporting Material

May 15, 2007 HPC Actions

Staff Report

Meeting Minutes 5-15-2007

Appellant Application Materials

Marcy-Homes Neighborhood Association Materials

Zoning Code Regulations governing Communications Towers

Record of Communications and Reports Prior to Certificate of Appropriateness Application

Minneapolis Heritage Preservation Commission

Regular Meeting

May 15, 2007

4:30 p.m. - Room 317, [City Hall](#), Minneapolis, Minnesota

Commissioners: Chair Koski, Anderson, Crippen, Larsen, Lee, Messenger, and Selchow.

Excused absence: Commissioner Dunn and Ollendorf

Committee Clerk: Dan Villarreal (612) 673-2615

Call to order

Approval of the Agenda

Approval of Minutes

1. Approval of May 1, 2007 Meeting Actions

MOTION by Commissioner Anderson to **approve** the minutes. **SECOND** by Commissioner Selchow. **Motion approved** with one abstentions.

Public Hearings

Introduction to the Public Hearing

Public Hearing

1. **93 Nicollet Street, St. Anthony Falls Historic District, Ward 3 (Staff: Brian Schaffer)**

Certificate of Appropriateness for a rear addition to a single family home on Nicollet Island. This item was continued from the May 1, 2007 public hearing.

Action

Motion by Chair Koski to **adopt** staff findings and **approve** the application for

Certificate of Appropriateness, with conditions #1, #3, and #4, adding a condition that the egress window and window well are approved at the rear of the house, window type configuration and retaining wall will be reviewed and approved by staff and striking finding #8 and condition #2. Add finding based on historical documentation presented (Sanborn Map) that historically the house did have an addition of this size and mass, fitting within the district. Add finding that the skylight is not acceptable and a parallel condition that the skylight is not approved. **SECONDED** by Commissioner Anderson. **MOTION APPROVED** with no abstentions.

2. 414 7th Ave SE, Ward 3 (Staff: Erik Carlson)

Certificate of Appropriateness to install rooftop cellular antennas and associated structures.

Action

Motion by Chair Koski to **adopt** staff findings and **approve** the application for Certificate of Appropriateness. Modifying condition #3 striking the word "fiberglass" to read "The material and color for the enclosure must be approved by the HPC." **SECONDED** by Commissioner Crippen.

3. 2019 Franklin Avenue Southeast, Ward 3 (Staff: Aaron Hanauer)

Demolition of a Potential Historic Resource application to allow demolition of home.

Action

Motion by Commissioner Anderson to **adopt** staff findings and **approve** demolition permit. **SECONDED** by Commissioner Larson

Commission Business

Chair Koski reminded the commission of the HPC awards luncheon taking place this Thursday May 17, 2007.

Adjournment

Next Regular Heritage Preservation Commission Meeting: June 5, 2007

The President reserves the right to limit discussion on Agenda items.

Heritage Preservation Commission decisions are final unless appealed.

Attention: If you want help translating this information, call **-Hmong** - Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 612-673-2800; **Spanish** - Atención. Si desea recibir asistencia gratuita para traducir esta información, llame 612-673-2700; **Somali** - Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la' aan wac 612-673-3500

The meeting site is wheelchair accessible; if you need other disability related accommodations, such as a sign language interpreter or materials in alternative format please contact Rose Campbell at 612-673-2615.

[Minneapolis Community Planning and Economic Development \(CPED\) Department Home](#)

ARTICLE VIII. COMMUNICATION TOWERS, ANTENNAS AND BASE UNITS

535.470. Purpose. Regulations governing communication towers, antennas and base units are established to provide for appropriate locations for communication towers, antennas and base units, to ensure compatibility with surrounding uses, to promote the co-location of communication antennas, and to preserve the city's ability to provide a public safety communication system.

535.480. Definitions. As used in this article, the following words shall mean:

Base unit. An unstaffed single story structure or weatherproofed cabinet used to house radio frequency transmitters, receivers, power amplifiers, signal processing hardware and related equipment.

Communication antenna. A device intended for receiving or transmitting television, radio, digital, microwave, cellular, personal communication service (PCS), paging or similar forms of wireless electronic communication, including but not limited to directional antennas such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Communication antenna, facade mounted. A communication antenna mounted on the facade of a structure such as a building, water tower, clock tower, steeple, stack or existing light pole or communication tower.

Public safety communication system. A communication system owned or operated by a governmental entity such as a law enforcement agency, public works department, municipal transit authority or medical facility.

Communication tower or antenna, rooftop mounted. A communication tower or antenna located on the roof of a structure such as a building, water tower, clock tower, penthouse or similar structure.

Communication tower. Any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self supporting lattice towers, guyed towers or monopole towers. A communication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Communication tower, monopole. A communication tower consisting of a single pole, constructed without guyed wires and anchors.

Communication tower and antenna height. The height of a freestanding communication tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

Institutional use. Educational facilities, parks, cemeteries, golf courses, sport arenas, religious institutions, athletic fields and publicly owned property.

Publicly owned property. Land, buildings or structures owned by any governmental body or public agency including city, county, state or federally owned properties, other than public rights-of-way.

535.490. Permitted uses exempt from administrative review and approval.

Notwithstanding any other provisions to the contrary, communication towers and antennas designed for private reception of television and radio signals, used for amateur or recreational purposes, shall be permitted in all districts, provided such antennas and towers comply with the standards of section 535.540 and the following:

- (1) Notwithstanding the height limitations of the zoning district, freestanding towers and antennas shall not exceed thirty-five (35) feet in height and rooftop mounted antennas shall not exceed fifteen (15) feet in height.
- (2) Antennas shall not exceed one (1) meter in diameter in the residence and office residence districts and two (2) meters in diameter in all other districts.
- (3) Towers and antennas shall not be located in any required front, side or rear yard, nor shall they be located between a principal building and a required front or side yard.
- (4) Only one (1) freestanding tower and antenna shall be allowed per residential zoning lot.

535.500. Permitted uses subject to administrative review and approval.

(a) Uses. Notwithstanding the height limitations of the zoning district, the following uses shall be permitted in all zoning districts, subject to administrative review and approval by the zoning administrator, as specified in section 535.510, and the standards of this section:

- (1) Rooftop communication towers and antennas not exceeding fifteen (15) feet in height.
- (2) Facade mounted communication antennas.
- (3) Extension of the height of existing communication towers of not more than fifteen (15) feet, provided the total height of the communication tower and all antennas shall not exceed the total allowable height, as provided in section 535.530.

(b) Standards. Permitted uses subject to administrative review and approval shall comply with the standards of section 535.540 and the following:

- (1) The antenna and its supporting structure shall be aesthetically compatible with the structure upon which the proposed antenna is to be mounted and with surrounding uses. Facade mounted communication antennas shall be camouflaged, and rooftop mounted communication antennas and towers shall be camouflaged where it is determined to be necessary.
- (2) The structure upon which the proposed antenna is to be mounted shall have the structural integrity to carry the weight of the antenna and its supporting structure.
- (3) The base unit shall be aesthetically compatible with the structure upon which the proposed antenna is to be mounted and with surrounding uses.

(4) An existing communication tower shall be allowed only one (1) height extension of not more than fifteen (15) feet by administrative review. Additional extensions may be applied for as a conditional use.

535.510. Administrative review process. (a) In general. The zoning administrator, in consultation with the planning director, shall have up to ten (10) working days following the submittal of a complete application to approve or deny such application. The zoning administrator may impose such conditions and require such guarantees deemed reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this zoning ordinance and policies of the comprehensive plan.

(b) Submittal requirements. In addition to the general application requirements of Chapter 525, Administration and Enforcement, the applicant shall submit the following:

(1) Scaled schematic drawings and photographic perspectives showing the structure and the placement of the tower and antenna on the structure.

(2) A written certification from a registered engineer that the structure has the structural integrity to carry the weight of the tower and antenna.

(3) A scaled drawing showing the size, location, construction materials and screening of the base unit.

(4) A scaled drawing showing how the tower and antenna will be camouflaged.

(5) A letter from the director of public works stating that the proposed site, if located on publicly owned property, is not needed for the public safety communication system or stating that co-location is acceptable. The director of public works shall have ten (10) working days after receipt of a written request to make such determination.

(c) Appeals. Notwithstanding the provisions of Chapter 525, Administration and Enforcement, decisions of the zoning administrator regarding the administrative review of permitted telecommunication towers, antennas and base units shall be subject to appeal to the city planning commission.

