



**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
January 03, 2012
7:00 PM**

*Times set forth for the agenda items are estimates.
Items may be heard before or after the times designated.*

I. CALL TO ORDER (7:00 PM):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS.

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Library Board of Trustees

2 full terms

Application Due Date: January 13, 2012

Planning Commission
3 full terms
Application Due Date: January 13, 2012

Arts and Culture Commission
3 full terms
Application Due Date: January 13, 2012

Community Sustainability Commission
1 full term Application
Due Date: January 13, 2012

Benicia Housing Authority Board of Commissioners
2 full terms
Application Due Date: January 13, 2012

Economic Development Board
1 unexpired term
Application Due Date: January 13, 2012

SolTrans Public Advisory Committee
3 full terms
Open Until Filled

Sky Valley Open Space Committee
1 full term
Open Until Filled

Building Board of Appeals
3 full terms
Open Until Filled

Solano Transportation Authority Pedestrian Advisory Committee
1 full term
Open Until Filled

3. Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

4. Benicia Arsenal Update:

B. APPOINTMENTS.

C. PRESENTATIONS.

D. PROCLAMATIONS.

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT.

B. PUBLIC COMMENT.

VII. CONSENT CALENDAR (7:15 PM):

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

A. Approval of Minutes of the special meetings of December 12, 2011 and December 20, 2011. (City Clerk).

B. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 2011. (Finance Director)

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance Committee has reviewed these reports and recommends acceptance.

Recommendation: Accept, by motion, the investment report for the quarter ended September 2011.

C. ADOPTION OF THE 2012 CITY COUNCIL REGULAR MEETING CALENDAR. (City Manager)

The Open Government Ordinance (Section 4.08.040 of Ordinance No. 05-6) states that each body established by ordinance shall establish and publish an annual schedule of regular meetings. The proposed calendar lists the City Council's regular meeting dates for 2012.

Recommendation: Adopt, by motion, the 2012 City Council Regular Meeting Calendar.

D. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. BUSINESS ITEMS (7:30 PM):

A. REVIEW OF PLANNING COMMISSION DECISION REGARDING THREE VINYL WINDOWS AT 410 WEST J STREET. (Public Works and Community Development Director)

At its December 8, 2010 meeting the Planning Commission on appeal by the applicants overturned an October 27, 2010 HPRC decision denying a portion of an application by Julian and Claudia Fraser to replace five single wood windows with vinyl windows on the facade of their home. HPRC did allow the Frasers to replace two wood windows with vinyl on the sides of the home, determining those were less visible from the street. In its application of the Downtown Historic Conservation Plan provisions and interpretation of the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, HPRC generally has not allowed wood windows to be replaced with non-wood windows. The front facade at 410 West J Street also has an existing double vinyl window that is more visible than the three windows in question. Mayor Patterson called the Planning Commission decision up for review but has subsequently asked to rescind that request for review but to continue with the policy discussion. Because the appeal period has passed, the action cannot be rescinded without being agendized.

Recommendation:

- 1. Uphold the Planning Commission's reversal of the Historic Preservation Review Commission's denial of a request to replace three wood windows with vinyl at 410 West J Street, and**
- 2. Discuss the process and regulations for administrative permits in the Historic Districts, the process for appeals of Historic Preservation Commission decisions, and the impact on the Certified Local Government status.**

IX. ADJOURNMENT (9:00 PM):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerks Office.

CITY COUNCIL MEETING
BENICIA ARSENAL UPDATE

January 3, 2012

1. We will be holding a public update on the project on January 12, 2012. Representatives from DTSC will attend and update the group. The agenda is attached below.
2. After the public session we will be putting together the working groups which may be more focused as a result of the public meeting on January 12. If you are an interested stakeholder who wants to participate on working groups, please contact the City Attorney.
3. We will post and notify the Arsenal email list of formal DTSC actions regarding the Arsenal. Please sign up for the email list if you want to be notified.
4. Work continues on developing the strategy and gathering information. If you have any information that you believe is relevant, please get it to the City Attorney. We are continuing to upload pertinent documents to the Benicia web site.

PUBLIC PARTICIPATION MEETING
BENICIA ARSENAL UPDATE
City Council Chambers
January 12, 2012
4:00 PM – 6:00 PM

- A. PURPOSE OF MEETING: Vice Mayor Schwartzman – 5 minutes
To update the Arsenal stakeholders about the progress made so far.
- B. INTRODUCTION: Mayor Patterson – 5 minutes
 - a. City Introductions
 - b. Review Rules
 - c. Self Introductions
- C. DEPARTMENT OF TOXIC SUBSTANCES CONTROL – Presentation – 45 minutes
 - a. Review of Environmental Conditions at the Arsenal
 - b. Implications and Future Plans
- D. QUESTIONS - From the audience – 30 minutes

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
December 12, 2011

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 7:00 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present. Vice Mayor Schwartzman participated remotely from Maui, Hawaii.

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

IV. CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR (Government Code Section 54957.6 (a))

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: City Manager, City Attorney, Benicia Senior Management Group, Benicia Middle Management Group, Local 1, Benicia Public Service Employees' Association (BPSEA), Benicia Police Officers Association (BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA), Police Management, Unrepresented.

V. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 7:23 p.m.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
December 20, 2011

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 6:01 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

All council Members present. Vice Mayor Campbell arrived at 6:10 p.m.

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

IV. CLOSED SESSION:

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)**

Titles: City Manager

**B. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: City Manager, City Attorney, Benicia Senior Management Group, Benicia Middle Management Group, Local 1, Benicia Public Service Employees' Association (BPSEA), Benicia Police Officers Association (BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA), Police Management, Unrepresented.

V. **ADJOURNMENT:**

Mayor Patterson adjourned the Closed Session meeting at 7:00 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 3, 2012
CONSENT CALENDAR

DATE : December 21, 2011

TO : City Manager

FROM : Finance Director

SUBJECT : **REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 2011**

RECOMMENDATION:

Accept, by motion, the investment report for the quarter ended September 2011.

EXECUTIVE SUMMARY:

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance Committee has reviewed these reports and recommends acceptance.

BUDGET INFORMATION:

There is no effect on the City's budget.

GENERAL PLAN:

There is no effect on the City's general plan.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity
 - Strategy 8.20: Measure and track service performance

BACKGROUND:

The City's investment portfolio consists of cash balances in checking accounts (less outstanding checks), Local Agency Investment Fund, treasury bills, federal agency notes and trustee accounts which manage the installment payments and reserves for bonds issued by the City.

The City has adequate investments to meet its expenditure requirements for the next six months. In addition, the City's investment portfolio is in compliance with Government Code Sections 53600 et seq. and the City's Investment Policy. The

Finance Committee has reviewed these reports and recommends acceptance. The attached schedules identify the City's investments by maturity date, investment type, custodian of investment and cost. The market value information is provided by Union Bank and California State Controller's Office for the LAIF investments.

Attachment:

- Investment Report for September 2011

**City of Benicia
Investment Report
As of September 30, 2011**

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
On Demand							
L.A.I.F.	L.A.I.F.			0.380%	\$ 1,627,583.70	\$ 1,627,583.70	\$ 1,630,590.81
Checking	Bank of America			0.600%	3,743,770.45	3,743,770.45	3,743,770.45
Money Market	Union Bank			0.000%	18,821.76	18,821.76	18,821.76
Money Market	Union Bank			0.000%	332,431.24	332,431.24	332,431.24
Subtotal					5,722,607.15	5,722,607.15	5,725,614.26
Up to 6 Months							
US Obligation	FNMA	24-Nov-09	23-Nov-11	1.000%	750,000.00	751,612.50	750,945.00
US Obligation	US Treasury	1-Apr-11	30-Nov-11	0.750%	705,000.00	707,423.44	705,768.45
US Obligation	FFCB	3-Apr-07	8-Dec-11	4.590%	500,000.00	495,205.00	503,890.00
US Obligation	FFCB	24-Nov-09	17-Jan-12	1.990%	750,000.00	765,547.50	754,095.00
US Obligation	US Treasury	16-Mar-10	29-Feb-12	0.870%	975,000.00	973,781.25	978,159.00
US Obligation	FHLMC	17-Sep-07	5-Mar-12	4.660%	1,000,000.00	1,003,890.00	1,019,510.00
Subtotal					4,680,000.00	4,697,459.69	4,712,367.45
6 Months to 1 Year							
US Obligation	FNMA	29-May-09	20-Apr-12	1.860%	1,900,000.00	1,907,676.00	1,916,948.00
US Obligation	FNMA	4-Oct-07	18-May-12	4.750%	750,000.00	756,780.00	770,130.00
US Obligation	FHLB	11-Jun-09	20-Jun-12	1.850%	1,050,000.00	1,039,185.00	1,062,012.00
US Obligation	FFCB	25-Sep-07	1-Aug-12	5.040%	500,000.00	509,923.50	520,530.00
Subtotal					4,200,000.00	4,213,564.50	4,269,620.00
1 Year to 2 Years							
US Obligation	FNMA	15-Jan-10	22-Feb-13	1.720%	750,000.00	749,260.88	763,957.50
US Obligation	FHLB	22-Mar-11	20-Mar-13	1.600%	700,000.00	712,242.30	712,957.00
US Obligation	FHLMC	4-Mar-10	15-Apr-13	1.590%	1,000,000.00	998,600.00	1,019,240.00
US Obligation	FHLMC	22-Mar-11	15-Apr-13	1.590%	700,000.00	711,956.00	713,468.00
US Obligation	FHLMC	26-Apr-10	29-May-13	3.330%	1,200,000.00	1,260,252.00	1,262,076.00
US Obligation	FHLB	20-Jul-11	28-Aug-13	0.500%	850,000.00	848,988.50	851,326.00
US Obligation	FHLB	3-Aug-11	9-Sep-13	1.110%	750,000.00	758,985.00	760,140.00
Subtotal					5,950,000.00	6,040,284.68	6,083,164.50

VII.B.4

City of Benicia Investment Report As of September 30, 2011

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
2 Years to 3 Years							
US Obligation	FNMA	29-Oct-10	18-Oct-13	1.000%	850,000.00	851,249.50	850,246.50
US Obligation	FHLMC	24-Jan-11	25-Feb-14	1.350%	1,500,000.00	1,502,790.00	1,531,290.00
US Obligation	FFCB	16-Aug-11	5-Mar-14	2.050%	750,000.00	782,550.00	777,780.00
US Obligation	US Treasury	1-Apr-11	15-Mar-14	1.220%	875,000.00	874,965.82	893,795.00
US Obligation	US Treasury	26-Mar-10	30-Apr-14	1.810%	275,000.00	271,315.43	285,463.75
US Obligation	FHLB	10-Jun-11	28-May-14	1.350%	500,000.00	507,305.00	510,250.00
US Obligation	FHLMC	11-Jul-11	11-Jul-14	1.120%	500,000.00	500,000.00	502,085.00
US Obligation	US Treasury	25-Aug-11	15-Aug-14	0.500%	750,000.00	752,988.29	751,935.00
US Obligation	FHLMC	24-Aug-11	27-Aug-14	0.990%	750,000.00	758,490.00	758,182.50
US Obligation	FNMA	28-Jan-11	16-Sep-14	2.810%	1,000,000.00	1,050,010.00	1,069,480.00
US Obligation	FHLMC	14-Sep-11	19-Sep-14	0.500%	1,100,000.00	1,096,642.58	1,095,061.00
US Obligation	FNMA	19-Sep-11	19-Sep-14	0.700%	500,000.00	499,705.00	497,750.00
Subtotal						9,448,011.62	9,523,318.75
3 Years to 5 Years							
US Obligation	FHLMC	23-Sep-11	9-Feb-15	2.690%	750,000.00	803,557.50	801,817.50
US Obligation	FFCB	8-Sep-11	17-Feb-15	1.180%	750,000.00	750,645.00	750,562.50
US Obligation	FHLB	10-Jun-11	8-Jun-15	1.860%	500,000.00	502,418.00	504,245.00
US Obligation	FNMA	9-Sep-11	9-Sep-15	1.010%	500,000.00	500,000.00	497,330.00
US Obligation	FNMA	14-Sep-11	26-Oct-15	1.580%	1,050,000.00	1,079,578.47	1,076,764.50
US Obligation	US Treasury	18-Aug-11	31-Jul-16	1.460%	500,000.00	512,382.82	513,440.00
Subtotal						4,148,581.79	4,144,159.50
Total (before fiscal agent accounts)						\$ 33,952,607.15	\$ 34,270,509.43
Fiscal Agent Accounts						12,191,433.48	12,191,433.48
TOTAL INVESTMENT PORTFOLIO						\$ 46,461,942.91	\$ 46,649,677.94
INVESTMENTS WITH PFM						\$ 15,477,480.88	\$ 15,632,533.96
INVESTMENTS WITH CUTWATER						\$ 13,421,674.40	\$ 13,451,349.24
WEIGHTED AVERAGE MATURITY OF THE INVESTMENT PORTFOLIO						2.05 Years	

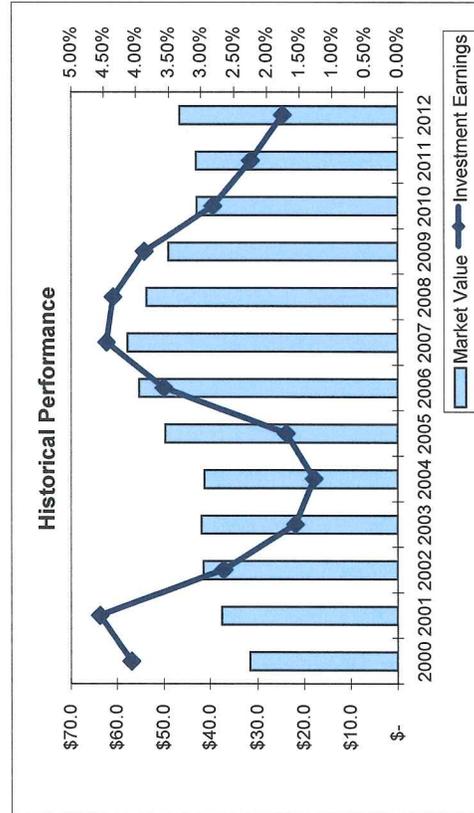
The City of Benicia complies with Government Code Sections 53600 et seq. and the City's Investment Policy. The source of market value is Union Bank of California. The City has the ability to meet expenditure requirements for the next six months. This report, to the best of my knowledge, is accurate representation of the City of Benicia's investments.


 Bill Zenoni, Interim Finance Director

**City of Benicia
Historical Portfolio Comparison**

Market Value (Millions)					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	\$ 28.4	\$ 31.2	\$ 31.8	\$ 35.1	\$ 31.6
2001	33.0	36.7	37.7	42.8	37.5
2002	39.3	41.5	40.3	44.6	41.4
2003	39.7	43.4	39.5	44.8	41.8
2004	39.3	42.8	41.1	41.8	41.3
2005	38.7	53.8	50.0	56.6	49.8
2006	46.9	54.9	55.1	64.3	55.3
2007	57.4	59.3	54.4	60.1	57.8
2008	51.9	54.7	51.4	56.8	53.7
2009	48.1	52.1	47.3	48.7	49.1
2010	42.6	43.7	39.4	45.7	42.9
2011	37.6	46.2	35.7	52.6	43.0
2012	46.6	-	-	-	46.6

Investment Earnings					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	3.53%	4.17%	4.15%	4.41%	4.06%
2001	4.76%	4.82%	4.58%	4.07%	4.55%
2002	3.62%	2.72%	2.27%	2.01%	2.66%
2003	1.90%	1.61%	1.41%	1.34%	1.57%
2004	1.38%	1.28%	1.24%	1.20%	1.28%
2005	1.31%	1.43%	1.74%	2.33%	1.70%
2006	2.52%	3.76%	3.84%	4.16%	3.57%
2007	4.34%	4.44%	4.46%	4.57%	4.45%
2008	4.56%	4.48%	4.20%	4.15%	4.35%
2009	4.01%	4.07%	4.03%	3.36%	3.87%
2010	3.17%	2.83%	2.65%	2.60%	2.81%
2011	2.51%	2.38%	2.15%	1.95%	2.25%
2012	1.76%	-	-	-	1.76%



Investment Earnings - Dollars						
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Mark to Market *	Annual Average
2008	319,769	789,398	474,720	327,578	403,879	578,836
2009	275,114	580,504	577,776	469,555	267,309	542,565
2010	299,040	294,913	226,519	289,374	(196,842)	228,251
2011	267,030	235,311	165,343	162,677	(352,938)	119,356
2012	not available	-	-	-	-	-

* Mark to market is the difference between current year minus prior year's mark to market gain or loss.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 3, 2012
CONSENT CALENDAR

DATE : December 28, 2011

TO : City Council

FROM : City Manager

SUBJECT : **ADOPTION OF THE 2012 CITY COUNCIL REGULAR MEETING CALENDAR**

RECOMMENDATION:

Adopt, by motion, the 2012 City Council Regular Meeting Calendar.

EXECUTIVE SUMMARY:

The Open Government Ordinance (Section 4.08.040 of Ordinance No. 05-6) states that each body established by ordinance shall establish and publish an annual schedule of regular meetings. The proposed calendar lists the City Council's regular meeting dates for 2012.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity

BACKGROUND:

Per the City's Open Government Ordinance, the proposed schedule of regular meetings of the City Council for 2012 follows for Council review and approval. As reflected on the attached schedule, it is recommended that the first regular meeting in August be cancelled. In previous years, a City Council meeting has been cancelled during the summer months as business to be addressed is typically lighter during this time of year and residents are more likely to be out of town on vacation. It also provides both Council and staff an opportunity to make vacation plans accordingly, if they wish, as well as giving staff an extra few weeks prior to the next Council meeting to address various projects.

Attachment:

- 2012 City Council Regular Meeting Calendar

1 2012 City Council Regular Meeting Calendar

All meetings are on a Tuesday beginning at 7:00 p.m. in the Council Chambers at City Hall, unless otherwise noted.

This schedule does not include special City Council meetings, including study sessions. For information on upcoming special meetings, please visit the City's website at www.ci.benicia.ca.us or contact the City Manager's Office at (707) 746-4200.

January

- January 3rd
- January 17th

February

- February 7th
- February 21st

March

- March 6th
- March 20th

April

- April 3rd
- April 17th

May

- May 1st
- May 15th

June

- June 5th
- June 19th

July

- ❑ July 3rd
- ❑ July 17th

August

- ❑ August 7th – No Council Meeting
- ❑ August 21st

September

- ❑ September 4th
- ❑ September 18th

October

- ❑ October 2nd
- ❑ October 16th

November

- ❑ November 6th – Election Day
- ❑ November 20th

December

- ❑ December 4th
- ❑ December 18th

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 3, 2012
BUSINESS ITEMS

DATE : December 16, 2011

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **REVIEW OF PLANNING COMMISSION DECISION REGARDING THREE VINYL WINDOWS AT 410 WEST J STREET**

RECOMMENDATION:

1. Uphold the Planning Commission's reversal of the Historic Preservation Review Commission's denial of a request to replace three wood windows with vinyl at 410 West J Street, and
2. Discuss the process and regulations for administrative permits in the Historic Districts, the process for appeals of Historic Preservation Commission decisions, and the impact on the Certified Local Government status.

EXECUTIVE SUMMARY:

At its December 8, 2010 meeting the Planning Commission on appeal by the applicants overturned an October 27, 2010 HPRC decision denying a portion of an application by Julian and Claudia Fraser to replace five single wood windows with vinyl windows on the facade of their home. HPRC did allow the Frasers to replace two wood windows with vinyl on the sides of the home, determining those were less visible from the street. In its application of the Downtown Historic Conservation Plan provisions and interpretation of the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, HPRC generally has not allowed wood windows to be replaced with non-wood windows. The front facade at 410 West J Street also has an existing double vinyl window that is more visible than the three windows in question. Mayor Patterson called the Planning Commission decision up for review but has subsequently asked to rescind that request for review but to continue with the policy discussion. Because the appeal period has passed, the action cannot be rescinded without being agendaized.

BUDGET INFORMATION:

There is minimal budget impact associated with this project.

ENVIRONMENTAL REVIEW:

HPRC determined that if the three front windows remained wood the project would qualify for a Categorical Exemption per CEQA Guidelines Section 15331.¹ This exemption applies to restoration and rehabilitation of historic resources consistent with the Secretary of the Interior's Standards.

Staff believes that with (either two or five of) the windows changing to vinyl the project is also Categorically Exempt under Section 15301.² This exemption

¹ **§ 15331. Historical Resource Restoration/Rehabilitation.**

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

² **§ 15301. Existing Facilities.**

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
 - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
 - (2) 10,000 square feet if:
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
 - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in [Section 12753, Division 7, Chapter 2, Food and Agricultural](#)

applies to minor alterations to the exterior of existing structures, involving negligible or no expansion of use. CEQA Guidelines Section 15300.2 (f) provides that a categorical exemption shall not be used for projects involving historical resources if the project “may cause a substantial adverse change in the significance of a historical resource.” The Secretary of the Interior Guidelines recommend “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.” (Emphasis added.) As noted below, the Planning Commission and staff do not believe changing the three windows to vinyl will have a substantial adverse effect on the house since there is already a prominent front window that is vinyl and since the windows in question are not an important feature of this particular building.

BACKGROUND:

This item involves the replacement of wood clad windows with vinyl clad windows. The item was initially heard by the Historic Preservation Commission (“HPRC”) and then appealed to the Planning Commission by the applicants. Section 1.44.100(D)(1) provides that decisions of the Historic Preservation Review

[Code](#));

- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fish stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subdivision;
 - (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.
 - (2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.
 - (3) A store, motel, office, restaurant, and similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.
 - (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.
- (n) Conversion of a single family residence to office use.
- (o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act ([Section 117600, et seq., of the Health and Safety Code](#)) and accepts no offsite waste.
- (p) Use of a single-family residence as a small family day care home, as defined in [Section 1596.78 of the Health and Safety Code](#).

Commission are appealed to or reviewed by the Planning Commission. There has been some confusion about who appealed the HPRC decision to the Planning Commission. The applicants were the party that appealed the HPRC decision. Staff at the HPRC hearing did say that they would be required to appeal the decision if HPRC required the existing vinyl window to be replaced with wood. See the HPRC transcript at page 44. It is staffs' believe that such an action is not within the purview of the HPRC. HPRC did not require this and staff did not appeal the decision. The applicants appealed the decision to the Planning Commission.

After the Planning Commission hearing, it was then called up for review by Mayor Patterson. Section 1.44.030 of the Benicia Municipal Code ("BMC") allows Council Members to call items up for review. Section 1.44.020 defines a review as: "reconsideration of the decision of any city employee, committee, or commission requested by the city council, on its own motion, or upon request of any council member, in order to consider the decision and any broad legislative and policy factors involved." A copy of Mayor Patterson's request for review is attached. Mayor Patterson later asked to rescind her request for review of the Planning Commission's decision and to focus the discussion on the policy issues noted below. Unfortunately, the time period for filing an appeal of the Planning Commission decision has passed. This means the hearing should go forward in case any other person who wanted to appeal the decision or call it up for review and did not do so in reliance of the Mayor's request for review. The hearing on the Planning Commission decision may be very abbreviated if no one wants to speak on the review.

If the review goes forward, the review is to be conducted under the procedures set forth in BMC Section 1.44.040. Subsection D of 1.44.040 provides that the hearing is a "de novo" so the Council may consider information submitted at the prior hearings or at this review hearing. The Council's decision need not be based solely on the record from the prior hearings but may consider any evidence presented to it. Copies of the Planning Commission and HPRC materials are attached. Since the original application involves a permit, the applicant has the burden of proof that the decision should be upheld in this case. At the conclusion of the hearing, the Council may uphold the Planning Commission's decision, modify, or reverse it , in whole or in part, as appropriate.

410 West J Street is a residence designated as a Contributing Structure within the Downtown Historic District. Because 410 West J Street is in the Downtown Historic District, design review is required by the Benicia Municipal Code and the Downtown Historic Conservation Plan if changes are to be made to the building. In the BMC Chapter for the Historic Overlay District, BMC Section 17.54.100 states "Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated

landmark shall be conducted as prescribed by Chapter [17.108](#) BMC. Design review and approval shall be the responsibility of the community development director or the design review commission, as the case may be.”

BMC Section 17.108.020(A) requires design review in the Historic District “prior to issuance of a zoning permit for all projects that involve demolition, construction, or changes in exterior colors or materials, except signs.” BMC Section 17.108.060(B) makes the Historic Preservation Review Commission responsible for the design review for projects in the Historic District. The Downtown Historic Conservation Plan (the adopted conservation plan noted in BMC Section 17.54.100) provides several exceptions to the design review requirement including the replacement of existing windows on a “like for like” basis. See page 25 of the Downtown Historic Conservation Plan (attached.) The Downtown Historic Conservation Plan specifically addresses windows as being exempt from design review when “Replacement of existing windows or doors with windows or doors of the same dimension, finish and overall appearance”. Windows that are not the same require design review.

The State's Office of Historic Preservation has a documentation system for recording information about historical resources. This document is called a Primary Record and it collects certain fundamental information about a historic resource. The Primary Record for 410 West J Street is a three page document that is included as part of the HPRC Staff Report. It states that, "Its architectural character is principally defined by its arched porch openings and its stucco cladding." The record does not mention the windows behind the arches as character defining features. However, HPRC discussed the idea that front windows should always be considered character-defining features.

There has been some confusion over the numbers of windows related to this project. The project plans for this project included the replacement of 7 existing vinyl windows. These windows are marked as stars with a dark outline on the attached Project Plans for 410 West J Street. These windows are not subject to design review since they are replacing vinyl for vinyl. Note that the front vinyl window marked with a dark star in the Family Room was the subject of much discussion at the commission hearings since it is a prominent feature but was already vinyl. Further discussion of this window is below. The plans also call for the replacement of 5 other windows and changing them from wood to vinyl. These are the windows that are the subject of the HPRC, Planning Commission and City Council's action. Further details of the application process are included in the Planning Commission and HPRC staff reports.

This application marks a unique instance where a significant portion of a staff recommendation was not accepted by HPRC. The staff recommendation to allow replacement of all five wood windows along the front porch and on the

sides of the house was based on the fact that the existing vinyl double window on the non-porch portion of the front facade establishes the visual tone of the home as viewed from the street. This larger, more prominent window has been vinyl for decades (longer than the City has had historic preservation regulations which would have required it to be wood). The City cannot now require it to be replaced with wood because building permits for "in-kind" replacements are ministerial per the Downtown Historic Conservation Plan (page 25 attached). The Downtown Historic Conservation Plan "promotes" the use of original materials "wherever possible" for historic structures (including contributors; page 63), but the Plan specifically exempts from HPRC and staff design review "Replacement of existing windows or doors with windows or doors of the same dimensions, finish and overall appearance" (page 25 attached). Attached are the Secretary of the Interior Standards for Rehabilitation as well as the Guidelines on windows. Ultimately, the HPRC allowed replacement of two of the windows on the sides of the house with vinyl.

The HPRC decision was appealed by the applicant to the Planning Commission. The applicant only appealed the HPRC's decision to deny the request to change the front three windows to vinyl. The time period for appealing the decision to allow the two side windows to be changed to vinyl has passed and cannot be changed at this point. The Planning Commission overturned the decision of the HPRC regarding the three front windows and granted approval to replace the three windows with vinyl.

Although this matter has been very time consuming and difficult for all involved, the review process has operated as designed by the Benicia Municipal Code. Staff made a reasonable recommendation based on City regulations and interpretation of the Secretary of the Interior's Standards by professionals with many years of experience with historic resource preservation. The HPRC's powers and duties are set forth in Section 2.84.80 of the BMC. (The full code sections on the HPRC are attached.) These duties include:

"A. Conduct design reviews for restoration, remodeling and development projects in the historic overlay (H) zones in accordance with Chapter 17.08 BMC and/or Chapter 17.54 BMC, Ensure that restoration, remodeling and new development complies with the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the criteria contained in the general plan and the criteria in the adopted historic plans for each district. Support decisions by specific findings based on the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the general plan and the adopted historic plans for each district, as detailed in the relevant sections of the Benicia Municipal Code...."

The HPRC acted within its charge in disagreeing with staff's recommendation and applying its interpretation of the Secretary of the Interior's Standards.

VIII.A.6

In turn, the Planning Commission operated appropriately under its purview in overturning the HPRC decision. Appeals, like items called up for review, are handled under BMC Section 1.44.040. The hearing is de novo and the procedures allow the Planning Commission to affirm the decision, modify the decision or overturn the decision of the HPRC. Based upon the evidence presented at the Planning Commission hearing, the Planning Commission approved the replacement of the three remaining windows with vinyl. At the hearing, three HPRC members spoke about the HPRC action. The HPRC members acted within their rights as citizens in expressing their opinions and explaining their reasoning at the Planning Commission hearing. An allegation has been made that this is a violation of the Brown Act. See the letter from the applicants' attorney. A copy of the City Attorney's email is also attached. The HPRC has seven members so that a quorum of the commission is four. There is no evidence that the three HPRC members who did attend and speak at the meeting had conversations about their attendance at the Planning Commission with another HPRC member. It is not a violation of the Brown Act for members to speak to each other unless a quorum of members does so.

As stated above, in the opinion of staff, the process operated appropriately under the City's rules and regulations governing the replacement of windows in a historically designated structure. However, a significant amount of time and energy by the applicant, staff, commissioners and community stakeholders has gone into debating the intent and application of those rules and regulations, in particular whether they conform to the Secretary of the Interior's standards for the treatment of historic properties and guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings.

This permit has placed both the process and Council policy governing the preservation, rehabilitation, restoration and/or reconstruction of historical structures under scrutiny. While there remains disagreement whether the process was properly followed, it can be argued that the process has "worked", in that a request was made and a final decision reached. However the degree of interpretation that this permit and others have required creates, in staff's opinion, an excessive use of staff resources given the multitude of other significant budgetary and service issues facing the City.

In the end it is the responsibility of City staff and our boards, commissions and committees to implement Council policy. To the extent that such policy is unclear or interpretable the more time and resources that must go into resolving disputes. While it is believed there is overall support in the community for the preservation of Benicia's historic buildings and character, there appears to be significant disagreement over what degree of preservation, rehabilitation, restoration and/or reconstruction of historic buildings should be achieved.

Therefore, in addition to resolving the matter at hand, it is staff's recommendation that the City Council seriously consider either reconfirming or reevaluating the Council's expectations in implementing GOAL 3.1 of the Benicia General Plan, which states: "Maintain and enhance Benicia's historic character". In doing so the Secretary of the Interior's historic standards and guidelines and the numerous other documents that the City has prepared and adopted must also be taken into consideration.

The Mayor requested in her call for review that the policy issues regarding the application of Secretary of Interior Standards, CEQA, vinyl versus wood windows and role of staff, Historic Preservation Review Commission and Planning Commission be discussed by the Council. This staff report includes copies of relevant ordinances and regulations. Finally, the application of these policies may raise concerns of the State Office of Historic Preservation regarding the City's certification as a Certified Local Government ("CLG"). The CLG is a program that encourages cities to identify, evaluate, register and preserve historic properties. It also "promote[s] the integration of local preservation interests and concerns into local planning and decision-making processes." The City is eligible for grants and The CLG program is a partnership among local governments, the State of California-OHP, and the National Park Service (NPS) which is responsible for administering the National Historic Preservation Program. As a CLG, the City is eligible for funding and technical assistance. Copies of information on the CLG are attached.

Attachments:

1. Proposed Resolution
2. Mayor Patterson's Request for Review
3. Planning Commission Material
 - a. Planning Commission Staff Report for the December 8, 2011 Meeting
 - b. December 8, 2011 Planning Commission Resolution
 - c. DRAFT MINUTES OF THE December 8, 2012 Planning Commission Meeting
 - d. Transcription of the December 8, 2011 Planning Commission Hearing
 - e. December 7, 2011 Letter from Leann Taagapera (Handed Out at Meeting)
4. HPRC Material
 - a. HPRC Staff Report for the October 27, 2011 Meeting
 - b. HPRC Resolution of October 27, 2011
 - c. Approved Minutes of the October 27, 2011 HPRC Meeting
 - d. Transcription of the October 27, 2011 HPRC Hearing

5. Pages 25 and 63 from the Downtown Historic Conservation Plan
6. Project Plans for 410 West J Street
7. Secretary of the Interior Standards for Rehabilitation
8. Secretary of the Interior Guidelines for Windows
9. BMC Sections related to the HPRC
 - a. Chapter 2.84 Historic Preservation Review Commission
 - b. Chapter 17.54 Historic Overlay District
 - c. Chapter 17.108 Design Review
10. Applicants' Attorney's Letter
11. City Attorney's Email
12. Certified Local Government information

* Please note that the transcripts do not name each speaker and have some words like "Meals Act" instead of "Mills Act" which have not been changed due to time constraints.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA UPHOLDING (OR OVERTURNING) THE PLANNING COMMISSION'S DECISION REVERSING THE HISTORIC PRESERVATION COMMISSION'S DENIAL OF A REQUEST TO REPLACE THREE WOOD WINDOWS WITH VINYL AT 410 WEST J STREET

WHEREAS, Julian and Claudia Fraser, requested Design Review approval to replace five windows on the side and front façades of the existing single-family residence at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project and

WHEREAS, the Historic Preservation Review Commission denied the replacement of the three front windows but approved the replacement of the two side windows; and

WHEREAS, Julian and Claudia Fraser appealed the denial of the replacement of the three front windows to the Planning Commission; and

WHEREAS, the Planning Commission reviewed the appeal to replace three wood windows with vinyl windows on the front façade of the existing single-family residence at 410 West J Street; and

WHEREAS, the Planning Commission of the City of Benicia granted the appeal and approved replacement of the three front wood windows to the building at 410 West J Street, based on the following findings:

- a) The Planning Commission finds that the three wood windows behind the front porch arches do not represent “character defining” features of the property at 410 West J Street, as the arched porch and stucco are as listed in the property’s historic documentation; and,
- b) The property was approved by the HPRC to install vinyl windows on the sides of the structure, which are visible from the public right of way while remaining consistent with the Secretary of the Interior’s Standards; and,
- c) The proposed vinyl windows behind the porch are not more visible from the street than the side windows and are less prominent than the large front double window that is already vinyl; and,

- d) The proposed vinyl windows are high quality and paintable, will not alter the existing frame and sill, and have similar frame dimensions to the existing wood windows; and,
- e) The proposed project is a Section 15331(Class 31) Categorical Exemption from the CEQA Guidelines. Class 31 exemptions allow restoration and rehabilitation of historic resources so long as any work is completed consistent with the Secretary of the Interior's Standards. The proposed project, including the decision of the HPRC, is consistent with the Secretary of the Interior Standards based on the analysis in this report.
- f) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines and the Secretary of the Interior's Standards, as described in the staff report, if the conditions of approval are adhered to.
- g) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code; and

WHEREAS, the Benicia Planning Commission approved the project subject to the following conditions (as approved by the HPRC):

1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
2. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by the Historic Preservation Review Commission prior to changes being made in the field.
3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the

applicant's or permittee's defense of said claims, actions, or proceedings.

WHEREAS, the City Council has reviewed the record and considered the testimony presented to it and **accepts/does not** the findings of the Planning Commission and further finds:

1. That the replacement of the three front wood windows with vinyl windows is consistent with the Secretary of the Interior's Standards for restoration and rehabilitation of historic resources" since changing the three windows to vinyl will not have a substantial adverse effect on the house since there is already a prominent front window that is vinyl and since the windows in question are not an important feature of this particular building.
2. This project qualifies for a Categorical Exemption per CEQA Guidelines Section 15331. This exemption applies to restoration and rehabilitation of historic resources consistent with the Secretary of the Interior's Standards. These vinyl windows will not cause a substantial adverse change on the structures historical character because of the placement of the windows under the covered porch and behind the arched minimizes their visual impact on the structure.
3. This project also qualifies for a Categorical Exemption under Section 15301 as a minor alterations to the exterior of existing structures, involving negligible or no expansion of use.
4. The design of the windows **is/is not** consistent with the requirements of Benicia Municipal Code Chapter 17.108 and the Downtown Historic Conservation Plan and will be compatible with and help achieve the purposes of the H district by helping to preserve a Contributing Structure without damaging the integrity of the District.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby **upholds (or overturns)** the Planning Commission's decision reversing the Historic Preservation Commission's denial of a request to replace three wood windows with vinyl at 410 West J Street **subject to the conditions imposed by the Planning Commission.**

* * * * *

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of the City Council held on January 3, 2012, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Heather McLaughlin - Re: Council Call for Review

From: Elizabeth Patterson <elopato@comcast.net>
To: Heather McLaughlin <Heather.McLaughlin@ci.benicia.ca.us>, Brad Kilger <Brad.Kilger@ci.benicia.ca.us>
Date: 12/14/2011 9:34 PM
Subject: Re: Council Call for Review
CC: Lisa Wolfe <Lisa.Wolfe@ci.benicia.ca.us>

Heather,

Call up request of the 410 West J Street Single-Family Residence window replacement project:

The purpose of my request is to review the process, facts and compliance with existing law regarding window replacement of a contributing structure within the Downtown Historic Overlay District:

This window replacement matter was brought to the attention of the City Council with a complaint by the property owner about unnecessary delays and confusing city process regarding replacing windows in a Historic District designated contributing residence. Council directed staff to address the issue. Subsequent events have created community confusion about existing city policy regarding the application of Secretary of Interior Standards, CEQA, vinyl versus wood windows and role of staff, Historic Preservation Review Commission and Planning Commission.

By seeking council review, I seek to clarify the facts, understand the requirements of existing law and apply these requirements in a manner that is consistent with city policy and practice.

Specifically, there should be a full review by a qualified historic architect qualified to provide professional services to Local Certified Governments (indeed, it may be possible to seek advice from SOHP).

Furthermore, there should be clarity in the CEQA review based on existing law.

To be clear, this council review request is not for the purpose of second guessing the Planning Commission nor the Historic Preservation Review Commission. The purpose is as stated - to reconcile the different decisions by the respective commissions and determine the accuracy of facts, policy and the law. Depending in this information, council may give direction to staff for further policy review and refinement to achieve the purposes of the General Plan and the Historic District and comply with the Local Certified Government requirements.

Therefore, a complete record is requested including actual electronic recordings of both the HPRC and PC hearings, as well as the official record of staff reports and supporting documents, and written comments.

