

**CITY OF ROCHESTER HILLS
HISTORIC DISTRICTS COMMISSION MEETING
Thursday, November 8, 2007**

MINUTES of the **REGULAR ROCHESTER HILLS HISTORIC DISTRICTS COMMISSION MEETING** held at the Rochester Hills Municipal Building, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan.

1. CALL TO ORDER

Chairperson Hill called the meeting to order at 7:30 PM.

2. ROLL CALL

Present: Chairperson Melinda Hill; Members Maria-Teresa Cozzolino, Brian Dunphy, Paul Miller, Dr. Richard B. Stamps

Absent: Member John Dziurman, Micheal Kilpatrick, Michael Sinclair,
Jason Thompson

Quorum Present

Also Present: Derek Delacourt, Deputy Director, Planning & Development Department
John Staran, City Attorney
Scott Cope, Director, Building Department
Judy A. Bialk, Recording Secretary

Chairperson Hill noted that Mr. Thompson had left word he could not attend this meeting and was excused.

3. DETERMINATION OF A QUORUM

Chairperson Hill announced a quorum was present.

4. STATEMENT OF STANDARDS

Chairperson Hill read the following Statement of Standards for the record.

“All decisions made by the Historic Districts Commission follow the guidelines of the Secretary of the Interior’s Standards for Rehabilitation, MCL Section 399.205, and City Code Section 118-164.”

5. MINUTES FOR APPROVAL

5A. Minutes of September 13, 2007 Regular Meeting

Chairperson Hill asked for any comments or corrections regarding the September 13, 2007 Regular Meeting Minutes. Upon hearing none, she called for a motion to approve.

Approved as presented/amended at the _____, 2007 Regular Historic Districts Commission Meeting

draft

MOTION by Miller, seconded by Dunphy, that the Minutes of the September 13, 2007 Regular Historic Districts Commission Meeting be approved as presented.

Ayes: All

Nays: None

Absent: Dziurman, Kilpatrick, Sinclair, Thompson

MOTION CARRIED

6. ANNOUNCEMENTS/COMMUNICATIONS

A. The Rochester Era, October/November 2007 Edition

B. Supplemental Information regarding Agenda Items 6 and 9A.

Chairperson Hill noted that Scott Cope, Director of the Building Department, and City Attorney John Staran were present.

Chairperson Hill stated that the Commissioners had received copies of the above documents, and explained that the Supplemental Information contained some additional information regarding historic trees. She asked if the Commissioners had any questions or comments regarding that matter. She pointed out the excerpt from the March 14, 2002 Historic Districts Commission meeting stated that Dr. Jane Busch had explained that a tree had to be more than old to be considered historic, and that there had to be some meaning attached to the tree by the Community.

Mr. Miller stated there had been some discussion about older trees nationwide because of the increased information on the importance of them to the surrounding area, both for filtration and temperature regulation. He stated that some communities were regulating older trees, much as they would a historic building. He understood that under that under Michigan Law and City Ordinances, that just merely being an old tree did not make it historic, but had to have something else connected with it.

Mr. Miller stated that when Dr. Busch conducted the historic survey for 1021 Harding Avenue, she included some of the old orchard remnants. He thought that nut trees might be as important as fruit trees. He also thought it would be nice if the City could clean up its information on historic trees to protect and maintain them.

Chairperson Hill believed the City had a list of various species around the City as far as the largest or oldest tree, but whether they would fit the criteria of being a historic tree would have to be researched. She stated that trees on existing historic properties were another item that had not been surveyed to a great extent, and was something the Commission could discuss further regarding how to go about that or gather information.

Chairperson Hill stated that as far as other sites that are not designated but that are open space and may contain historic landscapes or trees was something the Commission would have to discuss further. She noted the City had not designated any

particular open space that contained a historic tree, which might be another area that could be looked at as the City acquires greenspace.

Chairperson Hill called for any other announcements or communications. None were provided.

7. PUBLIC COMMENT (Non-Agenda Items)

Chairperson Hill asked if there were any public comments on any Non-Agenda matters. There were no public comments.

8. UNFINISHED BUSINESS

8A. Review of Survey Results

- Future Resident Workshops

Chairperson Hill stated the Commission held some discussion at the September meeting about the survey results, and asked if there was anything further the Commission wished to discuss about them.

Mr. Miller asked how many responses were received. Chairperson Hill responded that about twenty surveys had been returned.

Chairperson Hill stated it appeared from the survey results that people were interested and liked the open house and the information presented. She thought people seemed to have a fairly decent experience if they had dealt with the Commission, and there was interest in future workshops. She suggested the Commission might consider partnering with surrounding communities or historic groups to hold a painting, window restoration, building assessment, or masonry repair workshop, which could be a smaller scale than the open house.

Mr. Delacourt stated that he had discussed workshops with the Michigan Historic Preservation Network (MHPN) and Pat McKay from the Van Hoosen Museum. He explained he and Mr. McKay were not able to put together a workshop with the contractor repairing the Museum windows as that contractor was on a schedule and was only doing glazing. That contractor did indicate a willingness to come back and conduct a workshop.

Mr. Delacourt stated he and Mr. McKay had discussed holding a series of workshops on Saturday afternoons at the Van Hoosen Museum, such a window repair, masonry repair, siding repair, and the Network had an idea for a fourth workshop, if the Commission thought it was a good idea. He stated they would also have to know when the Commission would like to hold the workshops.

Ms. Cozzolino stated she liked the idea of a series as it did not require a lot of time, and people would know when to expect them and they would be in the same place at the same time.

Mr. Miller agreed it would be great to schedule the workshops as a series, which would allow the Commission time to advertise the series. He thought

that was exactly what the Commission wanted to do in working with the historic homeowners to help assist them.

Mr. Delacourt asked whether late February or early March would be the appropriate time, as that was when people were gearing up to consider home improvement projects.

Chairperson Hill suggested the last Saturday in February and the third Saturday in March, which were the “indoor” months, before getting into April when everyone got very busy. She noted the Museum put out a bi-monthly magazine, which could advertise the series. She commented if the series were advertised in the Rochester-Avon Historical Society newsletter that would notify those outside the City’s designated properties.

Mr. Delacourt stated he would talk to Mr. McKay and bring back a proposal at the December meeting. Chairperson Hill pointed out that if the Commission wanted to advertise the series for a February workshop, the Commission would have to make a decision at the December meeting.

Mr. Delacourt asked if the workshops would be open to the general public and local historic groups, and not just the historic property owners. Chairperson Hill thought it was a good idea to open up the workshops, and pointed out there may be other residents in the Community with homes that needed window or masonry repair, and that might be willing to do hands-on repairs on their homes.

Ms. Cozzolino asked if there would be problems using the Museum on Saturdays as the workshops might conflict with other events being held at the Museum. Mr. Delacourt stated he would discuss available dates with Mr. McKay, as well as lining up contractors to conduct the workshops. He noted if a contractor conducting a particular workshop requested a limited number of attendees, the Commission would have to work within those parameters.

Chairperson Hill stated the workshops should not be held near the Easter Holiday, or too late in the Spring as people would be too busy to attend. She thought the events would be more successful if they were held in February and early March.

Mr. Delacourt asked if the Commission was interesting in scheduling a tax credit workshop, and when and where such a workshop should be held. He explained Bryan Lijewski from the State Historic Preservation Office (SHPO) was willing to conduct the workshop at a cost of approximately \$125.00, with the more expanded version running about an hour and a half.

Mr. Miller agreed the workshops should be held in late Winter or early Spring. He stated he was willing to assist in setting up the workshops.

Mr. Delacourt recommended the tax credit workshop be held in the City Hall auditorium as a presentation, rather than an open house forum. He stated Mr. Lijewski’s presentation would be targeted to designated properties and very detailed regarding the credits available. He suggested Oakland Township’s and/or designated property owners from other adjacent communities could be invited, and the presentation would allow the residents to ask questions about the credits and the process.

Chairperson Hill agreed the tax credit workshop should be held on a regular Commission meeting night, and suggested scheduling it for the February meeting. She agreed that the Oakland Township Historic Districts Commission should be invited, and they could invite their designated property owners. She suggested surrounding communities with Historic Districts Commissions, such as Romeo, could also be invited to the presentation.

The Commissioners supported that suggestion, and Mr. Delacourt stated he would set up the tax credit workshop.

Chairperson Hill suggested that Agenda Items 9A, 9B and 9C be moved forward on the Agenda prior to Agenda Item 8B. The Commissioners agreed to move Agenda Items 9A, 9B and 9C forward.

9. ANY OTHER BUSINESS

Chairperson Hill provided a brief update on the next three properties, noting that letters had been sent to the property owners of record in August, 2007 indicating the Commission's concern of possible demolition by neglect, and which gave the property owners time to respond regarding their intentions with their respective properties.

9A. 1585 S. Rochester Road

Chairperson Hill stated this property was somewhat more complicated because it was part of a Planned Unit Development (PUD) Agreement with the City. She asked Director Cope to provide some background regarding the property.

Mr. Cope stated that a Code Compliance Request had been issued that indicated a notice was sent to the property owner relating to items the Building Department felt should be taken care of regarding the maintenance of the building, such as the columns and other areas that had not been maintained. He indicated the notice was sent on August 15, 2007, and an Inspector had gone back to the property on November 6, 2007, and everything was in the same condition, except that a broken window had been boarded up. He commented all the other violations still exist. (A copy of the Code Compliance Request was provided to the Commissioners, and has been placed on file and becomes a part of the record hereof).

