



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

Date: June 15, 2010

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Heritage Preservation Commission action approving with conditions an After-the-Fact Request for Certificate of Appropriateness to replace siding at 2026 4th Avenue South (BZH-26291)

Recommendation: Notwithstanding Staff's recommendation, the Heritage Preservation Commission approved with conditions an After-the-Fact Request for Certificate of Appropriateness to replace siding at 2026 4th Avenue South (BZH-26291).

Previous Directives: N/A

Prepared or Submitted by: John Smoley, Ph.D., City Planner, 612-673-2830

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

Presenters in Committee: John Smoley, Ph.D., City 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: 6

Neighborhood Notification: The Whittier Alliance, Whittier Business Association, and Phillips West Neighborhood Association were notified of the appeal application on or before June 15, 2010.

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: Not applicable

Other: Not applicable.

Background/Supporting Information Attached: The owner, Keith Covart, is appealing the HPC decision.

In October 2009 the Applicant applied for a Certificate of No Change to replace the existing vinyl siding which had already been installed without a permit approximately twenty years ago. Staff denied the application, stating that the proposed change would be a major alteration to the building since vinyl siding was not appropriate for use on historic buildings of this era since it was not available in the late nineteenth century. Subsequently, the Applicant installed new vinyl siding without receiving necessary permissions from the City, including CPED and HPC; the owner was cited by Code Enforcement; and the owner and Applicant have since come forward seeking approval of the previously installed siding.

At a public hearing on May 18, 2010, CPED-Planning recommended that the Heritage Preservation Commission adopt staff findings and deny the Certificate of Appropriateness. The Heritage Preservation Commission voted 6-3 against staff's recommendation to approve with conditions the Certificate of Appropriateness. On May 28, 2010 the Appellant filed an appeal of those conditions of approval:

1. Owner submit plans for approval showing new vinyl detailing to replicate original wood window trim detailing.
2. New window trim detailing to be in place of, not on top of, existing vinyl.
3. Plans will be submitted to staff for approval.

This application is included in the attached supporting material. The Appellant is appealing the conditions due to the cost of compliance with those conditions. No cost figures were submitted with the appeal.

Supporting Material

- A. May 18, 2010 Heritage Preservation Commission staff report - A1-A9
- B. Materials submitted by CPED staff – B1-B7
 - Location map – B1
 - 350' map – B2
 - Washburn-Fair Oaks Historic District Design Guidelines – B3-B7
- C. Attachment C: Materials submitted by Applicant – C1-C17
 - Notification letter to Council Member and neighborhood organization – C1-C2
 - Application dated January 20, 2010 – C3-C17
- D. Heritage Preservation Commission Actions of May 18, 2010 – D1-D2
- E. May 18, 2010 HPC Meeting Minutes for item #1 – E1-E20
- F. Appellant Appeal Application – F1-F20

Department of Community Planning and Economic Development
Planning Division

Certificate of Appropriateness
BZH-26291

Date: May 11, 2010

Proposal: After-the-Fact Request for Certificate of Appropriateness to replace siding

Applicant: Dennis Oeltjen, JNS Builders

Address of Property: 2026 4th Avenue South

Project Name: 2026 4th Avenue South Siding Replacement

Contact Person and Phone: Dennis Oeltjen, 651-646-0221

Planning Staff and Phone: John Smoley, Ph.D., 612-673-2830

Date Application Deemed Complete: n/a

Publication Date: May 11, 2010

Public Hearing: May 18, 2010

Appeal Period Expiration: May 28, 2010

Ward: 6

Neighborhood Organization: Whittier Alliance

Concurrent Review: n/a

Attachments: Attachment A: Staff Report – A1-A9

Attachment B: Materials submitted by CPED staff – B1-B7

- Location map – B1
- 350' map – B2
- Washburn-Fair Oaks Historic District Design Guidelines – B3-B7

Attachment C: Materials submitted by Applicant – C1-C17

- Notification letter to Council Member and neighborhood organization – C1-C2
- Application – C3-C17

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2026 4th Avenue South, 2009, CPED photo

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CLASSIFICATION:	
Local Historic District	Washburn-Fair Oaks Historic District, contributing resource
Period of Significance	1858-1939
Criteria of significance	The Washburn-Fair Oaks Historic District is locally significant for its depiction of turn-of-the-century residential architecture ranging from opulent mansions to modest homes.
Date of local designation	1976
Applicable Design Guidelines	<i>The Secretary of the Interior's Standards for Treatment of Historic Properties</i> <i>Washburn-Fair Oaks Historic District Design Guidelines</i>

PROPERTY INFORMATION	
Current name	Multi-family residence
Historic Name	Multi-family residence
Current Address	2026 4 th Avenue South
Historic Address	2022-2028 4 th Avenue South
Original Construction Date	Pre-1885
Original Contractor	Unknown
Original Architect	Unknown
Historic Use	Residence
Current Use	Residence
Proposed Use	Residence

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BACKGROUND:

The subject property is a two-story multi-family residence designed in a vernacular manner located mid-block between Franklin Avenue East and 22nd Street East in the Washburn-Fair Oaks Historic District (Attachments A1 and A2).

The Washburn-Fair Oaks Historic District is locally significant for its depiction of late nineteenth and early twentieth century residential architecture ranging from opulent mansions to modest homes. The exterior portions of the building at 2026 4th Avenue South marginally contribute to the district's significance, due to extensive loss of historic building materials (roof, siding, and porch principally). The building was constructed so long ago that no original building permit is on file with the City of Minneapolis, but an 1885 Sanborn Fire Insurance map depicts the residence in its current location.

On October 2009 the Applicant applied for a Certificate of No Change to replace the existing vinyl siding, installed without a permit approximately twenty years ago. Staff denied the application, stating that the proposed change would be a major alteration to the building since vinyl siding was not appropriate for use on historic buildings of this era since it was not available in the late nineteenth century. The Applicant installed new vinyl siding without receiving necessary permissions from the City, including CPED and HPC; was cited by Code Enforcement; and has since come forward seeking approval of the previously installed siding.

SUMMARY OF APPLICANT'S PROPOSAL:

The Applicant seeks approval of the recently installed siding on the building. The Applicant replaced non-original vinyl siding with new vinyl siding of similar specifications. The job stemmed from the August 2008 tornado that damaged particular portions of the building's siding. The property owner's insurance company determined that the siding on the home was no longer manufactured and that all of the siding would have to be replaced to properly repair the building. The insurance company's research revealed that the siding was manufactured between 1989 and 1991. Staff has no permits on file approving this siding installation or the current siding. Owners of immediately adjacent buildings, also damaged during the tornado, have applied for and been granted Certificates of No Change and building permits for repairs in keeping with the historic character of the district.

PUBLIC COMMENT:

Staff has received no comment letters on the project.

CERTIFICATE OF APPROPRIATENESS: Certificate of Appropriateness to replace windows

Findings as required by the Minneapolis Preservation Code:

The Planning Division of the Minneapolis Community Planning and Economic Development Department has analyzed the application based on the findings required by the Minneapolis Preservation Ordinance. Before approving a certificate of appropriateness, and based upon the evidence presented in each application submitted, the commission shall make findings based upon, but not limited to, the following:

(1) The alteration is compatible with and continues to support the criteria of significance and period of significance for which the landmark or historic district was designated.

