



OFFICE OF THE CITY CLERK

KAREEMAH FOWLER, CITY CLERK

Procedures Governing Appeals of Historic Preservation Commission to the Common Council

1. Office of the City Clerk to notify all parties of the date of the Common Council meeting when the appeal will be heard.
2. Petitioner will have a maximum of twenty (20) minutes to present his/her case which shall address:
 - a. Specific issue(s) under review
 - b. Statement of position by the Petitioner or his/her attorney
 - c. Relevant witness statements, if any
 - d. Requested action which the Petitioner is seeking
3. Historic Preservation Commission (HPC) will have a maximum of twenty (20) minutes to include:
 - a. Statement of position by the HPC attorney
 - b. Relevant witness statements, if any
 - c. Requested action which HPC is seeking
4. Petitioner will have a maximum of five (5) minutes for rebuttal.
5. Common Council may ask questions of the parties with up to a maximum of fifteen (15) minutes for this portion of the public hearing.
6. Common Council shall review the actions of the HPC in the appeal before them and determine whether such action was:
 - a. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable law;
 - b. Contrary to constitutional right, power, privilege, or immunity;
 - c. In excess of statutory jurisdiction, authority, limitations or statutory rights;
 - d. Without observance of procedures required by applicable law and ordinance; or
 - e. Unsupported by substantial evidence.

with each Council Member having the opportunity to comment before a motion of disposition on the appeal is accepted by the Chairperson.

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JENNIFER M. COFFMAN
CHIEF DEPUTY/ CHIEF OF STAFF

ALKEYNA M. ALDRIDGE
DEPUTY/ DIRECTOR OF POLICY

JOSEPH R. MOLNAR
ORDINANCE VIOLATION CLERK

7. Proper motions of the Common Council will be acknowledged by the Chairperson of either sustaining the action of the HPC or overruling their decision based on the evidence provided by the parties and the governing law, followed by a roll call vote of the Common Council.
8. Office of the City Clerk shall, within a reasonable period of time, send confirmation of the Common Council's action to all parties and maintain minutes of the public hearing, as part of the regular meeting minutes of the Common Council.



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

227 WEST JEFFERSON BLVD
 SOUTH BEND, IN 46601-1830

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Timothy S. Kluszczinski, President

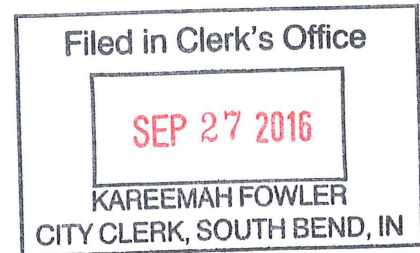
A Certified Local Government

Elicia Feasel, Executive Director

September 23, 2016

Eric Boyd
 1240 West Thomas Street
 South Bend, IN 46601

Dear Mr. Boyd,



The Commissioners, at the regularly scheduled monthly Historic Preservation Commission meeting on September 19, 2016, unanimously denied approval of the items originally listed on COA Application# 2016-0809: "Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown". Following is the record from the meeting concerning your project which states the reasons why your application was denied:

Commissioner Gordon moved to deny application as submitted. Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Hertel (AYE): *the best course of action in maintaining the historic integrity of the building*

Commissioner Parker (AYE): *due to the architectural character of building, and the lack of other options/quotations*

Commissioner Anderson (AYE): *lack of conforming to architectural integrity of historic building*

Commissioner Gordon (AYE): *not in keeping with the integrity of the landmark status*

Commissioner Kluszczinski (AYE): *work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.*

Commissioner Voll (AYE): *a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.*

Commissioner Buccellato (AYE): *project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.*

Commissioner Gelfman (AYE): *architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.*

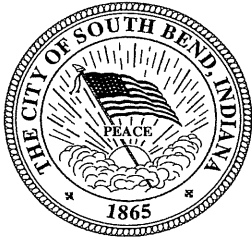
COMMISSIONERS

Thomas Gordon (Vice President)
 Mike Voll (Treasurer)
 Jennifer Parker (Architectural Historian)
 Elizabeth Hertel (Secretary)
 Kevin Buccellato
 Brandon Anderson
 Michele Gelfman
 Joseph Molnar

STAFF

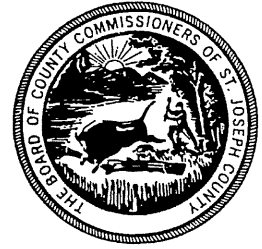
Deb Parcell, Deputy Director
 Brett Hummer, Legal Counsel
 Steve Szaday, Preservation Specialist

**HISTORIC
 PRESERVATION
 COMMISSION**
 OF SOUTH BEND & ST. JOSEPH COUNTY
 EST. 1973



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

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Timothy S. Kluszczinski, President

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Elicia Feasel, Executive Director

Commissioner Molnar (AYE): *echoes Commissioner Voll's statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.*

Nine in favor, none opposed.

Vote: 9 – 0 COA#2016-0809 Denied.

Please contact this office with any questions or concerns or for any assistance.

Sincerely,

Debra Parcell, Deputy Director

COMMISSIONERS

Thomas Gordon (Vice President)
Mike Voll (Treasurer)
Jennifer Parker (Architectural Historian)
Elizabeth Hertel (Secretary)
Kevin Buccellato
Brandon Anderson
Michele Gelfman
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STAFF

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**HISTORIC
PRESERVATION
COMMISSION**
OF SOUTH BEND & ST. JOSEPH COUNTY
EST. 1973

NOTICE OF APPEAL

Eric A. Boyd RE: 1240 Thomas St. South Bend (Fire Station No.4 Historical Landmark)

Filed in Clerk's Office

NOV 09 2016

KARLEMA FOWLER
CITY CLERK, SOUTH BEND, IN

BRIEF SUMMARY OF EVENTS:

Petitioner Eric A. Boyd (Owner) was issued a COA for a Pitched Metal Roof to secure and protect 1240 Thomas St. by HPC (Historical Preservation Commission) in November 2011 & renewed through 11-10-13.

St. Joseph County Building Dept. accepted Owner's application and blue prints and issued a Roof Permit October 2015 for West Side of 1240 Thomas St. "According to HPC Guidelines Ordinance 9495-04 P.5 (A Applications to Building Dept for a Permit shall be deemed an application for HPC and will be forward to HPC by the Building Dept. within 5 working days.)"

During a 2016 Summer Code Enforcement progress Hearing for 1240 W. Thomas, Code Enforcement recognized the progress and granted an additional six months to complete roofing the East half of the building. HPC complained at the hearing and to the local building dept about lack of a permit for the rear section, which has stopped current and future permits. Building Commissioner has requested Owner/Petitioner resolve difference with HPC so project can move forward. HPC denied Roof Portion of the recent application which denied all items on the application: Roof, Windows, Siding & 2nd Story addition.

Denied COA Application#2016-0809 HPC collective reasoning for Denial:

1.)Losing Architectural Integrity

Response: Changing from flat roof to pitched roof will cause Historical Rating to drop. (However
of HPC Approved the change from flat roof to pitched metal roof on Nov. 10, 2011 and
Owner issued a COA) HPC Guidelines Ord.No.9495-04 P.7 States that HPC must evaluate the damage/detriment to public welfare if they approve construction that is permitted even though it is not deemed appropriate and evaluate the potential hardship that a denial of COA would cause. The residents of Thomas St. are realistic in nature and are more concerned about losing the structure than losing Architectural Integrity. HPC has failed to evaluate the owner's sweat equity, capital investment (\$10,000 to \$15,000) and the financial hardship removing the current pitch roof and replace it with a flat roof would incur.

2.) Structurally Soundness

Response: St. Joseph Co. Building Commissioner and a city engineer met with the Owner on-site
of 09/29/16 to perform progress check. Building Commissioner states a structural
Owner engineer is needed to evaluate and to file for INDIANA HOMELAND SECURITY permits who's jurisdiction supersedes local Building Dept regarding 1240 W. Thomas St.

3.) Lack of other options/flat roof quotes

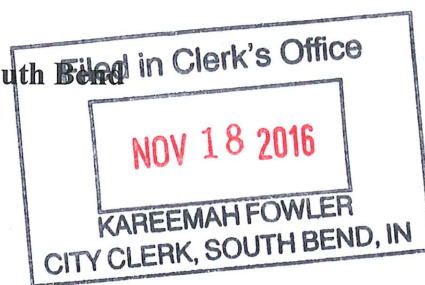
Response: Flat Roof was never proposed or suggested to owner by HPC. HPC previously approved a
of metal pitched roof on November 10, 2011 and issued the owner a COA for the
Owner replacement roof. HPC Guidelines Ord.No. 9495-04 P.8 Requires HPC to develop A HISTORICAL PRESERVATION PLAN FOR LANDMARKS and assist in the implementation of such plans. Owner has no knowledge nor was giving a specific PRESERVATION PLAN for 1240 W. Thomas St. Such failures and reversal of previously approved COA's by HPC has contributed to the hardships placed on the owner of 1240 W. Thomas.

SUGGESTIONS FROM HPC COMMISSIONERS AT HEARING

Owner/Petitioner should find more quotes for a flat roof and present those findings to the HPC. HPC Suggested that Owner remove the current roof that has decking, rafters, and shingles off of the 124-year-old structure 2-story building and replace it with a Flat Roof. HPC wants the owner to incur the cost of the roof demolition and the the cost of the new flat roof installation. HPC Suggests Owner Check with Community Investment to see if they have any programs that could assist in this project.

Response: HPC Suggestions are unfeasible and present a financial hardship that violate HPC's Own Ordinance Guidelines. Suggesting flat roof quotes contradicts the pitch metal roof COA previously issued. The pitched roof permitted by St. Joseph County Building Dept. presents no apparent detriment to public welfare and should be allowed. HPC's Suggestion for the owner to remove the permitted roof should be negated by HPC's lack of due diligence. HPC has had the right to petition Common Council to delay the issuance of permits for the purpose of preparing a PRESERVATION PLAN for said Landmark (Per Ord.9495-04) and has failed to do so for six years. Owner doesn't qualify for Vacant to Value Grant or Indiana Landmarks and questions Community Investment's potential involvement with regard to the anticipated loss of \$3.05 million in 2020 from property tax caps. Petitioner Eric Boyd (owner) has filed this appeal and prays that the Common Council will relieve the Petitioner from the potential hardship HPC's denial will caused.

Before the Common Council of the City of South Bend



ERIC BOYD,)
)
 Appellant,)
)
 vs.)
)
 HISTORIC PRESERVATION)
 COMMISSION OF SOUTH BEND AND)
 ST. JOSEPH COUNTY,)
)
 Appellee.)

RE: Application for Certificate of
Appropriateness, No. 2016-0809

**CERTIFICATION OF DOCUMENTS OF RECORD FROM HISTORIC
PRESERVATION COMMISSION**

Elicia Feasel, being first duly sworn upon her oath, deposes and states as follows:

1. I am over the age of twenty-one (21) years.
2. I have never been adjudicated and am not insane or incompetent.
3. I make the statements contained herein based on my personal knowledge and would so testify in person in a court of law.
4. I am a resident of the State of Indiana.
5. I am the Executive Director of the Historic Preservation Commission (“HPC”) of South Bend and St. Joseph County and have served in such capacity at all times relevant to this appeal filed by Eric Boyd, COA Application # 2016-0809.
6. As Executive Director of the HPC, I have supervisory authority for all of HPC’s official record keeping and documentation, and I am familiar with the record keeping practices of the HPC.
7. I have examined the attached records consisting of twenty-five (25) pages, bearing Bates Nos. 000001 - 000025.
8. The attached records consist of the following:

- (A) Minutes from a public meeting of the HPC dated September 19, 2016;
- (B) Letter of Denial of Mr. Boyd's Application dated September 27, 2016;
- (C) Mr. Boyd's Application for Certificate of Appropriateness;
- (D) Staff report concerning the Certificate of Appropriateness;
- (E) Correspondence from Building Commissioner.

9. I certify that the attached records are either exact copies or originals retrieved from the permanent records of the HPC.

10. These records are being filed with the South Bend City Clerk's office on November 18, 2016 in compliance with the deadline established by the South Bend Common Council for the HPC to submit a certified copy of the minutes and all documents of record regarding action taken by HPC and its staff on Certificate of Appropriateness Application No. 2016-0809.

11. These records were made at or near the time by, or from information transmitted by, a person with knowledge of these matters.

12. These records were kept in the course of HPC's regularly conducted business activity, and were made by regularly conducted activity as a regular practice.

I affirm, under the penalties for perjury, that the foregoing representations are true.

18 Nov 16
Date

edf
Elicia Feasel

MINUTES OF A MEETING OF THE
HISTORIC PRESERVATION COMMISSION
OF SOUTH BEND & ST. JOSEPH COUNTY

September 19, 2016
13th Floor Conference Room
County – City Building
South Bend, IN 46601

I. CALL TO ORDER

President Kluszczinski called the meeting to order at 7:00 p.m.

Members Present: Timothy S. Kluszczinski, President; Tom Gordon, Vice President/Asst. Secretary; Elizabeth Hertel, Secretary; Mike Voll, Treasurer; Jennifer Parker (left the meeting before the fourth motion and vote), Architectural Historian; Kevin Buccellato, Brandon Anderson, Joseph Molnar, Michele Gelfman (joined the meeting after the first motion and vote)

Members Not in Attendance: None

Staff Present: Elicia Feasel, Executive Director; Deb Parcell, Deputy Director; Brett Hummer, Legal Counsel; Steve Szaday, Preservation Specialist

Members of the Public Present: Marchelle Berry, Tim Davis, Eric Boyd, Steve Farrell, Demetra Schoenig, Derek Swisch

II. PUBLIC HEARING

A. CERTIFICATE OF APPROPRIATENESS

1. 609 Riverside Drive COA#2016-0805 River Bend

Representation by Derek Swisch. 609 Riverside

**STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS**

Date: 5 August 2016

Application Number: 2016-0805

Property Location: 609 Riverside

Architectural Style/Date/Architect or Builder: American Foursquare/1912

Property Owner: Derek Swisch and Beatrix Patla

Landmark or District Designation: River Bend Historic District

Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This square 2-story house has a concrete block foundation, 3-tab asphalt shingle hipped roof with hipped dormers. There is a one-story, flat-roof porch across the front with round posts and concrete foundation and steps. Windows are 1/1 double hung.

ALTERATIONS: COA 2014-1031 approved installation of vinyl siding, restoration of front bay window and replacement of all other windows with vinyl double hung windows, replacement of exterior trim (except soffit and fascia) with vinyl trim, repair and replacement of gutters and downspouts, installation of 12' x 12' deck at rear of house, and replacement of basement windows and front door. COA 1997-0904 approved reroof in-kind.

APPLICATION ITEMS: Build a garage.

DESCRIPTION OF PROPOSED PROJECT: Owner/contractor proposes building a 24'W x 28'L x 10'H garage at rear of property. It will have one overhead door and one service door. Double-4" vinyl siding to match house (approved with COA 2014-1031). The roof will have architectural shingles, with plans to match the house roof to these at some point in the future when the house needs to be reroofed. Current house shingles are 3-tab. Other rear yard garages exist in this neighborhood.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES:

RIVER BEND LOCAL HISTORIC DISTRICT

III. NEW CONSTRUCTION

New construction includes any new building or structure constructed within the boundaries of the historic district, or any new addition to an existing building. New construction should be designed considering the appearance of the other buildings in the neighborhood. New work may be contemporary or may suggest motifs from the historic buildings. New construction design should be clearly differentiated from the design of the historic buildings.

A. HEIGHT AND PROPORTION

The majority of structures in the district are two stories in height and are square or rectangular in plan. There are a few story-and-a-half residences. The prevalent facade proportions are between a 1:1 and a 1:2 height-to-width ratio.

Required

The height of a new structure and its height-to-width proportions shall be consistent with adjacent buildings in the district. The building height shall be no greater than that of the tallest existing structure in the same block. Facade proportions shall be established by permitting no structure with a facade wider or narrower than those existing in the same block. Additions to existing buildings shall be related in height and proportion to the existing structure.

Recommended

Contemporary designs should be compatible in character and mood to the building or neighborhood.

Prohibited

Additions may not be constructed that would change the existing facade of a building, alter its scale or architectural character, or add new height

Not Recommended

New stories should not be added, nor should existing stories be removed, which would destroy important architectural details, features or spaces of the building. Any style or period of architecture that is incompatible with what exists should not be permitted in the new additions.

B. BUILDING MATERIALS IN NEW CONSTRUCTION

Wall materials in the district are predominantly wood clapboard and its imitation in aluminum and vinyl. Some walls are brick. Patterned shingles are common in gable ends and dormers.

Required

Exterior materials used on a new structure shall be compatible in scale, texture, and color with adjacent structures. Materials used on an addition to an existing structure shall relate to the existing or original materials of that structure. As much of the original structure as possible shall be retained so that the addition could be removed without damage to the basic structure and appearance of the building.

Recommended

Aluminum or vinyl siding may be used when it is the only feasible alternative. This siding should be compatible with the original size and style and with the materials of other buildings in the district.

Prohibited

Inappropriate materials such as asbestos, asphalt, cast stone, or artificial brick may not be used.

Not Recommended

Glass blocks should not be used. Concrete block should not be used for anything other than foundations.

C. NEW SHEDS AND ACCESSORY STRUCTURES

Required

Sheds and accessory structures (gazebos, decks, doghouses, playhouses, fountains and small reflecting pools, outdoor sculpture, children's play equipment, etc.) shall be located at the rear of the property and as unobtrusively as possible while preserving historical relationships between the buildings, landscape features, and open spaces. Proportions and materials shall conform to those required for new construction.

Recommended

Shed and accessory structure designs should be compatible in character and mood with the residence and neighborhood.

Prohibited

Prefabricated metal sheds shall not be used.

Not Recommended

Prefabricated wood composition sheds should not be used unless they conform with all other standards.

STAFF RECOMMENDATION: Staff recommends approval.

Deb Parcell, Deputy Director

Elicia Feasel, Executive Director

Commissioner Gordon moved to approve application as submitted. Seconded by Commissioner Parker. Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0805 Approved.

2. 1329 East Wayne Street South COA#2016-0819 East Wayne Street

Representation by Demetra Schoenig, 1329 East Wayne Street South

**STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS**

Date: 19 August 2016

Application Number: 2016-0819

Property Location: 1329 E Wayne Street S

Architectural Style/Date/Architect or Builder: American Foursquare/1926/Mortland House/H. Russell Stapp, Architect

Property Owner: Demetra & John Schoenig

Landmark or District Designation: East Wayne Street Historic District

Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This two-story wood-frame house was built in 1926 with a square plan and wing. The main part of the house has an asphalt shingle pyramidal hip roof, with a flat roof on the wing. Windows are 6/1 double hung with ornamental louvered shutters. Small pedimented entry with concrete steps at front of house. There is a two-car, two-door garage with pyramidal hip roof at rear.

ALTERATIONS: Aluminum siding, aluminum storm windows and doors have been added. COA 2015-0713 approved removal of three Ash trees. COA 2009-0928A approved replacement of cracked pads of concrete on driveway and in-kind replacement of concrete steps. COA 2009-0226 approved tear-off and in-kind re-roof with asphalt shingles, and removal of one tree. COA 2001-0606 approved construction of a wood deck in rear yard, not attached to house.

APPLICATION ITEMS: Take out & install new fence 6'. Remove 32' existing stockade. Install 100' cedar board w/dog car tops and 4' gate.

DESCRIPTION OF PROPOSED PROJECT: Application is for a new wood privacy fence that will connect to an already existing wood privacy fence in the rear of property, creating an enclosed rear yard to protect young children from a shared driveway. The fence is 6' high and has a 4' wide gate in same style and height as fence. At time of application, the section of existing wood stockade fence had been removed and new cedar board 6' high fence with dog ear tops had been installed without COA or Building Permit; project was consequently red tagged by the Building Department on 8/19. The lack of COA was a misunderstanding as to who, contractor or owner, would apply – this COA was applied for on the same day it became apparent to the owner. On August 18, 2016, Staff received two phone calls regarding fence installation in regards to if permission was given and if the design met the neighborhood standards and guidelines.

Along the property line in the same place as the fence is installed, there was an existing fence of the same style and an overgrown 6'-8' tall hedge, see Photo "A". The hedge was taken down a few years ago and the fence at the time of new fence installation. The new fence is at the setback of the house and its four season room.

The applicant has provided several examples of existing wood privacy fences installed in East Wayne Street that Staff will circulate at HPC meeting.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES:

EAST WAYNE STREET LOCAL HISTORIC DISTRICT

I. THE ENVIRONMENT

B. BUILDING SITE, LANDSCAPING AND ACCESSORIES

Individual properties in the district are characterized by a house located in the center of a flat lawn, often divided by a walk leading to the front entrance. Several of the residences are sited on two or more building lots; however, the preponderance of the homes have been erected on a single lot. Most of the properties include a double garage, usually located at the rear of the property. The majority of garages are accessed from straight driveways leading from the main thoroughfare, while a few are accessed from the alley. There are also a few homes with a covered carport located at the rear of the property, as well as a few with circular driveways. Driveway and sidewalk materials include concrete, asphalt and brick. All of the properties have trees and most have trimmed shrubbery and/or hedges. Most of the houses conform to a uniform setback line within each block.

Required

Major landscaping items, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, greenhouses, new walls, fountains, fixed garden furniture, trellises and other similar structures shall be compatible to the historic character of the site and the neighborhood and inconspicuous when viewed from a public walkway.

Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings and newspapers. New site work should be appropriate to existing surrounding site elements in scale, type and appearance. Plant materials and trees in close proximity to the building that are causing deterioration to the building's historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. All high-intensity security lights should be approved by the Historic Preservation Commission.

Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings or other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. Front yard areas shall not be fenced and fences shall not extend forward beyond the setback line of the house. The installation of unsightly devices such as television reception dishes and solar collectors shall not be permitted in areas where they can be viewed from the public thoroughfare.

Not Recommended

Telephone or utility poles with high-intensity overhead lights should be installed so that they cannot be seen from the thoroughfare.

STAFF RECOMMENDATION: Staff recommends approval.

Commissioner Gelfman joined the meeting at 7:17 p.m.

Public Comment: Steve Szaday, Preservation Specialist: Questioned the height of the fence, as it is common along this street that the fence along the front, that is parallel with the street, is usually 4'H, rather than 6'H. Although that is not in the standards and guidelines, is this a building department requirement?

Commissioner Voll moved to approve application as submitted. Seconded by Commissioner Hertel. Nine in favor, none opposed.

Vote: 9 – 0

COA#2016-0819 Approved.

3. 1240 West Thomas Street COA#2016-0809 Local Landmark
Representation by Eric Boyd, 1240 West Thomas Street

**STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS**

Date: 9 August 2016

Application Number: 2016-0809

Property Location: 1240 West Thomas Street

Architectural Style/Date/Architect or Builder: Period Revival/1920/Firehouse #4

Property Owner: Eric Boyd

Landmark or District Designation: Local Landmark

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: Firehouse #4 is a 2-story rectangular brick building. It had a flat roof with limestone parapet coping, metal parapet scupper/cornice with brick brackets underneath and ornate limestone detailing at the ends. The windows are 1/1 double-hung with limestone sills. There is a brick side chimney, and a roof penthouse with hip roof.

ALTERATIONS: Most of the windows in this former firehouse have been boarded up prior to a 2007 fire. RME 2011-11 10 approved replacement of metal roof to secure the building and protect it from the elements, although there is no evidence it was ever installed. An asymmetrical gabled roof has been installed without an approved COA or Building Permit on approximately half of the main structure, as well as a second story addition and gabled roof on the rear of the building. Areas where large overhead garage doors were originally located have been covered with vinyl siding. Most window openings have been covered with plywood or vinyl siding.

APPLICATION ITEMS: Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown.

DESCRIPTION OF PROPOSED PROJECT: HPC Staff has worked with the current owner in recent years to support a tax abatement and rezoning petition. Although an RME was issued for a replacement roof in 2011, the details of what was actually installed were not presented at that time. Additionally, the Building Department has provided a statement that indicates the current roof configuration was not approved with a Building Permit and has ordered all work to stop until a formal submission and plan is set for the proposed work. This property was heard at a July 26, 2016 Code Enforcement hearing where a date of January 26, 2017 was given for Code compliance.

