

DATE: June 14, 2023

SUBJECT:

<u>Certificate of Appropriateness Request:</u>	H-12-23
<u>Applicants:</u>	Stephen Rohrer
<u>Location of Subject Property:</u>	113 Union Street N
<u>PIN #:</u>	5620-79-8008
<u>Staff Report Prepared by:</u>	Autumn C. James, Planning & Development Manager

BACKGROUND

- The subject property at 113 Union Street N is designated as a “Pivotal” structure in the North Union Street Historic District (ca. 1890) (Exhibit A).
- “Highly significant, exceptionally well-preserved, two-story frame Queen Anne style residence, the best example of the style in Concord. House is enhanced by its prominent setting on a large, corner lot with a fine late nineteenth century ornamental iron fence. A particularly notable feature of the house is the variety of sawn and molded woodwork applied to its surface. Each of the house's several gables is covered with scalloped shingles and framed with decorative sawn and molded boards; scalloped shingles also cover the flared base of the house's second story. Above the second floor is a cut-out frieze with a repeating tree shape; a frieze with a sheaf-of-wheat pattern run along parts of the house's sides. The facade has a gable-front by projecting from the main roofline, and a central balcony with richly ornamented woodwork sheltered by a projecting hip roof. The southern (left) portion of the well-detailed wrap-around porch was enclosed with latticed window sash typical of the bungalow style during the 1920s” (Exhibit A).

DISCUSSION

- On May 10, 2023, Stephen Rohrer applied for a Certificate of Appropriateness under Concord Development Ordinance (CDO) §9.8 to stain the rear fence along 19 Franklin Ave, with approval by neighboring resident, based on “the change in conditions or circumstances which would justify the reconsideration of an action must be a change in the particular circumstances or condition which induced the prior decision.” (Exhibit B).
- On April 14, 2021, the Historic Preservation Commission approved the rear yard fence to be stained on the Applicants’ side and painted white on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N as well as the height of the fence to be 4.0’ along Franklin Avenue NW as shown in the Recorded Order filed April 27, 2021, with the Cabarrus County Register of Deeds.
- In February 2022, rear yard fence construction commenced including along Franklin Avenue NW.
- In September 2022, rear yard fence staining commenced including on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N.
- In December 2022, the Rohrer’s returned to the Historic Preservation Commission with an “ex post facto” Certificate of Appropriateness requesting after-the-fact approval to stain the side of the rear yard fence facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N and to increase the height of the rear yard fence running adjacent to Franklin Ave from 4.0’ to 6.0’. Based on the standards of the Handbook, and the City of Concord Code of Ordinances,

including the standards listed above, the Commission concluded that there was sufficient evidence presented to reopen the prior approval and approve the “ex post facto” request for after-the-fact approval to increase the height of the fence running adjacent to Franklin Ave NW from 4.0’ to 6.0’ is appropriate as the wooden fence is visible from the street and is located in the rear yard and therefore may be higher than 4.0’, and is in compliance with the Historic Handbook. However, there was insufficient evidence presented to reopen the prior approval as to the fence color and the Commission did not vote to amend the fence color that was initially approved in Case H-04-21 on April 14, 2021.

ATTACHMENTS

Exhibit A: National Register of Historic Places Inventory

Exhibit B: “Ex Post Facto” Certificate of Appropriateness Application

Exhibit C: Subject Property Map

Exhibit D: Applicants Submitted Photos

Exhibit E: Recorded Order Dated April 27, 2021

Exhibit F: Recorded Order Dated February 2, 2023

Exhibit G: Historic Preservation Commission Meeting Minutes from December 14, 2022

HISTORIC HANDBOOK DESIGN RECOMMENDATIONS

Approval Requirement Needs Table: Fencing and Gates

All types require Commission Hearing and Approval.

Chapter 5 – Section 9: Fences and Walls

- *Fences should be compatible with most structures in the districts.*
- *The style of fence or wall should respond to the historic nature of the property.*
- *All wooden fences should be “stick-built” on site.*
- *Wooden fences visible from the street and/or wooden fences in front yards and side yards of corner lots are required to be painted or stained white or a color matching the body or trim of the structure, including shutters, foundation color, etc.*
- *Painting or staining is recommended, but not required, for rear yard fences unless they are visible from the street.*
- *All proposed fences and walls should not negatively affect existing trees and mature landscaping.*
- *Privacy fences are defined as fences with no spacing between pickets or fences of the shadowbox design. Privacy fences may be allowed at the discretion of the Commission in the following circumstances:*
 - *Privacy fences are most appropriate in rear yards.*
 - *Privacy fences may be allowed where the applicant's rear yard is directly adjacent to property that is either not in a historic district, or is within a historic district but is non-contributing or intrusive in that district. The applicant shall show to the satisfaction of the Commission:*
 - *that the adjacent property is unsightly in comparison to other properties surrounding the applicant's property,*
 - *that the adjacent property or nearby property raises reasonable security concerns for the applicant, or*
 - *that the adjacent property could reasonably be determined to negatively impact the property value of the applicant's property.*
- *Privacy fences encompassing an area of no more than 250 square feet may be allowed at the discretion of the Commission when adjacent to the applicant's house, garage, or other outbuilding*

in order to screen from view trash cans, mechanical equipment, cars or other unsightly items, provided such fence does not unreasonably impact any neighbor by blocking windows or the like.

- *Privacy fences allowed by the Commission should be landscaped where practical with appropriate shrubbery to soften the appearance of the fence.*

Design Guidelines

- *Use materials such as natural stone, brick, wood, powder coated aluminum and iron.*
- *Materials and style should coordinate with building and neighboring buildings as well as other walls and fences in the area.*

RECOMMENDATION:

1. The Historic Preservation Commission should consider the circumstances of this application for a Certificate of Appropriateness relative to the North and South Union Street Historic Districts Handbook and Guidelines and act accordingly.
2. If approved, applicant(s) should be informed of the following:
 - City staff and Commission will make periodic on-site visits to ensure the project is completed as approved.
 - Completed project will be photographed to update the historic properties survey.

United States Department of the Interior
National Park Service

National Register of Historic Places
Inventory—Nomination Form

For NPS use only
received
date entered

Continuation sheet	Item number	Page
<u>Inventory List - North Union Street Historic District, Concord</u>	# 7	33

N. Felix Yorke (1853-1916) founded the Yorke and Wadsworth Hardware Store in the 1880s; the store is still in operation and is probably the oldest business in the city.

- 39. John Phifer Allison House
113 North Union Street
ca. 1890
P

Highly significant, exceptionally well-preserved, two-story frame Queen Anne style residence, the best example of the style in Concord. House is enhanced by its prominent setting on a large, corner lot with a fine late nineteenth century ornamental iron fence. A particularly notable feature of the house is the variety of sawn and molded woodwork applied to its surface. Each of the house's several gables is covered with scalloped shingles and framed with decorative sawn and molded boards; scalloped shingles also cover the flared base of the house's second story. Above the second floor is a cut-out frieze with a repeating tree shape; a frieze with a sheaf-of-wheat pattern run along parts of the house's sides. The facade has a gable-front by projecting from the main roofline, and a central balcony with richly ornamented woodwork sheltered by a projecting hip roof. The southern (left) portion of the well-detailed wrap-around porch was enclosed with latticed window sash typical of the bungalow style during the 1920s.

John Phifer Allison (b. 1848) was a financier and merchant who erected the Allison Block, on the largest buildings in downtown Concord, between 1897 and 1906. He was an officer of several important Concord businesses. Arthur W. Fisher, a Cannon Mills executive, purchased the house in 1942, and his widow still lives there.

- 40. A. Jones Yorke House
123 North Union Street
1908 (OI)
P

Highly distinctive Colonial Revival style residence constructed of creamy tan brick, designed by Charlotte architect, Leonard L. Hunter. Gable ends of the main block, the porte-cochere that projects from the south side of the house, and the one-story garage at the rear of the house all have stone-trimmed parapets. The windows are segmental-arched and have well executed radiating brickwork and keystones. Tuscan columns grouped in threes support the porch, which is topped with a balustrade.

General Requirements

The Unified Development Ordinance imposes the following rules, regulations and requirements on requests for Certificates of Appropriateness. The applicant must, with reference to the attached plans, demonstrate how the proposed use satisfies these requirements:

1. Project or Type of Work to be Done: staining following HPC standards and Concord UDO
2. Detailed specifications of the project (type of siding, windows, doors, height/style of fence, color, etc.):
Staining of rear fence along 19 Frankline Ave with approval by neighboring resident.
We are submitting this application per the Historic Preservation Commission's legal instructions provided to us via email on January 17, 2023, based on "the change in conditions or circumstances which would justify the reconsideration of an action must be a change in the particular circumstances or condition which induced the prior decision" (ref. Deed book 16301 pages 0322-0325 attached).

List of materials: stain Required scaled site plan and photos attached as part of this application

Required Attachments/Submittals

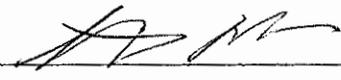
1. Scaled site plan, if additions or accessory structures are proposed, on letter, legal or ledger paper. Larger sized copies will be accepted if **16 folded copies** are submitted for distribution.
2. A photograph of the front of the house.
3. Photographs of site, project, or existing structures from a "before" perspective.
4. Drawings, sketches, renderings, elevations, or photographs necessary to present an illustration of the project from an "after" perspective.
5. Samples of windows, doors, brick, siding, etc., may be submitted with application.
6. Detailed list of materials that will be used to complete the project.

****Applications may be submitted electronically.****

Certification

(1) I hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the City of Concord Development Services Department. (2) I understand that City staff and/or members of the Historic Preservation Commission may make routine visits to the site to insure that work being done is the same as the work that was approved. (3) I understand that photographs of the completed project will be made to update the City's historic districts inventory database.

5/10/2023
Date


Signature of Owner/Agent
Stephen Rohner

AN INCOMPLETE APPLICATION WILL NOT BE PLACED ON THE AGENDA UNTIL ALL OF THE REQUIRED ATTACHMENTS AND/OR ITEMS LISTED ON PAGE 2 ARE SUBMITTED.

APPLICANT INFORMATION

Name: Stephen Rohrer
Address: 113 Union St. N
City: Concord State: NC Zip Code: 28025 Telephone: (252) 267-2035
Email: stephen.rohrer86@gmail.com

OWNER INFORMATION

Name: Stephen Rohrer
Address: 113 Union St. N
City: Concord State: NC Zip Code: 28025 Telephone: (252) 267-2035
Email: stephen.rohrer86@gmail.com

SUBJECT PROPERTY

Street Address: 113 Union St. N P.I.N. # 56207980080000
Area (acres or square feet): 0.64 acres Current Zoning: RM-1 Land Use: Residential

Staff Use Only:
Application Received by: _____ Date: _____, 20____
Fee: \$20.00 Received by: _____ Date: _____, 20____
The application fee is nonrefundable.

16301 0322

FILED ELECTRONICALLY
CABARRUS COUNTY NC
H. WAYNE NIXON

FILED Dec 06, 2022
AT 11:00:00 AM
BOOK 16301
START PAGE 0322
END PAGE 0325
INSTRUMENT # 34009
EXCISE TAX \$1,400.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Stamps: **1,400.00**

Parcel Identifier number: 12-26-21

Return to: Grantee

NO TITLE OPINION

Prepared by: HOWARD S. IRVIN, Attorney
Hartsell & Williams, P.A.
Post Office Box 368
Concord, NC 28026-0368

THIS DEED is made and entered into this the 1st day of December 2022 by and between

ROBERT W. NIXON and wife DALE P. NIXON
95 Ingleside Drive, SE
Concord, NC 28025

Hereinafter GRANTOR

And

KATHERINE DRYE GONZALEZ (Free Trader)
19 Franklin Avenue, NW
Concord, NC 28025

Hereinafter GRANTEE

16301 0323

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, in fee simple, all that certain lot or parcel of land being more fully described on Legal Description attached hereto, as Exhibit "A".

The property herein conveyed does not include the primary residence of a Grantor.

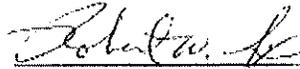
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: all easements or right of way, restrictions and covenants, minimum building setbacks, zoning laws and ordinances of record, affecting the property hereby conveyed.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year shown herein.

(SEE SIGNATURES ATTACHED)

16301 0324


_____ (Seal)
Robert W. Nixon

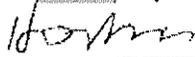

_____ (Seal)
Dale P. Nixon

North Carolina, Cabarrus County

I, Howard S. Irvin, a Notary Public for said County and State certify that the following persons personally appeared before me this day and acknowledged to me that he voluntarily signed the foregoing document for the purposes stated therein and, in the capacity indicated:

Robert W. Nixon and wife Dale P. Nixon.
Tamara Harle (Unmarried).

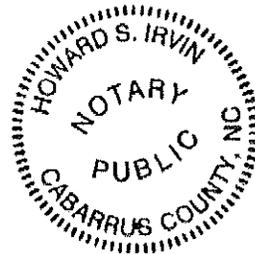
WITNESS my hand and notary stamp, this the 1st day of December 2022.



Howard S. Irvin
Notary Public

My Commission Expires:
June 17, 2027

Notary Stamp



16301 0325

EXHIBIT "A"

Lying and Being in Ward Number One (1) Township of Cabarrus County, North Carolina on the South side of Franklin Avenue, NW and Being a portion of that property as is shown on a physical survey dated May 15, 1984 by Billy B. Long, R.L.S., and more particularly described as follows:

Old Description

BEGINNING at an iron stake on Franklin Avenue at its intersection with an unnamed ten (10) foot alleyway and runs thence with Franklin Avenue North 46-31 East for a distance of 65.0 feet to an iron stake, the corner of McIver, et al.; thence with the line of McIver South 42-30 East for a distance of 149.0 feet to a point in the line of Robert Steel; thence with said line of Robert Steel South 46-31 West for a distance of 65.0 feet to an iron stake in the edge of said ten foot alleyway; thence with said alleyway North 42-30 West for a distance of 149.00 feet to the point of BEGINNING.

The above is conveyed together with and subject to a right of way over the ten (10) foot-alleyway referenced above.

For informational purposes only, being known as 19 Franklin Avenue, NW, Concord, NC 28025.

For back reference, see Deed Book 573, Page 770, Cabarrus Registry.

The block contains two handwritten signatures. The top signature is a cursive name, possibly "B. Long", written in dark ink. Below it are several smaller, less legible initials or marks, also in dark ink.

To whom it may concern,

I am the current owner of 19 Franklin NW, Concord NC 28025, having purchased the home from Robert and Dale Nixon. I request that the current owners of 113 Union St. N, Dana and Stephen Rohrer, do not paint the side of their rear fence the color white. I request that the stain on the fence remain.

Thank you,

Katherine Gonzalez


I do not need my side @ 19 Franklin
painted white.

I also don't want to be put in the
middle of this - thank you! 
KCG

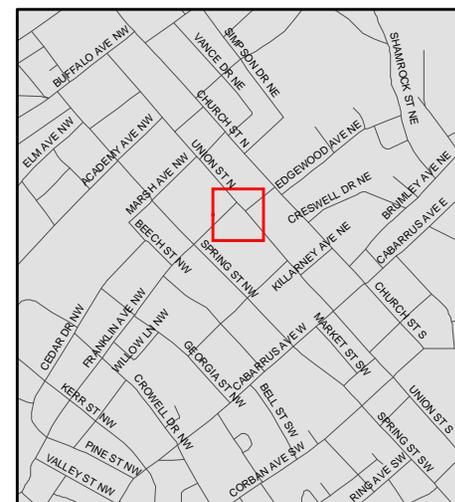
Fence will be stained to match existing wooden stain used on Front Porch columns, Minwax Red Oak 215 wood stain or similar Stain color. Example:



H-12-23

113 Union St N

PIN: 5620-79-8008



Source: City of Concord
Planning Department

Disclaimer

These maps and products are designed for general reference only and data contained herein is subject to change. The City Of Concord, it's employees or agents make no warranty of merchantability or fitness for any purpose, expressed or implied, and assume no legal responsibility for the information contained therein. Data used is from multiple sources with various scales and accuracy. Additional research such as field surveys may be necessary to determine actual conditions.

Exhibit C



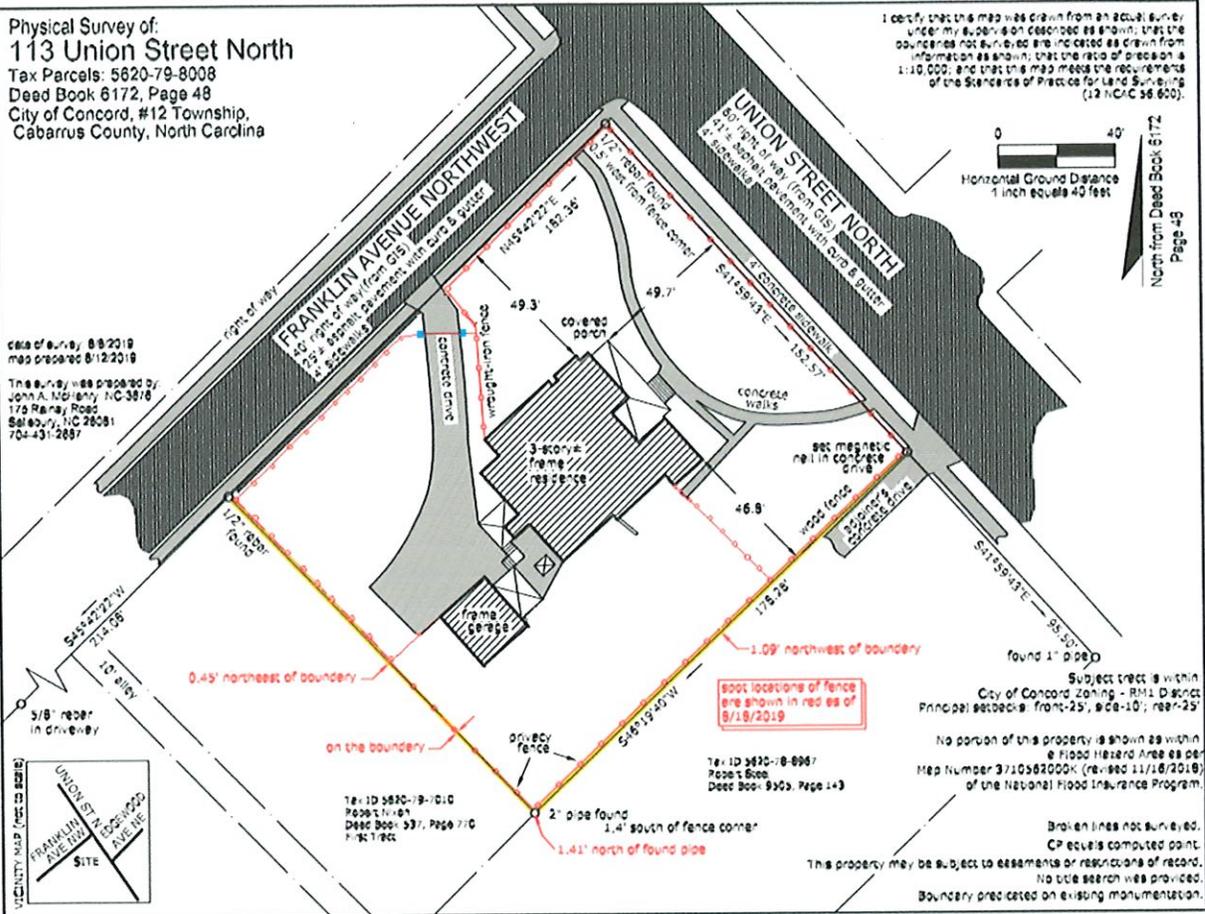
Physical Survey of:
113 Union Street North
 Tax Parcels: 5620-79-8008
 Deed Book 6172, Page 48
 City of Concord, #12 Township,
 Cabarrus County, North Carolina

I certify that this map was drawn from an actual survey under my supervision as described as shown; that the boundaries not surveyed are indicated as drawn from information as shown; that the ratio of precision is 1:10,000; and that this map meets the requirements of the Standards of Practice for Land Surveyors (12 NCAC 36.600).