The exterior portions of the building at 2026 4th Avenue Southeast contribute to the district's significance. Regardless of what changes are made to the subject property, it will maintain its historical significance, but proposed changes may affect its integrity (i.e. the property's ability to communicate its historical significance). Since the proposed changes will seriously impair the property's integrity (see findings 3-5 below), the proposed alterations are not compatible with and do not continue to support the criteria of significance and period of significance for which the historic district was designated.

(2) The alteration is compatible with and supports the interior and/or exterior designation in which the property was designated.

The proposed alterations are not compatible with and do not support the interior and/or exterior designation in which the property is being contemplated for designation. The exterior portions of the building at 2026 4th Avenue Southeast contribute to the district's significance. Vinyl siding was not available for use on historic buildings constructed in the late nineteenth century.

(3) The alteration is compatible with and will ensure continued integrity of the landmark or historic district for which the district was designated.

Based upon the evidence provided below, the proposed work will seriously impair the integrity of the contributing resource that was diminished when vinyl siding was installed without a permit approximately twenty years ago.

Location: The Applicant proposes no changes to the contributing resource's location, thus the project will not impair the contributing resource's integrity of location.

Design: The project will alter the design of the building. There are myriad architectural details that are lost when vinyl siding replaces wood siding.

Setting: The Applicant proposes no offsite changes, thus the project will not impair the contributing resource's integrity of setting.

Materials: The Applicant proposes to replace vinyl siding that does not date back to the

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building's period of significance with new vinyl siding that does not date back to the building's period of significance. The project impairs the contributing resource's integrity of materials.

Workmanship: The Applicant proposes to replace vinyl siding that does not date back to the building's period of significance with new vinyl siding that does not date back to the building's period of significance. The vinyl siding used for the past twenty years has proven to be so machine-driven that simple repairs by craftsmen are impossible since even slight details cannot be replicated once factories stop manufacturing vinyl siding of a particular type. The project harms the contributing resource's integrity of workmanship.

Feeling: The Applicant proposes to replace vinyl siding that does not date back to the building's period of significance with new vinyl siding that does not date back to the building's period of significance. The project impairs the contributing resource's integrity of feeling.

Association: The proposed vinyl siding further damages the link between this residence and the historic district's concentration of late nineteenth and early twentieth century residences, thus the project will impair the property's integrity of association.

(4) The alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the applicable design guidelines adopted by the commission.

The Washburn-Fair Oaks Historic District Design Guidelines permit synthetic replacement siding if it matches the direction, dimensions, and texture of the original covering. The Applicant has not demonstrated that the proposed siding meets these standards. The absence of permits to install, replace, and/or maintain exterior plaster and lathe and/or masonry indicate that the building likely originally possessed some type of wood cladding, but the Applicant has not provided historic photos or physical evidence of the type and specifications of cladding used during the district's period of significance, 1858-1939. The projection of the vinyl siding beyond the horizontal plane of the windows indicates that historic siding may lie beneath this layer.

(5) The alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the recommendations contained in The Secretary of the Interior's Standards for the Treatment of Historic Properties.

The proposed project does not follow the rehabilitation guidelines of *The Secretary of the Interior's Standards for the Treatment of Historic Properties*.

The Applicant is conducting a rehabilitation of the subject property.

When designing for the replacement of missing historic features, such as wall cladding, the rehabilitation guidelines of *The Secretary of the Interior's Standards for the Treatment of Historic Properties* recommend against introducing a new feature that is incompatible in size,

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scale, material and color. While records of the building's original wall cladding are unavailable, vinyl siding was not available for use on historic buildings constructed in the late nineteenth century. Clearly, such a replacement material, regardless of its size, scale, or color, is inappropriate.

(6) The certificate of appropriateness conforms to all applicable regulations of this preservation ordinance and is consistent with the applicable policies of the comprehensive plan and applicable preservation policies in small area plans adopted by the city council.

Action 8.1.1 of the Minneapolis Plan for Sustainable Growth indicates that the City shall protect historic resources from modifications that are not sensitive to their historic significance. The project will modify the building in ways that are insensitive to its historical character, as discussed in items 4 and 5 above.

Comprehensive plan policy 8.1 states that the City will, "Preserve, maintain, and designate districts, landmarks, and historic resources which serve as reminders of the city's architecture, history, and culture." The proposed work will not help preserve the subject property and will tacitly encourage other property owners to conduct work on historic properties without a permit in a manner that is inappropriate to the historic designation made by the City Council

The subject property lies within no adopted small area plan area.

(7) Destruction of any property. Before approving a certificate of appropriateness that involves the destruction, in whole or in part, of any landmark, property in an historic district or nominated property under interim protection, the commission shall make findings that the destruction is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the destruction. In determining whether reasonable alternatives exist, the commission shall consider, but not be limited to, the significance of the property, the integrity of the property and the economic value or usefulness of the existing structure, including its current use, costs of renovation and feasible alternative uses. The commission may delay a final decision for a reasonable period of time to allow parties interested in preserving the property a reasonable opportunity to act to protect it.

The project does not include the destruction of the subject property.

Before approving a certificate of appropriateness, and based upon the evidence presented in each application submitted, the commission shall make findings that alterations are proposed in a manner that demonstrates that the applicant has made adequate consideration of the following documents and regulations:

(8) Adequate consideration of the description and statement of significance in the original nomination upon which designation of the landmark or historic district was based.

Despite several requests, the Applicant did not submit an analysis of the proposed project in

relation to the district's significance statement.

(9) *Where applicable, Adequate consideration of Title 20 of the Minneapolis Code of Ordinances, Zoning Code, Chapter 530, Site Plan Review.*

Title 20 of the Minneapolis Code of Ordinances, Zoning Code, Chapter 530, Site Plan Review does not regulate the replacement of siding.

(10) *The typology of treatments delineated in the Secretary of the Interior's Standards for the Treatment of Historic Properties and the associated guidelines for preserving, rehabilitating, reconstructing, and restoring historic buildings.*

As discussed in finding #5, the application is not in compliance with the rehabilitation guidelines of *the Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Before approving a certificate of appropriateness that involves alterations to a property within an historic district, the commission shall make findings based upon, but not limited to, the following:

(11) *The alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.*

The Applicant is seeking approval of siding installed without a permit. The siding material chosen (vinyl) was not available for use on buildings until the 1960s, after the district's period of significance. The product cannot be repaired if the exact siding is no longer made, and past vinyl siding products on the residence have demonstrated a manufacturing period of typically three years. Continued use of the product will likely require a complete residing of the property every time a portion of the siding is damaged, or the building will look extremely poor and further damage the building's and district's ability to communicate its historical significance. The alteration is not compatible with and will not ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.

(12) *Granting the certificate of appropriateness will be in keeping with the spirit and intent of the ordinance and will not negatively alter the essential character of the historic district.*

The spirit and intent of the City of Minneapolis' Heritage Preservation Regulations is to preserve historically significant buildings, structures, sites, objects, districts, and cultural landscapes of the community while permitting appropriate changes to be made to these properties. The owner installed vinyl siding without a permit approximately twenty years ago and once again in 2009. Now the Applicant seeks approval of the latter installation of a product unavailable during the district's period of significance and which has proven to irreparable due to highly limited product manufacturing times. Clearly, this is not in keeping with the spirit and intent of the ordinance. Installation of wood siding would be in keeping with

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the character of the historic resource and would be repairable by local craftsmen, should damage occur in the future.