Owner proposes a 4/12 shed roof be constructed over part of the main building, from the west exterior wall 30' east to a 10'H wall built on existing brick interior wall, with a 1' overhang at west wall. Second floor addition atop one-story brick portion at rear of building is to be vinyl sided to match existing brown vinyl siding used to fill garage door openings; replacement windows to be used to fill window openings in this addition. Existing windows in building are to be left boarded up for security reasons. Most of this work with the exception of the windows and vinyl in the rear addition have been installed without COA or Building Permit.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES: Group B

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a

Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while an addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

1. Structure—Necessary structural improvements, where safety demands should be accomplished in such a way as to cause minimal visual change to the original style and construction.
2. Material—Additions and improvements involving any new material in the landmark should be of the same material as the original. It should be the same size and texture. An alternative material may be allowed if it duplicates the original.
 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and super-graphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate. Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff does not recommend approval of the roof deviation from flat to asymmetrical gable and does not recommend a roof on only half of the structure as it does not conform to the standards and guidelines, A, B, and C. Staff recommends rear second story addition with gable roof, however, is not recommending the proposed window and siding treatments as they can be considered an incompatible material as reference in C, 2. Staff recommends that the owner be in compliance with the Building Department at the request of the Building Commissioner.

Elicia Feasel, Executive Director

Owner offered the following considerations beyond the original application to include standard gabled roof rather than asymmetrical, roof to cover entire structure; one color of siding on addition at rear of building.

Preservation Specialist Szaday, reported on July Code Hearing for this property. Code Enforcement had issues with the structure of the proposed roof and the walls.

Executive Director Feasel gave the opinion of the Building Department: “the Building Commissioner said this morning that ‘the roof in its current configuration appears to be of catastrophic potential’”.

Discussion of owner’s plans for building and budget constraints, and commissioners’ suggestions, including obtaining additional estimates for flat roof replacement, designing a simplified hipped roof that would be less visible from front, obtaining a structural assessment from the Building Department, speaking to Community Investment about assistance, checking state and national resources for possible funding, as well as Firefighter’s Local 362 for help in saving this building.

Commissioner Gordon moved to deny application as submitted. Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Hertel (AYE): the best course of action in maintaining the historic integrity of the building

Commissioner Parker (AYE): due to the architectural character of building, and the lack of other options/quotations

Commissioner Anderson (AYE): lack of conforming to architectural integrity of historic building

Commissioner Gordon (AYE): not in keeping with the integrity of the landmark status

Commissioner Kluszczinski (AYE): work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.

Commissioner Voll (AYE): a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.

Commissioner Buccellato (AYE): project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.

Commissioner Gelfman (AYE): architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.

Commissioner Molnar (AYE): echoes Commissioner Voll’s statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.

Nine in favor, none opposed.

Vote: 9 – 0

COA#2016-0809 Denied.

4. 1071 Riverside Drive

COA#2016-0907 Riverside Drive

Representation by Steven Farrell, 2072 Miami Street, South Bend.

**STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS**

Date: 7 September 2016

Application Number: 2016-0907
Property Location: 1071 Riverside Drive
Architectural Style/Date/Architect or Builder: American Foursquare/1911/Lippman House
Property Owner: Greg Suth
Landmark or District Designation: Riverside Drive Local Historic District
Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This Foursquare house with concrete foundation has a low hip roof with asphalt shingles and stucco soffits and chimney. The first story has wide clapboards; second story is stucco. The front porch has a low hip roof and clapboard covered piers. Windows are 1/1 and 6/1 double-hung; middle window on second story is multi-paned.

ALTERATIONS: Aluminum storm doors and storm windows. COA 2005-0715 approved tear-off and replacement of roofing and decking. COA 1992-0616 approved replacement of poured concrete walk on east side of house, and a poured concrete patio on the south side. COA 1992-0124 approved replacement of exterior lighting fixtures and garage door, and installation of wrought iron rail at front steps/landing. COA 1992-0108 approved replacement of existing wood fence surrounding rear yard with metal fence, and replacement of gutters and downspouts.

APPLICATION ITEMS: Recover soffit area w/aluminum material. Current wood lath and stucco that had all given up was falling & crumbling. Add aluminum storm windows to current windows all storms have been broken & discarded.

DESCRIPTION OF PROPOSED PROJECT: Existing deteriorated stucco soffit has been replaced with aluminum soffit. Contractor proposed to replace existing wood storms with aluminum storm windows.

PRESERVATION SPECIALIST REPORT: On August 8, 2016 I was contacted by Director Feasel to investigate 1071 Riverside Dr. at approximately 12 noon for unauthorized work including new storm windows, soffit, and gutters. I approached the house and met with the neighbor, Ed Talley.

He explained that the painters of 1071 hired out the crew to install new soffits and gutters in the last week or two. He did not know the painter's company name but knew they were the same crew that painted 1069 Riverside Dr.

After a lengthy conversation with Mr Talley, I left a business card on the front door and moved on to the next appointment. Approximately 30 minutes later I received a phone call from the tenant at the property whom I have met before. In 2015, I had visited the house with a contractor list and had made a walk through inspection with her informing her of problem areas including the soffits and paint.

She informed me at this time that the owner had given the painters the work of repairing the soffit, installing new gutters where needed and finding storm windows for two small first story and two basement windows as well. When she returned home and discovered that they had installed new aluminum over the existing wood soffits she called the owner right away and he by and swears to her this is not what he paid for them to do and was as surprised as she was. He does not know what to do from this point, but is willing to complete a COA application and seek approval for these changes although this is after the fact.

UPDATE 2016-0908

On September 7, 2016 I met with Steve Ferrell of Ferrell Finishing. He is the contractor hired by Greg Suth owner of 1071 Riverside Drive. Mr. Suth had emailed me and gave me Steve Ferrell's contact information. Steve F. was unaware of the need for a COA for the property. He also agreed not to install any more aluminum storm windows on the house without the Commission's approval. He informed me that several of the original storm windows were stored in the garage and were destroyed.

In regards to the aluminum soffit, although it is prohibited in the Riverside Drive LHD guidelines, 1035, 1041, and 1045 all have white aluminum soffit panels installed that are similar to those that were installed at 1071.

Steve Szaday, Preservation Specialist

STANDARDS AND GUIDELINES:

RIVERSIDE DRIVE LOCAL HISTORIC DISTRICT

EXISTING STRUCTURES

A. BUILDING MATERIALS

Original exterior wall materials in the district include limestone, flagstone, stucco, clapboard, wood shingles, sandstone and masonry block. In some instances, vinyl or aluminum siding has been applied over the original surface.

Required

Original exterior building materials shall be retained. Deterioration of wood materials shall be prevented through repair, cleaning and painting. The existing or original architectural detail around windows, porches, doors and eaves should be retained or replaced by replicas of the same design and materials when deteriorated beyond repair. Masonry including brick, limestone, flagstone, sandstone and stucco shall be cleaned only when necessary to halt deterioration or to remove stains, and shall be done with a method acceptable for the preservation of the surface: i.e. low pressure water and soft natural bristle brushes. When repairing stucco, stucco mixture compatible in composition, color and texture shall be used.

Recommended

Whenever possible, the original building materials should be restored. Metal or vinyl siding may be used when it is the only alternative to maintaining or replacing the original surface material. When used over wood surfaces, this siding should be the same size and style as the original wood. Every effort should be made to retain the original trim around windows, doors, cornices, gables, eaves and other architectural features. Ample ventilation must be afforded the structure when metal or vinyl siding has been installed in order to prevent increased deterioration of the structure from moisture and/or insects. Mortar joints should be repointed only when there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint. Existing mortar shall be duplicated in composition, color, texture, joint size, method of application and

joint profile. It is emphasized that, prior to initiating any restoration or rehabilitation effort, the property owner should contact the Historic Preservation Commission of South Bend and St. Joseph County which is located in the County/City Building of South Bend. The Commission is an invaluable source of information about all facets of rehabilitation and restoration.

Prohibited

Wood siding shall not be resurfaced with new material which is inappropriate or was unavailable when the building was constructed, such as artificial stone, brick veneer, asbestos or asphalt shingles. Sandblasting or the use of harsh detergents shall not be used on masonry including brick, stucco, limestone, flagstone and sandstone. This method of cleaning erodes the surface material and accelerates deterioration. Brick surfaces shall not be painted unless they had been painted originally. Repointing shall

not be done with a mortar of high Portland cement content which can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar which can result in serious damage to adjacent brick. Paint shall not be removed from masonry surfaces indiscriminately.

Not Recommended

Waterproof or water repellent coatings or surface consolidation treatments should not be used on masonry surfaces unless required to solve a specific problem that has been studied and identified. Coatings are frequently unnecessary and expensive, and can accelerate deterioration of the masonry. Mortar joints which do not need repointing should not be repointed.

C. WINDOWS AND DOORS

Window and door frames are in most cases wood. Brick structures have stone sills and brick lintels. In some cases where aluminum siding has been applied window trim has been covered. About half of the structures in the district have aluminum storm windows, the other half wood windows.

Required

Original windows and doors shall be retained including sashes, lintels, sills, shutters, decorative glass, pediments, hoods, and hardware. When deteriorated beyond repair, they shall be replaced with units and trim resembling the original.

Recommended

Wood frame storm windows and doors painted to match the original should be used but should not damage existing frames. If new sashes or doors are installed, the existing or original materials, design, and hardware should be used. When metal storm doors are used, they should be painted, anodized or coated to match the existing. When awnings are used they should be of canvas material.

Prohibited

Original doors, windows and hardware shall not be discarded when they can be restored and reused in place. New window and door openings which would alter the scale and proportion of the building shall not be introduced. Inappropriate new window and door features, such as aluminum insulating glass combinations that require removal of the original windows and doors, shall not be installed.

Not Recommended

Awnings, hoods, and fake shutters made of metal, vinyl, or fiberglass should not be used if they would detract from the existing character or appearance of the building.

STAFF RECOMMENDATION: The standards and guidelines for this historic district state: "The existing or original architectural detail around windows, porches, doors and eaves should be retained or replaced by replicas of the same design and materials when deteriorated beyond repair," therefore, staff does not recommend approval of the soffit replacement or storm windows, which recommend: "Original windows and doors shall be retained including sashes, lintels, sills, shutters, decorative glass, pediments, hoods, and hardware. When deteriorated beyond repair, they shall be replaced with units and trim resembling the original."

Note (9/8/16): Preservation Specialist reported that aluminum material was discovered on other soffits in the district. Staff commented that installations have occurred without Commission approval. President Kluszczinski clarified that illegal installations do not establish a legal precedent for HPC decisions.

Elicia Feasel, Executive Director

Deb Parcell, Deputy Director

Commissioner Parker left the meeting at 8:46 p.m.

Commissioner Gelfman moved to deny application as submitted. Motion died for lack of a Second. Commissioner Voll moved to deny the application as submitted, require removal of the incompatible materials that have been installed, and waive the fee for a new COA covering the same project elements. Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Molnar (AYE): various reasons stated

Commissioner Gelfman (AYE): incompatible materials, integrity of the historic district, and setting a terrible precedent for future projects like this

Commissioner Buccellato (AYE): doesn't meet the standards and guidelines for the district, which the only alternative, and therefore violates the guidelines.

Commissioner Voll (AYE): materials used and no venting will not fix the problem

Commissioner Kluszczinski (AYE): not in keeping with standards and guidelines for district, other [compatible] materials have been used as precedent in other districts and should be considered

Commissioner Gordon (AYE): storm windows not in keeping with character of house, material does not stay in character with the home. Prior materials should be repaired or an acceptable material put up.

Commissioner Anderson (AYE): incompatible materials, standards and guidelines for these districts exist for a reason

Commissioner Hertel (AYE): incompatible materials, does not meet standards and guidelines.

Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0907 Denied.

5. 237 North Michigan Street COA#2016-0907A Local Landmark
Representation by Marchelle Berry, 10711 America Way, Ste 200, Fishers, IN 46038
Tim Davis, 9273 Castlegate Drive, Indianapolis, IN 46256

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 7 September, 2016

Application Number: 2016-0907A

Property Location: 237 N. Michigan Street

Architectural Style/Date/Architect or Builder: Renaissance Revival/Chicago School blend/1921/ Nicol, Schuler and Hoffman

Property Owner: LaSalle Apartments, LLC

Landmark or District Designation: Local Landmark and Multiple Resource National Register

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: The LaSalle Hotel is located on the southwest corner of LaSalle and Michigan Streets; it is a nine storey hotel constructed of stretcher bond laid brick with decorative and plain-cut stone string course. The first and second floors on the east and north facades are treated as one floor. The windows and doorways are flanked by spiral columns and surmounted by round-arched windows with tracery, voussoirs and keystones. A projecting string course separates the second floor from the third floor which has limestone window surrounds, as do the single end bay windows and the ninth floor windows. A projecting string course separates the eighth and ninth floors and the building is surmounted by a wide overhanging cornice. The windows on the first floor are large, fixed sash plates with multi-light side lights. Other windows are double hung sash in pairs.

ALTERATIONS: All of the single light double hung windows on all of the facades were vinyl replacement windows from the 1980s-1990s when the Charismatic Renewal Services owned the building. COA 2015-0326B approved repair and repointing of brick and masonry, replacement of existing vinyl replacement windows with new aluminum clad wood replacement windows, replacement of doors and awnings, and restoration of existing wood storefront windows.

APPLICATION ITEMS: The exterior sign will be a replica of the original as shown in the attached historic pictures. One location at the east entrance, second at the north entrance.

DESCRIPTION OF PROPOSED PROJECT:

Owner proposes to install two new exterior neon or LED signs, 96"W x 39 1/4"H. One to be installed at the east entrance and one at the north entrance of building, mounted perpendicular to building with brackets and bolts; possibly additional angled guide wires.

STANDARDS AND GUIDELINES:

GROUP B STANDARDS

The Commission has the authority to determine the architectural merits and the extent of any proposed treatment, renovation, or addition to a historic landmark. The commission will require drawings, plans, specifications, and/or samples where appropriate.

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a

Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while and addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall

appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

1. Structure—Necessary structural improvements, where safety demands should be accomplished in such a way as to cause minimal visual change to the original style and construction.
2. Material—Additions and improvements involving any new material in the landmark should be of the same material as the original. It should be the same size and texture. An alternative material may be allowed if it duplicates the original.
 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and supergraphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

(These standards apply to both A and B)

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate.

Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff recommends approval.

Elicia Feasel, Executive Director

Deb Parcell, Deputy Director

Staff clarified that application is for LED sign, not neon.

Commissioner Gelfman moved to approve application as submitted. Seconded by Commissioner Hertel. Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0907A Approved.

III. HEARING OF VISITORS - none

IV. REGULAR BUSINESS

A. APPROVAL OF MINUTES

1. **August 15, 2016** – Approved by general consent.

B. TREASURER'S REPORT

1. **Location Report** – Distributed. Executive Director Feasel pointed out Deputy Director line item will have approximately \$7,000 balance left at the end of year, due to March hiring date. It was proposed that some of the excess be used for intern/resident volunteers who have contributed considerable time and effort to significant projects for HPC. These two individuals would each submit a one-time invoice for tasks with stipend to be paid @ \$1500. Additionally, to further the Building South Bend project, we would have Notre Dame Architecture Library bill us for archival work, so we could move towards the next phase of the project. To use excess funds, an outside not-for-profit partner agency must invoice us, and spend the funds on our behalf. Out of line transfer must be approved first. Intern/volunteer contracts must be reviewed by legal counsel, and formal proposal for use of excess funds will be presented at October meeting.

C. STAFF REPORTS

1. **Correspondence** – Circulated. Commissioner Gordon questioned why Ed Talley posts are included in correspondence. Discussion.
2. **Executive Director** – In Packet. Commissioner Buccellato questioned conversation with Frank Perri regarding his “master plan in East Bank and future partnerships and COAs.” Discussion.
3. **Deputy Director** – In Packet.
4. **Preservation Specialist** – Distributed. President Kluszczinski suggested that property addresses of site visits, walk-throughs, etc., be listed on Preservation Specialist report.
5. **Legal**

D. COMMITTEE REPORTS

1. **President** – Distributed
2. **Indiana Bicentennial** – Executive Director Feasel reported that there is one more Bicentennial event to go. Playing cards are available for \$10, and are very limited in quantity.

V. OLD BUSINESS - none

VI. NEW BUSINESS

- A. **Fines** – Commissioner Gelfman inquired about the issue of fines. Legal Counsel Hummer briefly discussed client/attorney privilege. Regarding fines, county and city ordinances are basically the same concerning enforcement. HPC must go through channels of Code Enforcement/County Building Commissioner – they are HPC's enforcement arm. HPC cannot impose fines; only the Building Department can do this. To change policy will require a change of ordinance. President Kluszczinski reported that staff has conducted an audit of past administrative practices and is making adjustments to better address violations. If HPC determines that it must pursue a policy change, Counsel would be asked to review the qualifications for an executive session as a legal matter for

holding a Legal Affairs Committee meeting and to draft a proposal for the general Commission body. HPC has improved working relationships with enforcing agencies; working with these agencies should be our first line of action, as it does not require another law.

- B. **Terms of Office** - Tom Gordon questioned term lengths of commissioners. Discussion.
- C. **541 North Ironwood Landmark Status** – Deputy Director Parcell has reviewed additional documents sent by current property owners, but can still find no basis for pursuing Landmark status. President Kluszczinski recommended filling out revised Local Landmark form, showing required information that has and has not been provided, and sending the owners a copy.

VII. ANNOUNCEMENTS AND MISCELLANEOUS MATTERS

A. SOUTHBOLD PRESERVATION AWARDS/NORTHERN INDIANA PRESERVATION AWARDS

VIII. ADJOURNMENT

Commissioner Hertel moved to adjourn. Seconded by Commissioner Gelfman. Eight in favor, none opposed. Vote: 8 – 0
Meeting adjourned at 9:46 p.m.

Attest:

Elizabeth Hertel, Secretary

*Thomas Gordon VP
asst sec*

10/17/16

Date

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 9 August 2016

Application Number: 2016-0809

Property Location: 1240 West Thomas Street

Architectural Style/Date/Architect or Builder: Period Revival/1920/Firehouse #4

Property Owner: Eric Boyd

Landmark or District Designation: Local Landmark

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: Firehouse #4 is a 2-story rectangular brick building. It had a flat roof with limestone parapet coping, metal parapet scupper/cornice with brick brackets underneath and ornate limestone detailing at the ends. The windows are 1/1 double-hung with limestone sills. There is a brick side chimney, and a roof penthouse with hip roof.

ALTERATIONS: Most of the windows in this former firehouse have been boarded up prior to a 2007 fire. RME 2011-1110 approved replacement of metal roof to secure the building and protect it from the elements, although there is no evidence it was ever installed. An asymmetrical gabled roof has been installed without an approved COA or Building Permit on approximately half of the main structure, as well as a second story addition and gabled roof on the rear of the building. Areas where large overhead garage doors were originally located have been covered with vinyl siding. Most window openings have been covered with plywood or vinyl siding.

APPLICATION ITEMS: Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown.

DESCRIPTION OF PROPOSED PROJECT: HPC Staff has worked with the current owner in recent years to support a tax abatement and rezoning petition. Although an RME was issued for a replacement roof in 2011, the details of what was actually installed were not presented at that time. Additionally, the Building Department has provided a statement that indicates the current roof configuration was not approved with a Building Permit and has ordered all work to stop until a formal submission and plan is set for the proposed work. This property was heard at a July 26, 2016 Code Enforcement hearing where a date of January 26, 2017 was given for Code compliance.

Owner proposes a 4/12 shed roof be constructed over part of the main building, from the west exterior wall 30' east to a 10'H wall built on existing brick interior wall, with a 1' overhang at west wall. Second floor addition atop one-story brick portion at rear of building is to be vinyl sided to match existing brown vinyl siding used to fill garage door openings; replacement windows to be used to fill window openings in this addition. Existing windows in building are to be left boarded up for security reasons. Most of this work with the exception of the windows and vinyl in the rear addition have been installed without COA or Building Permit.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES: Group B

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while an addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

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 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and supergraphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to

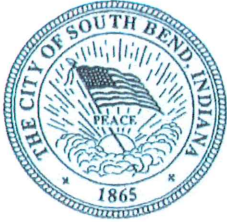
the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate. Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff does not recommend approval of the roof deviation from flat to asymmetrical gable and does not recommend a roof on only half of the structure as it does not conform to the standards and guidelines, A, B, and C. Staff recommends rear second story addition with gable roof, however, is not recommending the proposed window and siding treatments as they can be considered an incompatible material as reference in C, 2. Staff recommends that the owner be in compliance with the Building Department at the request of the Building Commissioner.

Elicia Feasel
Executive Director



Application

- FOR -

Certificate of Appropriateness

HISTORIC PRESERVATION COMMISSION
of SOUTH BEND & ST. JOSEPH COUNTY
125 S. Lafayette Blvd., South Bend, IN 46601

http://www.stjosephcountyindiana.com/departments/SJCHP/index.htm

p: 574-235-9798

f: 574-235-9578

e: SBSJCHPC@co.st-joseph.in.us



OFFICE USE ONLY >>>>>>> DO NOT COMPLETE ANY ENTRIES CONTAINED IN THIS BOX <<<<<<< OFFICE USE ONLY

Date Received: 9 Aug 2016 Application Number: 2016 - 0809

Past Reviews: YES (Date of Last Review) _____ NO

Staff Approval authorized by: _____ Title: _____

Historic Preservation Commission Review Date: 19 Sept 2016

Local Landmark Local Historic District (Name) _____

National Landmark National Register District (Name) _____

Certificate of Appropriateness:

Denied Tabled Sent To Committee Approved and issued: _____

(Please Print)

Address of Property for proposed work: _____
(Street Number—Street Name—City—Zip Code)

Name of Property Owner(s): Eric A. Boyd Phone #: 812-704-3005

Address of Property Owner(s): 1240 W. Thomas St. South Bend
(Street Number—Street Name—City—Zip Code)

Name of Contractor(s): Eric A. Boyd Phone #: Same

Contract Company Name: Boyd Services - 4999-16

Address of Contract Company: 1240 W. Thomas St. South Bend, IN 46601
(Street Number—Street Name—City—Zip Code)

Current Use of Building: Commercial
(Single Family—Multi-Family—Commercial—Government—Industrial—Vacant—etc.)

Type of Building Construction: Brick
(Wood Frame—Brick—Stone—Steel—Concrete—Other)

Proposed Work: In-Kind Landscape New Replacement (not in-kind) Demolition
(more than one box may be checked)

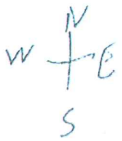
Description of Proposed Work: Roof, window replacement, Applying for additional siding. Wood & window replacement is long term. Current plan is to leave windows boarded for security reason (2 replacement windows have been broken) Color & wood siding Brown.