Mr. Cope referred to the report from Modern Mold Remediation, LLC (a copy of which was provided to the Commissioners and has been placed on file and becomes a part of the record hereof). He explained the property owner had hired a mold remediation company to look at the property and pointed out that based on the first page of the report, it was considered unsafe and did not recommend anyone entering the building without a full face respirator fitted with P100 HEPA filters.

Mr. Miller asked if Mr. Cope could elaborate on the report. Mr. Cope stated he was not an expert on mold, and would have to limit himself to the first page of the report dated September 11, 2007. He referred to the paragraph that stated, "It is my

opinion that air quality within the house is unsafe due to the high levels of toxic spores... . It is my recommendation that anyone entering this residence, wear a full face respirator fitted with P100 HEPA filters.”

Ms. Cozzolino clarified that the property owner had requested and paid for the report. Mr. Cope stated that was correct. He explained the property owner had asked the Building Department to perform an inspection on the inside of the building, particularly the concern with mold in the building. He explained he did not want to send any of his inspectors inside the building until they received verification it was safe. He had advised the property owner that in order for the Building Department to consider going inside the premises, they would need a report from a mold specialist, which had generated the report. He stated that based on the results, he informed the property owner he would not send any of his inspectors inside at this point.

Ms. Cozzolino asked about the reason the property owner had requested the Building Department to go inside the premises and look at the mold problem. Mr. Cope stated the property owner wanted a list of violations found on the inside to go along with the list of violations noted on the outside to use as justification as to the condition of the building.

Mr. Dunphy stated that upon hearing that, his question would be where did the Commission go from here, and what was the next step? Mr. Cope stated that from the Building Department standpoint, they had held off because of the interest on the owner’s part to try and pursue some remediation. However, since the mold report had been received, nothing had happened. The Building Department was aware the property would be scheduled for a Historic Districts Commission meeting, and thought that would be the appropriate time to discuss the property with the Commission.

Mr. Cope stated there were certain aspects of the outside of the building that the Building Department considered unsafe and that should be taken care of, although that might not be to the extent the Commission felt necessary to bring the premises to a state of “mothballing”.

Mr. Delacourt stated that on behalf of the Commission, Staff had sent a letter notifying the property owner of his obligation to maintain and repair the historic property and to request some response. He stated the letter was sent because the property had become an issue as the Building Department was dealing with it, and it was important to remind the property owner of the historic designation.

Mr. Delacourt stated the Commission, based on a finding that the integrity of the structure was in danger, could make a motion in relation to demolition and enforcement of demolition by neglect, which would put the City in a position to require the owner, through Code Enforcement and Violation Notices, to repair. Ultimately, the City could be put in a position to enter the property, and make the repairs itself. He pointed out that was more of an enforcement issue, and the Commission could make the motion whenever it felt it had the appropriate information based on the photographs or investigation by the Building Department. He explained if the Commission felt the structure of the property reached that plateau, the Commission could make that motion.

He noted a copy of a demolition by neglect motion made in the past for another property had been provided to the Commission to assist with the findings associated with such a motion.

Mr. Delacourt stated that decision could be made by the Commission at any point based on whether the Commission felt it had received the appropriate information. He explained the City would respond through Code Violations or by entering the property. He stated the motion did not have to be directed to City Council requesting Council to do something, but rather the motion was made by the Commission.

Dr. Stamps asked if there was any indication about what the owner wanted to do in this situation. He asked if the owner planned to develop the site, or whether he wanted to preserve the house. He commented he thought this was the same property owner who, when there had been discussion on the barns on the site and the Commission had not come to a rapid conclusion, the next day the barns were torn down. He noted Mr. Dziurman told that story with great emotion. He commented it appeared to him that the property owner was attempting to let the house fall down so that he could develop the site, although he did not have that specific information.

Mr. Dunphy stated that parcel had come before the Commission, and was reviewed with an authorization to proceed with the development plans. He recalled those plans involved relocating the historic structure to another part of the property, and there had been considerable discussion about moving the house and whether that took it out of its historical context. He stated at that time the Commission felt they were comfortable enough with the overall approach to the proposal and how the property would be handled, that the Commission did authorize the property owner to proceed with the project, with conditions. He noted that was at least two years ago, and he had not seen any progress towards actually developing the site.

Dr. Stamps commented the property owner had brought in a big proposal that included houses in the back, and asked if the proposal had moved forward. Mr. Delacourt stated that the same developer owned the property, and did have an approved PUD for the property as a phased development. He stated the first phase was the bank, which had been approved, and done in accordance with the PUD Agreement. Since that time, the applicant had appeared before the Planning Commission and City Council to discuss possible revisions to that Agreement in both size and scope and the potential to move the house. He stated the property owner made it very plain on the record that he was having a difficult time either marketing or building the project that had been proposed and approved, and may need to revise that plan. He indicated that since that time, the property owner had come in with a couple concept plans that were reviewed by the Planning Commission and City Council, with differing levels of interest or desire; however, nothing had been formally submitted and nothing had been formally revised.

Mr. Delacourt commented it appeared the property owner had an interest in revising the PUD Agreement, but how he was proposing to handle the historic house or the historic district was not known.

Mr. Miller asked whether allowing a structure to become dangerous so that people could not enter it, on top of the exterior situation and exposure to the elements, by itself constituted demolition by neglect.

Mr. Staran stated that was a primary reason why that was now included in the law. He commented that prior to it being included in the law, if one were of the mindset to avoid preserving a historic structure, one way would be to let Mother Nature or whatever else deteriorates it to the point where it could not feasibly or reasonably be rehabilitated. He noted there was some experience in this Community with a structure that was left unmaintained for such a long period of time that the question became whether it was even worthy of saving. He explained that was the reason it was added to the law and incorporated in the City's Ordinance to give the Commission the tool to catch those situations in an attempt to "nip it in the bud" at a point in time where the structure can be saved, or it can be mothballed, so that it does not deteriorate beyond the point of saving.

Mr. Staran stated it was the Commission's judgment whether that point had been reached with the subject property. He noted when the property owner brought their plans to the City, they had grand visions of how it would turn out; however, based on the economy and the representations regarding financing, partners, etc. to develop the project, he speculated the owner was reluctant to put any further money into the property until they had a plan to move ahead, be it develop or sell. He stated that without having a direct conversation with the property owner, he could only speculate on the situation.

Ms. Cozzolino asked if the Commission made a motion, whether the matter next went before City Council.

Mr. Staran stated there were a couple steps involved. If the Commission made a finding as prescribed in the Ordinance that a historic resource within a historic district is threatened with demolition by neglect, the Commission could order that the property owner repair it to comply with whatever conditions the Commission imposed. He explained if the property owner did not comply within the time frame prescribed by the Commission, then the next step would be for the Commission to determine that the City should do the work. At that point in time, it would be necessary for the City to go to Court to get a judicial order authorizing the City to enter onto the property for that purpose; the City would do the work, and would tack the cost of that work onto the tax rolls.

Ms. Cozzolino stated that in the copy of the motion provided to the Commission regarding another historic property, it appeared the owner had not mothballed the structure, and the Commission was proceeding to City Council to request them to proceed.

Mr. Delacourt explained the Commission would make the finding of demolition by neglect, and authorize, encourage and request the City to take all appropriate action to enforce that part of the Ordinance. He stated the matter might involve City Council making a decision on whether to go to Circuit Court and enter the property. He stated that as a matter of courtesy, any motion of this type made by the Commission would be forwarded to City Council. He explained it did not require City Council action to start the process.

Mr. Staran noted the Mayor and City Council would not like him going to Court without their permission, so it was a matter of working within the

government structure and recognizing that the Council and the Mayor had certain responsibilities with respect to legal actions being taken. He explained that even though according to the Ordinance it was the Commission that got the ball rolling, they would go through those normal processes on the way to Circuit Court.

Ms. Cozzolino asked what a “reasonable time” was to give the owner an opportunity to repair the structure.

Mr. Staran thought a reasonable time would vary from property to property depending on the nature and degree of the condition and the severity of the problem. He noted there were certain things, such as a hole in the roof that no one wanted to fool around with and should be taken care of right away. He stated if it was more of an aesthetics type of situation that would be less urgent. He stated he would defer to the Commission to determine what was reasonable. He commented if the property owner did not comply within the set time frame, the Commission would move without delay to the next step.

Ms. Cozzolino asked if a time frame should be included in any motion made by the Commission. Mr. Staran commented there had not been many demolition by neglect matters in the City. He stated the City had dealt with the dangerous building Ordinance more in the past. He explained the approach with those cases was to give the property owner a certain period of reasonable time depending on the work that needed to be done, such as tearing down the building or fixing it up. However, the City would require that within a much shorter period of time, such as ten days or two weeks, the property owner come in and get the necessary permits for the work. In other words, the City would not wait the full time for the property owner to do nothing, but would require some immediate action just to demonstrate they were, in fact, moving forward. If they did not move forward, the City would not wait the entire period. He stated that could differ from case to case, and he was not sure what permits would be necessary in this matter, and would require input from the Building Department.