535.520. Conditional uses. (a) In general. The following communication towers, antennas and base units may be allowed as a conditional use, subject to the provisions of Chapter 525, Administration and Enforcement, and sections 535.530 and 535.540:

(1) Freestanding communication towers and antennas, including antennas mounted on light poles and similar structures that are not facade mounted, provided that towers and antennas located in the residence and office residence districts shall be located on institutional use sites of not less than twenty thousand (20,000) square feet. Freestanding communication towers and antennas shall be prohibited in the downtown area bounded by the Mississippi River, I-35W, I-94, and I-394/Third Avenue North (extended to the river) except that antennas may be mounted to light poles existing on the effective date of this ordinance.

(2) Rooftop mounted communication towers and antennas exceeding fifteen (15) feet in height.

(3) Communication towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes which exceed thirty-five (35) feet in height if freestanding or fifteen (15) feet in height if rooftop mounted, or antennas which exceed one (1) meter in diameter in the residence and office residence districts or two (2) meters in diameter in all other districts.

(4) Communication towers and antennas that use any portion of a structure, other than the roof or penthouse, for structural support and do not meet the definition of a facade mounted communication antenna.

(Ord. No. 2006-Or-104, § 1, 9-22-06)

535.530. Specific standards for conditional uses. All communication towers and antennas requiring a conditional use permit shall be subject to the provisions of Chapter 525, Administration and Enforcement, and the submittal requirements of section

535.510(b). In addition, the applicant shall comply with the following standards and submit written documentation indicating such compliance:

(1) Tower type. Communication towers shall be of a monopole design. The city planning commission may consider the substitution of alternative tower types in cases where structural, radio frequency, and design considerations, location or the number of co-locators suggests a tower other than a monopole.

(2) Co-location of communication antennas. Shared use of existing communication towers shall be preferred to the construction of a new tower.

(3) Height of freestanding towers and antennas.

a. Residence, office residence and commercial districts. The height of freestanding communication towers and antennas located in the residence, office residence and commercial districts shall not exceed seventy-five (75) feet.

b. Industrial districts. The height of freestanding communication towers and antennas located in the industrial districts shall not exceed one hundred (100) feet.

c. Excess height. The city planning commission may increase the height of freestanding towers and antennas, provided that in the residence, office residence and commercial districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall submit an inventory of existing and approved communication towers within a one (1) mile radius of the proposed site outlining opportunities for shared use as an alternative to the construction of a new tower, and shall demonstrate to the satisfaction of the city planning commission the following:

1. The proposed antenna cannot be accommodated on an existing or approved tower due to one (1) or more of the following reasons:

i. The unwillingness of the owner of the existing or approved tower to co-locate an additional antenna.

ii. The planned antenna would exceed the structural capacity of existing or approved tower.

- iii. The planned antenna would cause radio frequency interference with other existing or planned equipment, which cannot reasonably be prevented.
 - iv. Other reasons affecting technical performance, system coverage and system capacity make it impractical to place the proposed equipment on existing or approved towers.
 - v. The proposed co-location on an existing or approved tower would not conform to the requirements of the zoning ordinance.
- 2. The surrounding topography, structures, vegetation and other factors make a tower that complies with the district height regulations impractical.
 - 3. The proposed tower is designed to structurally accommodate both the applicant's antenna and at least one (1) additional user. The applicant shall submit a letter indicating the proposed tower is available for co-location with a phone number for interested parties to call.
 - (4) Height of all other towers and antennas allowed by conditional use. The maximum height of all other towers and antennas shall be as approved by conditional use permit.

535.540. Development standards for all permitted and conditional communication towers, antennas and base units. In addition to the standards of sections 535.490, 535.500 and 535.530 above, all communication towers, antennas and base units shall be subject to the following standards:

- (1) Encroachments and setbacks.
 - a. The tower site and setback shall be of adequate size to contain guyed wires, debris and the tower in the event of a collapse.
 - b. Communication towers shall maintain a minimum distance from the nearest residential structure equal to twice the height of the tower. For the purposes of this article, residential structures shall also include any parking structure attached to a principal residential structure.
 - c. No part of any communication tower, antenna, base unit, equipment, guyed wires or braces shall extend across or over any part of a public right-of-way.
 - d. Communication towers, antennas and base units shall comply with applicable regulations as established by the Federal Aviation Administration.
 - e. Communication towers, antennas and base units shall comply with the minimum yard requirements of the district in which they are located.
- (2) Compatibility with nearby properties. Communication towers, antennas and base units shall utilize building materials, colors and textures that are compatible with the existing principal structure and that effectively blend the tower facilities into the surrounding setting and environment to the greatest extent possible. Metal towers shall be constructed of, or treated with, corrosive resistant material. Outside of the industrial districts, unpainted, galvanized metal, or similar towers shall be prohibited, unless a self-weathering tower is determined to be more compatible with the surrounding area.

(3) Screening and landscaping. A screening and landscaping plan designed to screen the base of the tower and the base unit shall be submitted. The plan shall show location, size, quantity and type of landscape materials. Landscape materials shall be capable of screening the site all year. One (1) row of evergreen shrubs or trees capable of forming a continuous hedge at least six (6) feet in height within two (2) years of planting shall be provided to effectively screen the base of the tower and the base unit, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes. A maintenance plan for the landscape materials shall also be submitted. The city planning commission may consider the substitution of other architectural screening plans such as a decorative fence or masonry wall in lieu of planted materials.

(4) Rooftop mounted towers and antennas. Rooftop mounted communication towers and antennas shall not be located on residential structures less than fifty (50) feet in height, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes.

(5) Facade mounted antennas.

a. Mounted on freestanding towers and poles. A facade mounted antenna shall not extend above the facade of the tower or pole on which it is mounted, but otherwise may project outward beyond such facade.

b. Mounted on all other structures. A facade mounted antenna shall be mounted flush against the structure on which it is mounted and shall not extend beyond the facade of such structure, except that antennas designed for private reception of television and radio signals, used for amateur or recreational purposes, may extend above the facade of the structure.

(6) Base units. Base units shall not exceed five hundred (500) square feet of gross floor area. The city may require as a condition of approval that base units be located underground.

(7) Security. All sites shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve (12) feet above ground level, shall be designed in a manner to discourage unauthorized climbing.

(8) Signage. Advertising or identification of any kind on towers, antennas and base units shall be prohibited, except for applicable warning and equipment information signage required by the manufacturer or by federal, state or local regulations.

(9) Lighting. Communication towers and antennas shall not be illuminated by artificial means, except when mounted on an existing light pole or where the illumination is specifically required by the Federal Aviation Administration or other federal, state or local regulations.

(10) Heritage Preservation Ordinance compliance. Communication towers and antennas proposed for any locally designated historic structures or locally designated historic districts shall be subject to all requirements of the city's Heritage Preservation Ordinance.

(11) Radio frequency emissions and noninterference. The applicant shall comply with all applicable Federal Communication Commission standards.

(12) Public safety communication system. The location of the proposed antenna, if located on publicly owned property, shall not be needed for use by the public safety communication system, or if needed, it shall be determined by the director of public works that co-location of the proposed antenna with a public safety antenna is agreeable.

535.550. Obsolete or unused towers. All obsolete or unused communication towers, antennas and base units or accessory facilities shall be removed within twelve (12) months of the cessation of operations unless an extension is approved by the city planning commission. If an extension is not approved, such towers, antennas and base units shall be deemed a nuisance, and the city may act to abate such nuisance and require their removal at the property owner's expense. The operator shall provide the city with a copy of the Federal Communications Commission notice of intent to cease operations at the same time it submits such notice to the Federal Communications Commission. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all operators cease operations for a period of twelve (12) consecutive months, provided each operator shall provide the city with notice of intent to cease operations. After the facilities are removed, the owner or operator of the site shall restore the site to its original, or to an improved, condition.

CITY OF MINNEAPOLIS

CPED – PLANNING DIVISION

HERITAGE PRESERVATION COMMISSION STAFF REPORT

FILE NAME: 414 7th Avenue SE (706-08 5th Street SE)

APPLICANT: T-Mobile, Charles Beisner

DATE OF APPLICATION: April 10, 2007

APPLICATION DEEMED COMPLETE: April 20, 2007

DATE OF HEARING: May 15, 2007

HPC SITE/DISTRICT: Fifth Street SE Historic District

CATEGORY: Contributing

CLASSIFICATION: Certificate of Appropriateness

STAFF INVESTIGATION AND REPORT: Erik Carlson

DATE: May 15, 2007

SITE DESCRIPTION:

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The Andrews House is a red brick five story apartment building located in the 5th Street SE Historic District. The building has clay tiles along its flat roof line. The structure was formerly St. Andrews Hospital first built in 1911. The hospital received a large addition in 1927 when it was converted to apartment buildings. The building is not described as contributing in the historic district nomination but fits within the period of significance for the district.

