



## HERITAGE PRESERVATION COMMISSION DESIGN REVIEW MEETING AGENDA

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Wednesday, March 9, 2016  
5:00 P.M.

1. **CALL TO ORDER**

2. **ROLL CALL**

\_\_\_\_\_ Co-Chair Vujovich  
\_\_\_\_\_ Co-Chair Randers  
\_\_\_\_\_ Commissioner Cox  
\_\_\_\_\_ Commissioner Bolton-Iverson  
\_\_\_\_\_ Commissioner Stern

3. **APPROVAL OF AGENDA**

A. Approval of Agenda for March 9, 2016 meeting

4. **APPROVAL OF MINUTES**

A. Approval of the minutes of the January 20, 2016 meeting  
B. Approval of the minutes of the February 10 Special Meeting

5. **BUSINESS**

A. **Update Regarding Project for Local Designation of Historic Properties**  
B. **Other**

6. **ADJOURNMENT**

**A quorum of the City Council or Other Commissions may be present to receive information.**

**HERITAGE PRESERVATION COMMISSION  
DESIGN REVIEW  
City of Afton, Minnesota**

**MEETING MINUTES  
January 20, 2016**

- Item 1. CALL TO ORDER:** The meeting was called to order at 5:05 pm.
- Item 2. ROLL CALL:** Present: Commissioners Randers, Cox, Stern, Bolton-Iverson  
City Officials: Bill Palmquist, Councilmember Ward 1  
  
Absent: Commissioners Vujovich
- Item 3. APPROVAL OF AGENDA:** A motion was made by Cox to amend the Agenda by adding Item C - Industrial Zone - Save-a-Tree project.  
  
Seconded by: Bolton-Iverson  
Vote taken: Vote: Yes - 4, No - 0, Motion carried  
  
A motion was made by Bolton-Iverson to approve the January 20, 2016 Amended Agenda.  
  
Seconded by: Stern  
Vote taken: Vote: Yes - 4, No - 0, Motion carried
- Item 4. APPROVAL OF MINUTES:** A motion was made by Bolton-Iverson to approve the December 16, 2015 Minutes.  
  
Seconded by: Randers  
Vote taken: Vote: Yes - 4, No - 0, Motion carried
- Item 5. BUSINESS:**
- A. Local Designation of Properties Update:
- Commissioner Cox did a pre-review of the Bonine property with Mike Koop, SHPO, who determined that too many alterations were made to make it eligible for local designation, so we are back to 12 properties on our list and will proceed to locate one more property.
- Discussion: The Bonine property is a great example of an Owner renovating and restoring an old farmhouse. They will be recognized along with the other properties being worked on during the month of May (National Preservation Month).
- Tom Zahn & Associates will have a draft submission of their research plan for us to review in February.

B. Vacant Properties in the VHS:

Vacant properties were discussed including the importance of encouraging owners to sell or renovate their properties before the completion of County Road 21 (Mainstreet) in 2017 (see attached handouts Commissioner Cox acquired at the Little Falls, MN Historic Preservation Conference in September 2015).

The Commissioners will contact and meet with local property owners to encourage them to have their buildings operational when Mainstreet is complete. Commissioner Randers will write a positive/persuasive letter to the owners that will stress how important it is to the community to get their property occupied.

Commissioner Stern suggested distributing handouts, etc. to property owners that describe the importance of getting their buildings operational.

C. Industrial Zone ~ Save-a-Tree project:

Bill Palmquist reported that the City Council approved the side yard setback variance for Save-a-Tree at the 1/19/2016 City Council meeting. The CC also requires Save-a-Tree to re-design the building façade to meet the City's ordinance as now modified. A Special HPC meeting may be required to accommodate the project review in early February (possibly February 10, 2016 at 5:00pm).

D. Other: N/A

**Item 6. ADJOURNMENT:**

A motion to adjourn was made by Bolton-Iverson

Seconded by: Cox

Vote taken: Vote: Yes - 4, No - 0, Motion carried

**The next DR/HPC meeting will be: Wednesday ~ February 17, 2016 @ 5:00pm**

**Attachments:** Article: Vacant Storefronts  
Article: Demolition by Neglect

# Vacant Storefronts

By Emily Northey, Minnesota Main Street Coordinator

Storefront vacancies affect the whole community, not just the building they're in or neighboring buildings. This is often one of the most concrete arguments made for why Main Street programs engage everyone in a community - not just the building and business owners downtown.

Just as everyone from potential employees to local government to banks and newspapers is affected the vacant storefront, so too should each of these people chip in to make the Main Street district a place where businesses can succeed people want to visit.

In this article I'm going to focus on the small, incremental, first steps that people in a community can take to improve how vacant storefronts are perceived by working in cooperation with property owners. Many types of more complex projects may certainly be completed to recruit businesses into vacant storefronts after basic issues are addressed.