0 40'
 Horizontal Ground Distance
 1 inch equals 40 feet

North from Deed Book 6172
 Page 48

date of survey: 8/8/2019
 map prepared: 8/12/2019
 This survey was prepared by:
 John A. Mohrley, NC 3678
 179 Ramay Road
 Salisbury, NC 28081
 704-431-2887



0.45' northeast of boundary

on the boundary

spot locations of fence are shown in red as of 8/18/2019

Tax ID 5620-79-8008
 Parcel 5620-79-8008
 Deed Book: 9303, Page 143

Tax ID 5620-79-1010
 Parcel 5620-79-1010
 Deed Book: 937, Page 710
 1-16-18cc

2" pipe found 1.4' south of fence corner
 1.41' north of found pipe

Subject tract is within City of Concord Zoning - RM1 District. Principal setbacks: front-25', side-10', rear-25'

No portion of this property is shown as within a Flood Hazard Area as per Map Number 3710562000K (revised 11/16/2018) of the National Flood Insurance Program.

Broken lines not surveyed.
 CP equals computed point.
 This property may be subject to easements or restrictions of record.
 No title search was provided.
 Boundary predicated on existing monumentation.





SCANNED AND RETURNED

FILED
 CABARRUS COUNTY NC
 WAYNE NIXON
REGISTER OF DEEDS
 FILED Apr 27, 2021
 AT 02:38 pm
 BOOK 15126
 START PAGE 0123
 END PAGE 0129
 INSTRUMENT # 18388
 EXCISE TAX \$0.00
 MNS

Mail to: City of Concord, Planning Dept., PO Box 308, Concord, NC 28026 PIN#5620-79-8008

NORTH CAROLINA ORDER OF THE CITY OF CONCORD
CABARRUS COUNTY HISTORIC PRESERVATION COMMISSION CASE # H-4-21

This matter came before the Historic Preservation Commission (hereinafter the "Commission") on April 14, 2021. The Commission, heard sworn testimony from the following witnesses: Katherine Godwin, Stephen Rohrer, Bill Leake, Anna Marshal, Bob Nixon, Doil Bussey, and Glenda Steel and considered the following exhibits: Exhibit A: National Register of Historic Places Inventory, Exhibit B: Application for Certificate of Appropriateness, Exhibit C: Subject Property Map, Exhibit D: Scope of Work, Exhibit E: Site Plans, Exhibit F: Tree Risk Assessment Form and Images, Exhibit G: Email Correspondence, and Exhibit H: Letter and Photographs from Glenda Steel. Based upon competent, material, and substantial evidence, the Commission makes these:

FINDINGS OF FACT:

1. The subject property is located at 113 Union Street N, Concord, NC. The owners are Stephen and Dana Rohrer who acquired the property by deed recorded in Cabarrus County Register of Deeds Book 13690, Page 48, as recorded on August 29, 2019.
2. The subject property is located in the RM-1 (Residential Medium Density) zoning district and is in the North Union Street Historic District.
3. The subject property is designated as a "Pivotal" structure in the Concord Historic Districts Handbook (June 2001 ed.), (the "Handbook") Chapter 3 (Exhibit A).
4. The Handbook is an ordinance of the City of Concord duly adopted by the City Council and incorporated into the Code of Ordinances by reference.
5. On March 3, 2021, Stephen Rohrer submitted an application (Exhibit B) for a Certificate of Appropriateness under Concord Development Ordinance (CDO) §9.8 to make modifications to the property including 1) removing a Crepe Myrtle tree, 2) installing an inground pool in the rear yard with pump and concrete surround, 3) moving a brick patio,

7/26

EXHIBIT E

- and 4) replacing, redesigning, and extending a wooden privacy fence with three gates (Exhibit B, D, E, and G).
6. The owners are proposing to remove a Crepe Myrtle tree in order to install a pool. The stump will be removed and the tree replaced with Nellie Stevens Hollies and Camellia trees (Exhibits B and D).
 7. The Tree Hazard Evaluation form indicated a hazard rating of 3 and the City Arborist indicated that the tree has no structural defects but the proposed pool installation will impact the root system of the tree (Exhibit F).
 8. The inground pool would be located in the rear yard in the Southeast corner of the property, measure 20' by 30' and be in a Full L Shape. The pool's depth would vary between 3' and 6' and would consist of fiberglass with a 2'6" concrete surround (Exhibits D and E).
 9. The inground pool would comply with all of the standards set for in the Concord Development Ordinance Section 8.4.4 Swimming Pools (Exhibit D).
 10. The applicants are proposing to relocate the brick patio (repurposing the bricks) from beside the garage to connect the new pool to the concrete patio in front of the garage (Exhibits D and E).
 11. The applicants are proposing to replace, redesign and extend a privacy fence to include:
 - A) Replacing an 8' tall wooden privacy fence measuring approximately 101'3" along the southern boundary of the property with an 8' trimmed wood fence in a boxed style (Exhibits D and G).
 - B) Extending this portion of the fence approximately 49'5" towards Franklin Avenue (Exhibits D and G).
 - C) Replacing a 6' tall wooden privacy fence measuring approximately 110'9" along the eastern boundary of the property with an 8' trimmed wood fence in a boxed style (Exhibits D and G).
 - D) Replacing and moving a wooden picket fence on the eastern side of the house (approximately 46'2" in length and 2.5' in height) with a 4' tall trimmed wood fence in a boxed style (Exhibits D and G). A single side gate would be installed over the sidewalk, measure approximately 3'3" wide and 4' tall, and be of similar design as the fence (Exhibits D and G).
 - E) Replacing a wooden picket fence (approximately 32' in length and 2.5' in height) on the eastern side of the driveway with a 4' tall trimmed wood fence in a boxed style (Exhibits D and G). A double side gate would be installed near the driveway gate, measure approximately 8' wide and 4' tall, and be of similar design as the fence (Exhibits D and G).
 - F) Extending the trimmed wood fence in a boxed style along Franklin Avenue (approximately 92'9" and 4' tall) (Exhibits D and G).
 12. The new fencing and side gates would be stained using Minwax Red Oak 215 Wood Stain to match the existing stained wood trim on the front porch (Exhibit D).

13. A new electric and motorized driveway gate, similar in design to the front yard iron fences and gates (keeping in design with the Queen Anne design of the house) would be installed over the driveway and setback approximately 25' from the street (Exhibit G). The gate would be black powder-coated galvanized steel, measure 6' tall and 10'2" wide and be mounted to 2 brick columns (measuring 2' by 2' and 6' tall) on either side with a concrete cap (Exhibits D and G).
14. The privacy fence will be stained on the applicant's side and painted white on the side facing the adjoining properties located at 19 Franklin Street and 103 Union Street N.

Based upon these Findings of Fact, the Commission makes these:

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to N.C. Gen. Stat. § 160A-400.7, et seq. and the Concord Development Ordinance.
2. Pursuant to the Handbook, **Approval Requirement Needs Table**
 - *Fencing and Gates (See Masonry Walls): All types require Commission Hearing and Approval.*
 - *Miscellaneous: Any type of alteration of exterior features of a building, site, or environment which is not specifically listed require Commission Hearing and Approval.*
 - *Patios, Walks, and Driveways: Repair or replacement of patios, walks, and driveways with similar materials and design does not require approval.*
 - *Trees: Removal of healthy trees or pruning of limbs over six inches in diameter in any location on the property require Commission Hearing and Approval.*
3. Pursuant to the Handbook, **Chapter 5- Section 8: Landscaping and Trees**
 - *Removal of healthy trees over the size of 6 inches in diameter (measured 4 feet above ground) or pruning of healthy tree limbs over 6 inches in diameter requires Historic Preservation Commission review and approval.*
 - *All trees that are removed should be replaced with a tree of similar species in an appropriate location unless no suitable location exists on the subject site. Trees removed within street view must also have the stumps removed below ground level.*
 - *Trees which are removed shall be replaced by a species which, upon maturity, is similar in scale to the removed specimen. For example, canopy trees shall be replaced with canopy trees, and understory trees with understory trees.*
4. Pursuant to the Handbook, **Chapter 5- Section 9: Fences and Walls**
 - *All wooden fences should be "stick-built" on site.*

- *Wooden fences visible from the street and/or wooden fences in front yards and side yards of corner lots are required to be painted or stained white or a color matching the body or trim of the structure, including shutters, foundation color, etc.*
- *Painting or staining is recommended, but not required, for rear yard fences unless they are visible from the street.*
- *If a fence is designed as a single-sided fence, one with detailing on only one side, the finished detail should be on the outside face of the fence (facing neighboring property).*
- *Additionally, wood picket fences should have pickets spaced at a minimum of 1 inch or half the width of the picket. (See notes regarding "Privacy Fences" for allowable exceptions to this rule.)*
- *Additionally, it is not appropriate to introduce walls or fences in front yards and side yards at corner lots that are more than 65% solid.*
- *Where fences are desired in front yards and side yards at corner lots, the design should be primarily decorative in nature. Front yard fences should not exceed four feet in height.*
- *Rear yard fences may be higher than four feet. The portions of rear yard fences that face the street should be landscaped with shrubs and trees of a planting size that will fully hide the fence from the street within two years. Size, type, and growth habits of plant materials to screen rear yard fences that face the street should be submitted at time of application.*
- *All proposed fences and walls should not negatively affect existing trees and mature landscaping.*
- *Privacy fences are defined as fences with no spacing between pickets or fences of the shadowbox design. Privacy fences may be allowed at the discretion of the Commission in the following circumstances:*
 1. *Privacy fences are most appropriate in rear yards.*
 2. *Privacy fences may be allowed where the applicant's rear yard is directly adjacent to property that is either not in a historic district, or is within a historic district but is non-contributing or intrusive in that district. The applicant shall show to the satisfaction of the Commission:*
 - (a) *that the adjacent property is unsightly in comparison to other properties surrounding the applicant's property,*
 - (b) *that the adjacent property or nearby property raises reasonable security concerns for the applicant, or*
 - (c) *that the adjacent property could reasonably be determined to negatively impact the property value of the applicant's property.*

Privacy fences shall be allowed only on the applicant's property line directly adjoining the aforesaid adjacent property unless the Commission feels that such a partial privacy fence

would not be visually appropriate or would not accomplish the purpose(s) of the privacy fence set forth above.

3. *Privacy fences encompassing an area of no more than 250 square feet may be allowed at the discretion of the Commission when adjacent to the applicant's house, garage, or other outbuilding in order to screen from view trash cans, mechanical equipment, cars or other unsightly items, provided such fence does not unreasonably impact any neighbor by blocking windows or the like.*

Privacy fences allowed by the Commission should be landscaped where practical with appropriate shrubbery to soften the appearance of the fence.

Design Guidelines

1. *Do not use high walls or fences to screen front yards.*
 2. *Use materials like stone, brick, wood and iron.*
 3. *Chain link or plastic materials are prohibited. Adding slats to existing chain link fences for screening purposes is prohibited.*
 4. *Materials and style should coordinate with building and neighboring buildings as well as other walls and fences in the area.*
5. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:
- lot coverage, defined as the percentage of lot area covered by primary structures;
 - setback, defined as the distance from the lot lines to the building(s);
 - building height;
 - exterior building materials;
 - proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
 - surface textures;
 - structural condition and soundness;
 - walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
 - color (new construction only and not for existing residences); and
 - effect of trees and other landscape elements.
6. The application is congruous with the historic aspects of the District.
7. Based on the standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, the Commission concludes that:

- A. The removal of the Crepe Myrtle (including the stump) to be replaced with Nellie Stevens Hollies and Camellia trees is appropriate because the tree will be replaced in accordance with the Historic Handbook.
- B. The installation of an inground pool in the rear yard is appropriate because the design and location is in compliance with the Historic Handbook.
- C. The relocation of the brick patio is appropriate because the proposed new location and the reuse of the brick is in compliance with the Historic Handbook.
- D. The replacement and extension of the 8' privacy fence along the southern boundary of the property with an 8' trimmed wood boxed style privacy fence is appropriate because the fence is in the rear yard and replacing an existing privacy fence.
- E. The replacement of the 6' privacy fence along the eastern boundary of the property with an 8' trimmed wood boxed style privacy fence is appropriate because the fence is in the rear yard and replacing an existing privacy fence.
- F. The replacement and relocation of the 2.5' wooden picket fence with a 4' privacy fence with side gate on the eastern side of the house is appropriate because of its height, design, and location in the front yard.
- G. The replacement of the 2.5' wooden picket fence with a 4' privacy fence and double side gate on the eastern side of the driveway is appropriate because of its height, design, and location in the front yard.
- H. The installation of a 4' privacy fence along Franklin Avenue to the concrete driveway is appropriate because of its height, design, and location on a corner lot.
- I. Staining the fencing and side gates using Minwax Red Oak 215 to match the porch trim is appropriate because the color is in compliance with the Historic Handbook.
- J. The installation of an electric driveway gate and connecting columns is appropriate because it is in compliance with the Historic Handbook with regard to material and design.
- K. The privacy fence will be stained on the applicant's side and painted white on the side facing the adjoining properties located at 19 Franklin Street and 103 Union Street N.

Based upon these Findings of Fact, Conclusions of Law, standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, and limited to the extent consistent with the application, exhibits, and testimony provided to the Commission, the Commission issues this

ORDER:

THE COMMISSION APPROVES A CERTIFICATE OF APPROPRIATENESS TO: REMOVE A CREPE MYRTLE TO BE REPLACED WITH NELLIE STEVENS HOLLIES AND CAMELLIA TREES, INSTALL AN INGROUND FIBERGLASS POOL AND CONCRETE SURROUND, RELOCATE A BRICK PATIO, AND REPLACE, REDESIGN AND EXTEND A PRIVACY FENCE IN ACCORDANCE WITH THIS ORDER.

SO ORDERED this the 14th day of April, 2021 by the Historic Preservation Commission.

CITY OF CONCORD
HISTORIC PRESERVATION COMMISSION

BY: Lee Gray
(Chairman – Dr. Lee Gray)

ATTEST:
Angela Baldwin
Secretary

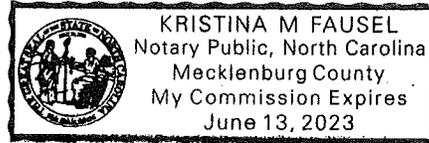
NORTH CAROLINA
CABARRUS COUNTY

I, Kristina M Fausel, a notary public for ^{Mecklenburg} ~~sard~~ county and state, do hereby certify that Angela Baldwin personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this 15th day of April, 2021.

Kristina M Fausel
Notary Public

My commission expires: 6-13-2023



SCANNED AND RETURNED

FILED
 CABARRUS COUNTY NC
 WAYNE NIXON
REGISTER OF DEEDS
 FILED Feb 02, 2023
 AT 02:17 pm
 BOOK 16361
 START PAGE 0225
 END PAGE 0229
 INSTRUMENT # 02017
 EXCISE TAX \$0.00
 TMF

Mail to: City of Concord, Planning Dept., PO Box 308, Concord, NC 28026 PIN 5620-79-8008

NORTH CAROLINA ORDER OF THE CITY OF CONCORD
CABARRUS COUNTY HISTORIC PRESERVATION COMMISSION CASE # H-25-22

This matter came before the Historic Preservation Commission (hereinafter the "Commission") on December 14, 2022. The Commission heard sworn testimony from the following witnesses: Brad J. Lagano, Stephen D. and wife, Dana M. Rohrer, Albert Benshoff, Connie Bussey, Jennifer Spencer, Bob Nixon, Glenda Steel, Pam Taylor, Kristen Adamczuk, Elly Steel, Bob Steel, Tristan Adamczuk, and considered the following exhibits: Exhibit A: National Register of Historic Places Inventory, Exhibit B: "Ex Post Facto" Certificate of Appropriateness Application, Exhibit C: Subject Property Map, Exhibit D: Applicants' Project Summary, Exhibit E: Recorded Order Dated April 27, 2021, Exhibit F: Packet from Albert Benshoff presented at the hearing containing case law and Certificate of Recording Officer Kim J Deason dated October 24, 2022, Exhibit G: Packet from Rob Steel presented at the hearing containing a copy of his presentation to the Commission, Exhibit H: Packet presented at the hearing containing the Steel's testimony, Civil Summons dated October 17, 2022, email from Starla Rogers, email from Derrick Caudell. Based upon competent, material, and substantial evidence, the Commission makes these:

FINDINGS OF FACT:

1. The subject property is located at 113 Union Street N, Concord, North Carolina. The owners are Stephen D. and wife, Dana M. Rohrer. The property was acquired by deed recorded in Cabarrus County Register of Deeds Book 13690, pages 48 through 52, on August 29, 2019.
2. The subject property is located in the RM-1 (Residential Medium Density) zoning district and is in the North Union Historic District.
3. The subject property is designated as a "Pivotal" structure in the Concord Historic Districts Handbook (June 2001 ed.), (the "Handbook") Chapter 3 (Exhibit A).

