CITY OF MINNEAPOLIS
CPED PLANNING DIVISION
HERITAGE PRESERVATION COMMISSION STAFF REPORT
BZH-26301

FILE NAME: 1209 4th Street Southeast, Oh Day Aki (Heart of the Earth) School

DATE OF APPLICATION: February 4, 2010

APPLICANT: Doran Companies (Jim LaValle), 952-288-2006

PUBLICATION OF STAFF REPORT: March 30, 2010

DATE OF HEARING: April 6, 2010

APPEAL PERIOD EXPIRATION: April 16, 2010

CATEGORY: Historic Resource

CLASSIFICATION: Demolition of a Historic Resource

STAFF INVESTIGATION AND REPORT: John Smoley, Ph.D., 612-673-2830

DATE: March 30, 2010

A. BACKGROUND

On September 17, 2009, Carl Bolander & Sons submitted a Wrecking Permit application for 1209 4th Street Southeast. On October 9, 2009, staff informed the Applicant that the subject property was a historic resource, based upon the building's association with Oh Day Aki (Heart of the Earth) School. On February 4, 2010, Doran Companies submitted an application for the Demolition of a Historic Resource. The firm intends to replace the building with a multi-family residence.

B. DESCRIPTION

Oh Day Aki (Heart of the Earth) School, located at 1209 4th Street Southeast (previously 1201-1211 4th Street Southeast), was constructed from 1920-1921 for the First Methodist Episcopal Church by the Beck Engineering Construction Company. The brick and stone building was designed by O.N. Newstrom and M.C. Lindquist in the Tudor (AKA English Revival) style.[1] Brick clads the walls. Stone accents the foundation, windows, and parapet that rises above the flat roof. A two-story, castellated, projecting entryway leads into the western side of the building. Two-story bay windows project symmetrically from the southern elevation along 5th Street Southeast. A chimney protrudes from the roof on the NE corner of the building. A brick and concrete addition constructed in 1954 extends off the rear of the building.

C. PROPOSED CHANGES

The Applicant plans to purchase 1209 4th Street Southeast to erect "Fourth Street Flats," a five-story, multiple-unit residential building. The building would include 101 studio, one, two and three bedroom market rate units. Associated work includes replatting five lots to increase the size of the lot at 1209 4th Street Southeast, rezoning the property from R-5 to OR-3, acquiring a Conditional Use Permit, obtaining a Planned Unit Development, demolition of 1209

[1] City of Minneapolis Building Permit #B144683, 1201-1211 4th Street Southeast.

4th Street Southeast (Oh Day Aki), and construction of parking lots (to include two levels of underground parking). Three adjacent buildings would not be purchased but would have their lot sizes reduced to accommodate the development. Those properties are a 1960s brick apartment building at 1215 4th Street Southeast and two historic resources: 1206 5th Street Southeast (the Frey residence) and 1212 5th Street Southeast (the Hoy house). Project plans on attachment pages B57-B65 depict these proposed changes.

The Applicant has submitted architectural-sized plans to Development Services staff in preparation for a public hearing before the Planning Commission for various land use entitlements. These plans depict a phased development. Future phases reserve the right of the developer to demolish 1212 5th Street Southeast (the Hoy house) to construct a parking lot onsite. Staff has requested a reduced size set of these plans for Heritage Preservation Commission review. As of the date of publication of this staff report, these plans had not been submitted. Staff has informed the Applicant that demolition of 1212 5th Street Southeast will require the filing of a Demolition of a Historic Resource application.

A supplementary letter from the property owner (see attachment page C1) indicates that they support the proposed demolition and that proceeds from the sale of 1209 4th Street Southeast will be used to preserve and renovate 1206 5th Street Southeast (the Frey residence) as an, "interpretive cultural, meeting and learning center dedicated to the education of the general populus to celebrate the history of the Native American and Indigenous societies." As of the date of publication of this staff report, these plans had not been submitted.

D. NECESSITY OF DEMOLITION

The Minneapolis Code of Ordinances, Title 23, Heritage Preservation, Chapter 599 Heritage Preservation Regulations states that before approving the demolition of a property determined to be an historic resource, the commission shall make findings that the demolition is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the demolition. 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 up to one hundred-eighty (180) days to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.