The 1911 structure is "T" shaped. The 1927 addition is attached to the top of the "T" and forms an easterly wing (see Appendix A). The top of the "T" faces 5th Street SE and the stem of the "T" fronts 7th Avenue SE. The building entrance is on 5th Street. On-site parking is provided along 7th Avenue SE. Tree cover along 7th Avenue SE near the building at issue is well developed.

B. BACKGROUND:

In July 2005, the applicant, T-Mobile Wireless, submitted a request for administrative zoning approvals for the construction of a cellular tower at this address. The application included a copy of a letter from the Minnesota State Historic Preservation Office dated June 2, 2005 which indicated that "no properties eligible or listed on the National Register of Historic Places are within the project area's effect." (See Appendix B). CPED-Planning staff reviewed the application. No information was noted on the worksheet about the properties location within a locally designated historic district. Administrative Review and approval of the zoning request was granted by CPED-Planning on July 18, 2005 (Appendix C) with the following conditions:

1. "Antennas, supporting structures, coax cables and base equipment are located as illustrated on plans dated May 4, 2005.
2. Antennas are not more than six (6) feet in length.
3. Antennas do not extend more than ten (10) feet above the roofline of the building.

Antennas and the base equipment enclosure are located behind a faux brick screen enclosure. Error on the part of CPED-Planning caused the zoning application to be approved without consideration or review in relation to the locally-designated historic district.

Based on complaints about the project made to CPED-Planning's Zoning Enforcement Team, CPED asked the applicant to submit applications for proper preservation review and approvals. After some delay, the applicant submitted the enclosed application on April 10, 2007 seeking approval for a Certificate of Appropriateness.

As of April 2007, the cellular tower project is now partially constructed (See Appendix C). To date, the applicant has installed four antennas, equipment cabinets, ladder and catwalk, and the steel frame which would support fiberglass walls to screen the equipment.

C. PROPOSED CHANGES:

The applicant proposes to install four cellular antennas six feet in length and four equipment cabinets and screen this equipment within a fiberglass enclosure supported by a steel frame. The installation would be constructed on the roof of the building at 414 7th Ave SE on top of the building's uppermost roof at the north end of the building near 5th Street SE. The fiberglass enclosure would be 20 feet long, 13 feet 8 inches wide, 6 feet tall, ¼ inch thick and be painted to match the color of the building. The enclosure would be elevated 2 feet above the roof of the mechanical equipment structure supported by four steel posts.

The cellular antennas would be fixed to the steel frame of the enclosure. Three lightening rods would be located inside the enclosure. A metal ship's ladder and catwalk to access the antennas would also be installed. The ladder extends up from the building's roof to a point above the height of the mechanical equipment structure. A catwalk extends from the ladder to the antenna installation.

The top of this mechanical equipment structure is 90 feet from grade. The distance from the midpoint of the cellular antenna enclosure to grade would be 94 feet 6 inches. To date, the applicant has installed four antennas, equipment cabinets, ladder and catwalk, and the steel frame as described above which would support fiberglass walls to screen the equipment (see Appendix D). This was a part of the original July 18, 2005 City approvals.

D. GUIDELINE CITATIONS:

FIFTH STREET SOUTHEAST HISTORIC DISTRICT DESIGN GUIDELINES

(Adopted July 30, 1976)

Overview

The Fifth Street S.E. and Washburn-Fair Oaks Preservation Districts contain a concentration of structures, lands, and space which is distinguished by past historical and cultural events, by architecture quality and by aesthetic appeal. The areas were designated for heritage preservation by City Council on July 30, 1976.

In an area designated for heritage preservation, the Heritage Preservation Commission reviews requests for city permits that would change or significantly alter the nature of a preservation district. Before approving permit requests the Heritage Preservation Commission must consider certain aspects for each type of permit requested.

General Regulations

Alteration or addition to an existing building "will not materially impair the architectural or historic value of the building." Written findings shall consider existing appearance (building height, width, depth, and other dimensions, roof style, type of building materials, ornamentation, paving setback, and color).

Design Considerations (for additions, alterations, and new construction)

1. Dimensions of height, width, and depth of additions and new construction shall take into consideration the directionality of adjacent and nearby structures.

6. Materials - generally new materials shall be compatible with the existing.

e. General facade guideline Avoid fake brick or stone, asphalt or asbestos siding.

7. Roof design The original roof design should be maintained, but the insertion of dormers may be allowed depending on the building's design and the location of the proposed dormer. Where unusual roof styles exist they should be retained, but the roofs of additions should be a complementary type. For example, a gambrel roofed house may have a gabled roof addition.

The Secretary of the Interior's Standards for Rehabilitation

U.S. Department of the Interior National Park Service, 1990

-Constructing a new addition so that there is the least possible loss of historic materials and so that character-defining features are not obscured, damaged, or destroyed.

-Designing new additions in a manner that makes clear what is historic and what is new.

-Considering the attached exterior addition both in terms of the new use and the appearance of other buildings in the historic district or neighborhood. Design for the new work may be contemporary or may reference design motifs from the historic building. In either case, it should always be clearly differentiated from the historic building and be compatible in terms of mass, materials, relationship of solids to voids, and color.

-Installing mechanical and service equipment on the roof such as air conditioning, transformers, or solar collectors when required for the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

- Not installing mechanical or service equipment so that it damages or obscures character-defining features; or is conspicuous from the public right-of-way.

E. FINDINGS:

1. The building at 414 7th Avenue SE is a contributing structure to the Fifth Street SE Historic District.
2. The recently constructed and proposed alterations materially impair the architectural or historic value of the building and its existing appearance, in particular the building's height, roof line, and character-defining façade along Southeast 5th Street. The directionality of the enclosure matches the wing of the building on which it sits.
3. The district guidelines call for original roof design to be retained. The district guidelines allow for additional roofs if they are of a complimentary type.
4. The antenna installation would not maintain the flat roof line of the building.
5. The original zoning approval determined that an enclosure was needed to screen cellular tower equipment that can be seen from the ground. Because the district guidelines call for new materials and the avoidance of fake brick or stone, the originally suggested faux brick wall is not appropriate for this location.
6. Cellular antenna signals would be blocked by a brick enclosure. The proposed painted fiberglass enclosure would clearly differentiate between what material is historic and what is not. However, painted fiberglass is not an appropriate material for this highly-visible character-defining façade.
7. Historic material of building would not be lost, damaged or obscured.

8. The recently constructed and proposed alterations are for mechanical and service equipment. The location of the alterations is not in keeping with the Secretary of Interior Standards because they would create a protuberance conspicuous from the public right-of-way due to its prominent position on the roof.

F. STAFF RECOMMENDATION:

Staff recommends that the HPC **adopt** staff findings and **approve** the Certificate of Appropriateness application with the following conditions:

1. The existing and proposed installation shall be relocated to a location on the building roof other than on the wing of the original building.
2. The location of the installation shall be at the farthest feasible point away from the exterior building walls, including the 5th Street SE façade.
3. Faux brick will not be used. The material and color for the fiberglass enclosure must be approved by the Heritage Preservation Commission (HPC).
4. Antennas are not more than six feet in length.
5. Antennas do not extend more than 10 feet above the roofline of the building.
6. Final drawings including plans, elevations and details shall be reviewed and approved by CPED-Planning staff.

Appendices

A: Aerial Photographs of Building

B: SHPO Letter

C: Prior City Approval

D: Photos of Project

E: Application Material

Appendix A

Appendix B

Appendix C

Appendix D

Appendix E

**Excerpt from the
Heritage Preservation Commission
MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division
350 South Fifth Street, Room 210
Minneapolis MN 55415
612-673-2597 Phone**

MEMORANDUM

To: Jack Byers, Planning Supervisor
Community Planning

Barb Sporlein, Planning Director
Community Planning & Economic Development Planning Division

SUBJECT: Heritage Preservation Commission decisions of May 5, 2007

Commissioners Present: Koski, Anderson, Crippen, Larsen, Lee, Messenger, and Selchow.

Not Present: Commissioner Dunn and Ollendorf

1. 93 Nicollet Street, St. Anthony Falls Historic District, Ward 3 (Staff: Brian Schaffer)

Commissioner Messenger: The skylight I am not aware. We have never allowed skylights in Historic Districts. I am wondering why that was never addressed?