(13) The certificate of appropriateness will not be injurious to the significance and integrity of other resources in the historic district and will not impede the normal and orderly preservation of surrounding resources as allowed by regulations in the preservation ordinance.

Approval of this Certificate of Appropriateness will impede the normal and orderly preservation of surrounding resources within the district and City at large. Approving this application will set a precedent that tacitly approves unpermitted work being conducted on historic buildings and that permits the installation of unsustainable products whose materials are not in keeping with the historic character of buildings.

STAFF RECOMMENDATION

CPED-Planning recommends that the Heritage Preservation Commission **adopt** staff findings and **deny** the Certificate of Appropriateness.

Minneapolis Heritage Preservation Commission

May 18, 2010, Room 317 City Hall

Staff: John Smoley

Planning Supervisor: Jack Byers

Date of Appeal: June 24, 2010

ITEM SUMMARY

- Address:** 2026 4th Avenue South, Washburn Fair Oaks Historic District, Ward 6
- Description:** Certificate of Appropriateness to replace siding
- Action:** Notwithstanding staff recommendation, motion was made to approve the Certificate of Appropriateness with the following conditions:
1. Owner submit plans for approval showing new vinyl detailing to replicate original wood window trim detailing.
 2. New window trim detailing to be in place of, not on top of, existing vinyl.
 3. Plans will be submitted to staff for approval.

TRANSCRIPTION

Chair Larsen: Item #1, 2026 4th Avenue S, Washburn Fair Oaks Historic District, Ward 6. This is a Certificate of Appropriateness to replace siding and the staff is recommending denial of the Certificate of Appropriateness.

Staff Smoley: Good evening Mr. Chair, members of the Commission, my name is John Smoley and I'm here to brief you on an after-the-fact request for a Certificate of Appropriateness to replace siding at 2026 4th Avenue South. The subject property is a 2-story multi-family residence designed in a vernacular manner located mid-block between Franklin Avenue East and 22nd Street East in the Washburn Fair Oaks Historic District as depicted here.

Chair Larsen: Please note for the record that Commissioner Crippen has arrived.

Staff Smoley: The Washburn Fair Oaks Historic District is locally significant for its depiction of late-19th and early 20th century residential architecture ranging from opulent mansions to modest homes. The exterior portions of the building at 2026 4th Avenue South marginally contribute to the District's significance due to extensive loss of historic building materials, roof, siding, and porch. The building was constructed so long ago that no original building permit is on file with the city of Minneapolis, but in 1885, Sanborn Fire Insurance maps depict the building in its current location. In October 2009, the applicant applied for a Certificate of No Change to replace the existing vinyl siding installed without a permit approximately 20 years ago. Staff denied the application stating that the proposed change would be a major alteration to the building. Vinyl

siding was not available for use on historic buildings of this era, since it was not available in the late 19th century. The applicant installed new vinyl siding without receiving necessary permissions from the city including CPED and HPC, was cited by code enforcement, and has since come forward seeking approval of the previously installed siding. The applicant seeks approval of the recently installed siding on the building. The job stems from the August 2008 tornado that damaged particular portions of the building's siding. The property owner's insurance company determined that the siding on the home was no longer manufactured and that all the siding would have to be replaced to properly repair the building. The insurance company's research revealed that the damaged siding was manufactured between 1989 and 1991. Staff has no permits on file approving this siding installation or the current siding. Owners of immediately adjacent buildings also damaged during the tornado acted differently in the wake of the storm. They applied for and had been granted Certificates of No Change and building permits for repairs, in keeping with the historic character of the district. Staff has received no comment letters on the proposed project. The proposal meets none of the 13 required findings although 2 do not apply to the project itself. Of particular concern is the project's failure to meet the HPC's adopted design guidelines. The Washburn Fair Oaks Historic District Design Guidelines do permit synthetic replacement siding if it matches the direction, dimensions, and texture of the original covering. The applicant has not demonstrated that the proposed siding meets these standards. The absence of permits to install, replace, and/or maintain exterior plaster and lathe and/or masonry indicate that the building likely originally possessed some type of wood cladding, while the applicant has not provided historic photos or physical evidence of the type and specifications of this type of cladding used during the district's period of significance which is 1858 to 1939. The projection of the vinyl siding beneath the horizontal plane of the windows, beyond the horizontal plane of the windows, indicates that historic siding may actually lie below the currently installed vinyl siding and Tyvek building wrap beneath it. The project also does not follow the Rehabilitation Guidelines of the Secretary of the Interior's Standards for the Treatment of Historic Properties. The applicant is conducting a rehabilitation of the subject property. When designing for the replacement of missing historic features such as wall cladding, the Rehabilitation Guidelines recommend against introducing a new feature that is incompatible in size, scale, material, and color. While records to the building's original wall cladding are unavailable, vinyl siding was not available for use on historic buildings constructed in the late 19th century. Staff is also concerned about the proposal's impact on the district itself. The applicant is seeking approval of siding installed without a permit. The siding material chosen, vinyl, was not available for use on buildings until the 1960s, well after the district's period of significance. The product cannot be repaired if the exact siding is no longer made, and past vinyl siding products on the residence have demonstrated a manufacturing period of typically three years. Continued use of this product will likely require a complete residing of the property every time a portion of the building is damaged or the building will look extremely poor and further damage the building's and the district's ability to communicate its historical significance. The alteration is not compatible with and will not insure the continued significance and integrity of the district's properties. It is worth noting too that the owner installed the vinyl siding without a permit approximately 20 years ago and once again in 2009. Now the applicant seeks approval for the latter installation, the installation of a product that was unavailable during the district's period of significance and which has proven to be irreparable due to highly limited manufacturing times. Clearly this is not in keeping with the spirit and intent of the ordinance.

Installation of wood siding would be in keeping with the character of the historic resource and would be repairable by local craftsmen should damage occur in the future. Approving this application will set a precedent that tacitly approves unpermitted work being conducted on historic buildings and that permits the installation of unsustainable products whose materials are not in keeping with the historic character of buildings. For these reasons, CPED Planning recommends that the Heritage Preservation Commission adopt staff findings and deny the Certificate of Appropriateness.

Chair Larsen: Ok, please note for the record that Commission Lackovic has arrived. Any questions of staff at this time? Commissioner Morse Kahn?

Commissioner Morse Kahn: Dr. Smoley, would the failure to obtain the appropriate permits, I assume some form of fine, is levied against the owner or the contractor?

Staff Smoley: Commissioner Morse Kahn, Chair Larsen, members of the commission, that is correct.

Chair Larsen: Any other questions of staff Commissioner Crippen?

Commissioner Crippen: So is that the only recourse that would happen if we adopt staff findings, that there would be a fine or would there actually be action to remove the siding and force a different solution to the building?

Staff Smoley: Commissioner Crippen, Chair Larsen and members of the commission, the applicant did not receive an authorized HPC and building permit to install the siding. Until they do, fines will continue to be accrued per the city's municipal code. If the HPC doesn't grant the Certificate of Appropriateness, staff would not grant them a building permit, thus fines would continue to be accrued until the applicant corrected the violation which in this case would require some different type of application for new siding as they have already removed all the old siding.