Elizabeth Patterson
Mayor

On Dec 14, 2011, at 5:18 PM, Heather McLaughlin wrote:

Elizabeth, to call an item up for review, please reply back to this email. I have copied Lisa since

the request needs to be filed with her. I have included the code language so you will see you need to state reasons for the requested review. This will be a public document. Thanks, H

1.44.030 City council review requests.

Within the time limits set forth in BMC [1.44.060](#), the city council or any council member may request that a decision, pertaining to BMC Title [17](#), of any city employee, committee, or commission be reviewed by filing an application with the city clerk stating the reasons for the requested review. Said review will be conducted according to the procedures specified in BMC [1.44.040](#) and [1.44.100](#). The person or body to hear the review will be designated in the application by the person or body seeking such review and shall be as specified in BMC [1.44.100](#), unless the council as a whole specifies a higher level of review in the first instance. (Ord. 07-11 § 2).

AGENDA ITEM
PLANNING COMMISSION MEETING: DECEMBER 8, 2011
REGULAR AGENDA ITEM

DATE : November 29, 2011

TO : Planning Commission

FROM : Mark Rhoades, AICP
Interim Land Use and Engineering Manager

SUBJECT : **AN APPEAL OF THE HPRC'S DENIAL OF A DESIGN REVIEW REQUEST TO REPLACE THREE WOOD WINDOWS WITH VINYL WINDOWS ON THE FRONT FACADE OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET**

PROJECT : 11PLN-00064 Design Review Appeal
410 West J Street
APN: 0089-031-090

RECOMMENDATION:

Consider the appeal of the Historic Preservation Review Commission's (HPRC's) denial of a request by Julian and Claudia Fraser for a minor exterior modification (replacement of wood windows with vinyl) to the sides and front façade of the existing residence located at 410 West J Street. The HPRC approved the request for the side windows, but denied the request for the front windows. Note that staff's recommendation was to approve the whole design review request.

EXECUTIVE SUMMARY:

The applicant requests design review approval to replace five deteriorating wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District. The HPRC has a longstanding policy of NOT allowing wood windows to be replaced with vinyl. The HPRC approved the replacement of the two windows (one on each side of the house) but they denied the change on the front facade.

Staff's recommendation to the HPRC to approve this request was based on a number of factors including that the windows are not the most prominent façade feature of the residence and that the replacement windows are high quality and nearly identical in dimension to the existing windows and frames.

BUDGET INFORMATION:

There are no budget impacts associated with this project.

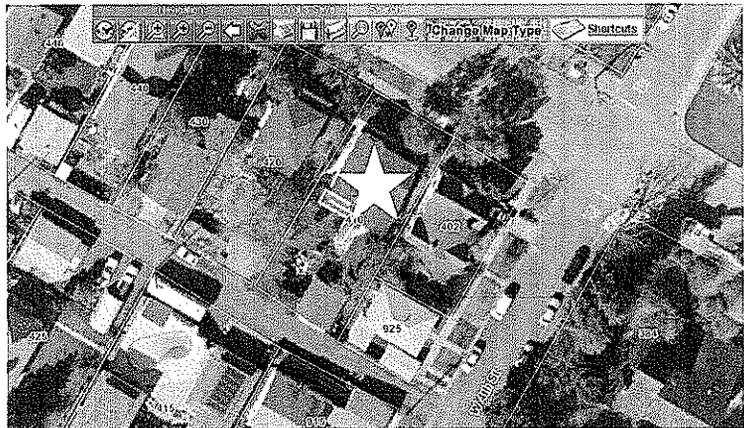
ENVIRONMENTAL ANALYSIS:

The HPRC reviewed the project and determined that it is a Section 15331 (Class 31) Categorical Exemption from the CEQA Guidelines. Class 31 exemptions allow restoration and rehabilitation of historic resources so long as any work is completed consistent with the Secretary of the Interior's Standards. The proposed project, including the decision of the HPRC, is consistent with the Secretary of the Interior Standards based on the analysis in this report.

Staff believes that the project is also Categorically Exempt under Section 15301 (Existing Facilities) of the Guidelines of the California Environmental Quality Act. This exemption includes minor alterations to the exterior of existing structures, involving negligible or no expansion of use.

BACKGROUND:

Applicant/Property Owner:	Julian and Claudia Frazier
General Plan designation:	Low Density Residential
Zoning designation:	RS, Single Family Residential
Existing/Proposed use:	Single Family Residential
Adjacent zoning:	
North:	RS, Single Family Residential
East:	RS, Single Family Residential
South:	RS, Single Family Residential
West:	RS, Single Family Residential



410 West J Street is located on the south side of J Street between West Third and West Fourth Streets. The subject building is listed as a contributing structure in the Downtown Historic Conservation Plan. Contributing structures are also located to the east and to the west of subject property.

On October 27, 2011, the HPRC considered the applicant's request for the proposed window replacement. The HPRC expressed significant concern about their window policy, and staff's recommendation for the replacement (the reasons for which are discussed below).



The HPRC noted that the structure at 410 West J Street is designated as a "Contributing Structure" under the Downtown Historic Conservation Plan (DHCP) but that Contributing and Historic designations should not receive different consideration relevant to design review. Some commissioners pointed out that attempts should be made "at all costs" to repair original wood windows when they are extant. They also noted that no previous applicants had been provided this concession. One commissioner noted that this case was a good candidate to show some flexibility on the policy because the characteristics of the house are not distinguishing and that it is "pretty plain in character".



After additional discussion the HPRC allowed the replacement of the two side windows because they are visible from the public right of way, but they denied the replacement of the three front windows. The HPRC also recommended that the applicant replace the more prominent front façade window, which is a legally existing vinyl window, with an original style wood window.

SUMMARY:

The staff's report to the HPRC provided the following analysis.

The applicant has been upgrading and rehabilitating the subject structure at considerable expense. In August, the applicant's window contractor approached the City with a request to replace all of the windows on the house with new vinyl windows. Staff at the permit counter informed the contractor that that only in-kind window replacement would be allowed with an "over the counter" building permit. The definition of "in kind" was explained to the

contractor, which is essentially replacement with identical materials, style, color, configuration and size. The conversation was memorialized in the City's permit tracking system.

The contractor represented at the time that all of the existing windows were already vinyl and would be replaced with vinyl. This is so noted on the contractor's site plan. Subsequent to the issuance of the permit it came to staff's attention that some of the windows, including those under the front porch, are existing single-hung wood sash and staff issued a warning notice to the property owner that the project could not proceed. The applicant indicated a desire to proceed with the request for the vinyl replacement, so a design review application was prepared for the HPRC.

The applicant is requesting design review approval to replace five deteriorating single paned wood windows, including the three on the front façade, with high quality paintable vinyl windows. All of the windows on the structure will be replaced but the rest of the windows are already vinyl (albeit lower quality than is proposed). The other two presently wood windows are located on the east and west sides of the house and are not visible from the public right of way. The three windows on the front façade are located under a porch roof and five feet behind an arched porch wall.

The main street-facing features consist of a double (vinyl) sash on the prominent façade, and three arched porch openings. The porch windows are setback from the porch openings approximately five feet. The applicant is not proposing to change the size of the openings or alter their rhythm behind the arches.



The proposed windows are pictured at right. The photo above shows the double window that will replace the existing vinyl window on the front façade that is the most prominent and visible window on the house (this does not require HPRC approval). This will be a significant improvement over the existing vinyl window.



The bottom photo shows the single hung window (right side of photo) that is proposed to replace the existing windows that are behind the porch arches. The window on the left side of the photo

will replace existing casement windows. All of the windows on the house will be uniform after this installation.

Downtown Historic Conservation Plan Consistency

The subject property is located in the Downtown Historic Overlay District and therefore is subject to the policies and guidelines set forth in the Downtown Historic Conservation Plan (DHCP). The property is listed as a contributing structure to the DHCP.

The Purpose of the DHCP is as follows (pg. 2):

1. Implement the City's general plan,
2. Deter demolition, destruction, misuse, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past,
3. Promote the conservation, preservation, protection, and enhancement of each historic district,
4. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property, and
5. Encourage development tailored to the character and significance of each historic district.

The structure at 410 West J Street was built in 1930 and was recently determined to be a contributing structure (2009 Survey). The Primary Record description of the structure (also see attached) states the following:

This is an L-shape plan, single story Mediterranean Revival residence. It has a cross gable roof of moderate pitch with clipped eaves and gables. An attic vent of terra cotta pipe is found at the apex of the front gable. The primary roof extends to cover the cut-in porch. It is supported on arched openings. Fenestration is double hung and is paired on the gable end. The house is clad in stucco. This residence is very simple in conception with few decorative details. However, it is representative of many of the houses of this style built in the 1930s. It also is an example of Downtown in-fill in this period.

The sixth sentence states that the windows are double hung. They are actually single-hung with the top pane fixed.

In addition, the Primary Record states the significance as follows:

This is a simple in-fill Mediterranean Revival Style house. Its architectural character is principally defined by its arched porch openings and its stucco cladding. The house was noted in the 1986 historical survey, but was not made a

contributing structure in the Downtown Historic District. It should be considered for inclusion within the District.

The general review criteria under the DHCP for this property are "Historic Buildings." There are a number of policies and guidelines that provide direction for the consideration of this project. These include:

- Policy 2 – Façade Elements and Details
- Policy 3 – Integrity of Materials
- Policy 4 – Appropriate Materials, Colors, Finishes

Policy 1 does not apply because it provides guidelines for new additions. The guidelines that apply to this project and staff's response to each follow.

Policy 2 – Façade Elements and Details

Policy 2, Guideline 2.2: Maintain the proportions of existing door and window openings and the pattern of existing sash in replacement work or additions.

Response: The project complies with this policy guideline. The new windows, pictured above, have narrow frames that are very close in dimension to the existing wood frames and will fit into the existing openings of the subject windows.

*Policy 2, Guideline 2.3: New or replacement window sash **should** (emphasis added) match the original sash. Where the original sash has been completely removed, new windows should match the existing unless a complete replacement program for the façade is undertaken.*

Response: The applicant is proposing to replace all of the windows on the house with new vinyl windows that have a paintable frame and sash dimension nearly identical to the original wood. The three wood windows to be replaced on the front façade are tucked behind an arched porch so their visibility from the street is reduced. The main façade window that is wide framed vinyl will be replaced with a vinyl window with dimensions more consistent with the original wood sash. This will be a significant improvement over the existing condition.

Policy 3 – Integrity of Materials

Policy 3, Guideline 3.3: Where inappropriate or later materials have been removed, they should be replaced with the original material.

Response: This guideline provides that, in so far as the applicant is replacing all of the windows on the house, they should be replaced with original wood

windows. This would require the applicant, at significant expense, to order new wood windows for the entire structure. The applicant has indicated that this is not financially feasible. In addition, this is a contributing structure, not a landmark. The proposed windows will improve the appearance of the structure's street façade from an historic perspective because the windows are nearly identical in dimension to the existing wood windows. In addition, the existing vinyl window with a wide frame will be replaced with a window that is more consistent with the wood window dimension that the vinyl replaced at some point in the past.

Policy 4 – Appropriate Materials, Colors, and Finishes

Policy 4, Guideline 4.1: Use original materials whenever possible in restoration, renovation or repair work and use the same materials for building additions.

Response: The applicant has stated that it is not financially feasible for them to replace all of the windows on the property with period appropriate wood windows. The applicant has purchased high quality paintable vinyl, energy efficient windows that display frame dimensions that are nearly identical to the existing wood sash and that fit in the existing openings. In addition, the wood windows that proposed for replacement are not highly visible from the street.

Policy 4, Guideline 4.2: For substitute materials, the outward appearance, durability, texture and finish should be as close as possible to that of the original. If the original was painted, the substitute should accept and retain a painted finish.

Response: The five existing wood windows are smooth painted, single hung with narrow frame dimensions. The proposed replacement windows are smooth in texture, paintable, and single hung. They also exhibit narrow frame dimensions, nearly identical to the existing windows, and will fit within the existing openings.

Policy 4, Guideline 4.3: Wood window sash is preferred for historic buildings. Vinyl clad wood or factory finished (i.e., baked enamel) aluminum frames are acceptable if the original design can be duplicated.

Response: The structure is not itself a landmark, but listed as a contributing structure in the DHCP. The features of the structure that are listed as character defining include the arched porch openings and the stucco exterior. The applicant is not proposing to alter either of these. See response to *Policy 4, Guideline 4.1*, above.

Policy 4, Guideline 4.4: Materials or colors listed as inappropriate for new construction (Commercial Building Types 1 and 2 – Guidelines 2.2 and 2.3) are also inappropriate for historic buildings.

Response: The list of inappropriate materials is for siding, and does not include guidance for windows.

Consistency with Secretary of the Interior's Standards

The proposed project is consistent with the Secretary of the Interior's Standards (see Attachment 2).

Zoning Ordinance Consistency

The project is consistent with existing Zoning Ordinance requirements in that the residential use remains unchanged and no additions are proposed that require review of any site development standards.

CONCLUSION:

The HPRC has had a consistent policy since 2005 relevant to wood window replacement. The HPRC concluded that even though the three front windows were less prominent and were not character defining that they should not be changed. While no specific findings were made relevant to the denial of the front windows, The HPRC made the following findings in approving the vinyl replacement for the two side windows:

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission makes the following findings regarding the approval:

- a) This project is Categorically Exempt under Section 15331 of the California Environmental Quality Act (CEQA), which applies to projects limited to maintenance and repair in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- b) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines and the Secretary of the Interior's Standards, if the conditions of approval are adhered to.
- c) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

Staff's recommendation to the HPRC was based on the fact that the application is not proposing to change any of the character defining architectural features of the home, which include the stucco cladding and the arched porch openings. The windows are not listed as details of significance on the structure. The structure is not a landmark itself, but is a contributing structure

and the window modifications will neither reduce the home's ability to convey its architectural character nor cause any impacts to designated landmark structures or the Downtown Historic Overlay District in general.

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure.

The proposed request is consistent with Purpose No. 4 of the DHCP in that the proposed project will, "Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property." In addition, the project is consistent with the General Plan and Climate Action Plan goals and strategies to increase energy efficiency.

Staff recommends the Planning Commission consider the appeal, the facts of the case including the draft minutes from the HPRC's discussion (attached) and issue findings and a decision

FURTHER ACTION:

The Planning Commission's action will be final unless appealed to City Council within ten business days of the issuance of the notice of decision.

Attachments:

1. Draft Minutes of the October 27, 2011 HPRC Meeting
2. Draft HPRC Resolution
3. Proposed Planning Commission Resolution
4. HPRC Report Packet

PROPOSED RESOLUTION

RESOLUTION NO. 11- (PC)

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BENICIA _____ WINDOW REPLACEMENT AT 410 WEST J
STREET**

WHEREAS, Julian and Claudia Fraser, have requested Design Review approval to replace five windows on the side and front façades of the existing single-family residence at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project and,

WHEREAS, the Historic Preservation Review Commission denied the replacement of the three front windows but approved the replacement of the two side windows; and,

WHEREAS, Julian and Claudia Fraser have appealed the denial of the replacement of the three front windows to the Planning Commission

WHEREAS, the Planning Commission reviewed the appeal to replace three wood windows with vinyl windows on the front façade of the existing single-family residence at 410 West J Street.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby _____ the appeal and _____ the replacement of the three front windows to the building at 410 West J Street.

BE IT FURTHER RESOLVED THAT the Planning Commission finds that:

- a) The proposed project is a Section 15331 (Class 31) Categorical Exemption from the CEQA Guidelines. Class 31 exemptions allow restoration and rehabilitation of historic resources so long as any work is completed consistent with the Secretary of the Interior's Standards. The proposed project, including the decision of the HPRC, is consistent with the Secretary of the Interior Standards based on the analysis in this report.
- b) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines and the Secretary of the Interior's Standards, as described in the staff report, if the conditions of approval are adhered to.

- c) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

BE IT FURTHER RESOLVED THAT the Benicia Planning Commission hereby _____ the proposed project subject to the following conditions (as approved by the HPRC):

1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
2. This approval is granted on the condition that the three existing wood windows on the primary façade be restored and repaired, and, if they cannot, these three wood windows shall be replaced with single-hung wood windows.
3. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by the Historic Preservation Review Commission prior to changes being made in the field.
4. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
5. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on December 8, 2011 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Brad Thomas
Planning Commission Chair

SECRETARY OF THE INTERIOR'S STANDARDS

**Consistency Analysis:
Secretary of Interior's Standards for Rehabilitation
Design Review (11PLN-00064)
410 West J Street**

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The **bold text** is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

- 1. A property will 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 existing residential use will not change. None of the structure's character defining architectural features (stucco cladding, arched porch openings) will be modified. The proposal will replace five wood frame windows with paintable vinyl windows that have dimensions very similar to the existing. The existing window openings will be utilized as they exist.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The principal character-defining features of this style of building (Mediterranean Revival) as exhibited on the subject property are its stucco exterior and its arched front porch openings.

- 3. Each property will 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, will not be undertaken.**

The property was surveyed in 1986. The analysis states that the building is a common example of the Mediterranean Revival style, which is a common infill style the DHCD. No features will be added or changed that will convey a false sense of historicism.

- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.**

The structure has not been changed in a manner that said changes might have acquired historic significance in their own right.

- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.**

No distinctive materials, features, finishes and construction techniques will be removed.

- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.**

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.**

No chemical or physical treatments will be undertaken.

- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.**

No archaeological resources are known to exist on the subject site. No construction activity involve soil work is proposed.

- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.**

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

- 10. New additions and adjacent or related new construction will 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.**

No additions to the structure will be undertaken.

RESOLUTION NO. 11-10 (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION
OF THE CITY OF BENICIA ADDRESSING WINDOW REPLACEMENT AT 410 WEST J
STREET**

WHEREAS, Julian and Claudia Fraser, have requested Design Review approval to replace five windows on the side and front façades of the existing single-family residence they own at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby denies replacement of three single-hung wood windows with vinyl windows on the front of the home at 410 West J Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission recommends and encourages the property owners to replace the existing vinyl window on the primary façade with a wood window to match the existing wood windows on the front façade to achieve consistency.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission approves replacement of one casement and one single hung wood window with vinyl windows on the sides of the home at 410 West J Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission makes the following findings regarding the approval:

- a) This project is Categorically Exempt under Section 15331 of the California Environmental Quality Act (CEQA), which applies to projects limited to maintenance and repair in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- b) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines and the Secretary of the Interior's Standards, if the conditions of approval are adhered to.
- c) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

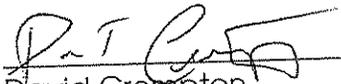
BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby applies the following conditions to the approval:

1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
2. This approval is granted on the condition that the three existing wood windows on the primary façade be restored and repaired, and, if they cannot, these three wood windows shall be replaced with single-hung wood windows.
3. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by the Historic Preservation Review Commission prior to changes being made in the field.
4. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
5. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner Van Landschoot, seconded by Commissioner White, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on October 27, 2011 by the following vote:

Ayes: Chair Crompton, Commissioners Taagepera, Van Landschoot, and White
Noes: Commissioners McKee and Haughey
Absent: Commissioner Mang
Abstain: None



David Crompton
Historic Preservation Review Commission Chair



**BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES**

**City Hall Commission Room
Thursday, October 27, 2011
6:30 P.M.**

I. OPENING OF MEETING:

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Commissioners Haughey, McKee, Taagepera, Van Landschoot, White
and Chair Crompton

Absent: Commissioner Mang

Staff Present:

Charlie Knox, Public Works and Community Development Director

Lisa Porras, Senior Planner

Stacy Hatfield, Sr. Admin. Clerk, Recording Secretary

- C. Reference to Fundamental Rights of Public**

II. ADOPTION OF AGENDA:

On motion of Commissioner White, seconded by Commissioner Van Landschoot,
the Agenda was approved by a majority vote.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN COMMENT**
None
- B. PUBLIC COMMENT**
None

IV. PRESENTATIONS

None.

V. CONSENT CALENDAR

A. Approval of Minutes of September 22, 2011

B. **519 FIRST STREET – DESIGN REVIEW FOR EXTERIOR MODIFICATIONS (NEW DOOR) TO THE NON-HISTORIC COMMERCIAL STOREFRONT TO BE ADDRESSED AS 519 FIRST STREET (FORMERLY 523 FIRST STREET)**

11PLN-00049 Design Review

519 First Street

APN: 0089-173-06-0

PROPOSAL:

The applicant requests design review approval to modify the east façade of the existing commercial building located at 519 First Street within the Downtown Historic Conservation District. The proposal results in the creation of a new storefront through the addition of an interior partition and new exterior entry. The new storefront will match the adjacent storefront (Char's Hot Dogs) located at 523 First Street.

Recommendation: Approve design review request for a minor exterior modification (new door) to the east façade of the existing commercial building located at 519 First Street, based on the findings, and subject to the conditions listed in the proposed resolution.

On motion of Commissioner White, seconded by Commissioner Haughey, the Consent Calendar was approved by the following vote:

Ayes: Commissioners Haughey, Taagepera, Van Landschoot, White and Chair Crompton

Noes: None

Absent: Commissioner Mang

Abstain: Commissioner McKee

VI. REGULAR AGENDA ITEMS

A. **DESIGN REVIEW TO REPLACE FIVE WINDOWS ON THE SIDE AND FRONT FAÇADES OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET**

11PLN-00064 Design Review
410 West J Street
APN: 0089-031-090

PROPOSAL:

The applicant requests design review approval to replace five deteriorating wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District.

Recommendation: Approve the design review request for a minor exterior modification (replacement windows) to the sides and front façade of the existing residence located at 410 West J Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

Lisa Porras, Senior Planner, presented the staff report, as written, and gave an overview of the project reviewing the applicable policies and guidelines that provide direction for it. Lisa also pointed out a correction that needs to be made to the resolution that was distributed as part of the packet. Brian Maloney's name should be replaced with Julian and Claudia Fraser as the applicants requesting Design Review approval.

The Commissioners asked for clarification and additional information on the windows that are to be replaced. They also reiterated that homes designated as Contributing or Historic are to be treated the same. In addition, the same standards for window replacement apply to homes that are either Mills Act or non-Mills Act.

The appropriateness of the window replacement material was also discussed. Commissioner Haughey pointed out that an attempt is supposed to be made to repair original windows at all costs when the house is listed as Contributing or Historic. If windows are unable to be repaired or restored, then they are to be replaced in-kind. They also noted that all property owners, both Historic and Contributing, should be treated with consistency and that no

concessions have been made for previous applicants on the replacement of front windows in the past.

Commissioner McKee voiced his opinion that the characteristics of this house are not that distinguishing and are pretty plain in character. He believes this would be a good opportunity to exercise some flexibility with the applicant on replacement of the windows.

On the motion of Commissioner Van Landschoot, seconded by Commissioner Haughey, the following motion was made:

1. The three wood windows on the front façade of the house are to be refurbished or replaced with new wood windows.
2. The existing vinyl window on the front façade of the house is to be restored to its original state, which also was wood.
3. The remaining windows that can't be seen from the front of the house can be replaced with vinyl.

After discussion among the Commissioners on the above motion, item number 2 of the motion was revised as follows and a new motion was made to include those changes.

1. The three wood windows on the front façade of the house are to be refurbished or replaced with new wood windows.
2. The Commission is encouraging the applicant to restore the one existing vinyl window on the front façade of the house back to its original condition, which was wood.
3. The remaining windows that can't be seen from the front of the house can be replaced with vinyl.

RESOLUTION NO. 11-10 (HPRC) A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA ADDRESSING WINDOW REPLACEMENT AT 410 WEST J STREET

On motion of Commissioner Van Lanschoot, seconded by Commissioner White, the above resolution was approved by the following vote:

Ayes: Commissioners Taagepera, Van Landschoot, White and Chair Crompton

Noes: Commissioners Haughey and McKee

Absent: Commissioner Mang

Abstain: None

VII. COMMUNICATIONS FROM STAFF

None

VIII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Van Lanschoot asked staff what it would approximately cost to rewrite the Downtown Historic Conservation Plan. Staff indicated that they thought it would be approximately \$150,000 and felt part of that amount could be grantable.

Commissioner Taagepera shared that she has heard positive comments about the HPRC. She believes that problems arise when property owners are not treated consistently.

Commissioner Haughey shared information about her attendance at the Design Awards presentation.

IX. ADJOURNMENT

Chair Crompton adjourned the meeting at 8:20 p.m.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING: OCTOBER 27, 2011
Regular Agenda Item

DATE : October 19, 2011

TO : Historic Preservation Review Commission

FROM : Mark Rhoades, AICP
Interim Land Use and Engineering Manager

SUBJECT : **DESIGN REVIEW TO REPLACE FIVE WINDOWS ON THE SIDE AND FRONT FACADES OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET**

PROJECT : **11PLN-00064 Design Review**
410 West J Street
APN: 0089-031-090

RECOMMENDATION:

Approve the design review request for a minor exterior modification (replacement windows) to the sides and front façade of the existing residence located at 410 West J Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

EXECUTIVE SUMMARY:

The applicant requests design review approval to replace five deteriorating wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District.

BUDGET INFORMATION:

There are no budget impacts associated with this project.

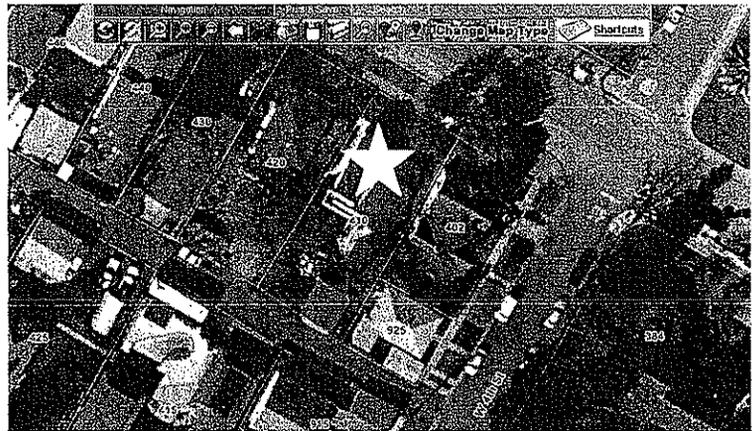
ENVIRONMENTAL ANALYSIS:

This project is Categorically Exempt under Section 15301 (Existing Facilities) of the Guidelines of the California Environmental Quality Act. This exemption includes minor alterations to the exterior of existing structures, involving negligible or no expansion of use.

BACKGROUND:

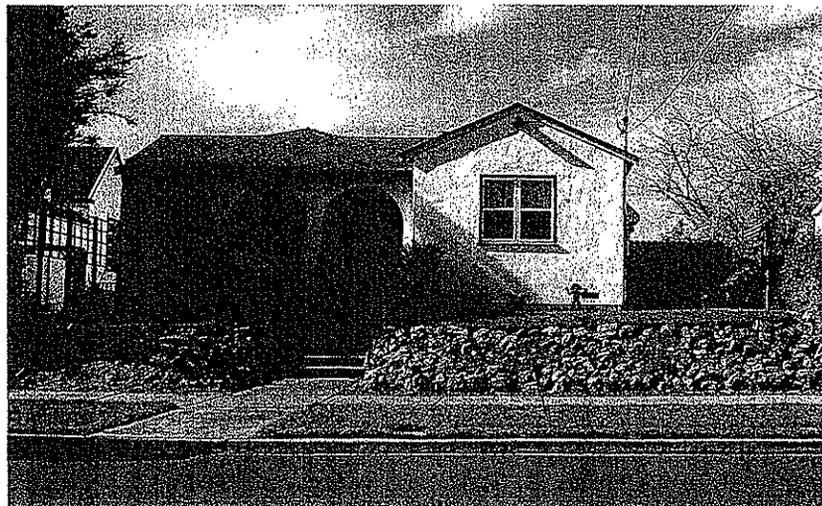
Applicant/Property Owner: Julian and Claudia Frazier
General Plan designation: Low Density Residential
Zoning designation: RS, Single Family Residential
Existing/Proposed use: Single Family Residential
Adjacent zoning:
North: RS, Single Family Residential
East: RS, Single Family Residential
South: RS, Single Family Residential
West: RS, Single Family Residential

410 West J Street is located on the south side of J Street between West Third and West Fourth Streets. The subject building is listed as a contributing structure in the Downtown Historic Conservation Plan. Contributing structures are also located to the east and to the west of subject property.



SUMMARY:

The applicant has been upgrading and rehabilitating the subject structure at considerable expense. In August, the applicant's window contractor approached the City with a request to replace all of the windows on the house with new vinyl windows. The contractor represented at the time that all of the existing windows were vinyl and would be replaced with vinyl. It came to staff's attention that some of the windows, including those under the front porch, were single-hung wood sash. The applicant is requesting design review approval to replace five deteriorating single paned wood windows, including the three on the front façade, with high quality paintable vinyl windows. All of the

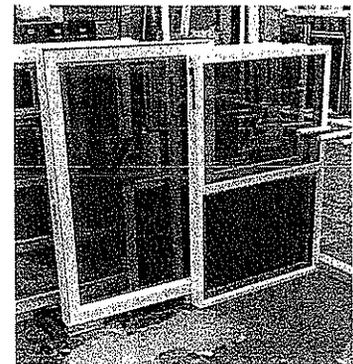
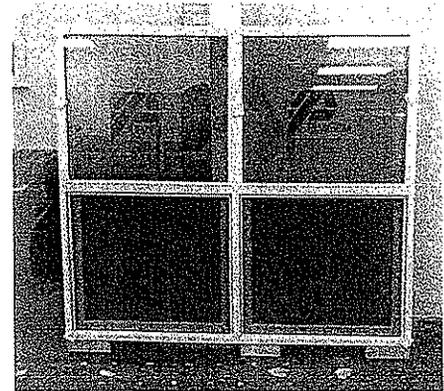


windows on the structure will be replaced but the rest of the windows are already vinyl (albeit lower quality than is proposed). The other two presently wood windows are located on the east and west sides of the house and are not visible from the public right of way. The three windows on the front façade are located under a porch roof and five feet behind an arched porch wall.

The main street-facing features consist of a double (vinyl) sash on the prominent façade, and three arched porch openings. The porch windows are setback from the porch openings approximately five feet. The applicant is not proposing to change the size of the openings or alter their rhythm behind the arches.

The proposed windows are pictured at right. The photo above shows the double window that will replace the existing vinyl window on the front façade that is the most prominent and visible window on the house (this does not require HPRC approval). This will be a significant improvement over the existing vinyl window.

The bottom photo shows the single hung window (right side of photo) that is proposed to replace the existing windows that are behind the porch arches. The window on the left side of the photo will replace existing casement windows. All of the windows on the house will be uniform after this installation.



Downtown Historic Conservation Plan Consistency

The subject property is located in the Downtown Historic Overlay District and therefore is subject to the policies and guidelines set forth in the Downtown Historic Conservation Plan (DHCP). The property is listed as a contributing structure to the DHCP.

The Purpose of the DHCP is as follows (pg. 2):

1. Implement the City's general plan,
2. Deter demolition, destruction, misuse, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past,
3. Promote the conservation, preservation, protection, and enhancement of each historic district,

4. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property, and
5. Encourage development tailored to the character and significance of each historic district.

The structure at 410 West J Street was built in 1930 and was recently determined to be a contributing structure (2009 Survey). The Primary Record description of the structure (also see attached) states the following:

This is an L-shape plan, single story Mediterranean Revival residence. It has a cross gable roof of moderate pitch with clipped eaves and gables. An attic vent of terra cotta pipe is found at the apex of the front gable. The primary roof extends to cover the cut-in porch. It is supported on arched openings. Fenestration is double hung and is paired on the gable end. The house is clad in stucco. This residence is very simple in conception with few decorative details. However, it is representative of many of the houses of this style built in the 1930s. It also is an example of Downtown in-fill in this period.

The sixth sentence states that the windows are double hung. They are actually single-hung with the top pane fixed.

In addition, the Primary Record states the significance as follows:

This is a simple in-fill Mediterranean Revival Style house. Its architectural character is principally defined by its arched porch openings and its stucco cladding. The house was noted in the 1986 historical survey, but was not made a contributing structure in the Downtown Historic District. It should be considered for inclusion within the District.

The general review criteria under the DHCP for this property are "Historic Buildings." There are a number of policies and guidelines that provide direction for the consideration of this project. These include:

- Policy 2 – Façade Elements and Details
- Policy 3 – Integrity of Materials
- Policy 4 – Appropriate Materials, Colors, Finishes

Policy 1 does not apply because it provides guidelines for new additions. The guidelines that apply to this project and staff's response to each follow.

Policy 2 – Façade Elements and Details

Policy 2, Guideline 2.2: Maintain the proportions of existing door and window openings and the pattern of existing sash in replacement work or additions.

Response: The project complies with this policy guideline. The new windows, pictured above, have narrow frames that are very close in dimension to the existing wood frames and will fit into the existing openings of the subject windows.

*Policy 2, Guideline 2.3: New or replacement window sash **should** (emphasis added) match the original sash. Where the original sash has been completely removed, new windows should match the existing unless a complete replacement program for the façade is undertaken.*

Response: The applicant is proposing to replace all of the windows on the house with new vinyl windows that have a paintable frame and sash dimension nearly identical to the original wood. The three wood windows to be replaced on the front façade are tucked behind an arched porch so their visibility from the street is reduced. The main façade window that is wide framed vinyl will be replaced with a vinyl window with dimensions more consistent with the original wood sash. This will be a significant improvement over the existing condition.

Policy 3 – Integrity of Materials

Policy 3, Guideline 3.3: Where inappropriate or later materials have been removed, they should be replaced with the original material.

Response: This guideline provides that, in so far as the applicant is replacing all of the windows on the house, they should be replaced with original wood windows. This would require the applicant, at significant expense, to order new wood windows for the entire structure. The applicant has indicated that this is not financially feasible. In addition, this is a contributing structure, not a landmark. The proposed windows will improve the appearance of the structure's street façade from an historic perspective because the windows are nearly identical in dimension to the existing wood windows. In addition, the existing vinyl window with a wide frame will be replaced with a window that is more consistent with the wood window dimension that the vinyl replaced at some point in the past.

Policy 4 – Appropriate Materials, Colors, and Finishes

Policy 4, Guideline 4.1: Use original materials whenever possible in restoration, renovation or repair work and use the same materials for building additions.

Response: The applicant has stated that it is not financially feasible for them to replace all of the windows on the property with period appropriate wood windows. The applicant has purchased high quality paintable vinyl, energy

efficient windows that display frame dimensions that are nearly identical to the existing wood sash and that fit in the existing openings. In addition, the wood windows that proposed for replacement are not highly visible from the street.

Policy 4, Guideline 4.2: For substitute materials, the outward appearance, durability, texture and finish should be as close as possible to that of the original. If the original was painted, the substitute should accept and retain a painted finish.

Response: The five existing wood windows are smooth painted, single hung with narrow frame dimensions. The proposed replacement windows are smooth in texture, paintable, and single hung. They also exhibit narrow frame dimensions, nearly identical to the existing windows, and will fit within the existing openings.

Policy 4, Guideline 4.3: Wood window sash is preferred for historic buildings. Vinyl clad wood or factory finished (i.e., baked enamel) aluminum frames are acceptable if the original design can be duplicated.

Response: The structure is not itself a landmark, but listed as a contributing structure in the DHCP. The features of the structure that are listed as character defining include the arched porch openings and the stucco exterior. The applicant is not proposing to alter either of these. See response to *Policy 4, Guideline 4.1*, above.

Policy 4, Guideline 4.4: Materials or colors listed as inappropriate for new construction (Commercial Building Types 1 and 2 – Guidelines 2.2 and 2.3) are also inappropriate for historic buildings.

Response: The list of inappropriate materials is for siding, and does not include guidance for windows.

Consistency with Secretary of the Interior's Standards

The proposed project is consistent with the Secretary of the Interior's Standards (see Attachment 2).

Zoning Ordinance Consistency

The project is consistent with existing Zoning Ordinance requirements in that the residential use remains unchanged and no additions are proposed that require review of any site development standards.

CONCLUSION:

This application is not proposing to change any of the character defining architectural features of the home, which include the stucco cladding and the arched porch openings. The windows are not listed as details of significance on

the structure. The structure is not a landmark itself, but is a contributing structure and the window modifications will neither reduce the home's ability to convey its architectural character nor cause any impacts to designated landmark structures or the Downtown Historic Overlay District in general.

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure.

The proposed request is consistent with Purpose No. 4 of the DHCP in that the proposed project will, "Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property." In addition, the project is consistent with the General Plan and Climate Action Plan goals and strategies to increase energy efficiency.

Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution. Finally, it should be noted that allowing property owners some flexibility, when appropriate, has positive policy level implications relevant to the relationship between the City and the community.

FURTHER ACTION:

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten business days.

Attachments:

1. Proposed Resolution
2. Secretary of the Interior Standards
3. Plan Submittal
4. Primary Record

*** If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the October 27, 2011 Historic Preservation Review Commission packet.*

PROPOSED RESOLUTION

RESOLUTION NO. 11- (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION
OF THE CITY OF BENICIA APPROVING WINDOW REPLACEMENT AT 410 WEST J
STREET**

WHEREAS, Brian Maloney, has requested Design Review approval to replace two windows on the X façade of the existing single-family residence at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approve the exterior modification to the building at 410 West J Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission makes the following findings:

- a) This project is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA), which applies to minor alterations to the exterior of existing structures, involving negligible or no expansion of use. The addition of a new door is minor in nature and will not expand the existing commercial use of this building
- b) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines, as described in the staff report, if the conditions of approval are adhered to.
- c) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

- 1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
- 2. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by

the Historic Preservation Review Commission prior to changes being made in the field.

3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on October 27, 2011 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

David Crompton
Historic Preservation Review Commission Chair

SECRETARY OF THE INTERIOR'S STANDARDS

Consistency Analysis:
Secretary of Interior's Standards for Rehabilitation
Design Review (11PLN-00064)
410 West J Street

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The **bold text** is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. **A property will 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 existing residential use will not change. None of the structure's character defining architectural features (stucco cladding, arched porch openings) will be modified. The proposal will replace five wood frame windows with paintable vinyl windows that have dimensions very similar to the existing. The existing window openings will be utilized as they exist.

2. **The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The principal character-defining features of this style of building (Mediterranean Revival) as exhibited on the subject property are its stucco exterior and its arched front porch openings.

3. **Each property will 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, will not be undertaken.**

The property was surveyed in 1986. The analysis states that the building is a common example of the Mediterranean Revival style, which is a common infill style the DHCD. No features will be added or changed that will convey a false sense of historicism.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The structure has not been changed in a manner that said changes might have acquired historic significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

No distinctive materials, features, finishes and construction techniques will be removed.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

No chemical or physical treatments will be undertaken.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

No archaeological resources are known to exist on the subject site. No construction activity involve soil work is proposed.

- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.**

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

- 10. New additions and adjacent or related new construction will 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.**

No additions to the structure will be undertaken.