Staff Brian Schaffer: It is not outlined in the standards itself and in the existing home at 91 Nicollet the adjacent to this, included are some aerial photos the applicant provided. And there is an actual skylight at 91 Nicollet Street. Staff did not bring that forward.

Chair Koski: Do you know if that was a skylight the Commission approved? I also understand there is a chicken coop we did not approve on the island. There are many things that do not go through us.

Staff Brian Schaffer: Chair Koski and Commissioners, they may have not gone through you. Unfortunately in filing, we do not have any of the files for this property or 91 Nicollet to refer back to what was originally approved.

Chair Koski: But, it may or may not provide us precedence for approving the skylight.

Staff Brian Schaffer: It is open to the Commission for adding another condition for approval.

Commissioner Anderson: Not being an architect and knowing really well how to read drawings, what type of egress will be available then from the basement -- outside Egress?

Staff Brian Schaffer: There would be no egress window allowed. I believe the building code would not allow them to have a bedroom. I believe they could still use it for functional space.

Commissioner Anderson: I have not been able to figure out how much total additional footage would result in this, what is the total?

Staff Brian Schaffer: I do not know the actual total square footage that will actually increase the footprint. It is a sixteen by six square addition. I can try to do the calculations by the fly here.

Commissioner Anderson: Some things are going and some things, I am confused.

Staff Brian Schaffer: The architect is here to answer that question.

Commissioner Larsen: Quick questions, it looks like on one of the demolition plans it does not show any, nothing on the west façade in the dining area. And it looks as if they are not taking the wall back, but just taking of the screen porch on sheet D-1. But then, it magically appears on the first floor plan and some of the other plans where you say it delineates between the first floor or the addition and the existing structure. I am wondering if it is an error on the demolition plan or an error on the drawings. I just want to make sure if we approve something we are getting the setback.

Staff Brian Schaffer: Staff is set in four inches shown on the rest of the plans. It may be an error. I think the architect can speak to that. But I believe it has been illustrated. It will be steeped in four inches to meet that existing.

Commissioner Larsen: Second question Brian is: With the egress window as it does not enter, it is not attached or it is not going to modify the existing structure. The historical part, I am wondering how you came to conclude it would be detrimental to have the egress window.

Staff Brian Schaffer: As staff reviewed this, the staff, the amount of alternative design materials was being introduced to the small edition to the home; staff felt that might be too many differences with setbacks, new windows, it may detract a littler further from the historical character of the structure.

Chair Koski: Is it true that we do not have an elevation that exactly shows the egress window on the new elevation? So, I am looking at sheet A-2 drawing #3 back elevations?

Staff Brian Schaffer: It does not show on the rear elevation at this point. The rear elevation seems to stop right at where the foundation wall will begin.

Chair Koski: But to have an egress window into the basement there would have to be a trench. A window well a substantial one.

Staff Brian Schaffer: I believe a sixteen square foot window – well – would be required.

Chair Koski: But, we are not seeing any of that information provided on these plans.

Staff Brian Schaffer: Correct.

Chair Koski: So it is hard to evaluate these plans.

Chair Koski: Any other questions for staff? This is a Public Hearing. Is there anyone else who wishes to speak to this application?

Edna Brazaitis: My name is Edna Brazaitis. Thank you for the opportunity to talk today. I am here because I am ending up being a little bit of an expert on Nicollet Island. And in going through records at SHPO, I noticed next to 171 Nicollet Street which is a property across from 93 Nicollet Street that there is a notation on the bottom. And it say, "Doubled in size now noncontributing Susan Roth 10-94". And Susan Roth as you know is in charge of the Nation register for SHPO. One thing that we have learned in over the years in dealing with SHPO is that they take responsibilities very seriously especially with Nicollet Island. They are very concerned, for example, about bringing in other buildings. We thought we could bring in more old houses

than we could and we couldn't because it would take away the historic nature of the neighborhood. So, Susan has said that the reason the Nicollet Island residential area is a Historic District is not because of the individual -- the individual houses. It is because of the collection -- that they stand as a unit and if you mess around too much with them -- the whole -- things fall.

Edna Brazaitis: So, I did calculations today and I am sorry but I may have made some math errors on this. But the Commissioner Anderson's point and I do not know, if you can see this, that the original structure which I take as being this part of the building is about 1046 square feet. And that was typical -- these were small houses. And when people come to see the Historic District, we want for them to understand what it was at the times during the period of significance. The proposed two-story addition is another 551 square foot basement, 275 square feet, and the garage is 415 square feet. Granted, we are removing a little piece that was there. But it is small and I did not calculate it. But the total additional new square footage that is proposed is bigger than what was originally there. And I afraid that if this project is approved when Susan Roth looks at this particular property she may choose to say it is no longer contributing. I looked then at the guidelines for Nicollet Island and it says no structural additions will be permitted to the structure that were not part of the original design. No, is a pretty clear word to me. Sorry, I am not as prepared as I would like to be. But I did look up the Supreme Court case. The Handcraft Case that was decided in 2000 and actually the Supreme Court has been very friendly towards the HPC. And it looked at your guidelines and it said you may use the word guidelines but that is not what they are. If you have mandatory language and in that case the word "shall" was there, they say it is mandatory. You do not have discretion it's not permissive. So, I would like you to consider as you go forward and consider this you might want to consider that is the word "no". Those other neighbors in the neighborhood have been told that they cannot build beyond the footprint. While the houses next door, I think had their roof replaced over their little addition -- it had a deck and that was just in 2005 and they were told they had to take the deck off the roof. So I think if you allow this addition you may have the potential of causing damage to the Historic District. And I think you will have trouble saying "no" to everybody else who wants an addition.

Chair Koski: Do you mind if I ask you a question? The guideline you have on the overhead what document does that come from?

Edna Brazaitis: I got that out of Brian's presentation and it is also in the ground lease. So, it's the people who have signed leases agreed to be bound by that guideline. I am sure Brian does not know all the stuff about SHPO.

Staff Brian Schaffer: Chair and Commissioners, that is included in your packet. It would be the first item under the regulations after the proposed changes. It is the Nicollet Island guidelines.

Chair Koski: Does everyone else see it?

Is there anyone else who would like to speak to this application?

Todd Grover: Good afternoon Chair and Commissioners. My name is Todd Grover, 3442 43rd Avenue South. I am not the applicant but I have been helping the applicant with this application. A couple issues I would bring forward here. The first to address was what was written in the guidelines specifically that Brian was referenced for Nicollet Island talking about additions to structures. And actually found this, unfortunately, after the application went in. This is a Sanborn from 1893 showing the Nicollet Island, right there is 93, and you can see there is actually an addition on the back of that. So, we are, according to the guidelines not necessarily putting anything there that was not there historically. So the footprint of what we are putting there is a little bit smaller in length but approximately the same width as to what was historically according there or according to the Sanborn maps. It is very unfortunate we could not include this in the packet because I think this would reinforce some of the things. But we found this afterwards. We were giving this actually by a neighbor who had a copy of this map. I can leave a copy to be put in the record.

The second thing we wanted to talk about was the skylight issue that was brought forward by Commissioner Messenger. The 1990 addition that was put on the neighboring house what I will do is show an image. Both of these houses, both 91 and 93 Nicollet were redone back in the 1990s. So this is an image from your packet that both of – 97, I'm sorry, 93 Nicollet is the one on the right and 91 is the one on the left. Both of them and it's a little bit hard to see in this image, but (let's see, I don't have the better image). But if you look in the bottom image you can see that both of those houses were exactly the same size before they were renovated back in 1990. When the additions were put on both of those houses only small additions were put on back of 93 Nicollet, a larger addition was put on 91 Nicollet and in that addition there was a skylight that was put in that addition. So, whether or not, I'm assuming in 1990 it was obviously reviewed by the HPC and why those records aren't here I don't, I don't know. But that would have been something that was conforming to the guidelines that we're using right now and skylights were included in that. There is also one other building and I, and I, one other house and whether or not, I have no information on that. So, but there is another house on Nicollet Island and it does have a skylight in an addition. So, I do not think we will be setting precedence by putting skylights specifically in the addition of this house.