Commissioner Crippen: Thanks.

Chair Larsen: Additional questions of staff? Seeing none we'll open up the public hearing. Is there anybody that wishes to speak for or against this application please step forward. Please state your name and address for the record.

Dennis Oeltjen: My name is Dennis Oeltjen, I work for JNS Builders. We're the contractors who put the siding on. I will do my best to answer your questions. The project manager no longer works for the company so I gathered what information I could to present to you. First I do want to make it clear that there are a few statements made in the report that Mr. Covart didn't apply for the permit or get or receive an approved permit. This is not his fault. We were not trying to get away with anything. We applied for the permit prior to starting the work. We tried to do it online, then we ended up calling and they said we had to fax it in. Nobody could tell us why we had to do it this way, it was different than anything we'd done before. We waited a few days, we made calls asking what was going on with the permit. Nobody could answer our questions. We

didn't anticipate what we are into right now and we proceeded with putting the siding on. We didn't know what the holdup was. So Mr. Covart has nothing to do with this, he's not trying to get away with anything, we weren't trying to get away with anything. We didn't suspect problems, we were taking off vinyl siding and putting on vinyl siding. We really didn't see that there was an issue. There is a comment in there with respect to adjacent buildings damaged by the tornado and being granted Certificates of No Change. We did make that effort. It was after the fact, still, but we did make that effort and were denied. I'm assuming our situation was a little different that we removed vinyl siding but were requested to restore it back to its original wood siding. I don't know that the applicant's Certificate of No Change were under the same conditions or same situation. So I just want to ... is this ... ok, as we stated the property was damaged in the storm and in serious need of repair. It's located in a commercial district surrounded by parking lots and businesses. It's a 4-plex rental unit and has a view overlooking 35-W. It has a new Wendy's around the same block which I thought was interesting was allowed to be put up in this historical area. And I agree with the statement that the property has very little historical significance but not just because of the materials that were on there but also because of its surroundings. I also want to point out with respect to the remark that was made that the permit wasn't obtained for the first vinyl siding that went on. The vinyl siding was on there prior to the current owner purchasing the property. So again, this has nothing to do with Mr. Covart. We proceeded to put on the new, we took out discontinued siding, I think that was made clear in the report. We couldn't find matches for it so insurance paid for us to remove the old and give a complete replacement for the new siding. The special circumstances that I think apply to this that may be different from what you have encountered before, maybe not, back to the insurance claim, that the insurance provided funds to pay for replacement of vinyl siding. They did not provide funds to go back to restore this to its original 1800s original building materials. Looking back, obviously, we would have made the right steps to see how we could resolve this, but even so the funds would not have been available to, I'm assuming unless Mr. Covart was willing to contribute significantly more amount of money to bring this back to its original state of wood siding. There is, I believe, wood siding underneath it. I don't know if it is salvageable. I wasn't out at the site, I don't know what condition it is in, so I can't answer that. The other question I would have is if that was the intent in a situation like this that you would have to restore this back to its original wood siding, at what point do you stop? It has aluminum fascia. It has aluminum soffits. I believe there's on the sills some windows that have aluminum wrap on them. So does this extend well beyond just the wood siding where you have to go back and fix all this? And I don't know if this is a money consideration or not but, and the fact that there is lead based paint. This would be a very costly solution to try to get this back to its original ... considering this is a storm damaged situation. The property owner was trying to make the property better and prevent further damage, whether it be water damage or holes in the siding, things like that. He wanted to get it repaired and fixed and prevent further damage. I realize that this isn't necessarily the deciding factor here but I think that you saw pictures of the house, compared to what it did look like it does look fantastic. I haven't seen, and I think it was noted, that there weren't any comments or oppositions to the work that was done. I think that the tenants there love it. I think the owners love it. I think it looks better than it has for many, many years. I think that's all I have to say. Mr. Covart might repeat a few things that I've already said, but if you have some comments?

Keith Covart: I'm Keith Covart.

Chair Larsen: Can you state your address for the record, please.

Keith Covart: Please bear with me, my hearing is real bad. I haven't heard anything that has been going on, and I could tell that he was reading something and I could kind of follow along.

Chair Larsen: Sure, if you could state your address for the record please.

Keith Covart: Home address or work?

Chair Larsen: Yes, please.

Keith Covart: Home is 4225 East Lake Harriet Boulevard, Minneapolis.

Chair Larsen: Wonderful, thank you.

Keith Covart: I'm not anti-historic preservation and I understand the need to preserve history. I have invested in this district for over 34 years. I owned the Electric Fetus next door to this building and I have preserved my business. In fact, just after this tornado I hired Building and Restoration to restore the outside after the tornado damage. They numbered each brick, this is the detail that I've gotten into go get back the old Knutson sign on there. I didn't hire the cheapest company and I didn't with Jan N (???) also reputable. You have to realize I was dealing with two tornado damages at the same time. I couldn't have my usual contractor work on it because quite frankly we had rain coming in our building for three days, the roof lifted off. It was hectic over there. I restored 3 other turn of the century buildings over the years and I've been awarded best historic preservation for my building in Duluth in 2005. That was a labor of love, but it was a lot of work up there. I do understand preserving history. But to look at this certificate that was just read to us again, it would be like degrading the entire city and it's factually incorrect, most of the statements in that well-prepared whatever that was, the certificate of appropriateness.

Chair Larsen: In the staff report?

Keith Covart: Well, it was the one that was just read to us. They had it down like the house was built in 1885, it's not true. It was owned by the Franklin people at the time it became Franklin Avenue. I guess what I'm asking for is I'm here to get a variance. I'm not here to degrade the entire city as that statement seems to make it. I'm asking for a variance because it's a non-contributing building to the district, it's the only residential house on the block. It's all businesses, it's the only house on the entire block and then in that appropriateness report it's like I'm bringing down the other neighbors, they'll see that I've degraded the area. There's no other neighbors there, this is the only house and we are on the further border on the district and it fronts the freeway. It's very isolated. We replaced the vinyl siding already existing from previous owners and the historic district has approved vinyl siding in the past for the Washburn Fair Oaks district which I have here ... never worked one of these machines, but I can figure it out. The ones that are in pink are ones that the Washburn Fair Oaks historic district has approved for vinyl

siding. The only reason mine isn't approved is because they perceived I didn't try to get a permit before. I feel like it's a punishment, it's vindictive. Why are these other two places approved and mine isn't? The only difference is they perceive me as not trying to get a permit. Before the storm, we did get a permit pulled and we got a new roof on it. I'm trying to fix this property up and I want to show you what I inherited and what I fixed. This is what I inherited, this is what I bought and this is what I turned it into. I think it is an improvement.

Chair Larsen: Is that second image, that first image I am assuming that's wood siding that we are seeing, correct? That's the multi-colored vinyl?

(unidentified audience member): So is this, all this is prior.

Keith Covart: That was the wood siding underneath the old vinyl siding.

Chair Larsen: And that was after, that was recently after the original vinyl was removed?