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Exhibit F

4. The Handbook is an ordinance of the City of Concord duly adopted by the City Council and incorporated into the Code of Ordinances by reference.
5. On October 25, 2022, Stephen D. and wife, Dana M. Rohrer, applied for an “ex post facto” Certificate of Appropriateness under Concord Development Ordinance (CDO) §9.8 requesting after-the-fact approval to stain the side of the rear yard fence facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N and to increase the height of the rear yard fence running adjacent to Franklin Ave NW from 4.0’ to 6.0’ (Exhibits B, D).
6. On April 14, 2021, the Historic Preservation Commission approved the rear yard fence to be stained on the Applicants’ side and painted white on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N as well as the height of the fence to be 4.0’ along Franklin Avenue NW as shown in the Recorded Order filed April 27, 2021, with the Cabarrus County Register of Deeds (Exhibit E).
7. In February 2022, rear yard fence construction commenced including along Franklin Avenue NW where the section of fence was constructed to a height of 6.0’.
8. In September 2022, rear yard fence staining commenced including on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N.
9. Both sides of the rear yard fence were stained to match the trim of the home, particularly the original historic columns of the front porch and balcony, along with the double front doors and storm doors. Minmax Red Oak 215 wood stain was used per the Recorded Order filed April 27, 2021.
10. Mr. Rohrer testified that fence post caps will be added and landscaping will be added in Spring 2023.
11. Mr. Benshoff presented case law regarding *res judicata* (Exhibit F).
12. Mr. Benshoff submitted into evidence the zoning violation issued by City of Concord Code Enforcement dated October 7, 2022 for case CNCE-2022-01876 (Exhibit F).
13. Mr. and Mrs. Steel submitted photographs of the subject property and surrounding fences, timeline of events, and public records responses from the City of Concord (Exhibit G and H).

Based upon these Findings of Fact, the Commission makes these:

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to N.C. Gen. Stat. § 160A-400.7, et seq. and the Concord Development Ordinance.
2. Pursuant to the Handbook, **Approval Requirement Needs Table: Fencing and Gates**
 - *All types require Commission Hearing and Approval.*
3. Pursuant to the Handbook, **Chapter 5 - Section 9: Fences and Walls**
 - *All wooden fences should be “stick-built” on site.*
 - *Wooden fences visible from the street and/or wooden fences in front yards and side yards of corner lots are required to be painted or stained white or a color matching the body or trim of the structure, including shutters, foundation color, etc.*
 - *Painting or staining is recommended, but not required, for rear yard fences unless they are visible from the street.*

- *Where fences are desired in front yards and side yards at corner lots, the design should be primarily decorative in nature. Front yard fences should not exceed four feet in height.*
 - *Rear yard fences may be higher than four feet. The portions of rear yard fences that face the street should be landscaped with shrubs and trees of a planting size that will fully hide the fence from the street within two years. Size, type, and growth habits of plant materials to screen rear yard fences that face the street should be submitted at time of application.*
 - *All proposed fences and walls should not negatively affect existing trees and mature landscaping.*
 - *Privacy fences are defined as fences with no spacing between pickets or fences of the shadowbox design. Privacy fences may be allowed at the discretion of the Commission in the following circumstances:*
 - A. *Privacy fences are most appropriate in rear yards.*
 - B. *Privacy fences may be allowed where the applicant's rear yard is directly adjacent to property that is either not in a historic district, or is within a historic district but is non-contributing or intrusive in that district. The applicant shall show to the satisfaction of the Commission:*
 - i. *that the adjacent property is unsightly in comparison to other properties surrounding the applicant's property,*
 - ii. *that the adjacent property or nearby property raises reasonable security concerns for the applicant, or*
 - iii. *that the adjacent property could reasonably be determined to negatively impact the property value of the applicant's property.*
 - C. *Privacy fences encompassing an area of no more than 250 square feet may be allowed at the discretion of the Commission when adjacent to the applicant's house, garage, or other outbuilding in order to screen from view trash cans, mechanical equipment, cars or other unsightly items, provided such fence does not unreasonably impact any neighbor by blocking windows or the like.*
 - D. *Privacy fences allowed by the Commission should be landscaped where practical with appropriate shrubbery to soften the appearance of the fence.*
4. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:
- lot coverage, defined as the percentage of lot area covered by primary structures;
 - setback, defined as the distance from the lot lines to the building(s);
 - building height;
 - exterior building materials;
 - proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
 - surface textures;
 - structural condition and soundness;
 - walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
 - color (new construction only and not for existing residences); and
 - effect of trees and other landscape elements.

5. The application is congruous with the historic aspects of the District.
6. Based on the standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, the Commission concludes that:
 - There was sufficient evidence presented to reopen the prior approval and approve the “ex post facto” request for after-the-fact approval to increase the height of the fence running adjacent to Franklin Ave NW from 4.0’ to 6.0’ is appropriate as the wooden fence is visible from the street and is located in the rear yard and therefore may be higher than 4.0’, and is in compliance with the Historic Handbook.

There was insufficient evidence presented to reopen the prior approval as to the fence color and the Commission did not vote to amend the fence color that was initially approved in Case H-04-21 on April 14, 2021.

Based upon these Findings of Fact, Conclusions of Law, standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, and limited to the extent consistent with the application, exhibits, and testimony provided to the Commission, the Commission issues this

ORDER:

THE COMMISSION APPROVES AN EX-POST FACTO CERTIFICATE OF APPROPRIATENESS TO INCREASE THE HEIGHT OF THE REAR YARD FENCE RUNNING ADJACENT TO FRANKLIN AVE NW FROM 4.0’ TO 6.0’ AT 19 FRANKLIN AVENUE NW AND 103 UNION STREET N.

THE REQUEST TO AMEND THE FENCE COLOR THAT WAS INITIALLY APPROVED AS PART OF CASE H-04-21 ON APRIL 14, 2021, WAS NOT APPROVED.

SO ORDERED this the 14th day of December, 2022 by the Historic Preservation Commission.

CITY OF CONCORD
HISTORIC PRESERVATION COMMISSION

BY: William Isenhour
(Chairman – William Isenhour)

ATTEST:

Angela Baldwin
Secretary

NORTH CAROLINA
CABARRUS COUNTY

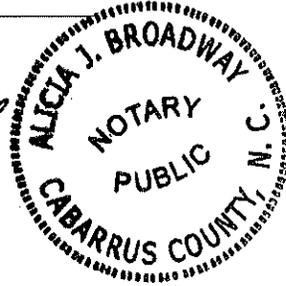
I, Alicia J. Broadway, a notary public for said county and state, do hereby certify that Angela Baldwin personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this 15th day of December, 2022.

Alicia J. Broadway

Notary Public

My commission expires: May 23, 2026



**HISTORIC PRESERVATION COMMISSION MEETING
MINUTES
Wednesday, December 14th, 2022**

Members

Present: William Isenhour
James Firth
Mary Margaret Underwood
Meredith Barbee

**Alternate
Members:**

Members Carolyn Coggins
Absent: Ismail Diken
Shelby Dry
Anna Marshall
Aimee Cain

Attorney to

Commission: Keith J. Merritt – Hamilton Stephens Steel + Martin, PLLC

Staff

Present: Kevin Ashley, Deputy Planning Director
Scott Sherrill, Planning and Development Manager
Brad Lagano, Senior Planner
Angela Baldwin, Sr. Executive Assistant
George Daniels, Senior Planner

CASES HEARD:

**H-15-22 – STC COLEMAN MILL LLC – 625 MAIN ST. SW
H-25-22 – STEPHEN AND DANA ROHRER – 19 FRANKLIN ST**

CALL TO ORDER:

Chair Isenhour called the December 14th, 2022 Historic Preservation Commission meeting to order at 6:00 p.m.

CHANGES TO THE AGENDA:

Commissioner Barbee made a motion to hear Case H-25-22 first under new business. Commissioner Firth seconded the motion. The vote carried unanimously. **–The Vote: All Ayes**

INTRODUCTIONS:

Meredith Barbee, Mary Margaret Underwood, James Firth, and William Isenhour,

APPROVAL OF MINUTES:

Commissioner Underwood made a motion to approve the November 09, 2022 minutes. Commissioner Barbee seconded the motion. The vote carried unanimously. –**The Vote: All Ayes (APPROVED)**

H-25-22 (QUASI-JUDICIAL HEARING) STEPHEN AND DANA ROHRER HAVE SUBMITTED A CERTIFICATE OF APPROPRIATENESS APPLICATION FOR “EX POST FACTO” (AFTER THE FACT) APPROVAL TO STAIN THE SIDE OF THE REAR YARD FENCE FACING THE ADJOINING PROPERTIES AT 19 FRANKLIN ST AND 103 UNION ST N AND TO INCREASE THE HEIGHT OF THE REAR YARD FENCE RUNNING ADJACENT TO FRANKLIN ST FROM 4.0’ TO 6.0’ LOCATED AT 113 UNION ST N. PIN 5620-79-8008.

Brad Lagano introduce the case to the Commission.

The subject property at 113 Union Street N is designated as a “Pivotal” structure in the North Union Street Historic District (ca. 1890). “Highly significant, exceptionally well-preserved, two-story frame Queen Anne style residence, the best example of the style in Concord. House is enhanced by its prominent setting on a large, corner lot with a fine late nineteenth century ornamental iron fence. A particularly notable feature of the house is the variety of sawn and molded woodwork applied to its surface. Each of the house's several gables is covered with scalloped shingles and framed with decorative sawn and molded boards; scalloped shingles also cover the flared base of the house's second story. Above the second floor is a cut-out frieze with a repeating tree shape; a frieze with a sheaf-of-wheat pattern run along parts of the house's sides. The facade has a gable-front by projecting from the main roofline, and a central balcony with richly ornamented woodwork sheltered by a projecting hip roof. The southern (left) portion of the well-detailed wrap-around porch was enclosed with latticed window sash typical of the bungalow style during the 1920s” (Exhibit A). Applicants’ requested modification: “ex post facto” (after-the-fact) approval to stain the side of the rear yard fence facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N and to increase the height of the rear yard fence running adjacent to Franklin Avenue NW from 4.0’ to 6.0’.

DISCUSSION

On October 25, 2022, Stephan and Dana Rohrer applied for an “ex post facto” Certificate of Appropriateness requesting after-the-fact approval to stain the side of the rear yard fence facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N and to increase the height of the rear yard fence running adjacent to Franklin Ave from 4.0’ to 6.0’. On April 14, 2021, the Historic Preservation Commission approved the rear yard fence to be stained on the Applicants’ side and painted white on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N as well as the height of the fence to be 4.0’ along Franklin Avenue NW as shown in the Recorded Order filed April 27, 2021, with the Cabarrus County Register of Deeds. In February 2022, rear yard fence construction commenced including along Franklin Avenue NW. In September 2022, rear year fence staining commenced including on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N.

Concord Development Ordinance – Section 7.7.4 (A) states “front yard fences, including fences on corner lots, shall not exceed 4.0’ in height. Fences may not be placed within the sight triangle.” However, this provision of the zoning ordinance has not been applied consistently by the Historic Preservation Commission on corner lots. The front yard fence has been traditionally defined as the portion of the fence located between the midpoint of the structure and the street the house faces capping the fence height at 4.0’ whereas the rear yard fence has been traditionally defined as the portion of the fence located between the midpoint of the structure and the rear property line allowing for taller fence heights such as 6.0’ or 8.0’. The intent of the latter to allow for taller heights for rear yard privacy purposes even on corner lots.

Stephen Rohrer 113 Union Street Concord, NC appeared before the Commission. Mr. Rohrer explained that the reason for getting the fence was for security concerns for their children and pets and for privacy as they were having strangers trespassing through the property. He further stated that the fence extends to the beauty of the home and it blends with the trim on the house. Mr. Rohrer stated that he does have pictures of fences on corner lots in the Historic District but he will not show them because of privacy reasons. There are many of them and theirs does follow the rules. They made sure that their fence was not encroaching on anyone else's property lines. Mr. Rohrer stated that they do not have all of the fence post caps on the fence because their 4x6 posts have not come in yet. The plants are still coming and will be planted in the spring. The height of the fence was completely by accident and they did not know that it was 6ft. In October 2022, the HPC approved the tearing down of a 4ft fence to put up a 6ft fence in the rear of the home along the side street. The stain was chosen because it matched the trim and body of their home and it was recommended to not put paint on the fence because it would crack and peel. It will require a high level of maintenance. Mr. Rohrer showed the Commission an example of a fence recently approved by the HPC and it already shows dirt and stains.

Attorney Benshoff asked to cross-examine Mr. Rohrer.

Attorney Benshoff 221 Ravine Circle SE Concord, NC stated that he is an attorney with the Brough Law Firm in Chapel Hill, NC and he is representing Rob and Glenda Steel in this matter.

Attorney Benshoff asked Mr. Rohrer if he applied for a Certificate of Appropriateness. Mr. Rohrer explained that he did not prepare for cross-examination.

Attorney Merritt explained that the Historic Preservation Commission meeting is a quasi-judicial hearing and it functions as if the parties are in court, and the Commission members are technically serving as a judge. When you get up and you are speaking, you're sworn in beforehand and you are testifying basically as if you are in court. A person or party who is opposing your application has the right to cross-examine a witness and ask questions of that witness after they have testified. So, in this case, Mr. Benshoff, on behalf of his client, has the opportunity to cross-examine a witness who has testified in favor of the application. It is not an unusual circumstance in a quasi-judicial type hearing, but doesn't happen at every quasi-judicial hearing. In order to protect the due process rights of folks, all parties have the opportunity to cross-examine a witness.

Attorney Benshoff asked Mr. Rohrer again, did he apply for a Certificate of Appropriateness from this body for the fence? And stated that he has the order of the Commission here. Attorney Benshoff asked if he was familiar with this order from the Historic Preservation Commission.

Mr. Rohrer stated that he did not receive the Order and Mr. Lagano was the first one from the City that showed it to him. Mr. Rohrer reiterated that he has never seen the Written Order or know about it in any way, shape, or form, nor did he ever receive the Certificate of Appropriateness from his approved application. And after Mr. Lagano reached out to him Mr. Rohrer said he told him that he did not know what that is.

Attorney Benshoff asked Mr. Rohrer has he read the Order within the last sixty days? Mr. Rohrer stated yes and reconfirmed that he did not ever receive an Order or Certificate of Appropriateness. Also, he never received an Order until Mr. Lagano gave it to him at the end of October or early November.

Attorney Benschhoff asked Mr. Rohrer to take a look at the Order and asked him if it says, "The privacy fence will be stained on the applicant's side and painted white on the side facing the adjoining properties, located at 19 Franklin Street and 103 North Union.

Mr. Rohrer stated yes, that is what it says.

Attorney Benschhoff stated this is the Order of the Commission, signed by the Chair, attested to by the Secretary, and recorded in the title to this property in the deed at the Register of Deeds of Cabarrus County.

Attorney Benschhoff asked Mr. Rohrer since April 21, 2021, when the Order was heard and granted by the Commission, what exterior changes have you made to your property?

Mr. Rohrer explained that he does not know the exact date but there's a fence on their property. Also, they have continued the original renovation that the HPC approved, which included things like siding and trim.

Attorney Benschhoff asked Mr. Rohrer has he purchased any additional real property and added it to the lot. Mr. Rohrer stated no. Attorney Benschhoff asked Mr. Rohrer has he sold any portion of his lot or constructed additional buildings. Mr. Rohrer stated no. Attorney Benschhoff asked Mr. Rohrer has he increased the height of the existing buildings on his property. Mr. Rohrer replied that he built a second-floor addition on the back half of their house that would have removed some attics and increased the height. Attorney Merritt asked how does this relate? Attorney Benschhoff stated that he trying to relate if the Rohrers' made material changes to the property.

Attorney Benschhoff asked Mr. Rohrer in regards to his testimony of fences on corner lots in the district if he knows when they were erected or if they received a Certificate of Appropriateness. Mr. Rohrer stated that he does not.

Attorney Benschhoff stated that he objects to the picture example presented earlier by Mr. Rohrer from being in the record as there is no foundation for including this picture.

Mr. Rohrer stated that it's two parcels to the south and the fence belongs to a board member that's not here tonight. And stated that he would hold off on calling that person out unless the Commission would like him to. Mr. Rohrer stated that it is Anna Marshall's fence that she got approved four months ago and had erected and painted white, and it's already showing spots.

Dana Rohrer 113 Union Street Concord, NC appeared before the Commission. Ms. Rohrer explained that they are in the process of renovating their home. For the past two years, her struggle has not been how they have spent their life savings on renovating their home, but dealing with their neighbors, who are going to stand up and bash and criticize them. They should not be given a platform to discourage people like her who are building a future for their families and improving the district. They put up a fence to try to stop them from harassing them, and they have forced them to call the police twice. they have installed no trespassing signs, and have gone to court three times.

Mr. Benschhoff objected to Ms. Rohrer's testimony.

Ms. Rohrer continued and stated that she has photographic evidence. Ms. Rohrer stated that the neighbor is a former HPC member and their friend, the previous City of Concord attorney, trespassed on their property, and opened their front door, which is illegal and a safety concern. The neighbors continue to harass them. The neighbors could solve the problem by building their own fence and abiding by the handbook. Ms. Rohrer stated that would show the Commission a video of the neighbors' attorney trespassing and opening their front door and Ms. Rohrer asked to show the video to the Commission.

Chair Isenhour stated that it would be improper to show the video as it does relevant and does not pertain to the appropriateness of the fence.

Kristin Adamczuk 97 Union Street N spoke in favor of the request. Ms. Adamczuk stated that she thinks her case was H-10-20 back in 2020, and she was never allowed to address anyone other than the board during her case. She stated that the hard work that the Rohrsers have put into their property has been in no violation of the historic handbook, and the people that continue to waste the Boards' time and the City's resources should be embarrassed. It doesn't portray the community of Concord she grew up in, and it certainly doesn't portray what she is proud of. Ms. Adamczuk stated that she doesn't find it necessary to discuss the color of the fence. It's in the handbook. The Commission is supposed to be here to approve what's in the handbook. Ms. Adamczuk stated that she would like to address the security and safety concerns. Ms. Adamczuk stated that she lives two doors down and can attest to unwanted individuals coming onto their property including recently released inmates and homeless people. Ms. Adamczuk stated that Officer Parker here tonight can attest and corroborate her testimony. If their fence wasn't the height that it is right now, the people walking down Franklin can look right into their backyard and perhaps people in opposition don't have children or don't understand that safety concern. There's no reason that their COA tonight shouldn't just be approved.