The third thing that I would ask to consider is that looking at staff recommendation #1, staff condition #1 in the recommendations. This idea of on the east side of the building, it is actually in the application we call it the south addition, the south side which is the wall in between 91 and 93 Nicollet. It's kind of that southeast corner that we have there. Putting the double windows there, we really feel that this helps accentuate this idea of the differentiation between the addition of the building and the existing building by altering the articulation of the windows there. And I really feel that on the rest of the building when we turnaround to the backside of the building there will be double windows there that this will further reinforce that aspect that this is an addition. This is a different articulation of the **diffraction** that's there. So we do ask you to reconsider that and also within the guidelines it does say the Mr. Schaffer did speak that number 6 in his findings saying that such design should be comparable with the overall design of the building but not duplicate the **fenestration** pattern in detailing of the character defining elevations. And so within the district's guidelines, a compatible window, appearance would be a double window but again on the rest of the house there are not double windows that are there. So this is, we believe, meeting those guidelines that are written there so we ask you reconsider that finding number 1, the condition number 1. Condition number 2 is actually another issue that we don't believe and I apologize well actually before I get there address a couple of the other problems. Commissioner Larsen in that demolition plan that was an error on the plan that should have stepped in, that that existing building law does step in four inches on the north side there. And then I also apologize for not on the elevation having a window well highlighted in there. Essentially, the grade there is such that the foundation level of the house, the grade rises a little bit and essentially the foundation level is completely right at grade there. So, we should have dotted in a window well there. On the plan it does show where the window well would be located on that basement plan. It is sheet A5 which is kind of weird because it is the basement and the garage plan together. Sorry, I can see at the bottom of that plan there is a window well with the egress window that is placed there. So, it just didn't get transferred to the elevation and I apologize about that. But in regards to what the staff recommendation for that is in the condition not having the egress window we are not against setting a precedence in the district regarding egress windows in basements. These are four different houses that on the Island that do have egress windows – 177 Nicollet, 175 East Island and then both neighbor, neighbors' houses, 97 Nicollet to the north and 91 Nicollet to the south. So, there is precedence already on the Island of having occupy-able basements and this being on a very non-curative defining elevation, we don't believe that it is impinging on any of the characteristic, the historic character of these houses is on in addition and there is already precedence set in the area. So, we don't believe that this is, would be a problem and we also ask, ask that number 2 on the condition then be removed.

Chair Koski: Is that it?

Todd Grover: That's it. Okay, any questions? Commissioners, does anybody have a question, questions for the architect? Commissioner Selchow?

Commissioner Selchow: Todd, did you look at other possibilities, I know that you're showing delineation at the siding. Yep. But at the roof its one solid, can you explain that a little bit.

Todd Grover: A part of the problem is inside currently the/when the building was remodeled back in the 1990s, there is a vault – it's a vaulted ceiling in there. And so, if you're to step down inside of there on the second floor for that roof shape, it would cause a lot of problems on the interior of that by continuing that vaulted ceiling out. And we look at a number of different ways to try to step that down and in order to step it down both visually on the exterior, we would have to step it down quite a bit that it would pose a lot of the problems for heights and ceiling heights of existing ceiling heights on the inside. So, we decided to keep the roof heights the same heights but essentially step the roof back as we, as that, as the building steps back. Actually on the north side we are continuing, continuing the existing plane of that wall were it steps back from the original addition. So that would stay the same, it's just that we're stepping it back on the south side a little more. But instead of bringing the roof down, we're keeping it at the same height because of that interior problems that we're going to be running into with the structure and continuity of the interior spaces.

Chair Koski: Any other questions for the applicant? No. Thank you very much.

Todd Grover: Thank you.

Chair Koski: This is a public hearing, is there anybody else that wishes to speak to this application? Does anybody else wish to speak? Seeing that then I'm closing the public hearing. Commissioners, excuse me. Commissioner Anderson.

Commissioner Anderson: I have a problem that I'd like the others to discuss the doubling in space is a problem for me. Part of the charm of the island is the small houses and if we set a precedence – if this is a precedence setting house. I'm not saying that it is. We could be getting many, many requests for, for enlarging and some of the charm. I want to discuss this. To me some of the charm would be lost.

Chair Koski: Along that line, I would like to ask Mr. Schaffer if he would be willing to, I guess, to explain why the general guideline number 1: No structural additions will be permitted hasn't been applied or addressed in the staff report and in all of the other staff reports where we've approved additions. Not that you can speak for all of the people that have written staff reports before you certainly. But is there a general philosophy among staff about that condition or I mean that guideline.

Staff Brian Schaffer: Chair Koski and commissioners, I can't speak to everyone of the/our issues. But we have been talking about this in our staff meeting and I think maybe Jeff Byers will be able to add on to what I have to say here. But, we/the thought behind this was that a lot of these structures are kind of workman's house, small homes at the time of their construction. And that the historic additions they've followed that kind of shotgun kind of addition to the rear wasn't fitting with the nature and character of those additions in the past that might have taken place on these structures either they're existing structures or structures that were similar on the island or near in with that same design. So that's why it is been, why it's been addressed and mentioned in the staff report and also the guidelines were mentioned. As far as not being mentioned previously in other staff reports, it might have been admission by staff. I can't really speak to a little/larger policy contacts and besides that Jack Byers might want to speak to that.

Chair Koski: We just to respond to your statement or your answer, I think conventionally if we have a guideline that's specifically contradicted by an application or a design that has come before us, there's usually a recognition that okay, well, this does not conform with the guideline

but there are mitigating circumstances and in this case we think that's okay for this and that reason. But you haven't down that in your staff report and that's why we have to ask. Mr. Byers, if you're familiar can you explain perhaps some of the history as to why we've added additions.

Staff Jack Byers: Mr. Chair, Commissioners, I can't speak to every addition on/in every district or on every landmark property. I can't speak to every addition on Nicollet Island previously but what we do try to keep in mind is that, it's more important we thank for a landmark or a historic property to actually be used and be in continuous use and that's better than it not being used or being vacant or under use. So we do try to keep in mind that there is the past that is important but there are also proposals for making sure that people can actually live in landmarks. And it's the commission's decision. So.

Chair Koski: Commissioner Larsen

Commissioner Larsen: Just want to confirm, I'm looking here in staff finding number 2 where it talks about the historic district guidelines and being adopted in 1995 so that would certainly indicate that these, the additions that were approved in 1990 or before, we had specific, specific guidelines for the district. You know, I certainly don't know what they were before and I think that also speaks in my mind a little bit to the skylight issue where they may have been approved in the past maybe even before, but we don't have those in terms of the district guidelines, you know, that were currently operating under. So, its certainly affects my thinking in that regard.

Chair Koski: Any other questions for staff or Commissioner John Crippen, sorry, I forgot your last name there for a second.

Commissioner Crippen: Just to finish or follow-up and continue the conversation about the addition. It seems to me partly the calculation that in the public hearing on square footage was including below story which isn't visual -- visible from the exterior and if you include just square footage of the footprint, it's not doubling it. It's only increasing by half or something and I found it fairly compelling just to look at the Sanborn map to see that originally there was sort of addition there. So, that seems to be consistent with the finding number 3 of staff that it generally fits with this kind of structure -- what we know of these structures and not terribly offensive. So, to me those two things make that such a problem.

Chair Koski: Is there a chance that we can take look at the Sanborn map that you brought with you Mr. Grover? I'd like to see it in my hands, I guess.

Chair Larsen: Anybody happen to see the note from an email here received by representative, I don't know what/who sent this but a Mary Nadial regarding the cedar shingles? I'm just wondering if it wasn't mentioned by Brian in terms of the presentation.

Chair Koski: I did notice that but I wasn't quite clear what they were implying. Yea, I wasn't sure if that was shingles for the roof or for the siding. Mr. Schaffer?

Staff Brian Schaffer: I can't speak to what the intent of the email received was but the proposed application, proposed roof on this is a wood shingled roof. The applicant could speak to if it's going to be cedar shingle or if it's going to be another type of material, but it was a wood shingle roof and that's outlined in what the staff -- what the applicant included in their statement for the project.

Chair Koski: Okay -- thank you.

Does this --- Commissioners, does anybody want to make a motion?

Chair Koski: I'm going to make a motion then that we adopt staff findings and approve a C of A with conditions 1, 3 and 4 and going to add a condition that the window and window well are approved at the rear of the house. I should say it again. That's the egress window and the

window well are approved. The window type configuration and the retaining walls around the well be approved by staff – reviewed and approved by staff. I also feel I need to add a finding that based on historical documentation, specifically the Sanborn map that was presented at the public hearing which I assume that we'll get a copy of and include in the public record that historically the house did have an addition of roughly this size and mass and therefore is fitting within the district. That's my motion.

Commissioner Larsen: I'll second that motion. Alright. I do have an amendment.

Chair Koski: Please?

Commissioner Larsen: Regarding the findings would we then not want to strike finding number 8?

Chair Koski: Correct, I'll accept that amendment. So, we're striking finding number 8.