PROJECT PLANS

(If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the October 27, 2011 Historic Preservation Review Commission packet)

PRIMARY RECORD

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
HRI # _____
Trinomial _____
NRHP Status Code: _____
Other Listings _____
Review Code _____ Reviewer _____ Date _____

- *Resource Name or #: 410 West J Street
P1. Other Identifier: none
*P2. .Location: *a. County Solano
b. Address: 410 West J Street
*c. City: Benicia Zip 94510
d. UTM: N/A
e. USGS Quad: Benicia T2N R3W MDM
*f. Other Locational Data (APN #): 89-031-09
*P3a. Description

This is an L-shape plan, single story Mediterranean Revival residence. It has a cross gable roof of moderate pitch with clipped eaves and gables. An attic vent of terra cotta pipe is found at the apex of the front gable. The primary roof extends to cover the cut-in porch. It is supported on arched openings. Fenestration is double hung and is paired on the gable end. The house is clad in stucco. This residence is very simple in conception with few decorative details. However, it is representative of many of the houses of this style built in the 1930s. It also is an example of Downtown in-fill in this period.

- *P3b. Resource Attributes: HP2
*P4. Resources Present: Building Structure Object Site District Element of District
P5b. Description of Photo:
Front façade, view south
*P6. Date Constructed/Age: 1930
 Prehistoric Historic Both
*P7. Owner and Address:
Brian Maloney

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



- 410 West J Street
Benicia, CA 94510
*P8. Recorded by:
Carol Roland
Roland-Nawi Associates
4829 Crestwood Way
Sacramento, CA 95822
*P9. Date Recorded: 11-20-04
*P10. Type of Survey: Intensive
 Reconnaissance
Other
Describe Eligibility Evaluation
*P11. Report Citation: none
*Attachments: NONE Map Sheet
Continuation Sheet Building, Structure, and
Object Record Linear Resource Record
Archaeological Record District Record
Milling Station Record Rock Art Record
 Artifact Record Photograph Record
Other (List):

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #:
HRI#:

*Resource Identifier: 410 West J Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: same

B3. Original Use: Residential

B4. Present Use: Residential

*B5. Architectural Style: Mediterranean Revival

B7. Moved? No Yes Unknown

Date: N/A

Original Location: same

*B8. Related Features:

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940

Property Type: Single Family

Applicable Criteria: A/C

This is a simple in-fill Mediterranean Revival Style house. Its architectural character is principally defined by its arched porch openings and its stucco cladding. The house was noted in the 1986 historical survey, but was not made a contributing structure in the Downtown Historic District. It should be considered for inclusion within the District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

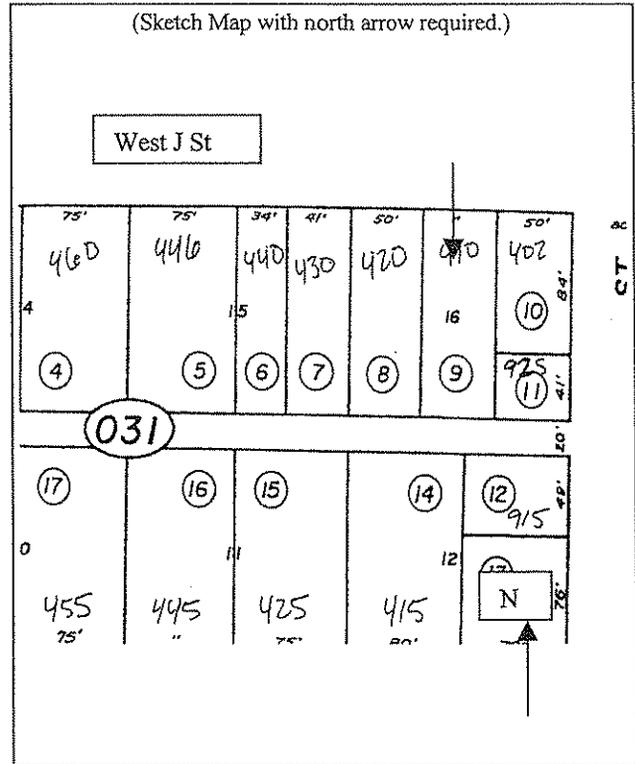
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

RESOLUTION NO. 11-3 (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA AMENDING ESTABLISHED WINDOW STANDARDS FOR DESIGNATED BUILDINGS IN THE DOWNTOWN HISTORIC OVERLAY DISTRICT

WHEREAS, the City of Benicia has an established Downtown Historic Overlay District; and

WHEREAS, property owners of designated buildings in the Downtown Historic Overlay District are required to obtain Historic Preservation Review Commission approval to make modifications to their structures; and

WHEREAS, on August 18, 2005, October 27, 2005, November 17, 2005, and December 22, 2005, the Historic Preservation Review Commission held public hearings on the establishment of window standards for designated buildings in the Downtown Historic Conservation District, considered the staff report, presentations, and public testimony, and directed staff to draft a Resolution formalizing the Commission's findings; and

WHEREAS, on December 22, 2005, the Historic Preservation Review Commission adopted resolution No. 05-14, establishing window standards; and

WHEREAS, on May 27, 2010, the Historic Preservation Review Commission reviewed and amended Resolution No. 05-14 to incorporate Preservation Brief 9 as Exhibit A to clarify the process for verifying feasibility of repair of windows, and adopted Resolution No. 10-4; and

WHEREAS, on February 24, 2011, the Historic Preservation Review Commission held a workshop on windows, and reviewed and amended Resolution No. 10-4.

NOW, THEREFORE, the Historic Preservation Review Commission of the City of Benicia hereby resolves as follows:

SECTION 1. The Benicia Historic Preservation Review Commission hereby determines that proposals to modify windows in a designated building in the historic district shall be repaired, if possible, or if replaced, replaced with wood or historically appropriate material. Upon verification of feasibility of repair per National Park Service Preservation Brief 9 (Exhibit A), staff is authorized to approve window repairs or replacements meeting the above criteria. Replacement windows shall be those typical of the period and appropriate to the architectural style. Staff can approve dual-paned windows that convey the visual appearance of the original windows. All other repairs and replacements, other than those approved as above, are to be reviewed by the Historic Preservation Review Commission.

The foregoing motion was made by Commissioner Crompton, seconded by Commissioner McKee, and carried by the following vote at a regular meeting of the Commission on February 24, 2011:

Ayes: Commissioners Crompton, Mang, McKee, Taagepera, Van Landschoot, and Chair
Haughey
Noes: None
Absent: Commissioner White



Toni Haughey
Historic Preservation Review Commission Chair

9 Preservation Briefs

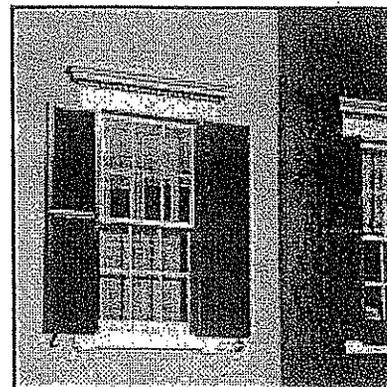
Technical Preservation Services

National Park Service
U.S. Department of the Interior

The Repair of Historic Wooden Windows

John H. Myers

- » Architectural or Historical Significance
- » Physical Evaluation
- » Repair Class I: Routine Maintenance
- » Repair Class II: Stabilization
- » Repair Class III: Splices and Parts Replacement
- » Weatherization
- » Window Replacement
- » Conclusion
- » Additional Reading



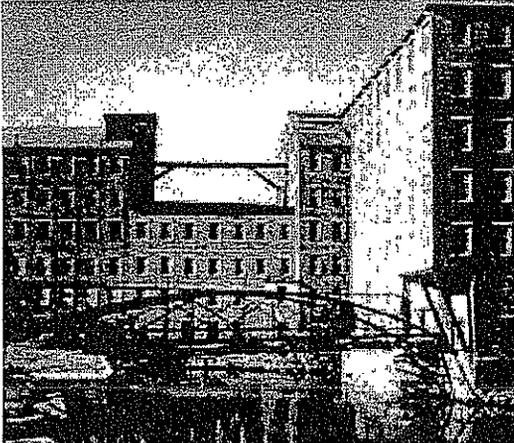
A NOTE TO OUR USERS: The web versions of the **Preservation Briefs** differ somewhat from the printed versions. Many illustrations are new, captions are simplified, illustrations are typically in color rather than black and white, and some complex charts have been omitted.

The windows on many historic buildings are an important aspect of the architectural character of those buildings. Their design, craftsmanship, or other qualities may make them worthy of preservation. This is self-evident for ornamental windows, but it can be equally true for warehouses or factories where the windows may be the most dominant visual element of an otherwise plain building. Evaluating the significance of these windows and planning for their repair or replacement can be a complex process involving both objective and subjective considerations. *The Secretary of the Interior's Standards for Rehabilitation* and the accompanying guidelines, call for respecting the significance of original materials and features, repairing and retaining them wherever possible, and when necessary, replacing them in kind. This Brief is based on the issues of significance and repair which are implicit in the standards, but the primary emphasis is on the technical issues of planning for the repair of windows including evaluation of their physical condition, techniques of repair, and design considerations when replacement is necessary.

Much of the technical section presents repair techniques as an instructional guide for the do-it-yourselfer. The information will be useful, however, for the architect, contractor, or developer on large-scale projects. It presents a methodology for approaching the evaluation and repair of existing windows, and considerations for replacement, from which the professional can develop alternatives and specify appropriate materials and procedures.

Architectural or Historical Significance

Evaluating the architectural or historical significance of windows is the first step in planning for window treatments, and a general understanding of the function and history of windows is vital to making a proper evaluation. As a part of this evaluation, one must consider four basic window functions: admitting light to the interior spaces, providing fresh air and ventilation to the interior, providing a visual link to the outside world, and enhancing the appearance of a building. No single factor can be disregarded when planning window treatments; for example, attempting to conserve energy by closing up or reducing the size of window openings may result in the use of *more* energy by increasing electric lighting loads and decreasing passive solar heat gains.



Windows are frequently important visual focal points, especially on simple facades such as this mill building. Replacement of the multi-pane windows with larger panes could dramatically alter the appearance of the building. Photo: NPS files.

Historically, the first windows in early American houses were casement windows; that is, they were hinged at the side and opened outward. In the beginning of the eighteenth century single- and double-hung windows were introduced. Subsequently many styles of these vertical sliding sash windows have come to be associated with specific building periods or architectural styles, and this is an important consideration in determining the significance of windows, especially on a local or regional basis. Site-specific, regionally oriented architectural comparisons should be made to determine the significance of windows in question. Although such comparisons may focus on specific window types and their details, the ultimate determination of significance should be made within the context of the whole building, wherein the windows are one architectural element.

After all of the factors have been evaluated, **windows should be considered significant to a building if they:** **1)** are original, **2)** reflect the original design intent for the building, **3)** reflect period or regional styles or building practices, **4)** reflect changes to the building resulting from major periods or events, or **5)** are examples of exceptional craftsmanship or design. Once this evaluation of significance has been completed, it is possible to proceed with planning appropriate treatments, beginning with an investigation of the physical condition of the windows.

Physical Evaluation

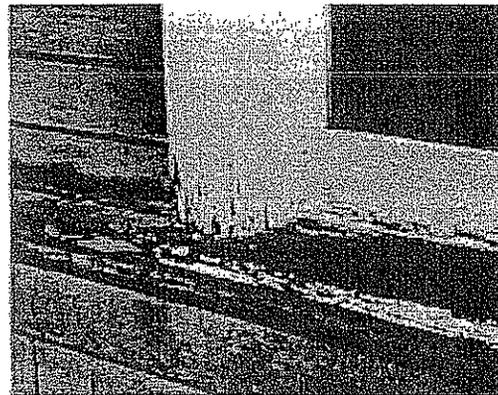
The key to successful planning for window treatments is a careful evaluation of existing physical conditions on a unit-by-unit basis. A graphic or photographic system may be devised to record existing conditions and illustrate the scope of any necessary repairs. Another effective tool is a window schedule which lists all of the parts of each window unit. Spaces by each part allow notes on existing conditions and repair instructions. When such a schedule is completed, it indicates the precise tasks to be performed in the repair of each unit and becomes a part of the specifications. In any evaluation, one should note at a minimum:

- **1)** window location
- **2)** condition of the paint

- 3) condition of the frame and sill
- 4) condition of the sash (rails, stiles and muntins)
- 5) glazing problems
- 6) hardware, and
- 7) the overall condition of the window (excellent, fair, poor, and so forth)

Many factors such as poor design, moisture, vandalism, insect attack, and lack of maintenance can contribute to window deterioration, but moisture is the primary contributing factor in wooden window decay. All window units should be inspected to see if water is entering around the edges of the frame and, if so, the joints or seams should be caulked to eliminate this danger. The glazing putty should be checked for cracked, loose, or missing sections which allow water to saturate the wood, especially at the joints. The back putty on the interior side of the pane should also be inspected, because it creates a seal which prevents condensation from running down into the joinery. The sill should be examined to insure that it slopes downward away from the building and allows water to drain off. In addition, it may be advisable to cut a dripline along the underside of the sill. This almost invisible treatment will insure proper water runoff, particularly if the bottom of the sill is flat. Any conditions, including poor original design, which permit water to come in contact with the wood or to puddle on the sill must be corrected as they contribute to deterioration of the window.

One clue to the location of areas of excessive moisture is the condition of the paint; therefore, each window should be examined for areas of paint failure. Since excessive moisture is detrimental to the paint bond, areas of paint blistering, cracking, flaking, and peeling usually identify points of water penetration, moisture saturation, and potential deterioration. Failure of the paint should not, however, be mistakenly interpreted as a sign that the wood is in poor condition and hence, irreparable. Wood is frequently in sound physical condition beneath unsightly paint. After noting areas of paint failure, the next step is to inspect the condition of the wood, particularly at the points identified during the paint examination.



Deterioration of poorly maintained windows usually begins on horizontal surfaces and at joints, where water can collect and saturate the wood. Photo: NPS files.

Each window should be examined for operational soundness beginning with the lower portions of the frame and sash. Exterior rainwater and interior condensation can flow downward along the window, entering and collecting at points where the flow is blocked. The sill, joints between the sill and jamb, corners of the bottom rails and muntin joints are typical points where water collects and deterioration begins. The operation of the window (continuous opening and closing over the years and seasonal temperature changes) weakens the joints, causing movement and slight separation. This process makes the joints more vulnerable to water which is readily absorbed into the endgrain of the wood. If severe deterioration exists in these areas, it will usually be apparent on visual inspection, but other less severely deteriorated areas of the wood may be tested by two traditional methods using a small ice pick.

An ice pick or an awl may be used to test wood for soundness. The technique is simply to jab the pick into a wetted wood surface at an angle and pry up a small section of the wood. Sound wood will separate in long fibrous splinters, but decayed wood will lift up in short irregular pieces due to the breakdown of fiber strength.

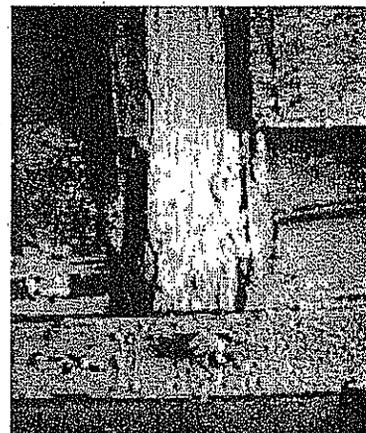
Another method of testing for soundness consists of pushing a sharp object into the wood, perpendicular to the surface. If deterioration has begun from the hidden side of a member and the core is badly decayed, the visible surface may appear to be sound wood. Pressure on the probe can force it through an apparently sound skin to penetrate deeply into decayed wood. This technique is especially useful for checking sills where visual access to the underside is restricted.

Following the inspection and analysis of the results, the scope of the necessary repairs will be evident and a plan for the rehabilitation can be formulated. Generally the actions necessary to return a window to "like new" condition will fall into three broad categories: **1) routine maintenance procedures, 2) structural stabilization, and 3) parts replacement.** These categories will be discussed in the following sections and will be referred to respectively as **Repair Class I, Repair Class II, and Repair Class III.** Each successive repair class represents an increasing level of difficulty, expense, and work time. Note that most of the points mentioned in Repair Class I are routine maintenance items and should be provided in a regular maintenance program for any building. The neglect of these routine items can contribute to many common window problems.

Before undertaking any of the repairs mentioned in the following sections all sources of moisture penetration should be identified and eliminated, and all existing decay fungi destroyed in order to arrest the deterioration process. Many commercially available fungicides and wood preservatives are toxic, so it is extremely important to follow the manufacturer's recommendations for application, and store all chemical materials away from children and animals. After fungicidal and preservative treatment the windows may be stabilized, retained, and restored with every expectation for a long service life.

Repair Class I: Routine Maintenance

Repairs to wooden windows are usually labor intensive and relatively uncomplicated. On small scale projects this allows the do-it-yourselfer to save money by repairing all or part of the windows. On larger projects it presents the opportunity for time and money which might otherwise be spent on the removal and replacement of existing windows, to be spent on repairs, subsequently saving all or part of the material cost of new window units. Regardless of the actual costs, or who performs the work, the evaluation process described earlier will provide the knowledge from which to specify an appropriate work program, establish the work element priorities, and identify the level of skill needed by the labor force.



This historic double-hung window has many layers of paint, some cracked and missing putty, slight separation at the joints, broken sash cords, and one cracked pane. Photo: NPS files.

The routine maintenance required to upgrade a window to "like new" condition normally includes the following steps: 1) some degree of interior and exterior paint removal, 2) removal and repair of sash (including reglazing where necessary), 3) repairs to the frame, 4) weatherstripping and reinstallation of the sash, and 5) repainting. These operations are illustrated for a typical



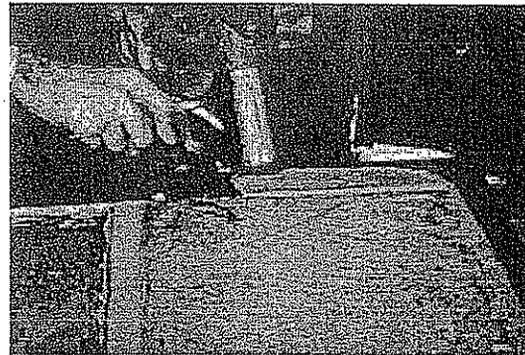
After removing paint from the seam between the interior stop and the jamb, the stop can be pried out and gradually worked loose using a pair of putty knives as shown. Photo: NPS files.

double-hung wooden window, but they may be adapted to other window types and styles as applicable.

Historic windows have usually acquired many layers of paint over time. Removal of excess layers or peeling and flaking paint will facilitate operation of the window and restore the clarity of the original detailing. Some degree of paint removal is also necessary as a first step in the proper surface preparation for subsequent refinishing (if paint color analysis is desired, it should be conducted prior to the onset of the paint removal). There are several safe and effective techniques for removing paint from wood, depending on the amount of paint to be removed.

Paint removal should begin on the interior frames, being careful to remove the paint from the interior stop and the parting bead, particularly along the

seam where these stops meet the jamb. This can be accomplished by running a utility knife along the length of the seam, breaking the paint bond. It will then be much easier to remove the stop, the parting bead and the sash. The interior stop may be initially loosened from the sash side to avoid visible scarring of the wood and then gradually pried loose using a pair of putty knives, working up and down the stop in small increments. With the stop removed, the lower or interior sash may be withdrawn. The sash cords should be detached from the sides of the sash and their ends may be pinned with a nail or tied in a knot to prevent them from falling into the weight pocket.



Sash can be removed and repaired in a convenient work area. Paint is being removed from this sash with a hot air gun. Photo: NPS files.

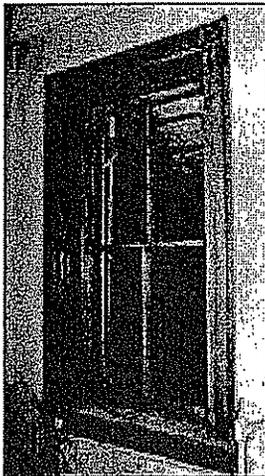
Removal of the upper sash on double-hung units is similar but the parting bead which holds it in place is set into a groove in the center of the stile and is thinner and more delicate than the interior stop. After removing any paint along the seam, the parting bead should be carefully pried out and worked free in the same manner as the interior stop. The upper sash can be removed in the same manner as the lower one and both sash taken to a convenient work area (in order to remove the sash the interior stop and parting bead need only be removed from one side of the window). Window openings can be covered with polyethylene sheets or plywood sheathing while the sash are out for repair.

The sash can be stripped of paint using appropriate techniques, but if any heat treatment is used, the glass should be removed or protected from the sudden temperature change which can cause breakage. An overlay of aluminum foil on gypsum board or asbestos can protect the glass from such rapid temperature change. It is important to protect the glass because it may be historic and often adds character to the window. Deteriorated putty should be removed manually, taking care not to damage the wood along the rabbet. If the glass is to be removed, the glazing points which hold the glass in place can be extracted and the panes numbered and removed for cleaning and reuse in the same openings. With the glass panes out, the remaining putty can be removed and the sash can be sanded, patched, and primed with a preservative primer. Hardened putty in the rabbets may be softened by heating with a soldering iron at the

point of removal. Putty remaining on the glass may be softened by soaking the panes in linseed oil, and then removed with less risk of breaking the glass. Before reinstalling the glass, a bead of glazing compound or linseed oil putty should be laid around the rabbet to cushion and seal the glass. Glazing compound should only be used on wood which has been brushed with linseed oil and primed with an oil based primer or paint. The pane is then pressed into place and the glazing points are pushed into the wood around the perimeter of the pane.

The final glazing compound or putty is applied and beveled to complete the seal. The sash can be refinished as desired on the inside and painted on the outside as soon as a "skin" has formed on the putty, usually in 2 or 3 days. Exterior paint should cover the beveled glazing compound or putty and lap over onto the glass slightly to complete a weather-tight seal. After the proper curing times have elapsed for paint and putty, the sash will be ready for reinstallation.

While the sash are out of the frame, the condition of the wood in the jamb and sill can be evaluated. Repair and refinishing of the frame may proceed concurrently with repairs to the sash, taking advantage of the curing times for the paints and putty used on the sash. One of the most common work items is the replacement of the sash cords with new rope cords or with chains. The weight pocket is frequently accessible through a door on the face of the frame near the sill, but if no door exists, the trim on the interior face may be removed for access. Sash weights may be increased for easier window operation by elderly or handicapped persons. Additional repairs to the frame and sash may include consolidation or replacement of deteriorated wood. Techniques for these repairs are discussed in the following sections.



Following the relatively simple repairs, the window is weathertight, like new in appearance, and serviceable for many years to come. Photo: NPS files.

The operations just discussed summarize the efforts necessary to restore a window with minor deterioration to "like new" condition. The techniques can be applied by an unskilled person with minimal training and experience. To demonstrate the practicality of this approach, and photograph it, a Technical Preservation Services staff member repaired a wooden double-hung, two over two window which had been in service over ninety years. The wood was structurally sound but the window had one broken pane, many layers of paint, broken sash cords and inadequate, worn-out weatherstripping. The staff member found that the frame could be stripped of paint and the sash removed quite easily. Paint, putty and glass removal required about one hour for each sash, and the reglazing of both sash was accomplished in about one hour. Weatherstripping of the sash and frame, replacement of the sash cords and reinstallation of the sash, parting bead, and stop required an hour and a half. These times refer only to individual operations; the entire process took several days due to the drying and curing times for putty, primer, and paint, however, work on other window units could have been in progress during these lag times.

Repair Class II: Stabilization

The preceding description of a window repair job focused on a unit which was operationally sound. Many windows will show some additional degree of physical deterioration, especially in the vulnerable areas mentioned earlier, but even badly

damaged windows can be repaired using simple processes. Partially decayed wood can be waterproofed, patched, built-up, or consolidated and then painted to achieve a sound condition, good appearance, and greatly extended life. Three techniques for repairing partially decayed or weathered wood are discussed in this section, and all three can be accomplished using products available at most hardware stores.

One established technique for repairing wood which is split, checked or shows signs of rot, is to: **1)** dry the wood, **2)** treat decayed areas with a fungicide, **3)** waterproof with two or three applications of boiled linseed oil (applications every 24 hours), **4)** fill cracks and holes with putty, and **5)** after a "skin" forms on the putty, paint the surface. Care should be taken with the use of fungicide which is toxic. Follow the manufacturers' directions and use only on areas which will be painted. When using any technique of building up or patching a flat surface, the finished surface should be sloped slightly to carry water away from the window and not allow it to puddle. Caulking of the joints between the sill and the jamb will help reduce further water penetration.



This illustrates a two-part epoxy patching compound used to fill the surface of a weathered sill and rebuild the missing edge. When the epoxy cures, it can be sanded smooth and painted to achieve a durable and waterproof repair. Photo: NPS files.

When sills or other members exhibit surface weathering they may also be built-up using wood putties or homemade mixtures such as sawdust and resorcinol glue, or whiting and varnish. These mixtures can be built up in successive layers, then sanded, primed, and painted. The same caution about proper slope for flat surfaces applies to this technique.

Wood may also be strengthened and stabilized by consolidation, using semirigid epoxies which saturate the porous decayed wood and then harden. The surface of the consolidated wood can then be filled with a semirigid epoxy patching compound, sanded and painted. Epoxy patching compounds can be used to build up missing sections or decayed ends of members. Profiles can

be duplicated using hand molds, which are created by pressing a ball of patching compound over a sound section of the profile which has been rubbed with butcher's wax. This can be a very efficient technique where there are many typical repairs to be done. The process has been widely used and proven in marine applications; and proprietary products are available at hardware and marine supply stores. Although epoxy materials may be comparatively expensive, they hold the promise of being among the most durable and long lasting materials available for wood repair. More information on epoxies can be found in the publication "Epoxies for Wood Repairs in Historic Buildings," cited in the bibliography.

Any of the three techniques discussed can stabilize and restore the appearance of the window unit. There are times, however, when the degree of deterioration is so advanced that stabilization is impractical, and the only way to retain some of the original fabric is to replace damaged parts.

Repair Class III: Splices and Parts Replacement

When parts of the frame or sash are so badly deteriorated that they cannot be stabilized there are methods which permit the retention of some of the existing or original fabric.

These methods involve replacing the deteriorated parts with new matching pieces, or splicing new wood into existing members. The techniques require more skill and are more expensive than any of the previously discussed alternatives. It is necessary to remove the sash and/or the affected parts of the frame and have a carpenter or woodworking mill reproduce the damaged or missing parts. Most millwork firms can duplicate parts, such as muntins, bottom rails, or sills, which can then be incorporated into the existing window, but it may be necessary to shop around because there are several factors controlling the practicality of this approach. Some woodworking mills do not like to repair old sash because nails or other foreign objects in the sash can damage expensive knives (which cost far more than their profits on small repair jobs); others do not have cutting knives to duplicate muntin profiles. Some firms prefer to concentrate on larger jobs with more profit potential, and some may not have a craftsman who can duplicate the parts. A little searching should locate a firm which will do the job, and at a reasonable price. If such a firm does not exist locally, there are firms which undertake this kind of repair and ship nationwide. It is possible, however, for the advanced do-it-yourselfer or craftsman with a table saw to duplicate moulding profiles using techniques discussed by Gordie Whittington in "Simplified Methods for Reproducing Wood Mouldings," *Bulletin of the Association for Preservation Technology*, Vol. III, No. 4, 1971, or illustrated more recently in *The Old House*, Time-Life Books, Alexandria, Virginia, 1979.

The repairs discussed in this section involve window frames which may be in very deteriorated condition, possibly requiring removal; therefore, caution is in order. The actual construction of wooden window frames and sash is not complicated. Pegged mortise and tenon units can be disassembled easily, if the units are out of the building. The installation or connection of some frames to the surrounding structure, especially masonry walls, can complicate the work immeasurably, and may even require dismantling of the wall. It may be useful, therefore, to take the following approach to frame repair: **1)** conduct regular maintenance of sound frames to achieve the longest life possible, **2)** make necessary repairs in place, wherever possible, using stabilization and splicing techniques, and **3)** if removal is necessary, thoroughly investigate the structural detailing and seek appropriate professional consultation.

Another alternative may be considered if parts replacement is required, and that is sash replacement. If extensive replacement of parts is necessary and the job becomes prohibitively expensive it may be more practical to purchase new sash which can be installed into the existing frames. Such sash are available as exact custom reproductions, reasonable facsimiles (custom windows with similar profiles), and contemporary wooden sash which are similar in appearance. There are companies which still manufacture high quality wooden sash which would duplicate most historic sash. A few calls to local building suppliers may provide a source of appropriate replacement sash, but if not, check with local historical associations, the state historic preservation office, or preservation related magazines and supply catalogs for information.

If a rehabilitation project has a large number of windows such as a commercial building or an industrial complex, there may be less of a problem arriving at a solution. Once the evaluation of the windows is completed and the scope of the work is known, there may be a potential economy of scale. Woodworking mills may be interested in the work from a large project; new sash in volume may be considerably less expensive per unit; crews can be assembled and trained on site to perform all of the window repairs; and a few extensive repairs can be absorbed (without undue burden) into the total budget for a large number of sound windows. While it may be expensive for the average historic home owner to pay seventy dollars or more for a mill to grind a custom knife to duplicate four or five bad muntins, that cost becomes negligible on large commercial projects which may have several hundred windows.

Most windows should not require the extensive repairs discussed in this section. The ones which do are usually in buildings which have been abandoned for long periods or have totally lacked maintenance for years. It is necessary to thoroughly investigate the alternatives for windows which do require extensive repairs to arrive at a solution which retains historic significance and is also economically feasible. Even for projects requiring repairs identified in this section, if the percentage of parts replacement per window is low, or the number of windows requiring repair is small, repair can still be a cost effective solution.

Weatherization

A window which is repaired should be made as energy efficient as possible by the use of appropriate weatherstripping to reduce air infiltration. A wide variety of products are available to assist in this task. Felt may be fastened to the top, bottom, and meeting rails, but may have the disadvantage of absorbing and holding moisture, particularly at the bottom rail. Rolled vinyl strips may also be tacked into place in appropriate locations to reduce infiltration. Metal strips or new plastic spring strips may be used on the rails and, if space permits, in the channels between the sash and jamb. Weatherstripping is a historic treatment, but old weatherstripping (felt) is not likely to perform very satisfactorily. Appropriate contemporary weatherstripping should be considered an integral part of the repair process for windows. The use of sash locks installed on the meeting rail will insure that the sash are kept tightly closed so that the weatherstripping will function more effectively to reduce infiltration. Although such locks will not always be historically accurate, they will usually be viewed as an acceptable contemporary modification in the interest of improved thermal performance.

Many styles of storm windows are available to improve the thermal performance of existing windows. The use of exterior storm windows should be investigated whenever feasible because they are thermally efficient, cost-effective, reversible, and allow the retention of original windows (see "Preservation Briefs: 3"). Storm window frames may be made of wood, aluminum, vinyl, or plastic; however, the use of unfinished aluminum storms should be avoided. The visual impact of storms may be minimized by selecting colors which match existing trim color. Arched top storms are available for windows with special shapes. Although interior storm windows appear to offer an attractive option for achieving double glazing with minimal visual impact, the potential for damaging condensation problems must be addressed. Moisture which becomes trapped between the layers of glazing can condense on the colder, outer prime window, potentially leading to deterioration. The correct approach to using interior storms is to create a seal on the interior storm while allowing some ventilation around the prime window. In actual practice, the creation of such a durable, airtight seal is difficult.

Window Replacement

Although the retention of original or existing windows is always desirable and this Brief is intended to encourage that goal, there is a point when the condition of a window may clearly indicate replacement. The decision process for selecting replacement windows should not begin with a survey of contemporary window products which are available as replacements, but should begin with a look at the windows which are being replaced. Attempt to understand the contribution of the window(s) to the appearance of the facade including: 1) the pattern of the openings and their size; 2) proportions of the

frame and sash; 3) configuration of window panes; 4) muntin profiles; 5) type of wood; 6) paint color; 7) characteristics of the glass; and 8) associated details such as arched tops, hoods, or other decorative elements. Develop an understanding of how the window reflects the period, style, or regional characteristics of the building, or represents technological development.

Armed with an awareness of the significance of the existing window, begin to search for a replacement which retains as much of the character of the historic window as possible. There are many sources of suitable new windows. Continue looking until an acceptable replacement can be found. Check building supply firms, local woodworking mills, carpenters, preservation oriented magazines, or catalogs or suppliers of old building materials, for product information. Local historical associations and state historic preservation offices may be good sources of information on products which have been used successfully in preservation projects.

Consider energy efficiency as one of the factors for replacements, but do not let it dominate the issue. Energy conservation is no excuse for the wholesale destruction of historic windows which can be made thermally efficient by historically and aesthetically acceptable means. In fact, a historic wooden window with a high quality storm window added should thermally outperform a new double-glazed metal window which does not have thermal breaks (insulation between the inner and outer frames intended to break the path of heat flow). This occurs because the wood has far better insulating value than the metal, and in addition many historic windows have high ratios of wood to glass, thus reducing the area of highest heat transfer. One measure of heat transfer is the U-value, the number of Btu's per hour transferred through a square foot of material. When comparing thermal performance, the lower the U-value the better the performance. According to ASHRAE 1977 Fundamentals, the U-values for single glazed wooden windows range from 0.88 to 0.99. The addition of a storm window should reduce these figures to a range of 0.44 to 0.49. A non-thermal break, double-glazed metal window has a U-value of about 0.6.

Conclusion

Technical Preservation Services recommends the retention and repair of original windows whenever possible. We believe that the repair and weatherization of existing wooden windows is more practical than most people realize, and that many windows are unfortunately replaced because of a lack of awareness of techniques for evaluation, repair, and weatherization. Wooden windows which are repaired and properly maintained will have greatly extended service lives while contributing to the historic character of the building. Thus, an important element of a building's significance will have been preserved for the future.

Additional Reading

ASHRAE Handbook 1977 Fundamentals. New York: American Society of Heating, Refrigerating and Air-conditioning Engineers, 1978 (chapter 26).

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Morrison, Hugh. *Early American Architecture*. New York: Oxford University Press, 1952.

Phillips, Morgan, and Selwyn, Judith. *Epoxies for Wood Repairs in Historic Buildings*. Washington, DC: Technical Preservation Services, U.S. Department of the Interior (Government Printing Office, Stock No. 024016000951), 1978.

Rehab Right. Oakland, California: City of Oakland Planning Department, 1978 (pp. 7883).

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Smith, Baird M. "Preservation Briefs: 3 Conserving Energy in Historic Buildings." Washington, DC: Technical Preservation Services, U.S. Department of the Interior, 1978.

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Washington, D.C. 1981

Home page logo: Historic six-over-six windows--preserved. Photo: NPS files.

This publication has been prepared pursuant to the National Historic Preservation Act of 1966, as amended, which directs the Secretary of the Interior to develop and make available information concerning historic properties. Technical Preservation Services (TPS), Heritage Preservation Services Division, National Park Service prepares standards, guidelines, and other educational materials on responsible historic preservation treatments for a broad public.

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KDW

RESOLUTION NO. 11- 7 (PC)

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BENICIA GRANTING AN APPEAL OF THE DECISION OF THE
HISTORIC PRESERVATION REVIEW COMMISSION, AND APPROVING THE
REPLACEMENT OF THREE WOOD WINDOWS WITH VINYL WINDOWS AT 410
WEST J STREET**

WHEREAS, Julian and Claudia Fraser, have requested Design Review approval to replace five windows on the side and front façades of the existing single-family residence at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project and,

WHEREAS, the Historic Preservation Review Commission denied the replacement of the three front windows but approved the replacement of the two side windows; and,

WHEREAS, Julian and Claudia Fraser have appealed the denial of the replacement of the three front windows to the Planning Commission

WHEREAS, the Planning Commission reviewed the appeal to replace three wood windows with vinyl windows on the front façade of the existing single-family residence at 410 West J Street.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby grants the appeal and approves the replacement of the three front wood windows to the building at 410 West J Street.

BE IT FURTHER RESOLVED THAT the Planning Commission finds that:

- a) The Planning Commission finds that the three wood windows behind the front porch arches do not represent “character defining” features of the property at 410 West J Street, as the arched porch and stucco are as listed in the property’s historic documentation; and,
- b) The property was approved by the HPRC to install vinyl windows on the sides of the structure, which are visible from the public right of way while remaining consistent with the Secretary of the Interior’s Standards; and,

- c) The proposed vinyl windows behind the porch are not more visible from the street than the side windows and are less prominent than the large front double window that is already vinyl; and,
- d) The proposed vinyl windows are high quality and paintable, will not alter the existing frame and sill, and have similar frame dimensions to the existing wood windows; and,
- e) The proposed project is a Section 15331 (Class 31) Categorical Exemption from the CEQA Guidelines. Class 31 exemptions allow restoration and rehabilitation of historic resources so long as any work is completed consistent with the Secretary of the Interior's Standards. The proposed project, including the decision of the HPRC, is consistent with the Secretary of the Interior Standards based on the analysis in this report.
- f) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines and the Secretary of the Interior's Standards, as described in the staff report, if the conditions of approval are adhered to.
- g) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

BE IT FURTHER RESOLVED THAT the Benicia Planning Commission hereby approved the proposed project subject to the following conditions (as approved by the HPRC):

1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
2. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by the Historic Preservation Review Commission prior to changes being made in the field.
3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set

aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

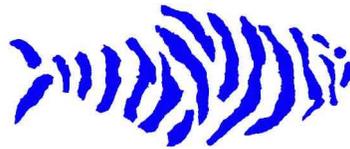
* * * * *

On motion of Commissioner Sherry, seconded by Commissioner Oakes, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on December 8, 2011 by the following vote:

- Ayes: Commissioners Ernst, Oakes, Sherry, Syracuse, and Chair Thomas
- Noes: Commissioner Dean
- Absent: Commissioner Smith
- Abstain: None

Brad Thomas
Planning Commission Chair

Planning Commission Meeting



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Planning Commission Meeting

[Start at 00:25:50 recorded material]

Chair Brad Thomas: Roll call, please.

Female Voice: Commissioner Dean?

Commissioner Donald Dean: Yes.

Female Voice: Ernst?

Commissioner Rick Ernst: Yes.

Female Voice: Oakes?

Commissioner George Oakes: Yes.

Female Voice: Sherry?

Commissioner Rod Sherry: Yes.

Female Voice: Syracuse?

Commissioner Lee Syracuse: Yes.

Female Voice: And Chair Thomas?

Chair Brad Thomas: Yes. Okay, thank you. We will now move to the regular agenda items. We have three this evening. The first one is in appeal of the HPRC's denial of a design review request to replace three wood windows with vinyl windows on the front façade of the existing single-family residence located at 410 West J Street. Who in from the staff is going to present?