OPPOSITION:

Mr. Albert Benshoff, of Borough Law Firm 1526 East Franklin Street Chapel Hill, NC 27516, passed out some documents to the Commission. Mr. Benshoff stated his firm's address is 1526 East Franklin Street, Chapel Hill, NC 27516. Mr. Benshoff stated that he has three witnesses. First, he stated that he could like to make a presentation about the case law that governs this hearing tonight. The Rohrsers got a Certificate of Appropriateness on April 21, 2022, which contained conditions in the order about the fence and the height of the fence. The deadline to appeal is 30 days, which was approximately May 22, 2021. There's no appeal in the record. On October 7, 2022, the City issued a notice of violation which is included in the materials he presented. There is no evidence that the violation is not still valid, and the color of the fence and the height of the fence are in violation of the April 21 order. On October 25, the Rohrsers made an ex post facto application.

He handed up two cases which are the behind the explanation of the case Law.

The fact is that in North Carolina, once the quasi-judicial decision becomes effective, this board has no legal authority or jurisdiction to hear the matter a second time. This has been the law in North Carolina since 1928 in the case of Little versus the City of Raleigh Board of Adjustment. On page two of the Little case, the holding of the court is highlighted. In that case, the NC Supreme Court found that the applicant could not bring the same matter before the Board of Adjustment of Raleigh once it had been decided. The holding in the Little case was affirmed by the Court of Appeals in the cited Mount Ulla case, which is also attached. Furthermore, the Mount Ulla case introduced that a change in the law that said that the case could be heard again if there is a material change, or a change in circumstances which led to the prior decision. In this case, you have the same exact claim.

Attorney Benshoff stated that they heard no testimony that there was a material change in the condition of the property that would make this a new case. Lawyers call this res judicata. Decisions already made by a court cannot be heard again. The Court of Appeals found that a second application was barred because it was so similar to the previous quasi-judicial decision. The Court adopted the definition that the change in circumstances must be such that the application for the same or substantially similar or special exception or variance no longer can be characterized as the same claim.

Attorney Benschhoff moved that the Rohrer application be dismissed because this Commission lacks subject matter jurisdiction and the applicants have not made a valid claim or application that can be granted. There is no competent material and substantial evidence in the record of a material change in the facts and circumstances to overcome his client's claim of res judicata that the matter is barred because it's essentially a rehearing of the same matter that was heard in 2021.

Mr. Rohrer asked Attorney Benschhoff to state to everyone the type of application he submitted.

Attorney Benschhoff stated that he has read Mr. Rohrer's application.

Mr. Rohrer stated that an ex post facto application should give him the right, as a homeowner in the district, to come back when there are changes, or unapproved changes by the Commission. He stated that he thinks that's why they have the ex post facto in the first place.

Attorney Benschhoff stated that those are not material changes under North Carolina law.

Mr. Rohrer stated that in reference to the process that one person who is not the applicant or a neighboring party has taken over 10 to 20 minutes of our time. This has been a very lengthy process and we need to hear the other people, and they need to have their two minutes.

COMMISSION DISCUSSION:

Chair Isenhour stated that the question for the commissioners is if they want to rule on dismissal now or if they want to hear the rest of the opponent's testimony and then discuss that after they close the public hearing.

Commissioner Barbee questioned ruling on dismissal at this point. To her, she understands the argument about the facts haven't materially changed. However, she would be interested to hear more testimony from the folks opposed as well as perhaps the applicant, about what caused them to bring an ex post facto application.

OPPOSITION:

Attorney Benschhoff pointed out that there's no evidence in the record of any kind that an ex post facto application is recognized by the Concord Development Ordinance.

Mr. Benschhoff presented a PowerPoint presentation to the Commission.

Robert Steel 103 Union Street N Concord, NC appeared in opposition to the request. Mr. Steel stated that he is the neighbor to the left facing the front of the Rohrer's home. Mr. Steel stated that the neighbors opposed the dark brown stain of the fence adjacent to their property. It's not visible from the street facing the front side of 113 Union Street but creates for them a glaring aesthetic concern with the adjacent white fence on the neighboring property that affect the property values. It's simply not appropriate in the Historic district. The homeowners violated their agreement with the adjacent property owners.

CROSS-EXAMINATION:

Mr. Rohrer asked Mr. Steel, of all the fences that are adjacent to his property, could he tell the Board what color, what different colors, unique colors there are of those fences that are all adjoining or adjacent to his property.

Mr. Steel replied that he has a white picket fence that was put in in 1980 and in the back part of his property he has a wooden fence stopping at Mr. Rohrer's area.

Mr. Rohrer asked Mr. Steel, if he knew how far from the property line the new fence was constructed, and Mr. Steel replied less than Steel 18in.

Mr. Rohrer said to Mr. Steel so you are saying that the fence is well within his property. Mr. Steel stated that he did not say that at all.

Attorney Benshoff stated that he would like to qualify Mr. Steel as an expert witness and asked him if he has any training, education, or experience in historic preservation.

Mr. Steel stated yes, he is a registered professional engineer. He was attracted to the historic district because of the buildings and the appropriateness that they like to maintain. He stated that he sat on this Commission for over six years and was chair of it for three years. In fact, he co-authored the handbook the Commission is using.

Chair Isenhour asked Attorney Benshoff what is Mr. Steel an expert in. Attorney Benshoff stated that he wanted to qualify Mr. Steel as an expert to be able to give an opinion that it was not appropriate.

Commissioner Barbee stated that he she does not think he needs to be qualified as an expert to testify to that as a neighbor can do that.

OPPOSITION:

Glenda Steel 103 Union Street N Concord, NC appeared in opposition to the request. Ms. Steel stated that on March 3rd, the original application and all work were supported and unopposed by neighbors, except for the standing on the adjacent neighbors' side, which isn't seen by 113 Union Street North. That was the original application. At the April 14 meeting, the minutes reflected that Mr. Rohrer met with the Nixons and the Steels, and the consensus was for the fence designed to stay the same, and the Nixon's and Steel's sides of the fence will be painted white and stained on the inside. Commissioners approved that COA with amendments including item K. The Certificate of Appropriateness was issued after the agreement made at the HPC meeting on April 14, stating that the approved rear yard fence is to be stained on the applicant's side and painted white on the side facing the adjoining properties.

February 2022 is when the work started on the fence with no notice to adjacent owners. The fence design as proposed and approved in the April 21, COA has not been completed as of December 14th, and it was not painted white as agreed upon. Ms. Steel stated that it was her understanding that the owners had the right to appeal within thirty (30) days. The Planning Department was contacted and Kristen Sullivan explained, as stated in the order, they have to stain the fence and paint it white on the sides facing their home and 19 Franklin Street.

On June 22 of this year, Ms. Steel contacted the Planning Department again and Starla Rogers explained to her, if the project is completed and is not installed or constructed as approved, the City can make contact to the owner either through Planning to notify the property owner of the requirements or through Code Enforcement via violation. Ms. Steel indicated that per Ms. Rogers, Planning had discussed the requirements with the applicant, and it was their understanding that the intent was to install the fence and

finish the fence as approved. Ms. Steel stated that as a direct result of that inquiry, Ms. Rohrer went to the police two days later to file a claim of harassment. On September 22, the fence was stained.

Ms. Steel stated that the current COA from April 21 which includes agreement with the owners of 113 Union Street North, and with adjacent property owners should be enforced and followed.

Cross Examination:

Mr. Rohrer asked Ms. Steel if the handbook requires notice to neighbors to start work on an approved project. Ms. Steel stated that she thinks it is standard courtesy if someone enters someone else's property, they should receive notice.

Mr. Rohrer asked Ms. Steel, how far is the fence from her property line.

Ms. Steel stated that she thinks it was setback approximately six inches, and that was intentional on their part. She stated that Planning informed her that the main issue relative to fence setbacks is that the fence is placed on the subject property.

OPPOSITION:

Dr. Ellie Steel 24 Franklin Avenue NW appeared in opposition to the request.

Dr. Steel stated that she is adjacent to the Rohrer's' property and she does not object to the increased fence height and understands that they value their privacy. Dr. Steel noted that on her parent's property, there are only two privacy fences, so when discussing a black fence, a white fence, or a green fence that are all four feet tall or less with spacing in between the pickets, that is a different aesthetic and not a privacy fence. Dr. Steel stated that the applicant's fence is a wall of dark brown staining. She stated that she thinks that's what Mr. Rohrer was trying to say, that there are multiple fences and there are, but she contends they are not privacy fences as they are not higher than four feet tall.

Dr. Steel explained that when she has made changes to her house, as required, she applies in advance to get a Certificate of Appropriateness, before the work is commenced and if any change or if there was anything that she was going to disagree with, she would need to appeal within 30 days. After that, an ex post facto application is not an appropriate application process, as that is not in the Handbook. The Rohrers are asking for approval after the fact, which the Handbook and North Carolina General Statute says has to be followed and is enforceable. So, when zoning violations or planning violations are communicated to the City of Concord, that is not an attack on owners.

Dr. Steel stated that Mr. Rohrer said that handbooks make suggestions, which is not true as the handbook is part of the Ordinance. And again, the only issue that they are asking to be rectified by this Commission and denied by this Commission is that the owners agreed to something with both of their adjacent property owners and those changes were ignored when the original COA was violated. Also, all of the post caps have been installed in other areas on their fence except for the ones in between these two properties.

Attorney Benshoff summed up the matter by stating that all have heard the saying, it's better to ask for forgiveness rather than permission. And that's the case you have here. People are asking the Commission to approve something that's in violation of the order issued by this board in April 2021, and there's a violation still in effect. Attorney Benshoff stated that he would urge the Commission to not approve the COA or to dismiss the COA.

Bob Nixon 65 Curtis Street Concord, NC spoke regarding the request. Mr. Nixon stated that he was in the process of putting his house on the market and their realtor asked him if he could find out what was going to happen with the fence as it had not been painted. Mr. Nixon stated that he asked Mr. Rohrer about his plans for the fence and Mr. Rohrer stated that they would be painting the fence, and putting the caps on in about four to six months.

CROSS EXAMINATION:

Mr. Rohrer asked Mr. Nixon if he has the messages between them and his realtor regarding the fence at tonight's hearing. Mr. Nixon stated that he did not.

Mr. Rohrer clarified the messages between him, his wife, and Ford Craven the realtor stated that they were having trouble trying to wrap up the first renovation of their house is why the fence was taking longer.

OPPOSITION:

Pam Taylor 92 Spring Street NW Concord, NC appeared before the Commission. Ms. Taylor explained for all the reasons that have been mentioned tonight by Rob and Glenda Steel and Glenda and Rob's daughter, she feels that the Commission should enforce the decision that was made in, 2021 regarding the painting of the adjacent property side of the fence.

SWEARING IN OF WITNESS:

Tristan Adamczuk was sworn in to speak.

PROPONENT:

Mr. Adamczuk 97 Union Street N Concord, NC appeared in favor of the request. Mr. Adamczuk stated that none of the facts mentioned by Attorney Benshoff will be valid for Cabarrus County. He further stated that it boils down to nothing with the color, and nothing with the fence height. It is boiling down to just animosity. There are multiple parties that are affected by this conflict, not just the Rohrers and this is a waste of time and resources. Mr. Adamczuk stated that Mr. Rohrer cannot control the majority of the things that they are going through because it is a massive renovation. He stated that they are in support of the Rohrers.

COMMISSION QUESTIONS AND DISCUSSION:

Commissioner Barbee asked Ms. Steel if she is correct in saying that all they want to happen is for their side of the fence to be painted white.

Ms. Steel stated that is correct.

Commissioner Barbee asked Mr. Steel she feels about having a stained fence with different colored post caps.

Mr. Steel stated that she is okay if the caps are stained and not white.

Commissioner Barbee asked about a maintenance plan for the fence. Mr. Steel stated that his history with the Nixons is that they would help out and work together on it.

Dr. Steel stated that it was also not an issue with the previous fence that separated 113 Union Street and 103 Union Street North. As Mr. Rohrer has pointed out, their side was not in as good a condition, and that was due to previous owners not maintained maintaining it as well.

Chair Isenhour stated to the Steels for clarification that their primary complaint is the white paint as he has not heard anything against the height on Franklin Street.

Ms. Steel stated that the only thing they ever asked for in the original application was white on their side, which no one would see but them.

Commissioner Barbee made a motion to close the public hearing. Commissioner Underwood seconded the motion. The vote carried unanimously. **–The Vote: All Ayes**

COMMISSION RULES OF PROCEDURE

Attorney Merritt stated that the Commission does have a set of bylaws and rules of procedure that it adopted that he had requested and that the attorney that usually sits here sent him a copy of. And before consideration, he wanted to make the Commissioner aware of a few things that are in the rules of procedure. In a quasi-judicial hearing, cross-examination of witnesses is allowed and the party asking for their certificate shall present evidence to the Commission, and the applicant has the burden of proof to establish their entitlement to the application that they are seeking from the Commission. There are also procedural motions that are allowed.

Attorney Merritt stated there are two of procedural issues that he thinks are relevant to the consideration of the issue tonight. The first is to consider or reopen the previous quasi-judicial matter. This certificate was also issued at a quasi-judicial hearing and this motion may be made at the meeting during which the original vote is taken, or in the case of the submission of new evidence, at a later meeting as the Commission has the ability to reconsider or reopen a quasi-judicial matter in the case of submission of new evidence. The applicant needs to show some type of new evidence in order to have a prior quasi-judicial hearing reopened. The other issue that is relevant, is that the commission can make a motion to consider whether an application or topic has previously been decided and that it explains the legal terms are res judicata, which is claim preclusion, and collateral estoppel, which is issue preclusion. Mr. Merritt stated that the first order of business is to determine if application that's before the Commission has been previously decided.

Commissioner Barbee stated that she thinks there has been some new evidence presented, not only from the applicant but as well as the folks in opposition. Commissioner Barbee stated that the testimony from the Steels is that there is no objection to the height..

Commissioner Underwood stated that she thinks they should reopen the case because she does not understand how it was decided that a fence could be two different colors.

Chair Isenhour stated that he does not think the Commission can go back and second-guess the decisions made by a prior Commission. Chair Isenhour stated that when the Commission issues orders, it is with the expectation that the applicants are going to comply with the order. In the event that there has been a change of circumstances that led to the granting of the certificate in the first place, that may cause the Commission to revisit the case. Orders are issued for a reason and the height change appears to be an accident but the stain issue is not.

Commissioner Barbee explained that the color is specifically outlined in the order.

Attorney Merritt stated that as far as the effect of the order, they are filed with the registered deeds office, runs with the land, and is a requirement that binds future property owners.

Commissioner Barbee stated that she was comfortable reopening the public hearing regarding the height of the fence as there was some testimony from the applicant about security concerns which would constitute a change in circumstances. But, no one has given any evidence of a change in circumstances relative to the paint color.

Attorney Merritt explained that there is an appeal process that must be followed when applicants do not agree with decisions made by the Commission, and stated that he thinks the Commission can make a decision to find that there is sufficient new evidence to reopen the prior decision relative to the height of the fence, but not sufficient new evidence to reopen the prior decision as to the color of the fence. As a result, the Commission would have two separate decisions .

Commissioner Barbee made a motion to re-open the quasi-judicial matter to reconsider the fence height only. Commissioner Underwood seconded the motion. The vote carried unanimously. **–The Vote: All Ayes**

Commissioner Barbee made a motion to approve the Findings of Fact as amended with respect to the height of the fence with the witnesses on the sign in sheet. Commissioner Firth seconded the motion. The vote carried unanimously. **–The Vote: All Aye**

FINDINGS OF FACT:

1. The subject property is located at 113 Union Street N, Concord, North Carolina. The owners are Stephen D. and wife, Dana M. Rohrer. The property was acquired by deed recorded in Cabarrus County Register of Deeds Book 13690, pages 48 through 52, on August 29, 2019.
2. The subject property is located in the RM-1 (Residential Medium Density) zoning district and is in the North Union Historic District.
3. The subject property is designated as a “Pivotal” structure in the Concord Historic Districts Handbook (June 2001 ed.), (the “Handbook”) Chapter 3 (Exhibit A).
4. The Handbook is an ordinance of the City of Concord duly adopted by the City Council and incorporated into the Code of Ordinances by reference.
5. On October 25, 2022, Stephen D. and wife, Dana M. Rohrer, applied for an “ex post facto” Certificate of Appropriateness under Concord Development Ordinance (CDO) §9.8 requesting after-the-fact approval to stain the side of the rear yard fence facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N and to increase the height of the rear yard fence running adjacent to Franklin Ave NW from 4.0’ to 6.0’ (Exhibits B, D).
6. On April 14, 2021, the Historic Preservation Commission approved the rear yard fence to be stained on the Applicants’ side and painted white on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N as well as the height of the fence to be 4.0’ along Franklin Avenue NW as shown in the Recorded Order filed April 27, 2021, with the Cabarrus County Register of Deeds (Exhibit E).
7. In February 2022, rear yard fence construction commenced including along Franklin Avenue NW where the section of fence was constructed to a height of 6.0’.
8. In September 2022, rear year fence staining commenced including on the side facing the adjoining properties at 19 Franklin Avenue NW and 103 Union Street N.
9. Both sides of the rear yard fence were stained to match the trim of the home, particularly the original historic columns of the front porch and balcony, along with the double front doors and storm doors. Minmax Red Oak 215 wood stain was used per the Recorded Order filed April 27, 2021.

10. Mr. Rohrer testified that fence post caps will be added and landscaping will be added in Spring 2023.
11. Mr. Benshoff presented case law regarding *res judicata* (Exhibit F).
12. Mr. Benshoff submitted into evidence the zoning violation issued by City of Concord Code Enforcement dated October 7, 2022 for case CNCE-2022-01876 (Exhibit F).
13. Mr. and Mrs. Steel submitted photographs of the subject property and surrounding fences, timeline of events, and public records responses from the City of Concord (Exhibit G and H).