It is very important to build a relationship with the property owner, and educate them about how individual buildings affect the success of the district. To build a trusting relationship, make sure not talk down to the building owner or insult their building - or their maintenance of it.

Speaking with all building owners on a block or district will help them not to feel picked-on or singled out; you're meeting with everyone, not just them. Bringing recent photos of their building to the meeting, especially for absentee owners, can also be helpful. Just like at your

house, if you walk past the same peeling paint or overgrown bush every day, after a while you stop seeing it. Photographs have a way of giving people a fresh perspective.

## Curb Appeal

The same as selling your house, when a commercial space is for lease/sale, it needs to look well-maintained, attractive, and well-advertised in order to have the best chance of attracting successful tenants. What message does the appearance of the storefront (and the rest of the building) send to prospective tenants or buyers?

The following projects are free to low-cost, can be done right away, and can either be completed by the property owner or volunteers with permission from the property owner (and appropriate insurance, please).

- Cleaning! Using gentle soap and water with rags, sponges, and squeegees, clean all exterior surfaces. Wash the windows, window sills, doors, etc. If possible, use a low powered pressure washer to clean the surrounding sidewalk, bricks or other durable exteriors; do NOT use sandblasting on historic buildings. Often it's amazing the difference simply cleaning a building will make.

- Cleaning the interior. If the property owner grants access, clean up the interior of the storefront - especially the area visible through the storefront. Pick up and throw away any garbage or

### **How does a vacant storefront affect me?**

According to Don Rypkema, of Place Economics, a storefront\* sitting vacant for one year costs an estimated:

**\$250,000 in lost sales**

**\$12,500 in lost sales tax revenue to state and local government**

**\$15,000 in lost rents to the property owner**

**\$1,500 in lost property tax revenue to local government**

**\$51,000 in lost loan demand to local banks for the building**

**\$15,000 in lost loan demand to local banks for the business**

**\$750 in lost property management fees**

**\$24,750 in lost business profits and owner compensation**

**\$16,250 in lost employee payroll**

*\*For these purposes, one storefront is 25 feet wide. If a building has a 75 foot wide storefront, it counts as three.*



Figure 1. New Ulm Retail Development Corporation created this sign and places it in vacant storefronts with the permission of the property owner. To learn more about their incentives, go to [www.newulm.com](http://www.newulm.com) and click on "Development Incentives," and then "Retail Development" on the right hand side.

debris, vacuum, wipe down the walls, and arrange any furniture or fixtures in a pleasing way similar to how they might appear if the space was leased.

- Fresh paint. Here the property owner has a decision to make, and you can help. Do they want to paint colors to be the same or different? If they'll be different, you can help by offering them a few color schemes; many paint companies offer historic color schemes in the paint section of hardware store. After scraping and preparing any surfaces with peeling paint, give it a fresh coat, or two of quality exterior paint. Remember, do not paint unpainted brick or stone surfaces.

- Removing old window stickers. Does the door or storefront window have stickers announcing that the business accepts major credit cards? Removing the stickers without scratching the glass will create a cleaner look for future tenants and give them one less thing to do once they lease/purchase the space. It's also a good practice for current businesses to reduce the amount of "clutter" in their window area; this helps

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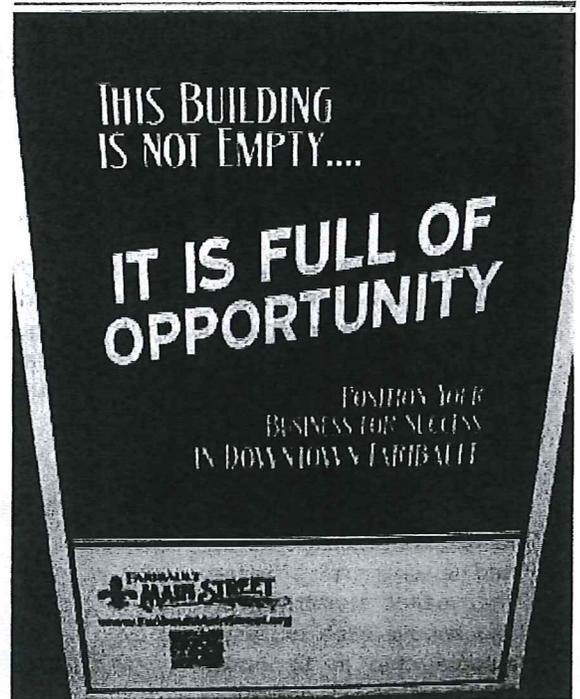


Figure 2. FaribaultMainStreet.org includes a listing of available space in their district. The blank area in the bottom right corner of the sign is for property information, including who to contact for more information about the space. Photo courtesy of Faribault Main Street

people focus on the more important signals (your store name, window display, hours, products/services, etc.).