Owner/Contractor Fax #: _____ e-mail: boydmaster455@yahoo.com
(Staff will correspond with only one designee)

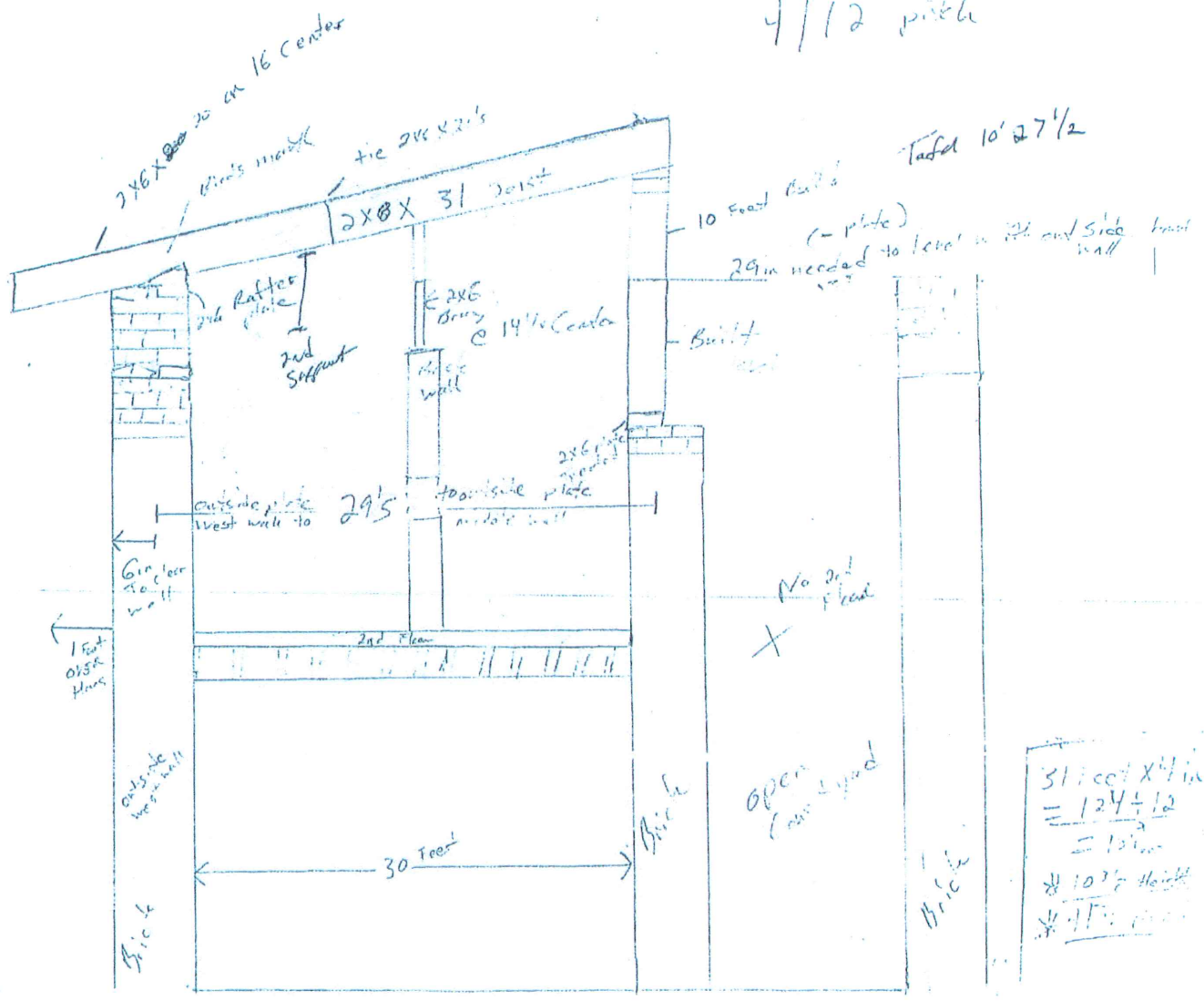
X [Signature] and/or X [Signature]
Signature of Owner Signature of Contractor

—APPLICATION REQUIREMENTS ARE LISTED ON REVERSE SIDE—

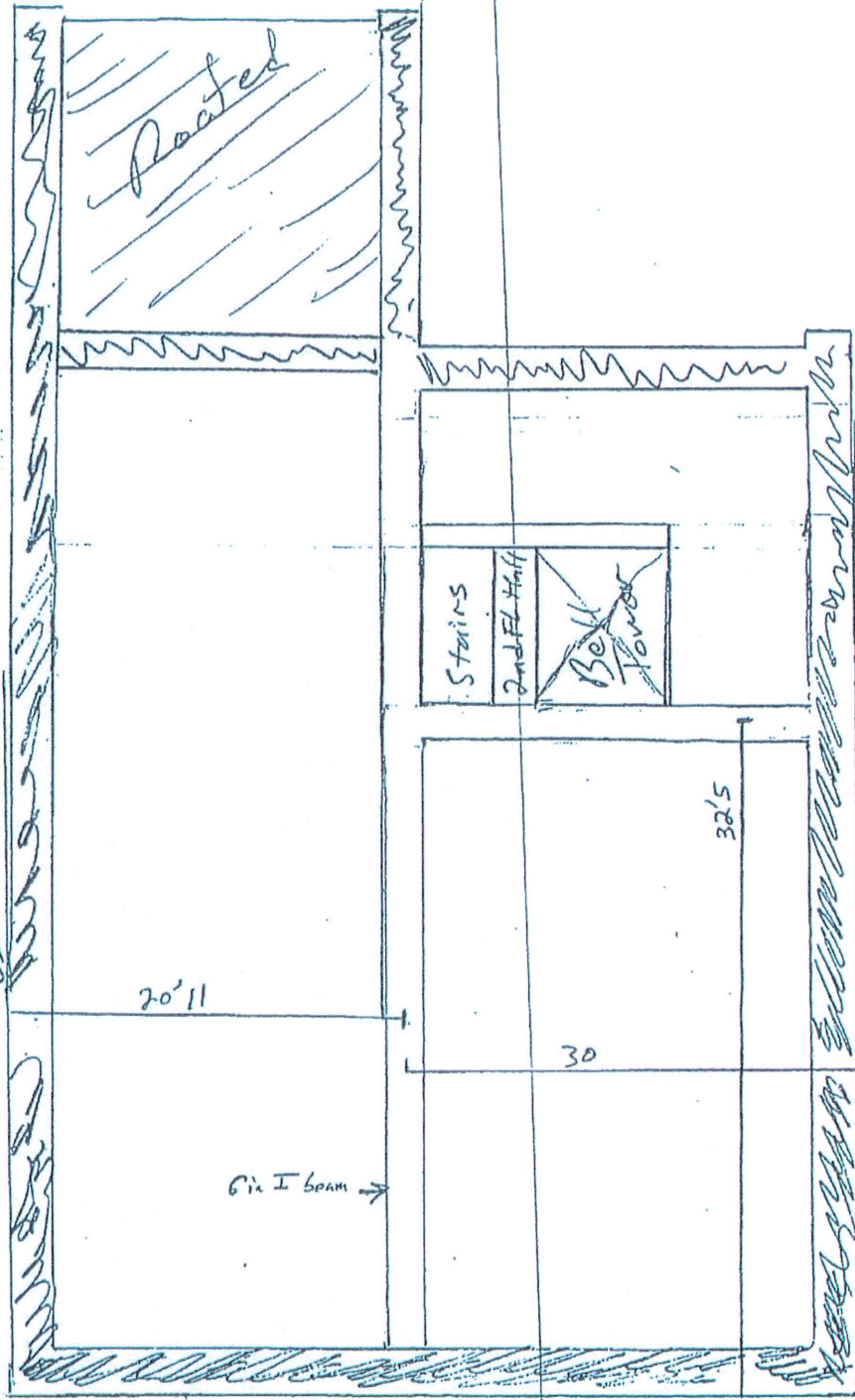
000016



4/12 pitch



Thick wall



Stop Here

50'11"

Roofing This Half



000019



000020

1240 Thomas 2012



1240 Thomas 2012





JAMES D. MARKLE, R.A.
Design/Plan Review Specialist

ST. JOSEPH COUNTY/SOUTH BEND
BUILDING DEPARTMENT

125 S. LAFAYETTE BLVD.
SUITE 100
SOUTH BEND, IN 46601
(574) 235-9554
FAX (574) 235-5541

CHARLES C. BULOT
BUILDING COMMISSIONER



AYOKA PAEK, MCP, MCIP
Zoning & Business
Services Administrator

August 10, 2016

Elicia Feasel
Historic Preservation

Re: 1240 Thomas, South Bend, IN

Dear Elicia:

On October 13, 2015, this office issue a Building Permit for Commercial Roofing at the above-referenced address. What was to be a structural repair and reroofing job has now morphed into a partial roof on the main building and a new second story addition on the rear of the building. None of this has been properly permitted.

I recently met with the owner and indicated that all work is to stop until this department receives a formal submission and plan set for the proposed work. We will not issue any additional permits until such time that all proposed and current work meets basic building standards.

This is a case where our best intentions to help preserve the historic integrity of a local building did not pan out as expected.

Sincerely,
Charles C. Bulot, C.B.O., C.F.M.

Building Commissioner

NOTICE OF PERMIT CONSTRUCTION

St. Joseph County and City of South Bend
Building Department
(574) 235-9554

DATE: 10/13/2015

PERMIT NUMBER: BD15005044

ADDRESS: 1240 THOMAS, SE CRN WITH WALNUT, N OF WESTERN AVE.

CONTRACTOR: BOYD SERVICES

PERMIT TO CONSTRUCT: PARTIAL ROOF

Lot No. Add'n. 48 COMMISSIONER'S OF S PT BANK OUTLOT 85 & 86

BOYD, ERIC (812)704-3005

Owner's Name Phone

1207 W Thomas St South Bend, IN 46601

Owner's Present Mailing Address/Email

Zoning MU Twp. PORTAGE Multiple Unit Count

Valuation \$500.00 Height Acreage 0.19

018-3074-2912

ABZA Date:

State No.

Front Rear Side

Building Permit Fee \$30.00

Contractor BOYD SERVICES (812)704-3005 boydmaster455@yahoo.com

Electric Permit Fee

Contractor

Plumbing Permit Fee

Contractor

Heating Permit Fee

Contractor

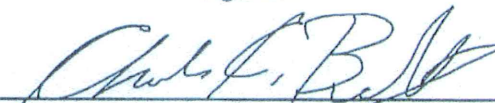
Subtotal \$ 30.00

Penalty \$

Total \$ 30.00

kwidawsk

Signature



Charles C. Bulot - Building Commissioner

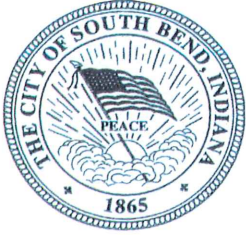
The person or contractor listed above hereby certifies that the statements contained herein are true and correct and in consideration of the granting of the permit agree to save St. Joseph County and City of South Bend harmless from any and all damages and agree to perform the work covered by this permit in conformity with the laws of the State of Indiana and the Ordinances of St. Joseph County and the City of South Bend, Indiana.

I agree to call for an inspection approval before any concrete is poured for footings and walls, or any framing, electrical, plumbing, or heating material is covered. I understand that a Final Inspection may be necessary and a Certificate of Occupancy shall be issued prior to occupancy being allowed. I also understand that this is only a Building Permit. Separate permits are to be obtained for any heating, ventilation, air conditioning, electric or plumbing work.

Understanding of the laws and rules regarding this permit is certified by applicant's signature above. This permit is valid for two (2) years from date of issuance, or as determined by the Building Department.

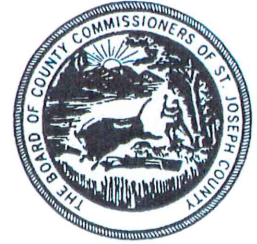
This Placard must be posted until project is completed. Failure to comply will result in a citation and fine.

000023



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

227 WEST JEFFERSON BLVD
SOUTH BEND, IN 46601-1830
www.stjosephcountyindiana.com/sjchp/index.html
Phone: 574-235-9798 Fax: 574-235-9578
e-mail: SBSJCHPC@co.st-joseph.in.us



Timothy S. Klusczynski, President

A Certified Local Government

Elicia Feasel, Executive Director

September 27, 2016

Eric Boyd
1240 West Thomas Street
South Bend, IN 46601

Dear Mr. Boyd,

The Commissioners, at the regularly scheduled monthly Historic Preservation Commission meeting on September 19, 2016, unanimously denied approval of the items originally listed on COA Application# 2016-0809: "Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown". Following is the record from the meeting concerning your project which states the reasons why your application was denied:

Commissioner Gordon moved to deny application as submitted. Seconded by Commissioner Anderson. President Klusczynski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Hertel (AYE): *the best course of action in maintaining the historic integrity of the building*

Commissioner Parker (AYE): *due to the architectural character of building, and the lack of other options/quotations*

Commissioner Anderson (AYE): *lack of conforming to architectural integrity of historic building*

Commissioner Gordon (AYE): *not in keeping with the integrity of the landmark status*

Commissioner Klusczynski (AYE): *work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.*

Commissioner Voll (AYE): *a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.*

Commissioner Buccellato (AYE): *project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.*

Commissioner Gelfman (AYE): *architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.*

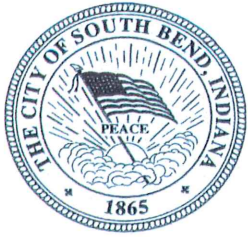
COMMISSIONERS

Thomas Gordon (Vice President)
Mike Voll (Treasurer)
Jennifer Parker (Architectural Historian)
Elizabeth Hertel (Secretary)
Kevin Buccellato
Brandon Anderson
Michele Gelfman
Joseph Molnar

STAFF

Deb Parcell, Deputy Director
Brett Hummer, Legal Counsel
Steve Szaday, Preservation Specialist

**HISTORIC
PRESERVATION
COMMISSION**
OF SOUTH BEND & ST. JOSEPH COUNTY
EST 1000024



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

227 WEST JEFFERSON BLVD
SOUTH BEND, IN 46601-1830
www.stjosephcountyindiana.com/sjchp/index.html
Phone: 574-235-9798 Fax: 574-235-9578
e-mail: SBSJCHPC@co.st-joseph.in.us



Timothy S. Kluszczinski, President

A Certified Local Government

Elicia Feasel, Executive Director

Commissioner Molnar (AYE): *echoes Commissioner Voll's statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.*

Nine in favor, none opposed.

Vote: 9 – 0 COA#2016-0809 Denied.

Please contact this office with any questions or concerns or for any assistance.

Sincerely,

Debra Parcell, Deputy Director

COMMISSIONERS

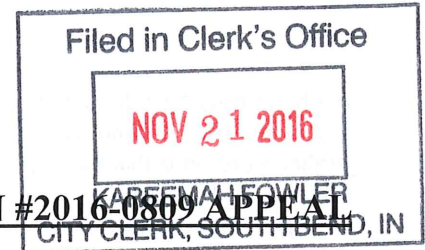
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Steve Szaday, Preservation Specialist

**HISTORIC
PRESERVATION
COMMISSION**
OF SOUTH BEND & ST. JOSEPH COUNTY
EST. 19000025

November 21, 2016



ADMINISTRATIVE RECORD FOR C.O.A. APPLICATION #2016-0809 APPEAL

1) 1st VIOLATION: ABUSE OF DISCRETION

Evidentiary and Administrative Record of Abuse of Discretion/Hardship/Lack of Detriment

- A.) Application of: Statue of Limitations Clause Ord.9495-04
- B.) Statement of owner- HPC requiring Owner to resubmit previously approved COA applications to resulted in violating Owner's rights under statute of limitations.
- C.) Public safety/dangerous conditions vs architectural character
- D.) Application: Potential Hardship of Denial
- E.) Application of: Lack of public detriment

A.) Statute of Limitations Clause Ord. 9495-04

In August 2016, HPC suggested to Owner/Petitioner (Eric A. Boyd) to file an application/COA for the Partial West & East Side roof. In September 2016, HPC denied the Owner's application for Partial West & East Side roof. *The original COA application for the West Side roof was submitted in 2015.* Permit was issued & signed by the St. Joseph County Building Commissioner (Permit BD15005044 which is deemed an Application for COA according to HPC). HPC's September 19, 2016 denial on application item: A.). Partial West Side Roof is negated by their FAILURE to act on the original application for Permit/COA in October of 2015. ***"FAILURE of HPC to take action within sixty days after receipt of the application by the commission shall constitute approval of the application." ORD.9495-04***

The owner should not have been subjected to file a second COA application for the partial west roof when the COA application for the partial west roof was issued a building permit and HPC failed to act within 60 days.

- a.) HPC FAILED to consider the application within 45 days following receipt of application. (10-13-15)
- b.) HPC FAILED to take action within 60 days of receipt of application.

These failures violate petitioner's rights under Historic Preservation Commission's *Article 13 SEC.21-13 Ord. No.9495-04* which grants him an approval.

B.) Failure of HPC to Petition the Common Council for Temporary Delay in Issuance of Permits

HPC has FAILED for 6 years to use their *administrative powers granted by the Common Council* (Ord. No. 9495-04) to temporarily delay the issuance of permits in order to prepare a preservation plan for landmark 1240 W. Thomas St. which could have prevented any confusion regarding design. Owner's application, blue prints, and elevations have been on file at the St. Joseph County Building Dept. for over a year and HPC FAILED to review them, thus causing Owner to suffer hardship for their omissions.

C.) Public Safety/Dangerous Conditions vs. Architectural Character

HPC Ordinances (p.5) states *"HPC shall not prevent the construction, reconstruction, alteration, demolition, or moving of any building, structure or use which the building commissioner or other official having such power may certify as required by public safety because of unsafe or dangerous conditions."*

HPC Ordinances (p.7) states *"HPC must weigh the detriment to public welfare if the proposed construction is permitted even though it is not deemed appropriate."*

Ensuring public safety and removing dangerous conditions is the reason the Owner has removed over 20,000 lbs. of debris at cost and submitted an application for roof construction permit/COA with St. Joseph County Building Commissioner personally. Building Commissioner accepted application and blue prints that depicted elevation before permit was issued on 10-13-15. Permit expires 10-13-17. Currently, St. Joseph County Building Department is claiming to

not be informed of the details of the partial roof; however, roof designs were *on file* when permit was issued. The Owner finds that HPC does not have the right to deny the original 2015 Application for COA under the statute of limitations and further more finds that the imposed denial is unreasonable due to hardship and lack of public detriment.

D.) Hardship

Common Council requires HPC to evaluate the hardship a denial of COA will cause the applicant. The applicant carries two higher education degrees at a cost of \$65,000 and has invested a minimum of \$20,000 into the property. The applicant would like to see a return on his total career investment of \$85,000. HPC's flat roof solutions with cost an additional estimated \$60,000.

E.) Lack of Public Detriment

There is no public harm in the St. Joseph county building department approved roof variation. The public detriment would have been the demolition of the building costing tax payers \$20,000; or environmental damage from the pollution of the demolition. Residents of Thomas Street are happy that after seven years of being an eyesore the building is finally being restored.

2) 2nd VIOLATION: VERBAL REFUSAL TO DISCLOSE APPEAL PROCESS & DECEPTIVE LANGUAGE USED TO MISLEAD APPLICANTS ON TO WHOM TO APPEAL TO & THE PROCESS.

Evidentiary and Administrative Record of Denying Applicants Access to the HPC Appeal Process and Board

A.) Administrative Ordinance vs HPC website language

B.) Testimony of Conversation with HPC's Executive Director verifying the ongoing internal policy of denying applicants access to the appeals process & board.

C.) **Historical Record of number of appeals filed in 43 years: 2**

A.) Administrative Ordinance vs HPC Website Language

The language used in Article 13 Ord.No.8485-04 "*Powers and Duties*" differs from the language used by Historical Preservation Commission on the County website:

"Powers and duties" Ord.No.8485-04 P.6Sec.5(B)

"Deny the application, stating in writing the reason(s) for such denial. Upon such denial, the applicant may appeal said denial to the Common Council which shall make a final determination of the application."

Historical Preservation Commission's online procedures Sec.6 Paragraph 2

"The owner may re-submit his/her application with the suggested changes to the staff for review at the next meeting. After all proper procedures are exhausted, the applicant does have the right of appeal to the proper council which will make a final determination of the application."

B.) Testimony of Conversation with HPC's Executive Director

The Historical Preservation Commission displays the Application and procedures on the official website for St. Joseph County. The Petitioner attempted to review the appeal process online, but found "*right to appeal to proper council*" vague and ill-defined. (Certificate of Appropriateness Application Form & Procedures, www.stjosephcountyindiana.com/departments/SJCHP/coaform.htm)

The Petitioner called HPC for a better understanding of the process. When Petitioner called HPC after the denial of COA to inquire about the appeal process for historic preservation commission decisions, HPC Executive Director made the following statement

“We don’t disclose how to appeal our rulings...Good Luck!!”

Due to the fact that Historical Preservation Commission’s position is to not verbally disclose the appeal process of their civic administrative rulings and the deceptive language camouflaging the correct Appeal Board and its process Owner/Petitioner finds his rights have been violated. HPC initially used deceptive language to misidentify the correct governing body on the County website to prevent applicants from filing appeals. Based on HPC’s Executive Director’s verbal refusal to disclose the appeal board or process, the applicant was denied access to the appeal process a second time.

HPC Legal Ordinance Procedures:

- 1.) DO NOT require a person to re-submit an application to HPC with HPC’s suggestions in order to file an appeal.
- 2.) DO NOT require exhaustion of all proper procedures to ensure the constitutional right to file an appeal.

Additional Denied Application Items WITHOUT Merit or Review:

Additional application items: brown siding, 2nd story addition and windows on rear addition

- A.) Brown Siding (Not Seen from the Front View) **Donated**, HPC suggested real wood= hardship
- B.) 2nd Story addition 280SF (Not Seen from the Front View) HPC Staff recommended Commissioners approve 2nd story addition with gable roof on rear. **Donated**
- C.) Window on rear addition- **Donated**, HPC denied without reason and requested applicant reapply and pay the fees associated.

FACT: HPC President Timothy Kluszczinski publicly informed voting commissioners before voting at the September 19th hearing that HPC regulations require them to deny all application items once one item has been denied on an application. This (verbal regulation) requires the applicants to re-file for the additional application(s) months later, if one item on a list of items has been denied.

This unnecessary time delay is a double taxation of fees and appears to be a punishment to applicants who have been denied a portion of their application items. *Owner cannot find documentation of this verbal regulation anywhere in the public Ordinance No.9495-04 or why he was subjected to it.*

Individual Application Items should be granted and denied based on the way the Commissioners rule on them (individually). Forcing applicants to pay for another two-month application process for item(s) previously applied for but were denied based on relationship to another denied item isn’t cost or time effective.

IDEAL RESOLUTION:

- A.) **City Council appeal the denial of the application Item 1.) West Roof & East Roof** (West roof was approved by HPC’s Statue of limitations: failure to act within 60 days. Roofing the building has saved tax payers around \$20,000 from not having to demo it.)
- B.) **City Council appeal denial of application Items 2.) Brown siding 3.) rear windows** (note both are donations from community partners any other material would cause a hardship.)
- C.) **City Council appeal denial of application Item 4.) 2nd Story addition**, (based on HPC staff recommendations)
- D.) **Allow Owner and his Structural Engineer Brian Siqueira to work with Building Dept. and Indiana Home Land security to acquire necessary federal permits to complete the restoration.**
- F.) **Apply Page 7 section 5 of the Ord. No 9495-04** which requires HPC to weigh both the potential Hardship a denial will cause the Owner and the lack of detriment to public welfare.

Respectfully Submitted,
Eric A. Boyd
Owner: 1240 W. Thomas St.



MAY • OBERFELL • LORBER

Attorneys

Accessible. Experienced. Versatile.

Mishawaka • South Bend • Dowagiac

E. Spencer Walton, Jr.
Jeffery A. Johnson*
Robert J. Palmer
Wendell W. Walsh
Patricia E. Primmer
D. Andrew Spalding
Bradley L. Varner

Jane F. Bennett
Georgianne M. Walker*
Marcellus M. Lebbin*
Trevor Q. Gasper*
Brett R. Hummer*
Jennifer L. ElBenni*
Ryan M. Dvorak

Courtney K. Kuelbs*
Michael E. Doversberger*
Daniel R. Appelget
Amanda M. Jordan
Blake D. Sheeley
K. Foust Hunneshagen

Of Counsel
John H. Peddycord
Robert F. Conte*
Robert C. Beutter

*Also licensed in the
State of Michigan

December 6, 2016

Kareemah Fowler, IAMC
City Clerk,
Office of the City Clerk
227 W. Jefferson Blvd. Rm. 455
South Bend, IN 46601

Re: *Appeal of Boyd v. Historic Preservation Commission*
COA # 2016-0809

Dear Ms. Fowler:

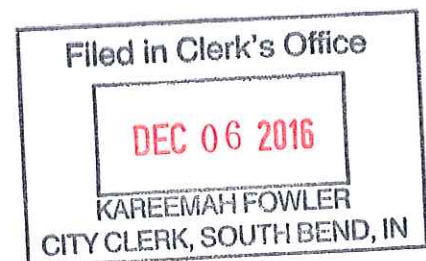
Enclosed please find twelve copies of The Historic Preservation Commission of South Bend and St. Joseph County's Evidentiary and Administrative Record and Position Statement and Exhibits "A" through "K".

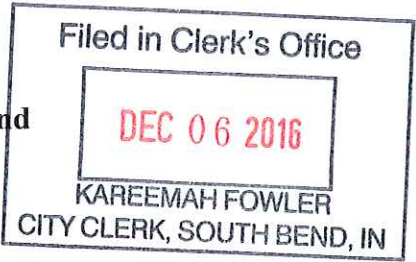
Should you have any questions regarding the above please do not hesitate to contact me.

Sincerely,

Brett R. Hummer
bhummer@maylorber.com

Encl.





Before the Common Council of the City of South Bend

ERIC BOYD,)
)
 Appellant,)
)
 vs.)
)
 HISTORIC PRESERVATION)
 COMMISSION OF SOUTH BEND AND)
 ST. JOSEPH COUNTY,)
)
 Appellee.)