Commissioner Barbee made a motion to approve the Conclusions of Law as amended with respect to the height of the fence and color of fence. Commissioner Firth seconded the motion. The vote carried unanimously. –The Vote: All Aye

CONCLUSIONS OF LAW:

1. This matter is properly before the Commission pursuant to N.C. Gen. Stat. § 160A-400.7, et seq. and the Concord Development Ordinance.
2. Pursuant to the *Handbook*, **Approval Requirement Needs Table: Fencing and Gates**
 - *All types require Commission Hearing and Approval.*
3. Pursuant to the *Handbook*, **Chapter 5 - Section 9: Fences and Walls**
 - *All wooden fences should be “stick-built” on site.*
 - *Wooden fences visible from the street and/or wooden fences in front yards and side yards of corner lots are required to be painted or stained white or a color matching the body or trim of the structure, including shutters, foundation color, etc.*
 - *Painting or staining is recommended, but not required, for rear yard fences unless they are visible from the street.*
 - *Where fences are desired in front yards and side yards at corner lots, the design should be primarily decorative in nature. Front yard fences should not exceed four feet in height.*
 - *Rear yard fences may be higher than four feet. The portions of rear yard fences that face the street should be landscaped with shrubs and trees of a planting size that will fully hide the fence from the street within two years. Size, type, and growth habits of plant materials to screen rear yard fences that face the street should be submitted at time of application.*
 - *All proposed fences and walls should not negatively affect existing trees and mature landscaping.*
 - *Privacy fences are defined as fences with no spacing between pickets or fences of the shadowbox design. Privacy fences may be allowed at the discretion of the Commission in the following circumstances:*
 - A. *Privacy fences are most appropriate in rear yards.*
 - B. *Privacy fences may be allowed where the applicant's rear yard is directly adjacent to property that is either not in a historic district, or is within a historic district but is non-contributing or intrusive in that district. The applicant shall show to the satisfaction of the Commission:*
 - i. *that the adjacent property is unsightly in comparison to other properties surrounding the applicant's property,*
 - ii. *that the adjacent property or nearby property raises reasonable security concerns for the applicant, or*
 - iii. *that the adjacent property could reasonably be determined to negatively impact the property value of the applicant's property.*

- C. *Privacy fences encompassing an area of no more than 250 square feet may be allowed at the discretion of the Commission when adjacent to the applicant's house, garage, or other outbuilding in order to screen from view trash cans, mechanical equipment, cars or other unsightly items, provided such fence does not unreasonably impact any neighbor by blocking windows or the like.*
- D. *Privacy fences allowed by the Commission should be landscaped where practical with appropriate shrubbery to soften the appearance of the fence.*

4. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:
- lot coverage, defined as the percentage of lot area covered by primary structures;
 - setback, defined as the distance from the lot lines to the building(s);
 - building height;
 - exterior building materials;
 - proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
 - surface textures;
 - structural condition and soundness;
 - walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
 - color (new construction only and not for existing residences); and
 - effect of trees and other landscape elements.
5. The application is congruous with the historic aspects of the District.
6. Based on the standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, the Commission concludes that:
- There was sufficient evidence presented to reopen the prior approval and approve the “ex post facto” request for after-the-fact approval to increase the height of the fence running adjacent to Franklin Ave NW from 4.0’ to 6.0’ is appropriate as the wooden fence is visible from the street and is located in the rear yard and therefore may be higher than 4.0’, and is in compliance with the Historic Handbook.

There was insufficient evidence presented to reopen the prior approval as to the fence color and the Commission did not vote to amend the fence color that was initially approved in Case H-04-21 on April 14, 2021.

Commissioner Barbee made a motion to approve the ex post facto Certificate of Appropriateness in respect to the fence height and to allow the Chairman to sign the Order out of session. Commissioner Firth seconded the motion. The vote carried. **–The Vote: All Ayes (APPROVED)**

Commissioner Underwood made a motion to reopen the quasi-judicial hearing with respect to the painting of the fence. Commissioner Firth seconded the motion. The vote carried. **–The Vote: Yays -2; Nays -2** The motion fails.

Commissioner Barbee made a motion to not reopen the quasi-judicial hearing with respect to the fence paint color because there has been no testimony or evidence that are in the record regarding a change of circumstance or new evidence. Chair Isenhour seconded the motion. The vote carried. **–The Vote: Yays -2; Nays -2** The motion fails.

Attorney Merritt explained that it fails and they can appeal.

Attorney Merritt explained that the motion failed on a two to two vote, therefore the Commission will not consider the reopening the application relative to the paint color, and as a result, the application to amend the paint color is not approved. Attorney Merritt stated that there is no reason to make findings of fact or conclusions of law because the item was not reopened.

H-15-21 (QUASI-JUDICIAL HEARING) STC COLEMAN MILL, LLC, HAS SUBMITTED A CERTIFICATE OF APPROPRIATENESS APPLICATION TO RENOVATE AND REPURPOSE THE EXISTING COLEMAN MILL BUILDINGS INTO APARTMENT UNITS AT 625 MAIN ST. SW. PIN 5529-69-3574.

Scott Sherrill introduced the case to the Commission.

Full background on authority as well as the relevant standards for review are encompassed in the materials from Case H-23-18, which was considered with a preliminary endorsement, but no COA, by the Historic Preservation Commission on August 8, 2018. The full staff report from that case is included as Exhibit G of this staff report. This staff report highlights the evolution of the project from the initial COA request, through rezoning, and technical site and building reviews. There are enough details and modifications from the original that a new COA request is merited. It should be noted that labels on the fenestration exhibits in Exhibit G are misleading with regard to which side of the building is being discussed.

Coleman Mill last came before the Historic Preservation Commission on August 8, 2018, for a COA for the conversion (Case H-23-18). Following the consideration by the Historic Preservation Commission, it proceeded to a rezoning hearing, which was considered by the Planning and Zoning Commission on April 16, 2019 as Case Z(CD)-16-18. The project has been in Technical Review since June of 2021, and also pursued a variance request from CDO Section 4.3.2. regarding buffer and setback widths, Section 10.3.1.C.1.b. for parking within the front yard setback, and from Technical Standards Manual Article 3, Section 16 for Driveways General Design Standards: the variance request was granted on January 25, 2022 by the Board of Adjustment. The applicant was notified that modifications to building design would require returning to the Historic Preservation Commission during the first round of building plan review in August of 2021 due to deviations from the 2018 Certificate of Appropriateness, and submitted a Certificate of Appropriateness Application on October 1, 2021. The application was subsequently revised on November 8, 2022 to reflect a more accurate scope of work after the securing of National Park Service conditional approval as a tax credit project.

The scope of work requested includes the following overall project description as set forth by the applicant, with analysis regarding changes from prior approvals indicated in *italics*:

Overall Project Description

The proposed is the adaptive reuse of the Coleman Mill into a 150 unit affordable housing project for family tenants. The property is listed on the National Register of Historic Places.

When first considered in Case H-23-18, 156 units were proposed, and 151 units in Z(CD)-16-18.

The community will have 150 LIHTC units between two buildings and covered parking in a third building. The units are comprised of 36 efficiency, 41 one bedroom, 60 two bedroom, and 13 three bedroom units. Sixteen (16) units will be fully accessible for the mobility impaired, eight (8) of those will have roll in showers. All apartments will fully meet or exceed the NCHFA design guidelines for amenities and quality of apartment design.

The development will have the three (3) QAP required tenant amenities as shown on the site plan, namely the Covered Picnic Area with 150 sf and 2 tables and 2 grills. Multi-Purpose Room (250 sq. ft.), and Playground. The three (3) additional amenities include: an Exercise Room, a Computer Room (with a minimum of 2 computers), and Outdoor Sitting Areas (min 3 locations).

Case H-23-18 reflected a pool, but no playground in addition to structured and podium parking with significant impact to the stream. The zoning plan for Z(CD)-16-18 reflected no additional buildings or parking across the stream, unless the railroad began use of more of its right of way, but amenities were reflected: playground, multi-purpose room, covered picnic area, swimming pool, exercise room, and resident computer center. The swimming pool was removed from the technical site plan to provide adequate fire access.

All community and common areas will be fully accessible to those with disabilities. Parking will be 1.75 spaces per LIHTC unit. ADA parking will be provided as required. Landscaping will meet or exceed both NCH FA and the Town of Concord's standards and be well maintained.

The National Park Service noted that: "New landscape features and improvements must be compatible with the historic industrial character of the complex. Landscaping must be held close to the ground and not overwhelm the industrial character of the historic buildings and site, which was generally without landscaping historically. The three proposed oak trees that abut the main mill building (Hold response received on February 16, 2022) do not meet the Standards and should not be planted. The proposed landscaping along the Main Mill Building should be minimal and remain low to the ground. Trees may be planted in the parking lot but should be away from the mill and warehouse. A revised landscaping plan must be submitted for review and approval by the SHPO and NPS." The applicant has submitted a revised landscape plan to the National Park Service for review, and it is included among the selections from the site plan (Exhibit D).

Site Work

- Remove all debris and extraneous material from site
No impact from a Certificate of Appropriateness perspective.
- Seal and restripe existing parking lot per site plan. Add new paving as shown.
Sealing and restriping has no impact from a Certificate of Appropriateness perspective. The new paving is less impactful across the stream than what was shown in H-23-18, and ultimately shows a reduction from 4.528 acres of impervious to 4.512 acres of impervious.
- Install new pole-mounted site lights throughout the property including the parking areas
The materials submitted for H-23-18 did not include details on site lighting. No lighting plan was provided with Z(CD)-16-18 either. A lighting plan has been submitted with the building plan, which is included in Exhibit E (Sheet SA.01 from PRB2021-02298).
- Create new screened dumpster pad and enclosure
H-23-18 reflected a trash enclosure roughly within the existing stream on site. Z(CD)-16-18 did not reflect the dumpster enclosures. The site plan reflected concrete pads, but no dumpsters specifically. The building plan architectural site plan reflects two dumpster locations: one on the street side of the West Warehouse, and the other towards the railroad tracks from the main mill building in the railroad right of way. The applicant is reflecting a brick dumpster screen on sheet SA.04 in Exhibit E.
- Add new native landscaping, as well as new walkways, and planting beds. Repair and replace damaged sidewalks where necessary.

See note under overall project description. The applicant has submitted a revised landscaping plan to the NPS for review; the file has been sent to the City Arborist for comment, and additional information will be provided at the hearing.

- Provide new handicap-accessible ramp at main front entrance.
The handicap ramp was not shown in case H-23-18, nor Z(CD)-16-18. The technical site plan reflects handicap parking and ramps along the north and south sides of the buildings, the reference to main front entrance refers to the western entrance on the south side of the main mill building.
- Repair/replace existing storm drainage system to meet or exceed both state and local requirements. Provide positive drainage to meet or exceed NCH FA guidelines
The site plan is consistent with the variance case V-03-21. This level of detail was not provided in H-23-18 nor Z(CD)-16-18, but covered during technical site plan review.
- Achieve final grading, balancing cut and fill in newly graded and paved areas.
The site plan is consistent with the variance case V-03-21. This level of detail was not provided in H-23-18 nor Z(CD)-16-18, but covered during technical site plan review.

Demolition

- Remove or abandon all existing mechanical, electrical, and plumbing equipment and fixtures
- Remove noncontributing buildings from site pending full approval from NPS.
Main Mill East Façade: western appendage was proposed for removal in H-23-18; the appendage on the south west corner on the building appears to have been removed and is not shown on the existing floor plan in the building plans.

Main Mill South Façade: Four accessory structures dating from 1947-1950 were shown for demolition in Case H-23-18. Parking was proposed in the area in Case Z(CD)-16-18, and carried through to the Technical Site Plan and building plans. Several later appendages were also proposed for removal in Case H-23-18, and also carried through to Technical Site Plan and Building Plans. These appendages have not yet been removed.

Main Mill West Façade: No demolition shown.

Main Mill North Façade: 2 Existing ventilation rooms to be removed and one of three existing elevator shafts according to the building plans. Only existing ductwork was flagged in H-23-18; however, area was reflected as green space in Z(CD)-16-18, the technical site plan does not reflect removal of the ventilation rooms.

National Park Service Condition: "The two historic stair towers on the Main Mill building must be retained with the historic stairs intact."

West Warehouse: No specific demolition shown.

East Warehouse: No specific demolition shown.

Utilities

- Remove any overhead electrical lines and install new underground electrical feed to each major building section
Not a significant impact for Certificate of Appropriateness review.

Building Exteriors

- Replace all rotted wood trim to match existing profiles. Clean, scrape, and paint all wood trim
The National Park Service has added a condition stating: Replacement metal and wood siding on the East and West Cotton Warehouses must only be installed selectively, based on the condition of individual siding elements. Any replacement material must match the historic in visual appearance, exposure, and thickness. Documentation of the need for, and extent of, any siding replacement must be submitted for review and approval prior to the removal of the historic material.

- Repair original brick exteriors for minor cracks and clean all surfaces in accordance with the Secretary of Interior's Standards for historic properties. Brick to be cleaned per NPS guidelines
Based on the information provided, applicant is committing to following NPS guidelines for cleaning and repair.

- Windows vary from building to building and elevation to elevation. Remove infill masonry from existing window locations and install new historically compatible as necessary. New windows and locations for same are to be approved by NPS.

National Park Service Condition: "Many of the replacement windows and doors being proposed here are inappropriate for a piedmont textile mill of this age and style. In particular the following proposed windows and doors must be revised:

- *The 1912 addition to the main mill would not likely have had 4 over 1 windows. Instead, narrow, multi-lite steel windows were more probably employed.*
- *Fully glazed entry doors are also problematic. Double-leaf entry doors would have been wooden doors with floating panels, and, at most, glazing held to the top third of each slab.*
- *The new windows along the first floor of the west warehouse must reflect the industrial character of the warehouse and not resemble residential hung windows.*

Replacement window and door details must either be substantiated by documentary evidence (e.g. historic photographs or extant windows) or better conform to standard details seen on historic mills elsewhere in the region. To ensure all replacement windows and doors meet the Standards, detailed and dimensioned drawings of all proposed replacement units (Main Mill, West Warehouse, East Warehouse), once selected and finalized, must be submitted for review. Drawings should illustrate the windows in relationship to the wall assembly, and must include elevations as well as sill, jamb, head, meeting rail, and muntin details. Simulated divided light windows must have muntin grids installed on the exterior, interior, and feature spacers bars or equivalent separations between the glass.

H-23-18 reflected only six over six windows. The building plans reflect replica windows on the west main mill elevation, except on the southern side, where six over six windows are still reflected. On the south elevation, new 8-light center divide windows are now reflected on the western half of the elevation, with replica windows on the eastern side. The north elevation reflects replica windows on the eastern portion of the elevation with 8 light center divide windows of varying sizes on the two-thirds of the façade, generally.

On the west warehouse, west side fenestrations on the upper level do not appear to change. There are six new lower level window and two door openings and two existing doors are proposed to be fixed in place. On the south side, 11 new windows are proposed, three closed window openings will be reestablished, and one new door opening would be added. This is a greater level of detail than was provided on H-23-18. On the east side, six new windows would be added. The north elevation 20 new windows and two doors are proposed for addition.

On the east warehouse, one new door is being added to the west façade, two garage doors are being added on the south elevation, no changes are proposed on the north elevation or the east elevation.

- Replace/repair roof with compatible materials consistent with the Secretary of the Interior's standards

The National Park Service has added a condition stating: Replacement metal and wood siding on the East and West Cotton Warehouses must only be installed selectively, based on the condition of individual siding elements. Any replacement material must match the historic in visual appearance, exposure, and thickness. Documentation of the need for, and extent of, any siding replacement must be submitted for review and approval prior to the removal of the historic material.

Building Interiors

- Remove or abandon all electrical equipment, wiring, and fixtures
- Remove or abandon all mechanical equipment and ductwork

National Park Service Condition: "New mechanical, electrical, and plumbing systems must be installed in a manner that has minimal effect on the historic character of the building. Exposed systems must be sized and located to minimize their visual impact and be held back from the windows an adequate distance to avoid a noticeable impact from the building's exterior. Systems may be installed above lowered ceilings in secondary spaces such as bathrooms and closets. In order to ensure the installation of the systems meets the Standards, details of the location, size, and concealment or finish of the ductwork and utility lines, ideally in the form of mechanical drawings and reflected ceiling plans, must be submitted for review.

- Original walls to be exposed and repaired.
- Where possible, original doors to be sanded, refinished, and reused.
- Repair all existing wood floors where salvageable. In areas where the wood floor cannot be repaired, install new wood, carpet, or vinyl

Interior details were not available at the time of H-23-18, although a floor plan was provided. Over the revisions, the floor plan and arrangement has changed substantially and many more details have been made available regarding finishes.

National Park Service Condition: Interior architectural finishes, consisting of the wood floors in the Main Mill Building and concrete floors in the West Warehouse, must be preserved where they existed historically. Some carpeting or LVT is acceptable in secondary spaces, such as bathroom and bedrooms in residential units.

National Park Service condition: Main Mill Building Ceilings: Interior architectural finishes, such as the exposed ceilings, must be preserved. The exposed wooden beams must still be expressed in the individual units and corridors. If necessary for fire code protection, gypsum board may be placed between the beams held tight to the wood planking above. On the third floor, there must not be gypsum board ceilings and the historic structure must be fully exposed. Photographs showing the historic fabric preserved in place must be submitted with the Request for Certification of Completed Work.

The building plans reflect two typical finishes for the main mill building: on the first floor existing concrete, with carpet in bedrooms; where wood floor is present on the first, second, and third floor, carpet would go on the existing wood floor in the bedrooms, and stone patterned LVT in bathrooms. In the western part of the main mill building, existing creosote contaminated wood would be removed and replaced with a 4" concrete slab. For residential units in the west warehouse, concrete would be in most living areas, with carpet on existing concrete in bedrooms.

- Refinish hard wood flooring in new corridors where present otherwise install VCT in corridors
- Laundry rooms to have VCT tile floors and eight (8) sets of washer and dryers (1 set per 20 units)
- Construct tenant storage areas as appropriate, provide 1 storage unit per residential unit with 16 unobstructed sq. ft. and min 36 inch in depth will be provided.
- Install ramps and elevators to provide accessible route as shown on plans
- Install fire suppression system per international fire code
- Install 2 passenger elevator.
- Community interior amenities will be added; Community Room with kitchenette, Management Office, Exercise Room, and Computer Lab

National Park Service Condition: The historic utilitarian character of the West Warehouse (exposed wood siding, brick knee walls, brick demising walls, concrete floors, exposed beams and decking) must be retained to the maximum amount possible. First floor units must retain the historic flooring and mimic the unfinished surfaces on the exterior walls. In order to ensure that the proposed interior finishes in the West Warehouse meet the Standards, a detailed finish schedule (including product specs, texture, and color) must be reviewed and approved by both the SHPO and NPS before proceeding with this work.