D1. UNSAFE OR DANGEROUS CONDITION

The Applicant does not contend that the demolition of the subject property is necessary to correct an unsafe or dangerous condition. A 2008 reuse feasibility study (see attachment pages B46-B56) commissioned by the property owner's agent, conducted by AmerINDIAN, and including a construction budget from Shingobee Builders (attached), recommends work substantial in cost, but does not identify any unsafe or dangerous conditions.

D2. REASONABLE ALTERNATIVES TO DEMOLITION

Reasonable alternatives to demolition exist. The Zoning Code permits all historic and proposed uses of the building: places of religious assembly (permitted), schools (conditionally permitted), multi-family dwellings of five or more units (conditionally permitted), and parking

lots for the aforementioned uses (conditionally permitted). A wide variety of other uses are also permitted in the zoning district of the property: R-5.

D2a. SIGNFICANCE

The subject property appears eligible for designation as a landmark per criteria 1 and 2.

Criterion 1. The property is associated with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history.

The property appears significant under criterion 1 by being associated at the local, state, and national level with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history: the genesis of an educational movement that encouraged the retention of native culture, rather than Native American assimilation into white society. Oh Day Aki (Heart of the Earth) appears to be the first self-run Native American K-12 school in the modern United States.

Native American participation in the civil rights struggles of the 1960s and 1970s took a decidedly different turn than the participation of African Americans: the traditional focus of civil rights activities during that time. Although there was some early participation in calls for integration into white-only schools, Native Americans quickly developed a civil rights stance reflecting their historic struggles with mainstream society. Segregation, not integration, became a practical approach to unify and uplift a small, fragmented group that had once dominated the North American continent. One highly tangible example of this approach to civil rights is evident in the Oh Day Aki (Heart of the Earth) School at 1209 4th Street Southeast.

Initially segregated from white society in the United States, Native Americans were the focus of intense integration efforts, particularly in the late nineteenth century. One of the primary methods governmental and religious leaders used to integrate Native Americans into while society was education. Native children were forcibly removed from their families and tribal surroundings to be educated in boarding schools. In these institutions, native children were taught to embrace cultural norms that would help ensure their success in a Eurocentric culture, at the expense of understanding and participating in their native culture.[2]

By the dawn of the 1970s the effect of these integrationist policies were readily apparent. Roughly two centuries after the founding of the United States of America, Native Americans accounted for only one-half of one percent of the population of the United States. Infant mortality among Native Americans was three times the national average while the average lifespan of Native Americans was 2/3 that of the national average. The average income for Native Americans was one-half of the poverty level in the United States and five years was the average educational level of all Native Americans under federal supervision. Management of native schools by the Bureau of Indian Affairs created often deplorable conditions, offering native families a hard choice between that and the prejudice experienced in integrated mainstream schools. A

[2] David Nasaw, *Schooled to Order: A Social History of Public Schooling in the United States* (New York: Oxford University Press, 1979) 26.

Special Senate Subcommittee on Indian Education, chaired by Senator Robert Kennedy and, after his death, by his brother Senator Edward Kennedy, concluded in 1969 that, "…our national policies for educating American Indians are a failure of major proportions." That same year, a national study of the issue by the Citizen's Advocate Center identified seven consistent recommendations in forty-one years of federal studies. One of those recommendations called for radical improvements in Native American education.[3]

In 1972 the American Indian Movement (A.I.M.) took that recommendation to heart when it established the Heart of the Earth Survival School: described by A.I.M. as, "…the first model of community-based, student-centered education with culturally correct curriculum operating under parental control." The school moved through various temporary spaces until 1975 when A.I.M. purchased its first and last permanent building at 1209 4th Street Southeast from the Metropolitan Methodist Campus Ministries.[4] As the first example of such a self-run Native American K-12 school in the modern United States, the school is highly significant in the history of local, state, and national education.

For thirty five years Oh Day Aki educated children, improved perceptions of Native Americans in mainstream society, and served as a rallying point for the Native American community. This persistent prominence ended abruptly in 2008. At that time, a state audit revealed over $160,000 in school funds missing. In August of that year the Hennepin County Sheriff arrested the school's director, Joel Pourier, on suspicion of embezzlement. Shortly thereafter, the Minneapolis School Board ended its affiliation with Oh Day Aki (Heart of the Earth) School. This break ended the federal funding the school had earned since its attainment of charter school status in 1999. The school closed in 2008.[5]