Commissioner Larsen: Do you have, I have a question for you. Sure. Regarding the windows, it does talk about window (let me see here) for additions designing and installing under alterations and additions for new use. Designing and installing additional windows in the rear on other non-defining characters – I use new windows – I think it should be cutting new exposed parting walls – I suppose such designs should be comparable with the overall design of the building but not duplicate the fenestration pattern in detailing. They've done some of that but I'm wondering.

Chair Koski: Well, my larger concern about the current design is not only that there are a pair of windows on one wall but they're also push up very close to the corner and as you turn the corner there's another window there. So, I think the 3-dimensional affect is that it's going to be very open and not necessarily a window wall with punched windows. If you get my.

Commissioner Larsen: Yes

Chair Koski: I think that you can certainly have two windows on that side of the wall maybe with a little bit more spacing in between them and that would satisfy my concern about it. I don't want to direct how the solutions should be solved but I believe that the staff recommendation is sufficient in that regard. I may have jumped the gun a little bit did the staff recommendation allow the skylight?

Commissioner Larsen: It does.

Chair Koski: I would like to add a finding that the skylight is not acceptable.

Commissioner Messenger: Good then I can support it then.

Chair Koski: And I would also like to add a parallel condition that the skylight is not approved.

Commissioner Larsen: Well, I'll accept those amendments.

Chair Koski: Okay.

Commissioner Larsen: Do you want to indicate a little bit more on the findings, just indicating that while there may be precedence (there may be existing skylights in the district) no precedence set/past 1995 when these guidelines went into effect.

Chair Koski: That's very well intended. I'm trying to find the guidelines that specifically refer to windows here.

Commissioner Messenger: It doesn't address the skylight at all.

Chair Koski: It doesn't address skylights? So the finding would read that skylights are not acceptable although they are found on other additions in the district, there is no compelling evidence to allow them in this situation.

Commissioner Larsen: Dating back that the evidence shows that those additions were before 1995 that they preceded 1995 guidelines. Yes.

Chair Koski: Okay. So that's the motion. That the changes have been approved, any discussion, or do we need clarification. Commissioner Selchow?

Commissioner Selchow: Can I just have a quick clarification?

Chair Koski: Sure.

Commissioner Selchow: Because did we not strike condition number 2?

Commissioner Larsen: Yes, we did.

Commissioner Selchow: So, why did we strike finding eight?

Commissioner Larsen: Because finding eight says there shouldn't be egress windows.

Commissioner Selchow: Didn't read the next page – sorry about that.

Chair Koski: Commissioner Lee?

Commissioner Lee: Why that previous – why are you mentioning? That those, the previous modifications were before 1995, those guidelines don't even address skylights. Do we even?

Chair Koski: Well, you know, I think the HPC that was reviewing whatever application allowed the skylight at that time was reviewing it given different guidelines altogether, different standards, we don't have application about why the skylight would have been allowed or approved and maybe that was a reason that the guidelines were rewritten. We just have no way of evaluating it at this time so like I said I don't, I see that there's no compelling evidence to allow it. Commissioner Crippen?

Commissioner Crippen: But, well, unless I'm mistaken then quick review the 1995 guidelines if they don't address skylights what's our bases for rejecting this one? If they don't even mention it – its just our judgment?

Chair Koski: Exactly

Commissioner Crippen: And therefore do we need a finding saying we think skylights are a bad thing. I mean what's the basis?

Chair Koski: The basis is that I find it inappropriate. I skylights are very modern-looking in appearance when they're put on a Gabriel roof. Commissioner Selchow?

Commissioner Selchow: Sorry, I didn't mean to interrupt but actually if you, it is, its just in a reversed way because it actually defines for us how openings should be addressed to the building and I think that if you try to apply skylight logic to the way they discuss the nature of openings, I don't believe a skylight would fall into how the nature of openings are defined.

Chair Koski: I mean it sounds like something that falls outside of what the guidelines address and so therefore, it is up to our own discretion to determine whether or not that's appropriate. Chair

Chair Koski: And I think anytime that we are faced with that situation there needs to be compelling evidence, there needs to be a rationale why we would allow something that's outside of the ordinary and I just didn't see any argument.

Commissioner Larsen: Who else would argue that skylights are a type of opening to a window if you will and roof and so it does talk about windows and openings and we don't have evidence of windows and openings in roofs and the previous historic buildings. So therefore just because the fact that it's not on the wall, it's on the roof leads me to believe that it is a type of window. It does open, it does operate. So

Commissioner Crippen: So to synthesize these, I would agree with Commissioner Lee that we don't need to strike that, we don't need to create a new finding about 95 guidelines, we simply need to refer to guideline number 6 and say: we don't think, if we need a finding, the finding is a skylight doesn't fit within guideline number 6 as we understand it and read it. This is not something you normally find on a roof line. That would be a clearer finding I think.

Chair Koski: So, removing the finding regarding the skylight which we had allowed in the amendment.

Commissioner Larsen: Well, I think we need a finding relating to the skylight and I think indicating that is prior to 1995, we don't know what the guidelines indicating prior to that. This, the idea is, before 1990, before 1995 who knows what, who know what the guidelines said regarding openings. But these seem before 1995 and to use that as a precedence doesn't take weight given our, given our current standards which are outlined as we discussed, just discussed.

Chair Koski: Okay, I'm going to call the vote.

Commissioner Messenger: Good.

Chair Koski: All, all in favor of the motions say "Aye". Aye, Aye, Aye. Opposed, abstentions, the motion carries. The C of A is improved with the modifications and the changes and did we can we make sure that that the Sanborn map gets over to the Clerk? Thank you.

2. 414 7th Ave SE, Ward 3 (Staff: Erik Carlson)

Chair Koski: Thank you.

Commissioner Messenger: Thank you. Erik, my question is if there was no antenna there right now and we were looking at this as the brand new application because we are looking at this antenna, what would your recommendation have been?

Staff Erik Carlson: Chair Koski and Commissioner Messenger, my recommendation would be exactly the same as I the way I presented it tonight. My feeling and the staff's feeling is the impact to this District and this building is one of visual and we believe that there are design options that the applicant can pursue in order to mitigate those visual impacts.

Commissioner Messenger: Thank you very much.

Chair Koski: Any other questions for staff? Commissioner Larsen.

Commissioner Larsen: Is there a reason why, I can see your point of locating a potential tower in the middle or toward the rear of the elevations on the roof tops. Why not on the original building?

Staff Erik Carlson: Chair Koski, Commissioner Larsen, I'm sorry.

Commissioner Larsen: And even, and maybe and just farther not so much along the 5th Street elevation but more on the middle of the structure, correct?

Staff Erik Carlson: Chair Koski, Commissioner Larsen, we believe that if the installation is elevated it can be seen from a farther distance. Lowered is the more obscured it will be. For instance, if it is in this location, it won't be visible from 7th Avenue also there are a number of trees surrounding the property which may also obscure that tower installation.

Commissioner Larsen: Thank you.

Chair Koski: I'm going to open this up to the public. Is there anybody who wishes to speak to this application? You can take turns, you can step forward, form a line if you have a life. How many people want to speak tonight? We probably will have a line. How many people are here to actually make comments? Okay. Make sure when you do come before us that you clearly state your name and there should be a register. Is it in the hallway where people are signing in? What is the method? Okay, so make sure that you sign in if you do plan to speak. Thank you. Council Member.

Council Member Diane Hofstede: Thank you Chair Koski. I am Diane Hofstede, Council Member for the 3rd Ward in which this item is before us. Good evening commissioners. The issue before you is you can see is highly complicated and began prior to me taking office in 2005. I was prepared today to make a statement regarding my policy position in support of the neighborhood's position. Had I been advised by the City's Attorney's office that in order to retain my quo se judicial role and potential that this issue may be litigated that I refrain from making my comments at this time. I will state that the zoning administrator and staff are here to answer your questions which I'm sure are many. Thank you.

Chair Koski: Thank you. Who else wishes to speak, please come forward.

Norman Linsky: I have some things for you, could I give those to you now or would that be?

Chair Koski: If you can hand them over to the Clerk, they'll distribute them.