Unit Construction

- All units to be constructed in accordance with NCHFA Design Standard and Building Codes in effect in Concord
- Install new interior partitions. Wall construction to be 2x4 wood studs with S/8" gypsum board. Tenant demising walls to be 2x6 studs with insulation and 5/8" fire rated gypsum board
- Refinish existing wood floors in living and dining rooms. Install carpet in bedrooms
- Install new VCT tile flooring in kitchen and bathrooms where existing wood floors cannot be saved
- Install kitchen cabinetry with wood face cabinets and plastic laminate tops. Install new Energy Star rated refrigerators and dishwashers. Install sinks, disposal units, and ranges with hoods vented to the exterior
- In bathrooms, provide mirror that extends down to backsplash and medicine cabinet
- Provide new lever type door hardware and install new deadbolts and peep holes on all unit entry doors. Entry door to be solid core wood door with a painted finish
- All interior doors to be panel hardboard doors with paint finish
- Install mini-blinds on all apartment windows to achieve uniform appearance from street
- All interior trim to be painted wood
- Install wood-blocking for future grab bars in bathroom locations as required by Accessibility Code

See NPS Conditions with regard to Building Interiors.

Mechanical, Electrical, and Plumbing

- Install new electrical system from new meter bases and panels to new outlets, switches and lights, with ceiling fans in living rooms and bedrooms.
- Provide a light fixture at each unit entry inside corridor
- Provide lighting package that meets or exceeds NCHFA building guidelines
- Provide monitored system for fire suppression systems
- Install new electric water heater with an Energy Factor of at least .95 for each apartment
- Install new plumbing supply and waste lines from the service entrance
- Install new low-flow, EPA "Watersense" rate shower heads and faucets. Provide lever faucet controls for all kitchen and bathroom sinks
- Install new split system heat pump HVAC units for each apartment.
- Mechanically ventilate all bathrooms with externally vented Energy Star rated exhaust fans at 90 CCFM. Fans are to be wired to run whenever bathroom light is on

- Install venting to the outside for range hoods

National Park Service Condition: “New mechanical, electrical, and plumbing systems must be installed in a manner that has minimal effect on the historic character of the building. Exposed systems must be sized and located to minimize their visual impact and be held back from the windows an adequate distance to avoid a noticeable impact from the building’s exterior. Systems may be installed above lowered ceilings in secondary spaces such as bathrooms and closets. In order to ensure the installation of the systems meets the Standards, details of the location, size, and concealment or finish of the ductwork and utility lines, ideally in the form of mechanical drawings and reflected ceiling plans, must be submitted for review.

Jared Burgess, 10710 Sunderland Road Louisville, KY spoke regarding the request. Mr. Burgess stated that his architect was available to answer any technical questions. He stated that they have put forth their best effort to the City of Concord’s preservation standards, and National Park Service and North Carolina State Historic Preservation Office (SHPO).

Chair Isenhour stated that he is happy this project is progressing.

Commissioner Barbee made a motion to close the public hearing. Commissioner Firth seconded the motion. The vote carried unanimously. –**The Vote: All Ayes**

Commissioner Barbee made a motion to approve the Findings of Fact. Commissioner Underwood seconded the motion. The vote carried unanimously. –**The Vote: All Ayes**

FINDINGS OF FACT:

1. The subject property is located at 625 Main St SW, Concord, NC. The owner is Bryton Partners, LLC. Bryton Partners, LLC acquired the property by deed recorded in Cabarrus County Register of Deeds Book 12825, Page 137, as recorded on December 28, 2017.
2. The subject property is located in the RC-CD (Residential Compact-Conditional District) zoning district and is a local landmark (Exhibit B).
3. The subject property is designated as the Coleman-Franklin-Cannon Mill on the National Register (Exhibit G.A).
4. The Handbook is an ordinance of the City of Concord duly adopted by the City Council and incorporated into the Code of Ordinances by reference.
5. On October 1, 2021, Martin Riley Associates, Leigh Gomez submitted an application for a Certificate of Appropriateness under Concord Development Ordinance (CDO) §9.8 for a proposed adaptive reuse of the Coleman Mill into a 156 unit affordable housing project for family tenants; this original application was not included with the staff report, but a revised application and scope of work was submitted by STC Coleman Mill, LLC on November 8, 2022 (Exhibit A) for 150 units.
6. City Staff provided selections from the applicant’s Technical Site Plans for case PRS2021-01908 (Exhibit D)
7. City Staff provided selections from the applicant’s Building Plans for case PRB2021-02298 (Exhibit E).
8. Staff provided photographs from Case H-23-18 (Exhibit G.E.)
9. The applicant provided conditional approval documentation from the National Park Service and their consultant response memorandum (Exhibit C).
10. The Commission considered Preservation Brief 18 (Exhibit G).

Commissioner Barbee made a motion to approve the Conclusions of Law as amended. Commissioner Underwood seconded the motion. The vote carried unanimously. –**The Vote: All Ayes**

CONCLUSIONS OF LAW:

6. This matter is properly before the Commission pursuant to N.C. Gen. Stat. § 160A-400.7, et seq. and the Concord Development Ordinance.
7. Pursuant to the LLD-01-17 Local Designation Ordinance (18-01), and Appendix A from the *Historic District Handbook*:
 - Commission Hearing and Approval Required For: modifications that impact, affect, or obscure architectural or layout details as set forth in the landmark report and supplementary materials. The local landmark designation encompasses the site, building exteriors of all contributing structures as established in the National Register Nomination for the Coleman-Franklin-Cannon Mill (November 2014), and the building interior of the Coleman-Franklin-Cannon Mill, 1898, 1912, 1950s, 1960s Contributing Building, East Cotton Warehouse 1902, 1912, 1926 Contributing Building, and West Cotton Warehouse 1927-1938 Contributing Building.
 - A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
 - The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property shall be avoided.
 - Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 - Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
 - Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
 - Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
 - Archeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

- New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- The guidance that is basic to the treatment of all historical buildings – **identifying, retaining, preserving** the form and detailing of those architectural materials and features that are important in defining the historic character – is always listed in the “Recommended” column. The parallel “Not Recommended” column lists the types of actions that are most apt to cause the diminution or even loss of the building’s historic character. It should be remembered, however, that such loss of character is just as often caused by the cumulative effect of a series of actions that would seem to be minor interventions. Thus, the guidance in all of the “Not Recommended” columns must be viewed in that larger context, e.g. for the total impact on a historic building.

Masonry

Recommended: Identifying, retaining, and preserving masonry features that are important in defining the overall historic character of the building such as walls, brackets, railings, cornices, window architraves, door pediments, steps, and columns; and joint and unit size, tooling and bonding patterns, coatings, and color.

Recommended: Protecting and maintaining masonry by providing proper drainage so that water does not stand on flat, horizontal surfaces or accumulate in curved decorative features.

Recommended: Cleaning masonry only when necessary to halt deterioration or remove heavy soiling.

Recommended: Carrying out masonry surface cleaning tests after it has been determined that such cleaning is necessary. Tests should be observed over a sufficient period of time so that both the immediate effects and the long-range effects are known to enable selection of the gentlest method possible.

Recommended: Cleaning masonry surfaces with the gentlest method possible, such as low-pressure water and detergents, using natural bristle brushes.

Recommended: Evaluating the overall condition of the masonry to determine whether more than protection and maintenance are required, that is, if repairs to the masonry fence will be necessary.

Recommended: **Repairing** masonry walls and other masonry features by repointing the mortar joints where there is evidence of deterioration such as disintegrating mortar, cracks in mortar joints, loose bricks, damp walls, or damaged plaster work.

Recommended: Removing deteriorated mortar by carefully hand-raking the joints to avoid damaging the masonry.

Recommended: Duplicating old mortar in strength, composition, color, and texture.

Recommended: Duplicating old mortar joints in width and in joint profile.

Recommended: Repairing masonry features by patching, piecing-in, or consolidating the masonry using recognized preservation methods. Repair may also include the limited replacement in kind – or with compatible substitute material of those extensively deteriorated or missing parts of masonry features when there are surviving prototypes such as terra-cotta brackets or stone balusters.

Recommended: Applying new or non-historic surface treatment such as water-repellent coatings to masonry only after repointing and only if masonry repairs have failed to arrest water penetration problem.

Recommended: Replacing in kind an entire masonry feature that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. Examples can include large sections of a wall, a cornice, balustrade, column, or stairway. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Designing and installing a new masonry feature such as steps or a door pediment when the historic feature is completely missing. It may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the size, scale, material, and color of the historic building.

Not recommended: Removing or radically changing masonry features which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Replacing or rebuilding a major portion of the exterior masonry walls that could be repaired so that, as a result, the building is no longer historic and is essentially new construction.

Not recommended: Applying paint or other coatings such as stucco to masonry that has been historically unpainted or uncoated to create a new appearance.

Not recommended: Failing to evaluate and treat the various causes of mortar joint deterioration such as leaking roofs or gutters, differential settlement of the building, capillary action, or extreme weather exposure.

Not recommended: Cleaning masonry surfaces when they are not heavily soiled to create a new appearance, thus needlessly introducing chemicals or moisture into historic materials.

Not recommended: Cleaning masonry surfaces without testing or without sufficient time for testing to be of value.

Not recommended: Sandblasting brick or stone surfaces using dry or wet grit or other abrasives. These methods of cleaning permanently erode the surface of the material and accelerate deterioration.

Not recommended: Using a cleaning method that involves water or liquid chemical solutions when there is any possibility of freezing temperatures.

Not recommended: Cleaning with chemical products that will damage masonry, such as using acid on limestone or marble, or leaving chemicals on masonry surfaces.

Not recommended: Applying high pressure water cleaning methods that will damage historic masonry and the mortar.

Not recommended: Failing to undertake adequate measures to assure the preservation of masonry features.

Not recommended: Removing undeteriorated mortar from sound joints, then repointing the entire building to achieve a uniform appearance.

Not recommended: Using electric saws and hammers rather than hand tools to remove deteriorated mortar from joints prior to repointing.

Not recommended: Repointing with mortar of high Portland cement content (unless it is the content of the historic mortar). This can often create a bond that is stronger than the historic material and can cause damage as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.

Not recommended: Repointing with a synthetic caulking compound.

Not recommended: Using a “scrub” coating technique to repoint instead of traditional repointing methods.

Not recommended: Changing a width or joint profile when repointing

Not recommended: Replacing an entire masonry feature such as a cornice or balustrade when repair of the masonry and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using a substitute material for the replacement part does not convey the visual appearance of the surviving parts of the masonry feature or that is physically or chemically incompatible.

Not recommended: Applying waterproof, water-repellant, or non-historic coatings such as stucco to masonry as a substitute for repointing and masonry repairs. Coatings are frequently unnecessary, expensive, and may change the appearance of historic masonry as well as accelerated its deterioration.

Not recommended: Removing a masonry feature that is unrepairable and not replacing it; or replacing it with new feature that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced masonry feature is based on insufficient historical, pictorial, and physical documentation.

Not recommended: Introducing a new masonry feature that is incompatible in size, scale, material, and color.

Wood

Recommended: **Identifying, retaining, and preserving** wood features that are important in defining the overall historic character of the building such as siding, cornices, brackets, window architraves, and doorway pediments; and their paints, finishes, and colors.

Recommended: **Protecting and maintaining** wood features by providing proper drainage so that water is not allowed to stand on flat, horizontal surfaces or accumulate in decorative features.

Recommended: Applying chemical preservatives to wood features such as beam ends or outriggers that are exposed to decay hazards and are traditionally unpainted.

Recommended: Retaining coatings such as paint that help protect the wood from moisture and ultraviolet light. Paint removal should be considered only where there is paint surface deterioration and as part of an overall maintenance program which involves repainting or applying other appropriate protective coatings.

Recommended: Inspecting painted wood surfaces to determine whether repainting is necessary or if cleaning is all that is required.

Recommended: Removing damaged or deteriorated paint to the next sound layer using the gentlest method possible (hand scraping and hand sanding), then repainting.

Recommended: Using with care electric hot-air guns on decorative wood features and electric heat plates on flat wood surfaces when paint is so deteriorated that total removal is necessary prior to repainting.

Recommended: Using chemical strippers primarily to supplement other methods such as hand scraping, hand sanding and the above-recommended thermal devices. Detachable wooden elements such as shutters, doors, and columns may – with the proper safeguards be chemically dip-stripped.

Recommended: Applying compatible paint coating systems following proper surface preparation.

Recommended Repainting with colors that are appropriate to the historic building and district.

Recommended: Evaluating the overall condition of the wood to determine whether more than protection and maintenance are required, that is, if repairs to wood features will be necessary.

Recommended: **Repairing** wood features by patching, piecing-in, consolidating, or otherwise reinforcing the wood using recognized preservation methods. Repair may also include the limited replacement in kind or with compatible substitute material of those extensively deteriorated or missing parts of features where there are surviving prototypes such as brackets, moldings, or sections of siding.

Recommended: **Replacing** in kind an entire wood feature that is too deteriorated to repair if the overall form and detailing are still evident – using the physical evidence to guide the new work. Example of wood features include a cornice, entablature or balustrade. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Not recommended: Removing or radically changing wood features which are important in defining the overall character of the building so that, as a result, the character is diminished.

Not recommended: Removing a major portion of the historic wood instead of repairing or replacing only the deteriorated wood, then reconstructing the facade with new material in order to achieve a uniform or “improved” appearance.

Not recommended: Radically changing type of finish or its color or accent scheme so that the historic character of the exterior is diminished.

Not recommended: Stripping historically painted surfaces to bare wood, then applying clear finishes or stains in order to create a “natural look.”

Not recommended: Stripping paint or varnish to bare wood rather than repairing or reapplying a special finish, i.e., a grained finish to an exterior wood feature such as a front door.

Not recommended: Failing to identify, evaluate, and treat the causes of wood deterioration, including faulty flashing, leaking gutters, cracks and holes in siding, deteriorated caulking in joints and seams, plant material growing too close to wood surfaces, or insect or fungus infestation.

Not recommended: Using chemical preservatives such as creosote which can change the appearance of wood features unless they were used historically.

Not recommended: Stripping paint or other coatings to reveal bare wood, thus exposing historically coated surfaces to the effects of accelerated weathering.

Not recommended: Removing paint that is firmly adhering to, and thus, protecting wood surfaces.

Not recommended: Using destructive paint removal methods such as a propane or butane torches, sandblasting or waterblasting. These methods can irreversibly damage historic woodwork.

Not recommended: Using thermal devices improperly so that the historic woodwork is scorched.

Not recommended: Failing to neutralize the wood thoroughly after using chemicals so that new paint does not adhere.

Not recommended: Allowing detachable wood features to soak too long in a caustic solution so that the wood grain is raised and the surface roughened.

Not recommended: Failing to follow manufacturers’ product and application instructions when repainting exterior woodwork.

Not recommended: Using new colors that are inappropriate to the historic building or district.

Not recommended: Failing to undertake adequate measures to assure the preservation of wood features.

Not recommended: Replacing an entire wood feature such as a cornice or wall when repair of the wood and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using substitute materials for the replacement part that does not convey the visual appearance of the surviving parts of the wood feature or that is physically or chemically incompatible.

Not recommended: Removing an entire wood feature that is unrepairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Architectural Metals

Recommended: **Identifying, retaining, and preserving** architectural metal features such as columns, capitals, window hoods, or stairways that are important in defining the overall historic character of the building; and their finishes and colors.

Recommended: **Protecting and maintaining** architectural metals by providing proper drainage so that water does not stand on flat, horizontal surfaces or accumulate in curved decorative features.

Recommended: Cleaning architectural metals, when necessary, to remove corrosion prior to repainting or applying other appropriate protective coatings.

Recommended: Identifying the particular type of metal prior to any cleaning procedure and then testing to assure that the gentlest cleaning method possible is selected or determining that cleaning is inappropriate for the particular metal.

Recommended: Cleaning soft metals such as lead, tin, copper, terneplate, and zinc with appropriate chemical methods because their finishes can be easily abraded by blasting methods.

Recommended: Using the gentlest cleaning methods for cast iron, wrought iron, and steel – hard metals – in order to remove paint, build up and corrosion. If hand scraping and wire brushing have proven ineffective, low pressure dry grit blasting may be used as long as it does not abrade or damage the surface.

Recommended: Applying appropriate paint or other coating systems after cleaning in order to decrease the corrosion rate of metals or alloys.

Recommended: Repainting with colors that are appropriate to the historic building or district.

Recommended: Applying an appropriate protective coating such as lacquer to an architectural metal such as a bronze door which is subject to heavy pedestrian use.

Recommended: Evaluating the overall condition of the architectural metals to determine whether more than protection and maintenance are required, that is, if repairs to the features will be necessary.

Recommended: **Repairing** architectural metal features by patching, splicing, or otherwise reinforcing the metal using recognized preservation methods. Repair may also include the limited replacement in kind – or with compatible substitute material – of those extensively deteriorated or missing parts of features where there are surviving prototypes such as porch balusters, column capitals or bases, or porch cresting.

Recommended: **Replacing** in kind an entire architectural metal feature that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. Examples could include cast iron porch steps or steel sash windows. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Not recommended: Removing or radically changing architectural metal features which are important in defining the overall character of the building so that, as a result, the character is diminished.

Not recommended: Removing a major portion of the historic architectural metal instead of repairing or replacing only the deteriorated metal, then reconstructing the facade with new material in order to achieve a uniform or “improved” appearance.

Not recommended: Radically changing the type of finish or its historic color or accent scheme.

Not recommended: Failing to identify, evaluate, and treat the causes of corrosion, such as moisture from leaking roofs or gutters.

Not recommended: Placing incompatible metals together without providing a reliable separation material. Such incompatibility can result in galvanic corrosion of the noble metal, e.g. copper will corrode cast iron, steel, tin, and aluminum.

Not recommended: Exposing metals which were intended to be protected from the environment.

Not recommended: Applying paint or other coatings to metals such as copper, bronze, or stainless steel that were meant to be exposed.

Not recommended: Using cleaning methods which alter or damage the historic color, texture, and finish of the metal.

Not recommended: Removing the patina of historic metal. The patina may be a protective coating on some metals, such as bronze or copper, as well as a significant historic finish.

Not recommended: Cleaning soft metals such as lead, tin, copper, terneplate, and zinc with grit blasting which will abrade the surface of the metal.

Not recommended: Failing to employ gentler methods prior to abrasively cleaning cast iron, wrought iron or steel; or using high pressure grit blasting.

Not recommended: Failing to re-apply protective coating systems to metals or alloys that require them after cleaning so that accelerated corrosion occurs.