This is not to say that similar institutions did not exist. Rough Rock Demonstration (now Community) school in the Navajo Nation in Arizona is older (founded in 1966), and continues to operate to this day, but Rough Rock was founded by the Bureau of Indian Affairs as a test school in an effort to preserve Navajo culture while providing a quality education. Red Rock was not transferred to tribal control until 1978. On December 11, 1969, Native people founded the Big Rock School in what had been the movie theater and meeting hall of Alcatraz Island's main prison cell block. The establishment of the school occurred in conjunction with Native American occupation of the island in San Francisco Bay. As such, the school maintained no paid staff, no formal curriculum, and no normal funding source, placing it in a category of properties apart from the formal educational achievement evident in schools like the Heart of the Earth. The forcible removal of Native Americans from the island on June 11, 1971 ended this informal

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[3] Cahn, Edgar S., ed., *Our Brother's Keeper: The Indian in White America* (New York: World, 1969) viii, 15, 28, 40; Alvin M. Josephy, ed. *Red Power: The Americas Indians' Fight for Freedom*, 2nd ed. (Lincoln: University of Nebraska Press, 1999) 186-188.

[4] "AIM Dedicates Heart of the Earth Survival School," *Minneapolis Tribune,* 15 May 1975; Laura Waterman Wittstock and Elaine J. Salinas, "A Brief History of the American Indian Movement ," [http://www.aimovement.org/ggc/history.html] accessed 19 March 2010.

[5] "Minneapolis Cuts Ties to Heart of the Earth Charter School," *Star Tribune,* 12 August 2008.

school's brief service. A.I.M. founded the Red School House in St. Paul in 1972 shortly after establishing Oh Day Aki (Heart of the Earth) School in Minneapolis, but the Red School House had neither the prominence nor the longevity of the Heart of the Earth. Deganawidah-Quetzalcoatl (DQ) University just west of Davis, California appears to be the first post-secondary school run by and for Native Americans on land deeded to Native Americans from the United States government. Further research is needed to determine whether Heart of the Earth or DQ University was established first.[6]

Criterion 2. The property is associated with the lives of significant persons or groups.

The subject property appears eligible for designation as City of Minneapolis landmark due to its association at the local, state, and national level with a group significant to the city, state, and nation's past: the American Indian Movement (A.I.M.).

The American Indian Movement began in 1968 as a grassroots effort to improve the lives of Native Americans living in Minneapolis. The local group quickly developed a nationwide membership and agenda, seeking to end discrimination against native people, reform governmental policy toward Native Americans, and to improve the lives of indigenous people everywhere.

In its first few years, A.I.M. utilized civil disobedience common in the late 1960s to advance its agenda. Protests and occupations of government land placed A.I.M. in the national spotlight, helped unify disparate Native American groups, emboldened its members, and greatly expanded its following. In 1971 A.I.M. began directing its efforts to found permanent organizations by and for Native Americans in three primary areas of concern: police brutality, health, and education.[7]

Oh Day Aki (Heart of the Earth) School appears to be one of the first examples of A.I.M. purchasing property and extending its advocacy through a permanent physical plant. Clyde Bellecourt, one of the three founders of A.I.M., was quoted in a prominent Native American newspaper as believing Oh Day Aki (Heart of the Earth) School is A.I.M.'s greatest local accomplishment.[8] Further research will be needed to determine the significance of the school within the context of other early A.I.M. activities represented by properties such as A.I.M.'s early Minneapolis headquarters at 1337 Franklin Street East (demolished in 1978) and the Legal Rights Center (established in 1970 in

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[6] Alvin M. Josephy, ed. *Red Power: The Americas Indians' Fight for Freedom*, 2nd ed. (Lincoln: University of Nebraska Press, 1999) 175, 192-193; Laura Waterman Wittstock and Elaine J. Salinas, "A Brief History of the American Indian Movement ," [http://www.aimovement.org/ggc/history.html] accessed 22 March 2010; "School," *Star Tribune* 9 March 1992, 8E; "A History of American Indians in California: Historic Sites – D-Q University, Yolo County," in *Five Views: An Ethnic Historic Site Survey for California,* [http://www.nps.gov/history/history/online_books/5views/5views1h18.htm], accessed 24 March 2010.

[7] "'Red Power" Rewind: AIM Turns 30," *The Circle*, September 1998, 6.