## Window Dressing

Now that the windows and window display area are clean, what will be placed there to tell people that this space is available and ready for business opportunities?

## "For Rent" Signs

You've seen the black and orange signs with a phone number in permanent marker in windows -and in the hardware store for \$5. What message does this send? "We wanted to find the cheapest and fastest way to tell people to rent here. We didn't think about it too much." Now, if you saw this sign (*above left*) in a window, you might think, "They welcome businesses here and will help me. They have incentives for starting or growing retail businesses and really put a lot of effort into this sign. Geez, if they did this much for an empty storefront, I bet they do a lot of other work to make the downtown a good place to do business. They clearly value their community and its historic buildings."

Don't have an incentives program? No problem. You can still make affordable and reusable signs that tell prospective tenants that they are in a well-managed and cared for district such as this one from Faribault Main Street (*above right*).

## Art Displays

Displaying local artists' work in window displays can be

a creative way to brighten up the vacant space while still allowing people to get a good luck at what the space has to offer. Make sure that the arrangement is documented in writing: how long will the art will be displayed, who will set up and remove the art, will the lights be on and who will pay the electricity bill. It may surprise you what issues come up when you put artists and property owners in the same room; bring paper and a pen.

## The Customer is Always Right

Well, maybe not always, but this is a very (easy and) interactive way to get people walking by excited about the vacant space instead of depressed about how long it's sat empty. It also gives prospective tenants on-the-spot information about what the community desires at that location.

So what is it? People walking past are encouraged to write down on removable vinyl stickers what they wish was in that vacant space before sticking the sticker to the window.

As always, make sure you have the permission of the property owner before putting stickers on their building. More information about the stickers can be found at: [iwishthiswas.cc](http://iwishthiswas.cc).

## Other Window Display Ideas

Many other concepts could be used to temporarily make the windows of vacant storefronts more visually engaging:

- Posters for community events
- Historic photos of the community or building
- Businesses could take turns "renting" the window for advertising space.

Changing the window display on a regular basis, such as quarterly or monthly, will capture people's attention better, just as it will for a business.

## More Information

You can read more about methods for addressing vacant retail spaces at the following sites:

- Storefronts Seattle: [storefrontsseattle.wordpress.com/about/](http://storefrontsseattle.wordpress.com/about/)
- False Haberdashery Storefront Article: [tinyurl.com/falsefront](http://tinyurl.com/falsefront)
- False Delicatessen Storefront Article: [tinyurl.com/delicatessenCA](http://tinyurl.com/delicatessenCA)
- Vacant Buildings Issue of Main Street Now: [tinyurl.com/MainStreetMagazine](http://tinyurl.com/MainStreetMagazine)
- Art in Storefronts, Whittier neighborhood in Minneapolis: [tinyurl.com/StribWhittier](http://tinyurl.com/StribWhittier)
- National Parks Service Preservation Brief #31 on Mothballing Buildings: [nps.gov/hps/tps/briefs/brief31.htm](http://nps.gov/hps/tps/briefs/brief31.htm)

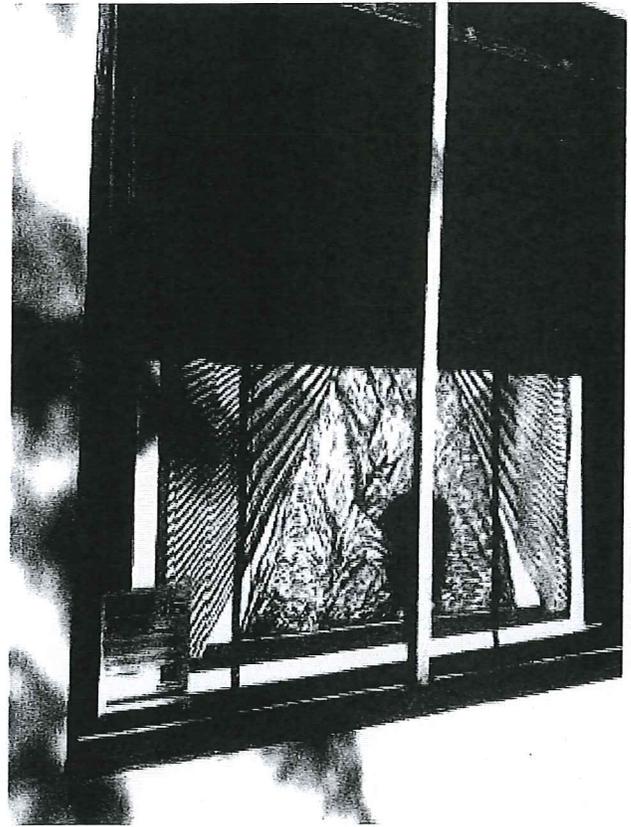


Figure 3. Image courtesy of Emily Northey.