Not recommended: Using new colors that are inappropriate to the historic building or district.

Not recommended: Failing to assess pedestrian use or new access patterns so that architectural metal features are subject to damage by use or inappropriate maintenance such as salting adjacent sidewalks.

Not recommended: Failing to undertake adequate measures to assure the preservation of architectural metal features.

Not recommended: Replacing an entire architectural metal feature such as a column or a balustrade when repair of the metal and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the architectural metal feature or that is physically or chemically incompatible.

Not recommended: Removing an architectural metal feature that is unrepairable and not replacing it; or replacing it with a new architectural metal feature that does not convey the same visual appearance.

Roofs

Recommended: **Identifying, retaining, and preserving** roofs- and their functional and decorative features- that are important in defining the overall historic character of the building. This includes the roofs' shape, such as hipped, gambrel, and mansard; decorative features such as cupolas, cresting, chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its color, and patterning.

Recommended: **Protecting and maintaining** a roof by cleaning the gutters and downspouts and replacing deteriorated flashing. Roof sheathing should also be checked for proper venting to prevent moisture condensation; and to ensure that materials are free from insect infestation.

Recommended: Providing adequate anchorage for roofing material to guard against wind damage and moisture penetration.

Recommended: Protecting a leaking roof with plywood and building paper until it can be properly repaired.

Recommended: **Repairing** a roof by reinforcing the historic materials which comprise roof features. Repairs will also generally include the limited replacement in kind – or with compatible substitute material – of those extensively deteriorated or missing parts of features when there are surviving prototypes such as cupola louvers, dentils, dormer roofing; or slates, tiles, or wood shingles on a main roof.

Recommended: **Replacing** in kind an entire feature of the roof that is too deteriorated to repair- if the overall form and detailing are still evident – using the physical evidence to guide the new work. Examples can include a large section of roofing, or a dormer or chimney. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Installing mechanical and service equipment on the roof such as air conditioning, transformers, or solar collectors when required for the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

Recommended: Designing additions to roofs such as residential, office, or storage spaces; elevator housing; decks and terraces; or dormers or skylights when required by the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

Not recommended: Radically changing, damaging, or destroying roofs which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Removing a major portion of the roof or roofing material that is repairable, then reconstructing it with new material in order to create a uniform, or “improved” appearance.

Not recommended: Changing the configuration of a roof by adding new features such as dormer windows, vents, or skylights so that the historic character is diminished.

Not recommended: Stripping the roof of sound historic material such as slate, clay tile, wood, and architectural metal.

Not recommended: Applying paint or other coatings to roofing material which has been historically uncoated.

Not recommended: Failing to clean and maintain gutters and downspouts properly so that water and debris collect and cause damage to roof fasteners, sheathing, and underlying structure.

Not recommended: Allowing roof fasteners, such as nails and clips to corrode so that roofing material is subject to accelerated deterioration.

Not recommended: Permitting a leaking roof to remain unprotected so that accelerated deterioration of historic building materials- masonry, wood, plaster, paint and structural members – occurs.

Not recommended: Replacing an entire roof feature such as a cupola or dormer when repair of the historic materials and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the roof or that is physically or chemically incompatible.

Not recommended: Removing a feature of the roof that is unrepairable, such as a chimney or dormer, and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Not recommended: Installing mechanical or service equipment so that it damages or obscures character-defining features; or is conspicuous from the public right of way.

Not recommended: Radically changing a character-defining roof shape or damaging or destroying character-defining roofing material as a result of incompatible design or improper installation techniques.

Windows

Recommended: **Identifying, retaining, and preserving** windows- and their functional and decorative features – that are important in defining the overall historic character of the building. Such features can include frames, sash, muntins, glazing, sills, heads, hoodmolds, panelled or decorated jambs and moldings, and interior and exterior shutters and blinds.

Recommended: **Protecting and maintaining** the wood and architectural metal which comprise the window frame, sash, muntins, and surrounds through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and re-application of protective coating systems.

Recommended: Making windows weathertight by recaulking and replacing or installing weatherstripping. These actions also improve thermal efficiency.

Recommended: Evaluating the overall condition of materials to determine whether more than protection and maintenance are required, i.e. if repairs to windows and window features will be required.

Recommended: **Repairing** window frames and sash by patching, splicing, consolidating or otherwise reinforcing. Such repair may also include replacement in kind of those parts that are either extensively deteriorated or missing when there are surviving prototypes such as architraves, hoodmolds, sash, sills and interior or exterior shutters and blinds.

Recommended: **Replacing** in kind an entire window that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Designing and installing new windows when the historic windows (frame, sash and glazing) are completely missing. The replacement windows may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the new window openings and the historic character of the building.

Recommended: Designing and installing additional windows on rear and on other-non character defining elevations if required by the new use. New windows openings may also be cut into exposed party walls. Such design should be compatible with the overall design of the building, but not duplicate the fenestration pattern and detailing of a character-defining elevation.

Recommended: Providing a setback in the design of dropped ceilings when they are required for the new use to allow for the full height of the window openings.

Not recommended: Removing or radically changing windows which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Changing the number, location, size or glazing pattern of windows, through cutting new openings, blocking-in windows, and installing replacement sash which does not fit the historic window opening.

Not recommended: Changing the historic appearance of windows through the use of inappropriate designs, materials, finishes, or colors which radically change the sash, depth of reveal, and muntin configuration; the reflectivity and color of the glazing; or the appearance of the frame.

Not recommended: Obscuring historic window trim with metal or other material.

Not recommended: Stripping windows of historic material such as wood, iron, cast iron, and bronze.

Not recommended: Failing to provide adequate protection of materials on a cyclical basis so that deterioration of the window results.

Not recommended: Retrofitting or replacing windows rather than maintaining the sash, frame, and glazing.

Not recommended: Failing to undertake adequate measures to assure the preservation of historic windows.

Not recommended: Replacing an entire window when repair of materials and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Failing to reuse serviceable window hardware such as brass lifts and sash locks.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the window or that is physically or chemically incompatible.

Not recommended: Removing a character-defining window that is unrepairable and blocking it in; or replacing it with a new window that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced window is based on insufficient historical, pictorial, and physical documentation.

Not recommended: Introducing a new design that is incompatible with the historic character of the building.

Not recommended: Installing new windows, including frames, sash, and muntin configuration that are incompatible with the building's historic appearance or obscure, damage, or destroy character-defining features.

Not recommended: Inserting new floors or furred-down ceilings which cut across the glazed areas of windows so that the exterior form and appearance of the windows are changed.

Entrances and Porches

Recommended: **Identifying, retaining, and preserving** entrances – and their functional and decorative features – that are important in defining the overall historic character of the building such as doors, fanlights, sidelights, pilasters, entablatures, columns, balustrades, and stairs.

Recommended: **Protecting and maintaining** the masonry, wood, and architectural metal that comprise entrances and porches through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and re-application of protective coating systems.

Recommended: Evaluating the overall condition of materials to determine whether more than protection and maintenance are required, that is, if repairs to entrance and porch features will be necessary.

Recommended: **Repairing** entrances and porches by reinforcing the historic materials. Repair will also generally include the limited replacement in kind – or with compatible substitute material – of those extensively deteriorated or missing parts of repeated features where there are surviving prototypes such as balustrades, cornices, entablatures, columns, sidelights, and stairs.

Recommended: **Replacing** in kind an entire entrance or porch that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Designing enclosures for historic porches when required by the new use in a manner that preserves the historic character of the building. This can include using large sheets of glass and recessing the enclosure wall behind existing scrollwork, posts, and balustrades.

Recommended: Designing and installing additional entrances or porches when required for the new use in a manner that preserves the historic character of the building, i.e., limiting such alteration to non-character-defining elevations.

Not recommended: Removing or radically changing entrances or porches which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Stripping entrances and porches of historic material such as wood, iron, cast iron, terra cotta, tile and brick. Removing an entrance or porch because the building has been reoriented to accommodate a new use.

Not recommended: Cutting new entrances on a primary elevation.

Not recommended: Altering utilitarian or service entrances so they appear to be formal entrances by adding paneled doors, fanlights, and sidelights.

Not recommended: Failing to provide adequate protection to materials on a cyclical basis so that deterioration of entrances and porches results.

Not recommended: Failing to undertake adequate measures to assure the preservation of historic entrances and porches.

Not recommended: Replacing an entire entrance or porch when the repair of materials and limited replacement of parts are appropriate.

Not recommended: Using a substitute material for the replacement parts that does not convey the visual appearance of the surviving parts of the entrance and porch or that is physically or chemically incompatible.

Not recommended: Removing an entrance or porch that is unrepairable and not replacing it; or replacing it with a new entrance or porch that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced entrance or porch is based on insufficient historical, pictorial, and physical documentation.

Not recommended: Introducing a new design that is incompatible with the historic character of the building.

Not recommended: Enclosing porches in a manner that results in a diminution or loss of historic character such as using solid materials such as wood, stucco, or masonry.

Not recommended: Installing secondary service entrances and porches that are incompatible in size and scale with the historic building or obscure, damage, or destroy character-defining features.

Building Interior: Structural System

Recommended: **Identifying, retaining, and preserving** structural systems- and individual features of systems that are important in defining the overall historic character of the building, such as post and beam systems, trusses, summer beams, vigas, cast iron columns, above grade stone foundation walls, or loadbearing brick or stone walls.

Recommended: **Protecting and maintaining** the structural system by cleaning the roof gutters and downspouts; replacing roof flashing; keeping masonry, wood, and architectural metals in a sound condition, and assuring that structural members are free from insect infestation.

Recommended: **Repairing** the structural systems by augmenting or upgrading individual parts or features. For example, weakened structural members such as floor framing can be spliced, braced, or otherwise supplemented and reinforced.

Recommended: **Replacing** in kind-or with substitute material-those portions or features of the structural system that are either extensively deteriorated or are missing when there are surviving prototypes such as cast-iron columns, roof rafters or trusses, or sections of loadbearing walls. Substitute material should convey the same form, design, and overall visual appearance as the historic features; and, at a minimum, be equal to its loadbearing capabilities.

Recommended: Examining and evaluating the physical condition of the structural system and its individual features using non-destructive techniques such as x-ray photography.

Recommended: Limiting any new excavations adjacent to historic foundations to avoid undermining the structural stability of the building or adjacent historic buildings.

Recommended: Correcting structural deficiencies in preparation for the new use in a manner that preserves the structural system and individual character-defining features.

Recommended: Designing and installing new mechanical or electrical systems when required for the new use which minimize the number of cutouts or holes in structural members.

Recommended: Adding a new floor when required for the new use if such an alteration does not damage or destroy the structural system or obscure, damage, or destroy character-defining spaces, features, or finishes.

Recommended: Creating an atrium or a light well to provide natural light when required for the new use in a manner that assures the preservation of the structural system as well as character-defining interior spaces, features, and finishes.

Not recommended: Removing, covering, or radically changing features of structural systems which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Putting a new use into the building which could overload the existing structural system, or installing equipment or mechanical systems which could damage the structure.

Not recommended: Demolishing a loadbearing masonry wall that could be augmented and retained and replacing it with a new wall (i.e. brick or stone), using the historic masonry only as an exterior veneer.

Not recommended: Leaving known structural problems untreated such as deflection of beams, cracking and bowing of walls, or racking of structural members.

Not recommended: Utilizing treatments or products that accelerate the deterioration of structural material such as introducing urea-formaldehyde foam insulation into frame walls.

Not recommended: Failing to provide proper building maintenance on a cyclical basis so that deterioration of the structural system results.

Not recommended: Utilizing destructive probing techniques that will damage or destroy structural material.

Not recommended: Upgrading the building structurally in a manner that diminishes the historic character of the exterior, such as installing strapping channels or removing a decorative cornice; or damages interior features or spaces.

Not recommended: Replacing a structural member or other feature of the structural system when it could be augmented and retained.

Not recommended: Installing a replacement feature that does not convey the same visual appearance, e.g., replacing an exposed wood summer beam with a steel beam.

Not recommended: Using substitute material that does not equal the loadbearing capabilities of the historic material and design or is otherwise physically or chemically incompatible.

Not recommended: Carrying out excavations or regrading adjacent to or within a historic building which could cause the historic foundation to settle, shift, or fail; or could have a similar effect on adjacent historic buildings.

Not recommended: Radically changing interior spaces or damaging or destroying features or finishes that are character defining while trying to correct structural deficiencies in preparation for the new use.

Not recommended: Installing new mechanical and electrical systems or equipment in a manner which results in numerous cuts, splices, or alterations to the structural members.

Not recommended: Inserting a new floor when such a radical change damages a structural system or obscures or destroys interior spaces, features, or finishes.

Not recommended: Inserting new floors or furred-down ceilings which cut across the glazed areas of windows so that the exterior form and appearance of the windows are radically changed.

Not recommended: Damaging the structural system or individual features; or radically changing, damaging, or destroying character-defining interior spaces, features, or finishes in order to create an atrium or a light well.

Building Interior: Spaces, Features, and Finishes

Recommended: **Identifying, retaining, and preserving** a floor plan or interior spaces that are important in defining the overall historic character of the building. This includes the size, configuration, proportion, and relationship of rooms and corridors; the relationship of features to spaces; and the spaces themselves such as lobbies, reception halls, entrance halls, double parlors, theaters, auditoriums, and important industrial or commercial use spaces.

Recommended: **Identifying, retaining, and preserving** interior features and finishes that are important in defining the overall historic character of the building, including columns, cornices, baseboards, fireplaces and mantles, paneling, light fixtures, hardware, and flooring; and wallpaper, plaster, paint, and finishes such as stenciling, marbling, and graining; and other decorative materials that accent interior features and provide color, texture, and patterning to walls, floors, and ceilings.

Recommended: **Protecting and maintaining** masonry, wood, and architectural metals which comprise interior features through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems.

Recommended: Protecting interior features and finishes against arson and vandalism before project work begins, erecting protective fencing, boarding-up windows, and installing fire alarm systems that are keyed to local protection agencies.

Recommended: Protecting interior features such as a staircase, mantel, or decorative finishes and wall coverings against damage during project work by covering them with heavy canvas or plastic sheets.

Recommended: Installing protective coverings in areas of heavy pedestrian traffic to protect historic features such as wall coverings, parquet flooring and paneling.

Recommended: Removing damaged or deteriorated paints and finishes to the next sound layer using the gentlest method possible, then repainting or refinishing using compatible paint or other coating systems.

Recommended: Repainting with colors that are appropriate to the historic building.

Recommended: Limiting abrasive cleaning methods to certain industrial or warehouse buildings where the interior masonry or plaster features do not have distinguishing design, detail, tooling, or finishes; and where wood features are not finished, molded, beaded, or worked by hand. Abrasive cleaning should only be considered after other, gentler methods have been proven ineffective.

Recommended: Evaluating the overall condition of materials to determine whether more than protection and maintenance are required, that is, if repairs to interior features and finishes will be necessary.

Recommended: **Repairing** interior features and finishes by reinforcing the historic materials. Repair will also generally include the limited replacement in kind – or with compatible substitute material – of those extensively deteriorated or missing parts of repeated features when there are surviving prototypes such as stairs, balustrades, wood paneling, columns; or decorative wall coverings or ornamental tin or plaster ceilings.

Recommended: **Replacing** in kind an entire interior feature or finish that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. Examples could include wainscoting, a tin ceiling, or interior stairs. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Accommodating service functions such as bathrooms, mechanical equipment, and office machines required by the building's new use in secondary spaces such as first floor service areas or on upper floors.

Recommended: Reusing decorative materials or features that have had to be removed during the rehabilitation work including wall and baseboard trim, door moulding, paneled doors, and simple wainscoting; and relocating such material or features in areas appropriate to their historic placement.

Recommended: Installing permanent partitions in secondary spaces; removable partitions that do not destroy the sense of space should be installed when the new use requires the subdivision of character defining interior spaces.

Recommended: Enclosing an interior stairway where required by code so that its character is retained. In many cases, glazed fire-rated walls may be used.

Recommended: Placing new code-required stairways or elevators in secondary and service areas of the historic building.

Recommended: Creating an atrium or a light well to provide natural light when required for the new use in a manner that preserves character-defining interior spaces, features, and finishes as well as the structural systems.

Recommended: Adding a new floor if required for the new use in a manner that preserves character-defining structural features, and interior spaces, features, and finishes.

Not recommended: Radically changing a floor plan or interior spaces-including individual rooms-which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Altering the floor plan by demolishing principal walls and partitions to create a new appearance.

Not recommended: Altering or destroying interior spaces by inserting floors, cutting through floors, lowering ceilings, or adding or removing walls.

Not recommended: Relocating an interior feature such as a staircase so that the historic relationship between features and space is altered.

Not recommended: Removing or radically changing features and finishes which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Installing new decorative material that obscures or damages character-defining interior features or finishes.

Not recommended: Removing paint, plaster, or other finishes from historically finished surfaces to create a new appearance (e.g. removing plaster to expose masonry surfaces such as brick walls or a chimney piece).

Not recommended: Applying paint, plaster, or other finishes to surfaces that have been historically unfinished to create a new appearance.

Not recommended: Stripping historically painted wood surfaces to bare wood, then applying clear finishes or stains to create a “natural look.”

Not recommended: Stripping paint to bare wood rather than repairing or reapplying grained or marbled finishes to features such as doors and paneling.

Not recommended: Radically changing the type of finish or its color, such as painting a previously varnished wood feature.

Not recommended: Failing to provide adequate protection to materials on a cyclical basis so that deterioration of interior features results.

Not recommended: Permitting entry into historic buildings through unsecured or broken windows and doors so that interior features and finishes are damaged by exposure to weather or through vandalism.

Not recommended: Stripping interiors of features such as woodwork, doors, windows, light fixtures, copper piping, radiators; or of decorative materials.

Not recommended: Failing to provide proper protection of interior features and finishes during work so that they are gouged, scratched, dented, or otherwise damaged.

Not recommended: Failing to take new use patterns into consideration so that interior features and finishes are damaged.

Not recommended: Using destructive methods such as propane or butane torches or sandblasting to remove paint or other coatings. These methods can irreversibly damage the historic materials that comprise interior features.

Not recommended: Using new paint colors that are inappropriate to the historic building.

Not recommended: Changing the texture and patina of character-defining features through sandblasting or using other abrasive methods to remove paint, discoloration or plaster. This includes both exposed wood (including structural members) and masonry.

Not recommended: Failing to undertake adequate measures to assure the preservation of interior features and finishes.