[8] "'Red Power" Rewind: AIM Turns 30," *The Circle*, September 1998, 6.

conjunction with a North Minneapolis African American youth-serving organization named The Way, Peter Dorsey, Doug Hall, Gwen Davis, and Syl Davis).[9]

The subject property may also be eligible for designation as a landmark under the other designation criteria. Such an analysis would be conducted as part of a designation study.

D2b. INTEGRITY

1209 4th Street Southeast possesses integrity, as evident in its retention of all seven aspects of integrity.

Location: The building remains in its original location, indicating the building maintains integrity of location.

Design: The building retains the design it possessed during its use as Oh Day Aki (Heart of the Earth) School from 1975-2008, thus the building possesses integrity of design.

Setting: The property's integrity of setting remains intact. The building continues to operate among other residential and institutional uses associated with the nearby university, as it has done throughout its history.

Materials: The building possesses integrity of materials, as no materials have changed since its use as Oh Day Aki (Heart of the Earth) School from 1975-2008.

Workmanship: Integrity of workmanship is evident in the existing window and entryway trim.

Feeling: Although students are no longer coursing through this institution's hallways, the building possesses integrity of feeling. No exterior changes have been made since the school's end in 2008, no new uses have occupied the building, the building's setting remains unchanged, and the building has not been moved.

Association: The property's integrity of association remains intact. The school left the building less than two years ago after using it for over twenty-five years. No new organizations have occupied the space.

D2c. ECONOMIC VALUE OR USEFULNESS OF THE EXISTING STRUCTURE

The Applicant has not demonstrated that the building in question has no economic value or usefulness.

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[9] Paul Chaat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (New York: The New Press, 1996) 111-112; Kathy Davis Graves and Elizabeth Ebbot, *Indians in Minnesota,* 5th Ed. (Minneapolis: University of Minnesota Press, 2006) 105; City of Minneapolis Wrecking Permit # I19222, 1331-1339 Franklin Avenue East; "The Legal Rights Center: Our History," [http://www.legalrightscenter.org/History.htm], accessed 26 March 2010.

The Applicant contends that the cost to make the building at 1209 4th Street Southeast meet current building code standards is unreasonable. They provided a 2008 reuse feasibility study commissioned by the property owner's agent, conducted by AmerINDIAN, and including a construction budget from Shingobee Builders. Unfortunately, the budget only provides specific estimates for work (upgrade possibilities) unrelated to code compliance. Code compliance work is identified and assigned an estimate of $2.4-2.8 million. Plumbing, HVAC, and electrical work, which are assigned round cost figures, require less than half of that sum. Apart from code compliance issues, no structural deficiencies or problems beyond periodic maintenance requirements were identified on the exterior of the building.

The Applicant contends that added costs for plans, permitting, remediation, legal fees, and professional fees would increase the cost of the rehabilitation to $4 million. Unfortunately, the Applicant has not provided estimates of those costs for the proposed scope of work, which is far more extensive than rehabilitation of the existing building.

Additionally, the Applicant has not estimated expected income for the rehabilitated property, which was substantial enough to make use of this institutional building feasible for non-profit organizations for over three quarters of a century.

The Applicant has also not had the property appraised. Hennepin County Assessor records do not indicate the value of the property, due to its non-profit use for its entire history, making conclusions about the economic value or usefulness of the existing structure speculative at best.

E. PUBLIC COMMENTS

Staff has received no comment letters as of the date of publication of this staff report.

F. APPLICABLE ORDINANCES

Chapter 599. Heritage Preservation Regulations

ARTICLE V. DESIGNATION

599.210. Designation criteria. The following criteria shall be considered in determining whether a property is worthy of designation as a landmark or historic district because of its historical, cultural, architectural, archaeological or engineering significance:

(1) The property is associated with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history.

(2) The property is associated with the lives of significant persons or groups.

(3) The property contains or is associated with distinctive elements of city or neighborhood identity.

(4) The property embodies the distinctive characteristics of an architectural or engineering type or style, or method of construction.

(5) The property exemplifies a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail.

(6) The property exemplifies works of master builders, engineers, designers, artists, craftsmen or architects.

(7) The property has yielded, or may be likely to yield, information important in prehistory or history.

599.230. Commission decision on nomination. The commission shall review all complete nomination applications. If the commission determines that a nominated property appears to meet at least one of the criteria for designation contained in section 599.210, the commission may direct the planning director to prepare or cause to be prepared a designation study of the property. In cases where an application for demolition is initiated by the property owner, the planning director may determine that the property owner bears the full financial responsibility of conducting the designation study. In all cases, the planning director shall define the scope of services for a designation study, review qualifications of agent conducting study and make a determination of what constitutes a final submission upon completion.