RE: Application for Certificate of
Appropriateness, No. 2016-0809

**HISTORIC PRESERVATION COMMISSION OF SOUTH BEND AND ST. JOSEPH
COUNTY’S EVIDENTIARY AND ADMINISTRATIVE RECORD AND POSITION
STATEMENT**

I. Background

A. The Powers and Duties of the Historic Preservation Commission

The Historic Preservation Commission (“HPC”) is granted the power to establish and set standards and guidelines for the preservation of historic landmarks. To enable the exercise of this authority, South Bend Ordinance 9495-04 requires an owner of a historic landmark to obtain a Certificate of Appropriateness (“COA”) “before construction, reconstruction, alteration, demolition, or moving of any exterior feature of any building, structure, or use.” City of South Bend Ordinance 9495-04, Section 21-13.02 (e)(1). An application for a COA must be voted on by the entire HPC at a public hearing.

A COA is not required for ordinary maintenance and repairs to a historic landmark which do not involve a change in any exterior features. City of South Bend Ordinance 9495-04, Section 21-13.02 (e)(2). Instead, the procedures of HPC dictate that the owner of the landmark should request a Routine Maintenance Exemption (“RME”). The RME may be granted by a HPC staff member and does not require a public hearing.

B. 1240 W. Thomas Street owned by Appellant Eric Boyd

1240 W. Thomas Street (the “Firehouse”) was designated as a Historic Landmark on September 29, 1999 by Ordinance No. 9037-99. The building is described as:

A two story Period Revival Style Fire Station. It has a flat roof with limestone parapet coping, metal parapet scupper/cornice with brick brackets underneath with elaborate limestone detailing at the ends. The building is made of brick with ornate limestone detailing. The windows are one over one double hung with limestone sills, all of which except for the windows along the front façade are boarded up. The building also has a paneled wood entry door and two hinged wooden garage doors for the fire trucks.

A true and accurate copy of the Ordinance No. 9037-99 is attached as Exhibit “A”. The Firehouse was a designated historic landmark prior to Eric Boyd’s (“Mr. Boyd”) purchase of the same.

On November 10, 2011 Mr. Boyd received an RME to “replace metal roofing to secure the burned out landmark and protect from the elements.” A true and accurate copy of this RME is attached as Exhibit “B”.¹ Importantly, the RME did not allow Mr. Boyd to make any repairs which were not in-kind and did not mention the construction of a gabled roof or any deviation to the then-existing roof style and structure. The RME was good for one year, but upon a requested extension, was valid until November 10, 2013. However, instead of simply replacing the metal roofing as permitted by the RME, sometime following the expiration of the RME Mr. Boyd began constructing a gabled asymmetrical roof.

On October 13, 2015 Mr. Boyd filed for an application for a building permit to add a partial roof on the Firehouse with the South Bend Building Department, not the HPC. As the Firehouse was a Historical Landmark normal protocol stipulated that the Building Department would send Mr. Boyd to HPC to obtain a COA. A true and accurate copy of the Affidavit of

¹ A COA and RME are granted using the same form. Accordingly, an RME and COA will both be printed on the form labeled “Certificate of Appropriateness”, even though they permit different activity.

Charles Bulot is attached as Exhibit “C”. Once a COA was obtained the Building Department would then determine if a permit should be granted. *Id.* However, the fact that the Firehouse was a Historical Landmark was unfortunately overlooked by the Building Department and Mr. Boyd was granted a building permit for a partial gabled roof. *Id.* A true and accurate copy of the Building Permit is attached as Exhibit “D”. HPC did not obtain a copy of the building permit application. HPC was informed of the building permit around July 26, 2016 when they became aware that the Firehouse was the subject of a code violation hearing. A true and accurate copy of the Affidavit of HPC Executive Director Elicia Feasel is attached at Exhibit “E”.

On August 9, 2016 Mr. Boyd submitted an Application for Certificate of Appropriateness, Application No. 2016-0809 to the HPC. A true and accurate copy of Mr. Boyd’s application is attached as Exhibit “F”. The application requested the following modifications:

Roof, window replacement, apply for addition—siding vinyl and window replacement is long term. Current plan is to keep windows boarded up for security reasons (2 replacement windows have been broken. Color of vinyl siding is brown.

Per the normal procedure, the staff at HPC issued a Staff Report on the Application. A true and accurate copy of the staff report is attached at Exhibit “G”. Executive Director of HPC, Elicia Feasel, recommended (1) HPC deny the modifications from the flat roof to a gabled roof due to a failure to conform to the maintenance, treatment, and renovation and addition guidelines set forth by the Group B Standards; (2) that HPC grant a COA for the second story because it fit with the structure of the building; and (3) deny the proposed window and siding treatment as they were both vinyl and incompatible materials as set forth in the Group B Standards.

On September 19 2016 Mr. Boyd’s application was heard at a public hearing of the HPC. The Board unanimously denied Mr. Boyd’s application. A true and accurate copy of the minutes

from the hearing are attached as Exhibit “H”. Mr. Boyd was mailed a copy of HPC’s findings on September 27, 2016, which set forth in writing the reasons for denying his COA application. A true and accurate copy of HPC’s findings are attached as Exhibit “I”. In sum, the HPC concluded that the proposed gabled roof detracted from the original form and architectural character of the building, failed to keep with the Group B standards, and that Mr. Boyd failed to show evidence showing that the flat roof was not financially feasible.

II. Standard of Review

The Common Council shall review an appeal before them to determine if the action taken by HPC was:

- (1) Arbitrary, Capricious, an abuse of discretion, or otherwise not in accordance with applicable law;
- (2) Contrary to constitutional right, power, privilege, or immunity;
- (3) In excess of statutory jurisdiction, authority, limitations, or statutory rights;
- (4) Without observance of procedures required by applicable law or ordinance;
- (5) Unsupported by substantial evidence.

In his filings with the Common Council Mr. Boyd does not argue that HPC’s decision was arbitrary and capricious. Mr. Boyd does not contend that the decision to deny his application was contrary to a constitutional right, power, privilege, or immunity. Nor does he contend that HPC is without the authority to deny his application or that they lacked substantial evidence to deny his application. His arguments focus on the fact that he believes HPC acted without the observance of the City of South Bend Ordinances and that HPC acted contrary to its own guidelines. HPC focuses on these factors in its arguments set forth below, and as demonstrated Mr. Boyd’s appeal should be denied and the Common Council should affirm HPC’s decision to deny Mr. Boyd’s application for a COA.

III. Argument

A. *Mr. Boyd's appeal was properly denied based upon the South Bend City Ordinance and HPC Guidelines.*

HPC complied with all applicable laws, ordinances, and guidelines when it voted to deny Mr. Boyd's application. HPC is vested the authority to grant or deny a COA based upon the factors set forth in the City of South Bend Ordinance 9495-04, Section 21-13.02 (e)(1). Those factors are the:

- (1) Appropriateness of the proposed construction, reconstruction, alteration, demolition, or moving to the preservation of the historic landmark, specifically, and/or the Historic Preservation District, generally.
- (2) The detriment to the public welfare if the proposed construction, reconstruction, alteration, demolition or moving is permitted even though it is not deemed appropriate; and
- (3) The potential hardship that the denial of a certificate of appropriateness would cause the applicant.

In addition, through their authority HPC has published guidelines known as the Group B Standards. These standards give an applicant and HPC additional factors to consider when ruling upon a COA. A true and accurate copy of the Group B Standards are attached as Exhibit "J". The most relevant standard to Mr. Boyd's application is Group B Standard, "C", which states, "*additions to landmarks should not detract from the original form and unity of the landmark.*" (Emphasis added).

Seven out of the nine commissioners of HPC explained that Mr. Boyd's proposed modifications did not keep to the architectural integrity of the building when casting their vote to deny the COA Application. While the discussion at the hearing mainly focused on the gabled roof, HPC also found that the proposed vinyl siding and vinyl windows did not fit with the architectural integrity of the brick and limestone building. Thus, HPC's decision that the

proposed alterations were not appropriate was entirely consistent with the Appropriateness standard of Section (e)(1) of Ordinance No. 9495-04

In addition, Mr. Boyd presented no evidence at the hearing to show that the public would benefit from the proposed modifications. On the contrary, if HPC were to allow the modifications to this Historic Landmark as proposed by Mr. Boyd, it would change the very structure that was given Historic Landmark protection by the Common Council through Ordinance No. 9037-99. The Firehouse was deemed a Historic Landmark in order to preserve the building as it then existed. Allowing a modification to the mass, frame, and materials of the building would entirely destroy the value of the Historic Landmark. Accordingly, HPC was well within its ordinance authority to deny Mr. Boyd's application given that his proposed modification would impose a detriment to the public welfare by violating the Historic Landmark Ordinance which protects the Firehouse.

Finally, HPC explicitly considered Mr. Boyd's financial hardship during the hearing. The hearing minutes show that both Commissioner Kluczinski and Commissioner Gelfman noted that Mr. Boyd failed to present quotes for keeping an in-kind flat roof. Instead, he came only with estimates for a gabled roof. Moreover, Mr. Boyd began working on the roof of the Firehouse before he was granted a COA. It would have been better had Mr. Boyd gone through the proper procedure to first seek a COA, but HPC nonetheless considered financial hardship as best it could given the lack of cost estimates it had before it at the hearing.

HPC did not act in excess of its statutory authority; it is granted the right to review and deny applications for a COA. HPC did not act without observance to the procedures required by applicable laws. HPC thoroughly considered all applicable guidelines when rendering its

decision. Mr. Boyd's appeal should be denied, and HPC's decision to deny Mr. Boyd's application should be affirmed.

B. HPC did not receive Mr. Boyd's application for a building permit in October 2015; therefore, it was not automatically deemed to be an application for COA under the City of South Bend Zoning Ordinances.

South Bend City Ordinance 9495-04, section 21-13(e)(3) provides:

An application for a building permit, demolition permit, sign permit or moving permit shall also be deemed to be an application for a certificate of appropriateness. Within five (5) working days of receipt of such application relative to a building, structure or use in said district, the Building Commissioner shall forward the application to the Historic Preservation Commission for review...

Section (e)(5) further provides:

The Historic Preservation Commission shall consider the application within forty-five (45) days following its *receipt* of the application for a certificate of appropriateness...(B) Failure of the Historic Preservation Commission to take such action within sixty (60) days after *receipt* of the application by the Commission shall constitute approval of the application

(emphasis added). Mr. Boyd mistakenly claims that his October 13, 2015 application for a building permit, per section (e)(3) of the city ordinance, was deemed an application for a COA. Mr. Boyd's argument is wrong and fails for several reasons.

First, HPC did not receive a copy of the building permit application that Mr. Boyd filed with the Building Department in October 2015. South Bend City Ordinance 9495.04, Section 21-13(e)(3) dictates the Building Department is to forward all applications for building permits filed regarding a Historic Landmark within (5) days. However, Charles Bulot, the Building Commissioner, attests to the fact that in this situation, the 2015 application was overlooked and never forwarded to HPC. *See* Exhibit C. Mr. Boyd's 2015 application with the Building Department should not be deemed an application for a COA because the Building Department made a mistake and failed to forward the application to HPC. Mr. Boyd was familiar with the

procedures for a historic landmark and knew he needed a COA prior to beginning work on the Firehouse, as evidenced by the fact he sought and received an RME in 2011 from HPC. *See*, Exhibit B. Mr. Boyd cannot claim to be ignorant of HPC guidelines and begin unapproved work at the expense of a Historic Landmark. Moreover, HPC should not be stripped of its authority to rule upon Mr. Boyd's application simply because of a mistake made by another city department.

Second, even if HPC had been in receipt of the 2015 building permit application (it was not), the building permit was only for a partial roof. Thus, the additional story Mr. Boyd has added to the Firehouse without approval, proposed vinyl siding, and proposed vinyl windows do not have a valid COA authorized by HPC and, per the above discussion, Mr. Boyd's COA application was properly denied.

C. Mr. Boyd's appeal is untimely

Lastly, Mr. Boyd's appeal to the Common Council is untimely. On May 27, 1997 during a prior HPC appeal a thirty (30) day deadline in which to appeal a decision from HPC was referenced. A true and accurate copy of the May 27, 1999 Common Council meeting minutes are attached as Exhibit "K". Mr. Boyd's COA application was denied on September 27, 2016. Mr. Boyd had until October 27, 2016 to file an appeal with the Common Council. His appeal was not filed until November 9, 2016. Mr. Boyd's appeal is untimely and should be denied.


Furthermore, contrary to Mr. Boyd's contentions, HPC did not verbally refuse to disclose the appeal process. When Mr. Boyd contacted HPC regarding the appeal he was told that they could not give him legal advice and referred him to the Common Council. *See* Exhibit E. Ms. Feasel did not state, "We don't disclose how to appeal our rulings... Good Luck!!" *Id.* Furthermore, the right to appeal is set forth in the HPC ordinances, which are publically

available online. Finally, any alleged confusing language which Mr. Boyd contends is used to hide the appeal process is incorrect. The HPC website states that there is a right to appeal to the proper council. HPC is governed and granted authority by both the South Bend Common Council and the St. Joseph County Council. The location of the landmark determines which council the appeal must be filed with. HPC has not camouflaged the appeal process; it's website simply and correctly informs the public that they must file and appeal with the proper Council.

IV. Conclusion

HPC has acted in accordance with the City of South Bend Ordinances and the HPC guidelines. Mr. Boyd's application was properly denied for failing to propose modifications that conformed to the architectural integrity of the Firehouse. The proposed asymmetrical gabled roof, vinyl siding, and vinyl windows will destroy the historical value of the landmark. Accordingly, HPC respectfully requests that the South Bend Common Council deny Mr. Boyd's Appeal and affirm HPC's decision to deny Mr. Boyd's application for a COA. A denial of the appeal will allow HPC to further work with Mr. Boyd to develop modifications to restore and keep the historical and architectural integrity of the Firehouse.

Respectfully submitted,



Brett R. Hummer (27172-71)

Attorney for Appellee

MAY OBERFELL LORBER

4100 Edison Lakes Pkwy, Suite 100

Mishawaka, IN 46545

Telephone: (574)243-4100

Fax: (574)232-9789

CERTIFICATE OF SERVICE

I certify that service of the above document was made on December 6, 2016:

- by depositing a copy or copies in the United States mail, postage prepaid
- by hand-delivering a copy or copies
- via electronic mail
- other:

upon the following:

Eric Boyd
1240 West Thomas Street
South Bend, IN 46601



Brett R. Hummer
Attorney for the Historic Preservation Commission

EXHIBIT "A"

ORDINANCE No. 9037-99

Passed by the Common Council of the City of South Bend, Indiana _____

September 27, 19 99

Attest:  City Clerk
LORETTA J. DUDA


Attest:  President of Common Council

Presented by me to the Mayor of the City of South Bend, Indiana _____

September 27, 19 99

 City Clerk
LORETTA J. DUDA

Approved and signed by me _____ September 29, 19 99 _____

 Mayor

COMMITTEE REPORT

TO THE COMMON COUNCIL OF THE CITY OF SOUTH BEND:

Your Committee of the Whole, to whom was referred:

BILL NO.

68-99

A BILL AMENDING THE ZONING ORDINANCE, AND
ESTABLISHING AN HISTORIC LANDMARK FOR PROPERTY
LOCATED AT 1240 WEST THOMAS STREET, IN THE CITY OF
SOUTH BEND, INDIANA

Respectfully report that they have examined the matter and that in their opinion, this bill is being recommended to the full Council with a favorable recommendation.

Charlotte Pfeifer
Chairman

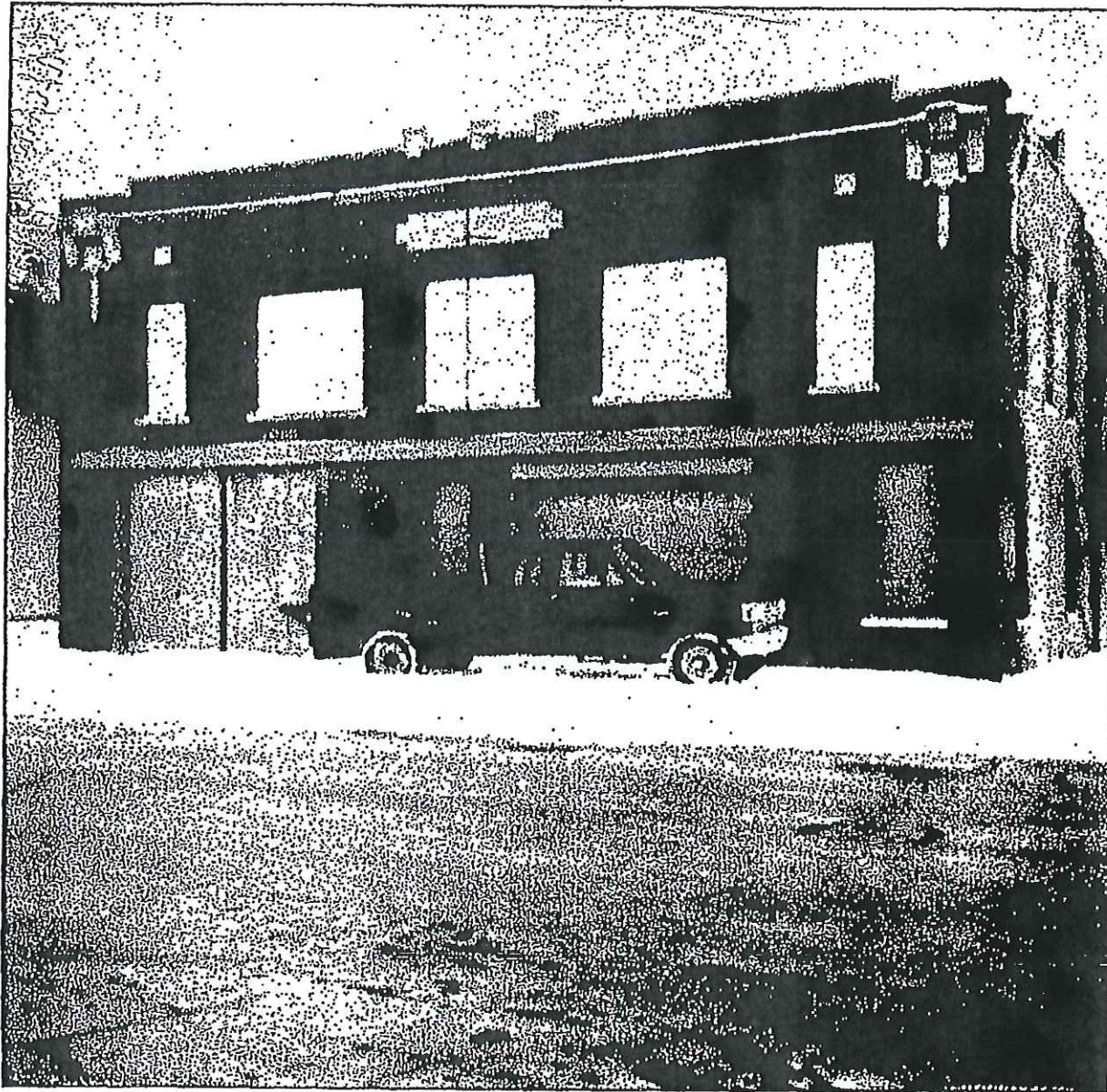
**PROPOSED LOCAL LANDMARK
1240 WEST THOMAS
SOUTH BEND, INDIANA**

**Historic Preservation Commission
of
South Bend and St. Joseph County
April 1999**

Filed in Clerk's Office

AUG 23 1999

**LONZETTA J. BUDA
CITY CLERK, SO. BEND, IN.**



11 Mar 99

CURRENT PHOTOGRAPH

Filed in Clerk's Office

AUG 23 1999

LORETTA J. BUDA
CITY CLERK, CO. BEND, IN.

RECOMMENDATION

Based on the Historic Preservation Commission's Local Landmark Criteria's adopted by the Common Council, the building at 1240 W. Thomas has been recommended to the Common Council for designation as a Local Landmark by Historic Preservation Commission.

The building meets the criteria in at least three areas:

- 1.) Its embodiment of elements of architectural design, detail, materials, or craftsmanship which represents an architectural characteristics or innovations.
- 2.) *Its suitability for preservation.*
- 3.) Its identification with the life of a person or persons of historical significance.

The building fulfills criteria #1 as an example of a 1920's Period Revival Style, two-bay, fire station. The building is rated a Significant 11 in the Indiana Historic Sites and Structures Inventory.

The building fulfills criteria #2 by the integrity of its original construction with little alteration to the facade. The building is a wonderful example of an early Twentieth Century, Period Revival Style, fire station.

The building fulfills criteria #3 by its association with ??? (the south bend fire department?)

Staff finds that the building meets the criteria for designation as a Local Landmark and recommends that the Commission send such a recommendation to the Common Council.

4/29/99

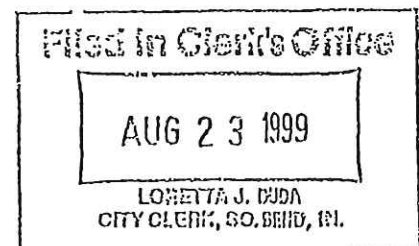


EXHIBIT "B"



Tim Kluszczinski, President

**HISTORIC
PRESERVATION
COMMISSION
OF
SOUTH BEND
AND
ST. JOSEPH
COUNTY**

Phone: (574) 235-9798
FAX: (574) 235-9578
E-mail: SBSJCHPC@co.st-joseph.in.us



CATHERINE D. HOSTETLER,
Director

CERTIFICATE OF APPROPRIATENESS

The Historic Preservation Commission of South Bend and St. Joseph County has reviewed the proposed work:
Replace metal roofing to secure burned out landmark and protect from elements per City of South Bend Code Case #08-069 adjudicated on 10 November 2011. Wayne Doolittle, Preservation Specialist and Inspector present at hearing.

TBD, Contractor
for the following location:

1240 THOMAS
South Bend, IN 46601

Application No. 2011-1110
in the County of St. Joseph; State of Indiana; which is:

- Located in a Local Historic
 A Local Historic Landmark

and found this application to be appropriate according to the Standards pertaining to Local Historic Landmarks and/or Local Historic Districts. Regulations pertaining to the Historic Preservation Commission are found in Chapter 21 (Zoning), South Bend Municipal Code and Chapter 26 of the St. Joseph County Code.

The issuance of this permit does NOT in any manner, release the recipient from the responsibility of complying with the requirements of the zoning ordinances, building codes, safety codes, ADA or other requirements of the City of South Bend, the County of St. Joseph, the State of Indiana, or the United States Federal Government.

This permit is good for one year from the date of issuance and is effective from the date entered herein. Plans are on file and open for public inspection at the office of the Historic Preservation Commission of South Bend and St. Joseph County, 125 S. Lafayette Blvd. (mailing address: 227 West Jefferson Blvd.), South Bend, Indiana, during normal business hours.

THIS PERMIT IS NOT TRANSFERABLE

NAME OF APPLICANT: Eric Boyd fbo 1240 Thomas

DATE PERMIT
TAKES FORCE: 11/10/2011

PERMIT ISSUED BY:
Catherine D. Hostetler
Director

Edward Renewed through 11.10.2013

POST IN A CONSPICUOUS PLACE ON THE STREET SIDE
OF THE PROJECT UNTIL COMPLETION OF ALL WORK. Eric Boyd
reapplied

EXHIBIT "C"

Before the Common Council of the City of South Bend

ERIC BOYD,)
)
 Appellant,)
)
 vs.)
)
 HISTORIC PRESERVATION)
 COMMISSION OF SOUTH BEND AND)
 ST. JOSEPH COUNTY,)
)
 Appellee.)

RE: Application for Certificate of
Appropriateness, No. 2016-0809

AFFIDAVIT OF CHUCK BULOT

Chuck Bulot, being first duly sworn upon his oath, deposes and states as follows:

1. I am over the age of twenty-one (21) years.
2. I have never been adjudicated and am not insane or incompetent.
3. I make the statements contained herein based on my personal knowledge and would so testify in person in a court of law.
4. I am a resident of the State of Indiana.
5. I am the Building Commissioner for the City of South Bend and have served in such capacity at all times relevant to this appeal filed by Eric Boyd, COA Application # 2016-0809.
6. Standard Building Department protocol dictates that if an application for a building permit is requested for a historic landmark, the staff members of the building department are to direct the applicant to the Historic Preservation Commission to obtain a Certificate of Appropriateness.
7. On October 13, 2015 Mr. Eric Boyd filed an application for a building permit to construct a partial roof on the building located at 1240 W. Thomas Street.