Not recommended: Replacing an entire interior feature such as a staircase, paneled wall, parquet floor, or cornice; or finish such as a decorative wall covering or ceiling when repair of materials and limited replacement of such parts are appropriate.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts or portions of the interior feature or finish or that is physically or chemically incompatible.

Not recommended: Removing a character defining feature or finish that is unrepairable and not replacing it; or replacing it with a new feature or finish that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced feature is based on insufficient physical, historical, and pictorial documentation or on information derived from another building.

Not recommended: Introducing a new interior feature or finish that is incompatible with the scale, design, materials, color, and texture of the surviving interior features and finishes.

Not recommended: Dividing rooms, lowering ceilings, and damaging or obscuring character-defining features such as fireplaces, niches, stairways or alcoves, so that a new use can be accommodated in the building.

Not recommended: Discarding historic material when it can be reused within the rehabilitation project or relocating it in historically inappropriate areas.

Not recommended: Installing permanent partitions that damage or obscure character-defining spaces, features, or finishes.

Not recommended: Enclosing an interior stairway with fire-rated construction so that the stairwell space or any character-defining features are destroyed.

Not recommended: Radically changing, damaging, or destroying character-defining spaces, features, or finishes when adding new code-required stairways and elevators.

Not recommended: Destroying character-defining interior spaces, features, or finishes; or damaging the structural system in order to create an atrium or light well.

Not recommended: Inserting a new floor within a building that alters or destroys the fenestration; radically changes a character-defining interior space; or obscures, damages, or destroys decorative detailing.

Mechanical Systems: Heating, Air Conditioning, Electrical, and Plumbing

Recommended: **Identifying, retaining, and preserving** visible features of early mechanical systems that are important in defining the overall historic character of the building, such as radiators, vents, fans, grilles, plumbing fixtures, switchplates, and lights.

Recommended: **Protecting and maintaining** mechanical, plumbing, and electrical systems and their features through cyclical cleaning and other appropriate measures.

Recommended: Preventing accelerated deterioration of mechanical systems by providing adequate ventilation of attics, crawlspaces, and cellars so that moisture problems are avoided.

Recommended: **Repairing** mechanical systems by augmenting or upgrading system parts, such as installing new pipes and ducts; rewiring; or adding new compressors or boilers.

Recommended: **Replacing** in kind – or with compatible substitute material – those visible features of mechanical systems that are either extensively deteriorated or are missing when there are surviving prototypes such as ceiling fans, switchplates, radiators, grilles, or plumbing fixtures.

Recommended: Installing a completely new mechanical system if required for the new use so that it causes the least alteration possible to the building's floor plan, the exterior elevations, and the least damage to historic building material.

Recommended: Installing the vertical runs of ducts, pipes, and cables in closets, service rooms, and wall cavities.

Recommended: Installing air conditioning units if required by the new use in such a manner that the historic materials and features are not damaged or obscured.

Recommended: Installing heating/air conditioning units in the window frames in such a manner that the sash and frames are protected. Window installations should be considered only when all other heating/cooling systems would result in significant damage to historic materials.

Not recommended: Removing or radically changing features of mechanical systems that are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Not recommended: Failing to provide adequate protection of materials on a cyclical basis so that deterioration of mechanical systems and their visible features results.

Not recommended: Enclosing mechanical systems in areas that are not adequately ventilated so that deterioration of the systems results.

Not recommended: Replacing a mechanical system or its functional parts when it could be upgraded and retained.

Not recommended: Installing a replacement feature that does not convey the same visual appearance.

Not recommended: Installing a new mechanical system so that character-defining structural or interior features are radically changed, damaged, or destroyed.

Not recommended: Installing vertical runs of ducts, pipes, and cables in places where they will obscure character – defining features.

Not recommended: Concealing mechanical equipment in walls or ceilings in a manner that requires the removal of historic building material.

Not recommended: Installing “dropped” acoustical ceilings to hide mechanical equipment when this destroys the proportions of character –defining interior spaces.

Not recommended: Cutting through features such as masonry wall in order to install air conditioning units.

Not recommended: Radically changing the appearance of the historic building or damaging or destroying windows by installing heating/air conditioning units in historic window frames.

Building Site

Recommended: **Identifying, retaining, and preserving** buildings and their features as well as features of the site that are important in defining its overall historic character. Site features can include driveways, walkways, lighting, fencing, signs, benches, fountains, wells, terraces, canal systems, plants and trees, berms, and drainage or irrigation ditches; and archeological features that are important in defining the history of the site.

Recommended: Retaining the historic relationship between buildings, landscape features, and open space.

Recommended: **Protecting and maintaining** buildings and the site by providing proper drainage to assure that water does not erode foundation walls; drain toward the building; nor erode the historic landscape.

Recommended: Minimizing disturbance of terrain around buildings or elsewhere on the site, thus reducing the possibility of destroying unknown archeological materials.

Recommended: Surveying areas where major terrain alteration is likely to impact important archeological sites.

Recommended: Protecting, e.g. preserving in place known archeological material whenever possible.

Recommended: Planting and carrying out any necessary investigation using professional archeologists and modern archeological methods when preservation in place is not feasible.

Recommended: Protecting the building and other features of the site against arson and vandalism before rehabilitation work begins, i.e., erecting protective fencing and installing alarm systems that are keyed into local protection agencies.

Recommended: Providing continued protection of masonry, wood, and architectural metals which comprise building and site features through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and re-application of protective coating systems; and continued protection and maintenance of landscape features, including plant material.

Recommended: Evaluating the overall condition of materials to determine whether more than protection and maintenance are required, that is, if repairs to building and site features will be necessary.

Recommended: **Repairing** features of buildings and the site by reinforcing the historic materials. Repair will also generally include replacement in kind – with a compatible substitute material – of those extensively deteriorated or missing parts of features where there are surviving prototypes such as fencing and paving.

Recommended: **Replacing** in kind an entire feature of the building or site that is too deteriorated to repair – if the overall form and detailing are still evident – using the physical evidence to guide the new work. This could include an entrance or porch, walkway, or fountain. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Designing new on-site parking, loading docks, or ramps when required by the new use so that they are as unobtrusive as possible and assure the preservation of character-defining features of the site.

Recommended: Designing new exterior additions to historic buildings or adjacent new construction which is compatible with the historic character of the site and which preserve the historic relationship between a building or buildings, landscape features, and open space.

Recommended: Removing nonsignificant buildings, additions, or site features which detract from the historic character of the site.

Not recommended: Removing or radically changing buildings and their features or site features which are important in defining the overall historic character of the building site so that, as a result, the character is diminished.

Not recommended: Removing or relocating historic buildings or landscape features, thus destroying the historic relationship between buildings, landscape features, and open space.

Not recommended: Removing or relocating historic buildings on a site or in a complex of related historic structures – such as a mill complex or farm – thus diminishing the historic character of the site or complex.

Not recommended: Moving buildings onto the site, thus creating a false historical appearance.

Not recommended: Lowering the grade level adjacent to a building to permit development of a formerly below-grade area such as a basement in a manner that would drastically change the historic relationship of the building to its site.

Not recommended: Failing to maintain site drainage so that buildings and site features are damaged or destroyed; or, alternatively, changing the site grading so that water no longer drains properly.

Not recommended: Introducing heavy machinery or equipment into areas where their presence may disturb archeological materials.

Not recommended: Failing to survey the building site prior to the beginning of rehabilitation project work so that, as a result, important archeological material is destroyed.

Not recommended: Leaving known archeological material unprotected and subject to vandalism, looting and destruction by natural elements, such as erosion.

Not recommended: Permitting unqualified project personnel to perform data recovery so that improper methodology results in the loss of important archeological material.

Not recommended: Permitting buildings and site features to remain unprotected so that plant materials, fencing, walkways, archeological features, etc. are damaged or destroyed.

Not recommended: Stripping features from buildings and the site such as wood siding, iron fencing, masonry balustrades; or removing or destroying landscape features, including plant material.

Not recommended: Failing to provide adequate protection of materials on a cyclical basis so that deterioration of building and site features results.

Not recommended: Failing to undertake adequate measures to assure the preservation of building and site features.

Not recommended: Replacing an entire feature of the building or site such as a fence, walkway, or driveway when repair of materials and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the building or site feature or that is physically or chemically incompatible.

Not recommended: Removing a feature of the building or site that is unrepairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced feature is based on insufficient historical, pictorial, and physical documentation.

Not recommended: Introducing a new building or site feature that is out of scale or otherwise inappropriate.

Not recommended: Introducing a new landscape feature or plant material that is visually incompatible with the site or that destroys site patterns or vistas.

Not recommended: Placing parking facilities directly adjacent to historic buildings where automobiles may cause damage to the buildings or landscape features or be intrusive to the building site.

Not recommended: Introducing new construction onto the building site which is visually incompatible in terms of size, scale, design, materials, color and texture or which destroys historic relationships on the site.

Not recommended: Removing a historic building in a complex, a building feature, or a site feature which is important in defining the historic character of the site.

District Neighborhood

Recommended: **Identifying, retaining, and preserving** buildings, and streetscape, and landscape features which are important in defining the overall historic character of the district or neighborhood. Such features can include streets, alleys, paving, walkways, streetlights, signs, benches, parks and gardens, and trees.

Recommended: Retaining the historic relationship between buildings, and streetscape and landscape features such as town square comprised of row houses and stores surrounding a communal park or open space.

Recommended: **Protecting and maintaining** the historic masonry, wood, and architectural metals which comprise building and streetscape features, through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems, and protecting and maintaining landscape features, including plant material.

Recommended: Protecting buildings, paving, iron fencing, etc. against arson and vandalism before rehabilitation work begins by erecting protective fencing and installing alarm systems that are keyed into local protection agencies.

Recommended: Evaluating the overall condition of building, streetscape and landscape materials to determine whether more than protection and maintenance are required, that is, if repairs to features will be necessary.

Recommended: **Repairing** features of the building, streetscape, or landscape by reinforcing the historic materials. Repair will also generally include the replacement in kind – or with a compatible substitute material – of those extensively deteriorated or missing parts or features when there are surviving prototypes such as porch balustrades, paving materials, or streetlight standards.

Recommended: **Replacing** in kind an entire feature of the building, streetscape, or landscape that is too deteriorated to repair – when the overall form and detailing are still evident – using the physical evidence to guide the new work. This could include a storefront, a walkway, or a garden. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Recommended: Designing and constructing a new feature of the building, streetscape or landscape when the historic feature is completely missing, such as row house steps, a porch, streetlight, or terrace. It may be a restoration based on historical, pictorial, and physical documentation; or be a new design that is compatible with the historic character of the district or neighborhood.

Recommended: Designing required new parking so that it is as unobtrusive as possible, i.e., on side streets or at the rear of buildings. “Shared” parking should also be planned so that several businesses can utilize one parking area as opposed to introducing random, multiple lots.

Recommended: Designing and constructing new additions to historic buildings when required by the new use. New work should be compatible with the historic character of the district or neighborhood in terms of size, scale, design, material, color and texture.

Recommended: Removing nonsignificant buildings, additions, or streetscape and landscape features which detract from the historic character of the district or the neighborhood.

Not recommended: Removing or radically changing those features of the district or neighborhood which are important in defining the overall historic character so that, as a result, the character is diminished.

Not recommended: Destroying streetscape and landscape features by widening existing streets, changing paving material, or introducing inappropriately located new streets or parking lots.

Not recommended: Removing or relocating historic buildings, or features of the streetscape and landscape, thus destroying the historic relationship between buildings, features, and open space.

Not recommended: Failing to provide adequate protection of materials on a cyclical basis so that deterioration of building, streetscape, and landscape features results.

Not recommended: Permitting buildings to remain unprotected so that windows are broken; and interior features are damaged.

Not recommended: Stripping features from buildings or the streetscape such as wood siding, iron fencing, or terra cotta balustrades; or removing or destroying landscape features, including plant material.

Not recommended: Failing to undertake adequate measures to assure the preservation of building, streetscape, and landscape features.

Not recommended: Replacing an entire feature of the building, streetscape, or landscape such as a porch, walkway, or streetlight, when repair of materials and limited replacement of deteriorated or missing parts are appropriate.

Not recommended: Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the building, streetscape, or landscape feature or that is physically or chemically incompatible.

Not recommended: Removing a feature of the building, streetscape, or landscape that is unrepairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Not recommended: Creating a false historical appearance because the replaced feature is based on insufficient historical, pictorial, and physical documentation.

Not recommended: Introducing a new building, streetscape or landscape feature that is out of scale or otherwise inappropriate to the setting's historic character, e.g. replacing picket fencing with chain link fencing.

Not recommended: Placing parking facilities directly adjacent to historic buildings which cause the removal of historic plantings, relocation of paths and walkways, or blocking of alleys.

Not recommended: Introducing new construction into historic districts that is visually incompatible or that destroys historic relationships within the district or neighborhood.

Not recommended: Removing a historic building, building feature, or landscape or streetscape feature that is important in defining the overall historic character of the district or the neighborhood.

Health and Safety Code Requirements

Recommended: Identifying the historic building's character-defining spaces, features, and finishes so that code required work will not result in their damage or loss.

Recommended: Complying with health and safety code, including seismic codes and barrier-free access requirements, in such a manner that character-defining spaces, features, and finishes are preserved.

Recommended: Working with local code officials to investigate alternative life safety measures or variances available under some codes so that alterations and additions to historic buildings can be avoided.

Recommended: Providing barrier-free access through removable or portable, rather than permanent, ramps.

Recommended: Providing seismic reinforcement to a historic building in a manner that avoids damaging the structural system and character-defining features.

Recommended: Upgrading historic stairways and elevators to meet health and safety codes in a manner that assures their preservation, i.e. so that they are not damaged or obscured.

Recommended: Installing sensitively designed fire suppressions systems, such as a sprinkler system for wood frame mill buildings, instead of applying fire-resistant sheathing to character-defining features.

Recommended: Applying fire-retardant coatings, such as intumescent paints, which expand during fire to add thermal protection to steel.

Recommended: Adding a new stairway or elevator to meet health and safety codes in a manner that preserves adjacent character-defining features and space.

Recommended: Placing a code-required stairway or elevator that cannot be accommodated within the historic building in a new exterior addition. Such an addition should be located at the rear of the building or an inconspicuous side; and its size and scale limited in relationship to the historic building.

Not recommended: Undertaking code-required alterations to a building or site before identifying those spaces, features, or finishes which are character-defining and must therefore be preserved.

Not recommended: Altering, damaging, or destroying character-defining spaces, features, and finishes while making modifications to a building or site to comply with safety codes.

Not recommended: Making changes to historic buildings without first seeking alternatives to code requirements.

Not recommended: Installing permanent ramps that damage or diminish character-defining features.

Not recommended: Reinforcing a historic building using measures that damage or destroy character-defining structural and other features.

Not recommended: Damaging or obscuring historic stairways and elevators or altering adjacent spaces in the process of doing work to meet code requirements.

Not recommended: Covering character-defining wood features with fire-resistant sheathing which results in altering their visual appearance.

Not recommended: Using fire-retardant coatings if they damage or obscure character-defining features.

Not recommended: Radically changing, damaging, or destroying character-defining spaces, features, or finishes when adding a new code required stairway or elevator.

8. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:

- lot coverage, defined as the percentage of lot area covered by primary structures;
- setback, defined as the distance from the lot lines to the building(s);
- building height;
- exterior building materials;
- proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- surface textures;
- structural condition and soundness;
- walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
- color (new construction only and not for existing residences); and
- effect of trees and other landscape elements.

9. The application is congruous with the historic aspects of the landmark.

10. Based on the standards of the Handbook, and the City of Concord Code of Ordinances, including the standards listed above, the Commission concludes that:

- a. The Site Work as described in the scope of work dated November 8, 2022 and Technical Site Plan Case PRS2021-01908 as of December 14, 2022, is appropriate for the site based on the conditions applied by the National Park Service and the review of the project under the standards of Appendix A of the *Historic Handbook*. The National Park Service and City Arborist will need to reach agreement on an approvable landscape and lighting plan. Site work is subject to the conditions imposed by the National Park Service in their letter of October 12, 2022.
- b. The demolition work as described in the scope of work dated November 8, 2022 and Technical Site Plan Case PRS2021-01908 and Building Plan case PRB2021-02298 as of December 14, 2022, which includes the removal of the two ventilation rooms on the north side of the main mill building, is appropriate based on the evidence presented and on the

conditions applied by the National Park Service and the review of the project under the standards of Appendix A of the *Historic Handbook*.

- c. The utilities work described in the scope of work dated November 8, 2022 and Technical Site Plan Case PRS2021-01908 as of December 14, 2022, is appropriate for the site based on the conditions applied by the National Park Service and the review of the project under the standards of Appendix A of the *Historic Handbook*.
- d. The building exteriors work described in the scope of work dated November 8, 2022 and Building Plan case PRB2021-02298 as of December 14, 2022, is appropriate based on the conditions applied by the National Park Service and the review of the project under the standards of Appendix A of the *Historic Handbook*.
- e. The building interiors, unit construction, and mechanical/electrical/plumbing work described in the scope of work dated November 8, 2022 and Building Plan case PRB2021-02298 as of December 14, 2022, is appropriate based on the conditions applied by the National Park Service and the review of the project under the standards of Appendix A of the *Historic Handbook*.

Commissioner Barbee made a motion to approve the Findings of Fact. Commissioner Underwood seconded the motion. The vote carried unanimously. –**The Vote: All Ayes**

Commissioner Barbee made a motion to approve the Certificate of Appropriateness and to allow the Chairman to sign the Order out of session. Commissioner Underwood seconded the motion. The vote carried. –**The Vote: All Ayes (APPROVED)**

STAFF UPDATE:

HISTORIC HANDBOOK:

Mr. Sherrill stated that the Historic Handbook Committee has met a couple of times since the last Commission meeting. They have worked their way through Chapter Four and are basically visiting each chapter twice. Mr. Sherrill introduced Autumn James, who is the new Senior Planner and is doing a great job of getting materials out to the Committee as well. He stated that they are talking about doing a little bit of restructuring, making sure that the flow charts and procedures are clear, which is clearly a need based on some of the testimony that was heard this evening. Also, they are going a fair amount of rearrangement in Articles 3 and 4, in Chapters 3 and 4. They are taking one section at a time but they are moving at a pretty good speed.

ADJOURNMENT:

A motion was made and carried to adjourn the meeting at 9:40 p.m.

Chair–William Isenhour

Secretary – Angela Baldwin