Keith Covart: Correct. I'm sorry my hearing is so bad. I wanted to show you this too because I know in that report it talked about the detail. These are flat boards up here. There is no detail. This was a plain building at one time, there was no fancy intricate anything on there and if there was it's been taken out long before I bought it. And I don't think so because this casing looks like the original casing.

Chair Larsen: But this, was this picture taken just recently, after the storm and after the original, after the vinyl siding was removed?

Keith Covart: This was after the storm.

Chair Larsen: Ok, before the new vinyl siding.

Keith Covart: I have some other pictures, this is after the storm when they were replacing the vinyl siding. This is, I know they listed that they didn't have proof that it had vinyl siding. Well, here they're taking it off. I was kind of proud of this project, we were taking pictures of it all along. This is the project done. This is the project while it was going on. This is when they stopped the construction and they said we had to remove all the vinyl and replace it with wood siding. We had to stop for about 3 months, which we did, then it started snowing and winter came, I couldn't let that building get moldy and degrade, it would degrade the building. I had no other option than to do that. In fact it was an emergency repair in a disaster area.

(unidentified audience member): I just want to point out that these are pictures of before we tore the old vinyl off, so this is the old vinyl. These we got from the insurance company.

Chair Larsen: Right, thank you.

Keith Covart: Then on number 3 on that sheet that was just read to us in the category called workmanship. This is 4 inch siding that we're putting on and it says in number 3 on

workmanship that wood is the only thing that a craftsman can put on and that the fact that the old siding couldn't be replaced would be the dilemma I'd be in with the new siding. That isn't true, they made that 4-inch siding for years and years and you can buy it for patching surfaces. Vinyl patches are available to correct any match and color, and that's another un-factual thing in that report, that you can't repair it once it's broken. And we didn't try to hide the fact that we were putting up vinyl siding. Just a few weeks prior we pulled a permit for the roof permit. The permit for new siding was applied for thinking that it was a routine approval, and it obviously was not, not like the roof. The permit for siding was later denied, with winter approaching we had no other choice but to seal the building up. I have a lot of pictures here, I don't know if you want to see anymore.

Chair Larsen: I think the ones we've seen communicate ...

Keith Covart: I think the key is that other vinyl sidings in the Washburn district have been approved by the Washburn Fair Oaks district. Oh, I had pictures of, we went around the neighborhood, there's a lot of vinyl siding over there. Some of it has been approved and some of it is just up. Did I not bring it? My children are here to help me.

Chair Larsen: Always good.

Keith Covart: These are pictures my daughter actually took today of vinyl siding in the area.

(Daughter): The bottom one was approved. This one was approved ...

Keith Covart: This one was approved, this one was approved, and this is a run down house in the area, sometimes it's hard to conform to all the restrictions in an historic area. Things get run down, and I'm trying to improve the area. Here's the neighborhood I live in. I've got a Wendy's. This is our house right here. We're next to Northern X-Ray, there's a radiator shop down the street, and the freeway, going down 4th Ave. I don't know who I'm offending, I think we improved the property, that's all I've got to say.

Chair Larsen: Ok, thank you very much. Is there anybody else that wishes to speak either for or against this application, please step forward and state your name and address for the record.

Anna Larson: Hi, my name is Anna Larson. I reside at 2028 4th Avenue South in the building at question. I have just a couple of quick comments and then my husband is unable to be here today because he is out of town on business. He prepared a letter that I'll just read quickly. First, just for a matter of fact it was 2009, August, tornado, not 2008. I moved in September of 1999 and I can testify that there was wood siding visible at that time and that the look of the current siding is the same look. It's the same look, the same style, it's just vinyl instead of wood. It's the same look. The house is also much more insulated now. It's decidedly more comfortable. We use less energy to heat it this last winter and it was a very drafty place. I mean the conservation of energy was very noticeable. It's much more comfortable, we use less energy so we have a better green footprint thanks to Keith. And I also want to testify that I know for a fact that when I moved in, Frank Macadance owned the building, not Keith Covart. And it was he that put the previous, I

was told that Frank Macadance, had put the previous vinyl siding on. So I do know that there was vinyl siding on it when I moved in and that someone else did it. Keith bought the property sometime after I moved in. As far as the adjacent buildings taking a different tact to dealing with the tornado damage. The one to the north of us is the Electric Fetus, owned by Keith Covart, the owner of this property. So like Keith has already testified, he's very committed to historical preservation. He has been an excellent landlord. This is a misunderstanding and he's not trying to pull the wool over anybody's eyes and he's not trying to get away with anything. The house looks so much better. I've lived there for 10 years now and it finally looks decent to come home to. And people stop and look at it and they used to just barrel right past it not wanting to look at the building, it was ugly before and it just looks so much better. It's a huge improvement to the neighborhood and so with that, if I may, I'll just quickly read my husband's statement.

Greetings, my name is Dave Larson, I rent an apartment in this building along with my wife Anna. We have lived there since July 2003 (I've been there since September of 1999, but he moved in when we got married. He's in California for work and unable to attend the hearing.)

Keith Covart, owner of the Electric Fetus and this apartment building, has a long standing support of historical preservation as evidenced by his care and maintenance of that building at the corner of 4th and Franklin, the Electric Fetus.

When I first met Anna in December 2001, this apartment had vinyl siding on three sides; none on the south facing side. That tornado struck our area August last year and damaged the existing siding. After the new siding was installed, the building is more weather tight and energy efficient. Very shortly after the tornado hit, I understood the insurance adjuster attempted to match the existing siding. This is not possible after an exhaustive search which other could better describe.

What I can attest to is the attentiveness to detail by the workers applying the existing new siding. The building was covered with a foam insulation over existing clapboard siding and each side was covered and taped with Tyvek vapor barrier. Additionally a detailed caulking was done as a finishing process to the siding application. We have noticed the apartment being less drafty near windows and overall more comfortable.

However, the largest improvement is the overall clean look to the building and suitable color of the exterior. I do not understand what objection is to the beautification of this structure. The existing siding could not be matched and subsequent repair improves the look from the street as well as from the neighboring buildings.

I applaud Mr. Covart's efforts to get the siding completed before winter heating season and the "Certificate of Appropriateness to Replace Siding" should be approved without further delay.

Thank you. Sincerely, David Larson, 2028 4th Avenue South.

Chair Larsen: Excuse me, would you mind submitting that for the record?

Anna Larson: Absolutely, how do I do that?

Chair Larsen: If you could hand it to me, that would be great. Thank you very much. Is there anything else that you wish to add?

Anna Larson: No, thank you.

Chair Larsen: Thank you very much.

Marian Biehn: Good afternoon, my name is Marian Biehn from the Whittier Alliance. This issue did not come before the Whittier Alliance, so we do not have any official position on it. I will just restate that we are working on our, we've been working on our preservation issues in the neighborhood. It is a very important issue in the neighborhood. We do have the context study. This building is in the district. I think that what happened is that a repair became a total redo. Whereas I support the enforcement of the existing historic guidelines, because it is in the district, I do believe that since the repair became a redo, it got into a bigger issue but the building does look so much better than it did before. I wish it were lap siding, but I don't know that it is offensive enough to require a tear off. So maybe there is a condition that could be applied that would, in the future as repairs are needed, that lap siding be applied or an improved product be applied rather than replacing with the vinyl. Thank you.