8. Per an unintentional mistake of a Building Department staff member, Mr. Boyd was not directed to the Historic Preservation Commission to obtain a Certificate of Appropriateness.

9. At no time prior to August 9, 2016 did the Building Department provide a copy of Mr. Boyd's 2015 Application for a Building Permit to the Historic Preservation Commission.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Date

12/5/16

Chuck Bulot



EXHIBIT “D”

NOTICE OF PERMIT CONSTRUCTION

St. Joseph County and City of South Bend
Building Department
(574) 235-9554

DATE: 10/13/2015

PERMIT NUMBER: BD15005044

ADDRESS: 1240 THOMAS, SE CRN WITH WALNUT, N OF WESTERN AVE.

CONTRACTOR: BOYD SERVICES

PERMIT TO CONSTRUCT: PARTIAL ROOF

Lot No. Add'n: 48 COMMISSIONER'S OF S PT BANK OUTLOT 85 & 86

BOYD, ERIC

(812)704-3005

Owner's Name

Phone

1207 W Thomas St South Bend, IN 46601

Owner's Present Mailing Address/Email

Zoning MU

Twp. PORTAGE

Multiple Unit Count

Valuation \$500.00

Height

Acreage 0.19

018-3074-2912

ABZA Date:

State No.

Front Rear Side

Building Permit Fee

\$30.00

Contractor BOYD SERVICES (812)704-3005 boydmaster455@yahoo.com

Electric Permit Fee

Contractor

Plumbing Permit Fee

Contractor

Heating Permit Fee

Contractor

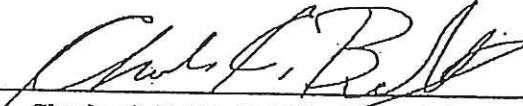
Subtotal \$ 30.00

Penalty \$

Total \$ 30.00

kwldawsk

Signature


Charles C. Bulot - Building Commissioner

The person or contractor listed above hereby certifies that the statements contained herein are true and correct and in consideration of the granting of the permit agree to save St. Joseph County and City of South Bend harmless from any and all damages and agree to perform the work covered by this permit in conformity with the laws of the State of Indiana and the Ordinances of St. Joseph County and the City of South Bend, Indiana.

I agree to call for an inspection approval before any concrete is poured for footings and walls, or any framing, electrical, plumbing, or heating material is covered. I understand that a Final Inspection may be necessary and a Certificate of Occupancy shall be issued prior to occupancy being allowed. I also understand that this is only a Building Permit. Separate permits are to be obtained for any heating, ventilation, air conditioning, electric or plumbing work.

Understanding of the laws and rules regarding this permit is certified by applicant's signature above. This permit is valid for two (2) years from date of issuance, or as determined by the Building Department.

This Placard must be posted until project is completed. Failure to comply will result in a citation and fine.

EXHIBIT “E”

Before the Common Council of the City of South Bend

ERIC BOYD,)	
)	
Appellant,)	
)	
vs.)	
)	RE: Application for Certificate of
HISTORIC PRESERVATION)	Appropriateness, No. 2016-0809
COMMISSION OF SOUTH BEND AND)	
ST. JOSEPH COUNTY,)	
)	
Appellee.)	

AFFIDAVIT OF ELICIA FEASEL

Elicia Feasel, being first duly sworn upon her oath, deposes and states as follows:

1. I am over the age of twenty-one (21) years.
2. I have never been adjudicated and am not insane or incompetent.
3. I make the statements contained herein based on my personal knowledge and would so testify in person in a court of law.
4. I am a resident of the State of Indiana.
5. I am the Executive Director of the Historic Preservation Commission (“HPC”) of South Bend and St. Joseph County and have served in such capacity at all times relevant to this appeal filed by Eric Boyd, COA Application # 2016-0809.
6. Prior to August 9, 2016, HPC did not receive an Application for a Certificate of Appropriateness from Mr. Boyd or through the Building Department for the “partial roof” proposed in Building Permit BD15005044.
7. At no time did I state to Mr. Eric Boyd, “We don’t disclose how to appeal our rulings...Good Luck!!”

8. However, I did inform Mr. Boyd I was unable to provide legal advice regarding an application and referred him to the South Bend Common Council to learn about the appeal process.

I affirm, under the penalties for perjury, that the foregoing representations are true.

5/20/11
Date

Elicia Feasel
Elicia Feasel

EXHIBIT “F”



Application

- FOR -

Certificate of Appropriateness



HISTORIC PRESERVATION COMMISSION
of SOUTH BEND & ST. JOSEPH COUNTY
125 S. Lafayette Blvd., South Bend, IN 46601

http://www.stjosephcountyindiana.com/departments/SJCHP/index.htm
p: 574-235-9798 f: 574-235-9578 e: SBSJCHPC@co.st-joseph.in.us

OFFICE USE ONLY>>>>>>>DO NOT COMPLETE ANY ENTRIES CONTAINED IN THIS BOX<<<<<<<OFFICE USE ONLY

Date Received: 9 Aug 2016 Application Number: 2016 - 0809

Past Reviews: YES. (Date of Last Review) _____ NO

Staff Approval authorized by: _____ Title: _____

Historic Preservation Commission Review Date: 19 Sept 2016

Local Landmark Local Historic District (Name) _____
 National Landmark National Register District (Name) _____

Certificate of Appropriateness:
 Denied Tabled Sent To Committee Approved and issued: _____

(Please Print)

Address of Property for proposed work: _____
(Street Number—Street Name—City—Zip Code)

Name of Property Owner(s): Eric A. Boyd Phone #: 812-704-3025

Address of Property Owner(s): 1240 W. Thomas St. South Bend
(Street Number—Street Name—City—Zip Code)

Name of Contractor(s): Eric A. Boyd Phone #: Same

Contract Company Name: Boyd Services - 4999-16

Address of Contract Company: 1240 W. Thomas St. South Bend, IN 46601
(Street Number—Street Name—City—Zip Code)

Current Use of Building: Commercial
(Single Family—Multi-Family—Commercial—Government—Industrial—Vacant—etc.)

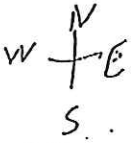
Type of Building Construction: Brick
(Wood Frame—Brick—Stone—Steel—Concrete—Other)

Proposed Work: In-Kind Landscape New Replacement (not in-kind) Demolition
(more than one box may be checked)

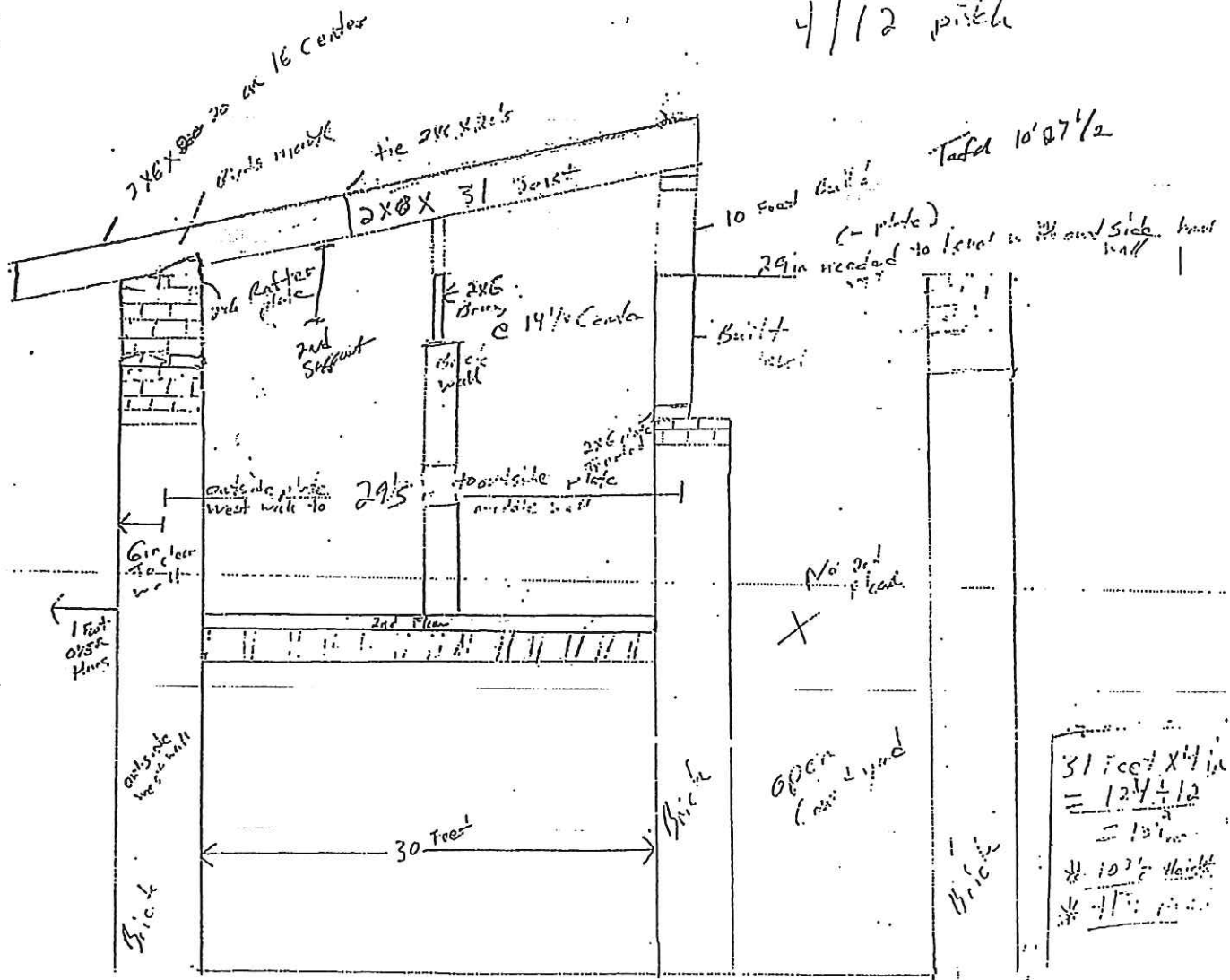
Description of Proposed Work: Roof, window replacement, Asphalt for addition -
Siding vinyl & window replacement in long term. Current plan is to keep
windows boarded for security reason & 2 replacement windows have been
broken) Color of vinyl siding Brown.

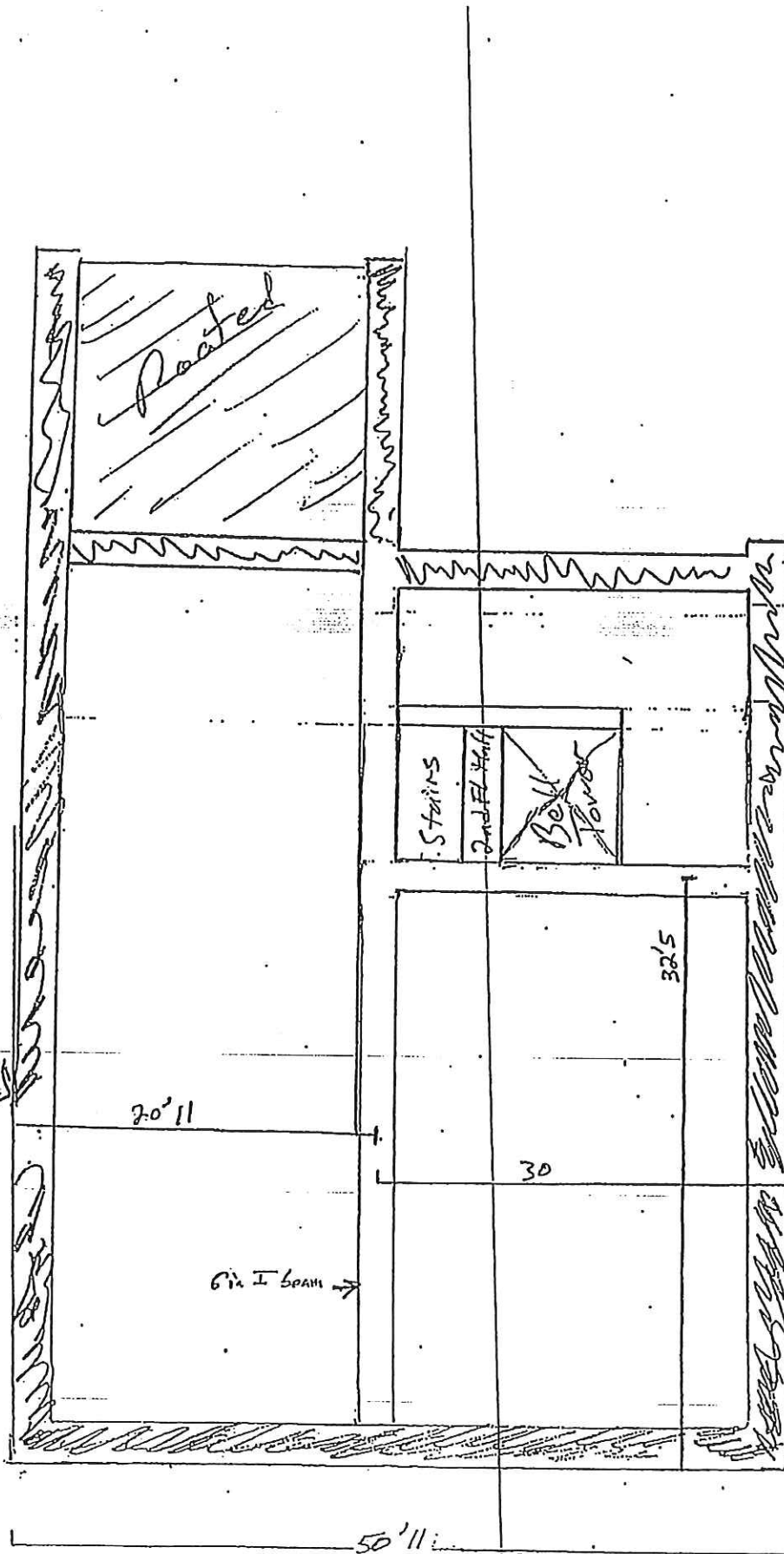
Owner/Contractor Fax #: _____ e-mail: boylmaster455@yahoo.com
(Staff will correspond with only one designee)

X [Signature] and/or X [Signature]
Signature of Owner Signature of Contractor



4/12 pitch



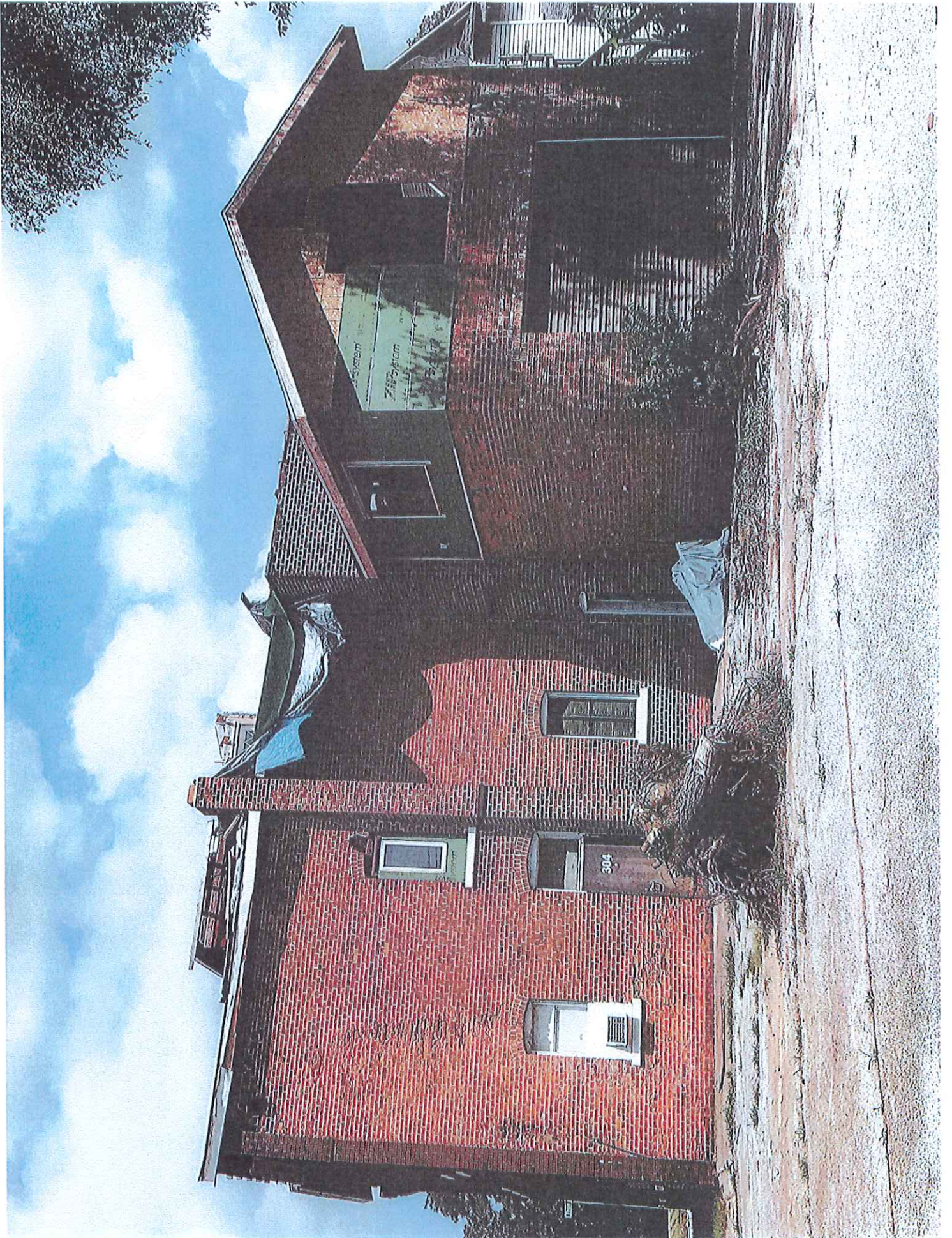


Circle
 Pickle truck
 →

Stop
 Here

Roofing This Half
 ↘





1240 Thomas 2012



1240 Thomas 2012



NOTICE OF PERMIT CONSTRUCTION

St. Joseph County and City of South Bend
Building Department
(574) 235-9554

DATE: 10/13/2015

PERMIT NUMBER: BD15005044

ADDRESS: 1240 THOMAS, SE CRN WITH WALNUT, N OF WESTERN AVE.

CONTRACTOR: BOYD SERVICES

PERMIT TO CONSTRUCT: PARTIAL ROOF

Lot No. Add'n. 48 COMMISSIONER'S OF S PT BANK OUTLOT 85 & 86

BOYD, ERIC

(812)704-3005

Owner's Name

Phone

1207 W Thomas St South Bend, IN 46601

Owner's Present Mailing Address/Email

Zoning MU

Twp. PORTAGE

Multiple Unit Count

Valuation \$500.00

Height

Acreage 0.19

018-3074-2912

ABZA Date:

State No.

Front Rear Side

Building Permit Fee

\$30.00

Contractor BOYD SERVICES (812)704-3005 boydmaster455@yahoo.com

Electric Permit Fee

Contractor

Plumbing Permit Fee

Contractor

Heating Permit Fee

Contractor

Subtotal \$ 30.00

Penalty \$

Total \$ 30.00

kwidawsk

Signature



Charles C. Bulot - Building Commissioner

The person or contractor listed above hereby certifies that the statements contained herein are true and correct and in consideration of the granting of the permit agree to save St. Joseph County and City of South Bend harmless from any and all damages and agree to perform the work covered by this permit in conformity with the laws of the State of Indiana and the Ordinances of St. Joseph County and the City of South Bend, Indiana.

I agree to call for an inspection approval before any concrete is poured for footings and walls, or any framing, electrical, plumbing, or heating material is covered. I understand that a Final Inspection may be necessary and a Certificate of Occupancy shall be issued prior to occupancy being allowed. I also understand that this is only a Building Permit. Separate permits are to be obtained for any heating, ventilation, air conditioning, electric or plumbing work.

Understanding of the laws and rules regarding this permit is certified by applicant's signature above. This permit is valid for two (2) years from date of issuance, or as determined by the Building Department.

This Placard must be posted until project is completed. Failure to comply will result in a citation and fine.

EXHIBIT "G"

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 9 August 2016

Application Number: 2016-0809

Property Location: 1240 West Thomas Street

Architectural Style/Date/Architect or Builder: Period Revival/1920/Firehouse #4

Property Owner: Eric Boyd

Landmark or District Designation: Local Landmark

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: Firehouse #4 is a 2-story rectangular brick building. It had a flat roof with limestone parapet coping, metal parapet scupper/cornice with brick brackets underneath and ornate limestone detailing at the ends. The windows are 1/1 double-hung with limestone sills. There is a brick side chimney, and a roof penthouse with hip roof.

ALTERATIONS: Most of the windows in this former firehouse have been boarded up prior to a 2007 fire. RME 2011-1110 approved replacement of metal roof to secure the building and protect it from the elements, although there is no evidence it was ever installed. An asymmetrical gabled roof has been installed without an approved COA or Building Permit on approximately half of the main structure, as well as a second story addition and gabled roof on the rear of the building. Areas where large overhead garage doors were originally located have been covered with vinyl siding. Most window openings have been covered with plywood or vinyl siding.

APPLICATION ITEMS: Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown.

DESCRIPTION OF PROPOSED PROJECT: HPC Staff has worked with the current owner in recent years to support a tax abatement and rezoning petition. Although an RME was issued for a replacement roof in 2011, the details of what was actually installed were not presented at that time. Additionally, the Building Department has provided a statement that indicates the current roof configuration was not approved with a Building Permit and has ordered all work to stop until a formal submission and plan is set for the proposed work. This property was heard at a July 26, 2016 Code Enforcement hearing where a date of January 26, 2017 was given for Code compliance.

Owner proposes a 4/12 shed roof be constructed over part of the main building, from the west exterior wall 30' east to a 10'H wall built on existing brick interior wall, with a 1' overhang at west wall. Second floor addition atop one-story brick portion at rear of building is to be vinyl sided to match existing brown vinyl siding used to fill garage door openings; replacement windows to be used to fill window openings in this addition. Existing windows in building are to be left boarded up for security reasons. Most of this work with the exception of the windows and vinyl in the rear addition have been installed without COA or Building Permit.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES: Group B

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while an addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

1. Structure—Necessary structural improvements, where safety demands should be accomplished in such a way as to cause minimal visual change to the original style and construction.
2. Material—Additions and improvements involving any new material in the landmark should be of the same material as the original. It should be the same size and texture. An alternative material may be allowed if it duplicates the original.
 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and supergraphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to

the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate. Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff does not recommend approval of the roof deviation from flat to asymmetrical gable and does not recommend a roof on only half of the structure as it does not conform to the standards and guidelines, A, B, and C. Staff recommends rear second story addition with gable roof, however, is not recommending the proposed window and siding treatments as they can be considered an incompatible material as reference in C, 2. Staff recommends that the owner be in compliance with the Building Department at the request of the Building Commissioner.

Elicia Feasel
Executive Director

EXHIBIT "H"

MINUTES OF A MEETING OF THE
HISTORIC PRESERVATION COMMISSION
OF SOUTH BEND & ST. JOSEPH COUNTY

September 19, 2016
13th Floor Conference Room
County – City Building
South Bend, IN 46601

I. CALL TO ORDER

President Kluszczyński called the meeting to order at 7:00 p.m.

Members Present: Timothy S. Kluszczyński, President; Tom Gordon, Vice President/Asst. Secretary; Elizabeth Hertel, Secretary; Mike Voll, Treasurer; Jennifer Parker (left the meeting before the fourth motion and vote), Architectural Historian; Kevin Buccellato, Brandon Anderson, Joseph Molnar, Michele Gelfman (joined the meeting after the first motion and vote)

Members Not in Attendance: None

Staff Present: Elicia Feasel, Executive Director; Deb Parcell, Deputy Director; Brett Hummer, Legal Counsel; Steve Szaday, Preservation Specialist

Members of the Public Present: Marchelle Berry, Tim Davis, Eric Boyd, Steve Farrell, Demetra Schoenig, Derek Swisch

II. PUBLIC HEARING

A. CERTIFICATE OF APPROPRIATENESS

1. 609 Riverside Drive COA#2016-0805 River Bend
Representation by Derek Swisch. 609 Riverside

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 5 August 2016

Application Number: 2016-0805

Property Location: 609 Riverside

Architectural Style/Date/Architect or Builder: American Foursquare/1912

Property Owner: Derek Swisch and Beatrix Patla

Landmark or District Designation: River Bend Historic District

Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This square 2-story house has a concrete block foundation, 3-tab asphalt shingle hipped roof with hipped dormers. There is a one-story, flat-roof porch across the front with round posts and concrete foundation and steps. Windows are 1/1 double hung.