Mark Rhoades: I will, Mr. Chair. Thank you.

Chair Brad Thomas: Thank you.

Mark Rhoades: Um, good evening, uh, Mr. Chair, members of the commission. Um, my name's Mark Rhoades. I'm the Interim Land Use and Engineering Manager, um, in the Public Works and Community Development Department. Uh, the request that's before you this evening is the consideration of an appeal by the applicant, uh, Julian Fraser of 410 West J Street.

His request, uh, to the Historic Preservation Review Commission was to replace a total of five windows, um, on his existing historic structure, um, with, uh, high-quality vinyl windows. The Historic Preservation Review Commission reviewed that request last month and, uh, strongly disagreed, uh, with staff's recommendation, uh, for the reasons that, um, are outlined in Ms. Taagepera's letter, uh, this evening, and, uh, as well in the report.

Staff -- although it's not customary, staff included draft minutes from the HPRC's meeting because there wasn't time to have those minutes approved by the HPRC in time for the, um, Planning Commission's hearing, but wanted to -- wanted the Planning to -- Commission to have, uh, some idea of the discussion that went on. So they are draft and, uh, um, just want the Commission to know that.

So the Historic, uh, Preservation Review Commission has a standing policy consistent with the Secretary of the Interior's Standards that, uh, wood windows, uh, should not be replaced, uh, with vinyl windows, uh, especially, uh, if we're talking about front façades, things that are visible from the public right away. They did approve the applicant's repl-request to replace two windows, one on each of the sides of the structure, uh, with the vinyl windows, but denied the portion of the r-- the request relevant to the three windows that are on the front façade behind the arched porch.

Um, and that's -- uh, the-the reasons for staff's, uh, original recommendation are contained in the report, along with some overview of the HPRC meeting. And with that, I'm happy to answer any questions that you might have.

Chair Brad Thomas: I'll open it up to the commissioners. Do you have any questions of staff?

Commissioner Rod Sherry: So the-the [coughs] -- excuse me. The two windows on the sides that were, um, permitted or approved to be replaced, were-were they wood?

Mark Rhoades: They were wood, yes. But-but not visible from the public right-of-way.

Commissioner Rod Sherry: So -- and maybe this is -- I mean, I'm claiming ignorance on the -- on all the details of the Secretary of the Interior's Standards -- is there something in th-- in there that says that there's a difference between a window that's visible from the street and one that's not?

Mark Rhoades: Well, and this what -- this is what gets into, uh, I think, some of the differences that, um, s-- differences in opinion that staff may have with the -- uh, some of the commission. And I believe we have a couple of commissioners here tonight. But, um, the Secretary of the Interior's Standards, um, have very strong language about wood windows, um, and-and windows as prominent features, uh, of a historic resource.

And-and that is sort of where, um, the opinions differ. In the staff's opinion, um, th-those three windows, because of their location on the façade -- and they're not readily visible -- um, those were not, in staff's opinion, prominent features. And when you look at the, um, historic report on file, it talks about the stucco, the arches themselves, um, and more general, broader, uh, elements of-of that architecture as being the prominent features.

Um, HPRC commissioners, um, stated that windows are always prominent features on a structure, especially when they're viewed from a public right-of-way. And I think that that's the fundamental difference in-in the two opinions.

Commissioner Rod Sherry: So I-I'm just trying to get this straight in my head, that we're-we're holding people to the Secretary of the Interior's Standards, but only on the front façade?

Mark Rhoades: The, uh, HPRC has been, uh, pretty -- has given a good amount of consideration in the past to allowing people to change windows where they're not readily visible from the public right-of-way. Yes.

Commissioner Rod Sherry: Okay.

Chair Brad Thomas: Commissioner Dean.

Commissioner Donald Dean: Yeah, thank you. Uh, first, just a clarification. You said five windows were in the proposal for change. And I'm just looking at the project plans that were presented in the staff report. So all the windows were along the front façade? Or there's -- it looks like three on the front and then one on each side?

Mark Rhoades: That's correct.

Commissioner Donald Dean: Okay. And then in the st-- in the, um -- at the HPRC meeting, reading through the minutes, there was a lot of discussion about a vinyl window in the front?

Mark Rhoades: Yes.

Commissioner Donald Dean: Is-is that -- was that proposed to be changed or not?

Mark Rhoades: That-that's the most prominent window on the residence, that-that double sash.

Commissioner Donald Dean: Right.

Mark Rhoades: And, um, it was not proposed -- it's proposed to be changed, but it is already vinyl. And so changing it in kind, uh, which is allowed with a simple building permit, um, would allow that one to be changed to another vinyl window, but not the wood sash windows, the other three that are on the front façade.

And so the-the, uh, HPRC did recommend to the applicant that in addition to, uh, retaining the three wood windows on the porch, that they look at, uh, replacing the existing vinyl window, because of its prominence from the street, uh, with a wood sash, as well.

Commissioner Donald Dean: Okay. And-and the note on the plan here says, "Replace seven windows," so a total of seven windows would be replaced, and five were, um --

Mark Rhoades: Five were wood.

Commissioner Donald Dean: Were wood, okay.

Mark Rhoades: Right.

Commissioner Donald Dean: And then you just mentioned that, um, "replace in kind." Uh, is that a -- is that a written city policy? I mean, where does that policy come from?

Mark Rhoades: Well, "replace in kind" is-is, um, sort of a term of art for historic preservation. And it's v-- it's very significant, uh, that when you have a historic resource and you have to replace uh, important features, that they re-- be replaced with the same size, color, material, uh, et cetera, as the original, exactly as it was.

Um, and so that's what we look to when we're doing rehabilitation, uh, for historic resources. It -- in addition to it being policy of the Secretary of the Interior, it's adopted policy, um, of, uh, the HPRC, as well.

Commissioner Donald Dean: Okay. Uh, and let me ask you, because the staff report makes a lot of reference to the, um, Downtown-Downtown Historic Conservation Plan. And, uh, there's a couple of -- and they go in-into some detail about integrity of materials and-and

replacement. And, uh, my question is, um -- let me see if I can find the exact quote here. If you'll bear with me for a second here.

And it has to do with replacing, uh -- the HPRC talked a lot about the vinyl window and whether or not it could be or should be replaced with a -- with a wood window. And I'm looking at -- under "Historic Buildings," page 61 of the Downtown Historic Plan.

It says, um, "Since some of the buildings in the historic district have already undergone major design changes which may be difficult to reverse or are inconsistent with the guidelines, the decision to apply them will have to be made on a discretionary case-by-case basis. However, whenever feasible, any inappropriate modifications should be reversed, and additional modifications should follow the guidelines to the extent that a consistent design will result."

So how does that language play into the-the, uh, "replace in kind" language? I mean, I read that to say that if -- or-or I interpret that to mean that if there's an opportunity to replace an inappropriate or-or, uh, design or window or material, then maybe you should take that opportunity. It seems to me that's maybe what HPRC was after in that whole discussion. What-what would you say about that?

Mark Rhoades: Well, I-I think I would, um, I would agree with that. Um, the operative word there is "should." And the thresholds of discretion are set such that, um, if you're not replacing "in kind," um, even though you might be asking to replace something that was badly

done with something that's "in kind," it requires the discretion of the HPRC. And a reason for that is that we would want to make sure that if you're going back to original, that you're going back to appropriate original. Um, so that's where the threshold of discretion lies.

Commissioner Donald Dean: So then you wouldn't dis-- so the whole discus-- part of the discussion at HPRC was whether they had purview over that vinyl window, and could it be replaced, and should it be replaced?
So --

Mark Rhoades: That's correct.

Commissioner Donald Dean: So what I'm hearing you say is that, yes, they-they do have purview over that, and that there would be some rationale for replacing that with wood?

Mark Rhoades: There would be rationale for it, but they don't have the authority to require it, um, as such. And it wasn't the writ-- the ap-- in the applicant's request.

Commissioner Donald Dean: Okay. Uh, and they have no authority to replace it because the -- would you --?

Mark Rhoades: Uh, they-they -- the -- because "in kind" replacement is allowed. And replacing that extant vinyl window, even though it's not original and appropriate, would fall under the requirement that if

you're replacing it with a similar vinyl window or the same kind of vinyl window, that you would be able to do that with a building permit.

Commissioner Donald Dean: Okay. Well, I guess my-my dilemma is, on one hand, we're saying that -- or I read the guideline -- or the Conservation Plan to say that, uh, if you have an opportunity to replace, uh, an inappropriate material with an original material, then you should take the opportunity to do that. And you're saying that the g-- the- the, um, uh, standards say that you can replace "in kind" and there's nothing wrong with that.

Mark Rhoades: Uh, even though it might not be the most appropriate way to go, uh, that is how the language is written.

Commissioner Donald Dean: Okay.

Mark Rhoades: If-if it said "shall replace," uh, we'd be having a different discussion about it.

Commissioner Donald Dean: Okay.

Female Voice: Chair Thomas, if I may?

Chair Brad Thomas: Yes, please.

Female Voice: If the actual size of the window was being changed, there could be requirement that would be used.

[Mark Rhoades]: That's correct.

Female Voice: But in this particular case, there is nothing being changed with the actual structure. The window size is remaining exactly the same. And therefore, because it's already vinyl, it can be replaced with vinyl. Hopefully that helps. If it was a larger addition or something, that's when you can actually require the use of more appropriate historic materials.

Commissioner Donald Dean: So if there was a real change to the window?

Female Voice: That's right. If they were enlarging it or doing something, then the HPRC could actually look at the actual architectural look of the window as well as the materials that were being used.

Commissioner Donald Dean: Mm-hmm. Okay.

Female Voice: This is more like a repair/maintenance.

Commissioner Donald Dean: Okay. And so last question. And maybe this is for the city attorney. Is our purpose here tonight -- uh, we're -- the application has appealed the decision of the HPRC. So is -- are we, uh, looking to affirm or-or, uh, over-- uh, affirm the HPRC decision or affirm an appeal, or do we have latitude and discretion to, uh,

actually change the requirements of their, uh, of the HPRC decision?

Mark Rhoades: The appeal is of the HPRC's decision not to approve the three front façade windows. So your purview tonight is to either, um, overrule the HPRC's decision or to, uh, uh, affirm it.

Commissioner Donald Dean: Okay. So it seems like there's not a lot of discretion. We either, uh, confirm or deny.

Mark Rhoades: I think that you can -- you could modify as well.

Female Voice: If I may?

Chair Brad Thomas: Please.

Female Voice: Um, our appeal hearings are de novo.

Commissioner Donald Dean: Okay.

Female Voice: Um, but the entire application is not before you. Just the windows that were not approved for vinyl. So you don't get to look at all seven windows. You're looking at the-the-the ones in front, um, uh, that -- uh, I believe it's three in front, if I'm not mistaken.

Mark Rhoades: Mm-hmm.

Commissioner Donald Dean: So-so it's the ones that have been required to be wood, and now --

Female Voice: Required to be wood and in the front façade. And, um, the applicant, uh, is requesting that the Planning Commission look at that decision, and overturn it, and allow for them to be vinyl.

Commissioner Donald Dean: Okay. Thank you. That's what I needed to know.

Female Voice: Mm-hmm.

Chair Brad Thomas: And a point of clarification. So it is -- this is a partial appeal, because they've accepted a portion of the decision, authorizing the replacement of the two side windows. But it's a partial appeal of the-the -- of the HPRC decision, but it is a de novo appeal in connection with those three.

Female Voice: That is correct.

Chair Brad Thomas: Okay, thank you. Any other questions from the commissioners? Yes, please.

Commissioner Rick Ernst: Well, this, uh, actually, uh, may not be part of the purview that we're allowed to discuss. But, um, how-how was that -- the main window, uh, changed to vinyl? When-when -- and I have two questions. When was that changed, and-and how was it changed? Uh --

Mark Rhoades: I don't know. We don't -- it-it, uh -- it hasn't been changed since the requirements, uh, that were -- are in front of us tonight, uh, were put in place, as far as we've been able to ascertain from, uh, our building permit records.

Commissioner Rick Ernst: Okay.

[Julian Fraser]: Uh, excuse me. [I'd like to --] it-it actually was, uh, done [unintelligible] prior owner [unintelligible] --

Chair Brad Thomas: Okay.

[Julian Fraser]: -- any record [unintelligible] years and years and years ago. And, uh, [unintelligible] --

Chair Brad Thomas: We'll-we'll have -- we'll give you an opportunity to speak to that specifically, but thank you. Um, any-any other questions from the commissioners?

Commissioner Rick Ernst: So the three windows that were -- that are on the table at -- for us to review are the three that are, I-I would say, on the porch, uh, partially, uh, concealed by the-the front of the porch or overhang -- and/or overhang. But they're-they're very visible from the street, uh, I must say. I-I don't think they're hidden or -- I-I wouldn't use that term, "hidden." Uh, they're maybe not even

partially hidden. You can see them from the street, almost the full window, under the porch. So --

Chair Brad Thomas: Okay.

Commissioner Rick Ernst: -- that's what's -- that's what's on the table.

Chair Brad Thomas: Okay. Any other questions of-of staff? Okay. Then why don't we, uh, close this conversation and move to the, uh, to the public involvement. Does the applicant have a presentation they would like to make?

Claudia Fraser: Thank you. Hi, I'm Claudia Fraser, owner of 410 West J.

Female Voice: Microphone, please.

Chair Brad Thomas: My fault. Your mic is now on.

Claudia Fraser: Am I on now?

Chair Brad Thomas: Yes.

Claudia Fraser: Can you hear me now?

Chair Brad Thomas: Yes.

Claudia Fraser: Okay. Um, I'm Claudia Fraser, owner of, uh, 410 West J. And, um, this whole thing has been really frustrating, because when, uh, we first wanted to replace our single-pane windows that are full of condensation, and mold, and rotting, and, you know, we went to a very reputable window company, and we told them that we were in the historic district and that they would have to go down to the City and gather a permit in order to get these windows, which they did. We have a permit to replace all the windows with vinyl. The application says vinyl. Everything says vinyl.

And we went ahead and paid for these windows, which are now sitting for the last six months in their warehouse, waiting for someone to please allow us to put these windows in. The vinyl window that's in front was existing when we bought the property, was put in, permitted, a-and over years and time, because it is in the front exposure, is cracked and needs to be replaced.

So what we are asking you is that you would please consider that we would have a uniform look of all vinyl windows that are going to be, um, energy-efficient and keep my house warm in the su-- in the winter, and cool in the summer. We have already been out \$8,000. The company is at its wits end. I don't think they'll ever do business here in Benicia, because they've lost any profit that they could come up with with our house.

So what has been so frustrating is I would have never paid for and hired this company to put my windows in if I knew that I was going

to be denied and have to go through all of this. Um, the, um, person representing the company, when they went down and got the permit, it has all over it "vinyl, vinyl, vinyl." He was very, very clear that we were going to replace the vinyl windows with vinyl, and the wood windows with vinyl. We have the documentation that it was approved. We were issued a permit. And then we go, okay?

They ordered the windows. They're all custom, so if we can't use them, they're going to be destroyed, and we are going to be out a lot of money. So I'm-I'm just asking for the consideration to, uh -- I don't know what happened, if there was a miscommunication downtown, but we-we'd love to go through and just get our house up-to-date, energy-efficient, and, um -- we're -- we-we-we're doing this. We have a permit to do this.

So, um, I don't know what the Historical Society wants with-with the wood versus the vinyl. It would be nice if we had all similar types of window, the similar type of look. The three windows are set back. Um, the original vinyl window in front is permitted, um, vinyl. When we bought the house it was already in. It just needs to be replaced. So I thank you for your time. And, um, I would just like to move forward.

Chair Brad Thomas: Okay. Thank you. Yes.

Julian Fraser: Hi, I'm-I'm Julian Fraser, and thank you for your time. Um, one of things I've been pointing out to the City for a quite a while is, first

off, they have our information incorrect in all their documentation, you know, the research on our property, in two different surveys that you've done. And from what I understand, to be considered, uh, one of these houses that is a historic house, it has to be, uh, from the 1940s back. Our house is built in the late '40s. It does not qualify. And I've said it several times. So first off, the Historic Preservation Society does not have jurisdiction over this. That's the first thing.

All the neighbors -- we are in a little T. We have a historic house on one side and another side, and then we have a complete block this way and a complete block this way of all 1800s, 19-- you know, early 1900s houses that are not part of it. They should be, if-if-if it's from pre-1940. So that's the first thing. They don't have jurisdiction, no doubt about it, because our house is the late '40s. I believe it was '47, according to the records.

Um, my wife's very emotional about this, as-as am I, at this point. What-what happened is we wanted -- we've been trying to fix up the house. We bought it a few years ago. Uh, we painted everything inside, refinished the floors, that kind of stuff. And we're trying to fi-- replace the windows. We called a reputable company. They came out, gave us quotes. We said, "Hey, we're in a historic district, from what I understand. It may be tough to get permits." We said, "We'll go with it if you go down and get the permits."

They went down there. They came back with a permit. It's stamped. It's vinyl. We ordered the custom windows. So about two, maybe

three weeks later, somebody comes by and puts a sticky-note -- not an official notice -- a sticky-note saying that we can't put them in. Actually, it said something to the effect of, I believe, that the windows we put in were the wrong kind of windows. It hadn't been done yet. So that's [the only] notice we've actually received on it.

Bottom line is, we've got these windows bought. They're sitting in a warehouse. We're going to be out of the money -- out the money. And in the agenda item here, there are so many incorrect items in here.

Budget information. Who's it going to cost? It says, "There are no budget impacts associated with this project." Well, there is. Obviously, if you're going to deny it, doesn't that mean the City is going to help us w-- pick up the cost of that, or maybe pick up the cost of the wood windows? There-there's-there's a budget impact with that, um, including the window treatments we bought.

I've gone through here several times on the issue that the summary here, again -- if there was some kind of miscommunication down at City Hall, I don't know what it would be. The only thing I can think of is that the contractor would say that, "We're going to try to make the house uniform. There is one vinyl window in the very front of the house. It's the biggest" -- you probably have a picture of our house right there. It's a big, giant ugly vinyl window. It's already there. He's saying, "We're going to make it uniform."

That's the only w-- thing I can think that there'd be any miscommunication, where they're thinking kind-for-kind or like-quality, whatever it is. We're just trying to make it all the same.

The back half of the house, there was a fire years ago. The whole back of the house is double-pane vinyl windows. So probably what, about three-quarters, Mark, is that right? Three-quarters? At least 50 percent or better are already vinyl windows, double-paned. We're just basically ma-making them match.

So this is -- first off, the Historic Preservation Society does not have jurisdiction. Our house is after that date. Please look it up. Uh, the next thing is we just want to get these windows done. They're already bought and paid for and sitting in a warehouse. It's going to cost money. I don't know what else to say on that. And we did it all in good faith.

I mean, everything says -- your printing right here, it says "vinyl." The-the receipt says "vinyl." Uh, this right here, stamped by your compliance committee or compliance person, "vinyl." It's-it's all vinyl. I don't understand the problem. It's, uh, a big issue here, and we got to get this resolved. I appreciate your time, and-and I hope you guys make the right decision. Thank you.

Chair Brad Thomas: Okay. Thank you. I want to see -- give the commissioners an opportunity. Do you have any questions of the applicant before we open this up to the public? Does anybody?

Commissioner Rod Sherry: I have some questions about these windows. So they're- they're a, um -- they're a replacement window, so you pu-- basically pull out the old sashes and then they slide into the place, so it's the same framing and everything for the old -- for the old windows?

Julian Fraser: The average person, walking along the sidewalk or driving down the street, will not be able to tell the difference. They will look nice and clean, and they're paintable. They're a type of vinyl that is paintable. So that's the next step, is we wanted to paint our house. So [laughs] --

Commissioner Rod Sherry: But, I mean, my question is you're not -- you're not having to remove the molding or anything? That exterior molding, it's-it's basically you pull out the -- you-you pull out the --

Julian Fraser: Yeah. But from what I'm understand, it's going -- I'm not an expert -
-

Commissioner Rod Sherry: Okay.

Julian Fraser: -- but it's going to pop right in, and it's supposedly going to look very s-- very similar. And then we'll be able to paint the whole thing to match. So.

Chair Brad Thomas: I-I have a question. Um, the current vinyl window in the front is-is a fairly wide-framed in the-the, um --

Julian Fraser: Exactly.

Chair Brad Thomas: -- typical-typical large-framed vinyl window. As I was reading, uh, I understand that this -- these are a narrower frame. Do you know the dimension of that frame? From the win-- from the pictures, it does appear to be closer in size to the existing wood windows. Um, but i-if you're replacing the existing vinyl window in the front, it would take -- it would have a narrower, um, frame to the window itself, correct?

Julian Fraser: I believe it would, yeah. I believe it would.

Chair Brad Thomas: Okay.

Julian Fraser: I would ma-- well, then it would match up, too, with the other windows, too, and it would -- because it does look -- because they have these -- th-these big huge, uh, trim on it, and it looks terrible, as you've no-- as you can see.

Chair Brad Thomas: Okay. Yeah. Okay. Any other questions of the applicant? Okay. Thank you very much.

Julian Fraser: Thanks. I appreciate your time.

Chair Brad Thomas: I'd like to open the conversation up to the public. Do we have any cards from people who have indicated they want to speak? No cards, but I'll welcome you right on up. Thank you.

John Van Landschoot: Thank you very much. I have a prepared statement, and I hope I can indulge you. But I-I wanted to answer a few questions. Uh, I'm sorry. My name is John Van Landschoot. I am a member of the His-- uh, Historic, uh, uh, Preservation Review Commission.

Um, I've been told by the city attorney that I cannot represent the commission, nor can any of us, because we haven't had a meeting since we made the decision at the end of October. And there's a few points about that. So I am speaking solely as a commissioner telling you my reasoning and why I voted that wood should prevail over-over vinyl -- I call them plastic windows.

First off, um, the minutes of the meeting have not been approved.

Julian Fraser: I-I'm sorry. I don't want to interrupt, but didn't you just say that the city attorney said you're not supposed to be here?

John Van Landschoot: No.

Chair Brad Thomas: No, no.

John Van Landschoot: I cannot speak as -- for the entire commission.

Chair Brad Thomas: He can speak as a -- as a citizen of the City of Benicia.

John Van Landschoot: As an individual. Yeah. Uh, because the minutes haven't been approved, I'm not sure that you should put a lot of credence in them. Reading some of what the minutes are, some of the statements attributed to unnamed commissioners, I think, hold no weight. Um, also, I-I want to answer a-a question that -- or a comment that the applicant had.

Um, the City and the HPRC and the Planning Commission, and all of the guidelines that we are under, does, uh, uh, affect that house. That is, uh, a contributing structure. Um, the fact that it was built in -- sometime in the '40s, the period of influence does not mean that it's not historic. It's over 50 years old. It's in the book as a historic contributing building. So the jurisdiction, uh, matter is, um, uh, uh - - I-I'm sorry to inform you that, but that's the way it is.

Um, I'll-I'll conti-- I'll start my presentation. Um, you've probably all seen that movie "Cool Hand Luke," uh, back in the '70s or '80s. Remember when the jailor used to say, "Failure to communicate"? That was one of the major problems we had in the HPRC on November -- on October 27th. First off, none of -- the applicants were not there, so some of the information we found out tonight, it's the first time we've found that out. It would have been really nice had they had been there.

Um, we did not know, uh, if they had purchased the windows before they went down. That was -- wa-was the understanding, that they had purchased the windows before they went down to the Planning, uh, Department to get a permit. Now we hear that it might be the other way around.

Uh, we didn't know if the applicant knew if they were in the historic district or had been informed that they had a-a-a requirement to check with the, uh, Planning Department for any, uh, exterior alterations to their houses. Uh, we also had no, um -- as ha-- of-- often happens, people bring the actual windows in so we can take a look at them for thickness and-and-and, as the Chair said, whether the width -- whether it matches and stuff. We did not know that at all.

Um, the staff report was written, uh, but the person who wrote the staff report wasn't there. And Lisa and Charlie were there, and there was a lot of back-and-forth about exactly what was meant. And so the meeting put us in a situation where we knew what our guidelines were and were going to follow them, but really didn't understand how this all happened. I'm very sorry that they spent the money. Personally, I -- as an ex-lawyer, I think you got a case against the City -- not against us, but if-if you want to go that way.

Um, also, we've had no HPRC meeting for us to talk over to get a-a-a generalized statement. That's why I'm speaking for myself. The HPRC follows historic guidelines. We have, as has been talked

about, we have the Secretary of the Interior's Standards. And the Secretary of the Interior's Standard Number Five says, "Distinctive materials, finishes, construction technique, or examples of craftsmanship that characterize property will be preserved."

We also have other things from the national government. We have Preservation Briefs, Number Nine. And I have to do this quickly. I hope you'll give me a few minutes extra. "After all the factors have been evaluated, windows should be considered significant to a building if they are original." We are talking about the three original bui-- uh, wo-wooden windows on the façade facing the street.

Now, you say, "Well, gee, why did you approve the plastic or vinyl windows on the side?" They're not seeable. This was a compromise. There were some commissioners -- I was one of them -- that said, "Wood is wood in re-- uh, rehabilitating a building." Now, you could say, "Well, why-why would you care about that?" We have the Mills Act in this town.

If a person -- let's say these folks here -- decide that they want to go to the Mills Act. They fix their house up real well and they go to the Mills Act in a few years. Then they come back and say, "Well, wait a minute. The Mills Act said I got to have wooden windows, and you allowed me a few years ago to have the vinyl windows. So you are speaking out of both sides of your mouth?" That's why we require -- one of the reasons why we require wooden windows. And the Preservation Brief talks about it.

We also have a context statement that we got from the State of California. And we got an award almost two months ago to the date. And in it, it talks about -- I don't have time to read it, because my time is running out -- that we have been outstanding in protecting our historic assets. And part of that is the façade of the building, with original materials, including wooden windows.

We also have, as Commissioner Dean and others of you have talked about, this document. This is the governing document. All these other are state and local guidelines. This is the law. You guys have to go by the zoning. You don't have that ability to be subjective to say, "Gosh, you know, the law says this, but, golly, I think I'll" -- you know, "They're really nice people," as they are -- "But I think we'll let them do it." This is the law. I'm going to read just two or three things from here.

It says, "Historic buildings," which got muddled between -- it's on page 6 -- "Historic buildings and contributing" -- um, come on it's -- "contributing" and "historic" is the same; it's a word game -- "used throughout this plan refers to those structures which meet the three criteria described above and which therefore are significant within the district" -- whether this is slightly off the district but it's still in the district, whether they got modern buildings around it, they're in the district -- "located within it shall be placed in four categories as described below." And then they describe the categories. One of them is Mediterranean.

Another part of this same document, which is the law, is on page number 62 -- "Where inappropriate" -- and this has to do with that front window that many years ago was replaced; it was undoubtedly wood and was replaced with, uh, vinyl -- "Where inappropriate or later materials have been removed, they should be replaced with original material" -- i.e. wood. They did not have vinyl back when this building was built. All right?

Also on page 63, from the same document that is the law in this town as far as historic preservation, under the guidelines, policy 4, page 63, "Use of original materials" -- read wood -- "there -- whenever possible, in restoration/renovation" -- this is restoration -- "uh, repair work, use the same material for the bu-- uh, uh, buildings." And then number 4.3 on page 63, "Wooden window sashes is preferred for historic buildings."

Now, I want to think that our town is a town that believes that we're going to do the best we can. Why do we want to do that? Because historic buildings tend to hold their value better than any other building. And I want to read one last thing. This is our internal document. We've had two workshops on windows over the last few years. This is an update, the most recent one, I want to read you.

The Historic Preservation Commission hereby determines proposals to modify windows in a designated building; and the historic building shall be repaired, if possible; or if replaced, replaced with

wood or historically appropriate material. That's an internal document, presented -- uh, we-we put it out, and the staff, uh, uh, too -- uh, made it.

I want to finish with one last thing. And I appreciate the extra minutes you've given me. Um --

Chair Brad Thomas: Plea-please bring it to a close. We are -- I gave you three extra minutes, so --

John Van Landschoot: I know. I-I --

Chair Brad Thomas: Okay.

John Van Landschoot: -- I-I dearly appreciate that. I want to -- I want to read something to you, uh, from the National Trust for Historic Preservation. "Each denigration of an individual building harms the historic buildings, the district, and the property values of all historic property owners." We follow the law on the Historic Preservation Commission. We are not subjective. We follow what we need to do. We didn't make these rules, with the exception of this one about windows, because they came up a few times.

We hope that you will follow the law also. And I am very, very sorry -- very sorry that these folks got misinformation at the, uh, desk. And, um, I'm really sorry they're out all that money. But I think it would be a disservice to our historic rules and to other

historic, uh, owners of property to say that vinyl is okay, because you bought them early, or you got the wrong advice at the counter, which now seems to be what happened.

Chair Brad Thomas: Okay.

John Van Landschoot: But that doesn't change the law.

Chair Brad Thomas: All right. Thank you very much.

John Van Landschoot: Thank you.

Chair Brad Thomas: Yes, please.

Mark Rhoades: Mr. Chair, would you mind if I took just a minute to explain why we're here tonight?

Chair Brad Thomas: Sure. Please do.

Mark Rhoades: Okay. There was no mistake made by the staff of the Planning Department or the Public Works Department or Building and Safety. The contractor came to the counter with this building permit that I've put in your packet --

Chair Brad Thomas: Please, can you be seated so he can speak?

Julian Fraser: Okay.

Chair Brad Thomas: And then we'll give you an opportunity a little bit later.

Mark Rhoades: -- and stated that he wanted to, uh -- they wanted to replace the windows -- and-and this interaction occurred with the senior planner sitting right next to me, uh, Lisa Porres. An extensive conversation was had at the counter about the discretionary threshold and "in kind" replacement and precisely what that meant.

In fact, when that conversation was over, staff went to the City's Internal Building Permit computer system and made that note on the computer that this conversation was had, this is what was explained. That contractor advised City staff, the building official and Lisa Porres, that all of the windows on the house, at that point in time, were vinyl. That was the presentation that was made, and that's why the permit was issued.

It came to our attention a couple of weeks later that, in fact, not all of the windows on that house are currently vinyl. And instead of pasting a big giant red "Stop Work" order in the front door of the house, we put a little note on the door that said, "Hey, you can't do this. Give us a call." That's how this started.

The applicant and the-the-the con -- the a-- the meeting we had with the contractor was a little embarrassing on their part, in them trying to re-explain, uh, what their guy at the counter said to us, who wasn't in that meeting with them. Um, but the fact of the matter is

they represented, uh -- their contractor represented that all of the windows on the house were at that point vinyl, which is why the building permit was issued. Now, they then made the purchase based on that information, so I believe that their, um, beef isn't with the City but with their contractor.

Chair Brad Thomas: Okay. And I -- and I-I'd like to emphasize that tonight, that history, in my opinion, is completely irrelevant, because the -- we are where we are, and how we got there is really irrelevant. Pointing fingers at this point isn't going to help anybody, um, or hurt anybody.

Julian Fraser: Okay. This has been going on for some time.

Chair Brad Thomas: Okay. I'm going to give you a couple minutes, since you [crosstalk]
--

Julian Fraser: Yeah, I'm going to speak until I'm done. I-I got to be honest with you. I am hearing so many lies and so many unaccepting responsibility I'm getting really tired of it. Our contractor went down there. He told them what we were doing. We got a permit. We ordered the windows. Bottom line. Next thing is about this Historic Preservation Society. We have pointed out, since we bought the house, we do not belong in it. The information you have is incorrect by quite a bit. It does not apply to us.

You're talking about subjective. We have three houses on our block that are part of this -- from what I understand, the Historic

Preservation Society. The others are not. They were able to vote out of it. Why are we not given that opportunity? If it's the letter of the law, I would think that everybody would be subject to it. This is arbitrary rules. This letter of the law he keeps talking about -- if he's correct, well then, to hell, we better put all the windows wood, all the way around.

If they weren't subjective, why are they not doing that? They are being subjective on their colors, on their designs -- say, for instance, on a retaining wall, they say, "Over a certain height, you must have the Historic Preservation Society." But they don't tell you what you can put in. They want you to incur the expense of going through this Historic Preservation Society, which is up to \$1,500. It has nothing to do with protecting the people, and that's what the commission and city planning is about.

I am a trained city planner. That's what I went to school for. I'm an insurance adjuster by trade. But the first thing that the -- why city planning started is to protect people. Safety first. All this other stuff is just subjective bureaucratic crap. And right now, we are out a lot of money. We are stuck with these things. What are we going to do with them? Uh, are you going to pay for them, or are you going to pay for the difference to p-- go wood? Because we have to buy them no matter what.

Chair Brad Thomas: Uh, first of all, le-let me say that I-I don't think this is helping your cause, because it's really irrelevant and it's -- and it's delaying --

Julian Fraser: No, it's very relevant. We are incurring a cost based on them issuing a permit.

Chair Brad Thomas: No, I-I understand.

Julian Fraser: It's called -- the term is called "detrimental reliance." And I do believe the attorney knows about that term.

Chair Brad Thomas: No, you -- yeah. And I'm al--

Julian Fraser: We didn't order those windows until we got the permit.

Chair Brad Thomas: -- I'm-I'm also a 25-year real estate attorney.

Julian Fraser: Great. So you know that's true.

Chair Brad Thomas: So -- but I'm-I'm saying -- uh, I understand the concepts of what you're talking about. And I-I'm just saying we're not going to be discussing those issues, and they won't play into our decision. Uh, but we can -- we will -- we, uh, understand the emotional reaction. It's very typical and completely justified, in my opinion. But I don't think you need to-to beat the horse here, because it's not in the race.

And I-I think we can go ahead and move forward and let the rest of the public speak, get an opportunity. If there's something that -- else comes up, I'll give you an opportunity to speak on it, if it's relevant

to this. But the historical aspect of what took place to get us here today, that doesn't change the-the ordinances, which are subjective. I'm not saying, uh, that-that we concur.

Just because one person has said that the law is absolute does not mean that is everyone's opinion. So I don't think you should assume that a pu-public member's comments are what are going to control the day here. I would ask you just to relax, give us an opportunity to let the public speak, and then give us an opportunity to discuss it among ourselves.

Julian Fraser: Okay. Thank you for -- I think my wife wants to say something.

Claudia Fraser: I just, um -- a quick comment on, um -- I didn't get your name.

John Van Landschoot: John.

Claudia Fraser: John. A quick comment on John. He mentioned that our best asset as the City of Benicia are the historical buildings and that they hold their value. Um, I just think that our best asset in Benicia are our citizens and our families that live inside these historical buildings. And without them, the Historical Society would be history.

Chair Brad Thomas: Okay.

Claudia Fraser: So please --

Chair Brad Thomas: Okay.

Claudia Fraser: -- this has been a fumble from the beginning, and we just want to make it right. Thank you for your time.

Chair Brad Thomas: Thank you. I'd like to invite any other members of the public to come up and participate.

Toni Haughey: Toni Haughey. This is going to be a tough act to follow. Um, okay. I think -- I'm going to disregard a lot of what I was going to say here. Um, for everybody here, one, you don't opt out of a historic district. So I just want to make that clear. Um, and a lot of the buildings that are in the district are -- were, I believe -- I looked at the tax record today. That building [states] on the tax record [is] 1943.

But, um, uh, I think the main thing here, to put it in some kind of perspective -- and someone's just -- I think, uh, Don said it before -- what we're trying to do here is talk about three windows, because there's a difference of opinion as to the vinyl windows and whether they should be seen, you know, from the stre-- you know, you should put wood if you can see them from the street, but you're allowed vinyl in the back. I am a purist. My feeling is, you know, if you're going to replace the windows with the proper thing, replace them with wood double-paned windows.

But that being said, not everybody agrees with that. And being, you know, a member of the commission and trying to work with a group, uh, we tried to compromise, and we -- and I think in the past, uh -- it's only recently that we've actually started to consider if the vinyl windows are in the back and couldn't be seen, don't worry about it, you know? Worry about what can be seen from the f-- street. Uh, because there are such things that are called [façadies] [unintelligible] you can get, as well. So we've been dealing with f-- the façades. That's -- okay.

So really, what we're asking here is for the applicants to keep the three front windows, the-the-the original windows. I looked at the windows. I gave you photographs. Um, the, um, standards say that if you have the original windows -- I'm paraphrasing -- uh, you know, and they -- that you need to main-- you need to retain your original windows. That's what's recommended.

If they're so deteriorated that you can't repair them, then you replace them with "in kind." And "in kind" means original -- that me-- that refers to original windows. "In kind" has gotten distorted, for some reason, in our town, because in every other -- is the preservation community, when you talk about "in kind," you're referring to original windows. When you say "replace in kind," you mean -- let's-let's forget windows, because that's what's making it worse.

If you had a bracket up there that you were going to change, uh, you would replace it "in kind," meaning you would put another-another

wood broken up there. You would not get a vinyl bracket. That's what "in kind" means. Suddenly, we've come in with, "If you have vinyl, you can replace it with vinyl." Well, that's -- that defeats the whole purpose of preservation.

What we're trying to do in this town with our properties, our old properties -- and this is happening all over the United States, so we're not [unintelligible] here -- um, we're trying to preserve historic fabric. Those windows are historic fabric. They are character-defining features. We can debate this all night with our planner. But we've all been trained. I mean, all of us have gone to workshops. I mean, if you cl-- I don't know how many hours, if you add it all together, that we've gone and studied, you know -- and read and discussed historic preservation.

Uh, you know, I can give you -- I have a load of materials here, if I wanted to give you, on all the different, uh, cities in California and what they do with their windows, you know? I mean, it-it's just -- I- I don't -- I don't know why this is such a-a problem in Benicia.

But anyway, the point I'm making is that we're asking them to keep those windows. And as I said, when I looked at them and I gave you photographs, the windows are not deteriorated at all. Those windows are in good condition. They might want to paint them. Uh, that's not going to cost them anything. There's no financial impact there to keeping the windows.

I voted against the motion, because I felt that the front window should be allow-- should be wood, that that vinyl window should be replaced with a wood double-paned window. The reason I voted "no" was because we are not all -- we're not just Historic Preservation; we are also Design and Review. So my feeling was that it was schizophrenic to have three wood windows and then to have a glaring vinyl window. That-that doesn't serve anybody.

Forget about historic. Let's look at aesthetics. I didn't -- it didn't make no sense to me. So I voted no on the motion. What I would've liked to have seen is all the front windows vinyl -- I'm sorry, God -- wood. Uh, I got vinyl in my brain. Um, that's what I would've liked to see. And that's why they -- finally, when they did the motion, I think they did recommend that they change that wood -- that vinyl window in the front to wood. So.