Chair Larsen: Thank you, is there anybody else that wishes to speak for or against this application, please step forward. Ok, seeing none we'll close the public hearing. Alright commissioners, what's your pleasure? Commissioner Mack.

Commissioner Mack: Well, other than I know there's an issue with not getting a permit, so I don't feel qualified to speak to that. On the kind of issue of historic integrity, it strikes me that the integrity of this building had been lost before, when the metal siding was put on before and the windows were obviously changed. Considering it's context, I can't get myself too worried about its current condition and I think it has been an improvement for the people who live there and for the neighborhood, which to me is the most important thing. That's a pretty non-regulatory kind of response, so I apologize for that. But I would love to see the windows redone, so if there is any quid pro quo I think that redoing the windows and bringing back the double hungs would do more than taking out the siding and starting over. But I know we can't require that. I don't have a motion, I have those thoughts at this point.

Chair Larsen: Ok. Commissioner Morse Kahn.

Commissioner Morse Kahn: Thank you, we have I believe in my tenure one other instance where CPED for no other reason than simply cross purposes and lost communication failed to follow through for a citizen the proper material certification, application, whatever, that was requested, and it is clear in this case that the client and the contractor went through the process as

best they understood it, were directed to an alternate process and then were unable to receive timely and satisfactory response for their application. That they had weather conditions that were threatening the integrity of the entire structure and made their best guess and went ahead with as close a match as they could find. Whether or not this application for approval had come in a timely fashion and we would have been faced with a desire to see wood clabbor to be restore, I cannot say what I would have wanted. This building, while noted as contributing, sits in the midst of, with the exception of the Fetus building now restored, all non-contributing structures. It's literally surrounded. And I'm not sure if I were going to do this survey I would have considered it a contributing structure or just an outlier, but I feel the burden was on CPED and that the application should be retroactively approved.

Chair Larsen: Ok, Commissioner Lemmon.

Commissioner Lemmon: I would like to take a moment to reflect on the photos you showed us of the building when it was exposed with the vinyl off. What I see is a missed opportunity. Because, albeit, coming back as vinyl, none of the detailing was considered. So, yes, it was simple framed window openings with simple exterior detailing that was covered over, but that's what that type of building showed. And that type of detailing could have been replicated in vinyl, so even if we were considering allowing vinyl, which we don't, there was a missed opportunity as to how this building was reclad. When I first read this, it was like, you know, it's an insurance issue. It was a replacement of an existing damaged material, whether it was historic or not. And it seemed more open and closed until I saw those historic photos and saw that when this cladding was put on, we had an opportunity to come back and make the buildings look like those buildings that were approved with vinyl in the neighborhood. Which included, you know, trimmed out cladding, yes, but still the detailing was present on the building. So I guess to me it's more of a missed opportunity versus I think in some ways it has to do with the detailing and how that detailing was done. It just seems like that it's there, and as far as the building being weather tight and intact, it had a hundred year old clad siding underneath. Yes, there was probably issues and yes, it was damaged, and yes it needed to be repaired, but it probably wasn't in imminent danger of waiting a bit. I can't speak to that for sure, but just knowing that there was intact siding. You know the wood cladding underneath hadn't been ripped off by the tornado. The vinyl was open, but there still was an envelope behind there. So to me, again, it just seems like there could have been another layer and unfortunately if staff was given the time to do what they needed to do which was to review even a vinyl submittal that we could have had that (?) still back on the building. And even taken that building the next step. So yes it's an improvement to maybe make it look clean with nice clean vinyl but compared to what it could, what it was ... but being we had, I guess there was an opportunity and what was done to the building hasn't eliminated that opportunity. So vinyl siding is reversible but it just seems like as far as the steps to go through, there can be more done and a better understanding even if it's just a wood clabbered building and you're looking at vinyl, more can be done from a preservation standpoint.

Chair Larsen: I'd like to echo Commissioner Lemmon's thoughts. I think that there's, you know you talk about the burden of, the burden here is really on the applicant and not on the city. They submitted for an application, they didn't receive it, they didn't follow up to make sure they got it. Instead of coming down to the city and applying, standing in front of the counter, they just

went ahead with the project and so I, obviously there is probably more issues with that. And I think that, it is interesting to note in that your letter from the resident was helpful to clarify that the vinyl siding was only on three sides and not on the south side which is the image that was shown. That was the south side image, so there was evidence of what the detailing was at the time that the remaining vinyl siding was removed. I'm sure there probably was damage, more than just the vinyl siding on the north side where the tornado might have hit, so I'm sure that there was a desire to enclose the property and to keep further damage from occurring, but I would agree with Commissioner Lemmon that there was certainly missed opportunities on all sides. Commissioner Morse Kahn, did you have additional comments?

Commissioner Morse Kahn: Yes, only that as we all saw the photographs, the whispered comment what a lost opportunity. So we are, I am, in complete agreement with you there. Whether or not a process which should be simple was made burdensome to a citizen, client, and whether or not it meant that they should have taken extra steps, the process as presented to the community lost its step for them and this is one instance where I feel they did act in good faith with the press of climate issues behind them. I don't know if I would have continued making phone calls. Finding nobody to answer questions, it would be my style to talk to the manager, take it to the top. I don't know how far it was pursued, so I'm a bit handicapped there, I agree. Thank you.

Chair Larsen: Commissioner Lackovic

Commissioner Lackovic: I don't think it's our role to debate process, I think it's our role to discuss the outcome more so, and I couldn't agree more with Commissioner Lemmon's comments. I think looking at the finished photos, the current existing condition. You look at the building and its hard to see its historic value and its hard to imagine it as a contributing resource, but the pictures you showed of the wood during the siding replacement, then you could see it. It's all still there. I guess for me, reading it the first time, again it was one of those replacing siding, it's kind of an odd spot in the neighborhood, I guess I'm not as disturbed by the siding as I am by the loss of detailing around the windows. And I think it's the way this has been detailed and been put back together, that's what's causing it to lose its status as a contributing building. I think, again, given the opportunity to have reviewed this ahead of time, decisions could have been made which would have made this a very qualifying building, even with vinyl siding. I think the attention to detail and expressing the character of this building would have gone a long way. So again, that's not a motion either, more of a running commentary.

Commissioner Lemmon: I think, if you don't mind ...

Chair Larsen: I'm looking for a motion.

Commissioner Lemmon: Ok, I think I'm going to make a motion and it is based on that because we are here to make sure that, and I think it was mentioned that this building isn't a contributing building, and the reality is that it is, and it is a part of a district, and that said I'm going to say that we adopt staff findings and deny the Certificate of Appropriateness with the hope that they

do come back. They do get a permit, and they make the improvements to, albeit vinyl, to allow this building to retain its significance and to allow it to show that it has. That's my motion.

Chair Larsen: Ok, there's a motion on the floor, is there a second to the motion.

Commissioner Lackovic: I'll second.

Chair Larsen: Ok, Commissioner Lackovic. Discussion on the motion? Commissioner.

Commissioner Elliott: I just have a question regarding that motion, and if the motion is passed that the applicant understand what we're asking for. I think the concern from the motioner and the seconder is the detail around the windows, not the fact that it's vinyl?

Chair Larsen: That's correct.