ALTERATIONS: COA 2014-1031 approved installation of vinyl siding, restoration of front bay window and replacement of all other windows with vinyl double hung windows, replacement of exterior trim (except soffit and fascia) with vinyl trim, repair and replacement of gutters and downspouts, installation of 12' x 12' deck at rear of house, and replacement of basement windows and front door. COA 1997-0904 approved reroof in-kind.

APPLICATION ITEMS: Build a garage.

DESCRIPTION OF PROPOSED PROJECT: Owner/contractor proposes building a 24'W x 28'L x 10'H garage at rear of property. It will have one overhead door and one service door. Double-4" vinyl siding to match house (approved with COA 2014-1031). The roof will have architectural shingles, with plans to match the house roof to these at some point in the future when the house needs to be reroofed. Current house shingles are 3-tab. Other rear yard garages exist in this neighborhood.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES:

RIVER BEND LOCAL HISTORIC DISTRICT

III. NEW CONSTRUCTION

New construction includes any new building or structure constructed within the boundaries of the historic district, or any new addition to an existing building. New construction should be designed considering the appearance of the other buildings in the neighborhood. New work may be contemporary or may suggest motifs from the historic buildings. New construction design should be clearly differentiated from the design of the historic buildings.

A. HEIGHT AND PROPORTION

The majority of structures in the district are two stories in height and are square or rectangular in plan. There are a few story-and-a-half residences. The prevalent facade proportions are between a 1:1 and a 1:2 height-to-width ratio.

Required

The height of a new structure and its height-to-width proportions shall be consistent with adjacent buildings in the district. The building height shall be no greater than that of the tallest existing structure in the same block. Facade proportions shall be established by permitting no structure with a facade wider or narrower than those existing in the same block. Additions to existing buildings shall be related in height and proportion to the existing structure.

Recommended

Contemporary designs should be compatible in character and mood to the building or neighborhood.

Prohibited

Additions may not be constructed that would change the existing facade of a building, alter its scale or architectural character, or add new height

Not Recommended

New stories should not be added, nor should existing stories be removed, which would destroy important architectural details, features or spaces of the building. Any style or period of architecture that is incompatible with what exists should not be permitted in the new additions.

B. BUILDING MATERIALS IN NEW CONSTRUCTION

Wall materials in the district are predominantly wood clapboard and its imitation in aluminum and vinyl. Some walls are brick. Patterned shingles are common in gable ends and dormers.

Required

Exterior materials used on a new structure shall be compatible in scale, texture, and color with adjacent structures. Materials used on an addition to an existing structure shall relate to the existing or original materials of that structure. As much of the original structure as possible shall be retained so that the addition could be removed without damage to the basic structure and appearance of the building.

Recommended

Aluminum or vinyl siding may be used when it is the only feasible alternative. This siding should be compatible with the original size and style and with the materials of other buildings in the district.

Prohibited

Inappropriate materials such as asbestos, asphalt, cast stone, or artificial brick may not be used.

Not Recommended

Glass blocks should not be used. Concrete block should not be used for anything other than foundations.

C. NEW SHEDS AND ACCESSORY STRUCTURES

Required

Sheds and accessory structures (gazebos, decks, doghouses, playhouses, fountains and small reflecting pools, outdoor sculpture, children's play equipment, etc.) shall be located at the rear of the property and as unobtrusively as possible while preserving historical relationships between the buildings, landscape features, and open spaces. Proportions and materials shall conform to those required for new construction.

Recommended

Shed and accessory structure designs should be compatible in character and mood with the residence and neighborhood.

Prohibited

Prefabricated metal sheds shall not be used.

Not Recommended

Prefabricated wood composition sheds should not be used unless they conform with all other standards.

STAFF RECOMMENDATION: Staff recommends approval.

Deb Parcell, Deputy Director

Elicia Feasel, Executive Director

Commissioner Gordon moved to approve application as submitted. Seconded by Commissioner Parker. Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0805 Approved.

2. 1329 East Wayne Street South COA#2016-0819 East Wayne Street
Representation by Demetra Schoenig, 1329 East Wayne Street South

**STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS**

Date: 19 August 2016

Application Number:

2016-0819

Property Location:

1329 E Wayne Street S

Architectural Style/Date/Architect or Builder: American Foursquare/1926/Mortland House/H. Russell Stapp, Architect

Property Owner: Demetra & John Schoenig

Landmark or District Designation: East Wayne Street Historic District

Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This two-story wood-frame house was built in 1926 with a square plan and wing. The main part of the house has an asphalt shingle pyramidal hip roof, with a flat roof on the wing. Windows are 6/1 double hung with ornamental louvered shutters. Small pedimented entry with concrete steps at front of house. There is a two-car, two-door garage with pyramidal hip roof at rear.

ALTERATIONS: Aluminum siding, aluminum storm windows and doors have been added. COA 2015-0713 approved removal of three Ash trees. COA 2009-0928A approved replacement of cracked pads of concrete on driveway and in-kind replacement of concrete steps. COA 2009-0226 approved tear-off and in-kind re-roof with asphalt shingles, and removal of one tree. COA 2001-0606 approved construction of a wood deck in rear yard, not attached to house.

APPLICATION ITEMS: Take out & install new fence 6'. Remove 32' existing stockade. Install 100' cedar board w/dog ear tops and 4' gate.

DESCRIPTION OF PROPOSED PROJECT: Application is for a new wood privacy fence that will connect to an already existing wood privacy fence in the rear of property, creating an enclosed rear yard to protect young children from a shared driveway. The fence is 6' high and has a 4' wide gate in same style and height as fence. At time of application, the section of existing wood stockade fence had been removed and new cedar board 6' high fence with dog ear tops had been installed without COA or Building Permit; project was consequently red tagged by the Building Department on 8/19. The lack of COA was a misunderstanding as to who, contractor or owner, would apply – this COA was applied for on the same day it became apparent to the owner. On August 18, 2016, Staff received two phone calls regarding fence installation in regards to if permission was given and if the design met the neighborhood standards and guidelines.

Along the property line in the same place as the fence is installed, there was an existing fence of the same style and an overgrown 6'-8' tall hedge, see Photo "A". The hedge was taken down a few years ago and the fence at the time of new fence installation. The new fence is at the setback of the house and its four season room.

The applicant has provided several examples of existing wood privacy fences installed in East Wayne Street that Staff will circulate at HPC meeting.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES:

EAST WAYNE STREET LOCAL HISTORIC DISTRICT

I. THE ENVIRONMENT

B. BUILDING SITE, LANDSCAPING AND ACCESSORIES

Individual properties in the district are characterized by a house located in the center of a flat lawn, often divided by a walk leading to the front entrance. Several of the residences are sited on two or more building lots; however, the preponderance of the homes have been erected on a single lot. Most of the properties include a double garage, usually located at the rear of the property. The majority of garages are accessed from straight driveways leading from the main thoroughfare, while a few are accessed from the alley. There are also a few homes with a covered carport located at the rear of the property, as well as a few with circular driveways. Driveway and sidewalk materials include concrete, asphalt and brick. All of the properties have trees and most have trimmed shrubbery and/or hedges. Most of the houses conform to a uniform setback line within each block.

Required

Major landscaping items, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, greenhouses, new walls, fountains, fixed garden furniture, trellises and other similar structures shall be compatible to the historic character of the site and the neighborhood and inconspicuous when viewed from a public walkway.

Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings and newspapers. New site work should be appropriate to existing surrounding site elements in scale, type and appearance. Plant materials and trees in close proximity to the building that are causing deterioration to the building's historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. All high-intensity security lights should be approved by the Historic Preservation Commission.

Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings or other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. Front yard areas shall not be fenced and fences shall not extend forward beyond the setback line of the house. The installation of unsightly devices such as television reception dishes and solar collectors shall not be permitted in areas where they can be viewed from the public thoroughfare.

Not Recommended

Telephone or utility poles with high-intensity overhead lights should be installed so that they cannot be seen from the thoroughfare.

STAFF RECOMMENDATION: Staff recommends approval.

Elicia Feasel, Executive Director

Commissioner Gelfman joined the meeting at 7:17 p.m.

Public Comment: Steve Szaday, Preservation Specialist: Questioned the height of the fence, as it is common along this street that the fence along the front, that is parallel with the street, is usually 4'H, rather than 6'H. Although that is not in the standards and guidelines, is this a building department requirement?

Commissioner Voll moved to approve application as submitted. Seconded by Commissioner Hertel. Nine in favor, none opposed.

Vote: 9 – 0

COA#2016-0819 Approved.

3. 1240 West Thomas Street COA#2016-0809 Local Landmark
Representation by Eric Boyd, 1240 West Thomas Street

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 9 August 2016

Application Number: 2016-0809

Property Location: 1240 West Thomas Street

Architectural Style/Date/Architect or Builder: Period Revival/1920/Firehouse #4

Property Owner: Eric Boyd

Landmark or District Designation: Local Landmark

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: Firehouse #4 is a 2-story rectangular brick building. It had a flat roof with limestone parapet coping, metal parapet scupper/cornice with brick brackets underneath and ornate limestone detailing at the ends. The windows are 1/1 double-hung with limestone sills. There is a brick side chimney, and a roof penthouse with hip roof.

ALTERATIONS: Most of the windows in this former firehouse have been boarded up prior to a 2007 fire. RME 2011-1110 approved replacement of metal roof to secure the building and protect it from the elements, although there is no evidence it was ever installed. An asymmetrical gabled roof has been installed without an approved COA or Building Permit on approximately half of the main structure, as well as a second story addition and gabled roof on the rear of the building. Areas where large overhead garage doors were originally located have been covered with vinyl siding. Most window openings have been covered with plywood or vinyl siding.

APPLICATION ITEMS: Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown.

DESCRIPTION OF PROPOSED PROJECT: HPC Staff has worked with the current owner in recent years to support a tax abatement and rezoning petition. Although an RME was issued for a replacement roof in 2011, the details of what was actually installed were not presented at that time. Additionally, the Building Department has provided a statement that indicates the current roof configuration was not approved with a Building Permit and has ordered all work to stop until a formal submission and plan is set for the proposed work. This property was heard at a July 26, 2016 Code Enforcement hearing where a date of January 26, 2017 was given for Code compliance.

Owner proposes a 4/12 shed roof be constructed over part of the main building, from the west exterior wall 30' east to a 10'H wall built on existing brick interior wall, with a 1' overhang at west wall. Second floor addition atop one-story brick portion at rear of building is to be vinyl sided to match existing brown vinyl siding used to fill garage door openings; replacement windows to be used to fill window openings in this addition. Existing windows in building are to be left boarded up for security reasons. Most of this work with the exception of the windows and vinyl in the rear addition have been installed without COA or Building Permit.

PRESERVATION SPECIALIST REPORT: n/a

STANDARDS AND GUIDELINES: Group B

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a

Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while an addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

1. Structure—Necessary structural improvements, where safety demands should be accomplished in such a way as to cause minimal visual change to the original style and construction.
2. Material—Additions and improvements involving any new material in the landmark should be of the same material as the original. It should be the same size and texture. An alternative material may be allowed if it duplicates the original.
 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and super-graphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate. Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff does not recommend approval of the roof deviation from flat to asymmetrical gable and does not recommend a roof on only half of the structure as it does not conform to the standards and guidelines, A, B, and C. Staff recommends rear second story addition with gable roof, however, is not recommending the proposed window and siding treatments as they can be considered an incompatible material as reference in C, 2. Staff recommends that the owner be in compliance with the Building Department at the request of the Building Commissioner.

Elicia Feasel, Executive Director

Owner offered the following considerations beyond the original application to include standard gabled roof rather than asymmetrical, roof to cover entire structure; one color of siding on addition at rear of building.

Preservation Specialist Szaday, reported on July Code Hearing for this property. Code Enforcement had issues with the structure of the proposed roof and the walls.

Executive Director Feasel gave the opinion of the Building Department: "the Building Commissioner said this morning that 'the roof in its current configuration appears to be of catastrophic potential'".

Discussion of owner's plans for building and budget constraints, and commissioners' suggestions, including obtaining additional estimates for flat roof replacement, designing a simplified hipped roof that would be less visible from front, obtaining a structural assessment from the Building Department, speaking to Community Investment about assistance, checking state and national resources for possible funding, as well as Firefighter's Local 362 for help in saving this building.

Commissioner Gordon moved to deny application as submitted. Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Hertel (AYE): the best course of action in maintaining the historic integrity of the building

Commissioner Parker (AYE): due to the architectural character of building, and the lack of other options/quotations

Commissioner Anderson (AYE): lack of conforming to architectural integrity of historic building

Commissioner Gordon (AYE): not in keeping with the integrity of the landmark status

Commissioner Kluszczinski (AYE): work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.

Commissioner Voll (AYE): a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.

Commissioner Buccellato (AYE): project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.

Commissioner Gelfman (AYE): architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.

Commissioner Molnar (AYE): echoes Commissioner Voll's statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.

Nine in favor, none opposed.

Vote: 9 - 0

COA#2016-0809 Denied.

4. 1071 Riverside Drive

COA#2016-0907 Riverside Drive

Representation by Steven Farrell, 2072 Miami Street, South Bend.

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 7 September 2016

Application Number: 2016-0907
Property Location: 1071 Riverside Drive
Architectural Style/Date/Architect or Builder: American Foursquare/1911/Lippman House
Property Owner: Greg Suth
Landmark or District Designation: Riverside Drive Local Historic District
Rating: Contributing

DESCRIPTION OF STRUCTURE/ SITE: This Foursquare house with concrete foundation has a low hip roof with asphalt shingles and stucco soffits and chimney. The first story has wide clapboards; second story is stucco. The front porch has a low hip roof and clapboard covered piers. Windows are 1/1 and 6/1 double-hung; middle window on second story is multi-paned.

ALTERATIONS: Aluminum storm doors and storm windows. COA 2005-0715 approved tear-off and replacement of roofing and decking. COA 1992-0616 approved replacement of poured concrete walk on east side of house, and a poured concrete patio on the south side. COA 1992-0124 approved replacement of exterior lighting fixtures and garage door, and installation of wrought iron rail at front steps/landing. COA 1992-0108 approved replacement of existing wood fence surrounding rear yard with metal fence, and replacement of gutters and downspouts.

APPLICATION ITEMS: Recover soffit area w/aluminum material. Current wood lath and stucco that had all given up was falling & crumbling. Add aluminum storm windows to current windows all storms have been broken & discarded.

DESCRIPTION OF PROPOSED PROJECT: Existing deteriorated stucco soffit has been replaced with aluminum soffit. Contractor proposed to replace existing wood storms with aluminum storm windows.

PRESERVATION SPECIALIST REPORT: On August 8, 2016 I was contacted by Director Feasel to investigate 1071 Riverside Dr. at approximately 12 noon for unauthorized work including new storm windows, soffit, and gutters. I approached the house and met with the neighbor, Ed Talley.

He explained that the painters of 1071 hired out the crew to install new soffits and gutters in the last week or two. He did not know the painter's company name but knew they were the same crew that painted 1069 Riverside Dr.

After a lengthy conversation with Mr Talley, I left a business card on the front door and moved on to the next appointment. Approximately 30 minutes later I received a phone call from the tenant at the property whom I have met before. In 2015, I had visited the house with a contractor list and had made a walk through inspection with her informing her of problem areas including the soffits and paint.

She informed me at this time that the owner had given the painters the work of repairing the soffit, installing new gutters where needed and finding storm windows for two small first story and two basement windows as well. When she returned home and discovered that they had installed new aluminum over the existing wood soffits she called the owner right away and he by and swears to her this is not what he paid for them to do and was as surprised as she was. He does not know what to do from this point, but is willing to complete a COA application and seek approval for these changes although this is after the fact.

UPDATE 2016-0908

On September 7, 2016 I met with Steve Ferrell of Ferrell Finishing. He is the contractor hired by Greg Suth owner of 1071 Riverside Drive. Mr. Suth had emailed me and gave me Steve Ferrell's contact information. Steve F. was unaware of the need for a COA for the property. He also agreed not to install any more aluminum storm windows on the house without the Commission's approval. He informed me that several of the original storm windows were stored in the garage and were destroyed.

In regards to the aluminum soffit, although it is prohibited in the Riverside Drive LHD guidelines, 1035, 1041, and 1045 all have white aluminum soffit panels installed that are similar to those that were installed at 1071.

Steve Szaday, Preservation Specialist

STANDARDS AND GUIDELINES:

RIVERSIDE DRIVE LOCAL HISTORIC DISTRICT

EXISTING STRUCTURES

A. BUILDING MATERIALS

Original exterior wall materials in the district include limestone, flagstone, stucco, clapboard, wood shingles, sandstone and masonry block. In some instances, vinyl or aluminum siding has been applied over the original surface.

Required

Original exterior building materials shall be retained. Deterioration of wood materials shall be prevented through repair, cleaning and painting. The existing or original architectural detail around windows, porches, doors and eaves should be retained or replaced by replicas of the same design and materials when deteriorated beyond repair. Masonry including brick, limestone, flagstone, sandstone and stucco shall be cleaned only when necessary to halt deterioration or to remove stains, and shall be done with a method acceptable for the preservation of the surface: i.e. low pressure water and soft natural bristle brushes. When repairing stucco, stucco mixture compatible in composition, color and texture shall be used.

Recommended

Whenever possible, the original building materials should be restored. Metal or vinyl siding may be used when it is the only alternative to maintaining or replacing the original surface material. When used over wood surfaces, this siding should be the same size and style as the original wood. Every effort should be made to retain the original trim around windows, doors, cornices, gables, eaves and other architectural features. Ample ventilation must be afforded the structure when metal or vinyl siding has been installed in order to prevent increased deterioration of the structure from moisture and/or insects. Mortar joints should be repointed only when there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint. Existing mortar shall be duplicated in composition, color, texture, joint size, method of application and

joint profile. It is emphasized that, prior to initiating any restoration or rehabilitation effort, the property owner should contact the Historic Preservation Commission of South Bend and St. Joseph County which is located in the County/City Building of South Bend. The Commission is an invaluable source of information about all facets of rehabilitation and restoration.

Prohibited

Wood siding shall not be resurfaced with new material which is inappropriate or was unavailable when the building was constructed, such as artificial stone, brick veneer, asbestos or asphalt shingles. Sandblasting or the use of harsh detergents shall not be used on masonry including brick, stucco, limestone, flagstone and sandstone. This method of cleaning erodes the surface material and accelerates deterioration. Brick surfaces shall not be painted unless they had been painted originally. Repointing shall

not be done with a mortar of high Portland cement content which can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar which can result in serious damage to adjacent brick. Paint shall not be removed from masonry surfaces indiscriminately.

Not Recommended

Waterproof or water repellent coatings or surface consolidation treatments should not be used on masonry surfaces unless required to solve a specific problem that has been studied and identified. Coatings are frequently unnecessary and expensive, and can accelerate deterioration of the masonry. Mortar joints which do not need repointing should not be repointed.

C. WINDOWS AND DOORS

Window and door frames are in most cases wood. Brick structures have stone sills and brick lintels. In some cases where aluminum siding has been applied window trim has been covered. About half of the structures in the district have aluminum storm windows, the other half wood windows.

Required

Original windows and doors shall be retained including sashes, lintels, sills, shutters, decorative glass, pediments, hoods, and hardware. When deteriorated beyond repair, they shall be replaced with units and trim resembling the original.

Recommended

Wood frame storm windows and doors painted to match the original should be used but should not damage existing frames. If new sashes or doors are installed, the existing or original materials, design, and hardware should be used. When metal storm doors are used, they should be painted, anodized or coated to match the existing. When awnings are used they should be of canvas material.

Prohibited

Original doors, windows and hardware shall not be discarded when they can be restored and reused in place. New window and door openings which would alter the scale and proportion of the building shall not be introduced. Inappropriate new window and door features, such as aluminum insulating glass combinations that require removal of the original windows and doors, shall not be installed.

Not Recommended

Awnings, hoods, and fake shutters made of metal, vinyl, or fiberglass should not be used if they would detract from the existing character or appearance of the building.

STAFF RECOMMENDATION: The standards and guidelines for this historic district state: "The existing or original architectural detail around windows, porches, doors and eaves should be retained or replaced by replicas of the same design and materials when deteriorated beyond repair," therefore, staff does not recommend approval of the soffit replacement or storm windows, which recommend: "Original windows and doors shall be retained including sashes, lintels, sills, shutters, decorative glass, pediments, hoods, and hardware. When deteriorated beyond repair, they shall be replaced with units and trim resembling the original."

Note (9/8/16): Preservation Specialist reported that aluminum material was discovered on other soffits in the district. Staff commented that installations have occurred without Commission approval. President Kluszczinski clarified that illegal installations do not establish a legal precedent for HPC decisions.

Elicia Feasel, Executive Director

Deb Parcell, Deputy Director

Commissioner Parker left the meeting at 8:46 p.m.

Commissioner Gelfman moved to deny application as submitted. Motion died for lack of a Second. Commissioner Voll moved to deny the application as submitted, require removal of the incompatible materials that have been installed, and waive the fee for a new COA covering the same project elements. Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Molnar (AYE): various reasons stated

Commissioner Gelfman (AYE): incompatible materials, integrity of the historic district, and setting a terrible precedent for future projects like this

Commissioner Buccellato (AYE): doesn't meet the standards and guidelines for the district, which the only alternative, and therefore violates the guidelines.

Commissioner Voll (AYE): materials used and no venting will not fix the problem

Commissioner Kluszczinski (AYE): not in keeping with standards and guidelines for district, other [compatible] materials have been used as precedent in other districts and should be considered

Commissioner Gordon (AYE): storm windows not in keeping with character of house, material does not stay in character with the home. Prior materials should be repaired or an acceptable material put up.

Commissioner Anderson (AYE): incompatible materials, standards and guidelines for these districts exist for a reason

Commissioner Hertel (AYE): incompatible materials, does not meet standards and guidelines.

Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0907 Denied.

5. 237 North Michigan Street **COA#2016-0907A** **Local Landmark**
Representation by Marchelle Berry, 10711 America Way, Ste 200, Fishers, IN 46038
Tim Davis, 9273 Castlegate Drive, Indianapolis, IN 46256

STAFF REPORT
CONCERNING APPLICATION FOR A
CERTIFICATE OF APPROPRIATENESS

Date: 7 September, 2016

Application Number: 2016-0907A

Property Location: 237 N. Michigan Street

Architectural Style/Date/Architect or Builder: Renaissance Revival/Chicago School blend/1921/ Nicol, Schuler and Hoffman

Property Owner: LaSalle Apartments, LLC

Landmark or District Designation: Local Landmark and Multiple Resource National Register

Rating: Outstanding

DESCRIPTION OF STRUCTURE/ SITE: The LaSalle Hotel is located on the southwest corner of LaSalle and Michigan Streets; it is a nine storey hotel constructed of stretcher bond laid brick with decorative and plain-cut stone string course. The first and second floors on the east and north facades are treated as one floor. The windows and doorways are flanked by spiral columns and surmounted by round-arched windows with tracery, voussoirs and keystones. A projecting string course separates the second floor from the third floor which has limestone window surrounds, as do the single end bay windows and the ninth floor windows. A projecting string course separates the eighth and ninth floors and the building is surmounted by a wide overhanging cornice. The windows on the first floor are large, fixed sash plates with multi-light side lights. Other windows are double hung sash in pairs.

ALTERATIONS: All of the single light double hung windows on all of the facades were vinyl replacement windows from the 1980s-1990s when the Charismatic Renewal Services owned the building. COA 2015-0326B approved repair and repointing of brick and masonry, replacement of existing vinyl replacement windows with new aluminum clad wood replacement windows, replacement of doors and awnings, and restoration of existing wood storefront windows.

APPLICATION ITEMS: The exterior sign will be a replica of the original as shown in the attached historic pictures. One location at the east entrance, second at the north entrance.

DESCRIPTION OF PROPOSED PROJECT:

Owner proposes to install two new exterior neon or LED signs, 96"W x 39 1/4"H. One to be installed at the east entrance and one at the north entrance of building, mounted perpendicular to building with brackets and bolts; possibly additional angled guide wires.