All right. So what I want to say basically is that, um -- I'm going to read you something from the Historic, um -- Secretary of the Interior's Standards-Standards. Um, it says, "The preservation of historic materials and the preservation of a building's distinguishing character. Every old building is unique with its own identity and its own distinctive character.

'Character' refers to all th-those visual aspects and physical features that comprise the appearance of every historic building. Character-defining elements include the overall shape of the building, materials, craftsmanship, decorative details, interior spaces,

features, as well as the various aspects of its site and environment." And that's what we try to do in HPRC. We're trying to preserve the fabric of the buildings.

Um, and one of the thing's no one's -- I don't think John mentioned is that we are a certified local government. And when you become a certified local government, you're committed to -- you're committing your town to preservation. We have a grant from-from the, um, state in which we got that context done, otherwise we couldn't have gotten it. So, um --

Chair Brad Thomas: You are running over [crosstalk] --

Toni Haughey: I'm running out of town -- out of time. Uh, I'm trying to see what else was important to say. Uh, just I agree with John about the Mills Act. These people have the potential to be Mills Act, uh, uh, applicants. Uh, and again, I want to read this last thing from the, um, Preservation Brief on windows.

It says that, um, "Technical Preservation Services recommends the retention or repair of original windows wherever possible. We believe that the repair and weatherization of existing wooden windows is more practical than most people realize, and that many windows are unfortunately replaced because of a lack of awareness of techniques for evaluation, repair, and weatherization.

Wooden windows which are repaired and properly maintained will have greatly extended service lives when -- while contributing to the historic character of the building. Thus, an important element of a building's significance will have preserved -- been preserved for the future."

And you must remember that for the past 12 years, since I've been involved on historic commissions in this town, we have always recommended wood windows. The, uh, Mas-Masonics, who took out every window they put in there, were made to put wood windows in. This is not something new here. And we need to-to treat everybody equally and be consistent. Thank you.

Chair Brad Thomas: Thank you.

Commissioner Rick Ernst: Toni, uh, let me ask a question. Um --

Chair Brad Thomas: Go ahead.

Commissioner Rick Ernst: Are the existing three wooden windows, uh, uh, double-paned or single-paned?

Toni Haughey: No, they're original windows, probably from the '40s.

Commissioner Rick Ernst: So they're single-paned?

Toni Haughey: Yeah, right.

Commissioner Rick Ernst: And then the front window, the picture window, which is not part of, uh, our conversation tonight, is the -- a-a vinyl, double-paned window?

Toni Haughey: I don't know that it's double-paned. It looks like a very old window. I doubt it. And it's -- and it's deteriorating.

Julian Fraser: It's double-paned.

Claudia Fraser: It's double.

Toni Haughey: Is it double-paned? I don't know what it is.

Claudia Fraser: Yeah, it's double-paned.

Commissioner Rick Ernst: Okay.

Toni Haughey: So.

Commissioner Rick Ernst: Okay, so --

Toni Haughey: But they're going to replace it.

Commissioner Rick Ernst: -- so you're recommending that the three wooden windows, uh, remain without being replaced with double-paned windows?

Toni Haughey: Right. There are other things that they can do. If that's a concern weatherization-wise, that's all in the briefs. I don't want to go into that now. If they're really having a problem with, you know, uh, uh, cold air coming in, there's other things they can do, uh, you know, in order to keep [those] windows.

Commissioner Rick Ernst: Let me ask on, uh, uh, the Mills Act. Um, doesn't the Mills Act have money available to help home-homeowners with, uh --

Toni Haughey: Well, uh -- right.

Commissioner Rick Ernst: -- repairing and preservation of these things?

Toni Haughey: The Mills Act will lower the tax rate. If they apply for it, it will lower their tax rate.

Commissioner Rick Ernst: The-the tax rate, yeah.

Toni Haughey: And then the -- they -- the savings on their taxes they can put into the house. I don't know how much money is left in the Benicia Mills Act program. But yes, so.

[Commissioner Rick Ernst]: Okay. Thank you, Toni.

[Chair Brad Thomas]: [crosstalk]

Commissioner Rod Sherry: So Toni, before, um -- so from my reading this, you're-- you're basically saying, "We prefer them to keep the single-pane historic wood windows. But if that's not viable, then go to a double-pane wood frame window"?

Toni Haughey: No.

Commissioner Rod Sherry: So now the -- no?

Toni Haughey: No, that's not what we've been saying. We -- the standard -- and, I mean, that would be up to the commission, so I really can't say "yes" or "no" to that. They -- the-the standard is to keep the old windows, the original windows, and to repair-repair them. And that's what's in our resolution, repair them. If you can't repair them, then replace them with wooden double-paned windows.

Commissioner Rod Sherry: So --

Toni Haughey: These windows don't need to be repaired. Go look at them.

Commissioner Rod Sherry: Okay. But I-I guess my point is that if you go to a-a wooden double-pane window --

Toni Haughey: Mm-hmm.

Commissioner Rod Sherry: -- say an Anderson wooden, you know -- plain wood, you're going to paint them, right? And is there a substantial appearance --

is there a substantial difference in looking at a painted wood window or a painted vinyl window?

Toni Haughey: Yes.

Commissioner Rod Sherry: There is?

Toni Haughey: Well, we're not talking about paint or color. We're talking about the actual window. If you look at the windows from those pictures and you see how they are, the des-- the design of them, they cannot replicate those windows in vinyl. They can't be replicated. You will tell the difference.

Commissioner Rod Sherry: Okay. But they wood in -- if they were wood [crosstalk]?

Toni Haughey: In wood, they could pr-- yes, they could probably get them in wood. However, I don't -- I-I think that that would be for a commission to decide, because the commission has already said they want them to retain those windows, because --

Commissioner Rod Sherry: Right. I-I'm just trying to get at the --

Toni Haughey: So.

Commissioner Rod Sherry: -- at the --

Toni Haughey: Right.

Commissioner Rod Sherry: -- it seems like a-a lot of this is -- obviously, it's a -- this is all driven by appearance. It's all appearance from the street.

Toni Haughey: Well, it's not just appearance. It's about preserving the fabric of our historic buildings. In other words, if you were to take -- it's not the same thing to, uh, take this arch out --

Commissioner Rod Sherry: Can I --

Toni Haughey: -- and this whole room out and-and put -- and rebuild it, and it kind of looks like it, but it's all vinyl. That's not preservation. That's- that's not --

Commissioner Rod Sherry: But I-I-I'm having a hard time with this, because if-if we're allowing people to-to change the windows around the rest of the house, we're now -- I mean, it-it's sort of a double-talk here. We're-we're-we're not really doing what we're saying we're doing. So it's -- so --

Toni Haughey: Uh, I don't disagree with you. As I said earlier, my feeling is if-if you have a house and a historic home -- this is just me personally,
Toni Haughey --

Commissioner Rod Sherry: Right, right.

Toni Haughey: -- who lives in a historic home -- I would not put vinyl in my home. And if I had had vinyl and whatever, I would replace all my windows with, uh, wooden double-pane windows. Okay. This is something, as I said, I think that has come up in this town, uh, as a compromise, because I don't -- I can't prove this, and I'll go out and spend some time looking -- you know, interviewing people, I guess -- but I don't believe other towns do that.

I think that if you -- if you're saying -- I think what you're saying is true. If we want to maintain our historic fabric and we want things done properly, and you have windows that were inappropriate and you're going to take those windows out, then you need to replace them with the appropriate windows, which is wood. And we -- and, you know, f-for years, we said double -- we said single-pane. We finally changed to double-pane wood windows, which are-are slightly more expensive, you know, than the other windows.

But there are tons of articles on why vinyl windows -- forget about historic -- why vinyl windows are not good windows to put in your house. That's a whole 'nother subject. But, you know, but I-I don't disagree with you. That's why I voted "no," because I felt that that -- you know, from two points of view, I-I think it's wrong, and I think that they should just put wood windows -- [unintelligible] said, "You're changing the windows? Put wood double-pane windows in."

Commissioner Rod Sherry: Okay, Thank you very much.

Chair Brad Thomas: Thank you.

Leanne Taagepera: Good evening, fellow commissioners. My name is Leanne Taagepera and I'm a member of the HPRC. I've been --

Julian Fraser: Excuse me. I-I got to -- I got to interrupt here. This HPRC are not -- were not supposed to be here. [unintelligible] [from here].

Chair Brad Thomas: No, no. Uh, uh, excuse me.

Julian Fraser: This is getting a little old.

Chair Brad Thomas: No, but they have -- they have a right as citizens of Benicia. They cannot speak --

Julian Fraser: But they're representing themselves as the HPRC. They need to not come here. That's what the city attorney already told them. This is -- this is getting ridiculous here.

Chair Brad Thomas: I think --

Julian Fraser: I-I'm glad that you want -- where-where did the lady go, the purist? Does she want to write us a check for the difference? I mean, that's where we're at right now. This is getting ridiculous. If they -- they've already heard -- this went to like, what, 2 in the morning, from what I understand?

Chair Brad Thomas: Excuse me. Could -- I-I'm going to ask very nicely --

Julian Fraser: Okay.

Chair Brad Thomas: -- please sit down and give them an opportunity to speak.

Julian Fraser: [Would] you please send us a check for the difference? [crosstalk]

Chair Brad Thomas: This is -- this is a public forum, and the public has a right to speak.

Julian Fraser: Yeah.

Chair Brad Thomas: Thank you. Go ahead, please.

Leanne Taagepera: Okay. Um, as John clarified, yes, any commissioner can come and speak at any public hearing. Uh, we're not representing that we are representing the HPRC. I can tell you about what we talked about that night and our history. I've been a member of the HPRC for nearly four years, and I followed its activities prior to that time. Um, I-I am -- I am also an historic homeowner here in Benicia.

Just to clarify, the vote is in your staff report, and we did approve that they could replace their windows with other wood windows. So if -- you know, the Secretary of the Interior's Standards speaks about first repair, which is obviously the most inexpensive thing to do, is to fix something you already have.

If that -- if they're so deteriorated that they can't be repaired -- and we understand that -- you know, a lot of parts of our historic buildings here in Benicia are really deteriorated and they can't be repaired -- then we approved of replacing them with wood windows. And wood windows can be made exactly like the current wood windows.

And there are architectural features of the historic wood windows -- I don't actually know what they're called, but there's part of it where they come down and then they loop around. There's some shaping in there. When you buy the vinyl windows, they're simply a square or a rectangle. They don't have the other parts. If you have a custom-made wood window, they come and take a profile, and it'll look exactly like the window that you already had.

Um, so since I only have five minutes, as a member of the public, I was just going to summarize. Um, I sent you a much longer letter, and I sent attachments for you. And that was just a sample of material that you can find from other jurisdictions in California and across the nation. And it's about the importance of keeping your original windows, or repairing if possible, or replacing with wood windows. And this is really what is done in historic districts across the nation.

And these are the rules that everyone who has a contributing building, whether it's downtown or in the arsenal, are subject to. If

you buy a non-contributing building, or if you buy a house outside of the district, which is the majority of residences in Benicia, you don't need to come before the HPRC. You just need a, you know, building permit as necessary.

Um, so this is the first appeal of an HPR decision -- HPRC decision since I joined the HPRC. Um, and in addition, we have required the replacement of aluminum and vinyl windows in buildings receiving a Mills Act contract, with the understanding that these types of windows are not consistent with the Secretary of the Interior's Standards from the Department of the Interior.

I'd like to say the HPRC is bound by state law, as the City of Benicia is. Uh, alterations to historic buildings that are found consistent with the Secretary of the Interior's Standards are exempt from the California Environmental Quality Act. If it's not consistent with the standards, it's not exempt from CEQA. That's state law.

So that's something that applies to all hi-- designed historic buildings in the state of California. So if the project's not exempt from CEQA, then you either need to do a-a negative declaration or an environmental impact report. So that's been in place since 1970.

So in-in order to make a determination of -- consistent with the Secretary of the Interior's Standards, HPRC members have attended workshops, and we've studied the standards themselves. We had -- the Office of Historic Preservation came to this very room, and

maybe some of you attended. And they gave us a presentation about looking at how to find consistency with the standards.

And we also do a lot of research our-ourselves on this issue. And it -- to me, it really is an art, not a science, because it takes a lot of experience to look at a review of alterations to a historic building, and look to see whether it's consistent with the standards or not.

Um, you know, there's this issue of the things that can't be seen from the street and whether we should require every, um, window, even in someone's backyard to remain wooden. And I should say, uh, a strict interpretation may require that every single window around a house be kept as wooden.

But there are parts in the Secretary of the Interior's Standards, when you look at additions -- and if it's additions that can't be seen from the street, or maybe a-a skylight that can't be seen from the street, then it-its existence really doesn't harm the historic district. Because what we're looking at is: What can the public see? If you're walking down the street and you're in a historic district, you can't see the windows in someone's backyard.

So we looked at that not harming the historic district, if someone had a window, it was facing their backyard, and nobody could see it but that private property owner. So that's really a compromise, so that we di-- have allowed -- and for this building, every single other

window was allowed to go vinyl. What we looked at is the look of the historic district.

Chair Brad Thomas: Go ahead and wrap it up. We're-we're running out of time.

Leanne Taagepera: Okay. So that was our --

Julian Fraser: [Excuse me]. It's all about [crosstalk] --

Leanne Taagepera: So that -- I'm sorry -- Chair Thomas, Chair Thomas, I really appreciate to -- I would like to continue talking. I would really appreciate that.

Chair Brad Thomas: Just, uh -- okay. But please wrap it up.

Leanne Taagepera: Okay. I'm just going to -- I have --

Julian Fraser: [crosstalk]

Chair Brad Thomas: Please, no talking from the audience. Please, please.

Julian Fraser: Again, it's getting old.

Chair Brad Thomas: You're-you're hurting your case. You're hurting your case. Please.

Julian Fraser: Can I [crosstalk] individual, but not [crosstalk] --

Chair Brad Thomas: No. Please understand this is -- we were managing this meeting pursuant to the rules. And if you don't want to follow the rules, you can step out the back and wait. But at this point, she's going to finish. She-she's already over time. I'm going to [leverage] -- let her say a few more sentences, and then when she's done -- and done. Go ahead. But very short, please.

Leanne Taagepera: Okay. Um, so it sort of places us all into this difficult position. We're trying to do our jobs. We're trying to uphold the law. We're trying to be fair to everyone in the historic district and have the same rules apply to everyone. So that's what we're trying to do. We're all volunteers. You know, none of us get paid to be here. We're appointed and we're trying to do this actually just for the good of Benicia and what we think is right.

So we -- um, I'd like to thank you for your review of this issue, as it affects all the historic buildings in Benicia. And I'm available for questions. Thanks.

Chair Brad Thomas: Thank you. Yes.

[Break in recorded material]

Chair Brad Thomas: Please.

Commissioner Donald Dean: Did I understand you to say that if the vinyl windows for the three that we're talking about -- if the wood windows were

replaced with vinyl, that's a -- not according to the Secretary of Interior's Standards, therefore the exemption from CEQA does not apply and they would have to then enter the CEQA process? Is that accurate? Did I hear that right?

Leanne Taagepera: Could you repeat the first part of that, please?

Commissioner Donald Dean: Uh, we're talking about three windows, replacing three wooden windows with vinyl windows. So are you saying that that would be a violation of the Secretary of Interior's Standards, and therefore this, uh, change would not allow them to have an exemption from the CEQA, uh, review?

Leanne Taagepera: Yes, that was the HPRC's finding. Right.

Commissioner Donald Dean: Okay.

Chair Brad Thomas: Any other members of the public who would like to speak? Okay. I will close the public hearing on this, bring it back to the commissioners. And in a -- in a way in which I've never done this before -- I've always deferred to my commissioners and let them speak first -- given the exchanges that have gone on here, I want to be the first to speak, if that's okay.

Um, the-the way I -- and I've spent hours today studying the, uh, Secretary of the Interior's Standards. I've spent, um, hours spe-- studying the DHCP -- uh, I've spent -- I spent an hour out at the

property looking at it from all angles, walking up and down the street, so that I would be well-informed for tonight, because I understood that this was going to be hotly contested, especially after we received the-the first email.

Um, I conclude -- my personal opinion is that this --replacing these windows is consistent with the Secretary of Interior's Standards. And I'll tell you why I-I've concluded that. I think that the, um -- first of all, it is not -- the Secretary of Interior's Standards, as applied in this case, are not -- it's not a black and white document, and it's not a black and white interpretation, and the HPRC has proved that because they have said, "The windows on the side, they can be vinyl."

Walking down the street, going from both directions, I could look up, and when I looked at the front of the building, I saw the built-- the windows on the side that would be replaced with vinyl, as well. So if it's visibility from the street, those side windows carry the same, uh -- there -- it's a matter of degree. But in cl-- if I were to look at that front prominent window, the vinyl one, that's the prominent one. That will always be vinyl.

When I look at the side windows, they're going to be vinyl, and I can see those from the street. I could see them driving by. Um, and the ones that are recessed under the, uh, canopy, I felt, were as -- probably slightly more visible -- they are visible from the street; I'm

not denying that -- slightly more visible than the side windows, but definitely not visible as the existing vinyl window.

I do think that it's important to look at the underlying documents that were -- that were used to classify this house in its historic pres-- uh, historic-historic nature. The fact that the -- it was viewed as an historic property and they identified the features, but excluded any conversation about the windows -- because, you know what?

You look at those windows, and I -- the way I put myself through law school was selling windows -- so I've sold a lot of wood windows; I've sold a lot of vinyl windows -- but you look at those windows -- when I drove up, you couldn't tell from the street that they were wood except for that one little piece of decora-decorative, um, uh, decorative piece of the upper sash that-that, uh, Leanne was, uh, mentioning. But it's minimal, and it's -- you'd have to look for it, because it's recessed under a shaded area.

I found that the reason why those windows were not identified in the h-- original ca-categorization documentation is because they are not significant. The fact that the replacement windows are of a narrow sash, which is much closer in look to the wood windows, tells me that it's going to be more consistent with the existing look - - uh, with the wood window look; that people would be hard-pressed --

And I think, uh -- I-I'm a person who has an eye for windows because that's what I sold -- I-I think that people -- the-the public in general -- I do not think the experts, like our HPRC people, uh, commissioners, are -- uh, they would be able to tell the difference at a glance. But the average Joe citizen going up and down the street, they would not be able to. I had a hard time sitting there, looking, and trying to -- trying to distinguish.

Um, so my-my feeling is that these -- this was not an important feature of the building. Um, you can see it from the sides. You can see it from the side of the, um -- you can see the side of the building as you're walking down the street or driving down the street. That tells me the appear-- the-the test that our-our city has put on visibility from the street, which is not in-in the standards -- that is a unique modification done here in Benicia.

But if-if that is the issue, then the -- and the HPRC has approved it on the side, I don't see that these recessed windows -- if they were not recessed, if they were prominent out there, the main windows, I might have a different view. But the way that they're recessed makes them less obvious, more hidden than the -- than the, uh -- and just as difficult to see as the side windows.

So that's my sense, uh, looking at this, studying it, and looking and walking around the property. I'll open it up to the other commissioners. Commissioner Sherry?

Commissioner Rod Sherry: I, um -- if I could, I-I agree with you. I-I went out there and- and spent 10 or 15 minutes walking back and forth and looking at it. Trying to boil this down, in my mind, it's-it's -- I think we're-we're-we're holding it to a, um, a-a visual standard, but we're arguing over materials that-that I-I have a hard time thinking that once they're painted or if they're painted, are really going to pr-- be that visually different.

Um, and honestly, when I first got out of my truck and I walked up in front of the house, I thought the three windows were vinyl, because they're painted white and they look smooth. They could've been vinyl, except for the -- I don't know if you call that a plinth or what the little decorations are. And I didn't see those right away. I had to -- I had to study the window for a -- for, you know, a little bit before I said, "Well-well, there's -- you know, there's little decorations there." I-I-I agree with you.

Chair Brad Thomas: Commissioner Dean.

Commissioner Donald Dean: Uh, thank you, Mr. Chairman. Uh, first of all, because this is a-an appeal, uh, I should say that I did talk to a couple of people in the community, including Toni Haughey and John Van Landschoot, and pretty much what they told me was what you heard here tonight. So you've heard everything I've heard from them.

Uh, and I -- in terms of my relationship to this window question, I was on the HPRC, the initial, uh, HPRC when it was inaugurated a few years ago. And we spent, uh, a few meetings -- not just one meeting, but a number of meetings talking about windows. And we had a couple architects on our commission, and we had a couple, uh, contractors on our commission.

So we spent a lot of time talking about what was appropriate, how to -- what-what was -- if you had to replace, what do you replace with? And, uh, if you wanted to replace original single-pane wood, what was appropriate? And-and we had samples brought in from window manufacturers. So this was not just a one-session discussion, but this went on over a period of-of meetings.

Uh, and we came up with a window policy that basically, as I recall, said, "If you're going to replace windows, replace them with wood. If you want to do dual-pane wood window for sustainability and for energy savings, that would be fine. But they should be wood." And part of that goes back to the, um -- both the Historic Conservation Plan and the standards that say, uh, "If you have an opportunity to use original p-- materials, use original materials."

And this issue of visual that, "If it looks the same, it is the same or comparable," was not -- it was part of the discussion, but I think part of the spirit of historic preservation is-is about the materials, because when you start substituting modern materials for traditional materials, uh, it's not just a purist, uh, argument that, uh, you're

trying to maintain, um, the integrity of the structure, and when you start changing the materials, then slowly you're eroding that original integrity. And so where does that stop?

So we're -- we have this balance, and that was part of the discussion that we had in those, uh, initial HPRC meetings -- what's the balance between livability, because we're all living in these houses, uh, everybody in the historic district -- uh, and you want to maintain them, and you want to be comfortable, but at the same time you want to maintain the historic integrity, because even if you're -- it's a contributing structure and not a landmark structure, you're talking about the district as a whole. So when you have one building that, uh, the integrity starts to erode, what's that -- you know, where does -- where do you draw the line?

So in those days, we were saying, "Well, if you're going to replace your windows, do it with wood." And it wasn't just a question of, "What can you see from the street?" but I think we were recommending that, uh, around -- this goes to, um, Commissioner Sherry's point well -- what about the windows in the back of the house? Well, I think we were saying at the time that it's not just the front windows; it's all the windows, because this is a matter of material integrity. It's not just what you can see.

So, uh, and af-after having read through the minutes of the HPRC meeting and, uh -- I-I have to -- I would like to see the wood maintained. I think they have, uh, some, uh, ground to stand on

there and say, you know, "Where do you draw the line? There's existing wood windows. Uh, it's better to repair than to replace. If you have to replace, then replace with wood." And I think we've had a couple people say that the commission would probably -- the HPRC would probably be okay with that. So I-I would like to see the, uh, decision by HCRP supported tonight.

Chair Brad Thomas: Okay. Any other --?

Commissioner Rick Ernst: Uh, I have a-a question. Uh, or maybe it's a statement. I -- it seems to me that, uh, there's obviously a difference of, uh, opinion, uh, I'll call it, um, in what happened. The contractor went to the, uh, the desk at the Planning Commission, requested a permit to-to replace windows, and said it was "like for like" -- is that what I understood you to say, Mr. Rhoades?

Mark Rhoades: He had a discussion -- uh, and-and maybe I'm-I'm going to ask Lisa to convey, but he had a discussion with Lisa and the building official and our permit technician -- all three of them were present at the time. And it was his statement that, "All of the windows that are on the house today are already vinyl" that got him the approved building permit. Staff makes mistakes from time to time, but doesn't make the mistake that wood can be replaced with vinyl, over the counter.

Commissioner Rick Ernst: Well, in fact, there was one window that was vinyl. The-the rest were wood. Is that correct?

Mark Rhoades: There are -- there were, uh, I believe -- one, two, three, four, five existing wood windows on the structure.

Commissioner Rick Ernst: Okay. And then the picture window was vinyl.

Mark Rhoades: Right.

Commissioner Rick Ernst: And he asked for a permit, uh, to, uh, replace the other wooden windows with -- what he said initially was with wooden windows, but, uh, but then the Frasers have a document that says that vinyl was written on there. So I-I don't know what's-what's true here. What's the truth?

Mark Rhoades: The-the-the building permit says that they're -- that they're rep-- the -- their building permit says that they are, uh, replacing "in kind." And it was the representation that those windows were already vinyl that got the building permit issued.

Commissioner Rick Ernst: So, uh, so, uh, who -- I guess who's telling the truth, the-the contractor or the Planning Department? Um, I'm t-- I tend to believe the Planning Department. Uh, but I-I'm in agreement with, uh, Mr. Dean that, uh, uh, I would like to uphold the HPRC's juris-- uh, ruling that, uh, these windows need to be replaced with wood, uh, or remain wood, uh, to-to stay with the, uh, historic integrity of the historic, uh, buildings here in Benicia.

Um, however, the Frasers are out quite a bit of money apparently for the purchase of vinyl windows, based on a permit that was requested and obtained, uh, saying that, uh, they could replace them. They have a-a document that says they could replace them with vinyl windows. You're saying that that was not given to them, that that was -- you're saying that their document was doctored, it was changed?

Mark Rhoades: The-the only reason -- I'm trying to be as clear as possible, because it is, uh, not acceptable for staff to be impugned in this way. The only reason that that building permit was stamped "Approved" was because of the contractor's statement that all of the windows proposed to be changed were already vinyl. I don't know that I can be more clear than that.

Commissioner Rick Ernst: Okay. Well, no, I-I accept what you're saying. Uh --

Mark Rhoades: And-and the building official will testify to that. The senior planner will testify to that. The permit technician will testify to that. There is a note in the City's computer system that recorded that conversation at that time.

Commissioner Rick Ernst: Okay, thank you.

Chair Brad Thomas: Any other comments? Yes, please.

Commissioner George Oakes: Just a couple of general comments. Um, first of all, I thought the whole concept about historic preservation was holistic; it wasn't about windows. So we're talking about a building here. My experience with preservation starts with the U.S. Naval Academy. Let me tell you, they had handmade nails when they built that place. You don't use handmade nails when you're doing maintenance on that place. They have sleight roof tiles an inch-and-a-half thick. Find me one.

So reality is -- and it clearly says in [these things] here -- when things change, when it evolves, you do what you best can do. And I'm thinking that the solution that you're proposing, albeit got into kind of an after-the-fact, unfortunately -- I'm thinking that those windows have very insignificant impact on the building in whole. Just a comment.

And I think the staff did what they were supposed to do. They gave the permit based upon what was told. And when they found it was different, they did what they were supposed to do and stopped the process. So good job. [unintelligible]

Male Voice: I agree.

Chair Brad Thomas: I would note that, um, sev-- we're talking about the three windows, that 75 percent of the windows in this building would be, um, vinyl. Um, and then we're talking about 25 percent that would be wood, if

we were to uphold that decision. So any other comments from the other commissioners? Commissioner Syracuse.

Commissioner Lee Syracuse: This is sort of way out, but is it possible for our commission to ask the City Council to offset the financial loss that these people have suffered due to this misunderstanding?

Chair Brad Thomas: I-I don't know that we have the authority to spend any money on behalf of the City or to commit it. Um --

Commissioner Lee Syracuse: I'm talking about a recommendation. Obviously, there-there was a misunderstanding.

Commissioner Rick Ernst: I don't know if it's a misunderstanding. I think the recommendation should be made to this contractor, ask the contractor to recom-recompense them for their money that they've spent on windows that the contractor made without permission.

Commissioner Lee Syracuse: You're-you're assuming the contractor was telling the truth.

Commissioner Rick Ernst: No. I'm-I'm assuming that the contractor, uh, said what, uh, they needed to hear, that the, uh, Planning Department approved the request for a building permit for vinyl windows, and the Building Department did not give them that permission.

They said, "We'll give you permission. We'll give you a-a permit based on 'like for like,' 'like' being wood for wood." And they didn't. The contractor went back to Frasers and said, "Great, we got -- uh, we got permission to put in vinyl windows, so I'll make vinyl windows for you. Give me \$8,000 and we'll put them in." And they didn't have p-- uh, authority to do that.

Commissioner Lee Syracuse: C'est la vie. [laughter]

Commissioner Rick Ernst: Well, so I think th-they're, uh -- they're, uh -- what's the word? Legal term, uh, Mr. Attorney -- uh, they're, um, uh -- where they need to go is back to the contractor to get their money back.

Commissioner Lee Syracuse: Okay.

Commissioner Rick Ernst: Is that what -- what's the word there? There's a word for that. [laughter] I think.

Chair Brad Thomas: Okay. Any other -- any other comments [unintelligible]? Do I hear a motion?

Commissioner Rick Ernst: I'll make a motion that we uphold the HPRC decision.

Male Voice: Second.

Chair Brad Thomas: Roll call.

Female Voice: Commissioner Dean?

Commissioner Donald Dean: Yes.

Female Voice: Commissioner Ernst?

Commissioner Rick Ernst: Yes.

Female Voice: Commissioner Oakes?

Commissioner George Oakes: No.

Female Voice: Commissioner Sherry?

Commissioner Rod Sherry: No.

Female Voice: Commissioner Syracuse?

Commissioner Lee Syracuse: Yes.

Female Voice: And Chair Thomas?

Chair Brad Thomas: No.

Male Voice: Oh no, it's split, a split decision?

Female Voice: So you have three "yes" --

Male Voice: Wait, here, let me call Belinda. [laughter]

Chair Brad Thomas: Um, so that motion does not carry. And then next step is --?

Male Voice: So get-get -- maybe we can discuss this a little bit more.

Chair Brad Thomas: Okay. Let's open that back up.

Male Voice: [unintelligible] you have to have a motion [unintelligible]

Female Voice: Microphone, please.

Male Voice: Do we need to -- do we need to have a-a motion and a second to-to reopen the discussion on this?

Male Voice: [unintelligible] open the discussion [unintelligible]

Female Voice: Well, at this point, it doesn't -- uh, the -- if it's tied, then it doesn't pass. So if-if you want to --

Male Voice: So we're back into --

Male Voice: [unintelligible] back to commissioner discussion.

Female Voice: -- discuss it a little bit more and see if you can change -- if you -- if there's any -- you know, if you want to discuss it a little bit more,

you can. But at this point, you-your decision is that, um, uh, it would be, um -- the appeal would be denied, I guess, is-is how it works.

Chair Brad Thomas: So if we fail to reach a decision --

Female Voice: Yes.

Chair Brad Thomas: -- then the underlying decision stands?

Female Voice: That's correct.

Chair Brad Thomas: Okay.

Female Voice: That's correct.

Male Voice: [unintelligible]

Chair Brad Thomas: Yeah.

Female Voice: Yeah. So I think you -- but I think you're correct. I think if you want to discuss it further, you should probably make a motion, um, amongst yourselves that you want to discuss it further.

Chair Brad Thomas: Okay.

Male Voice: Thank you.

Male Voice: Uh, I would move that we, uh, continue to discuss this, and-and hopefully we can come to a consensus.

Chair Brad Thomas: Can I have a second?

Male Voice: Second.

Male Voice: [unintelligible]

Chair Brad Thomas: It's a motion to continue the discussion to see if we can come to an agreement.

Female Voice: And-and it would actually be to vacate the previous vote and continue discussing, is what you would be doing.

Chair Brad Thomas: Oh, okay.

Male Voice: [unintelligible]

Male Voice: Second.

Chair Brad Thomas: All right. Roll call, please.

Female Voice: Commissioner Dean?

Commissioner Donald Dean: Yes.

Female Voice: Commissioner Ernst?

Commissioner Rick Ernst: Yes.

Female Voice: Commissioner Oakes?

Commissioner George Oakes: Yes.

Female Voice: Commissioner Sherry?

Commissioner Rod Sherry: Yes.

Female Voice: Commissioner Syracuse?

Commissioner Lee Syracuse: Yes.

Female Voice: And Chair Thomas?

Chair Brad Thomas: Yes. Okay. Who would like to open?

Commissioner Rod Sherry: Okay. I'll start. I-I mean, I don't -- I don't go into this lightly at all, especially when we're talking about another commission who've spent a lot of time and-and, you know, they're the experts on-on this situation. Um, but I-I think I took the same approach as you did, is I-I tried to-to look at it -- to step back and look at it from kind of a higher level and-and not just the windows as-as far as, you

know, as -- does this -- what's the-the goals of the-the HPRC and the Historic Preser-Preservation is to maintain, you know?

And I was -- I was going at it strictly as a -- as a visual, but I-I understand, uh, Commissioner Dean's statements about, you know, materials, keeping the -- keeping with the materials, because if you -- you know, if you take that and you extrapolate that out to, um, you know, tearing down, um -- or taking off, uh, trim and putting up, uh, Styrofoam or-or something that looks like wood, then, you know, you really are destroying the integrity of a historic, um, structure.

Um, but then I go -- I-I keep going back to the-the-the point of if we're going to replace the single-pane wood window, and we're going to say, "Okay, you can replace it, and you -- but you can only replace it with a wood double-pane current window," uh, and I s-- I can't get past the fact that they're still going to look very, very similar once they're painted, if this is a -- it's a painted vinyl window.

And-and then I-I go back to the point of, you know, this isn't -- this- this -- and-and this is a slippery slope, I -- granted that, you know, this isn't a landmark, high-profile house in town. I mean, I drove -- I drive by this house every morning, and I don't know that I ever noticed the house, honestly. I mean, your next-door neighbor's house I notice all the -- you know, every morning. It's a -- it's a large his-- big old house.

Um, but it's not -- again, it's a slippery slope, you know? If you say "okay" to this, you know, does -- when the next-door neighbor comes in and s-- and says, "Well, I want to replace all of the, you know, single-pane wood windows in my Victorian with vinyl windows," you know, I don't think anybody in here would say "yes" to that.

Um, but I-I ha-- I just keep going back to the -- to the f-- you know, to my gut feeling, is that by these windows -- and we're talking about these three windows -- if they were to go to a vinyl -- painted vinyl window, it's not -- it-it -- in my opinion, it's not going to drastically, or even noticeably, change the feel or the appearance of that house.

Chair Brad Thomas: What -- I-I have to tell you that if-if the rest of the house had -- were all wood windows around, it would be a no-brainer for me. I would say, "Absolutely not." They-they couldn't replace it, and I don't care if they had \$20,000 out. That would not make sense to me. But because 75 percent of the windows are already vinyl, and th-- the most prominent, and then half the windows that are visible from the street are going to be vinyl, that tells me that, well, it can't make -- be that significant of a difference of in this case.

Um, and-and it needs to be applied -- um, I believe that the rules need to be applied-applied pursuant to the specifics of the given case. I don't think it's a-a-a bright line distinction, "You always do

this," as the HPRC has indicated in their decision where they permitted it on the other si-- on the sides, and they've, uh, indicated that they've permitted it in other structures when it wasn't as visible from the street.

Um, and so, uh, in weighing the, uh, the-the impact on the historical district and on this home, I just don't see it. Uh, I don't see a significant impact compared to the, um, to the burden that we're putting on the, uh, the end-user. Um, and the fact that, uh, I agree, the contractor probably screwed up, uh, and it probably is their fault.

But I think the benefits of having a consistent look throughout the entire, uh, building, uh, throughout the entire structure, all the windows looking the same, because, as I understand it, they're replacing all the windows, getting rid of all the old thick, uh, um, sashed windows, and going with a much thinner that looks more authentic to the period --

-- I think that it's a huge upgrade, and the consistency outweighs the, uh, relatively minor -- um, in this case minor, uh -- issue with the -- with the fact that the material underneath the paint is going to be a product that nobody will really be able to tell the difference on, but that, um, that will be able to function and provide a-an improvement to the home. That's where I am.

Anybody else have any other comments? Anything to discuss? How about a new motion?

Male Voice: The motion that we're talking about would be to [crosstalk] --

Chair Brad Thomas: I think we would take a new motion.

Male Voice: [crosstalk] accept the motion that was drafted by staff.

Female Voice: Microphone, please.

Male Voice: I'm sorry. Wouldn't, um -- I think the motion would be to-to approve the draft that was, uh -- the-the resolution that was drafted by staff.

Chair Brad Thomas: I think with some changes.

Mark Rhoades: The-the resolution is-is blank with regard to --

Male Voice: Approval or denial.

Male Voice: Right.

Mark Rhoades: -- approval or denial, so.

Male Voice: No, I -- yeah, but there was, uh -- yeah, it was. It was noncommittal for once. [laughter]

Chair Brad Thomas: Well, staff's recommendation was to approve the design review request.

Male Voice: No, I see what you're saying. Here by X. Yeah. But this is it. Just say approve it.

Female Voice: Do you -- do you need some assistance in draf-- in coming up with a motion.

Commissioner Rick Ernst: Let me ask you a question. You're saying that, um, uh, staff is-is rec-- had recommended, uh, approval -- uh, where's this? -- of the-the whole design review request, which was originally, um -- which-which had originally been re-- approved based on, um, "like for like"?

Male Voice: No. I think -- I think the-the request was to replace the wood with vinyl. That was the request that staff, uh, recommended approval.

Mark Rhoades: Uh, to the HPRC originally.

Male Voice: To the HPRC.

Mark Rhoades: Correct.

Commissioner Rick Ernst: Oh, right, right. Okay.

Male Voice: Yes, please.

Male Voice: Well, no. It should be all four, not three.

Female Voice: Maybe I can help with this.

Male Voice: Yeah, but --

Female Voice: Right what you have in front of you are the three windows.

Male Voice: Right.

Female Voice: If you -- if you make a motion to, um, approve the appeal, allow the appeal, then you are making a decision for the applicants to be able to put in the vinyl windows, as originally proposed before the HPRC.

Male Voice: Right. Their whole house.

Female Voice: If you deny the appeal, if you move to deny the appeal, then you are, um, uh, essentially making the decision that the windows need to either -- you're-you're basically, um -- and you can -- you can actually probably modify that, because you're dealing with the three windows. But HPRC's recommendation was that you, um, try to repair, and, if not, replace. So upholding the appeal would allow the vinyl. Denying the appeal would, um, would be going back to the HPRC decision or some variation thereof.

Commissioner Rick Ernst: Uh, I hate to, uh, you know, put out a precedent here, uh, going back to Commissioner Sherry's, uh, statement that, um, what if next door, the house comes in and says, "Well, wait a second, you-you approved vinyl windows next door. Why can't we put in vinyl windows?" So how can we make this so that, uh, it's not a precedential decision?

Commissioner Rod Sherry: Uh, can I -- I-I think Chair Thomas addressed that pretty-pretty clearly, that, you know, what we're talking about here is a house where almost all of the windows are already vinyl. Um, and if-if, you know, the next person comes in with the -- with the house that has all wood windows already, you know, I think we're -- that's-that's a completely different situation, in my mind. And you're not --

Commissioner Rick Ernst: Well, again, [crosstalk] --

Commissioner Rod Sherry: I don't know that we're necessarily setting precedence, um, in this case.