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*Preservation Law Educational Materials . . .*

## DEMOLITION BY NEGLIGENCE

“Demolition by Neglect” is the term used to describe a situation in which a property owner intentionally allows a historic property to suffer severe deterioration, potentially beyond the point of repair. Property owners may use this kind of long-term neglect to circumvent historic preservation regulations.

### Contexts in Which Demolition by Neglect Arises

Sometimes demolition by neglect occurs when an owner essentially abandons a historic property. More often, neglect is an affirmative strategy used by an owner who wants to develop the property. The context in which the issue is raised depends on what action the city decides to take, if any.

At one end of the spectrum, some local governments have taken affirmative enforcement actions against the owners of such properties, ultimately going to court if necessary. At the other end of the spectrum, occasionally the owner of a neglected or deteriorating property will file a lawsuit against the local government, challenging the historic designation or some other feature of the preservation ordinance. The problem with both of these extremes is that courts are very unpredictable.

More commonly, demolition by neglect controversies end up somewhere in the middle of this spectrum, with the local government issuing citations to repair the building, and the owner ignoring the citations. The skirmishes involved in this process often result in a statement that leaves all sides frustrated.

### Demolition by Neglect and Economic Hardship

Property owners using demolition by neglect as a tactic to work around preservation laws will often argue that the prohibitive cost of repairs and deferred maintenance creates an economic hardship.

Ideally historic preservation ordinances need a safeguard provision to protect against this kind of argument, creating a loophole. Generally, the owner’s own neglect should not be allowed to create an economic hardship. However, it is often difficult to sort out the extent to which an economic hardship is attributable to an owner’s actions, or to things beyond the owner’s control (i.e., circumstances that would have existed in any event). In looking at economic hardship and demolition by neglect, it is important for commissions to look beyond simply the relationship between the cost of repairs and the purchase price or the “as is” value.

### Tools for Controlling Demolition by Neglect

The most important tool for controlling demolition by neglect is a carefully drafted provision in the local preservation ordinance requiring affirmative maintenance and ensuring that the local commission is equipped with adequate remedies and enforcement authority. Even if a community already has some type of affirmative maintenance provision, it may want to review your ordinance and amend it in order to increase its effectiveness.

The first step is to look at the state's enabling legislation to determine the specific legal authority for affirmative maintenance provisions. Affirmative maintenance provisions have repeatedly been upheld and enforced by the courts. The leading case is *Maier v. City of New Orleans*, 516 F.2d 1051 (5th Cir. 1975), *cert. denied*, 426 U.S. 905 (1976), in which a federal appeals court upheld an affirmative maintenance provision for the French Quarter in New Orleans, ruling that the provision was constitutional as long as it did not have an unduly burdensome effect on the individual property owner. In *Harris v. Parker*, Chancery No. 3070 (Cir. Ct. Isle of Wight County, Va. Apr. 15, 1985), a case from Smithfield, Virginia, the court actually ordered repairs to be carried out in compliance with the affirmative maintenance requirements in the ordinance. And in *Buttnick v. City of Seattle*, 719 P.2d 93, 95 (Wash. 1986), the court ruled that requiring an owner to replace a defective parapet on a historic building did not result in unreasonable economic hardship. The D.C. Court of Appeals in *District of Columbia Preservation League v. Department of Consumer and Regulatory Affairs*, 646 A.2d 984 (D.C. App. 1994), reversed the District of Columbia's approval of the demolition of a historic landmark in dilapidated condition caused by the owner's own actions, because the demolition permit was unauthorized under the District's preservation act.

With the help of its city attorneys, the New York Landmarks Commission has successfully obtained judgments against owners of historic buildings in particularly egregious condition. In 2004, a New York City trial judge ordered the owners of the landmarked "Skidmore House" in Manhattan to make all repairs ordered by the Landmarks Commission and to keep the building in "good repair." See *City of New York v. 10-12 Cooper Square, Inc.*, 793 N.Y.S.2d 688 (N.Y. Cty. 2004). On May 21, 2009, a Manhattan judge ordered the owner of the vacant Windermere Apartment Complex to maintain and repair the complex's three buildings and to pay \$1.1 million in civil penalties.

When drafting an affirmative maintenance provision, it is important to mandate coordination between the preservation commission and the building code enforcement office, to ensure that the commission is consulted before code citations and enforcement orders are issued. Be specific in defining what repairs will be required, and what remedies will be available under what circumstances. Also make sure that the economic hardship provision is drafted so that it prevents owners from arguing that their own neglect has caused an economic hardship.

One important remedy to include in the ordinance is the authority for the local government to make the repairs directly and then charge back the owner by placing a lien on the property. In some jurisdictions, such as New York City, civil penalties up to the fair market value of the property may be levied against violators.