Chairperson Hill stated she had some concern because a letter had been sent giving the property owner 90 days to respond, and which made it very clear there were concerns and problems. She believed the property owner was well aware of the Commission’s concerns. She stated it appeared evident nothing was being done and she would not care to give a long period of time to make the corrections. Because nothing had been done, she would be very inclined to indicate that if within 30 days repairs had not been done or no mothballing had been done, then the Commission would proceed to take the matter to Court.

Chairperson Hill asked if the Commission wanted to proceed to Circuit Court, whether Council had to approve that action. Mr. Staran stated the matter did not require submittal to Council for a formal resolution. Rather, Council would be notified and the matter would be cleared through the Mayor’s office. He stated if there was a problem or Council had an objection, the matter could be held up.

Chairperson Hill requested that any correspondence issued by the Commission be forwarded to City Council in a Memorandum so that Council is well aware of the situation taking place, and to be aware of the Commission’s commitment and actions.

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Chairperson Hill stated there were a number of items listed on the Code Compliance Request from a Building Department standpoint, some of which went hand-in-hand with the Commission's concerns. She would want to see repairs directed toward securing and mothballing the building until further use, from the standpoint that the district was part of an approved PUD Agreement, and part of the criteria to approve that PUD was the fact that it would help preserve and rehabilitate a historic structure for the City.

Chairperson Hill was concerned about the mold, and she would like to require that the mold be remediated. She said she did some research on the Internet on mold; however, she was not an expert and the report did not tell her much as to how dangerous the mold was, or to what extent it was, or if it could be remediated. She commented she was not sure the Commission would be involved because the mold was on the interior. She questioned whether mothballing meant the property owner had to address the mold issue.

Mr. Staran stated that at a minimum they needed to find out more about the mold, noting those were some good questions that the Commission did not know the answer to. He stated in looking at it very superficially, it could be said the mold was inside the building and it was none of the Commission's business. However, the condition and severity or the ease or difficulty of remediating it, or remedying the problem, could very well affect the use and viability of that building, or it could perhaps affect exterior features. He noted the Commission was at the point now where the Building Department could not even get an inspector in the building to determine whether there are other structural issues or problems until more is known about the mold and making it safe. He pointed out the Commission did not know if it was a problem that was going to be difficult to cure, or is it a problem simply because the building is just getting stuffy and humid with no air circulation because no one lives there. He thought it would be reasonable for the Commission to list among the conditions they might impose or list for the property, to have a further study or a more thorough study of the mold situation to determine the full extent of the problem and what is needed to remediate it. He thought that would affect doing anything further with the property.

Chairperson Hill agreed she would hate to see the building sit, and then find it becomes so bad that it is not habitable or could not be reused in some manner. Mr. Staran agreed it could become so bad, or may already be so bad, it is beyond cure, which would bring up the question of whether it is habitable structure that should be saved.

Chairperson Hill agreed the Commission needed to know that, whether that was a matter the property owner is asked report further on or to work with the Building Department in making those determinations. She stated she would be inclined to see a motion brought forward that kept the time frame relatively tight on doing something.

Mr. Miller agreed, and noted in looking at the best picture he could find of the roof, he knew that without a weather-tight roof on a building, the building started to deteriorate very quickly. He suggested the Commission move forward and require some action, and keep the time period tight. He also suggested the Commission do what it could to find out about the mold situation, noting the report indicated the molds were all common

fungi present everywhere. He commented that the symptoms of people who inhaled those molds were quite frightening. He stated that if the Commission's purview was the exterior of the structure, the Commission move forward because it would be within their regulatory authority and would make the mold situation their business to require further research, and to be informed about how it impacted the structure.

Chairperson Hill stated Mr. Staran had a good point about the mold, and that the mold report will help make a determination as to the future reuse of the building. She thought from that standpoint, it was within their purview, even though the Commission was only talking about the exterior, it could affect the exterior. She thought the property owner reporting on the mold problem ought to be part of the motion within a short time frame. She thought it could be quickly determined if the problem could be taken care of or if it was way beyond that point. She noted the report did not provide that information.

Mr. Dunphy proposed the following motion for consideration by the Commission:

MOTION by Dunphy, that the Historic Districts Commission makes a determination that the property located at 1585 S. Rochester Road, Sidwell 15-23-300-035, is in clear violation of the *Demolition by Neglect* section of the City's Code of Ordinances, and that the Historic Districts Commission requests the City to move forward with all appropriate action to secure said property against damage from the elements, with the following Findings and Conditions:

Findings:

1. That the property is a designated Historic District, and is in clear violation of the *Demolition by Neglect* portion of the City's Code of Ordinances, and it is the Historic Districts Commission's belief that the structure located at 1585 S. Rochester Road needs to be protected before any irreparable damage occurs.
2. That the property is part of a Planned Unit Development (PUD) Agreement approved of approximately four years ago by the Historic Districts Commission, and no progress has been observed toward actually constructing said project.
3. That the photographs provided to the Historic Districts Commission show clear deterioration in the property.
4. That an inspection by the Building Department on August 15, 2007 detailed specific deterioration of the building.
5. That a follow-up inspection the week of November 5, 2007 showed that only one window had been boarded over, and the rest of the identified issues had been uncorrected.

Condition:

1. That the issues identified in Code Compliance Request dated August 15, 2007 from the Building Department be remediated within thirty (30) days.
2. That there be an inspection of the interior for determination of the severity of the mold issues.

Dr. Stamps stated he would second the proposed motion on the floor.

Chairperson Hill called for discussion on the proposed motion on the floor.

Ms. Cozzolino suggested the addition of some history of the structure and the reason why it was important to the Community. She commented that if the Commission was satisfied with the motion, she agreed to the motion as it was presented.

Chairperson Hill asked if the proposed motion included the fact that the property was part of an approved PUD Agreement. Mr. Dunphy noted that fact was included in Finding #2.

Chairperson Hill noted the motion requested that the City take appropriate action, and indicated the Commission was requesting that the property owner take the action, not the City. She indicated the motion had included a thirty (30) day period for that action to be taken. She referred to the condition regarding the determination of the severity of the mold issue, and suggested the Commission request a determination of the level and the action needed to remediate that situation and its affect on the future re-use of the structure. She commented the Commission would really like to know the extent of the mold; what affect it will have on the future re-use of the building, and taking action to remediate if appropriate.

Dr. Stamps stated that as seconder of the motion, he would accept the rewording of Condition #2. Mr. Dunphy concurred.

Chairperson Hill stated that if, at the end of the 30-day time period, the above requested actions had not been taken, the Commission would proceed to take further action through Circuit Court. She wanted the property owner to be well aware of where the Commission was heading.

Mr. Staran thought that language should be added as an additional condition to make it clear that if the owner did not move forward, the Commission is determining at this point that the City should go forward with the next step, rather than if nothing happened, the Commission would have to revisit the matter in another month.

Chairperson Hill stated she would hate to have the matter come back, noting it had been the consent of the Commission that the Commission really wanted to move forward. Mr. Staran stated that Council would receive a copy of the Commission's resolution and would be aware of the situation.

Dr. Stamps asked if Finding #2 regarding the PUD Agreement included the fact that nothing had been accomplished, noting the bank portion had been

completed. Mr. Staran suggested including “nothing had been accomplished beyond Phase I of the project”. Mr. Dunphy and Dr. Stamps agreed to the addition of that wording.

Dr. Stamps stated he wanted to speak in favor of the motion, and felt the Commission had given the property owner ample warning and the Commissioners would not be appropriate stewards if they sat by much longer and let the structure deteriorate. He thought it was appropriate for the Commission to move forward, and it was his goal that it be taken care of by the end of December, either by the property owner or by the City.

Chairperson Hill concurred that within 30 days or by December 31st, and if not, the action would move on to Circuit Court.

Ms. Cozzolino commented the Commission had discussed the fact the time frame should be relatively short. Chairperson Hill noted it was only a little over a month and a half to the end of the year. Mr. Staran noted the original motion was “within 30 days”, but suggested it might be clearer to set a date certain so there was no mystery of 30 days from when. He stated whether it was December 31st or some other date, it was still a relatively short period of time.

Dr. Stamps asked if that meant the work had to be done, or if they were putting forth an honest effort and working on it. Mr. Staran stated he did not have a problem the way the motion was worded because he knew how the Planning and Building Departments operated, and certainly if they were making reasonable and diligent progress, the City would try to facilitate that. He noted by the same token, if no progress were made, the City would get the ball rolling to be ready to move on the deadline. He thought Staff would exercise the appropriate discretion to make sure the City was not under- or over-reacting to the deadline.

Ms. Cozzolino stated she had some concern about what “reasonable” and “diligent” meant, or whether the property owner would take advantage of that language.

Chairperson Hill noted that language would not be included in the motion. Mr. Staran clarified that was the language he used in his explanation of how the situation would be handled. Chairperson Hill stated the option for the property owner would be the date the Commission put in the motion.

Dr. Stamps pointed out that four weeks from this meeting would be December 6, 2007.

Mr. Cope indicated he did not think the Commission would see anything completed within thirty days, based on the extent of work to be done, and the hiring of a contractor. He stated the Building Department would be looking for some progress showing something happening. He noted if a contractor was working and making some progress, then the Building Department would monitor that closely and perhaps set some guidelines from that point.