599.240. Interim protection. (a) Purpose. Interim protection is established to protect a nominated property from destruction or inappropriate alteration during the designation process.

(b) *Effective date*. Interim protection shall be in effect from the date of the commission's decision to commence a designation study of a nominated property until the city council makes a decision regarding the designation of the property, or for twelve (12) months, whichever comes first. Interim protection may be extended for such additional periods as the commission may deem appropriate and necessary to protect the designation process, not exceeding a total additional period of eighteen (18) months. The commission shall hold a public hearing on a proposed extension of interim protection as provided in section 599.170.

(c) *Scope of restrictions*. During the interim protection period, no alteration or minor alteration of a nominated property shall be allowed except where authorized by a certificate of appropriateness or a certificate of no change, as provided in this chapter. (2001-Or-029, § 1, 3-2-01)

ARTICLE VIII. HISTORIC RESOURCES

599.440. Purpose. This article is established to protect historic resources from destruction by providing the planning director with authority to identify historic resources and to review and approve or deny all proposed demolitions of property.

599.450. Identification of historic resources. The planning director shall identify properties that are believed to meet at least one of the criteria for designation contained in section 599.210, but that have not been designated. In determining whether a property is an historic resource, the planning director may refer to building permits and other property information regularly maintained by the director of inspections, property inventories prepared by or directed to be prepared by the planning director, observations of the property by the planning director or any other source of information reasonably believed to be relevant to such determination.

599.460. Review of demolitions. The planning director shall review all building permit applications that meet the definition for demolition to determine whether the affected property is an historic resource. If the planning director determines that the property is not an historic resource, the building permit shall be approved. If the planning director determines that the property is an historic resource, the building permit shall not be issued without review and approval by the commission following a public hearing as provided in section 599.170.

599.470. Application for demolition of historic resource. An application for demolition of an historic resource shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160.

599.480. Commission decision. (a) *In general.* If the commission determines that the property is not an historic resource, the commission shall approve the demolition permit. If the commission determines that the property is an historic resource, the commission shall deny the demolition permit and direct the planning director to prepare or cause to be prepared a designation study of the property, as provided in section 599.230, or shall approve the demolition permit as provided in this section.

(b) *Destruction of historic resource.* Before approving the demolition of a property determined to be an historic resource, the commission shall make findings that the demolition is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the demolition. 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 up to one hundred-eighty (180) days to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.

(c) *Mitigation plan.* The commission may require a mitigation plan as a condition of any approval for demolition of an historic resource. Such plan may include the documentation of the property by measured drawings, photographic recording, historical research or other means appropriate to the significance of the property. Such plan also may include the salvage and preservation of specified building materials, architectural details, ornaments, fixtures and similar items for use in restoration elsewhere.

(d) *Demolition Delay.* The commission may stay the release of the building, wrecking or demolition permit for up to one hundred-eighty (180) days as a condition of approval for a demolition of an historic resource if the resource has been found to contribute to a potential historic district to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it. The release of the permit may be allowed for emergency exception as required in section 599.50(b).

G. FINDINGS

1. The subject property is a historic resource.

2. The demolition is not necessary to correct an unsafe or dangerous condition on the property.

3. Reasonable alternatives to demolition exist.

4. The subject property appears to be historically significant at the local, state, and national level under criteria 1 and 2.

5. The building possesses integrity, as evident in its retention of all seven aspects of integrity.

6. The Applicant has not demonstrated that the building in question has no economic value or usefulness.

7. The commission may delay a final decision for up to 180 days to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.

H. STAFF RECOMMENDATION

CPED recommends that the Heritage Preservation Commission **adopt** staff findings and **deny** the demolition application of the property at 1209 4th Street Southeast; **establish** interim protection; and **direct** the Planning Director to prepare or cause to be prepared a designation study.

ATTACHMENTS

A. Materials submitted by CPED staff – A1-A2
   a. Location map – A1
   b. 350' map – A2
B. Materials Submitted by Applicant – B1-B65
   a. Letter to councilmember and neighborhood group – B1
   b. Application – B2-B6
   c. Hess Roise and Company analysis – B7-B45
   d. 2008 reuse feasibility study – B46-B56
   e. Project plans – B57-B65
C. Supplementary letter from property owner – C1