#### Incentive Programs and Other Forms of Assistance

Another important tool for controlling demolition by neglect and increasing the effectiveness of affirmative maintenance programs is the use of incentives. Tax incentives, low cost loans, and grants are always encouraged as a way to help owners fund necessary maintenance. Maintenance expenses can also be defrayed through the use of volunteer maintenance crews.

#### Enforcement

One reason why demolition by neglect is such a frustrating issue for preservationists and historic preservation commissions is that it often involves a branch of local government over which preservationists have little influence or control—the code inspection and enforcement office. Most preservation groups have good relationships with their preservation commissions, but probably no relationship at all with the building inspection office.

There is often a conflict between these two governmental functions. Even under the best of circumstances, these two offices rarely coordinate their actions. At worst, an outright turf battle may erupt, in which the code enforcement office orders a building demolished as a safety hazard without consulting the preservation commission.

It is therefore very important for local preservation groups to get to know code enforcement officials. A good working relationship with these officials can be critical to helping to ensure that deferred maintenance problems are identified and corrected before they reach the point of demolition by neglect.

### **Selected Examples of Demolition by Neglect Provisions**

Cited below are:

- examples of provisions in state historic preservation enabling laws authorizing localities to prevent the destruction of historic buildings by "demolition by neglect;"
- sample local ordinance provisions dealing with demolition by neglect through maintenance requirements; and
- examples of the use of eminent domain to prevent demolition by neglect.

#### **State Enabling Legislation**

A number of states permit local governments to prevent the "demolition by neglect" of historic properties. Below are some examples of provisions in state enabling laws for historic preservation intended to address this problem:

**North Carolina:** "The governing board of any municipality may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship."

**Rhode Island:** "Avoiding demolition through owner neglect. a city or town may by ordinance empower city councils or town councils in consultation with the historic district commission to identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of such structure or its appurtenances. The council shall publish standards for maintenance of properties within historic districts. Upon the petition of the historic district commission that a historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than 30 days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the city or town and cause a lien to be placed against the property for repayment."

**Alabama:** "Demolition by neglect and the failure to maintain an historic property or a structure in an historic district shall constitute a change for which a certificate of appropriateness is necessary."

**Wisconsin:** "[A] political subdivision may acquire by gift, purchase, or condemnation any property right in historic property, whether the property is real or personal."

## Local Ordinance Provisions Concerning Demolition by Neglect

Many local ordinances include provisions for dealing with the problem of demolition by neglect. Some noteworthy examples are described below:

**San Francisco:** Language in the San Francisco ordinance is quite explicit and detailed with respect to the problem of demolition by neglect:

"*Maintenance:* The owner, lessee, or other person in actual charge of a Significant or Contributory building shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings designated Significant or Contributory, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

1. Facades which may fall and injure members of the public or property.
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
4. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
5. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
6. Any fault or defect in the building which renders it not properly watertight or structurally unsafe."

**Culpeper, Virginia:** A somewhat different approach has been taken by the town of Culpeper, which states in its ordinance:

"*Sec. 28-27.2. Demolition By Neglect.* No officially designated historic landmark or contributing structure within the historic district shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this Section.

*Demolition by neglect* shall include any one or more of the following courses of inaction or action:

1. Deterioration of the exterior of the building to the extent that it creates or permits a hazardous or unsafe condition.
2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar to the extent that it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure.

In the event the Culpeper County Building Official, or the agent officially recognized by the Town of Culpeper as serving that capacity, determines a structure in a historic district is being 'demolished by neglect', he shall so notify the Chairperson of the Historic and Cultural Conservation Board, stating the reasons therefor, and shall give the owner 30 days from the date of the notice to commence work rectifying the specifics provided in the notice; or to initiate

proceedings as provided for in Section 28-27. If appropriate action is taken in this time, the Town may initiate appropriate legal action as provided therein."

**Charlottesville, Virginia:** The Charlottesville ordinance not only requires the maintenance of a landmark property but also requires the maintenance of the land on which the landmark sits. Note the following:

*"Section 31-141. Maintenance and repair required.*

Neither the owner of nor the person in charge of a structure or site in any of the categories set forth in section 31-127.2 of this Code shall permit such structure, landmark or property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the appropriate board, a detrimental effect upon the character of the district as a whole or the life and character of the landmark, structure or property in question, including but not limited to:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of exterior chimneys;
4. The deterioration of crumbling of exterior plasters or mortar;
5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. *The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping (emphasis added);*
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

The enforcing officer shall give notice by certified or registered mail of specific instances of failure to maintain or repair. The owner or person in charge of such structure shall have sixty days to remedy such violation; provided, that the appropriate board, upon request, may allow an extension of up to sixty days to remedy such violations. Thereafter, each day during which there exists any violation of this section shall constitute a separate violation and shall be punishable as provided in articles XXVIII of this chapter."