Mr. Staran suggested the Commission might consider, rather than setting a completion date, rephrasing the motion to shorten up the time frame to require that significant progress be

accomplished, such as “accomplished in three weeks” and that the entire project be completed as soon as reasonably possible thereafter. He stated the Commission might want to specify an end date as well.

Mr. Dunphy stated his concern with that approach was who would make the determination whether it is, in fact, progress and the progress is sufficient towards what the Commission is trying to do; and also being comfortable there is enough of a directive the Commission can make sure something does actually happen. He did not want to be unreasonable, noting it would be easy for the property owner to board up a window and say they were working toward a resolution. He noted the Commission had already seen that in this case. He thought the Commission might need to be a bit firmer and try to make it as less “open-ended” as possible. He was open to suggestions regarding the time frame, such as if the Commission wanted to use December 31st, and have something clear-cut and unmistakable about what the deadline actually is, rather than something like “thirty” days, he was agreeable to that. He thought the Commission needed some kind of time frame, whether it was “completion of the project” or “substantial progress towards completion” he thought that was fine. He assumed the Building Department would make the determination on whether there was satisfactory progress.

Mr. Staran noted the Commission could include “substantial progress as determined by the Building Department” in their motion. Mr. Dunphy thought that was fair.

Mr. Miller thought the Commission should make the determination of whether sufficient progress was made, rather than leaving it up to Staff, although he understood Staff members were the experts.

Chairperson Hill stated it was a matter of working with Ordinance Enforcement and with the appropriate parties performing the appropriate work, and it was not the Commission’s job to make that determination.

Mr. Miller suggested the Commission specify a short time frame for work to begin and a time certain for which all work must be completed. He understood from the items listed on the Code Compliance Request that thirty days might be too quick, and asked if Mr. Cope had a suggestion regarding the time frame. He understood thirty days might be too quick, but asked if ninety days was too soon to require completion.

Chairperson Hill thought ninety days was too long. She was inclined to say by the end of the year or by December 31st or January 1st that the work be completed. She noted with the Holidays at the end of the year, the Court would not be able to handle something as quickly. She stated that if nothing is done by January 2nd, and there is no significant progress being made, it would be very easy to move the matter to Circuit Court.

Mr. Staran stated that if progress was being made, whatever extent it is, it will be reported back to the Commission and the Commission could provide the appropriate feedback. Certainly, the property owner could approach the Commission to request additional time, and the Commission could entertain that request as the Commission sees fit. He pointed out there were some safety valves, and the Commission did not want to be too short so

as to be unreasonable from the get go for someone to finish, although the Commission did not want to give a lot of time to just sit back and watch nothing being done.

Mr. Cope pointed out that one requirement of the process was to obtain a Building Permit. He commented there were a number of structural issues listed that would require a permit. Depending on what the mold remediation revealed, and what the requirements were for that, the mold remediation could involve structural issues as well.

Chairperson Hill asked if the list of items requiring repair, as well as those requiring a building permit, could be provided to the property owner with the letter. She thought that would make it very clear what was expected.

Mr. Cope stated that the requirement for a Building Permit was based on the fact there was structural work to be done, whether or not it covered all the items the Commission wanted to have repaired. He explained the Building Permit would not cover the aspect of mothballing, but it would cover the requirements for the structural aspects as far as repairing the porch, or if the mold remediation involved the removal of walls.

Chairperson Hill stated she did not want the property owner to say he did not know a Building Permit was required, and it might be clearer if everything was spelled out. Mr. Cope suggested the motion include language regarding the obtaining of a Building Permit.

Mr. Staran stated that the approach regarding dangerous buildings was to give the property owner 30, 45 or 60 days to perform the demolition or repair or restoration work, but again, in conjunction required them to obtain all necessary Building Permits or Demolition Permits in a short time frame, such as 10 or 14 days. Since it appeared clear some permits would be needed for this property that might give the Commission more flexibility with their deadline. The Commission could consider requiring the property owner to obtain all necessary Building Permits within 14 days or 20 days, but then give the property owner until the end of the year or 45 days to complete the actual work.

Mr. Cope pointed out the mold remediation would have to be done prior to applying for the Building Permits as the extent of the work to be done is not known. He explained that report would have to be part of their submittal for an application for a permit. From that, the Building Department could determine what needed to be done for the mold remediation, along with what is already known to be needed to repair the outside of the building.

Chairperson Hill asked if it would be feasible to include something in the motion indicating the concerns regarding the mold report and remediation and that requests for all permits need to be addressed by December 1st. She was not sure if that was a long enough time frame, noting she did not want to second guess the time frame, but would like to have some dates in place, to ensure something happened.

Mr. Cope stated he also was not sure how long that could take, noting it would depend on the availability of someone to do the work and the extent of what had to be done. He indicated he would find thirty days more realistic to obtain a remediation

report and for an application to be submitted and potentially a permit issued. He explained it was hard to determine that without knowing what had to be done, because it could include removing drywall and other interior finishes on the inside walls to determine the extent of the mold damage, which could take some time.

Mr. Miller noted that most of the items listed on the Code Compliance Request were exterior items, such as fascia, soffits, roof, and the porch columns. He understood if the mold remediation report indicated the structure was hopeless and there was nothing that could be done, that would be a substantial situation for the Board to consider. However, in the meantime the porch columns could be put back up, and some of the other exterior work could be done that would go a long way towards a show of good faith. He did not see a reason to give the property owner another thirty days to put off repairs.

Dr. Stamps commented that the building was in a historic district, and questioned whether the property owner should be coming before the Commission to tell them what he wanted to do, and what materials he intended to use.

Chairperson Hill stated the property owner should be making the appropriate repairs, noting it was not a change, but repair work, and that any mothballing should be done according to the Secretary of the Interior's Standards. She did not believe that changes would occur in this particular instance.

Mr. Staran clarified that if the property owner was performing repair and maintenance work that would be correct. He pointed out that if the property owner decided, in doing the work that he would modify the building or change the roof or make other changes, then Commission approval would be required.

Dr. Stamps agreed that was correct if the repair work was just maintenance work, but inquired if the property owner found the entire roof needed to be replaced, whether Commission approval would be required. Chairperson Hill responded "no" if they had to replace the roof because the roof was leaking and they just put on a new roof; however, they could not just put down tarpaper and consider it repaired. Also, they could not decide to install a totally different type of roof, because Commission approval would be required for that type of a change.

Mr. Delacourt thought the proposed motion did what it needed to do to get the process started. He pointed out the Commission would meet again in December, and if there was still an issue, Staff would be back before the Commission explaining whether the work that needed to be done required a Certificate of Appropriateness; what had and had not been done, and finding out how the Commission wanted to proceed. He stated that any motion could be modified at the next meeting, and the Commission needed to decide the time frame, or the date specific time. Otherwise, the motion did what it needed to do to allow Staff to enforce the Ordinance. He stated based on the proposed motion, Staff could proceed to make contact with the property owner, issue the violation notices, and solicit some type of response.

Chairperson Hill concurred and stated she would prefer to see a finish date included and the appropriate permits obtained. She agreed if something

further were required, the matter would be brought back at the next meeting. She suggested the property owner be given until the end of the year. Mr. Dunphy and Dr. Stamps, as motion maker and seconder, agreed.

Chairperson Hill called for any further discussion on the proposed motion on the floor. Mr. Dunphy stated he wanted to be sure that the motion include a provision that the mothballing be done in accordance with National Park Service Preservation Brief 31 (Mothballing Historic Buildings), and that all repairs are completed in accordance with the Secretary of the Interior's Standards.

There being no further discussion regarding the proposed motion on the floor, Chairperson Hill called for a voice vote on the proposed motion on the floor.

Complete Motion (as voted):

MOTION by Dunphy, seconded by Stamps, that the Historic Districts Commission makes a determination that the property located at 1585 S. Rochester Road, Sidwell 15-23-300-035, is in clear violation of the *Demolition by Neglect* section of the City's Code of Ordinances, and that the Historic Districts Commission requests the property owner to move forward with all appropriate action to secure said property against damage from the elements, with the following Findings and Conditions:

Findings:

1. That the property is a designated Historic District, and is in clear violation of the *Demolition by Neglect* section of the City's Code of Ordinances, and it is the Historic Districts Commission's belief that the structure located at 1585 S. Rochester Road needs to be protected before any irreparable damage occurs.
2. That the property is part of a Planned Unit Development (PUD) Agreement approved of approximately four years ago by the Historic Districts Commission, and nothing has been accomplished beyond Phase I of the Project.
3. That the photographs provided to the Historic Districts Commission show clear deterioration in the property.
4. That an inspection by the Building Department on August 15, 2007 detailed specific deterioration of the building.
5. That a follow-up inspection the week of November 5, 2007 showed that only one window had been boarded over, and the rest of the identified issues had not been corrected.

Conditions:

1. That the issues identified in Code Compliance Request dated August 15, 2007 from the Building Department be remediated; that all repairs be completed in accordance with the Secretary of the Interior's Standards, and that all applicable Building Permits be obtained by December 31, 2007.
2. That the structure be mothballed (i.e., secured against damage from the elements) in accordance with the U.S. Department of the Interior's Preservation Brief 31 (Mothballing Historic Structures) until rehabilitation of the property occurs.
3. That there be an inspection of the interior for determination of the severity of the mold issues (re Modern Mold Remediation letter/report dated September 11, 2007); the action required to remediate the mold issue, and the effect of the mold issue on the future re-use of the structure.
4. That if, by December 31, 2007, substantial progress as determined by the Building Department has not been made, the Historic Districts Commission will proceed to take further action through Circuit Court.