STANDARDS AND GUIDELINES:

GROUP B STANDARDS

The Commission has the authority to determine the architectural merits and the extent of any proposed treatment, renovation, or addition to a historic landmark. The commission will require drawings, plans, specifications, and/or samples where appropriate.

A. Maintenance

The maintenance of any historical structure or site shall in no way involve any direct physical change except for the general cleaning and upkeep of the landmark. The Commission shall encourage the proper maintenance of all structure or sites.

B. Treatment

Treatment shall be defined as any change of surface materials that will not alter the style or original form. Such improvements include re-roofing, glazing, or landscaping lawns and may involve a change that can potentially enhance or detract from the character of the landmark. A treatment change of any surface whether on the landmark or in its environment may require a

Certificate of Appropriateness if it significantly alters the appearance of the landmark. Although these kinds of changes may not require a Building Permit, a Certificate of Appropriateness may be necessary. The commission should review the proposed treatment for character and style consistency with the original surfaces.

C. Renovation and Additions

Renovation is the modification of a structure, which does not alter the general massing while and addition, is a change in mass. A modification, which involves the removal of a part of the landmark, should be considered under demolition (see demolition). Additions to landmarks should not detract from the original form and unity of the landmark and should not cover singular examples of architectural detail. Additions to landmarks should be added in a manner that does not disrupt the visible unity of overall

appearance of the site. The proportions, materials and ratios of the existing structures should be carried through in the additions. Care should be taken not to change or alter the following:

1. Structure—Necessary structural improvements, where safety demands should be accomplished in such a way as to cause minimal visual change to the original style and construction.
2. Material—Additions and improvements involving any new material in the landmark should be of the same material as the original. It should be the same size and texture. An alternative material may be allowed if it duplicates the original.
 - a. wood—all wood trim should conform with existing trim in shape and size.
 - b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and supergraphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping

(These standards apply to both A and B)

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed should be immediately replaced by suitable flora. Front yard areas should not be fenced except in cases where historic documentation would indicate such fencing appropriate.

Fencing should be in character with the buildings style, materials, and scale.

3. Prohibited

No changes may be made to the appearance of the site by removing major landscaping items, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance to the property's history and development. Front yard areas shall not be transformed into parking lots nor paved nor blacktopped. The installation of unsightly devices such as TV reception dishes and solar collectors shall not be permitted in areas where they can be viewed from public thoroughfares.

STAFF RECOMMENDATION: Staff recommends approval.

Elicia Feasel, Executive Director

Deb Parcell, Deputy Director

Staff clarified that application is for LED sign, not neon.

Commissioner Gelfman moved to approve application as submitted. Seconded by Commissioner Hertel. Eight in favor, none opposed.

Vote: 8 – 0

COA#2016-0907A Approved.

III. HEARING OF VISITORS - none

IV. REGULAR BUSINESS

A. APPROVAL OF MINUTES

1. August 15, 2016 – Approved by general consent.

B. TREASURER'S REPORT

1. **Location Report** – Distributed. Executive Director Feasel pointed out Deputy Director line item will have approximately \$7,000 balance left at the end of year, due to March hiring date. It was proposed that some of the excess be used for intern/resident volunteers who have contributed considerable time and effort to significant projects for HPC. These two individuals would each submit a one-time invoice for tasks with stipend to be paid @ \$1500. Additionally, to further the Building South Bend project, we would have Notre Dame Architecture Library bill us for archival work, so we could move towards the next phase of the project. To use excess funds, an outside not-for-profit partner agency must invoice us, and spend the funds on our behalf. Out of line transfer must be approved first. Intern/volunteer contracts must be reviewed by legal counsel, and formal proposal for use of excess funds will be presented at October meeting.

C. STAFF REPORTS

1. **Correspondence** – Circulated. Commissioner Gordon questioned why Ed Talley posts are included in correspondence. Discussion.
2. **Executive Director** – In Packet. Commissioner Buccellato questioned conversation with Frank Perri regarding his “master plan in East Bank and future partnerships and COAs.” Discussion.
3. **Deputy Director** – In Packet.
4. **Preservation Specialist** – Distributed. President Kluszczinski suggested that property addresses of site visits, walk-throughs, etc., be listed on Preservation Specialist report.
5. **Legal**

D. COMMITTEE REPORTS

1. **President** – Distributed
2. **Indiana Bicentennial** – Executive Director Feasel reported that there is one more Bicentennial event to go. Playing cards are available for \$10, and are very limited in quantity.

V. OLD BUSINESS - none

VI. NEW BUSINESS

- A. **Fines** – Commissioner Gelfman inquired about the issue of fines. Legal Counsel Hummer briefly discussed client/attorney privilege. Regarding fines, county and city ordinances are basically the same concerning enforcement. HPC must go through channels of Code Enforcement/County Building Commissioner – they are HPC's enforcement arm. HPC cannot impose fines; only the Building Department can do this. To change policy will require a change of ordinance. President Kluszczinski reported that staff has conducted an audit of past administrative practices and is making adjustments to better address violations. If HPC determines that it must pursue a policy change, Counsel would be asked to review the qualifications for an executive session as a legal matter for

holding a Legal Affairs Committee meeting and to draft a proposal for the general Commission body. HPC has improved working relationships with enforcing agencies; working with these agencies should be our first line of action, as it does not require another law.

- B. **Terms of Office** - Tom Gordon questioned term lengths of commissioners. Discussion.
- C. **541 North Ironwood Landmark Status** – Deputy Director Parcell has reviewed additional documents sent by current property owners, but can still find no basis for pursuing Landmark status. President Kluszczinski recommended filling out revised Local Landmark form, showing required information that has and has not been provided, and sending the owners a copy.

VII. ANNOUNCEMENTS AND MISCELLANEOUS MATTERS
A. SOUTHHOLD PRESERVATION AWARDS/NORTHERN INDIANA PRESERVATION AWARDS

VIII. ADJOURNMENT

Commissioner Hertel moved to adjourn. Seconded by Commissioner Gelfman. Eight in favor, none opposed. Vote: 8 – 0

Meeting adjourned at 9:46 p.m.

Attest:

Elizabeth Hertel, Secretary

*Thomas Stecker VP
Asst. Sec*

10/17/16
Date

Exhibit “I”



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

227 WEST JEFFERSON BLVD
SOUTH BEND, IN 46601-1830
www.stjosephcountyindiana.com/sjchp/index.html
Phone: 574-235-9798 Fax: 574-235-9578
e-mail: SBSJCHPC@co.st-joseph.in.us



Timothy S. Kluscinski, President

A Certified Local Government

Elicia Feasel, Executive Director

September 27, 2016

Eric Boyd
1240 West Thomas Street
South Bend, IN 46601

Dear Mr. Boyd,

The Commissioners, at the regularly scheduled monthly Historic Preservation Commission meeting on September 19, 2016, unanimously denied approval of the items originally listed on COA Application# 2016-0809: "Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown". Following is the record from the meeting concerning your project which states the reasons why your application was denied:

Commissioner Gordon moved to deny application as submitted. Seconded by Commissioner Anderson. President Kluscinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

Commissioner Hertel (AYE): *the best course of action in maintaining the historic integrity of the building*

Commissioner Parker (AYE): *due to the architectural character of building, and the lack of other options/quotations*

Commissioner Anderson (AYE): *lack of conforming to architectural integrity of historic building*

Commissioner Gordon (AYE): *not in keeping with the integrity of the landmark status*

Commissioner Kluscinski (AYE): *work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.*

Commissioner Voll (AYE): *a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.*

Commissioner Buccellato (AYE): *project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.*

Commissioner Gelfman (AYE): *architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.*

COMMISSIONERS

Thomas Gordon (Vice President)
Mike Voll (Treasurer)
Jennifer Parker (Architectural Historian)
Elizabeth Hertel (Secretary)
Kevin Buccellato
Brandon Anderson
Michele Gelfman
Joseph Molnar

STAFF

Deb Parcell, Deputy Director
Brett Hummer, Legal Counsel
Steve Szaday, Preservation Specialist

**HISTORIC
PRESERVATION
COMMISSION**

OF SOUTH BEND & ST. JOSEPH COUNTY
EST. 1973



South Bend and St. Joseph County
HISTORIC PRESERVATION COMMISSION

227 WEST JEFFERSON BLVD
SOUTH BEND, IN 46601-1830
www.stjosephcountyindiana.com/sjchp/index.html
Phone: 574-235-9798 Fax: 574-235-9578
e-mail: SBSJCHPC@co.st-joseph.in.us



Timothy S. Kluszczinski, President

A Certified Local Government

Elicia Feasel, Executive Director

Commissioner Molnar (AYE): *echoes Commissioner Voll's statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.*

Nine in favor, none opposed.

Vote: 9 – 0 COA#2016-0809 Denied.

Please contact this office with any questions or concerns or for any assistance.

Sincerely,

Debra Parcell, Deputy Director

COMMISSIONERS

Thomas Gordon (Vice President)
Mike Voll (Treasurer)
Jennifer Parker (Architectural Historian)
Elizabeth Hertel (Secretary)
Kevin Buccellato
Brandon Anderson
Michele Gelfman
Joseph Molnar

STAFF

Deb Parcell, Deputy Director
Brett Hummer, Legal Counsel
Steve Szaday, Preservation Specialist

**HISTORIC
PRESERVATION
COMMISSION**

OF SOUTH BEND & ST. JOSEPH COUNTY
EST. 1973

Exhibit “J”



*PRESERVATION STANDARDS
FOR
HISTORIC LANDMARKS
IN SOUTH BEND AND
ST. JOSEPH COUNTY*

DEFINITIONS

Shall—Defined as an expression of something that is mandatory or must be done.

Should—Defined as an expression of obligation, something that ought to be done but that is open to compromise.

Required—Defined as work which shall be done in a restoration or rehabilitation project in order to restore or maintain the original or existing character of the structure or site.

Recommended—Defined as work which should be done to help restore or maintain the original or existing character of the structure or site.

Prohibited—Defined as work which shall not be permitted in a restoration or rehabilitation project because it may have a negative impact on the original or existing character of the structure or site.

b. siding materials—the Commission discourages the covering or alteration of original materials with additional siding. Structures already sided with incompatible materials should be returned to a siding similar to the original when renovation is considered.

D. Demolition

Historic landmarks shall not be demolished. When a landmark poses a threat to the public safety, and demolition is the only alternative, documentation by way of photographs, measured drawings, or other descriptive methods should be made of both the exterior and interior of the landmark. The person or agency responsible for demolition of the landmark shall be responsible for this documentation.

E. Moving

The moving of landmarks is discouraged, however, moving is preferred to demolition. When moving is necessary, the owner of the landmark must apply to the Commission for a Certificate of Appropriateness.

F. Signs

No neon or flashing signs will be permitted unless they are original to the structure. Billboards and super-graphics will also be disallowed. Only one appropriate identifying sign will be permitted per business.

G. Building Site and Landscaping (These standards apply to both A and B)

1. Required

Major landscaping items, trees, fencing, walkways, private yard lights, signs (house numbers) and benches which reflect the property's history and development shall be retained. Dominant land contours shall be retained. Structures such as: gazebos, patio decks, fixed barbecue pits, swimming pools, tennis courts, green houses, new walls, fountains, fixed garden furniture, trellises, and other similar structures shall be compatible to the historic character of the site and neighborhood and inconspicuous when viewed from a public way.

2. Recommended

New site work should be based upon actual knowledge of the past appearance of the property found in photographs, drawings, and newspapers. Plant materials and trees in close proximity to the building that are causing deterioration to the buildings historic fabric should be removed. However, trees and plant materials that must be removed

To apply for a Certificate of Appropriateness, or if there are any questions regarding these Standards or about work you wish to do on your Landmark building, please contact:

Historic Preservation Commission
of South Bend and St. Joseph County

Mailing Address:
County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601

Office Location:
Law Building
125 S. Lafayette Blvd.
South Bend, IN 46601

Telephone: 574/235.9798

Fax: 574/235.9578

Email: SBSJCHPC@co.st-joseph.in.us

Executive Director: Elicia D. Feasel

Deputy Director: Deb Parcell

Preservation Specialist/Inspector: Steve Szaday

Commission Members 2016:

Tim Kluszczinski, President

Thomas Gordon, Vice President

Mike Voll, Treasurer

Elizabeth Hertel, Secretary

Kevin Buccellato

Brandon Anderson

Jennifer Parker, Architectural Historian

Michele Gelfman

Exhibit “K”

REGULAR MEETING

MAY 27, 1997

Be it remembered that the Common Council of the City of South Bend met in the Council Chambers of the County-City Building on Tuesday, May 27, 1997, at 7:00 p.m. The meeting was called to order and the Pledge to the Flag was given.

ROLL CALL

Present: Council Members Aranowski,
Pfeifer, Kelly, Broden,
Varner, Ujdak, Coleman,
Hosinski and Sniadecki

Absent: None

REPORT FROM THE SUB-COMMITTEE ON MINUTES

To the Common Council of the City of South Bend:

The sub-committee has inspected the minutes of the May 12, meetings of the Council and found them correct.

Therefore, we recommend the same be approved.

/s/ Roland Kelly

/s/ David Varner

Council Member Coleman made a motion that the minutes of the May 12, 1997, meeting be accepted and placed on file, seconded by Council Member Hosinski. The motion carried.

SPECIAL BUSINESS

RESOLUTION 2460-97

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND ADOPTING A WRITTEN FISCAL PLAN AND ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO AN ANNEXED AREA IN CENTRE AND PENN TOWNSHIPS (EMRO/NDCU ANNEXATION)

WHEREAS, there has been submitted to the Common Council of the City of South Bend, Indiana, an ordinance which proposes the annexation of the hereinafter described real estate located in Centre and Penn Townships, St. Joseph County, Indiana; and

WHEREAS, the territory proposed to be annexed encompasses approximately 9.5 acres of land, used primarily for commercial and office purposes, located at the northwest and southeast corners of Ironwood and Ireland Roads, fifty-one (51) percent of its aggregate external boundaries coinciding with the boundaries of the City of South Bend; approximately seventy-two (72) percent subdivided. Sewer and municipal water service is available to the annexation area, but development of the territory proposed to be annexed will require additional street lighting and additional police protection, street and road maintenance;

WHEREAS, the Common Council of the City of South Bend, Indiana now desires to establish and adopt a fiscal plan and establish a definite policy showing (1) the cost estimates of services of a non-capital nature, including street and road maintenance, police and fire protection and other non-capital services normally provided within the corporate boundaries, and services of a capital improvement nature, including street construction, street lighting, water facilities, sewer facilities, and storm water drainage facilities to be furnished to the territory to be annexed; (2) the method(s) of financing those services; (3) the plan for the organization and extension of those services; (4) that services of a non-capital nature will be provided to the annexed area within one (1) year after the effective date of the annexation, and that they will be provided in a manner equivalent in standard and scope to similar non-capital services provided to areas within the corporate boundaries of the City of South Bend, that have characteristic of

REGULAR MEETING

MAY 27, 1997

topography, patterns of land use, and population density similar to that of the territory to be annexed; (5) that services of a capital improvement nature will be provided to the annexed area within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries of the City of South Bend that have characteristics of topography, patterns of land use and population density similar to that of the territory to be annexed and in a manner consistent with federal, state and local laws, procedures, and planning criteria; and (6) the plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation;

WHEREAS, the Board of Public Works of the City of South Bend, the Board of Public Safety of the City of South Bend, and the Board of Water Works Commissioners of the City of South Bend have approved a written fiscal plan and established a policy for the provision of services to the territory to be annexed which plan and policy, as it relates to the territory to be annexed, the Common Council finds to be in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section I. That it is in the best interest of the City of South Bend and of the area proposed to be annexed that the real property located in Centre Township, St. Joseph County, Indiana, described in Exhibit "A" attached hereto and made a part hereof, be annexed to the City of South Bend.

Section II. That it shall be and hereby is now declared and established that it is the policy of the City of South Bend to furnish to said territory services of a non-capital nature, such as street and road maintenance, police and fire protection, within one (1) year of the effective date of the annexation, in a manner equivalent in standard and scope to the services furnished by the City to other areas of the City which have characteristics of topography, patterns of land utilization and population density similar to said territory; and to furnish to said territory services of a capital improvement nature, such as street construction, street lighting, water facilities, sewer facilities, and storm water facilities, within three (3) of the effective date of the annexation, in the same manner as those services are provided to areas within the corporate boundaries of the City of South Bend that have characteristics of topography, patterns of land use and population density similar to that of the territory to be annexed and in a manner consistent with Federal, State and local laws, procedures, and planning criteria.

Section III. That the Common Council of the City of South Bend shall and does hereby now establish and adopt the fiscal plan, described in Exhibit "B", attached hereto and made a part hereof, for the furnishing of said services to the territory to be annexed.

Section IV. This resolution shall be in full force and effect upon its adoption by the Common Council and approval by the Mayor.

/s/ Roland Kelly
Member, Common Council

A public hearing was held on the resolution at this time. Larry Magliozzi, assistant director of Planning, made the presentation for the resolution. He reported this was a City initiated annexation of 9.5 acres located in Centre and Penn Township at the northwest and southeast corners of Ironwood and Ireland roads. He advised that the area already has City sewers and water, however, additional police protection, street lighting and street and road maintenance will be required. He indicated that

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the Board of Works, Board of Safety and Water Works Commissioners have passed the fiscal plan. Council Member Coleman made a motion to adopt this resolution, seconded by Council Member Hosinski. The resolution was adopted by a roll call vote of nine ayes.

CITY REPORTS

Police Chief Gunn reported that this Council along with the administration, has made a commitment in terms of money support which has allowed the Police Department to purchase equipment, as well as technology. He advised that there are now 157 marked squad cars, and the visability as take home vehicles has been a deterrent to crime. He indicated that the lap top computers in the squad cars will allow more shift time for the officers. He indicated a Community Policing training program will be held on May 29, and that will kick off Community Policing for the City of South Bend. Captain Gary Horvath spoke regarding the Police Department's computer program. He also reported that the police cars are being equipped with heavy duty fire extinguishers and first aid kits. He also discussed the new 911 system they plan to install.

Council Member Coleman made a motion to resolve into the Committee of the Whole, seconded by Council Member Hosinski. The motion carried.

COMMITTEE OF THE WHOLE

Be it remembered that the Common Council of the City of South Bend met in the Committee of the Whole at 7:25 p.m. with nine members present. Chairman Coleman presiding.

BILL NO. 38-97 A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO THE CITY OF SOUTH BEND CERTAIN TERRITORY CONTIGUOUS THEREWITH LOCATED IN CENTRE AND PENN TOWNSHIPS, ST. JOSEPH COUNTY, INDIANA (EMRO/NDCU ANNEXATION)

This being the time heretofore set for public hearing on the above bill, proponents and opponents were given an opportunity to be heard. Larry Magliozzi, assisant Director of Planning, made the presentation for the bill. He reported this was a City initiated annexation. He indicated annexations must meet certain State criteria, and this one will meet those requirements. Council Member Hosinski made a motion to recommend this bill to the Council favorable, seconded by Council Member Aranowski. The motion carried.

BILL NO. 23-97 A BILL AMENDING THE ZONING ORDINANCE, AND ESTABLISHING AN HISTORIC LANDMARK FOR THE PROPERTY LOCATED AT 804 LAFAYETTE BOULEVARD, IN THE CITY OF SOUTH BEND, INDIANA

Council Member Varner made a motion to continue public hearing on this bill, at the Council's request, seconded by Council Member Aranowski. The motion carried.

BILL NO. 39-97 A BILL TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET FROM THE EAST RIGHT-OF-WAY OF SOUTH CHAPIN STREET TO THE WEST RIGHT-OF-WAY LINE OF THE FIRST NORTH-SOUTH ALLEY EAST OF SOUTH CHAPIN STREET FOR A DISTANCE OF APPROXIMATELY 295 FEET AND A WIDTH OF 14 FEET. PART LOCATED IN B.O.L. 71, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA

A public hearing was held on the resolution at this time. Council Member Varner reported that the Public Works and Property Vacation Committee had met on this bill and recommended it to the

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Council favorable. Dea Andrews, 223 N. Scott, a representative of South Bend Heritage, made the presentation for the bill. She advised that South Bend Heritage has been working with the Near Westside, and is now ready to go into another aspect - the development of Chapin Market on the northeast corner of Western and Chapin. She indicated the property has an alley which would go right through the proposed building. She reported the proposed building will house a Save-A-Lot and the Chapin Clinic. Council Member Kelly made a motion to recommend this bill to the Council favorable, seconded by Council Member Pfeifer. The motion carried.

BILL NO. 40-97 A BILL TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE ALLEY TO BE VACATED IS DESCRIBED AS THE FIRST NORTH-SOUTH ALLEY WEST OF GREENLAWN AVENUE FROM THE SOUTH RIGHT-OF-WAY OF MISHAWAKA AVENUE TO THE NORTH RIGHT-OF-WAY OF RUSKIN STREET FOR A DISTANCE OF APPROXIMATELY 504 FEET AND A WIDTH OF 7 FEET. PART LOCATED IN THE NORTH-EAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 2 EAST. THE STREET TO BE VACATED IS DESCRIBED AS GREENLAWN AVENUE FROM THE SOUTH RIGHT-OF-WAY OF MISHAWAKA AVENUE TO THE NORTH RIGHT-OF-WAY OF RUSKIN STREET FOR A DISTANCE OF APPROXIMATELY 494 FEET AND A WIDTH OF 66 FEET. PART LOCATED IN THE NORTH-EAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 2 EAST. THE STREET TO BE VACATED IS DESCRIBED AS RUSKIN STREET FROM THE EAST RIGHT-OF-WAY OF ESTHER STREET TO THE EAST RIGHT-OF-WAY OF GREENLAWN AVENUE FOR A DISTANCE OF APPROXIMATELY 677 FEET AND A WIDTH WHICH VARIES FROM 40 TO 60 FEET. PART LOCATED IN LOT "A" INDIANA UNIVERSITY REPLAT, NORTH-EAST QUARTER, SECTION 18, TOWNSHIP 37 NORTH, RANGE 2 EAST

This being the time heretofore set for public hearing on the above bill, proponents and opponents were given an opportunity to be heard. Council Member Varner reported that the Public Works and Property Vacation Committee had met on this bill and recommended it to the Council favorable, as amended. He made a motion to amend the bill by changing Range 2 to Range 3 every where it appeared, seconded by Council Member Coleman. The motion carried. Craig Hudson, Cole and Associates, made the presentation for the bill. He advised that the purpose of this vacation was to complete the second phase of their landscape development. He indicated this would eliminate most of the vehicular traffic on the campus, as well as expand the pedestrian mall. Dea Anderson, 223 N. Scott, spoke in favor of the vacation. Council Member Pfeifer advised she worked for IUSB, however, would not be receiving any monetary gain, therefore, would vote on the bill. She made a motion to recommend this bill to the Council favorable, as amended, seconded by Council Member Kelly. The motion carried.

BILL NO. 42-97 A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ESTABLISHING A CUMULATIVE CAPITAL DEVELOPMENT FUND

This being the time heretofore set for public hearing on the above bill, proponents and opponents were given an opportunity to be heard. Council Member Coleman reported that the Personnel and Finance Committee had met on this bill and recommended it to the Council favorable. Cathy Roemer, controller, made the presentation for the bill. She advised that this fund has been active since 1985, and this bill re-establishes it for another three years. She reported there is a cap of \$.15 per \$100 of valuation. Council Member Kelly made a motion to recommend this bill to the Council favorable, seconded by Council Member Hosinski. The motion carried.

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Council Member Broden made a motion to rise and report to the Council, seconded by Council Member Varner. The motion carried.

ATTEST:

ATTEST:


City Clerk


Chairman

REGULAR MEETING RECONVENED

Be it remembered that the Common Council of the City of South Bend reconvened in the Council Chambers on the fourth floor of the County-City Building at 7:45 p.m. Council President Kelly presiding, and nine members present.

ORDINANCE NO. 8786-97

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ANNEXING TO THE CITY OF SOUTH BEND CERTAIN TERRITORY CONTIGUOUS THEREWITH LOCATED IN CENTRE AND PENN TOWNSHIPS, ST. JOSEPH COUNTY, INDIANA (EMRO/NDCU ANNEXATION)

This bill had third reading. Council Member Pfeifer made a motion to pass this bill, seconded by Council Member Broden. The bill passed by a roll call vote of nine ayes.