**Montgomery County, Maryland:** Montgomery County requires a public hearing when charges of demolition by neglect are raised. If a property owner has been requested to maintain his property but refuses to do so, the ordinance allows the director of the county's Department of Environmental Protection may arrange for necessary repairs and charge the expenses to the owner.

*"Sec. 24A-9. Demolition by Neglect.*

... In the event the corrective action specified in the final notice is not instituted within the time allotted, the Director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and *the expenses incurred by the Director for such work. Labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be*

*amortized over a period of 10 years subject to a public sale if there is a default in payment."* (Emphasis added.)

**Portland, Maine:** Portland permits its Department of Planning and Urban Development to order property owners to make necessary repairs to deteriorating buildings within specified time periods. The city also spells out in its ordinance procedures for appealing such orders.

*"Section 14-690. Preservation of Protected Structures.*

(a) Minimum Maintenance Requirement.

All landmarks, and all contributing structures located in an historic district, shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof.

- (1) Deteriorated or inadequate foundation which jeopardizes its structural integrity;
- (2) Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity;
- (3) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration which jeopardize its structural integrity;
- (4) Structural members of ceilings and roofs, or other horizontal structural members which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which Jeopardize its structural integrity;
- (5) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity;
- (6) Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation;

(b) The owner or such other person shall repair such building, object, or structure within a specified period of receipt of a written order to correct defects or repairs to any structure as provided by subsection (a) above, so that such structure shall be preserved and protected in accordance with the purposes of this article.

(c) Any such order shall be in writing, shall state the actions to be taken with reasonable particularity, and shall specify dates for compliance which may be extended by the Department (of Urban Planning and Development) for reasonable periods to allow the owner to secure financing, labor or materials. Any such order may be appealed to the Board of Appeals within 30 days. The Board shall reverse such an order only if it finds that the Department had no substantial justification for requiring action to be taken, that the measures required for time periods specified were not reasonable under all of the circumstances. The taking of an appeal to the Board or to Court shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board or Court expressly stay such order. The City shall seek preliminary and permanent relief in any court of competent jurisdiction to enforce any order."

The Portland ordinance also deals firmly with people who violate these and other provisions. In addition to having to pay fines for "each day on which there is failure to perform a required act," the ordinance applies a sort of "scorched earth" policy: If a person violates the ordinance either

willfully or through gross negligence, he may not obtain a building permit for any alteration or construction on the historic landmark site for five years. Moreover, for a period of 25 years, any alteration or construction on the property is subject to special design standards imposed in the ordinance, whether or not the property involved is historic.

### Eminent Domain

Several cities authorize the use of eminent domain as a means of protecting historic buildings from deterioration or neglect. Specific examples include:

**San Antonio, Texas:** San Antonio permits the city to "condemn the [historic] property and take it by the power of eminent domain for rehabilitation or reuse by the city or other disposition with appropriate preservation restrictions in order to promote the historic preservation purposes of [the ordinance] to maintain the structure and protect it from demolition."

**Richmond, Virginia:** Chapter 10, Section 21, of the Code of Virginia states that the Department of Conservation shall have the power to acquire, by purchase, gift or eminent domain, properties of scenic and historical interest which in the judgement of the Director of the Department should be acquired, preserved and maintained for the use and pleasure of the people of Virginia. (Emphasis added)

Richmond, Va., recently obtained a charter change that allows the city to condemn and acquire properties in historic districts suffering from demolition by neglect. The city is currently using this authority to save a Greek Revival house in the Church Hill Historic District.

**Baltimore, Maryland:** Though not a recent example, the City of Baltimore exercised its eminent domain authority to acquire the historic Betsy Ross House in order to preserve it. In *Flaccomio v. Mayor and Council of Baltimore*, 71 A.2d 12 (Md. 1950), the Maryland Court of Appeals upheld the city's use of this power.

**Louisville, Kentucky:** In the late 1970s, the City of Louisville condemned two Victorian townhouses that Louisville the Louisville Women's Club planned to demolish for a parking lot. The city then resold the properties, with preservation covenants attached, to a developer. The Club took the city to court, but the court upheld the city's action.

**HERITAGE PRESERVATION COMMISSION  
DESIGN REVIEW  
City of Afton, Minnesota**

**SPECIAL MEETING MINUTES  
February 10, 2016**

- Item 1. CALL TO ORDER:** The meeting was called to order at 5:05 pm.
- Item 2. ROLL CALL:** Present: Commissioners Randers, Cox, Stern, Bolton-Iverson  
City Officials: Ron Moore, City Administrator  
Bill Palmquist, Councilmember Ward 1  
Absent: Commissioners Vujovich

**Item 3. APPROVAL OF AGENDA:** The special meeting agenda was approved.

**Item 4. APPROVAL OF MINUTES:** Deferred to next regular meeting.

**Item 5. BUSINESS:**

- A. Design Review for Nature's Trees Proposed Building at the northeast corner of the property on Hudson Road with PID#06.028.20.24.0002:

Presenters: Chris Muechleck – District Manager of St. Croix SavATree  
Loren Morschen – Principal Architect with Linner-Morschen Architects  
Jon Hormann – Project Manager at Graystone Construction

City Administrator, Ron Moore, reviewed the "Conditions of Approval of the Exterior Building Materials Variance".