Ayes: All

Nays: None

Absent: Dziurman, Kilpatrick, Sinclair, Thompson

MOTION CARRIED

Chairperson Hill noted the motion had carried unanimously, and City Staff would move forward with the appropriate procedures.

9B. 1046 E. Tienken Road

Chairperson Hill summarized that a letter was sent to the property owner back in August 2007, and that the Commission had discussed a number of issues regarding this property. She noted this situation was different in that for the most part, from the Commission's standpoint, the property owner had met just about all of the items from an exterior standpoint, other than replacing a few shutters, and the incorrect door replacement on the front porch.

Chairperson Hill noted there were some problems meeting the Building Department requirements regarding the interior renovation work. She requested an update from the Building Department, noting she was not sure if the structure was habitable at this point in time.

Mr. Cope stated he had provide the Commissioners with a copy of a Memorandum he received from Building Inspector Tim Hollis on November 7, 2007, which provided a chronology of what had been happening at the site over the past couple of years. He stated the Building Department had not seen much progress, and what progress had been made, was not made in accordance with the inspection requirements. Most recently, the property owner drywalled all the interior walls without a rough building inspection.

Mr. Cope stated as indicated in the Memorandum, in July 2007 he and Mr. Hollis met the property owner on site, and at that time the property owner

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refused to remove the drywall so the proper inspections could be done. He noted that prompted the Building Department to issue a citation, which resulted in a court date being set for November 13, 2007. He commented the Building Department had been struggling for a number of years with the property owner and had a very difficult time in getting compliance with both the HDC requirements as well as inspection and permit requirements.

Chairperson Hill asked if the building was still listed for sale. Mr. Cope stated the Building Department had recently received a telephone call from a real estate agent inquiring as to whether the home was habitable and whether there were outstanding items on the property. The Building Department did provide the real estate agent with some information. He stated it appeared the owners are attempting to sell the property, but the Building Department had had some recent conversation with the property owner that indicated they would comply, remove the drywall and get the proper inspections. He was certain the Court date scheduled for November 13th would bring some further direction toward a resolution.

Mr. Miller noted the rough plumbing and rough electrical had been approved, and asked what the rough building inspection included. Mr. Cope explained the rough mechanical was disapproved and no rough building inspection had been done, which included all structural aspects such as the foundation. He noted there were a number of areas where the foundation was covered with the installation of new walls, which prevented the inspectors from determining what repairs were made on the foundation. He stated there were a number of structural components to the building that needed to be reinforced, which the Building Department did not know if that had been done because they were covered up.

Mr. Miller asked if based on the scale of the project, the Building Department required the property owner to update, change and/or repair certain things structurally. Mr. Cope responded that in dealing with an existing building, the requirements were to address issues that are unsafe. He explained certain building components were allowed to stay as long as they were structurally sound. He noted there were different standards now, and the whole building would have to be upgraded everywhere if they looked at it from a new building standpoint. He stated there were portions of the building that were rotted and needed new wood put in place to support it, which is what the Building Department was looking at. He commented they were not talking about the 2 x 4 floor joists that would no longer be acceptable, but those were still there and continue to be acceptable as long as they are not modified.

Dr. Stamps thanked the Building Department for taking care of the building. He noted if the City only had one or two real gems, this was the type of house his ancestors would have lived in. He stated his ancestors did not live in a fancy home, but lived in this type of house. He felt this house was one that really needed to be saved.

Mr. Delacourt stated that the Building Permits had been tied to the HDC approval of a Certificate of Appropriateness, and a Certificate of Appropriateness usually had a year time frame on it. He stated Staff tried to be generous with homeowners when they were attempting to meet the requirements of the Certificate if they were doing the work because those Certificates were considered to be "in process". In this instance, there had been two occasions where Staff extended the Certificate of Appropriateness because the property

owner was making strides and the structure itself was improving. There had been other times when the property owner did not comply with the Building Permits on the interior, and the Certificate was not extended.

Mr. Delacourt noted at this point Staff could look at this in two ways: 1) depending on whether the work is being done in conformance with permits, Staff could continue to extend the Certificate administratively; or 2) an argument could be made that at this point, not enough had been done and the property owner should have to appear back before the HDC to revisit the Certificate and request the HDC to extend the Certificate. He commented he was comfortable handling the matter in either fashion, but would like some input and direction from the Commission.

Mr. Miller understood a Court date was set for November 13, 2007, and also understood that the property owner had indicated to the Building Department that he would remove the drywall so that the proper inspections could be done.

Mr. Cope stated that was the last conversation; however, the Building Department had not been asked to do any inspections as of this time.

Mr. Miller's personal feeling was that this was already a tough situation and he thought the Commission should wait to see what happens with the Court date and whether the property owner does comply. He understood why the property owner would not want to take the drywall down, particularly if he was doing the work himself.

Mr. Cope stated the drywall installation was hired out, and the property owner had indicated to the Building Department that the contractors had been told not to put it up, but did anyway.

Mr. Miller felt the Commission should be gentle with the property owner for the time being and see how it moved forward. He stated that although this house was not the prettiest, the fanciest or the largest, it was an important structure. He commented the City had had many issues with the structure for some time, and it was his feeling the Commission should wait to see what happens with the Court date. He noted the structure was the main concern of the HDC, and the property owner had made some progress, albeit somewhat slowly, but the structure was being repaired. He assumed that if title to the property changed, the Certificate would automatically be removed as it was associated with the particular homeowner and not the structure.

Mr. Delacourt stated that a Certificate of Appropriateness ran with the property. He stated Staff would watch as closely as possible for any change of ownership, but noted it was hard for the City to track when that took place. If it was discovered that the property had changed hands, Staff would attempt to contact the new property owner and explain the history.

Dr. Stamps asked if the property had a deed restriction that identified it as a historic property. Mr. Staran indicated that was correct. Dr. Stamps stated that if the new owner read the Deed, they would know the house was historic. Mr. Miller asked if that fact was reflected in the title insurance work. Mr. Staran stated it should come up although occasionally title companies missed things.

Chairperson Hill stated that in the past with respect to the Certificate of Appropriateness, if no work had commenced within one year, it expired and the applicant had to come back before the HDC to start the process over. If work has been started, she was not sure there were specifications regarding when that work was completed, and noted the property owner did not receive anything when the work was completed. She questioned whether the Commission really regulated the Certificates from a year standpoint. She was more concerned that if no inspection took place on this house, and there was a structural problem, the structure would be heading toward demolition by neglect, which was a much more serious issue. She commented the outside may have been sugar coated, but if there were structural problems that were not addressed, there was a much more serious problem with this property. She was not sure she would want to see anything done until the Commission heard about what happened at the Court hearing. She stated if an inspection took place and everything seemed to be okay structurally, then the Commission should issue another letter informing the property owner the HDC still needed compliance with the front porch door and the shutters. If there were problems with the structure, then the Commission had a more serious issue to address and would have to take the appropriate actions. Again, if the Commission sits back, they would have the same problems that had been on going with this property over the years.

Chairperson Hill referred to the Certificate of Appropriateness question, and stated she was not sure that was a problem from an HDC standpoint. She suggested the Commission review the matter at the December meeting. Mr. Dunphy concurred.

Chairperson Hill thought the issue of a Certificate of Appropriateness lapsing seemed rather ambiguous in the Ordinance itself. She thought the matter had been interpreted different ways over the years. She explained that years back, if no work commenced, the Certificate expired and the applicant had to apply again, similar to the way a Building Permit was handled.

Mr. Cope stated that there was usually a six-month time frame for a Permit and if there was no activity, the Building Department could revoke the Permit or extend it if the applicant chose to continue on with the work. He explained that usually inspections were the milestone that would indicate if progress was being made.

Mr. Delacourt agreed it was ambiguous in most instances, and noted if the homeowner started the work and was doing the work in good faith, Staff did not pull the plug on the Certificate of Appropriateness. In this instance, there had been several conversations about extending or not extending the Certificate, and currently the Certificate would be considered revoked because the applicant was not working in good faith and in an attempt to prevent inappropriate work or any other work being done until the structural issues were addressed. He explained if the property owner began working in good faith again, the Certificate could be extended.

Chairperson Hill asked if the Certificate had been suspended at the current time, and an inspection is done and things are all right or allowed to be corrected, whether the Certificate of Appropriateness would go back in to effect. She noted the situation became complicated because the property owner could not do any of the work.

Mr. Cope stated the main concern from the Building Department's viewpoint was the concern that the homeowner had a full understanding of what they need to do. He was concerned because through the various meetings and conversations with the owner, he did not believe the property owner understood the requirements from the HDC and the Building Department. He explained the owner, on repeated occasions, did work in direct contradiction of what had been discussed in a prior meeting, to such an extent that it would not appear a conversation had taken place. He noted the homeowner had stated on a number of occasions that they already had more money invested in the property than they could hope to get back out of it, and still had work to complete. He stated the Building Department had been working with the HDC Staff Liaison to try to make sure in the end there is compliance with both the HDC requirements and the Building Department requirements. He stated the Building Code issues were being dealt with through the Court.