Commissioner Rick Ernst: Well, if the house next door replaces all their windows in the back -- in the back of the house with vinyl windows, which they can do, uh, and then they leave the front windows, um, wood --

Commissioner Rod Sherry: Well, I --

Commissioner Rick Ernst: -- and then come in and they say, "Well, we'd like to put vinyl windows," then --

Commissioner Rod Sherry: Actually, I-I don't believe they'd be able to replace any of the windows wi-without going to the HPRC, if they're in the -- if they're in the district. So --

Commissioner Rick Ernst: Well, HPRC, I believe, uh, would approve, uh, vinyl, if, uh, they're not visible from the street.

Chair Brad Thomas: I-I don't think we could assume that. Uh, going forward, they may ma-- they may change their position on that. They're, um -- but in this case, these are preexisting windows from well before the HPRC creation. And I think the facts of this case are [English] -- easily distinguishable from the facts of any other future case. And that's -- you know, precedent only establishes a precedent if the facts are identical. It's not a precedent for establishing --

Commissioner Rick Ernst: Okay.

Chair Brad Thomas: -- a trend when the facts are different. And I think that's important to note.

Commissioner Rick Ernst: So the motion would be based on the fact that -- one, two, three, four, five, six, seven, eight, nine of the windows are vinyl, uh, we can make a motion to approve, uh, replacement of these three windows with vinyl windows. Would that be, um, specific enough?

Chair Brad Thomas: Or-or too specific. I don't know.

Female Voice: It-it might be a little too specific. I-I don't think you need to make it based on that reason.

Chair Brad Thomas: I-I think we can say under the circumstances of this case, we find that it's consistent with the standards, that it's consistent with the -- with all the other regulations --

Female Voice: Right.

Chair Brad Thomas: -- and it -- and approve the, um -- or -- yeah, approve the appeal that's before us.

Female Voice: That's correct. And, if I may, one of the reasons why you have an HPRC, one of the reasons why you have the Planning Commission and that members of the public cannot just go and get a building permit with specific standards is that we want the commissions to be able to weigh in on the individual properties and make determinations as to what is appropriate.

And we have guidelines in the historic -- in our historic district that we -- that the commission tries to adhere to to try to retain the integrity of the historic district. But every-every property owner that comes before them with an application is going to have a different

issue, different circumstances, different house. And that's why the commission is there in the first place.

Now, obviously if they set a precedent that said, "Every-every historic home in the district can now have vinyl windows in the back," well, then you're going to get everybody in there wanting to do that, if that's indeed what they want. But they haven't done that. They've done it on a case-by-case basis. And that's what you're looking at here, is an individual case and making a determination, a policy determination as to how you're going to handle this particular appeal.

Mark Rhoades: Right. Otherwise, why have the commission? We -- you'd just have a set of rules that they would use at the counter, and we'd be done with it.

Commissioner Rick Ernst: Well, I think the HPRC, um, has-has -- the representatives, um -- the, um, citizens that happen to sit on the HPRC have represented that their feeling is that, uh, uh -- and going back to Commissioner Dean's, um, statement, that we're-we're not dealing so much with, uh, visual appearance, uh, historical appearance, but we're dealing with materials. And the, um, um, preservation, uh -- what-what is the organization that, um, we have the information from? Sorry. [unintelligible] Um . . .

The, um, Historic Preservation Services, National Park Services, Department of the Interior, among others, uh, have stated that the

best -- the ideal, uh, situation is to replace wooden windows with wood windows, or repair wooden windows wherever possible. And it doesn't really deal with, um, being able to be seen from the street or not. It-it-it -- that's in general.

So it seems to me HPRC's, um, uh, policy should be, if they're going to stick with that, to make any window -- any request for a window, to make it, uh -- to stick to that and say, "Okay, it's got to be wood. If it's a wood window, then they have to replace it with wood." Uh, but they've-they've gotten away from that.

They've gotten -- uh, they say if it's visually from the street, we can see, uh, visually from the street -- and visually, uh, I'm going to say, it's been stated, that the vinyl windows, um -- I don't think you can really tell the difference between the vinyl-- the thr-- especially these three windows, because they are partially, um, hidden by the, um, uh, the covering, the ov-- the window -- the over -- the overhang. But, uh, regardless, uh, I don't think you can tell that they're wood or vinyl, especially if they're painted.

So, um, I don't know. Uh, I-I -- I think it's a slippery slope to, uh, overturn HPRC's decisions. They-they're the experts. We're not the experts. We're trying to get at -- get to be experts pretty quick here. But, um, we're not. I think this couple was misdirected by a contractor. They've spent money based on assertions made by the contractor. I think they need to go back to the contractor and get

money back, if we decide to overturn this appeal. Or if we decide to approve it, there's -- it's a moot point.

Chair Brad Thomas: I-I-I would just add that, I-I agree, HPRC are the experts. They know this stuff inside and out. But just as at any trial or any other proceeding, you have experts, but you don't necessarily, uh, ha-- if there is a -- if there is a disputed issue, the experts are not the decision-makers. Uh, but their --

Commissioner Rick Ernst: I understand.

Chair Brad Thomas: -- their insight is extremely valuable. And I think it's been -- their research and their analysis and their -- the information they've provided has been exceptional in this case. I just think under the facts of this case, their conclusion is inconsistent with the reality of this property. And that's-that's why I -I -- where I part ways.

Commissioner Rick Ernst: Uh, let me ask on these-these project plans that are in the staff report here, um, was this what was given to Lisa, uh, initially, was this paper that shows which windows were existing?

Mark Rhoades: It-it doesn't have -- it didn't have the stars on it, I don't believe. The stars are what I put on there for the, um, HPRC.

Commissioner Rick Ernst: So the cost was \$5,460 for -- to replace seven windows with no change to the window opening. So they weren't going to change

the size or anything. All retrofit, dual-pane window -- oh, it says retrofit, dual-pane vinyl. Was that part of the original or not?

Chair Brad Thomas: I don't know if that was the original to -- or if that was the submission with the, um, with the application for [crosstalk] HPRC of July.

Commissioner Rick Ernst: It's reviewed for code Compliance -- there's a stamp, "Reviewed for Co-Code Compliance." July 2011. Is that when it went to, uh -- down to the desk downstairs?

Mark Rhoades: That's correct.

Commissioner Rick Ernst: And, uh, and it was stamped here -- seven windows, s-some -- what is that, some? Same size as existing. Okay. So they're emphasizing that the windows are going to be replaced with same size. But down below, there's a, uh, scope. It says, "Replace seven windows with no change to window opening, all retrofit, dual-pane vinyl." Was that part of the original submission or --?

Chair Brad Thomas: Uh, yeah. Th-- yeah, that would've been, because that's what they were always proposing, the vinyl.

Commissioner Rick Ernst: Oh, seven windows -- which-which seven windows were they proposing? Uh, you said you added stars. Uh, well, they -- it looks like these front windows were -- let's see. One, two, three, four, five, six, seven.

Chair Brad Thomas: There are 12 total windows. I think it's the five in the front.

Commissioner Rick Ernst: One, two, three, four, five --

Chair Brad Thomas: -- six, seven. This is a double window.

Commissioner Rick Ernst: Oh, okay. Right, right, right.

Chair Brad Thomas: It's double.

Commissioner Rick Ernst: Seven windows, right.

Chair Brad Thomas: Okay.

Commissioner Rick Ernst: I mean, uh, I-I don't know. I think if, uh, there was, uh, a mistake made by Planning, that-th-that's -- by the-the Planning Department, um, uh, then that -- then mistakes are made. But, um, we can't penalize citizens for those kinds of mistakes, if there was a mistake made. You're saying that there was not a s-- mistake made, that is was really the contractor. I-I don't know. That, uh --

Chair Brad Thomas: Okay. Do you want to make a motion, anybody?

Commissioner Rod Sherry: All right. I'll throw-throw one out there. I'll move that we -- and I don't do this lightly, honestly -- I-I just -- I feel like I have to explain myself here, that I think in the big picture that-that this -- I-I

truly don't feel that we're setting precedence by replacing three windows on this house with-with vinyl to match the rest of the house. So with that being said, uh, I'll move that we uphold the appeal and allow the replacement of the three front windows with vinyl windows.

Chair Brad Thomas: Is there a second?

Male Voice: I'll second the motion.

Chair Brad Thomas: Let's do the roll call.

Female Voice: Commissioner Dean?

Commissioner Donald Dean: Yeah.

Female Voice: Commissioner Ernst?

Commissioner Rick Ernst: Yes.

Female Voice: Commissioner Oakes?

Commissioner George Oakes: Yes.

Female Voice: Commissioner Sherry?

Commissioner Rod Sherry: Yes.

Female Voice: Commissioner Syracuse?

Commissioner Lee Syracuse: Yes.

Female Voice: And Chair Thomas?

Chair Brad Thomas: Yes. It passes. Okay. That closes, uh, that issue. We will, um -- we have two more items on the agenda. I think, um, these should be, by comparison, quite short. [laughs]

[Julian Fraser]: Thank you. Sorry to be a trouble. Appreciate it.

[Claudia Fraser]: Thank you.

[Julian Fraser]: Thanks.

[End of recorded material]

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING: OCTOBER 27, 2011
Regular Agenda Item

DATE : October 19, 2011

TO : Historic Preservation Review Commission

FROM : Mark Rhoades, AICP
Interim Land Use and Engineering Manager

SUBJECT : **DESIGN REVIEW TO REPLACE FIVE WINDOWS ON THE SIDE AND FRONT FACADES OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET**

PROJECT : **11PLN-00064 Design Review**
410 West J Street
APN: 0089-031-090

RECOMMENDATION:

Approve the design review request for a minor exterior modification (replacement windows) to the sides and front façade of the existing residence located at 410 West J Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

EXECUTIVE SUMMARY:

The applicant requests design review approval to replace five deteriorating wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District.

BUDGET INFORMATION:

There are no budget impacts associated with this project.

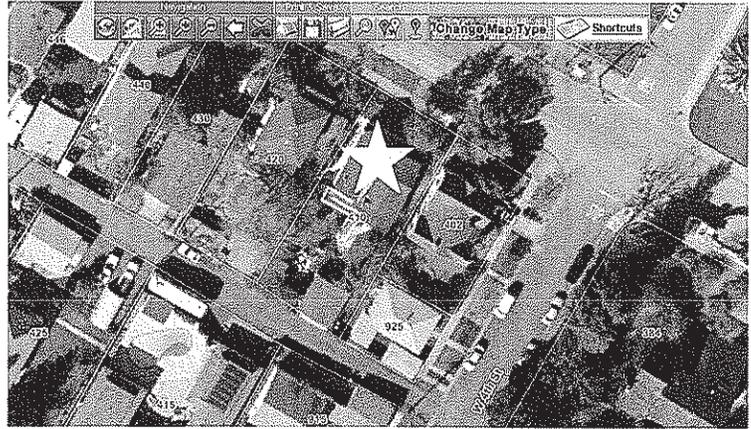
ENVIRONMENTAL ANALYSIS:

This project is Categorically Exempt under Section 15301 (Existing Facilities) of the Guidelines of the California Environmental Quality Act. This exemption includes minor alterations to the exterior of existing structures, involving negligible or no expansion of use.

BACKGROUND:

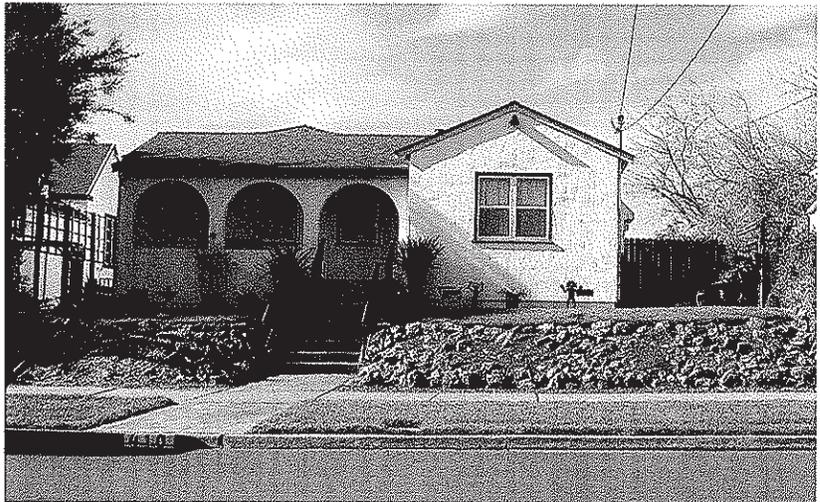
Applicant/Property Owner: Julian and Claudia Frazier
General Plan designation: Low Density Residential
Zoning designation: RS, Single Family Residential
Existing/Proposed use: Single Family Residential
Adjacent zoning:
North: RS, Single Family Residential
East: RS, Single Family Residential
South: RS, Single Family Residential
West: RS, Single Family Residential

410 West J Street is located on the south side of J Street between West Third and West Fourth Streets. The subject building is listed as a contributing structure in the Downtown Historic Conservation Plan. Contributing structures are also located to the east and to the west of subject property.



SUMMARY:

The applicant has been upgrading and rehabilitating the subject structure at considerable expense. In August, the applicant's window contractor approached the City with a request to replace all of the windows on the house with new vinyl windows. The contractor represented at the time that all of the existing windows were vinyl and would be replaced with vinyl. It came to staff's attention that some of the windows, including those under the front porch, were single-hung wood sash. The applicant is requesting design review approval to replace five deteriorating single paned wood windows, including the three on the front façade, with high quality paintable vinyl windows. All of the



windows on the structure will be replaced but the rest of the windows are already vinyl (albeit lower quality than is proposed). The other two presently wood windows are located on the east and west sides of the house and are not visible from the public right of way. The three windows on the front façade are located under a porch roof and five feet behind an arched porch wall.

The main street-facing features consist of a double (vinyl) sash on the prominent façade, and three arched porch openings. The porch windows are setback from the porch openings approximately five feet. The applicant is not proposing to change the size of the openings or alter their rhythm behind the arches.

The proposed windows are pictured at right. The photo above shows the double window that will replace the existing vinyl window on the front façade that is the most prominent and visible window on the house (this does not require HPRC approval). This will be a significant improvement over the existing vinyl window.



The bottom photo shows the single hung window (right side of photo) that is proposed to replace the existing windows that are behind the porch arches. The window on the left side of the photo will replace existing casement windows. All of the windows on the house will be uniform after this installation.

Downtown Historic Conservation Plan Consistency

The subject property is located in the Downtown Historic Overlay District and therefore is subject to the policies and guidelines set forth in the Downtown Historic Conservation Plan (DHCP). The property is listed as a contributing structure to the DHCP.

The Purpose of the DHCP is as follows (pg. 2):

1. Implement the City's general plan,
2. Deter demolition, destruction, misuse, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past,
3. Promote the conservation, preservation, protection, and enhancement of each historic district,

4. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property, and
5. Encourage development tailored to the character and significance of each historic district.

The structure at 410 West J Street was built in 1930 and was recently determined to be a contributing structure (2009 Survey). The Primary Record description of the structure (also see attached) states the following:

This is an L-shape plan, single story Mediterranean Revival residence. It has a cross gable roof of moderate pitch with clipped eaves and gables. An attic vent of terra cotta pipe is found at the apex of the front gable. The primary roof extends to cover the cut-in porch. It is supported on arched openings. Fenestration is double hung and is paired on the gable end. The house is clad in stucco. This residence is very simple in conception with few decorative details. However, it is representative of many of the houses of this style built in the 1930s. It also is an example of Downtown in-fill in this period.

The sixth sentence states that the windows are double hung. They are actually single-hung with the top pane fixed.

In addition, the Primary Record states the significance as follows:

This is a simple in-fill Mediterranean Revival Style house. Its architectural character is principally defined by its arched porch openings and its stucco cladding. The house was noted in the 1986 historical survey, but was not made a contributing structure in the Downtown Historic District. It should be considered for inclusion within the District.

The general review criteria under the DHCP for this property are "Historic Buildings." There are a number of policies and guidelines that provide direction for the consideration of this project. These include:

- Policy 2 – Façade Elements and Details
- Policy 3 – Integrity of Materials
- Policy 4 – Appropriate Materials, Colors, Finishes

Policy 1 does not apply because it provides guidelines for new additions. The guidelines that apply to this project and staff's response to each follow.

Policy 2 – Façade Elements and Details

Policy 2, Guideline 2.2: Maintain the proportions of existing door and window openings and the pattern of existing sash in replacement work or additions.

Response: The project complies with this policy guideline. The new windows, pictured above, have narrow frames that are very close in dimension to the existing wood frames and will fit into the existing openings of the subject windows.

*Policy 2, Guideline 2.3: New or replacement window sash **should** (emphasis added) match the original sash. Where the original sash has been completely removed, new windows should match the existing unless a complete replacement program for the façade is undertaken.*

Response: The applicant is proposing to replace all of the windows on the house with new vinyl windows that have a paintable frame and sash dimension nearly identical to the original wood. The three wood windows to be replaced on the front façade are tucked behind an arched porch so their visibility from the street is reduced. The main façade window that is wide framed vinyl will be replaced with a vinyl window with dimensions more consistent with the original wood sash. This will be a significant improvement over the existing condition.

Policy 3 – Integrity of Materials

Policy 3, Guideline 3.3: Where inappropriate or later materials have been removed, they should be replaced with the original material.

Response: This guideline provides that, in so far as the applicant is replacing all of the windows on the house, they should be replaced with original wood windows. This would require the applicant, at significant expense, to order new wood windows for the entire structure. The applicant has indicated that this is not financially feasible. In addition, this is a contributing structure, not a landmark. The proposed windows will improve the appearance of the structure's street façade from an historic perspective because the windows are nearly identical in dimension to the existing wood windows. In addition, the existing vinyl window with a wide frame will be replaced with a window that is more consistent with the wood window dimension that the vinyl replaced at some point in the past.

Policy 4 – Appropriate Materials, Colors, and Finishes

Policy 4, Guideline 4.1: Use original materials whenever possible in restoration, renovation or repair work and use the same materials for building additions.

Response: The applicant has stated that it is not financially feasible for them to replace all of the windows on the property with period appropriate wood windows. The applicant has purchased high quality paintable vinyl, energy

efficient windows that display frame dimensions that are nearly identical to the existing wood sash and that fit in the existing openings. In addition, the wood windows that proposed for replacement are not highly visible from the street.

Policy 4, Guideline 4.2: For substitute materials, the outward appearance, durability, texture and finish should be as close as possible to that of the original. If the original was painted, the substitute should accept and retain a painted finish.

Response: The five existing wood windows are smooth painted, single hung with narrow frame dimensions. The proposed replacement windows are smooth in texture, paintable, and single hung. They also exhibit narrow frame dimensions, nearly identical to the existing windows, and will fit within the existing openings.

Policy 4, Guideline 4.3: Wood window sash is preferred for historic buildings. Vinyl clad wood or factory finished (i.e., baked enamel) aluminum frames are acceptable if the original design can be duplicated.

Response: The structure is not itself a landmark, but listed as a contributing structure in the DHCP. The features of the structure that are listed as character defining include the arched porch openings and the stucco exterior. The applicant is not proposing to alter either of these. See response to *Policy 4, Guideline 4.1*, above.

Policy 4, Guideline 4.4: Materials or colors listed as inappropriate for new construction (Commercial Building Types 1 and 2 – Guidelines 2.2 and 2.3) are also inappropriate for historic buildings.

Response: The list of inappropriate materials is for siding, and does not include guidance for windows.

Consistency with Secretary of the Interior's Standards

The proposed project is consistent with the Secretary of the Interior's Standards (see Attachment 2).

Zoning Ordinance Consistency

The project is consistent with existing Zoning Ordinance requirements in that the residential use remains unchanged and no additions are proposed that require review of any site development standards.

CONCLUSION:

This application is not proposing to change any of the character defining architectural features of the home, which include the stucco cladding and the arched porch openings. The windows are not listed as details of significance on

the structure. The structure is not a landmark itself, but is a contributing structure and the window modifications will neither reduce the home's ability to convey its architectural character nor cause any impacts to designated landmark structures or the Downtown Historic Overlay District in general.

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure.

The proposed request is consistent with Purpose No. 4 of the DHCP in that the proposed project will, "Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property." In addition, the project is consistent with the General Plan and Climate Action Plan goals and strategies to increase energy efficiency.

Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution. Finally, it should be noted that allowing property owners some flexibility, when appropriate, has positive policy level implications relevant to the relationship between the City and the community.

FURTHER ACTION:

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten business days.

Attachments:

1. Proposed Resolution
2. Secretary of the Interior Standards
3. Plan Submittal
4. Primary Record

*** If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the October 27, 2011 Historic Preservation Review Commission packet.*

PROPOSED RESOLUTION

RESOLUTION NO. 11- (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION
OF THE CITY OF BENICIA APPROVING WINDOW REPLACEMENT AT 410 WEST J
STREET**

WHEREAS, Brian Maloney, has requested Design Review approval to replace two windows on the X façade of the existing single-family residence at 410 West J Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on October 27, 2011 conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approve the exterior modification to the building at 410 West J Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission makes the following findings:

- a) This project is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA), which applies to minor alterations to the exterior of existing structures, involving negligible or no expansion of use. The addition of a new door is minor in nature and will not expand the existing commercial use of this building
- b) The project will be consistent with the Downtown Historic Conservation Plan policies and design guidelines, as described in the staff report, if the conditions of approval are adhered to.
- c) The design of the project is consistent with the purposes of Title 17 of the Benicia Municipal Code.

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

- 1. This approval shall expire two years from the date of approval unless made permanent by the issuance of a building permit.
- 2. Any other alteration of the approved plans, including substitution of materials shall be requested in writing for consideration of approval by

the Historic Preservation Review Commission prior to changes being made in the field.

3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Public Works & Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on October 27, 2011 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

David Crompton
Historic Preservation Review Commission Chair

SECRETARY OF THE INTERIOR'S STANDARDS

**Consistency Analysis:
Secretary of Interior's Standards for Rehabilitation
Design Review (11PLN-00064)
410 West J Street**

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The **bold text** is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. **A property will 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 existing residential use will not change. None of the structure's character defining architectural features (stucco cladding, arched porch openings) will be modified. The proposal will replace five wood frame windows with paintable vinyl windows that have dimensions very similar to the existing. The existing window openings will be utilized as they exist.

2. **The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The principal character-defining features of this style of building (Mediterranean Revival) as exhibited on the subject property are its stucco exterior and its arched front porch openings.

3. **Each property will 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, will not be undertaken.**

The property was surveyed in 1986. The analysis states that the building is a common example of the Mediterranean Revival style, which is a common infill style the DHCD. No features will be added or changed that will convey a false sense of historicism.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The structure has not been changed in a manner that said changes might have acquired historic significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

No distinctive materials, features, finishes and construction techniques will be removed.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

No chemical or physical treatments will be undertaken.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

No archaeological resources are known to exist on the subject site. No construction activity involve soil work is proposed.

- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.**

The windows proposed for change from wood to paintable vinyl are not highly visible on the street façade because they are tucked behind a covered porch with arched openings. The proposed new windows will provide a more uniform design that is consistent in appearance with the original wood windows. The project will also improve the most visible window with one that has dimensions that are more appropriate than what exists. All of the proposed new windows will fit within the original openings built for the structure. Staff recommends the Historic Preservation Review Commission approve the design review based on the findings and conditions of approval in the proposed resolution.

- 10. New additions and adjacent or related new construction will 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.**

No additions to the structure will be undertaken.

PROJECT PLANS

(If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the October 27, 2011 Historic Preservation Review Commission packet)

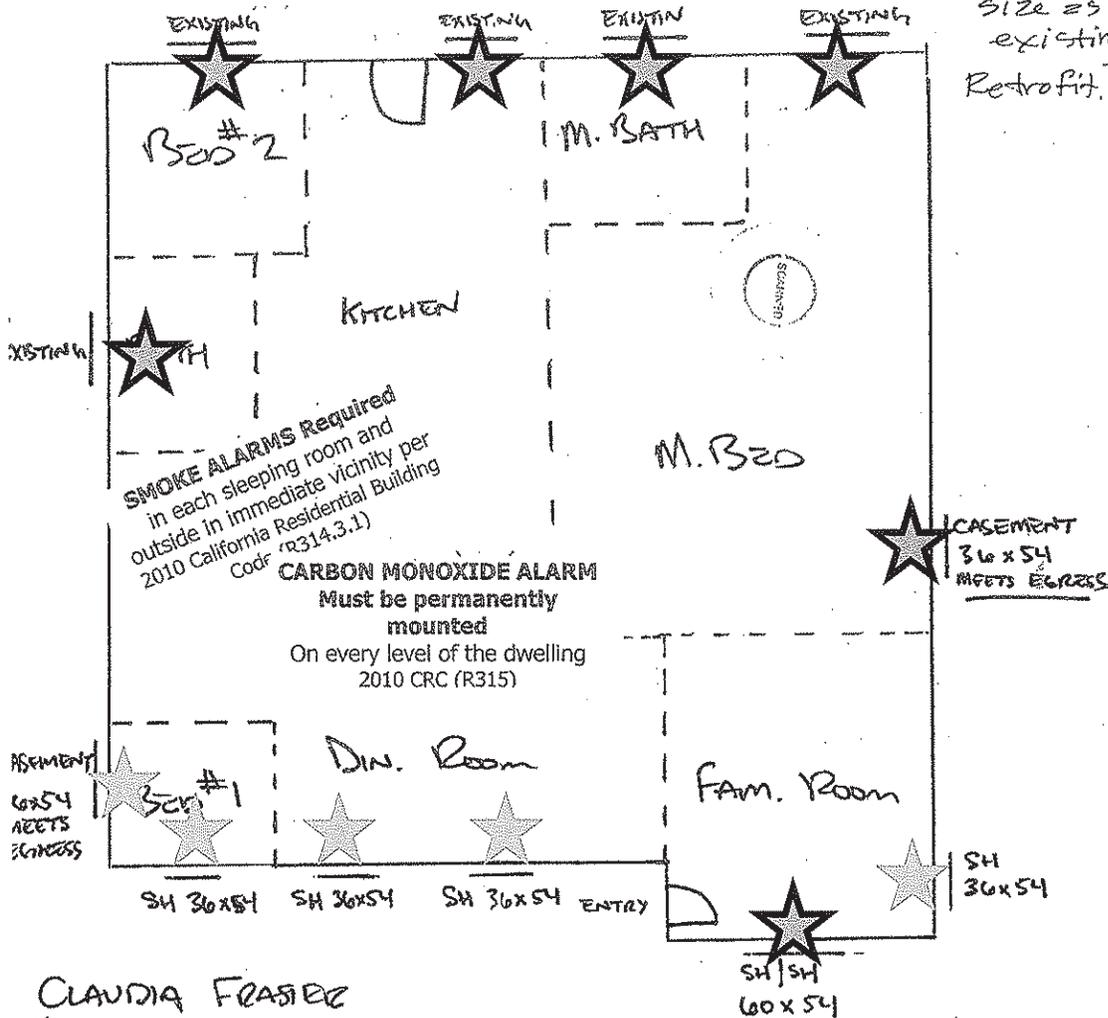
Project Plans for 410 West J Street

-  = Window to be changed
-  = Existing Vinyl Window

REVIEWED FOR
CODE COMPLIANCE
P. Allen Wilk
DATE: 28 July 2011

PERMIT NO. 11BLD-00578
ADDRESS: 410 West J St.
APN #: 89-031-09
PROJECT: Window replacement

Seven windows - same size as existing Retrofit.



CLAUDIA FRASIER
410 W. J ST.
BENICIA, CA 94510
707-246-7767

SCOPE: REPLACE 7 WINDOWS w/ NO CHANGE TO WINDOW OPENING. ALL RETRO-FIT DUAL PANE VINYL.

COST: \$5460.00

PRIMARY RECORD

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 410 West J Street
 P1. Other Identifier: none
 *P2. .Location: *a. County Solano
 b. Address: 410 West J Street
 *c. City: Benicia Zip 94510
 d. UTM: N/A
 e. USGS Quad: Benicia T2N R3W MDM
 *f. Other Locational Data (APN #): 89-031-09

*P3a. Description
 This is an L-shape plan, single story Mediterranean Revival residence. It has a cross gable roof of moderate pitch with clipped eaves and gables. An attic vent of terra cotta pipe is found at the apex of the front gable. The primary roof extends to cover the cut-in porch. It is supported on arched openings. Fenestration is double hung and is paired on the gable end. The house is clad in stucco. This residence is very simple in conception with few decorative details. However, it is representative of many of the houses of this style built in the 1930s. It also is an example of Downtown in-fill in this period.

*P3b. Resource Attributes: HP2
 *P4. Resources Present: Building Structure Object Site District Element of District
 P5b. Description of Photo:
 Front façade, view south
 *P6. Date Constructed/Age: 1930
 Prehistoric Historic Both
 *P7. Owner and Address:
 Brian Maloney

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



410 West J Street
 Benicia, CA 94510
 *P8. Recorded by:
 Carol Roland
 Roland-Nawi Associates
 4829 Crestwood Way
 Sacramento, CA 95822
 *P9. Date Recorded: 11-20-04
 *P10. Type of Survey: Intensive
 Reconnaissance Other
 Describe Eligibility Evaluation
 *P11. Report Citation: none
 *Attachments: NONE Map Sheet Continuation Sheet Building, Structure, and Object Record Linear Resource Record Archaeological Record District Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 410 West J Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: same

B3. Original Use: Residential

B4. Present Use: Residential

*B5. Architectural Style: Mediterranean Revival

B7. Moved? No Yes Unknown

Date: N/A

Original Location: same

*B8. Related Features:

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940

Property Type: Single Family

Applicable Criteria: A/C

This is a simple in-fill Mediterranean Revival Style house. Its architectural character is principally defined by its arched porch openings and its stucco cladding. The house was noted in the 1986 historical survey, but was not made a contributing structure in the Downtown Historic District. It should be considered for inclusion within the District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

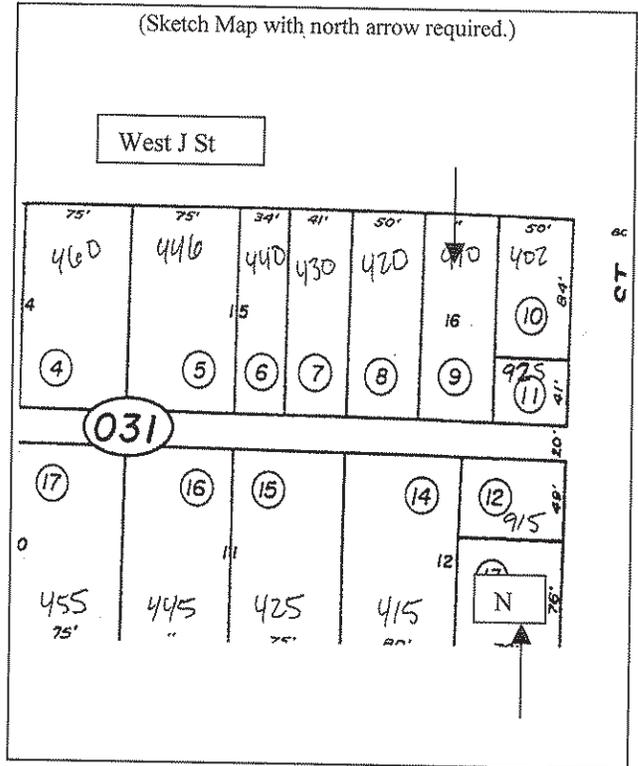
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

December 7, 2011

Dear Planning Commission,

RE: Appeal of HPRC's Denial of a Design Review Request to Replace Three Wood Windows with Vinyl Windows on the Front Facade of the Existing Single-Family Residence at 410 West J Street

As a member of the Historic Preservation Review Commission (HPRC), I would like the Planning Commission to have the complete picture when it reviews this appeal and understand why the HPRC approved the repairing of the original wood windows and replacement with new wood windows and did not approve the removal of the original windows and replacement with vinyl windows. It is unfortunate that originally, City staff was told that no original windows existed on the house. It is also unfortunate that the contractor already purchased vinyl windows to replace the original wood windows, prior to the discussion at the HPRC and that a building permit had been issued on the basis of this incorrect information.

I would like to provide some information about my background in planning, the California Environmental Quality Act (CEQA) and historic preservation regulations, practice, and law. I hold a B.A. in Environmental Studies with an Planning emphasis from UCSB and a Master of Urban and Regional Planning from UCI. I have worked in the environmental planning field for 22 years and took classes in graduate school in architectural history, in addition to completing an independent study project with the City of Long Beach's Neighborhood and Preservation Officer for which I provided research and a historical resource survey for the City's 13th historic district. In my career, I have worked with historic and cultural resource laws and at my last employer, I was the contract Preservation Planner for the City of Elk Grove. I have been a speaker for the California Preservation Foundation, the Association of Environmental Professionals (AEP) on historic preservation and CEQA issues. Last year, I moderated and spoke on Historic Preservation and Sustainability for a program along with Mark Huck of the state Office of Historic Preservation, co-sponsored by AEP, the American Planning Association, and the American Institute of Architects.

This is the first appeal of an HPRC decision since I joined the HPRC nearly four years ago. In addition, the HPRC has required the replacement of aluminum and vinyl windows in buildings receiving an approval of a Mill's Act Contract, with the understanding that aluminum and vinyl windows are not consistent with the Secretary of the Interior Standards and guidance from the Department of the Interior.

HPRC is bound by state law – as alterations to historic buildings must be found consistent with the federal Secretary of the Interior's Standards or those alterations are not exempt from CEQA. If a project is not exempt from CEQA, either a Negative Declaration, Mitigated Negative Declaration, or EIR must be prepared.

In order to make the determination of consistency with the Secretary of the Interior Standards, HPRC members have attended workshops and studied the Standards themselves, the information put forth by Weeks and Grimmer, and read the federal Preservation briefs. A Consistency determination is an art,

not a science, and it takes experience in this type of review of proposed alterations to historic buildings.

This is the first request that the HPRC has received in the past four years for the replacement of original windows on a front facade. In our approval of Mill's Act contracts, we have required the restoration of windows viewable from the street and this has entailed the removal of aluminum and vinyl windows and replacement with wood windows.

Benicia's Climate Action Plan indicates that any alterations proposed to historic buildings be consistent with the Standards. A section is included in the CAP on historic buildings. This is found on the City's website.

The following are my comments on the staff report:

Page 1, Executive Summary. This states that "The HPRC has a longstanding policy of NOT allowing wood windows to be replaced with vinyl. The HPRC approved the replacement of the two windows (one on each side of the house) but they denied the change on the front facade." First of all, I hope that everyone understands that the HPRC's window policy is an interpretation and restating of the Secretary of the Interior's Standards and federal Preservation briefs regarding historic windows. Secretary of the Interior Standard 5 states that "Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property, will be preserved."

It is not a whim on the part of the HPRC, but a desire to make clear what compliance with the law entails and an attempt to provide this information so that consistent determinations between applicants can be made. Also, to be clear, the HPRC approved the encouraging of the repairing of the windows first (the most inexpensive and historic preservation and sustainable option) and then, if repairing of the windows was not possible, then approved the replacement with wooden windows. Lastly, the HPRC has approved the replacement of original windows with vinyl windows in locations not viewable by the public before. The HPRC's concern was the windows that can be seen from the public right-of-way, both the sidewalk and the street.

The HPRC in its vote to allow only wood-framed windows on the front facade disagreed with many items found in staff's reports to both the HPRC and the PC. The HPRC found that the proposed vinyl windows were not consistent with the Secretary of the Interior Standards, because they were not similar in material or style.

Page 2, Environmental Analysis. This section states that "The HPRC reviewed the project and determined that it is a Section 15331 (Class 31) Categorical Exemption from the CEQA Guidelines...The proposed project, including the decision of the HPRC, is consistent with the Secretary of the Interior Standards based on the analysis in the report." I would like to clarify that the HPRC did not find that the replacement of the wood windows on the front facade and replacement with vinyl windows was consistent with the Standards and that is why the vinyl windows were not approved.

This section further states that "Staff believes that the project is also Categorically Exempt under Section 15301 (Existing Facilities) of the Guidelines of [CEQA]. This exemption includes minor alterations to the exterior of existing structures, involving negligible or no expansion of use." As the building in question is designated locally as historic, this exemption simply does not apply to the proposed project. For further explanation see information provided regarding this on the California

Environmental Resources Evaluation System website – <http://ceres.ca.gov/ceqa/flowchart/exceptions.html>. There are exceptions to the exemptions, including . “Projects that may cause a substantial adverse change in the significance of an historical resource.” (Public Resources Code §21084.) An alteration is found to not result in such a substantial adverse change in the significance of an historical resource through an analysis and conclusion of its consistency with the Secretary of the Interior's Standards.

Page 3, first paragraph. This states that “The HPRC expressed significant concern about their window policy, and staff's recommendation for the replacement...” I have no any idea what the first part of this sentence is referring to as I heard no “concern” on behalf of HPRC members regarding its own window policy. Our concerns were regarding our disagreements with the statements and conclusions in the staff report.

Second paragraph. This states that “The HPRC noted that the structure at 410 West J Street is designated as a 'Contributing Structure' under the Downtown Historic Conservation Plan (DHCP) but that Contributing and Historic designations should not receive different consideration relevant to design review.” Again, I do not understand the meaning of this statement as a contributing structure is by its nature, a “historic” structure. Perhaps the author meant to say that a Contributor and a Landmark building are provided the same type of historic resource review.

Second paragraph. This states “Some commissioners pointed out that attempts should be made 'at all costs' to repair original wood windows when they are extant.” The minutes indicated that Commission Haughey stated this, although I do not recall this statement. I do not recall any Commissioners making this statement and it has not been the HPRC policy in the past to require adherence to the Standards regardless of cost. The inclusion of this statement from draft minutes not approved by the HPRC is questionable as to its validity and purpose. The paragraph then goes on to quote another un-named Commissioner. Again, I question the purpose of these quotes from individual Commissioners from draft minutes and believe that the final vote should be the basis for analyzing this appeal, not random comments made by two commissioners that were not provided within their overall context.

Page 3 last paragraph. This section states that “Staff at the permit counter informed the contractor that only in-kind window replacement would be allowed with an 'over the counter' building permit.” All building permits are “over the counter.” Perhaps the author meant that in-kind replacement is required in order to not need approval from the HPRC.

Page 6, under Policy 2 discussion “Response.” In this location and others staff asserts that the vinyl windows would be nearly identical to the original wood windows or replacement wood windows. The HPRC did not agree and that was one reason why the vinyl windows were not found to be consistent with the Standards, and thereby, not exempt from CEQA.