The presenters handed out the latest version of the proposed building color perspective drawings including a site plan and exterior building elevation drawings.

Commissioner Stern encouraged SavATree to use a "naturalistic approach" to the landscaping (a variety of tree selections). He also suggested differentiating the front concrete panels system (alternate colors, etc.) to give more interest to the façade.

Chris Muchleck agreed with Stern regarding the trees and stated they are working with a landscape planner to refine the selections.

Selected exterior material samples were presented and colors were reviewed.

Sample 1: Rockface and burnished concrete block  
By Anchor Block Company  
Color: "Honey Mustard"

Sample 2: Metal panel for walls and doors (earth tones)  
By NUCOR  
Color: "Surrey Beige" and "Fox Grey"

Site Plan discussion:

Chris Muchleck stated that much of the natural topography has been retained and the existing trees at the front of the site that surround the wetland area will be protected. They give a nice screen (buffer) to the building.

A motion was made by Cox to approve the building materials and general exterior elevations as presented including the Commissions' review comments.

Seconded by: Bolton-Iverson

Vote taken: Vote: Yes - 4, No - 0, Motion carried

**Item 6. OTHER:**

A. Tom Zahn, Zahn & Associates, Inc., will not have their draft reports for Local Preservation building Nomination completed by next week so the meeting will be changed to March.

**Item 7. ADJOURNMENT:**

A motion to adjourn was made by Cox.

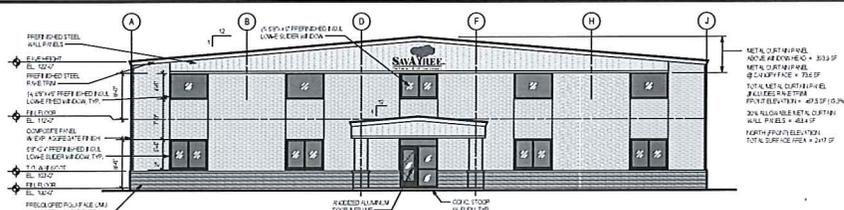
Seconded by: Bolton-Iverson

Vote taken: Vote: Yes - 4, No - 0, Motion carried

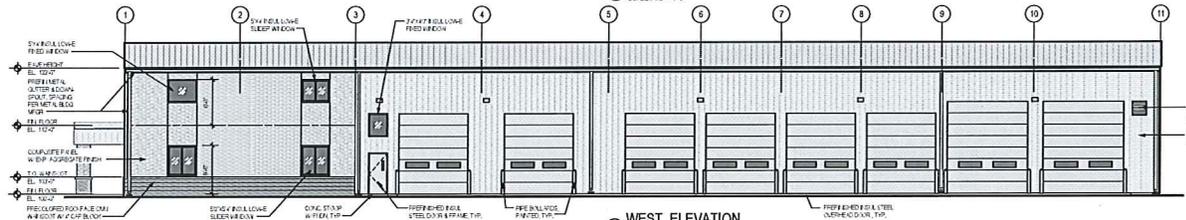
**The next DR/HPC meeting will be: Wednesday ~ March 9, 2016 @ 5:00pm**

Attachments: SavATree - Elevation, Colored Perspective and Site Plan drawing

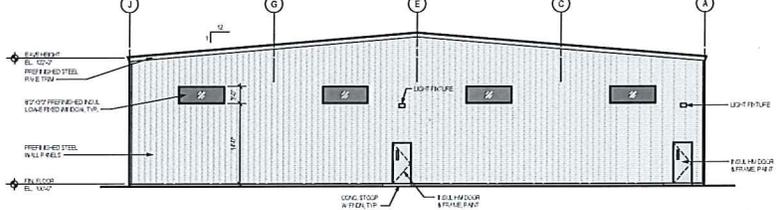




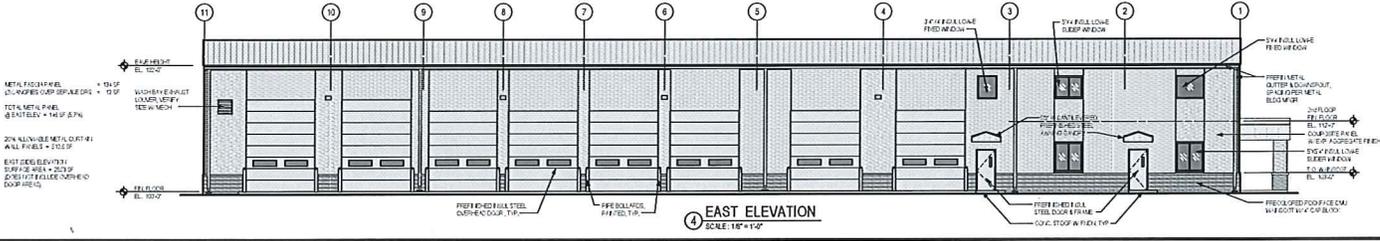
1 NORTH (FRONT) ELEVATION  
SCALE: 1/8" = 1'-0"