Chairperson Hill suggested the Commission wait to see what happens with the Court date and requested an update for the December HDC meeting. She commented that on the positive side, the structure looked to be in better shape than it had for many years. Mr. Cope stated that appearance wise, if you walked inside the building, it looked pretty nice. Unfortunately, they did not know what was underneath.

9C. 1841 Crooks Road

Chairperson Hill stated that a letter was sent listing the Commission's concerns about the structure, and asked Mr. Cope if he had an update on the property.

Mr. Cope stated he had provided the Commissioners with a chronology of the activities on the property. He noted a Building Permit application was submitted in July 2006, and there had been a number of meetings relating to the review of the building project, with the most recent one held in June 2007. He explained at that time, Building Department representatives met with the homeowner, his legal counsel and the designer to specifically discuss what was needed to get a Building Permit. At that time, the Department thought there would be some response and things would move forward; however, nothing had been received from the homeowner.

Mr. Cope stated a Building Inspector visited the site yesterday, and provided a report that identified the areas of concern with the building. He was concerned about three items as they related to safety and which the Building Department would follow through on. He indicated those items were: 1) repair and seal openings of all broken and missing windows because they were concerned about access of the building and safety of people being able to enter the building; 2) secure all openings to prevent access to the basement and crawl basement, which was another safety issue as far as securing the building itself; and 3) properly covering all exposed electrical wiring because there was a safety concern there might be live wires that are potentially dangerous. He stated the Building Department would follow through on those items; however, there were other items related to the Commission's concerns.

Mr. Cope stated he had a number of photographs of the building, which he would circulate among the Commissioners for review and comment. Copies of those photographs have been placed on file and become a part of the record hereof.

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Mr. Delacourt stated the Planning and Building Departments had been in contact with the property owner several times since the Certificate of Appropriateness was issued. He reminded the Commissioners the house was approved for demolition of some non-appropriate additions, and also approved for additions to the house. He noted that since that time, the property owner, Mr. Dunn, has had an incredibly difficult time producing a set of building plans that showed that the work that was approved by the HDC could actually be constructed according to Code, and submitting a set of plans that reflected that.

Mr. Delacourt explained that one of the Commission's concerns when Mr. Dunn was before the HDC, was having the Building Department review the plans prior to the Commission's approval. Mr. Dunn was insistent he did not want to do that without an approval, and the Commission decided to approve the plans.

Mr. Delacourt stated through that process it was identified that one of the revisions made to Mr. Dunn's plans showed the need for a variance to the property, because he had increased the footprint to one of the previously existing additions. He explained Mr. Dunn removed an addition on the south side of the building because it was not an appropriate addition, and the plans provided to the HDC showed the addition being reconstructed in the same footprint, which would not have increased the non-conformance. However, through the Building Department review, because of structural issues and Mr. Dunn's desire to move a staircase, the addition increased by two feet to the south. Because the property is existing non-conforming with respect to the front yard setback, that addition would increase the non-conformance, and would require a variance from the Zoning Board of Appeals (ZBA).

Mr. Delacourt stated Mr. Dunn had been requested to produce a set of plans reviewed by the Building Department to ensure that was the only variance required so that the matter would not have to be taken to the ZBA multiple times. He stated that he, Mr. Cope, and the Plan Reviewer from the Building Department were extremely generous with Mr. Dunn, and explained the Plan Reviewer sat down with Mr. Dunn and his designer, and went through the plans page by page and showed them where it was non-compliant Code-wise for a structure, and gave some very helpful suggestions on how to resolve those situations. He stated Mr. Dunn had not submitted any revised plans since that meeting which was held in June 2007.

Mr. Delacourt stated those were some of the issues that had occurred, and the matter had been brought back before the Commission to see how the Commission wanted to proceed. He noted that the condition of the building was growing steadily worse. He knew Mr. Dunn had good intentions, but had not submitted plans that resolved the issues.

Mr. Miller noticed from the photographs taken on November 7, 2007, that there were areas of the roof that were either lightly covered with a tarp, or some areas where the roof sheathing was completely exposed at the end of the wall. He was concerned that this house would have the same problems as the structure located on Rochester Road. He thought that at a minimum the Commission should ask the property owner to seal the structure against the weather. He did not

think the structure had to be mothballed as it appeared the property owner had intentions to repair the building, but the structure should be weatherized and protected from the elements.

Mr. Dunphy asked what flexibility the Commission had under the Ordinance to address this situation. He stated that finding demolition by neglect might be further than the Commission wanted to go at this point, but he was not sure if the Commission had any other options. He asked if the Commission wanted to ramp up the need to secure the building better, whether there was any tool available to the Commission other than a finding of demolition by neglect.

Mr. Delacourt stated the duty to repair letter had been sent, and the Building Department would address some of the issues through Code Compliance and violations; however, short of that, the next step the Commission could take by Ordinance was demolition by neglect. He explained that required the owner to repair and mothball, similar to the motion made by the Commission earlier this evening for the Rochester Road property. He stated that was not an incredibly high standard, but did add some additional weight to what the Building Department was already doing.

Mr. Cope mentioned that the three items he identified earlier are the ones that the Building Department can address by Code. He explained the Building Department did not have the ability to address any of the other issues because they are exterior maintenance issues that are very similar to the ones brought forward to City Council relating to the Property Maintenance Ordinance. The Building Department would not be allowed to address those other issues without some similar type of Ordinance, which the City did not have on the books at the present time.

Chairperson Hill stated she would be inclined to issue the same demolition by neglect and ask that the owner secure and mothball the building until further actions are taken regarding the approval of his building plan. She did not think there was anything else that could be done because what the Commission really wanted to see was the building secured from the weather and from a safety standpoint, and not see it demolished, particularly with the additions that had been removed and no action to do anything further. She commented she had not looked at the Certificate of Appropriateness, but she had hoped no demolition work would be done until the building plans had been approved. She noted that not removing the inappropriate additions would not have changed the current condition of the building as many portions of the building were in the same shape. She suggested that any motion specify the end of the year or January 15, 2008 to see something take place, and if no action has begun by that time, the Commission would proceed with the next step. She commented this situation has gone on for about four years.

Mr. Miller agreed with the Chair, noting that mothballed meant to preserve the structure until such time as it will be used further, particularly if the property owner had not contacted the City for several months. Mr. Delacourt stated that no revised documentation had been submitted in connection with the ZBA Variance Request Application.

Chairperson Hill stated that the Certificate of Appropriateness was in two parts: one for the demolition of certain additions, which had already taken place, and the other part was the rehabilitation of the structure, which had not taken place.

Mr. Delacourt stated that the property owner had submitted multiple sets of plans for review by the Building Department, which would normally be enough to consider the process to be moving forward in good faith.

Chairperson Hill noted it had been almost six months since any action toward the Certificate of Appropriateness had taken place regarding the rehabilitation. She thought that could be one of the conditions.

Mr. Dunphy provided the following motion for consideration by the Commission:

MOTION by Dunphy, that the Historic Districts Commission makes a determination of *Demolition by Neglect* for the property located at 1841 Crooks Road, Sitwell Number 15-20-428-003, and that the Historic Districts Commission supports and encourages the property owner to move forward with all appropriate action to mothball and secure the structure against damage from the elements, with the following Findings and Conditions:

Findings:

1. That the property is in clear violation of the *Demolition by Neglect* portion of the City's Code of Ordinances and it is the Historic Districts Commission's belief that the structure at 1841 Crooks Road needs to be protected before any irreparable damage occurs.
2. That the property is part of a renovation and construction project approved over a year ago by the Historic Districts Commission.
3. That the photographs provided to the Historic Districts Commission show clear deterioration in the structure of the building.
4. That the inspection by the Building Department dated November 7, 2007 details specific deterioration of the building.

Conditions:

1. That the defects identified by the Building Department's Field Inspection Report be remediated by December 31, 2007.
2. That the mothballing be done in accordance with U.S. Department of Interior, National Park Service, Preservation Brief 31 (Mothballing Historic Buildings).

Chairperson Hill called for a second to the proposed motion. Dr. Stamps said he would second the proposed motion. Chairperson Hill then called for discussion on the proposed motion on the floor.

Chairperson Hill suggested that Condition #1 include the following language: "... and that no further action toward rehabilitation of the structure has taken place since June of 2007". She thought that showed there had been a long time period that

nothing had been done to move forward. Mr. Dunphy and Dr. Stamps concurred with the addition of that language.

Mr. Miller expressed concern that the property owner was making plans to move forward with the renovation and rehabilitation, but agreed that portions had been removed with a few things covered up, and noted the pictures from November 7, 2007 did not show that any work had been done. He was comfortable with the motion, if language could be included that lacking any approved plans from the Building Department, the Commission requires the property owner to mothball. He explained if the property owner received approval of his plans and moved forward, he was not sure the Commission wanted to require the structure be mothballed. He saw a clear need to preserve the structure against increased deterioration from the weather, and if mothballing was designed to do that, he would withdraw his statement.

Mr. Dunphy agreed that the Commission did not want to interfere with the property owner's ability to go forward with his project, because that is ultimately what the Commission wanted to see. However, the key was to be sure that the structure was maintained in the meantime, and that was where the Commission's focus needed to be.

Chairperson Hill called for any further discussion, and asked the Commissioners if they felt the time frame was sufficient. The Commissioners agreed.