Page 7, top and bottom paragraphs. This section and others make the statement that this

residence is a contributing structure, not a Landmark structure. *This statement is not relevant as the historic review requirements are the same for both types of structures.*

Third paragraph, Policy 4, Guidelines 4.1 Response.” This states that “the wood windows that [are] proposed for replacement are not highly visible from the street.” The HPRC disagreed with this statement as the windows can easily be seen from the public right-of-way.

Last paragraph, Policy 4, Guidelines 4.3 Response. The response does not address the policy, which states that “Wood window sash is preferred for historic buildings. Vinyl clad wood or factory finished (i.e., baked enamel) aluminum frames are acceptable if the original design can be duplicated.” The response again states that the structure is not a Landmark, which is not relevant and then goes on to state that the “features of the structure that are listed as character defining include the arched porch openings and the stucco exterior.” First of all, the DHCP is outdated and not consistent with the Secretary of the Interior Standards as it was produced prior to the publication of the Weeks and Grimmer interpretation of the Standards. This is one reason that the HPRC created a written window policy and referred applicants and staff to the Standards themselves. Secondly, according to federal Preservation Brief 9 and standards used across the country, windows are nearly always character-defining features. I cannot imagine a circumstance in which original windows on the front facade of a building were not considered to be a character-defining feature. The architectural historian hired by the City to complete the last historic building survey did not include all mundane possible character-defining features and just because items such as windows, doors, and roof lines are not listed does not mean that they are not character-defining.

The Department of the Interior, National Park Service, Technical Preservation Services , Preservation Brief 9, states that “After all of the factors have been evaluated, **windows should be considered significant to a building if they:** 1) are original, 2) reflect the original design intent for the building, 3) reflect period or regional styles or building practices, 4) reflect changes to the building resulting from major periods or events, or 5) are examples of exceptional craftsmanship or design. In this case, at least 1, 2, and 3 apply to this building. The conclusion of this Brief states, “Technical Preservation Services recommends the retention and repair of original windows whenever possible. We believe that the repair and weatherization of existing wooden windows is more practical than most people realize, and that many windows are unfortunately replaced because of a lack of awareness of techniques for evaluation, repair, and weatherization. Wooden windows which are repaired and properly maintained will have greatly extended service lives while contributing to the historic character of the building. Thus, an important element of a building's significance will have been preserved for the future.”

Page 8, Consistency with the Secretary of the Interior's Standards. This states that “The proposed project is consistent with the Secretary of the Interior's Standards.” However, the HPRC found that the replacement of the wood windows with vinyl windows were not consistent with the Standards. The staff report itself wavers from either saying that windows aren't character-defining and therefore not important to an analysis of alterations

proposed to a historic building or says that the replacement of the windows is consistent with no real analysis to support that statement.

Page 8, Conclusion. This states that “The HPRC concluded that even though the three front windows were less prominent and were not character defining that they should not be changed.” Nothing can be further from the truth. The HPRC stated in many ways and citing many sources that windows are nearly always considered a character-defining feature. We have in fact had more than one discussion and even a workshop regarding windows and the Secretary of the Interior Standards. We have also attended outside workshops on the Standards and individually researched the Standards and how to apply them.

This paragraph further states that, “While no specific findings were made relevant to the denial of the front windows, the HPRC made following findings in approving the vinyl replacement for the two side windows...” I find this very confusing. As far as our one resolution and specific findings, the HPRC's entire vote was covered by one set of findings. The findings applies to the entire vote, to be more clear. The approved motion was:

1. The three wood windows on the front façade of the house are to be refurbished or replaced with new wood windows.
2. The Commission is encouraging the applicant to restore the one existing vinyl window on the front façade of the house back to its original condition, which was wood.
3. The remaining windows that can't be seen from the front of the house can be replaced with vinyl.

The findings regarding consistency with the standards, the DHCP, and the Municipal Code all applied to that motion and vote.

Page 8, last paragraph. This states that “Staff's recommendation to the HPRC was based on the *fact [emphasis added]* that the application is not proposing to change any of the character defining architectural features of the home, which include the stucco cladding and the arched porch openings. The windows are not listed as details of significance on the structure.” It is interesting to note that staff expresses its opinion as a “fact” while the finding of the HPRC is dismissed as being apparently unimportant and even irrelevant. *Again, windows are nearly always character defining features as described in the federal Preservation Brief 9 and countless other sources and considered as such in historic districts across California and the nation.*

Resolution. The Resolution provided appears to provide one for the Planning Commission for it to independently conclude that the replacement of the wood windows with vinyl windows are consistent with the Standards and, thereby, exempt from CEQA. As the Planning Commission as a whole has had little to no training on the Standards and applying them to historic buildings, I believe it is at a disadvantage. The second resolution appears to be that of the HPRC, as condition number 2 is a part of

the approval voted on by the HPRC in October and reads "This approval is granted on the condition that the three existing wood windows on the primary facade be restored and repaired, and if they cannot, these three wood windows shall be replaced with single-hung wood windows." I do not know if this is provided to the Planning Commission for informational purposes or in the event that it further approves the use of wood windows instead of vinyl. It is not clear to me why the HPRC section of the resolution is included in the resolution for the Planning Commission.

In conclusion, as a Certified Local Government (CLG), designated such by the state Office of Historic Preservation, Benicia is required to "enforce state or local legislation for the designation and protection of historic properties." The HPRC was created to achieve compliance with the requirements of the CLG program. Ordinance No. 05-01, also Chapter 2.56 of the Municipal Code, which created the HPRC describes its "powers and duties" under section 2.56.140. In that section, it states that the HPRC shall "Ensure that restoration, remodeling and new development complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the criteria contained in the General Plan and the criteria in the adopted Historic Plans for each district." HPRC members take their responsibilities seriously and make their decisions based on research and a rationale to be compliant with the law and consistent from one applicant to another in order to fulfill our duties per the Municipal Code and the state CLG program..

Sincerely,

A handwritten signature in cursive script that reads "Leann Taagepera". The signature is written in black ink and is positioned below the word "Sincerely,".

Leann Taagepera

What Replacement Windows Can't Replace: The Real Cost of Removing Historic Windows

WALTER SEDOVIC and JILL H. GOTTHELF

Sustainability looks even better through a restored window.

MATERIALS	EMBODIED ENERGY	
	MJ/kg	MJ/m ³
Aggregate	0.10	150
Straw bale	0.24	31
Soil-cement	0.42	819
Stone (local)	0.79	2030
Concrete block	0.94	2350
Concrete (30 Mpa)	1.3	3180
Concrete precast	2.0	2780
Lumber	2.5	1380
Brick	2.5	5170
Cellulose insulation	3.3	112
Gypsum wallboard	6.1	5890
Particle board	8.0	4400
Aluminum (recycled)	8.1	21870
Steel (recycled)	8.9	37210
Shingles (asphalt)	9.0	4930
Plywood	10.4	5720
Mineral wool insulation	14.6	139
Glass	15.9	37550
Fiberglass insulation	30.3	970
Steel	32.0	251200
Zinc	51.0	371280
Brass	62.0	519560
PVC	70.0	93620
Copper	70.6	651164
Paint	93.3	117500
Linoleum	116.0	150930
Polystyrene Insulation	117.0	3770
Carpet (synthetic)	148.0	84900
Aluminum (recycled)	227.0	816700

NOTE: Embodied energy values based on several international sources - local values may vary.

Fig. 1. Comparative values of the embodied-energy levels of common building materials. Note that glass and aluminum (i.e., principal components of many replacement windows) are ranked among the highest levels of embodied energy, while most historic materials tend to possess much lower levels. Courtesy of Ted Kesik, Canadian Architect's Architectural Science Forum, Perspectives on Sustainability.

For all the brilliance reflected in efforts to preserve historic buildings in the U.S., the issue of replacing windows rather than restoring them remains singularly unresolved. Proponents on both sides of the issue may easily become frustrated by a dearth of useful data, as well as conflicting information, or misinformation, promulgated by manufacturers. Indeed, it often seems that many preservation practitioners and building owners remain in the sway of advertising claiming that the first order of business is to replace old windows. In the context of preservation and sustainability, however, it is well worth reconsidering this approach.

Sustainability and Authenticity

In considering alternatives to replacing historic windows, one needs to keep in mind two important elements: sustainability and authenticity. Sustainability (building green) and historic preservation are a natural marriage, so long as one remains mindful that sustainability is not just about energy conservation.¹ Preservation and sustainability involve myriad elements that can work in symbiotic and synchronized ways toward a favorable outcome. For example, preservation work is more labor- than material-intensive, which benefits local economies; natural ventilation afforded via operable windows can reduce the size of mechanical equipment, especially of air-conditioning; and salvaging historic materials, such as wood sash, obviates the need to harvest live trees and other natural resources for the manufacture of replacement units.

Similarly, retaining and celebrating authenticity is one key element of an exemplary preservation program. No one should take lightly the option of discarding authentic historic materials —

in this case, windows — without fully evaluating the consequences. Once authentic material is lost, it is lost forever. It does not matter how accurate the replacement window, it never reflects the nuances of the original.

Taking the Long View

Historic windows possess aesthetic and material attributes that simply cannot be replaced by modern replacement windows. Like preserving whole buildings, restoring historic windows is a solid step forward into the realm of sustainability. The present approach to sustainability, however, still too often focuses on new construction and issues such as “intelligent” windows and energy efficiency, while overlooking other important, holistic benefits of preserving historic windows, such as the following:

- Conservation of embodied energy (i.e., the sum total of the energy required to extract raw materials, manufacture, transport, and install building products). Preserving historic windows not only conserves their embodied energy, it also eliminates the need to spend energy on replacement windows. Aluminum and vinyl — the materials used in many replacement windows — and new glass itself possess levels of embodied energy that are among the highest of most building materials (Fig. 1).²
- Reduction of environmental costs. Reusing historic windows reduces environmental costs by eliminating the need for removal and disposal of existing units, as well as manufacture and transportation of new units. Also, many replacement units are manufactured with such materials as



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 ENERGY CENTER - ENERGY LOAN PROGRAM
 WINDOW REPLACEMENT WORKSHEET

BUILDING	LOCATION	DATE
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To estimate the savings of replacing existing windows with efficiency upgrades, the following information must be known:

- The U-Factor of the existing window (See U-Value table below).
- The U-Factor of the replacement window (See U-Value table below).
- The total area of the windows being replaced (square feet).
- The heating energy cost (\$/million Btu).
- The heating plant efficiency (in percent).

SAVINGS CALCULATIONS

1.	Enter the U-Factor of the existing windows.....	
2.	Enter the U-Factor of the replacement windows.....	
3.	Subtract line 2 from line 1.....	
4.	Add 0.86 to line 3.....	
5.	Enter the total area of the windows to be replaced.....	
6.	Multiply line 4 by line 5.....	
7.	Multiply 0.1 by line 6.....	
8.	Enter the heating plant efficiency (percent divided by 100).....	
9.	Divide line 7 by line 8.....	
10.	Enter the energy cost (\$/million Btu).....	

YEARLY SAVINGS

11.	Multiply line 9 by line 10.....	\$ _____ /year
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PROJECT COST

12.	Enter the total cost of the window replacement including material, labor and design.....	\$ _____
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SIMPLE PAYBACK

13.	Divide line 12 by line 11.....	_____ years
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WINDOW U-VALUE TABLE

Window System Type	U-Factor*
Single Glass.....	1.10
Single Glass with storm window.....	0.50
Single Glass, low E coating.....	0.91
Single Glass, low E coating with storm window.....	0.44
Insulating Glass (double glass).....	0.55
Insulating Glass (double glass) with storm window.....	0.35
Insulating Glass (double glass), low E coating.....	0.38
Insulating Glass (double glass), low E coating with storm window.....	0.32
Insulating Glass (triple glass).....	0.35
Insulating glass (triple glass) with storm window.....	0.25

* U-Factor values adapted from the 1985 ASHRAE Fundamentals Handbook.

MD 766-1363 (5-98)
DNR/TAREGV 3.5 (5-98)

Fig. 2. Many excellent worksheets are available for calculating payback of replacement windows; this one is produced by the Missouri Department of Natural Resources. Results of payback calculations often reveal grossly overstated claims. Courtesy of the Missouri Department of Natural Resources.

vinyl and PVC, whose production is known to produce toxic by-products. So, while energy savings is green, the vehicle toward its achievement — in this case, replacement windows — is likely to be the antithesis of green.³

- Economic benefits. Restoration projects are nearly twice as labor-intensive as new construction, meaning more dollars spent go to people, not materials. This type of spending, in turn, has the beneficial effect of producing stronger, more dynamic local economies.⁴
- Ease of maintenance. “Maintenance-free” is a convenient marketing slogan; many replacement windows, in reality, cannot be maintained well or conserved. Vinyl, fiberglass, sealants, desiccants, and coating systems all degrade, and they are materials that remain difficult or impossible to recycle or conserve.⁵
- Long-term performance. While manufacturers’ warranties have been lengthened in the past few years (they are now generally from 2 to 10 years), they still pale in comparison to the actual performance life exhibited in historic windows, which can reach 60 to 100 years and more, often with just minimal maintenance.

Clearly, sustainability takes into account more than just the cost of energy savings. It also promotes salient social, economic, and environmental benefits, along with craftsmanship, aesthetics, and the cultural significance of historic fabric. Still, the issue of energy savings is often used to justify replacement over restoration, but just how valid is this argument?

Energy Savings

If the foremost goal for replacing historic windows is energy savings, beware of “facts” presented: they very likely will be — intentionally or not — skewed, misinformed, or outright fallacious. Window manufacturers universally boast about low U-values (the measure of the rate of heat loss through a material or assembly; a U-value is the reciprocal of an R-value, which is the measure of resistance to heat gain or loss). For example, U-values are often misleadingly quoted as the value for the entire window unit, when in fact it is

the value through the center of the glass (the location of the best U-value), not that of the sash nor the average of the entire unit.⁶ To be sure that data are being presented appropriately, request the U-values published by the National Fenestration Rating Council (NFRC), which rate whole-window performance.⁷

When U-values are offered for the entire window assembly, they often are significantly worse (i.e., higher) due to infiltration around the frame and rough opening.⁸ In cases where replacements tend to warp and bow over time (and they do), this factor becomes ever more crucial.⁹ It is also important to watch for comparative analyses: some replacement-window manufacturers compare their window units to an “equivalent” single-pane aluminum window. Clearly, this is an inappropriate analogy since these types of windows are not likely to be found in a preservation context.

Infiltration of Outside Air

Infiltration of outside air — rather than heat lost through the glass — is the principal culprit affecting energy; it can account for as much as 50 percent of the total heat loss of a building.¹⁰ When retrofit windows are installed over or within the existing window frame, the argument for preservation already exists: restoring the integrity of the fit between the frame and building wall should be the first component of a preservation approach.

Sash pockets, pulleys, and meeting rails are areas prone to air infiltration in double-hung units. Yet, several weatherproofing systems for existing windows can overcome these heat-sapping short circuits.¹¹ Replacement-window manufacturers themselves admit that even among replacements, double-hung units present the greatest challenges for controlling heat loss because infiltration occurs most frequently at sash-to-sash and sash-to-frame interfaces, which are highly dependent on the quality of the installation.¹² The energy efficiency of restored windows incorporating retrofit components (weatherstripping and weatherseals combining pile, brush, bulb, or “Z” spring seals) can meet and even exceed the efficiency of replacement units.¹³ This approach is suggested as the first alternative among green-building advocates.¹⁴

Payback

Focusing on windows as the principal source of heat transfer may lead to the conclusion that windows are more important than, say, insulating the attic, foundation, or walls. While data vary somewhat, up to 25 percent of heat may be lost through doors and windows.¹⁵ But when the aforementioned potential 50 percent loss through infiltration is taken into account, the total effective percentage of heat loss attributed to the window units themselves would be only 12.5 percent. That is a relatively small percentage for a potentially large investment, especially when other options are available.

In actuality, typical window-replacement systems offer payback periods that are often nowhere near manufacturers’ claims: the payback of a typical unit could take as long as 100 years (Fig. 2).¹⁶

Heat Loss/Heat Gain

Heat loss is often discussed, but what about heat gain? In summer, heat gain can add significantly to the energy costs associated with cooling a building.¹⁷ Long waveforms within the daylight spectrum that enter through the glass must be able to exit, or else they degrade to heat that then must be overcome by the building’s cooling system.¹⁸ Low-emittance (“low-e” or “soft low-e”) glass handles this task best, improving thermal performance by virtually eliminating infrared (long-wave) radiation through the window.¹⁹ It accomplishes this task by allowing short-wave radiation through and reflecting long-wave heat back to its source, while at the same time providing an appearance that is virtually clear.²⁰

Low-e glazing can be substituted into existing units that are only single-glazed and still achieve important energy savings. Single-pane low-e glass can provide a virtually equivalent level of combined energy savings as a standard new double-glazed unit when used in concert with an existing single-paned sash (e.g., as a storm or interior sash).²¹ Replacing panes of glass, then tightening up the sash and frame, is a very simple and cost-effective way to achieve the desired whole-assembly U-value without having to modify visible light, mullions, or sash weights.²²

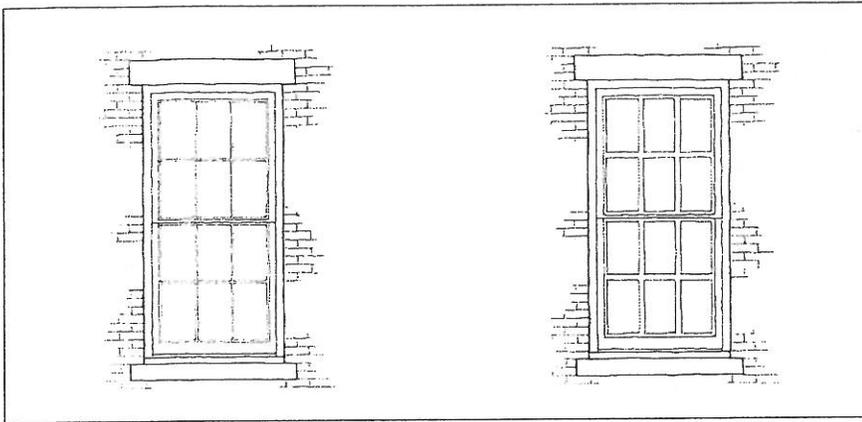


Fig. 3. At left is a drawing of a typical late-nineteenth- to early-twentieth-century six-over-six, double-hung window. At right is a modern "equivalent" replacement. The considerably thicker mullions and frame of the replacement unit (necessitated by the use of insulated glass) result in a nearly 15 percent reduction of visible light and views. Drawing by Walter Sedovic Architects.

Insulated Glass

Replacement windows nearly always incorporate insulated glass (IG) units. The effectiveness of an IG unit is greatly dependent on the depth of the airspace between inner and outer panes, as well as on the nature, type, and amount of desiccant and seals employed around the unit perimeter.²³ While manufacturing techniques for IG units have continued to improve, when IG units fail, they are difficult and time-consuming to replace.²⁴

The additional weight and thickness of IG units preclude their use as retrofits in historic sashes of either wood or metal. Indeed, to compensate for their heft, virtually all IG replacement window mullions, sash, and frames are bulkier than their historic counterparts. The result is that visible daylight levels are reduced by 15 percent or more and views are interrupted.²⁵ Reducing daylight and negatively affecting views are explicitly not consistent with a sustainable approach (Fig. 3).

Laminated Glass as an Alternative

Laminated glass remains an often-overlooked alternative to IG units, perhaps because of the industry's focus on marketing it as "safety" glass. While laminated glass cannot compete with technologically advanced, complex IG units, it does offer enhanced U-values for monolithic glass without having to materially alter the mullions of the historic sash into which it is being fitted.²⁶ It is important to recognize,

though, that a U-value is not the only criterion that determines the relative thermal efficiency of a window. Solar and light transmittance also affect performance, and they may be benefit when low-e laminated glass is selected.²⁷ The benefits of laminated glass, though, go much further when considered part of a comprehensive program to restore and thermally upgrade historic sash:

- Laminated glass offers significantly higher levels of noise abatement than IG.
- Historic glass may be laminated, offering energy and noise benefits while maintaining an authentic finish.
- Laminated glass is far easier and less expensive to procure and install and allows for field cutting.
- It offers superior safety and security features.
- Laminated glass may be equipped with low-e glazing to help offset heat gain.
- Historic sash, both metal and wood, can be outfitted with laminated glass without modifying or replacing mullions and frame elements (something that would be required by the installation of significantly thicker IG units).
- Condensation is reduced as a result of the internal thermal break of laminated glass.
- A variety of features (UV protection, polarization, translucency, etc.) can be incorporated as layers within laminated glass. Efforts to achieve the

same results in IG units through the use of applied films (as opposed to an integral layer within the glass) has been shown to greatly reduce the life of double-glazed units by inhibiting the movement of their seals.²⁸

Performance and Material Quality

A hallmark of sustainability is long-term performance. Intrinsic within that premise are issues about material quality, assembly, and conservability. As noted above, some material choices (e.g., PVC) incorporated into replacement-window units are inherently not able to be conserved.²⁹ When the material degrades, it then becomes necessary to replace the replacement.³⁰

One of the great virtues of historic windows is the quality of the wood with which they were constructed. Historic windows incorporate both hardwoods and softwoods that were often harvested from unfertilized early-growth stock. Such wood has a denser, more naturally occurring grain structure than what is generally available today from second-growth stock or fertilized tree farms. Also, historically, greater concern was given to milling methods, such as quarter- or radial sawing. The resulting window performs with greater stability than its modern counterpart. This alone has far-reaching benefits, from minimizing dimensional change, to holding a paint coating, to securing mechanical fasteners.

No amount of today's staples, glue, finger-splices, and heat welds can match the performance of traditional joinery.³¹ Similar comparisons could be made of the quality of hardware employed in replacement windows, such as spring-loaded balances and plastic locking hardware; they cannot compete with the lasting performance and durability of such historic elements as pulley systems and cast-metal hardware.

Ease of Maintenance

For cleaning windows, traditional single- and double-hung windows are often outfitted with interior sash stops that may be removed readily, allowing for full access to the interior and exterior, as well as to the pulley system. Both casement and pivot windows are inherently very easy to clean inside and out.

Replacement windows incorporating tilt-in sash — a feature that on its surface appears enticing — require that there is no interior stop, increasing the potential for air infiltration around the sash. Compressible jamb liners that allow for the tilt-in feature are often constructed of open-cell foams that, once they begin to degrade, lose both their compressibility and sash-to-frame infiltration buffer.

The ability to readily disassemble historic wood windows also allows for selectively restoring, upgrading, and adapting individual components of a window throughout its life. Most replacement-window systems cannot make that claim.

Aesthetics and Authenticity

Nuances in molding profiles, shadow, line, and color of windows, along with quality and appearance of the glass, contribute greatly to the overall building aesthetic and generally emulate the stylistic details of the building as a whole. Even what might seem like small changes in these elements can and does have a noticeable and usually detrimental effect on many historic facades. Outfitting historic buildings with modern replacement windows can and often does result in a mechanical, contrived, or uniformly sterile appearance. Worse, when historic windows are replaced, authenticity is lost forever.

Value and Cost

Repairs of historic windows should add to the value of the property, as an authentically restored automobile would command greater value than one “restored” with plastic replacement parts.

While there is a dearth of cost-comparative analyses between a replacement window and its restored, authentic counterpart, empirical knowledge based on field experience covering a wide variety of window types suggests that restoration is on a par, cost-wise, with a middle-of-the-road replacement. Corollary conclusions are that:

- cheap replacement windows will always exist to superficially counter the cost-basis argument for restoration; and

- high-quality equivalent replacement units have been shown in practice to cost as much as three times that of restoration.

Windows are a critical element of sustainability, but sustainability is not just about energy. It is about making environmentally responsible choices regarding historic windows that take into account the spectrum of associated costs and effects. The choice of whether to replace or restore requires embracing a more encompassing definition of sustainability. The answer is not as simplistic as some would have us believe.

WALTER SEDOVIC, the principal and CEO of Walter Sedovic Architects, works in historic preservation and sustainable design. His work and firm are recognized for integrating green-building approaches and ideologies into preservation projects.

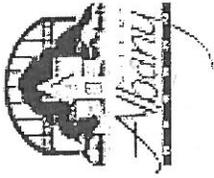
JILL H. GOTTHELF is an associate at Walter Sedovic Architects, providing project management, design, and construction administration. She has extensive experience in integrating sustainable building technologies into preservation projects.

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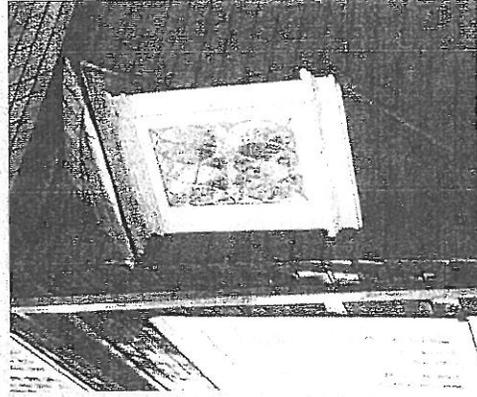
Albany's Landmark Advisory Commission

The Albany Landmarks Advisory Commission (LAC) was established by the City Council in 1979. The seven-member commission is appointed by the Mayor and selected from the local citizenry. LAC's purpose is to "safeguard the city's historic and cultural heritage; foster civic pride in the beauty and noble accomplishments of the past..." Through the City's preservation program, the LAC and City staff provide assurance to district residents that work done in their neighborhoods will be compatible with the historic character and architectural styles. As part of this goal and per the Secretary of the Interior's Standards, the LAC does not allow windows to be replaced on buildings listed on the Local Historic Inventory with vinyl or vinyl-clad windows. Vinyl or vinyl-clad windows are allowed on new construction, subject to LAC approval.



Landmarks Advisory Commission

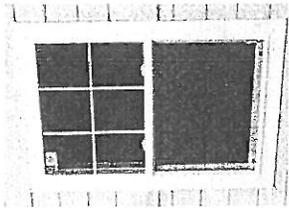
WHY SAY "NO" TO VINYL WINDOWS?



Landmarks Advisory Commission

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Albany OR 97321
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Why Say "No" to Vinyl Windows?



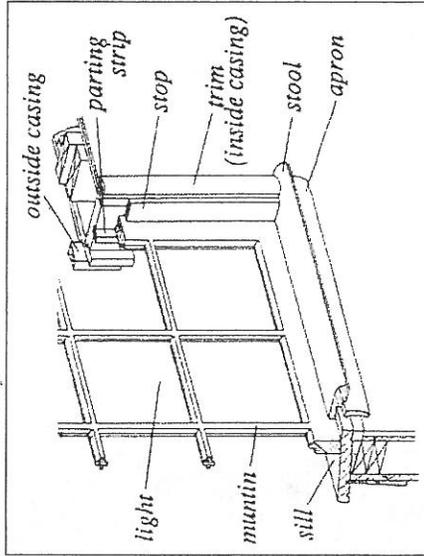
Since vinyl windows became available in the mid-1980s, property owners have seen them as an inexpensive and maintenance-free way of replacing their tired, old wood windows. Eliminate all drafts, save on your heating bill, make your house look like new — why would anyone say "no"?

The first thing to remember is that a vinyl window salesperson is selling vinyl windows. They are not in the repair business. He or she is not going to tell you that your windows can be repaired — he or she is selling vinyl windows. The sales pitch is not going to include any of the drawbacks to vinyl windows, only the pluses.

Second, there is no such thing as a maintenance-free house. Here are some reasons why not to replace your wood windows with vinyl:

- ▶ Vinyl windows are not going to solve your energy problems. There have been many studies on the energy efficiency of wood and vinyl windows. Based on an exhaustive 1996 study in Vermont, a "tight" wood window (meaning it doesn't rattle and is weather-stripped) with a storm window will be as energy efficient as a vinyl thermo-pane window.
- ▶ Windows account for about 20% of a home's heat loss. Insulating your attic and walls is a far better use of your money. Multiple layers of glass (i.e., thermo-pane windows) are a small part of the heat loss equation. Only a small percentage of a single-pane window's heat loss is through the glass itself. Air infiltration around a window accounts for the remainder, so tighten up those windows and plug the gaps.

- ▶ If you have wood windows in Albany, chances are they've been there 50, 100, or even 150 years. Why mess with success? If you do install vinyl windows, you'll often get a life-time guarantee. We guarantee that they'll last less than 25 years and the company that made them will no longer be around. All windows expand and contract with temperature changes; however, vinyl expands more than twice as much as wood and seven times more than glass. Their seals will eventually fail, the desiccant will evaporate, and the windows will fog. The window may last for life, but its practical life will be much shorter.



- ▶ The energy savings realized by replacing single-pane windows with vinyl windows seldom justifies the replacement cost. Have Pacific Power do an energy audit on your house and see how many pennies you can save a month by replacing all your windows. It can easily take decades to recover replacement costs and with an average life of 25 years or less, vinyl windows hardly make good economic sense.
- ▶ In a historic neighborhood, if there are seven houses on a block with original wood windows and the eighth house has vinyl windows, the value of the house with vinyl windows is going to suffer. People pay for integrity in historic districts. Original wood windows are important architectural features in any historic building. They show craftsmanship and detail that cannot be achieved in vinyl.

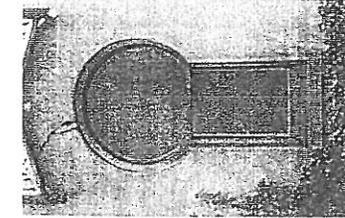
- ▶ Wood windows are sustainable. Your wood windows have already been created. The energy to produce them has already been expended. They are made of materials natural to the environment and are renewable. Vinyl windows are created through a toxic petroleum manufacturing process, are unrepairable, and are harmful to the environment when they are inevitably thrown away.

- ▶ The manufacture of polyvinyl chloride (PVC) is one of the most toxic production processes there is. Dioxin is formed when PVC is manufactured and when it is burned. Dioxin is a carcinogen and among the most toxic chemicals known. Firefighting has become a serious problem at vinyl-encased homes. Fortunately, the windows are not toxic while they are being used, but they are toxic to produce and toxic to dispose of.

Additional Information

For more information concerning window restoration or any topic dealing with historic building ownership, please contact the planner in charge of Albany's Historic Preservation program. They can give advice and direct you to additional information.

For online readers, the best source for repairing historic wood windows is National Park Service Brief #9 available at www.cr.nps.gov/hps/tps/briefs/brief09.htm



And for those who like books, *The Old-House Journal Compendium* has a terrific section on historic window repair. As the title says, it's a compendium of sage advice and instruction from years of *Old-House Journal* articles. The window section fully covers terminology, maintenance, restoration, and energy efficiency.

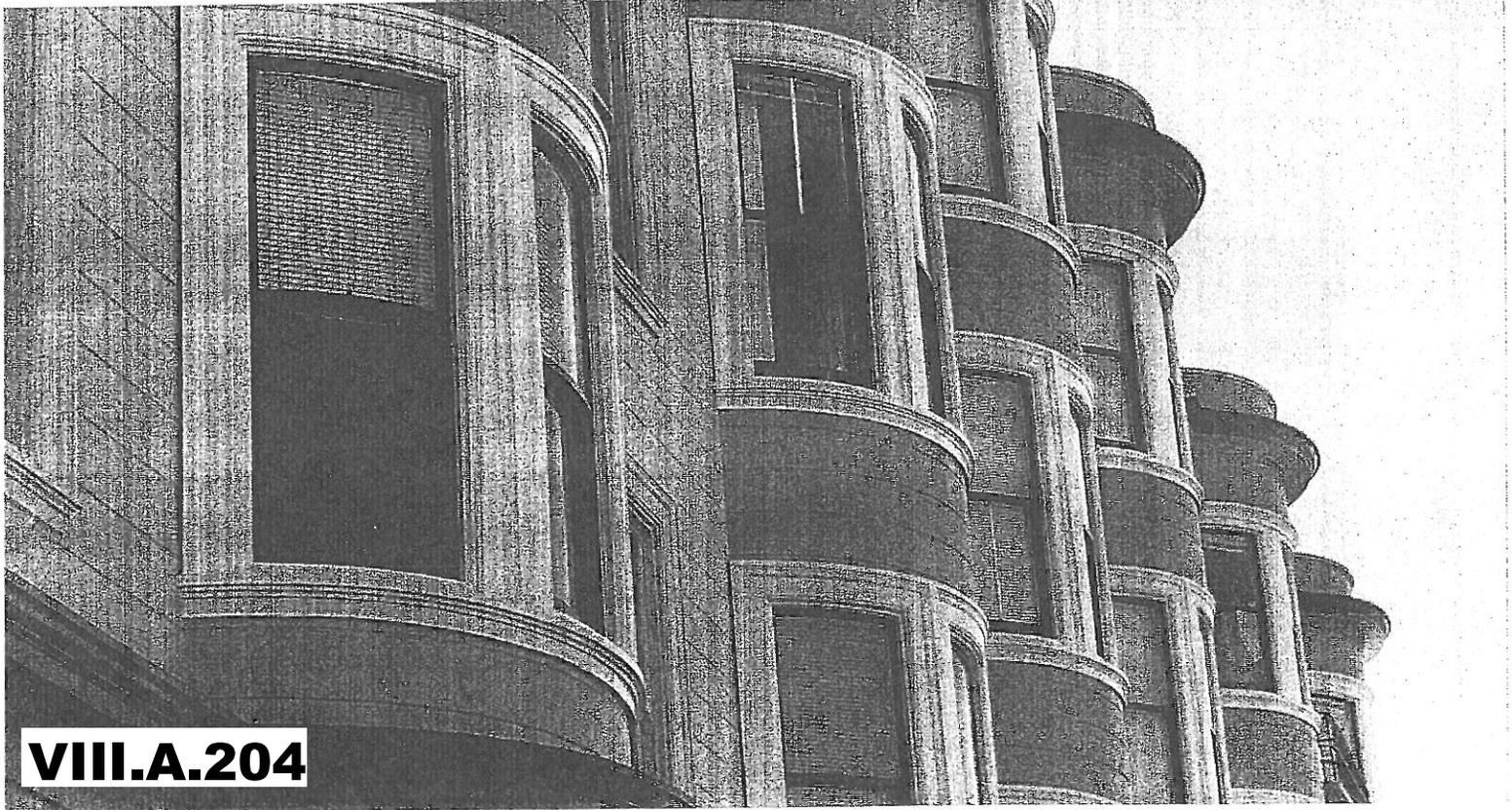


SAN FRANCISCO
PLANNING
DEPARTMENT

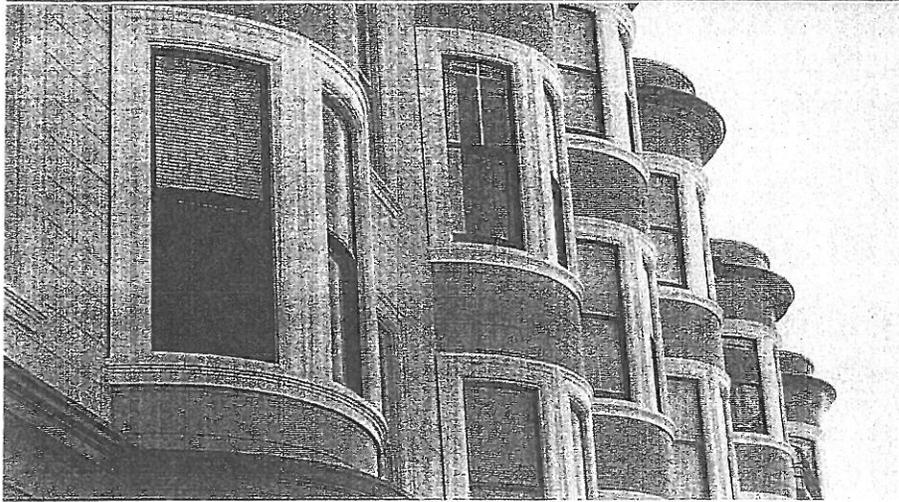
Standards for **Window Replacement**

A GUIDE TO APPLYING FOR
A WINDOW REPLACEMENT PERMIT

SAN FRANCISCO PLANNING DEPARTMENT | APRIL 2010



VIII.A.204



ORGANIZATION:

This document is divided into two sections:

Frequently Asked Questions Regarding Window Replacement

How to Apply for a Window Replacement Permit

Windows are an integral part of the design and character of most buildings, and choosing appropriate replacement windows is frequently a critical aspect of any rehabilitation project. Along with the need for energy conservation, the various window systems available today can overwhelm an owner in selecting the appropriate treatment for window re-placement. Windows located on primary – the front or visible elevations – traditionally feature a higher degree of detail and ornamentation than windows located on secondary – the side or rear elevations. With such a variety of different window shapes, muntin profiles, methods of operation and configurations, seemingly minor changes can seriously damage or alter the appearance of a building, or overall neighborhood character. The Planning Department recognizes this challenge and has developed *A Guide to Apply for a Window Replacement Permit*, which also includes a list of frequently asked questions.

The San Francisco General Plan, the Planning Code's Priority Planning Policies and the Residential Design Guidelines each call for protecting and enhancing neighborhood architectural character citywide. Since their revision in 2003, the Residential Design Guidelines set window requirements for all buildings within a Residential Zoning District (Page 46). To clarify the Department's policy and serve as an additional guide to answer frequently asked questions in regard to window replacement and neighborhood character, the Department developed this *Window Replacement Standards* handout. This document

also answers questions regarding what materials are required to be submitted to review a permit application for the repair, rehabilitation, restoration, or replacement of windows in San Francisco. Please note that rehabilitation and alteration standards for the preservation of designated City Landmark properties, including contributing buildings in historic or conservation districts, are contained in Articles 10 and 11 of the Planning Code.

This document hereinafter represents the San Francisco Planning Department's policy in regards to this type of work and is based on the following principles:

1. Windows that are seen from the street or other public right-of-ways are an important part of neighborhood character as well as the individual architectural character of a building.
2. If replacement windows are proposed for any type of structure, the new windows visible from the public rights-of-way should be compatible with both the character of the neighborhood and the subject building in terms of size, glazing, operation, finish, exterior profiles and arrangement.
3. Historic windows and character-defining window features on architecturally significant structures should be retained and repaired wherever possible.

REMINDER:

Do not purchase replacement windows before confirming with the Planning Department that the windows can be approved. The Planning Department will not approve inappropriate replacement windows, even if they have already been purchased or installed.

Frequently Asked Questions Regarding Window Replacement

The information listed below can assist an owner in determining what replacement windows are appropriate for their property. If replacement is necessary, thoroughly document and investigate the structural and architectural detailing of the window and seek appropriate professional consultation. At any time, a Planner located at the Planning Information Center (PIC) can answer questions regarding window replacement. The PIC may also be reached by phone at 415-558-6377. For more information, please also review the How to Apply for a Window Replacement Permit Handout & Checklist.