Commissioner Elliott: So as far as the applicant is concerned, modification to reveal the detail around the windows would have been an acceptable approach regardless of the material used.

Commissioner Lemmon: I think in hindsight, it's probably the middle ground solution. I mean ideally yes, because the wood is still there we could ask that it be restored. But I don't feel, because they've already put the expense into the vinyl, that that's necessarily, it's just kind of throwing more bad at bad. We're not getting to a scenario, I don't feel comfortable taking a new material, albeit vinyl siding, and throwing it away entirely in order to get a desired scenario. The Secretary of Interior Standards wouldn't necessarily set forth that vinyl is the ideal replacement, but because it does dimensionally replicate the wood clabbor that is underneath, it can be approved and accepted so therefore I would say we could accept that as a solution for this building. But for me the most offensive part is the fact that we lost the detailing that lets this building look like it belongs in the district.

Commissioner Morse Kahn: Could we have a rephrasing of the motion, please?

Chair Larsen: You mean a restating?

Commissioner Morse Kahn: Yes, a restating, thank you.

Commissioner Lemmon: Actually the motion currently is that we adopt staff findings and deny the Certificate of Appropriateness which would require them to come forward with new detailing to staff and a permit with detailing that staff would approve.

Chair Larsen: Commissioner Mack.

Commissioner Mack: I'm just wondering if we could be a little clearer about what we're asking for so that the process after our vote becomes smoother. I have a sense, but I'm not sure we're stating it very clearly and I could vote for your motion if I, I don't know if we have a condition or if we ...

Chair Larsen: Ok, let me, the process if the motion is to deny, there are no conditions. There are no conditions on denial. So in that sense, I think what Commissioner Lemmon has indicated is that we're looking for, we have recorded evidence of what the original siding and trim detail around the windows are and as of right before the storm and before the replacement there was no siding on that south exterior, so there is clear evidence of what that was and from what my reading of Commissioner Lackovic and Commissioner Lemmon's motion was that they were looking for the applicant to come forward with new detailing and to reveal and replicate those details.

Commissioner Mack: Mostly around the windows?

Chair Larsen: Correct, that is correct.

Commissioner Mack: Correct, that is correct, Commissioner Lemmon?

Commissioner Lemmon: Yes.

Chair Larsen: Commissioner Lackovic, does that accurately reflect Ok, terrific. Ok, Commissioner Crippen, additional comments?

Commissioner Crippen: I apologize if this isn't immediately obviously germane to the motion, but it might help me anyway. I'm wondering if I could ask staff if we go through a process, let me back up. I understand at the National Register level what happens if a property is deemed to no longer contributing to a district, that there's a process to go through to de-list a property from the Register and I'm wondering what that process is in our local statutes if we get to that point with this property one way or another.

Staff Smoley: Commissioner Crippen, Mr. Chair, members of the commission, the Heritage Preservation regulations adopted by the City Council of the City of Minneapolis don't actually have procedures for de-listing a property.

Chair Larsen: I think the germane piece there is we have existing cladding underneath and so therefore its contributing material is still there and at some time can be revealed should a future owner deem it their desire to bring it back. But it still retains its integrity due to the original material.

Commissioner Crippen: Yes, I think that's probably true. It seems like there's enough evidence to indicate that there probably is that detail remaining to have it contributing. I'm wondering if further investigation would cause us to say, "Oh no, not really." Or if we looked at the setting and said this is a house that's an island amidst a commercial district and no longer has its integrity of setting. In any case, I think that's probably a debate for a later time.

Chair Larsen: I would make a strong argument that the fact that it is amongst itself, in an island, is actually one of the very reasons why it should be saved. We often are saving unique gems, and

this is one of those represents what happens when you put a highway through it, when you turn a residential area into a commercial area, so I think there can be strong debate either way, and I think that's best left for another time.

Commissioner Crippen: Ok.

Chair Larsen: Commissioner Mack.

Commissioner Mack: No, I agree there would be strong debate because I would differ with you on that. I think that it's at the edge of a district, but I think that's for another time.

Chair Larsen: Ok, any further discussion? Commissioner Kelley.

Commissioner Kelley: You know I find myself agreeing with all of the premises that have been laid out in the last few minutes, to varying degrees. I think it's an important building in that it's the only one left in its area. I think that it's extremely unfortunate that the opportunity was missed to replace some of the, to do the restoration in a more sensitive manner. However, I'm thinking now it is May 18 and we can only affect what goes on in the future. I don't see a good reason to penalize the property owner who from what I can tell and realizing that my impressions could be mistaken, but he had severe damage to two different buildings. He undertook to quickly correct that, insurance came in and wouldn't have paid for the wood siding in any case and it didn't occur to them. That seems fairly plausible. The permitting ... (tape gap due to turning) ... faith, and did in the view of at least the tenants and some of the others that we've heard from, improved the building. I don't see a positive outcome from denying this application for the Certificate of Appropriateness. I would have rather that things had happened a different way but I just can't support the motion.

Chair Larsen: Ok, alright any further discussion? Commissioner Elliott.

Commissioner Elliott: I'm leaning towards agreeing with Commissioner Kelley. One of the biggest problems I've having with the current motion is that, from what I understand and I may not understand all the facts, and I will admit that, but the loss of integrity had already happened with the initial vinyl siding and I have a hard time making someone, making the current owner correct someone else's previous mistake. The other, I recognize this is a lost opportunity now, but the opportunity is still there. So, they haven't done any irreparable damage by covering the detail. I'm having a hard time I guess asking them to right someone else's wrong that happened in the past. And especially given this isn't an individual landmark, it's a contributing resource. I think I'd feel differently if it were an individual landmark status.

Chair Larsen: Commissioner Lemmon.

Commissioner Lemmon: I think just to respond to that, that's fine one way or another. The only reason I'm feeling that we still have an opportunity is because there was no opportunity for staff to comment on this because they went ahead without a permit. So I guess I'm just taking us back to the point where staff can then weigh in and that the Heritage Preservation group can actually

comment and help with the detailing of how we proceed with projects like this. So I guess that's part of, if there's a permit in place and everything had kind of fallen in line, but because they did so without staff being able to weigh in I feel we still have an opportunity to help them make decisions based on the building. But I would agree that the previous vinyl had already done the damage, but in some way we can't do anything about what was previously done. All we have is what was done now and we can possibly help inform the detailing on that.

Chair Larsen: And if I understand correctly, you're not suggesting removal of all the siding it's just the potential changes to the existing siding. Commissioner Harrison.

Commissioner Harrison: What I feel is that the previous vinyl siding was put on after this became a locally designated district. I guess my question would be how that happened, but it did and it was a condition that was already there. I don't think they did any damage. The other question I have is we quite often, it seems to me, approve changes that are reversible. It seems to me that in future, what happened recently to this building can be reversed. The detailing underneath was not removed so why not just assume that the next time we have a tornado or something like that and it comes up for review again, that would be the time to correct what was done but not to do it now.

Chair Larsen: Ok, any further discussion before we call the roll? Yes, Commissioner Lackovic.