Norman Linsky: My name is Norman Linsky. I live at 622 6th Street Southeast in Minneapolis. I've been in my home since 1979. My family's been in the home since the 1920s. I care an awful lot about my neighborhood and I have to tell you real frankly I came to work today with a prepared statement. But I decided to tear it up because I think you folks deserve a real straight statement from me that comes from the heart opposed to something that I wrote a week ago. And, so if I sound a little bit awkward or a little bit clumsy, I apologize for that but I am going to try to do it without a statement. In September of 2005 in the afternoon, a very large crane appeared in our neighborhood and the T-Mobile Telecommunications tower was dropped on top of the highest structure in Marcy Holmes. The highest structure in the 5th Street Historical District. It's 90 feet above the sidewalk. Anybody within blocks can see it. I have to walk to work to catch the bus on 4th Street every day and I come back every night. I ride the bus I don't drive a car and I have to pass by looking up at that ugly junk of steel looking down at me every day since 2005. Within days of the time that the tower went up, citizens in Marcy Holmes including myself and some of the people here this evening began sending emails, phone calls and letters to responsible persons in City Hall to address the issue. And it just seemed the time went by. We sent the emails sometimes weekly, always monthly. Always got answers and responses but September, October, November, December of 2005 went by and New Year's came and January, February, March, April, May, June, July, August, September, October, November, December of 2006 went by and New Year's came and January, February, March and April of 2007 came and finally we are here today – 20 months later. I noticed that Mr. Carlson referred to as "some time went by" I really think that 20 months is a lot of time and it has really distressed the neighbors a great deal that we haven't been able to get answers and resolutions of the issue. One of the things I did when I became kind of the point person on this project was I called the City and I got a hold of the

Administrative file and I put that together with all of the letters and emails we had sent along with the emails we'd gotten back and you'll find among the things I passed out a ten-page chronology. And I think that if you read through it and see how we diligently week after week, month after month sent our questions in, asked for resolution and waited through those 20 months. I think that's a real significant part of what we were doing. I also found out a couple of other interesting things. The original application which was filed was woefully inadequate. The second page of the application has four separate questions involving Heritage Districts. Only one of the questions was answered the other three were left blank. The conditions of approval that were signed by the City specifically required that there be a faux false brick screen in front of it. That was never done, never enforced kind of distressing again. Now let me move ahead and to answer a couple of questions. I think the first one is: Does the 5th Street District really mean that much to people in my neighborhood? And I can answer it anecdotally for you. When I go into people's homes whether they're in the district or next to it, something very unique happens in our neighborhood that doesn't happen in suburbs. Because when I walk in the door people say, "Oh, by the way Norm this house was built in 1888 or look at the floor in this house, this was put in by a carpenter back 1910 or look at the stained glass. And people always continuously make reference to the history of the neighborhood, to the history of their house with enormous pride. And all of these people have chosen to live there. You don't find that in the suburbs. You don't find people saying, "Oh, yea, my house was built in 1991". People refer to their T.V. or maybe their stereo but they don't talk about the house itself. The second thing is that people really consider this home. This isn't a house – it's a home that people have. And people have put their time and their money and their investment there. And the District means a lot to us. The second question, is does it mean anything to the City that we have this District? I brought up the website today and I noticed that there are twelve districts in this City that are designated as Historical Districts – just twelve, not twenty, not thirty – twelve. Minneapolis has a reputation for having torn down a lot of its beautiful structures and now we're trying to save them. If you look at the map, the colored one that I gave you of the northeast quadrangle of Minneapolis it's real interesting to note there's just two tiny little purple sections in there historical districts. This enormous swath – the northeast quadrangle of Minneapolis has those two tiny little points. And I said to myself this morning, is it really necessary that someone goes in with a thumb tack and say um you know what? Let's put the tower right there on the top of that little purple blob there. There's no other place in northeast Minneapolis where that tower could go – no other place where it could be erected. It has to go right in the middle of a Historical District – one of twelve for the City. I, I just find that a little bit difficult to believe that that's necessary. The last thing I want to mention, I don't want to take up your time. It's something that I'm really, really am very proud of and I want to tell you something about the kind of neighbors we have. I don't know if you follow the newspaper, the T.V. reports but we just had an enormous surge in crime a week ago – a 42 percent increase in crime. We had 17 cars on 5th Street that had the tires slashed. We had 28 homes that were burglarized all in a period of about a week. All our neighbors got together and in five days put together a meeting of the neighborhood and over 100 homeowners turned out to gather in the First Congregational Church. One of the most important churches in the City, one of the oldest, only a block away from this tower. And we discussed issues to work against crime, to work against problems we have in the City. And I think that tells me an awful lot about the neighbors I have. Now, I'm going to grant you T-Mobile tower isn't the biggest issue that we face. Crime is certainly a lot worse. But as a systematic issue that we look to, to the City to the people responsible for serving and protecting us, we care an awful lot about that tower. And we'd like to have it removed. Thank you very much.

Chair Koski: Thank you Mr. Linsky. This is a Public Hearing is there anybody else who wishes to speak to this application?

Chuck Biesner: Good evening Mr. Chair, members of the Commission. My name is Chuck Biesner. I'm here with T-Mobile to hopefully answer some questions and give you a little history from our side of things as how this project has rolled and what we are looking to do with it. Let me grab a couple of. Alright. Shoot this up for you. Here is what our proposal was to the City and here is what we are looking to finish. Here is the existing structure, here's the penthouse

with our equipment in it and the enclosure that has yet to be installed on the property. I'll just leave that up there for you for a moment. A little history was we had quite a lease on this property in doing our due diligence with the project, we sent a letter to HPC to ask for their comments on this project and never received any response to that. We then submitted our proposal to the SHPO office on May 3rd of 05, the letter to HPC was dated April 21st of 05. We were approved by SHPO on June 2nd of 05. We then took that SHPO approval along with our zoning application, made application to the City's Zoning office, received our approval, applied for a building permit, received our building permit, started construction, got as far as it looks today before we were asked to stop our construction and seek approval or go through this type process. And I'm, I honestly have just been started on this project about a couple of weeks ago or since the application. I'm not sure what the history is, why it was stopped before. I'm not sure how we got all of our approvals, SHPO approval, notice of the HPC, zoning approval, building permit,. Three quarters of the way through the construction and now we are at this point. I'm surprised at the, I guessed we're all, T-Mobile surprised at the recommendations from staff we'd certainly like to finish the project, clean it up, and make it look the way we intended it to be as shown in the picture here by completing it with the façade around the equipment. So, I guess we are seeking approval for the application less the first two conditions as recommended by staff. We really haven't had an opportunity to take a look at any other options as we've just received that staff recommendation last week. As far as the council member said maybe moving it to the middle of the higher structure, and so forth but I mean I guess at this point we seeking approval for the existing site, let us finish it minus the first two conditions. I'm not sure how we got as far as we did but I guess it probably has statement to that affect would be as an error on the staff side of it. But as far as T-Mobile is concerned we notified HPC, we got SHPO approval, we did all the correct steps in doing this. SHPO does not have a problem with it – that letter is included with the Zoning application, and so forth. If the council is not a menial to approving it without the first two conditions, we'd certainly consider a tabling of it so we could work the staff and try to come up with some sort of solution. And that's all I have for you.

Chair Koski: Okay. Thank you.

Commissioner Messenger: Could I ask a question?

Chair Koski: Would you mind taking a question from one of the commissioners?

Chuck Biesner: Certainly.

Chair Koski: Commissioner Messinger.

Commissioner Messenger: Thanks. You have a letter that dated April of 05 to the Heritage Preservation Commission?

Chuck Biesner: Yes, I do.

Commissioner Messgenger: May I? It's in our documents here? Have we received it?

Staff Erik Carlson: Chair Koski, Commissioner Messinger, I don't have that letter in my files, I was unaware of that letter. It's not in your packets.

Staff Jack Byers: Can we make sure the Clerk, can we make sure the Clerk gets a copy of the letter.

Chair Koski: I will.

Commissioner Messenger: Yea. We, that's the first time we've.

Chair Koski: This would have been helpful to have been included.

Chuck Biesner: It was included in the original SHPO approval that was in the original zoning application that was approved. And when I'd spoken with staff they understood the problem and the error on the City's side and said, well, we need to clean up the file and we need to get this approval and there shouldn't be any issues on it. And so, we've made our application. I wasn't aware of the first two recommendations were going to come out as they did.

Chair Koski: Okay. If we can just make sure that gets down to the Clerk to be, well, I guess, is that your only copy sir?

Chuck Biesner: No, you can have that.

Chair Koski: Okay, so we'll enter that into the public record.

Chuck Biesner: And here's the letter I received from SHPO saying their approval.

Chair Koski: Yea. I think this is included in our packet. So, for whatever reason we had this letter, but we didn't have the other one.

Chuck Biesner: We'll not sure.

Chair Koski: Okay, thank you anyway. I've got to get back to the Public Hearing. This is a Public Hearing, is there anyone else who wishes to speak to this application? Yes sir.