2 WEST ELEVATION  
SCALE: 1/8" = 1'-0"



3 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



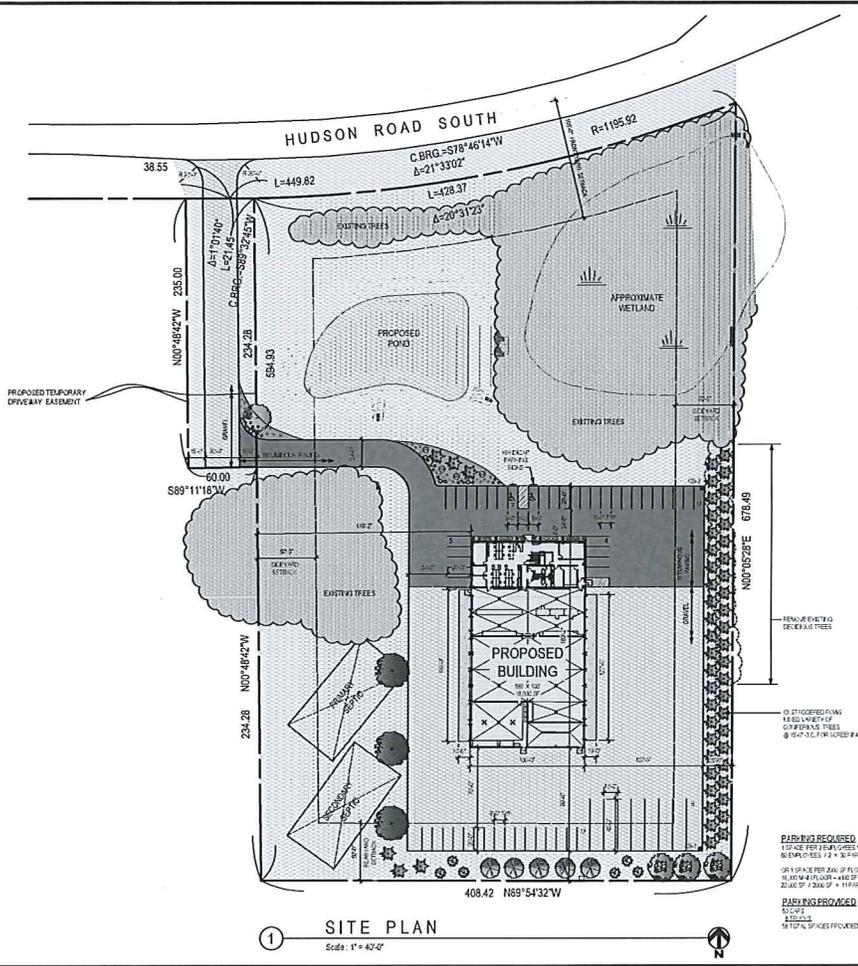
4 EAST ELEVATION  
SCALE: 1/8" = 1'-0"

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Alicia, Utah

Revised  
DATE  
CHECKED  
DATE  
DRAWN  
DATE  
SCALE  
P4



1 SITE PLAN  
Scale: 1" = 40'0"

**PARKING PROVIDED**  
 157 SQ. FEET PER SPACE MAINTENANCE  
 80 SPACES 12' x 20' PER SPACE  
 20' x 4' SIDEWALK PER FLOOR AREA  
 10,000 SQ. FT. FLOOR AREA PER 20,000 SQ. FT. OF  
 20,000 SQ. FT. OF 10' HIGH WALLS REQUIRED

**PARKING PROVIDED**  
 50 SPACES  
 50' x 10' PER SPACE PROVIDED

**Linner-Morschen Architects**  
 1000 W. 10th St. | Minneapolis, MN 55408  
 Phone: 612.338.1111 | Fax: 612.338.1112  
 www.linnermorschen.com

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 Allon, Minnesota

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## AFTON LOCAL DESIGNATION SOURCES LIST

Prepared by Thomas R. Zahn & Associates LLC, March 2016

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“After Fifty Years: Swedish Evangelical Lutheran Church 1882-1932 Afton Minn.”

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-Photograph collection

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Washington County Name Index. [http://projects.wchsmn.org/name\\_index/](http://projects.wchsmn.org/name_index/)