Chairperson Hill concurred, and noted that with the weather changing, the holes in the building from the standpoint of safety for the Community needed to be addressed. She pointed out that even if the property owner wanted to build, it would not happen quickly, and these items should be addressed.

Chairperson Hill called for any further discussion on the proposed motion on the floor. Upon hearing none, she called for a voice vote on the proposed motion on the floor.

Complete Motion (as voted):

MOTION by Dunphy, seconded by Stamps, that the Historic Districts Commission makes a determination of *demolition by neglect* for the property located at 1841 Crooks Road, Sidwell Number 15-20-428-003, and that the Historic Districts Commission supports and encourages the property owner to move forward with all appropriate action to mothball and secure the structure against damage from the elements, with the following Findings and Conditions:

Findings:

1. That the property is a designated Historic District, and is in clear violation of the *demolition by neglect* portion of the City's Code of Ordinances and it is the Historic Districts Commission's belief that the structure at 1841 Crooks Road needs to be protected before any irreparable damage occurs.

2. That the property is part of a renovation and construction project approved over a year ago by the Historic Districts Commission.
3. That the photographs provided to the Historic Districts Commission show clear deterioration in the structure of the building.
4. That the inspection by the Building Department dated November 7, 2007 details specific deterioration of the building.

Conditions:

1. That the defects identified by the Building Department's Field Inspection Report be remediated by December 31, 2007, and that no further action toward rehabilitation of the structure has taken place since June of 2007.
2. That the mothballing be done in accordance with U.S. Department of Interior, National Park Service, Preservation Brief 31 (Mothballing Historic Buildings).

Ayes: All

Nays: None

Absent: Dziurman, Kilpatrick, Sinclair, Thompson

MOTION CARRIED

Chairperson Hill noted for the record that the motion had carried. She thanked Mr. Cope and Mr. Staran for attending the meeting and providing updated information.

Chairperson Hill stated the Commission would now return to Agenda Item #8B (Review of Draft of "What every historic property owner needs to know" Guide).

8. UNFINISHED BUSINESS

8B. Review

- Draft of "What every historic property owner needs to know" Guide

Chairperson Hill suggested that due to the lateness of the hour the Commission postpone the review of this draft Guide until the December meeting. She noted she had quickly reviewed the Guide and made some notes, but felt the Commission should spend time reviewing the document at some length.

9. ANY OTHER BUSINESS

Chairperson Hill noted Agenda Items 9A, 9B and 9C had been moved forward on the Agenda and discussed. She noted the next matter was Agenda Item 9D.

9D. Preservation Millage Discussion

Mr. Delacourt stated he and City Attorney Staran had a discussion based on the conversation held by the Commission at the September meeting. He explained the Commission had two options: 1) the Commission could request that City Council consider language for a ballot and put the matter in City Council's hands and leave it there, or 2) much like the open space group had done, do it at a grass roots level. He suggested that no quorum of HDC Commissioners should be present at any grass roots meeting.

Mr. Delacourt explained the Commission could make a motion that City Council consider putting language similar to what Oakland Township had on their ballot proposal. He stated as a Board those were the only two options the Commission had to deal with any millage language.

Chairperson Hill stated she appreciated that input because she felt that was appropriate. She suggested the Commissioners think about the matter some more, and if they felt it was something they wanted to ask Council to consider, that discussion could take place; or perhaps there were people in the Community who were interested in moving forward with that idea.

Mr. Dunphy suggested this might be discussed with other local groups with an interest in history to see what type of reaction they have, and do some exploring outside of the Commission. He stated he would discuss it with the local historical society to gauge whether or how they could proceed.

Chairperson Hill thought that was a good idea and might provide the Commission with insight as to whether there is local interest or grass roots strength in the Community.

9E. Historical Neighborhood TIF Authority Act

Chairperson Hill stated the Commissioners had received a Memorandum in their packet about this matter. She commented she had not realized this option existed from the standpoint of a State Law. She noted she was well aware of Tax Increment Financing (TIF), but that she personally was not a big proponent of TIF Financing.

Mr. Miller stated he had brought up the matter because during some of the recent historic designation matters brought before City Council, some of the Council Members mentioned it was too bad the City did not have something like this. He asked if the Bill had been passed through the State Legislature.

Mr. Delacourt stated it was his understanding that the Bill had passed. He indicated he had done some research on the matter.

Mr. Miller thought the information was important and should be included with any further Study Committee requests for designation through City Council.

Mr. Delacourt stated he had reviewed the Bill and the related documentation, and had tried to find out if any other communities had utilized it. To date, he had not found any community in the State that had established a TIF District for Historic Districts. He noted it was a question of which Districts would qualify, and if the TIF District was

established, whether it would be effective. He explained the City would collect the money and reallocate it to the District for certain approved projects. He did not know if Wayside Park would have been eligible as a District, as he had not been able to determine that in reading the language of the Bill. He stated the only Community that had considered establishing a Historic TIF District was Kalamazoo, and it hit a roadblock and did not happen for political reasons.

Mr. Delacourt stated that Ms. Hill, having been on City Council, understood the work involved in establishing something like a TIF District or a Downtown Development Authority (DDA) District. He noted he had not been able to determine if the City, in combining both the Stoney Creek and Winkler Mill Pond Districts, would have enough mass to make it worth the establishment and administration of a TIF District. He indicated he would keep investigating the matter.

Chairperson Hill stated she was not sure the Historic TIF applied to the City and the City's situation, as it could be applied to Cities like Grand Rapids or Detroit, or those with a downtown area.

Mr. Delacourt explained the Historic TIF Districts were modeled after the DDA TIF Enabling Legislation that allows a Community to do the same thing as a DDA, and is really designed for downtown areas. He stated it would function much as a DDA would, with an additional levy on those properties, and the ability to take a certain percentage increase after an established year. He was not sure that was possible with residential neighborhoods, given the Homestead Act, and how it would work in dealing with multiple residential areas as opposed to commercial and office properties.

Chairperson Hill suggested it might work for an area like the Old Towne area; however, that area was not a designated historic district.

Mr. Miller referred to the document that said "by authorizing cities with historic districts to create historical neighborhood tax increment finance authorities, the bill would provide a mechanism for a city to reverse problems with property deterioration in historic neighborhoods and promote residential growth and economic development in the community". He stated it sounded like it would be applicable to some of the City's Districts. He understood these programs were usually used in a commercial setting and in larger, urban communities. He stated the Commission should review any additional information that could be found.

Mr. Delacourt explained the way a TIF worked, was the City collected either the increased value of an assessment over a base year on a property, or legislation allowed the municipality to tack on an additional small percentage of an increase. He did not know if that could be done with homesteaded properties, because unless those properties changed ownership, the tax base did not change. He noted the only way TIF was generated was when someone purchased a property and the assessment increased. He stated he had asked the City's Assessing Department to look into the matter.

Chairperson Hill asked if the City would be able to designate a certain amount to be part of the TIF. She thought if additional information was

found that indicated there might be some feasibility, it might be a matter to be directed to City Council for review and consideration as a possible funding source to assist preservation.

Mr. Delacourt stated that being unable to find a community that had utilized the program, there was no case study to see how it was implemented. He recommended being cautious if the City wanted to be the first Community to establish such a TIF, especially imposing a TIF on single-family residences, as opposed to commercial and office.

Any Other Business:

Chairperson Hill stated she wanted to mention that she had heard the owners of the Ferry Court property had plans to develop a sports type arena, similar to the Joe Dumar's Arena in Macomb County. She stated the plans had been taken to several bodies around town, such as the Rochester-Avon Recreation Authority (RARA) to see if they might have some interest in the project. She stated it was rather disappointing when she heard about the plans, because on June 13, 2007 the owners stood before City Council and mentioned what a hardship the property was and how they had lived in the Community for 48 years, but now it appeared they did not care to preserve the City's heritage. She commented the plans had been submitted to RARA in September 2007. She was not sure where the plans stood or how it would proceed.

Mr. Delacourt stated that about a month and a half ago, the property owner and a partner approached the Planning Department. They were looking to do some type of building that would be a sports crossover facility building. He stated they showed the Planning Department some very conceptual layouts at that meeting, but they had not submitted anything formally at this time. He stated he could verify the property owners were definitely shopping the project and had had discussions with RARA about partnering with them in the facility.

Mr. Delacourt stated the Planning Department had meet with them regarding zoning requirements and zoning issues, such as what zoning districts would allow that type of a facility, and what approvals would be required.

Mr. Dunphy asked how the property was currently zoned. Mr. Delacourt stated it was zoned single family, and the project he saw would require a rezoning. He stated the proposed use was a "grey area" usage, and the most appropriate district would be a Special Purpose District, because it places the project under a conditional land use review; whereas any other district where it might be acceptable as a permitted use, would not require a review by City Council.

Chairperson Hill referred to a house in the Stoney Creek Village on Van Hoosen Road, across from the Museum, right next to the home identified as the "Sign of the Black and White Cow". She noted the house was not a contributing resource, but the home had been repainted another color. She was concerned that the property had changed hands and the new owners had not come before the HDC with their plans. She commented they had done a magnificent job, and she had heard they were doing a wonderful job on the interior. She stated it looked very nice, but it was disappointing because it was a house in the heart of the District, and either no one told them it was historic or the new owners decided to ignore coming before the HDC.