Brian Moldune: I'll make sure I sign the book outside. My name is Brian Moldune. I live on 5th Street. The corner of 5th and, 5th and 6th; 527 5th Street Southeast within the Historic District that we're speaking about here. We've been part of a group that's been pursuing this issue since the tower was erected and we want to voice some concerns and our opinions from the Safety and Livability Committee that we're all part of in the neighborhood. That if you go through those documents that we've, that Norman has very painstakingly come down to City Hall and gotten. It's very clear that the applicant, the application was not complete when it was originally submitted. We are not aware of these letters that were being put up today and our biggest concern is that it between the applicant not being totally forthcoming in the application and admitting responses. It says very clearly on the document that is it in a, is it in a, national or local historic designation. And so, the second part of that was totally ignored because it's very clearly within that. So, and the tower, it's not clear from the comments being made by T-Mobile, it's our understanding and unless they want to tell us differently that this tower has been operating for quite a long time now, for several, for several years. And, it's very obvious that no one wanted to come forward and deal with the tower issue and because they were all making money both the landlord, Jim Miesen who owns the building as well as T-Mobile. So, and the neighborhood has no benefit of this arrangement at all. So, our point of view is, is it was a mistake on the part of the applicant, it was a mistake on the part of the City the a, it, it should have been, it should have been rejected and sent back and for further clarification. And our other point of view is that this body was never consulted nor was our neighborhood in anyway consulted. And it's really, and we don't fault T-Mobile from the standpoint we believe that it was a lot of just disregard by several parties for the neighborhoods rights and also for the Historic District. And we think it's very, very clear that this tower needs to come down and be relocated somewhere else outside of the Historic District. It's T-Mobile's issue. They can deal with it, they can find another site for this tower. It should have never, ever been put up in this, in this district and we totally disagree with the staff's recommendation of relocating the tower. It's still within the Historic District. It should be taken out, it should never had been put in there first place and it's very, very clear. My home just as an anecdote was the old Andrews house and we had to follow every one of the, of the District's guidelines, painstakingly. We spent a lot of money in during our house to keep the integrity – this should be kept under the same, same guidelines. It should not be accepted in anyway. If it causes the City problems, cause T-Mobile problems that's really not our problem, it should be removed. Thank you.

Chair Koski: Thank you. Does anybody else wish to speak to this application? Anybody else? Last call, see now I'm closing the Public Hearing. Commissioners? Commissioner Messenger.

Commissioner Messenger: Thank you. This, I live in the History/Historic District as well and this has been a very long and erogenous development. People have, I've tried to stay out of it thinking that it would eventually makes it way to HPC which it didn't even with my contacting folks in that office. I am disappointed in how all of this has been handled both by the applicant and, and by the City. I mean there has been many, many mistakes made and it has been very troubling. And that this has taken nearly twenty months to rectify this has or to bring it to our attention is also been difficult to watch. For me there is, you know, having it sit where it does is entirely inappropriate. It needs to be moved and I need to understand this. You lease the roof top, sir, T-Mobile, leases the roof top, Mr. Eishens?

Chuck Biesner: Correct.

Commission Messenger: When you look at, well when one looks at a lease there you know I would guess that you would look at some title work to the property and it does state in that title work that this is in a Historic District. So, I'm, you know, I feel that this has been flawed and could not support having it stay where it is. Or, a written staff report.

Chair Koski: So, you would not agree with the staff recommendation?

Commissioner Messenger: No. It's gone on for a very long period of time and had we looked at this initially, I don't know where I would have been. And I wished that we'd had that opportunity to do it.

Chair Koski: Well to continue the discussion here and I'm willing to make a motion on this also. We're not here as a Preservation Commission to pass judgment on who made errors. What happened in the past but only to look at the specific application that is before us today. Which is to place an antenna array on top of a historic building? And we've seen other similar requests. So, I want to review this application as we have other rooftop penthouses for other flat topped residential and commercial structures. Given that and you know I understand that maybe some people want to view this as maybe a punitive action but it's not meant to be. I would only want to you know make sure that visibly it's consistent with the remainder of the district. That it's comparable with the character of the district and I think that staff has done a good job of pointing out that visibility is key and they've outlined where trees are and that the lower the building, the less prominent it's going to be. Technically whether or not that works as an array, that's really not our issue. That's not something that we're made to be consider of because there's no proof of burden before us that they have a right to that. I'm, I'm going to move then that we adopt staff's finding and approved the C of A with the six conditions as outlined.

Commissioner Crippen: I'll second that.

Chair Koski: Alright that's seconded. Any discussion? Commissioner Selchow?

Commission Selchow: I'm wondering if the conditions as it stated, Condition #3, where it reads full brick will not be used material in color for the fiberglass enclosure – must be approved by the HPC. Would we mind to strike fiberglass so that it could be another material that would be reviewed and approved?

Chair Koski: Rather than being prescriptive that it had to be fiberglass if technically it could be some other material, I'd accept that. So, I'll take that modification from amended to Condition #3 so that the second sentence of Condition 3 reads: The material and color for the, I guess, the material and the color for the enclosure must be approved by the HPC is how that will read. Is that agreeable to the seconder of the motion?

Commissioner Crippen: That's agreeable.

Staff Jack Byers: Mr. Chair? Commissioner, just to confirm that language is that it would come back to the Commission not staff.

Chair Koski: Correct.

Staff Jack Byers: Just want to make sure that you are aware of that.

Chair Koski: Commissioner Larsen.

Commissioner Larsen: Just a question regarding your motion and the reasons for it --looking at the guidelines that our Secretary/Interior guidelines for rehabilitation. It does talk about mechanical equipment on the roof, such as air conditions, transformers, and solar collectors when required for the new use. So they're inconspicuous from public right-of-way and do not damage the arts character to defining features. I can understand where you're coming from in terms of moving in toward an area that is inconspicuous and does not damage or obscure the defining features. But, I guess I'm curious on your comments maybe on -- it does specifically state required for new use. And so I'm kind of curious as how this is required.

Chair Koski: Well, I don't think there has been a change in use -- it's been a residential property and it continues to function as a residential property. So, I would read "use" the way that we would of a Zoning Ordinance. There's no change in use of the building except now its being utilized for this telecommunications array.

Commissioner Larsen: I guess I read it, I read it more to be that if you need to; if you need some to add something for the use of the building then you can add it in a way that does not obscure and damage the character defining features.

Chair Koski: But I don't think the array is necessary for people to enjoy their apartments.

Commissioner Larsen: Right but its also not required to operate the building.

Chair Koski: Am I missing something here.

Commissioner Larsen: Yea, that it talks about adding equipment that's required.

Chair Koski: It's not required.

Commissioner Larsen: That's right. So therefore if it's not required then why would we approve it?

Chair Koski: Oh, I see what you're meaning.

Commissioner Larsen: That.

Chair Koski: Why would we allow it at all?

Commissioner Larsen: Right. I mean, I mean. We don't allow things accept for when its required. And its when its required for the use of the building. But this isn't required -- solar collectors aren't required, transformers aren't required.

Chair Koski: Right.

Commissioner Larsen: They maybe and I mean the air conditioner units are required but here this is a purely elective, in fact, I'm leasing the space to these people to this. So its purely an

elective element. So, it's not required. So, yes when something is required you can put it on there and can do it in a non-obscuring fashion. So I guess I'm troubled by that means that anybody could put on anything onto the roof when its not required or on any other flat roof.

Chair Koski: Well, that's – that's very good point. I'm, I'm going to let my motion stand as it is nonetheless and you're free to vote against it. I think that there is a tough measure. I think due to the staff's recommendation that it be located on the lower building that it's not going to be as visible. I compare it somewhat in mind to many of the party decks that we have allowed on top of warehouse buildings in the First Avenue Warehouse District. That are not necessarily essential but they improve the profit margins for the venues that are located within those buildings. So, in a certain way it allows the continued viability of the property. But I'm certainly not going to make that argument on behalf of the applicant. I'm just going to let my emotions stand where it is currently.

Commissioner Larsen: Thank you.

Chair Koski: Alright, any other questions or I'm going to call a motion. Alright, all in favor of the motion say Aye. Aye, Aye, Aye, Aye, Nay, Nay. Abstentions? So, can I get a count for the Ayes? So, four in favor of the motion and then opposed. Three opposed. So the motion carries.

Staff Jack Byers: Yes, Chair and Commissioners, I think we have a technical concern too in that second was not in agreement with the motion. I believe Commissioner Larsen seconded your motion.

Chair Koski: No, Commissioner Crippen did.

Staff Byers: Okay, my mistake.

Chair Koskis: Alright, so the C o A is approved with the conditions as we voted on them