ORDINANCE NO. 8787-97

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST EAST-WEST ALLEY SOUTH OF NAPIER STREET FROM THE EAST RIGHT-OF-WAY OF SOUTH CHAPIN STREET TO THE WEST RIGHT-OF-WAY LINE OF THE FIRST NORTH-SOUTH ALLEY EAST OF SOUTH CHAPIN STREET FOR A DISTANCE OF APPROXIMATELY 295 FEET AND A WIDTH OF 14 FEET. PART LOCATED IN B.O.L. 71, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA

This bill had third reading. Council Member Varner made a motion to pass this bill; seconded by Council Member Aranowski. The bill passed by a roll call vote of nine ayes.

ORDINANCE NO. 8788-97

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE ALLEY TO BE VACATED IS DESCRIBED AS THE FIRST NORTH-SOUTH ALLEY WEST OF GREENLAWN AVENUE FROM THE SOUTH RIGHT-OF-WAY OF MISHAWAKA AVENUE TO THE NORTH RIGHT-OF-WAY OF RUSKIN STREET FOR A DISTANCE OF APPROXIMATELY 504 FEET AND A WIDTH OF 7 FEET. PART LOCATED IN THE NORTH-EAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 2 EAST. THE STREET TO BE VACATED IS DESCRIBED AS GREENLAWN AVENUE FROM THE SOUTH RIGHT-OF-WAY OF MISHAWAKA AVENUE TO THE NORTH RIGHT-OF-WAY OF RUSKIN STREET FOR A DISTANCE OF APPROXIMATELY 494 FEET AND A WIDTH OF 66 FEET. PART LOCATED IN THE NORTH-EAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 2 EAST. THE STREET TO BE VACATED IS DESCRIBED AS RUSKIN STREET FROM THE EAST RIGHT-OF-WAY OF ESTHER STREET TO THE EAST RIGHT-OF-WAY OF GREENLAWN AVENUE FOR A DISTANCE OF APPROXIMATELY 677 FEET AND A WIDTH WHICH VARIES FROM 40 TO 60 FEET. PART LOCATED IN LOT "A" INDIANA UNIVERSITY REPLAT,

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NORTH-EAST QUARTER, SECTION 18, TOWNSHIP
37 NORTH, RANGE 2 EAST

This bill had third reading. Council Member Coleman made a motion to amend this bill, as amended in the Committee of the Whole, seconded by Council Member Hosinski. The motion carried. Council Member Coleman made a motion to pass this bill, seconded by Council Member Broden. The bill passed by a roll call vote of nine ayes.

ORDINANCE NO 8789-97

AN ORDINANCE OF THE COMMON COUNCIL OF
THE CITY OF SOUTH BEND, INDIANA,
ESTABLISHING A CUMULATIVE CAPITAL
DEVELOPMENT FUND

This bill had third reading. Council Member Coleman made a motion to pass this bill, seconded by Council Member Broden. The bill passed by a roll call vote of eight ayes and one nay (Council Member Varner).

RESOLUTIONS

RESOLUTION NO. 2461-97

A RESOLUTION CONFIRMING THE ADOPTION OF
A DECLARATORY RESOLUTION DESIGNATING
CERTAIN AREAS WITHIN THE CITY OF SOUTH
BEND, INDIANA, COMMONLY KNOWN AS 315 E.
BROADWAY STREET RESIDENTIALLY DISTRESSED
AREAS FOR PURPOSES OF A FIVE (5) YEAR
REAL PROPERTY RESIDENTIAL TAX ABATEMENT
FOR AMERICAN HOME DREAMS, INC.

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Residentially Distressed Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the areas commonly known as 315 E. Broadway Street, South Bend, Indiana, and which are more particularly described as follows:

Lot numbered three hundred twenty-nine (329) as shown on the recorded Plat of Wenger & Kreighbaum's First Broadway Addition, recorded in the office of the Recorder of St. Joseph County, Indiana, in Plat Book 9, page 74.

Lot Numbered three hundred thirty (330 as shown on the recorded Plat of Wenger & Kreighbaum's First Broadway Addition, recorded in the Office of the Recorder of St. Joseph County, Indiana, in Plat Book 9, page 74,

together now known as 315 E. Broadway Street and having tax key numbers 18-7013-0499 and 18-7013-0500, respectively, as Residentially Distressed Areas; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that ther qualifications for a residentially distressed areas have been met.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City

of South Bend, Idniana, as follows:

SECTION I. The Common Council hereby determines and finds that the petition for real property tax abatement and the Statement of Benefits form meet the requirements of Indiana Code 6-1.1-12.1 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds the following:

A. At least thirty-five percent (35%) of the pracels are currently vacant;

B. A significant number of dwelling units within the reas are not permanently occupied or a significant number of parcels in the areas are vacant land;

C. A significant number of dwelling units in the aareas are:

- i. the subject of an order issued under IC36-7-9; or
- ii. evidencing significant building deficiencies;

C. The Areas have experienced a new loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the areas are owned by Indiana or the Untied States.

E. The areas (plus any areas previously designated) do not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

F. That the description of the proposed redevelopment meets the applicable standards for such development.

G. Thst the estimate of the value of the redevelopment is reasonable for projects of this nature;

H. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment; and

I. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code 6-1.1-12.1-3.

SECTION III. The Common Council also hereby determines and finds the following:

A. The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

B. The deduction will not be allowed unless the dwelling rehabilitation is completed within five (5) calendar years from the date of the adoption of the Declaratory Resolution by the Common Council.

SECTION IV. The Common Council hereby confirms its Declaratory Resolution designating the areas described herein as Residentially Distressed Areas for the purposes of tax abatement. Such designation is for Real property tax abatement only and is limited to five (5) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION VI. This Resolution shall be in full force and effect from and after its adotion by the Common Council and approval by the Mayor.

/s/ Roland Kelly

Member of the Common Council

A public hearing was held on the resolution at this time. Richardo Miller, executive director, of American Dream Homes, asked the Council for approval of this abatement. Council Member Coleman made a motion to adopt this resolution, seconded by Council Member Aranowski. The motion carried on a roll call vote of nine ayes.

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CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 1525 WEST WESTERN AVENUE, SOUTH BEND, INDIANA, TO BE AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A THREE (3) YEAR REAL PROPERTY TAX ABATEMENT FOR COMMUNITYWIDE FEDERAL CREDIT UNION

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

Lot No. 1 Goodwill/CommunityWide Minor Subdivision of Lot 3, Goodwill Industries minor part of the northeast quarter of Section 10, Township 37 North, range 2 east, City of South Bend, Portage township, St. Joseph County.

WHEREAS, a Declaratory Resolution designated the area commonly known as 1525 West Western, South Bend IN, and which is particularly described as follows:

with said real estate having the following Key No. an Economic Revitalization Area; and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for Real property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted Real property tax deduction for a period of ten (10) years, and further determines that the petition complies with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12.1 et seq.

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

/s/Roland Kelly

Member of the Common Council

A public hearing was held on the resolution at this time. Charles Leone, attorney, made the presentation for the resolution. He reported that the credit union was going to construct a new building, which we believe will be a benefit to the community. Council Member Borden made a motion to adopt the resolution, seconded by Council Member Pfeifer. The resolution was adopted by a roll call vote of nine ayes.

RESOLUTION NO. 2463-97

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS NORTHEAST CORNER OF CHAPIN STREET AND WESTERN AVENUE AN ECONOMIC REVITALIZATION AREA FOR PURPOSE OF A TEN (10) YEAR REAL PROPERTY TAX ABATEMENT FOR SOUTH BEND HERITAGE FOUNDATION AND BAUGO CREEK REALTY (AN INDIANA PARTNERSHIP)

WHEREAS, a petition for real property tax abatement has been filed with the City Clerk for consideration by the Common Council of the City of South Bend, Indiana requesting that the area commonly known as northeast corner of Chapin and Western, South Bend, Indiana, and which is more particularly described as follows:

<u>Street Address</u>	<u>Legal Description</u>	<u>Key Number</u>
302 s. Chapin	32FT N&S X 118.14FT E&W NW COR BOL71	18-3051-2201.01
306 s. Chapin	89FT N&S X 118.14FT E&W EX 32FT W END NW CORNER BOL 71	18-3051-2001
308 s. Chapin	38X7 RODS4LKS MIDPT W SIDE N1/2 ROL 71	18-3051-2002
310-312 s. Chapin	32.9FTX118.14FT MIDPT WSIDE N1/2 BOL 71	18 3051 2003
314 s. Chapin	S20.1FTOFS35FT OF N1/2 NW PARTOF BOL 71	18-3051-2004
734 W. Napier	E28.87FTOFW147.01FT N ¼ BOL 71	18-3051-2005
732 W. Napier	E28.87FTOFW175.88FT N ¼ BOL 71	18-3051-2006
730 W. Napier	7RODS E END OF 21.1N 1-4 BOL 71	18-3051-2007
No Address	50FT ON CHAPIN STX122.59FTWSIDE S1/2BOL71	18-3051-2008
No Address	65FTX122.59FT MIDDLEPART WSIDE W1/2 OF ¼ BOL 71	18-2051-2009
No Address	46.12FT SW CORNER BOL 71	18-3051-2010
No Address	W39FT ON WESTERN AVE MIDPART W 1/2S ¼ BOL 71	18-3051-2011
735 W. Western	E39FT OF W208FT EX TRI PC TO CITY FOR ST SW BOL71	18-3051-2012 735
733 W. Western	W37FT OF E94½ W ¼S 1/2BOL 71	18-3051-2013
No Address	E57.5FT OF W1/2 OF S1/2 BOL 71	18-3051-2014

be designated as an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1-1 et. seq. and South Bend Municipal Code Sections 2-76 Et Seq.

Whereas, the Department of Economic Development has concluded an investigation and prepared a report with information sufficient for the Common Council to determine that the area qualifies as an Economic Revitalization Area under Indiana Code 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sections 2-76, et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

Whereas, the Human Resources and Economic Development Committee of the Common Council has reviewed said report and recommended to the Common Council that the area qualifies as an Economic Revitalization Area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. The Common Council hereby determines and finds that the Petition for Real Property Tax Abatement and the Statement of Benefits form completed by the Petitioner meet the requirements of Indiana Code 6-1.1-12.1-1 et seq., and qualifies under the relevant provisions of South Bend Municipal Code Sections 2-76 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds the

following:

- A. That the description of the proposed redevelopment or rehabilitation meets the applicable standards for such development.
- B. That the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of this nature;
- C: That the estimate of the number of individuals who will be employed or whose employment will be retained by the Petitioner can reasonably be expected to result from the proposed described redevelopment or rehabilitation;
- E. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation; and
- F. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code 6-1.1-12.1-3.

SECTION III. The Common Council hereby determines and finds that the proposed described redevelopment or rehabilitation can be reasonably expected to yield benefits identified in the Statement of Benefits set forth as Sections I through II of the Petition for Real Property Tax Abatement Consideration and that the Statement of Benefits form prescribed by the State Board of Accounts are sufficient to justify the deduction granted under Indiana Code 6-1.1-12.1-3.

SECTION IV. The Common Council hereby accepts the report and recommendation of the Human Resources and Economic Development Committee that the area herein described be designated an Economic Revitalization Area and hereby adopts a Resolution designating this area as an Economic Revitalization Area for purposes of real property tax abatement.

SECTION V. The designation as an Economic Revitalization Area shall be limited to two (2) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION VI. The Common Council hereby determines that the property owner is qualified for and is granted property tax deduction for a period of ten (10) years.

SECTION VII. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for Real Property Tax Abatement to be published pursuant to Indiana Code 5-3-1 and Indiana Code 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration.

SECTION VIII. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

/s/ Roland Kelly
Member of the Common Council

A public hearing was held on the resolution at this time. Council Member Broden reported that the Community and Economic Development Committee had met on this resolution and recommended it to the Council favorable. Dea Andrews, South Bend Heritage, made the presentation for the resolution. She advised they were requesting this abatement in order to construct the Chapin Market, which will house a Save-A-Lot and the Chapin Clinic. She indicated this building will cost approximately 2.5 million and are requesting the abatement to help with the project. Council

Member Pfeifer made a motion to adopt this resolution, seconded by Council Member Ujdak. The resolution was adopted by a roll call vote of nine ayes.

RESOLUTION NO. 2464-97

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS SOUTHEAST CORNER OF CORBY AND NILES AVENUE AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A THREE (3) YEAR REAL PROPERTY TAX ABATEMENT FOR C.D.T., L.L.C.

WHEREAS, a petition for real property tax abatement has been filed with the City Clerk for consideration by the Common Council of the City of South Bend, Indiana requesting that the area commonly known as southeast corner of Corby and Niles Ave., South Bend, Indiana, and which is more particularly described as follows:

PARCEL I: A parcel of land located in the northeast quarter of the southwest quarter of Section 1, Township 37 north, range 3 east, City of South Bend, St. Joseph County, Indiana, described as follows: Beginning at a point on the south line of Corby Street, 220.51 feet north 89°48'27" east (assumed bearing) of the intersection of the south line of Corby Street and the easterly line of Niles Avenue, said point being the northwest corner of a tract of land conveyed to the City of South Bend, Indiana by Instrument Number 780739 recorded March 3, 1978 in the Office of the St. Joseph County Recorder; thence south 25°06'03" East along the westerly line of said City of South Bend tract, 149.81 feet; thence south 89°49'21" east, 141.77 feet to the south line of Corby Street; thence south 89°49'27" west along said southline of Corby Street, 103.36 feet to the point of beginning.

PARCEL II. A parcel of land located in the northwest quarter of the southwest quarter of section 1, township 37 north, range 2 east, City of South Bend, St. Joseph County, Indiana, described as follows: Beginning at the intersection of the 25°06'03" east (assumed bearing) along the easterly line of Niles Avenue, 242.74 feet; thence north 64°53'57" east, 200.00 feet to the westerly line of a tract of land conveyed to the City of South Bend, Indiana by Instrument Number 7803739 recorded March 3, 1978 in the office of the St. Joseph County Recorder; thence North 25°06'03" west along said westerly line, 149.87 feet to the south line of Corby Street; thence south 89°48'27" west along said south line of Corby Street, 220.51 feet to the point of beginning.

and which has Key Number 18 5038 134601 and 18 5038 1343 be designated as an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1-1 et. seq. and South Bend Municipal Code Sections 2-76 Et Seq.

Whereas, the Department of Economic Development has concluded an investigation and prepared a report with information sufficient for the Common Council to determine that the area qualifies as an Economic Revitalization Area under Indiana Code 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sections 2-76, et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

Whereas, the Human Resources and Economic Development Committee of the Common Council has reviewed said report and recommended to the Common Council that the area qualifies as an Economic Revitalization Area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the

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City of South Bend, Indiana, as follows:

SECTION I. The Common Council hereby determines and finds that the Petition for Real Property Tax Abatement and the Statement of Benefits form completed by the Petitioner meet the requirements of Indiana Code 6-1.1-12.1-1 et seq., and qualifies under the relevant provisions of South Bend Municipal Code Sections 2-76 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds the following:

- A. That the description of the proposed redevelopment or rehabilitation meets the applicable standards for such development.
- B. That the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of this nature;
- C: That the estimate of the number of individuals who will be employed or whose employment will be retained by the Petitioner can reasonably be expected to result from the proposed described redevelopment or rehabilitation;
- E. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation; and
- F. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code 6-1.1-12.1-3.

SECTION III. The Common Council hereby determines and finds that the proposed described redevelopment or rehabilitation can be reasonably expected to yield benefits identified in the Statement of Benefits set forth as Sections I through II of the Petition for Real Property Tax Abatement Consideration and that the Statement of Benefits form prescribed by the State Board of Accounts are sufficient to justify the deduction granted under Indiana Code 6-1.1-12.1-3.

SECTION IV. The Common Council hereby accepts the report and recommendation of the Human Resources and Economic Development Committee that the area herein described be designated an Economic Revitalization Area and hereby adopts a Resolution designating this area as an Economic Revitalization Area for purposes of real property tax abatement.

SECTION V. The designation as an Economic Revitalization Area shall be limited to two (2) calendar years from the date of the adoption of this Resolution by the Common Council.

SECTION VI. The Common Council hereby determines that the property owner is qualified for and is granted property tax deduction for a period of three (3) years. This tax abatement is contingent upon a Condominium Association agreement restricting the use of the townhouses to owner/occupant residents.

SECTION VII. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for Real Property Tax Abatement to be published pursuant to Indiana Code 5-3-1 and Indiana Code 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration.

SECTION VIII. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

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/s/ Roland Kelly
Member of the Common Council

A public hearing was held on the resolution at this time. Council Member Broden reported that the Community and Economic Development committee had met on this resolution and recommended it to the Council favorable. Daniel Thorsberg, a member of C.D.T., made the presentation for the resolution. He reported that they plan to construct three buildings of five townhouses each, which will cost over \$1.8 million dollars. Council Member Broden made a motion to amend this bill by adding a sentence in Section 6, "This abatement is contingent upon a Condominium Association agreement restricting the use of the townhouses to owner/occupant residents.", seconded by Council Member Sniadecki. The motion carried. Dea Andrews, 223 N. Scott, complimented this group for their belief in South Bend's inner-city. Council Member Borden made a motion to adopt this resolution, as amended, seconded by Council Member Pfeifer. The bill was adopted by a roll call vote of nine ayes.

BILLS, FIRST READING

BILL NO. 44-97 A BILL TO VACATE THE FOLLOWING DESCRIBED PROPERTY: TUDOR LANE FROM THE EAST RIGHT-OF-WAY OF WOODMONT STREET (OR DRIVE) APPROXIMATELY 115 FEET EAST TO DEAD END AND A WIDTH OF 50 FEET. PART LOCATED IN TWYCKENHAM HILLS SECTION "H", CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA

This bill had first reading. Council Member Varner made a motion to refer this bill to the Public Works and Property Vacation Committee and set it for public hearing and third reading on June 9, seconded by Council Member Broden. The motion carried.

BILL NO. 45-97 A BILL AMENDING THE ZONING ORDINANCE FOR PROPERTY GENERALLY LOCATED ALONG BOTH SIDES OF EAST JEFFERSON BOULEVARD, BETWEEN ST. PETER STREET AND EDDY STREET, AND ON THE WEST SIDE OF EDDY STREET BETWEEN WASHINGTON STREET AND WAYNE STREET, CITY OF SOUTH BEND, INDIANA

This bill had first reading. Council Member Pfeifer made a motion to refer this bill to the Zoning and Annexation Committee and set it for public hearing and third reading on June 23, seconded by Council Member Coleman. The motion carried.

BILL NO. 46-97 A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, DELETING CERTAIN CURRENT SECTIONS OF THE MUNICIPAL CODE TO PREPARE FOR RECODIFICATION OF THE ENTIRE SOUTH BEND MUNICIPAL CODE

This bill had first reading. Council Member Coleman made a motion to refer this bill to the Personnel and Finance Committee and set it for public hearing and third reading on June 9, seconded by Council Member Varner. The motion carried.

BILL NO. 47-97 A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING AN AMENDED AND RESTATED LEASE FOR CERTAIN LAND AND PUBLIC IMPROVEMENTS BETWEEN THE SOUTH BEND REDEVELOPMENT AUTHORITY AND THE SOUTH BEND REDEVELOPMENT COMMISSION

This bill had first reading. Council Member Coleman made a motion to refer this bill to the Community and Economic Development Commission and set it for public hearing and third reading on June 9, seconded by Council Member Aranowski. The motion carried.

BILL NO. 48-97 A BILL OF THE COMMON COUNCIL OF THE CITY OF SOUTH

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BEND, INDIANA, AMENDING VARIOUS SECTIONS WITHIN
CHAPTER 2; ARTICLE 6, ENTITLED TAX ABATEMENT
PROCEDURES OF THE SOUTH BEND MUNICIPAL CODE

This bill had first reading. Council Member Pfeifer made a motion to refer this bill to the Community and Economic Development Committee and set it for public hearing and third reading on June 9, seconded by Council Member Broden. The motion carried.

UNFINISHED BUSINESS

APPEAL OF HISTORIC PRESERVATION COMMISSION DECISION - 1414 E. Wayne (Jennifer Lackman)

Council President Kelly gave the following statement:

All documents filed with the City Clerk by the Petitioner and all documents filed by the Historic Preservation Commission will be verbally identified and marked for purposes of identification.

Governing Rules:

Petitioner will have twenty (20) minutes maximum which shall include - specific issues under review, statement of position by the petitioner's attorney if any, witness statements.

Historic Preservation Commission will have twenty (20) minutes maximum which shall include - statement of position by the HPC attorney, witness statements.

Council questions and disposition - fifteen (15) minutes maximum. The Common Council should review the HPC action and determine if was:

1. Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable law;
2. Contrary to constitutional right, power, privilege, or immunity;
3. In excess of statutory jurisdiction, authority, limitations, or statutory rights;
4. Without observance of procedure required by applicable law; or
5. Unsupported by substantial evidence.

Roll call vote by City Clerk upon proper motion made and seconded.

Dr. Jennifer Lackman indicated she felt it was unfortunate that this situation has been played out in the TRIBUNE. She indicated she was requesting the Council assistance in appealing the decision of the HPC to deny a certificate of appropriateness for a small section of a three foot white PV fencing extending in front of my house. She also indicated that city attorney Aladean DeRose attempted to justify the HPC's decision on legal grounds that there were no other properties in the district with fences extending beyond the setback line of the house, however, the houses at 1417 E. Wayne and 301 S. Sunnyside both have fences extending beyond the setback line. She indicated the majority of neighbors support the completion of this project. She reported that the HPC did not give her any written material or guidelines, and when she raised the issue she was told they were out of the handbooks, and the HPC Board conceded there was an ongoing problem in communication with the neighbors. She indicated here house was purchased "as is", and required extensive renovation

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work. She indicated she appeared before the board in December, and was told this would be referred to the standards committee, and then subsequently notified that the certificate of appropriateness would not be issued. She reported that several months later she was notified there would be a lawsuit filed if the front fence was not removed. She indicated she had a number of concerns regarding the HPC and the process: new residents are not given adequate information regarding policies and guidelines; the guidelines are very inconsistently applied in this district; information regarding the liaison committee i.e., how they are chosen and their length of terms, is nearly unobtainable; the guidelines are to be reviewed every 5 years, but no such review has taken place; the HPC has no one from this district on its board.

Katherine Hostettler, vice president of the Historic Preservation Commission, indicated the commission was bipartisan. She gave the names and occupations of the members. She reported that the property owners in the historic districts write their own standards, and at no time does HPC mandate the standards.

Aladeen DeRose, attorney, reported that the East Wayne Street Historic District was created by ordinance in September 1987, and as part of the process the property owners adopted Preservation Guidelines and Standards. She indicated the Standard relevant to this case is front yard areas shall not be fenced and fences shall not extend forward beyond the setback line of the house. She indicated that Dr. Lackman's appeal was untimely, since it the applicant may appeal denial of a Certificate of Appropriateness to the Common Council, and it must be made in writing within thirty (30) days of the date of the denial. She indicated that even if the Common Council was disinclined to follow these rules, this appeal is unreasonably delayed, Dr. Lackman does not precedent legally sufficient HPC's denial of the HPC's decision, since the standards forbid front yard fences. She advised that the HPC urges the Council to focus on whether the appeal is timely, and if so, whether the HPC's decision was a rational one based on the standards of the District. She indicated that the time issue should dispose of this case entirely.

David Duvall, director of Historic Preservation, indicated they had one part-time employee, therefore, there was no way they could police the historic districts for violations. He reported that enforcement of the guidelines is dependant on the Building Commission's office.

The Council had lengthy discussion and questions directed to the petitioner, as well as the Historic Preservation. Council Member Broden made a motion that the appeal of the Historic Preservation Commission's Decision be denied, seconded by Council Member Sniadecki. The motion carried on a roll call vote of six ayes and three nays (Council Members Varner, Coleman, and Kelly).

Council Member Coleman made a motion to set Bill Nos. 91-96, 31-97, 32-97, for public hearing and third reading on June 9, and refer this to the Zoning and Vacation Committee, seconded by Council Member Varner. The motion carried.

Council Member Broden made a motion to set Bill No. 28-97 for public hearing and third reading on June 23, and refer it to the Zoning and Vacation Committee, seconded by Council Member Coleman. The motion carried.

PRIVILEGE OF THE FLOOR

Jim Cierzniak, 1156 E. Victoria, spoke loss of revenue for the College Football Hall of Fame.

There being no further business to come before the Council

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unfinished or new, Council Member Kelly adjourned the meeting at
9:45 p.m.

ATTEST:


city clerk

ATTEST:


President