Chairperson Hill stated they had painted the house a grey/blue and it used to be white. She noted it looked lovely, and it appeared they had put a new roof on the house. They has also bricked in front of the white barn that sat back on the alley, although she did not think they had painted the barn a different color. She thought the Commission had an issue with this, and it would behoove the Commission to find out who the property owners were and send a friendly letter informing them they are in a Historic District and it was appropriate for them to come before the Commission with any changes.

Mr. Delacourt stated the City was not aware when a property changed hands until Oakland County reported it back to the Assessing Department. Chairperson Hill stated she believed they had been in the house awhile. Mr. Delacourt stated that sometimes when people move in, the first thing they do is hire a contractor to do painting or minor repairs. He noted the contractor starts doing the work, and everyone assumes the other person obtained the appropriate permission to do the work. He stated this was the first he heard about this house, but noted there was still a debate about whether strictly a change of paint color required HDC approval, and noted he had heard different opinions from the Commission and was not sure the Commission ever reached a consensus on the matter. He understood the disappointment, but was not sure he should be telling the property owners they had to come before the HDC for approval for paint.

Chairperson Hill stated her concern was that the Building Department was doing a good job of flagging historic properties and letting the Commission know when something was going on; however, she was not sure that same communication was going on with the Assessing Department. She was sure that historic designation was included on the tax roll records.

Mr. Delacourt explained that he believed the Assessing Department only accessed Oakland County's software, and did not have much control over what could or could not be flagged. Rather, the information was just updated and the record was new, and did not tell them the property had changed hands. He stated the Assessing Department was looking into whether there was a place in that software where their own unique codes and keys could be entered. He stated the last time he had discussed that with the Assessing Department, they had indicated the next time the availability for one came up, they might be able to flag the historic properties with a unique identifier. He stated he would check to see if that was available.

Chairperson Hill asked if there was a way to periodically check on the historic properties to see if they had changed hands. She noted with the house on Van Hoosen, she believed they had been in the home for some time.

Mr. Delacourt stated that Staff had discussed sending periodic mailers to the designated properties, such as the invitations that went out for the open house, or just something to remind them they own designated properties. He explained the mailers would be informational, or items such as the surveys that were mailed out after the open house. He commented if the owners of the house on Van Hoosen had been there at least six months, they would have received the open house invitation and the survey.

Chairperson Hill referred to the surveys that were returned, and noted that several residents had agreed to allow their homes to be used on the City's cable channel or web page, and asked when that would begin. She suggested something about the history of the house or why it was designated could be included, or an informational tip could be provided.

Dr. Stamps provided an update from the Historic Districts Study Committee. He stated the Committee had a successful meeting prior to the HDC Meeting. He commented the Committee had been disappointed about the Ferry Court designation; and had recently forwarded some Preliminary Reports to delist three properties to the State Historic Preservation Office (SHPO). The SHPO response indicated they disagreed with the Committee's recommendation to delist two of the properties. It appeared that SHPO felt the Committee should have provided more substantive documentation with the report, such as building permits or maps indicating when changes occurred. He stated that with respect to one property, the Committee had recommended delisting because it had been moved from an adjacent city, and on another property the Committee had noted that the vinyl siding had contributed to the inappropriate changes, and SHPO had indicated that it went beyond the siding. It appeared to the Study Committee that sometimes a structure could be sided, sometimes it could not be; sometimes a structure could be moved, sometimes it could not be moved; sometimes windows could be changed, sometimes they could not.

Dr. Stamps stated the Study Committee was a bit concerned because the State Review Board did not find that "the documentation provided was sufficient to show those houses had been so altered that they had lost the physical characteristics of their original style and period of significance, and they could be determined to be non-historic". Therefore, the Review Board would not agree that these properties should be delisted as local districts. He noted the SHPO expressed concern that "the Study Committee Reports cite changes that occurred to these properties after they were designated as local historic districts as a basis for the delisting. Since the work should have been reviewed and approved by the Historic Districts Commission using the Secretary of the Interior's Standards, this should not have been the case for delisting".

Dr. Stamps stated that the SHPO response went on to say, "in the upcoming months, Amy Arnold, the local historic districts coordinator for SHPO, will be contacting you to set up a meeting for Historic District Commission staff to discuss this issue".

Dr. Stamps stated the response used terminology stating that it was "alarming that the Study Committee is using changes that occurred to historic resources after they were designated", and said "as a certified local government the City of Rochester Hills has signed an agreement to uphold the Secretary of the Interior's criteria and standards as guidelines for historic property". He noted the response said "the City of Rochester Hills is expected to provide its designated historic resources with the fullest protection allowable under the law". He commented the response also said "we hope that in addition to updating the historic districts ordinance and historic resource survey, the City of Rochester Hills is also expanding its training for historic districts commissioners and updating its design guidelines".

Dr. Stamps stated the Committee had made some recommendations, and the SHPO agreed with one and disagreed with the others, and suggested there

should be a meeting. He noted the Study Committee agreed to hold a meeting, and suggested the SHPO staff meet with both the Study Committee and the Historic Districts Commission.

Mr. Delacourt stated that both of the City's consultants, Dr. Jane Busch and Kristine Kidorf, vehemently disagreed with the SHPO comments and the SHPO's assessment of the Preliminary Reports. He indicated he had also asked several questions because the SHPO used several reasons why they did not agree that the structures met the criteria for delisting such as when changes and/or additions were approved, how they were approved, who approved them, and why they approved them. He noted his question to the SHPO was to ask if the Study Committee provided answers to all those questions, whether it would change the SHPO opinion of whether the changes and/or additions were appropriate or inappropriate. He made it very clear it was the City's understanding that the Study Committee's review was of the property as it existed now, and asked whether "how" they got to be the way they were or who approved the changes or under what interpretation of the guidelines they were made, changed anything. He stated the SHPO had asked for additional information about when the permits were issued and if the work was reviewed by the HDC, and his response has been "whether or not it had did not change whether the additions were appropriate or inappropriate". He indicated he had still not received a good answer from the SHPO about that, but they were working on it.

Mr. Delacourt stated that neither Dr. Busch nor Ms. Kidorf agreed with the SHPO comments. He commented there was another part of the response he found interesting. He explained it was the State's insistence that the designation or delisting of a property was ultimately the local unit of government's discretion. That is, the SHPO is only making recommendations. He commented that in connection with the 920 South Boulevard W. property, since the SHPO recommended against designation, and if Council had gone ahead and designated the property, if that was acceptable in the way Public Act 169 was supposed to work. His follow-up question to SHPO was if that was the case and the City designated the property, even though SHPO did not agree with the recommendation, whether tax credits would be available for that property owner. He indicated the SHPO's answer was summarily "no".

Mr. Delacourt stated he felt that response was strange because if designation was at the City's discretion, and one of the incentives for a property owner to accept designation was the tax credits, if the SHPO did not agree with that or changed their opinion of it at a later review, or if the HDC approved additions that the SHPO did not agree with, then SHPO had the potential to not allow the tax credits. He wondered if the Commissioners had ever come across that situation.

Chairperson Hill stated those were interesting comments, and stated that she had seen over a period time that there had been a shift in interpretation of criteria and whether something should or should not be designated. She understood that one might say certain things took place after the initial designation, but to intimate that it was not done well or was not done in the appropriate manner surprised her. It seemed that recently there had been much discussion about context and if there was not enough on a property to say it contextually fit the criteria, compared to how it used to be. She said it appeared it was up to individual interpretation at a certain point in time as to whether things really fit into the picture. She found it somewhat subjective, and stated she would question it because the City had used two

well-respected historians writing reports and making recommendations, and all of the sudden it appeared as if the State did not think the City knew what it was doing.

Chairperson Hill stated that what she had seen happening over the last twenty-five years that she had been involved in preservation, was seeing shift. She noted it was hard to get a handle on what was occurring, and it would be interesting to meet with the State SHPO coordinator. She commented it was probably more of a Study Committee issue, because the two bodies were separate, but it would also be helpful for the Commission to attend and hear the discussion.

Mr. Delacourt stated the SHPO response referred to the HDC and the combined opinion of nine members voting on a subjective set of guidelines as criteria to question the Study Committee's recommendation, and SHPO had suggested the meeting with the HDC in their response to a Study Committee report. He was not sure, if the intent was to keep the two bodies separate, why the State requested a meeting with the HDC in an official response on the record that will be included in the report to City Council.

Chairperson Hill agreed it was confusing at best for a body that is not primarily addressing the issue, to receive a report, and provide conflicting information.

Mr. Delacourt stated he had asked for revised comments from the SHPO, to be more specific as to what they feel are the issues with the report, and if something should be further researched or addressed that might change the SHPO opinion, or if some of the comments were actually questions, which should then be removed from their comments.

Chairperson Hill agreed it would be helpful for the Commissioners to hear the discussion and find out how the State believed they should make the "right" decisions. She asked when the meeting would be scheduled.

Mr. Delacourt stated the Study Committee had requested the meeting be scheduled, so SHPO would be contacted for available dates.

Chairperson Hill thanked Dr. Stamps and Mr. Delacourt for the updates. She called for any other business. No other business was provided. She noted the next meeting was scheduled for December 13, 2007.

10. ADJOURNMENT

Upon motion duly made and seconded, Chairperson Hill adjourned the meeting at 10:23 PM.

Melinda Hill, Chairperson
Historic Districts Commission

Judy A. Bialk, Recording Secretary

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