Commissioner Lackovic: Just a brief comment in terms of the reversibility. One thing that I think we need to keep in mind is that with the addition of vinyl siding and it was the rigid insulation that changed this building. When the original vinyl siding went on it was immediately over the clapboard. The windows were probably still expressed at some level. Adding additional insulation now is what has pushed that vinyl siding out and that's where we're losing the window detailing. So it was with this round of detailing that I think a lot of material opportunities for expressive detailing opportunities were lost. Not the first vinyl installation. But also I just want to point out that technically it is reversible, however sandwiching wood between two non-breathable materials, this building could actually be set up for certain failure. We've got wood siding and probably wood framing in between what is more than likely layers of paint on plaster on the interior and non-breathable insulation and vinyl on the outside. You are setting up a very dangerous condition here which is why typically most architects don't like vinyl siding, it's just a very dangerous system to use unless it's detailed very, very carefully. So, yes reversible, however reversible with reservations there. I understand what everybody's, where the hesitation comes in. I definitely feel for the owner, it's a long way to go to find out that maybe you've made some wrong choices, but I still feel that there are things that could be done without requesting or demanding that everything be taken down. I still think that there can be some additional design considerations added that would enhance it. So I'm sticking with the motion.

Chair Larsen: Ok, any further discussion before we call the roll, Commissioner Morse Kahn? Commissioner Kelley? Alright, seeing none we'll call the roll.

Clerk: Commissioner Lackovic?

Commissioner Lackovic: Aye.

Clerk: Crippen?

Commissioner Crippen: Nay.

Clerk: Mack?

Commissioner Mack: Nay.

Clerk: Morse Kahn?

Chair Morse Kahn: Nay.

Clerk: Kelley?

Commissioner Kelley: Nay.

Clerk: Larsen?

Commissioner Larsen: Aye.

Clerk: Lemmon?

Commissioner Lemmon: Aye.

Clerk: Harrison?

Commissioner Harrison: Nay.

Clerk: Elliott?

Commissioner Elliott: Nay.

Chair Larsen: Ok, that motion fails. So that motion fails, is there another motion on the floor?
Commissioner Mack.

Commissioner Mack: You know I'm not very good at doing motions and I don't have Commissioner Lemmon to help me now, but how about CPED Planning recommends that the Heritage Preservation Commission approves the Certificate of Appropriateness with the condition that plans be submitted and approved for detailing the windows while maintaining the existing vinyl siding. Somebody can help me out and improve that, I'm sure. But it's the basic, I think it's, the basic idea is clear, so I'd appreciate help.

Commissioner Morse Kahn: I second that motion.

Chair Larsen: Ok, I'm going to need a little clarification on that. So you are seeking to approve the Certificate of Appropriateness with conditions and the condition is ...

Commissioner Mack: That the owner submit plans for approval for carrying out the detailing that we've been talking about, the detailing of the windows and anything else that we think should be detailed. The more specific the better it will be but I don't know enough about vinyl siding and detailing to be terribly specific here but the intent is actually the same as Commissioner Lemmon's motion and her thoughts about how to then proceed to the next step.

Chair Larsen: So you are seeking the owner to submit plans for approval for details to match existing window trim, original window trim detailing. Commissioner Lackovic, comments?

Commissioner Lackovic: Basically you are just putting a positive spin on what was initially proposed. Instead of saying no, you can't, no we're not going to call it a Certificate of Appropriateness and you need to redo your windows, you're saying fine let's call it a Certificate of Appropriateness and you still need to do your windows.

Chair Larsen: And we have done that before. I mean certainly we've approved plans with conditions that don't match exactly what was submitted, so this is not uncommon but I do want to make sure we get what it is you are looking for. Commissioner Lemmon, thoughts? Ok, so you are ok to match original window trim detailing, is that correct, Commissioner Mack? Ok, and was there a seconder to the motion? Ok, Commissioner Morse Kahn. Alright, comments on the motion, Commissioner Crippen.

Commissioner Crippen: I worry about enforceability on this one because I feel like we've lost our leverage if we approve a Certificate of Appropriateness, the work is completed, what's going to cause the applicant to seek and get this permit?

Chair Larsen: Well, they are still out of compliance and they would be if they didn't complete the work, so that would be additional fines.

Commissioner Crippen: So there would be the follow up for final permitting on that condition. So they don't get a final permit ...

Chair Larsen: Well, we can let them worry about that. Alright, is there any further discussion on the motion? Seeing none, we'll call the roll.

Clerk: I'm just going to reiterate the condition and it should say that owner submit plans for approval for detailing to match original window trim detailing.

Chair Larsen: Sure, yes.

Clerk: Ok.

Staff Byers: Mr. Chair and Commissioners, if we could get clarification at the staff level on two items. First, would you like to have this come back to the commission for your review; and secondly is your expectation that the detailing is on top of the current vinyl siding, so that we know what to expect in terms of the ramifications.

Clerk: Commissioner Lackovic?

Commissioner Lackovic: Aye.

Clerk: Crippen?

Commissioner Crippen: Nay.

Clerk: Mack?

Commissioner Mack: Nay.

Clerk: Morse Kahn?

Chair Morse Kahn: Nay.

Clerk: Kelley?

Commissioner Kelley: Nay.

Clerk: Larsen?

Commissioner Larsen: Aye.

Clerk: Lemmon?

Commissioner Lemmon: Aye.

Clerk: Harrison?

Commissioner Harrison: Nay.

Clerk: Elliott?

Commissioner Elliott: Nay.

Chair Larsen: I'll suggest that on question number one, coming back to the commission, that is a no, but for approval by staff. And two, on top of, it would be not so much I suppose on top of but in place of, so there might be some removal of the existing material to insert ...

Commissioner Lemmon: The existing vinyl

Chair Larsen: The existing vinyl, right.

(unidentified audience member): May I ask a question?

Chair Larsen: Sure.

(unidentified audience member): I just want to, so what you are thinking is if we cut back the siding to show that wood trim around the windows, is what the attempt is ...

Chair Larsen: To prepare detailing of new vinyl material that would replicate the existing trim that is evidenced behind. So you are not revealing the wood, you are creating vinyl trim or aluminum trim detailing to ...

Commissioner Lemmon: You are trying to replicate in vinyl cladding what the wood trim originally looked like.

(unidentified audience member): Ok, I see what you mean. Thank you.

Chair Larsen: Ok, alright, is that clear, Diana?

Clerk: So, I will put condition 2 to say that it does not have to come back to HPC for approval but it is staff approval, and condition number 3 will be prepare new vinyl detailing to replicate original wood detailing. Ok?

Chair Larsen: Yes, that sounds wonderful. Excellent.

Clerk: Then we will go with Commissioner Elliott.

Commissioner Elliott: Nay.

Clerk: Harrison?

Commissioner Harrison: Nay.

Clerk: Lemmon?

Commissioner Lemmon: I forget now, Aye.

Clerk: Larsen?

Commissioner Larsen: I'll vote Aye on this.

Clerk: Kelley?

Chair Kelley: Aye.

Clerk: Morse Kahn?

Commissioner Morse Kahn: Aye.

Clerk: Mack?

Commissioner Mack: Aye.

Clerk: Crippen?

Commissioner Crippen: Nay.

Clerk: Lackovic?

Commissioner Lackovic: Aye.

Chair Larsen: Ok, that motion carries, good luck with your project.

(female audience member): Who pays for this, the owner?

Chair Larsen: That's correct.