Q DO I NEED A BUILDING PERMIT TO REPLACE WINDOWS?

ALL replacement windows that are visible from a street or other public right-of-way require Planning Department review. This includes:

- Windows on the primary elevation (commonly the street façade of the building). Please note that corner buildings are considered to have two primary elevations.
- Windows on the side of a building or in a visible recessed area near or next to the street.
- Windows on a back wall that can be seen from the street or another public right-of-way.

Q CAN I REPLACE HISTORIC WINDOWS WITH VINYL, FIBERGLASS, OR ALUMINUM WINDOWS? CAN'T I GET VINYL OR ALUMINUM WINDOWS THAT LOOK VIRTUALLY THE SAME FROM THE STREET AS WOOD PAINTED WINDOWS?

Wood windows were originally installed on the majority of residential buildings constructed up until World War II. In San Francisco, where most buildings are viewed at close range from the street, the differences between wood windows and substitute materials are almost always easily detectable. Particularly with older buildings, these alternate materials usually stand out visually, and rarely match the character of the neighborhood. They always look like what they are: plastic or aluminum – materials that are not architecturally compatible with the building.

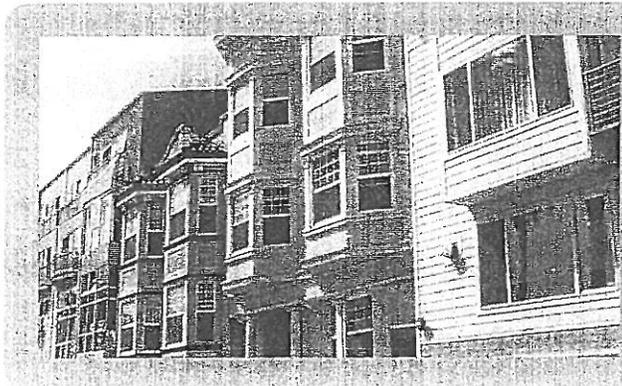
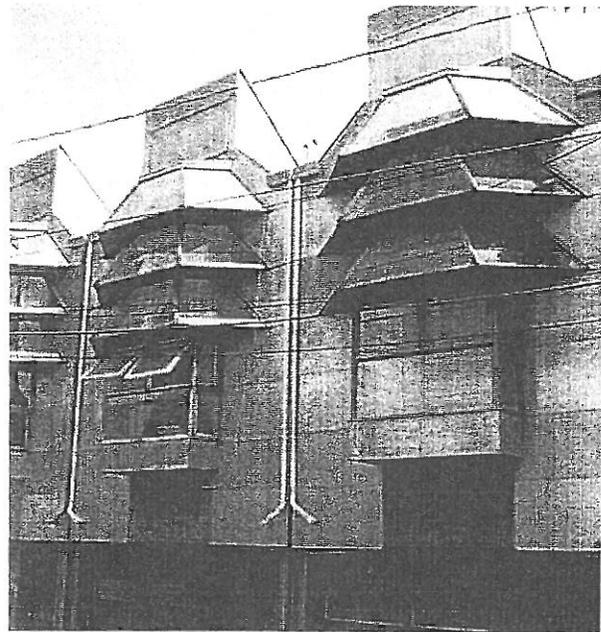


Vinyl, fiberglass, and aluminum windows almost never look similar to painted wood windows for a number of reasons. The primary reason is that these windows have a flat appearance and their exterior profiles, depth, and dimensions are not designed to match the dimensions of most common wood window sashes and moldings. In addition, windows of substitute materials have very little or no reveal between the face of the sash and the glass, have visible seams, have multi-faceted tracks, and in some windows the upper sash is often larger than the lower sash. Furthermore, most aluminum or vinyl windows cannot be painted, come in limited colors, and have an overall finish that is inappropriate to the overall character of the building and the neighborhood.

Another significant difference is that vinyl, fiberglass, and aluminum windows often do not have an important detail that is common on most older wood windows: the Ogee (*pronounced Oh-jee*) lugs at the bottom of the top sash (also called the meeting rail) of a double-hung window. These details are considered an important character-defining feature of older wood windows. (Please refer to the parts of a window diagram on page 8 for more information on the location and design of ogee lugs).

However, some manufacturers have recently begun producing better quality aluminum windows that come in a variety of colors and profiles. From a distance these windows can appear similar to wood painted windows. If proposed, these windows will be evaluated on a case-by-case basis.

Need another reason? Authentic wood windows (or, in the case of some early 20th century buildings, steel casement windows) add the appearance of warmth and beauty to the interior and exterior of a residential or commercial building, where the appearance of alternative materials commonly appears foreign to the interior architectural design. Using architecturally appropriate windows will enhance the property value of your building by improving its appearance inside and out.



Take a Look Around

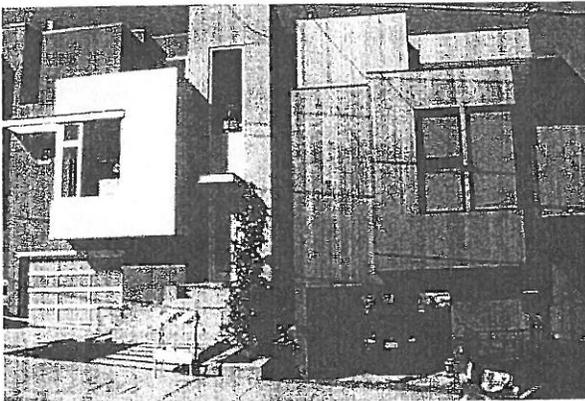
If you have any doubts about the difference in appearance between vinyl, fiberglass, or aluminum, and painted wood windows, take a walk around your neighborhood and notice the buildings that have wood windows and compare them to the ones that have used substitute materials (many of them installed without benefit of a permit or before the current window replacement standards). You will easily notice differences in the profile and depth of the window. The older and more elaborate the architectural style of the building, the more likely new vinyl, fiberglass, or aluminum windows will look out of place.

2 DON'T WOOD WINDOWS COST MORE AND REQUIRE MORE MAINTENANCE, AS OPPOSED TO VINYL AND ALUMINUM WINDOWS?

It depends. The highest quality custom-made wood windows by major manufacturers may be more expensive than windows of other materials. But there are a number of manufacturers and local craftsmen that produce quality, double-paned, architectural grade, painted wood replacement windows that are competitive in price and also provide the beauty and authenticity that only comes with real painted wood sashes and assemblies.

Also, while it is often desirable to have all wood replacement windows in your building or house, in many cases, you may choose to use replacement windows of a substitute material in light wells or rear facades that are not visible from the street or other public right-of-ways. The only instance when a property owner may be required to use historically appropriate windows on all elevations is when the subject property has been determined to have historic significance. Examples of these properties are those identified as part of Article 10 or 11 of the Planning Code or as an eligible historic resource for the purposes of the California Environmental Quality Act (CEQA).

In terms of maintenance, wood windows do require painting every five to ten years, depending on their location, sun exposure, water exposure, paint quality, priming, wood quality, etc. Although vinyl and aluminum windows do not require painting, they are



REMINDER:

If you are required to use wood windows on the visible elevations you are often able to use replacement windows of a substitute material in light wells or rear facades that are not visible from the street or other public rights-of-way.

rarely maintenance free, and economy grade vinyl and aluminum windows can fail within a few years. Finishes on vinyl and aluminum can deteriorate through UV exposure, oxidation, and denting. Quality wood windows can last *indefinitely*, depending on maintenance and the quality of wood used. Double-hung painted wood windows can also be installed with metal or vinyl tracks, making them easier to open and close as they age.

2 WHAT ABOUT WOOD WINDOWS THAT HAVE VINYL, FIBERGLASS, OR ALUMINUM CLAD EXTERIORS?

For clarification, a clad window is part of a window system that is primarily constructed of wood but has an additional material, such as aluminum, applied to the exterior face for maintenance purposes. Generally, clad windows are not appropriate, especially on older residential and commercial properties. However, in some instances they may be acceptable, and if proposed, shall be reviewed on a case-by-case basis. Most clad window products do not have Ogee lugs, which are an important feature of older double-hung wood windows. In addition, a true divided light option is not offered for clad windows by any manufacturer. Another issue with vinyl-clad window systems is that they often show seams, as some of these windows are clad with vinyl strips on the outer surface. Aluminum and fiberglass finishes can come in a variety of colors and often have a finish that more closely resembles a painted surface.

There are a number of windows constructed of substitute materials on the market today that strive to match the styles and profiles of historic windows. The Planning Department is always open to reviewing any new products for compatibility with older properties. A quick way to get a initial feedback on a new product is to bring the manufacturer's specification sheet to the PIC for a planner to review. In some cases, the Planning Department may consider approving clad replacement windows that are visible from the street or other public rights-of-way if their architectural compatibility can be adequately demonstrated in terms of overall, size, glazing, operation, finish, exterior profiles, and arrangement.

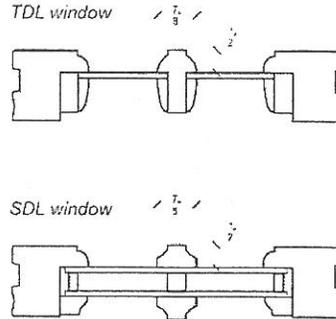
SOME INFORMATION REGARDING SIMULATED DIVIDED LITE (SDL) WINDOWS.

Older windows are often made up of two sashes that include smaller panes of glass. These windows are referred to as "divided-lite windows." The panes of glass are separated by thin wood members, or moldings referred to as a "muntin." A true divided-lite (TDL) window is defined when the muntin separates individual panes of glass. Most TDL windows are single-paned; however, a simulated divided-lite (SDL) window often contains an insulated unit of glass with an applied exterior grid that mimics the appearance of a divided-lite window. The majority of simulated divided-lite windows do not accurately reflect the depth and the profile of a true divided-lite window.

If a property owner chooses to use an SDL window to replace a window that has true divided lites, then the replacement window must meet all of the following criteria to be considered for Planning Department approval. Please note that the Planning Department has the discretion to prohibit the use of SDL windows when the existing windows to be replaced are determined to be architecturally unique or considered to be an example of outstanding craftsmanship. In these cases, the Planning Department may ask for the existing windows to be repaired rather than replaced.

Criteria for using SDL windows in place of TDL windows:

- The SDL must match the existing window muntin in profile and depth to the greatest extent possible. This width may vary; however, the most common width for a TDL window muntin is 7/8" including glazing putty on either side of the division. The SDL muntin must have a depth of at least 1/2".
- There should be an interior space bar, preferably of a dark color, within the insulated unit that visually divides the interior and exterior grilles.
- The SDL should be integral to the window sash – snap on grilles or grilles placed between an insulated glass unit are not permitted.



The differences between a true divided-lite (TDL) window and a simulated divided-lite (SDL) window can be seen in the illustrations at left. The muntin on the TDL window (top image) separates two individual panes of glass while the muntin on the SDL window (bottom image) is applied to the interior and exterior of the window without piercing the insulated glass unit.

REMINDER:

Simulated divided lite windows will not be approved for individually listed City Landmarks in Article 10 of the Planning Code on ANY elevation visible from a public right-of-way. Simulated divided lite windows will be reviewed on a case-by-case basis for contributors within Article 10 Districts or within and Article 11 Conservative District.

WHY SHOULD I LOOK INTO REPAIRING MY WINDOWS BEFORE REPLACING THEM?

Deterioration of poorly maintained windows usually begins on horizontal surfaces and at joints, where water can collect and saturate the wood. Wood windows, when repaired and properly maintained, will have an extended life while contributing to the architectural character of the building and the neighborhood. Property owners should conduct regular maintenance of window frames and sashes to achieve the longest life possible.

It's important to note that many wood windows constructed during the late 19th- and early 20th-centuries still perform very well and may not require replacement. This is largely due to the fact that these windows were constructed out of Heartwood or the center of tree. This durable old-growth wood is denser and more resistant to fungi, insects, and rot than wood farmed to manufacture windows today. For this reason always explore the possibility of repairing the historic windows on a building before replacing them. There are a number of professional window replacement companies who can help you determine if your windows can be repaired, or if some or all need to be replaced.

Be sure to evaluate ALL of the existing windows or hire a professional to conduct a conditions assessment to avoid spending money on windows that don't need replacement. It may be that only certain windows on your building need replacement, while some may only need repairs or other minor refurbishments, thus significantly reducing costs. One solution for replacing deteriorated windows on visible elevations is to consolidate other windows from the rear and sides of the building that are still in good condition and relocate them to the primary façade.

ENERGY CONSERVATION & SUSTAINABILITY.

Windows don't always require replacement in order to see and feel big results in reducing energy usage; however, energy conservation and sustainability is one of the primary reasons for replacing windows that are considered to be obsolete, particularly replacing single-glazed sashes with double-glazed sashes. Currently, most manufacturers' warranties for replacement windows are from 2 to 10 years; however, historic wood windows with minimal maintenance have a performance life of 60 to 100 years. Retaining and repairing existing windows also conserves embodied energy (i.e. the sum of the energy required to extract raw materials, manufacture, transport, and install building products). Replacement window materials – primarily aluminum, vinyl, and glass – possess some of the highest levels of embodied energy of all building materials.¹



Older windows are renewable and repairable; however, newer thermal windows are not repairable and once the dual glazing seals are broken, they must be totally replaced. While the advantages of double-paned windows are well known, a properly weather-stripped, single-glazed sash window can greatly reduce or eliminate air, noise and air infiltration (where most energy is lost). The cost of weather stripping is nominal when compared to the price of replacement windows.

Are you planning major renovation on a historic property?

The California Office of Historic Preservation (OHP) administers the 20% Federal Rehabilitation Tax Credit for California in partnership with the National Park Service pursuant to federal regulations (36 CFR Part 67). This federal program provides a dollar-for-dollar income tax reduction

credit equal to 20% of qualified rehabilitation expenditures on income producing properties that are certified historic structures. For more information regarding this program, please contact the OHP at 916-653-6624.

The Mills Act is designed to provide owners of both owner-occupied and income-producing property the opportunity to rehabilitate, restore, preserve and maintain "qualified historical properties" while

receiving property tax relief. The Mills Act provides for a potential 50 percent reduction in property taxes on "qualified historical properties" in exchange for the owner's agreement to maintain and preserve the resource in accordance with standards established by the Secretary of the Interior's Standards for the Treatment of Historic Properties. For more information on the Mills Act in San Francisco, please refer to San Francisco Planning Department Preservation Bulletin No. 8.

MY WINDOWS ARE BEYOND REPAIR AND NEED TO BE REPLACED. WHAT TYPE OF WINDOW IS ACCEPTABLE FOR MY PROPERTY?

If replacement windows are required due to deterioration, those that are visible from the street or other public rights-of-way should be replaced with windows that are appropriate to the time period your building was originally constructed. For example, if the building was originally constructed in 1908 with wood double-hung windows, then they should be replaced with wood double-hung windows with similar exterior dimensions. If the appropriate window type cannot be determined, then a window that is otherwise architecturally appropriate to the building and surrounding neighborhood character, in terms of style, material, visual quality, and detailing can be considered. For example, if the building was originally constructed in 1925 and currently has vinyl sliding windows but similar neighboring buildings from the same time period have their original steel casement windows, then the appropriate replacement window would be a metal casement window.

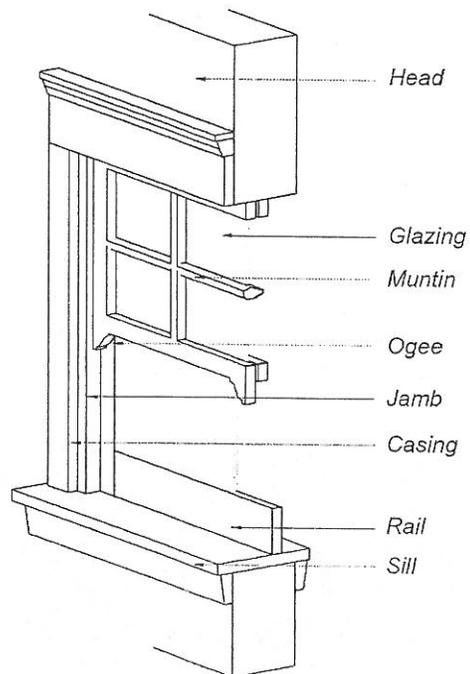
WHAT IS THE IMPORTANCE OF BRICK MOLDS AND OTHER EXTERIOR MILLWORK?

A brick mold is the exterior molding often used to trim the edge of windows in a masonry opening. On a wood frame building this window detail is referred to as millwork. A common practice when installing replacement windows is to replace only the sashes and cover the trim and framework around the exterior of the window with capping or panning to give the window a cleaner, "updated" look. This panning, whether vinyl, fiberglass, or aluminum, is used to cover over brick molds and other exterior millwork that frame the opening and makes up part of the exterior profile of the windows. The Planning Department will not approve replacement windows where these elements are covered or obscured from view. Wherever possible, all surrounding millwork or brick molds should be retained and left exposed. When replacement is required due to deterioration or missing elements, these elements should be replaced

in the original material, and a profile of the existing and proposed millwork should be included as part of the permit application drawings for review by Planning Department staff.

Mixing Window Types

Mixing window types and materials creates an inconsistent appearance to a building's facades. This issue becomes particularly important in dealing with condominium and apartment buildings. In general, the Planning Department will not approve partial window replacement for a building unless the replacement windows are meant to restore the windows to their historic configuration.



The axonometric drawing of a wood window above identifies the parts of a window system that most owners should be familiar with when applying for a window replacement permit.

2 WHO ARE SOME WINDOW MANUFACTURERS THAT SPECIALIZE IN HISTORIC OR OTHER ARCHITECTURAL GRADE REPLACEMENT WINDOWS?

As a city agency, the Planning Department cannot recommend the use of one manufacturer over another; however, a list of some commonly used window manufacturers or representatives can be obtained from the Planning Information Center (PIC) on the first-floor of 1660 Mission Street. The PIC may also be reached by phone at 415-558-6377.

If your building is protected under Article 10 or 11 of the Planning Code or is deemed an eligible historic resource, please contact the PIC for a list of the organizations that may help you find a product or manufacturer that best suits your needs.

2 WHAT SHOULD I DO FIRST IF I NEED TO REPLACE MY WINDOWS?

If replacement is necessary, thoroughly document and investigate the structural and architectural detailing of the window and seek appropriate professional consultation. Please refer to the following questions every applicant should review before applying for a permit to replace windows. At any time, a Planner located at the Planning Information Center (PIC) can answer additional questions regarding these standards and window replacement. The PIC may also be reached by phone at 415-558-6377.

APPLYING FOR A WINDOW REPLACEMENT PERMIT.

When applying for a window replacement permit, please bring as many of the applicable items on the How to Apply for a Window Replacement Permit as possible in order to ensure the most efficient review possible. There are a number of basic questions that a property-owner can answer when examining the windows proposed for window replacement.

2 MANY OF THE BUILDINGS IN MY NEIGHBORHOOD ALREADY HAVE VINYL, ALUMINUM, OR FIBERGLASS WINDOWS. WHY CAN'T I HAVE SIMILAR WINDOWS APPROVED FOR MY BUILDING?

There may be a number of reasons why a Planner may not approve vinyl, aluminum, or fiberglass windows for your building. The most common reason is that the windows in your own building and in adjacent buildings may have been installed before the revision of the Residential Design Guidelines in 2003 and the preparation of this document, Window Replacement Standards, August 2008. As the Planning Department strives to promote and enhance neighborhood character citywide, the Department acknowledges that windows may be inconsistent with the architectural features and the original design intent of older structures. In addition, it is possible that the

Basic Window Questions

- **What is the pattern of window openings and their size?**
(Irregular, Regular)
- **What are the proportions of the frame and the type of sash operation?**
(Double-Hung, Casement, Pivot, Slide, Hopper)
- **What is the configuration of the windowpanes?**
(2-over-2, 4-over-1, 6-over-6)

- **What (if any) are the muntin profiles?**
(Shallow, Deep, Simple, Ornate)
- **What is the material?**
(Wood, Steel, Vinyl, Aluminum, Fiberglass)
- **What are the characteristics of the glass?**
(Decorative, Wavy, Clear, Opaque, Translucent, Leaded)
- **Are there any associated details?**
(Decorative millwork, Brick Molds, Arched Tops, Window Surrounds or Hoods)



windows installed on adjacent buildings were done without the benefit of a permit or contrary to the scope of work outlined in the building permit.

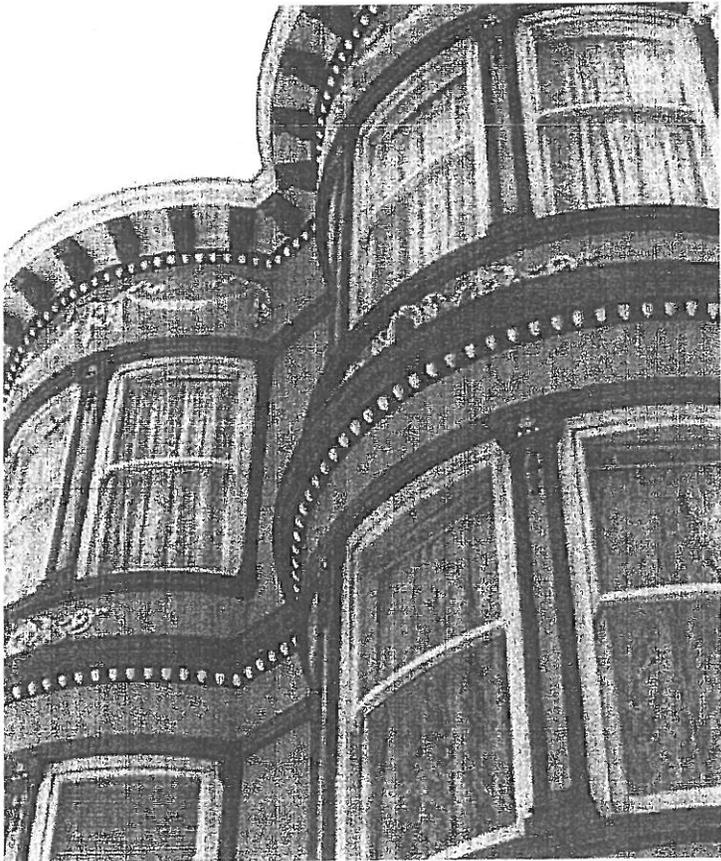
❓ THE PLANNER SAID THAT I HAVE TO REPLACE MY WINDOWS "IN-KIND." WHAT DOES THAT MEAN?

If a Planner has stated that you should replace your windows "in-kind" this means that a wood double-hung window should be replaced with a wood double-hung window or a metal casement window should be replaced with a metal casement window. All details must match, including muntin profiles and exterior millwork. Please note that replacing a double-hung wood window with a double-hung vinyl window is not "in-kind" replacement.

❓ HOW LONG WILL IT TAKE THE PLANNING DEPARTMENT TO REVIEW MY PERMIT?

- If windows are being replaced in-kind or on non-visible elevations and all the required materials for review are submitted, an over-the-counter approval can be issued at the Planning Information Center.
- If the windows are visible from the street and the new windows are consistent with the building's historic window type or compatible with the building and neighborhood character, planning approval will be over-the-counter at the Planning Information Center. Please note that in some instances window replacement on an Article 10 or Article 11 property must be approved by the Historic Preservation Commission or the Zoning Administrator.
- If installing a new window on a portion of the building that is visible from the street is desired, and the plans and photos are adequate, a planner will determine right away if the permit can be approved, or if it will require further design review.
- In some situations such as window replacement on a historic building, further review may be required. The window replacement permit application will be reviewed at the Planning Information Center and may be referred upstairs to a Preservation Technical Specialist for review.

How to Apply for a Window Replacement Permit



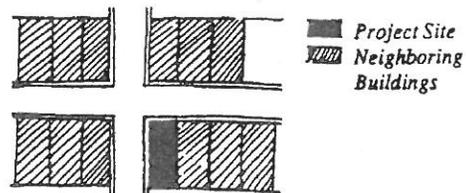
The Planning Department reviews each window permit application on a case-by-case basis. The following is a list of information that may be required to process an application to replace windows. Please note that buildings listed as City Landmarks or as contributors to a historic district as part of Article 10 of the Planning Code require a Certificate of Appropriateness for any exterior work. In addition, buildings listed under Article 11 of the Planning Code must also be reviewed for historic architectural compatibility by the Zoning Administrator. Either approval must be obtained before the building permit is issued. Please note that in some instances Planning Department staff may request additional information.

Where original or historic windows exist and replacement is proposed, please submit the information on the following checklist for review:

- Photographs of the overall building taken from the curb and streetscape photos of the immediate block. Also, include close-up photos of the different types of windows to be replaced, including any millwork or brick molds between windows and surrounding the window openings.
- A site plan or a clear aerial photograph showing your building and the walls of your neighbor's building on each side of you as well as overall photos of each elevation where the proposed window replacement is to occur.
- Please provide window details for the proposed windows (head, jamb, meeting rail, sill, etc.) with dimensions and showing exterior profiles including brick molds and surrounding exterior millwork. The Planning Department needs to know the materials, size, and appearance of both the existing and the replacement windows. The manufacturer's product sheet may have this information for the new windows. Please note that if historic windows are to be replaced then the replacement windows should match the existing windows in overall, size, glazing, operation, material, finish, exterior profiles and arrangement.
- If the existing windows have divisions (muntins) they may be replaced with either true divided light or simulated divided light (SDL) windows provided that the replacement windows match the historic size, glazing, operation, finish, exterior profiles and arrangement and the SDL windows meet the additional requirements listed in this document.
- If proposing to replace or change the profile of exterior millwork or brick mold, please submit details of the existing and proposed new millwork or brick molds with dimensions.

When the original or historic windows no longer exist, the owner has the option of retaining the existing window or replacing it with a compatible sash. For window replacement, please submit the information above for review, the following:

- Photographs of the neighboring buildings and their windows on each side of your building
- Photographs of the neighboring buildings and their windows immediately across the street
- For corner lots, bring photos of the subject building and the building's other three intersections, showing their windows closest to each corner.



A QUICK SUMMARY:

1. A building permit is required for ALL window replacements.
 - A permit is needed to replace windows regardless of their location on the building.
 - Failure to obtain a building permit may result in enforcement, fines and removal of windows installed without the benefit of permit.

2. DO NOT purchase windows until you have obtained a building permit for their replacement.
 - The Planning Department must review all permits for windows proposed for replacement that are visible from the street for architectural compatibility.
 - The Planning Department review applies to all buildings in San Francisco, not just historic buildings.
 - The Planning Department will not approve windows if it is determined that they are not architecturally appropriate, even if they have already been purchased and/or installed without benefit of a permit.

3. Evaluate what windows may only need repairing rather than replacing.
 - Survey all of the windows on your buildings to determine which ones actually need replacement.
 - Windows on eastern and northern facades often last longer and need less frequent replacement than windows with southern or western exposure.

4. Replacement windows should match the HISTORIC windows in size, glazing, operation, material, finish, exterior profiles and arrangement.
 - The Residential Design Guidelines, since their revision in 2003, have set requirements for windows for all buildings within residential zoning districts (P. 46).
 - If the historic window type cannot be determined, a window type appropriate to the building's architectural period and style should be used. A Preservation Technical Specialist can help in determining an appropriate window type.
 - Please refer to pages 44-46 of the Residential Design Guidelines for more information on determining what types of windows are compatible with the architectural character of the building.
 - Where visible from the street, aluminum and vinyl windows cannot be approved as replacements for windows that were originally wood.
 - The proposed use of Simulated Divided Lites (SDLs) will be reviewed on a case-by-case basis and must meet the criteria identified in this document.
 - Replacement wood windows that have vinyl, fiberglass, or aluminum clad exteriors will also be reviewed on a case-by-case basis.

5. All exterior trim and millwork must be left exposed.
 - The underlying trim and millwork must be left exposed and be repaired in place. If beyond repair, the trim and millwork must be replaced in kind.

NOTES

- 1 Walter Sedovic and Jill H. Gotthelf, "What Replacement Windows Can't Replace: The Real Cost of Removing Historic Windows", APT Bulletin: Journal of Preservation Technology, 36:4, (2005): 25.



SAN FRANCISCO
PLANNING
DEPARTMENT

FOR MORE INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: 415.558.6378
FAX: 415 558-6409
WEB: <http://www.sfplanning.org>

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: 415.558.6377

*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

Kathy Trinique - "What's Wrong with Vinyl Windows?"

From: <Saved by Windows Internet Explorer 8>
Date: 12/7/2011 4:49 PM
Subject: "What's Wrong with Vinyl Windows?"



"WHAT'S WRONG WITH VINYL WINDOWS?"

Vinyl windows have always been viewed as an inexpensive solution to replacing deteriorating, drafty-old wood windows. Property owners need to be aware that if you ask a vinyl window salesman if he thinks your windows are in bad shape and should be replaced, he of course, will tell you that they do. *He sells vinyl windows for a living.* He probably doesn't know how to repair wood windows, therefore, in his mind, they must be replaced.

Original wood windows are important architectural features in any historic building. They are the "eyes" of the structure. They convey a sense of hand-craftsmanship and detail that cannot be achieved with substitute materials. Usually windows are replaced if they begin having operational problems: they stick or rattle, latches break, glass is broken, sash cords break and the windows have to be held open with a stick, they let in too much outside air, or my personal favorite, they need to be painted. (Remember, there is no such thing as a "maintenance-free" building). These problems are the simplest, most cost-effective to fix. More often than not, windows can be pragmatically repaired, or just fine-tuned to operate correctly and last another hundred years. The following paragraphs will outline why vinyl windows are problematic.

The inherent problems with vinyl windows are many and varied; but by far the most insidious is this: once this "rip out and replace" cycle begins, it continues for the remainder of the building's life, especially when the original wood windows end up in the landfill. Here are just a few of the problems associated with vinyl windows, and why they're not "maintenance-free."

1. While it's true that they don't require painting (I don't think you could paint them if you wanted to), they are not a rigid material like wood, thus they shrink in cold weather, and expand in hot weather. What does this mean? For example, vinyl begins to soften and distort at 165 degrees Fahrenheit, which is a temperature that's easily reached in the space between a window and drapes on a sunny day (winter or summer). And though all windows expand and contract with temperature changes, vinyl expands more than twice that of wood. It expands seven times farther than glass with each degree of temperature. This can cause the seal between the vinyl framework and the glass to fail. The problem increases with the size of the window; the bigger the sash, the sooner it fails. Can a vinyl window be repaired? No.

2. Vinyl windows have only been around about 20 years. Will they survive for a hundred ? No one knows, but studies prove that many of these windows installed since the early 1980s are failing at an alarming rate. In 1996 there were fewer than ten major window manufacturers in the U.S.; but there were more than 3,000 different companies producing windows. Roughly half of the replacement windows sold in the United States are vinyl. Some come with a 10, 20 or 30 year, or even a lifetime warranty. Sometimes that warranty is not transferable to a new property owner. And, with so many manufacturers, when warranty time comes, will they still be around ?
3. A big selling point of vinyl windows is double or triple glazed (insulating) sash (two or three panes of glass). These units are manufactured with desiccant filled spacers between the glass panes and sealed on the outside with butyl rubber or silicone. All insulated glass units will eventually fail because no sealant stops all moisture penetration. Eventually the desiccant absorbs all it can, and the window becomes cloudy, forever. Conventional wisdom indicates that only marginal heat loss is recovered using insulated glass. As much as 85% of air infiltration (or heat loss) is *around* the edges of the sash, not through the glass. Energy savings realized by replacing single-glazed windows with insulated windows seldom justifies the replacement cost. Another study indicates it would take more than 50 years to recover the expense; and with an average expected life of 25 years or less, insulated glass units hardly make economic sense.
4. Two other small but significant points. The first is environmental: wood is a renewable resource, unlike vinyl, which is a petroleum product. The second is economics: do you need to spend the money on replacement windows when you or someone else can repair them ? (Look for a wood window repair workshop in the near future, here in Newport).

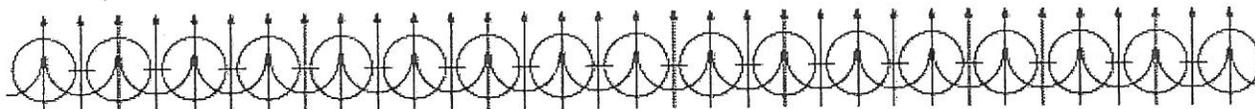
With the aforementioned inherent problems associated with vinyl windows, it's clear that vinyl replacement windows shouldn't be a viable option. In my mind, two options exist: 1) repair the existing wood sash, or 2) replace the historic sash in-kind with wood, matching the existing exactly, i.e., size, light configuration (one-over-one, two-over-two, etc.), rail and stile profile, muntin profile (if any), etc. I usually use the 50% rule, i.e., if a window sash is less than 50% deteriorated, it probably is cost effective to save it. If more than 50% deteriorated, I would consider replacement with new wood sash.

Here are some key things to think about when proposing to repair or upgrade historic wood windows. Complete a survey of each window in the building. Start a notebook, identifying problems and potential remedies for each window. Do one elevation of the building at a time, floor by floor. Evaluate the outside of the window unit as well, including exterior trim. You should be able to do this in a couple of hours on a Saturday afternoon. This will become a permanent record for each window. You may find only a few need any wood repair at all, while others need to be scraped, primed and painted, others need to be weather-stripped, or have sash cords replaced, some may need new glazing putty, and most importantly, consider storm windows for the entire building. Not only do they protect the sash from weather, thus requiring less maintenance, they do offer some insulating characteristics as they seal off potential air infiltration problems.

One final thought: from personal experience, I grew up in a 1920s Colonial Revival with beautiful six-over-six wood sash. When I was old enough, my father taught me how to reglaze and keep the exterior sash and window trim well painted. This house, like many of yours, had more than thirty windows. He taught me that I only needed to do one elevation a summer. It was an excellent way to break down a huge task into a manageable summer project. Consider it on your building.

I would be glad to guide you through the process. Don't be intimidated by the sheer number of windows in your house. Break it down into bitesize chunks, and it won't seem so overwhelming. Contact me if you are interested in a wood window rehabilitation workshop, and we'll do one sooner rather than later.

John Paquette is a past Historic Preservation Officer for the City of Newport.



- History
- Tours
- Mansion Hill
- Gateway
- Newport News
- Home

From: Leann Taagepera <tktoride@sbcglobal.net>
To: <Kathy.Trinque@ci.benicia.ca.us>
Date: 12/7/2011 4:56:18 PM
Subject: Letter for Planning Commission

Hello Kathy - Please forward this letter to the Planning Commission for an item on tomorrow night's agenda. In addition, please provide the additional information that I have attached to this e-mail.

Thank you,

Leann Taagepera



DRAFT

**BENICIA PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS
MEETING MINUTES**

**Thursday, December 8, 2011
7:00 p.m.**

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Don Dean, Rick Ernst, George Oakes, Rod Sherry, Lee Syracuse and Chair Brad Thomas.

Absent: Commissioner Belinda Smith (excused)

Staff Present: Kat Wellman, Contract Attorney
Mark Rhoades, Interim Land Use and Engineering Manager
Lisa Porras, Senior Planner
Kathy Trinqué, Administrative Secretary

C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. ADOPTION OF AGENDA

On motion of Commissioner Syracuse, seconded by Commissioner Ernst, the agenda was adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Oakes, Sherry, Syracuse and Chair Thomas

Noes: None

Absent: Commissioner Smith

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

Toni Haughey announced that the Camel Barn Holiday Tree Lot will be open until December 24 or until all the trees are sold. This is a fund raising event for the Camel Barn Museum.

IV. CONSENT CALENDAR

A. Approval of Minutes of September 8, 2011

On motion of Commissioner Sherry, seconded by Commissioner Ernst, the Consent Calendar was adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Oakes, Sherry, Syracuse and Chair
Thomas
Noes: None
Absent: Commissioner Smith
Abstain: None

V. REGULAR AGENDA ITEMS

A. AN APPEAL OF THE HPRC'S DENIAL OF A DESIGN REVIEW REQUEST TO REPLACE THREE WOOD WINDOWS WITH VINYL WINDOWS ON THE FRONT FAÇADE OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET

11PLN-00064 Design Review Appeal
410 West J Street
APN: 0089-031-090

PROJECT SUMMARY:

The applicant requested design review approval to replace three wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District. The HPRC has a longstanding policy of NOT allowing wood windows to be replaced with vinyl. The HPRC approved the replacement of the two windows (one on each side of the house) but they denied the change on the front facade.

Staff recommended that the HPRC approve this request based on a number of factors including that the windows are not the most prominent

façade feature of the residence and that the replacement windows are high quality and nearly identical in dimension to the existing windows and frames.

Staff Recommendation:

Consider the appeal of the Historic Preservation Review Commission's (HPRC's) denial of a request by Julian and Claudia Fraser for a minor exterior modification (replacement of wood windows with vinyl) to the front façade of the existing residence located at 410 West J Street. The HPRC approved the request for the side windows, but denied the request for the front windows. Note that staff's recommendation was to approve the whole design review request.

Mark Rhoades, Interim Land Use and Engineering Manager, presented an overview of this item. Mr. Rhoades pointed out that the HPRC decision disagreed with staff's recommendation. Included in this packet are draft minutes of the HPRC meeting to provide the Planning Commission with some idea of the discussion that was held at that meeting. He reviewed the policy of HPRC regarding window replacement. The HPRC did approve the applicant's request to replace the side wood windows with vinyl windows but not the front façade windows located inside the arched porch.

Questions from Commissioners:

Commissioner Sherry asked if the 2 side windows that were approved by HPRC were originally wood. He asked if the State Historic guidelines allow that. HPRC was upholding State Historic guidelines.

Mr. Rhoades responded yes, the side windows were wood and while the State Historic guidelines have strong language concerning windows those opinions differ. Window location is considered as well as how prominent a feature they are on the residence.

Commissioner Dean asked to clarify the number of windows being discussed and their location. Was the existing vinyl window proposed to be changed. Are there a total of 7 windows, 5 of which were wood? What is the City's policy about "replacing in kind"? He read from the Downtown Historic Conservation Plan, pg 61 regarding replacement of vinyl windows with wood. What is HPRC's purview?

Mr. Rhoades responded that this is under HPRC's purview but they do not have the authority to require it because "in kind replacement" is allowed.

Ms. Wellman, Contract Attorney, clarified that if the proposed window size changed (enlarged or reduced in size) then "in kind" could be required. In this case no window size changes were being made, which makes it more like a repair.

Commissioner Dean requested clarification on the decision before the Planning Commission. He asked if the Planning Commission could change any requirements.

Mr. Rhoades responded that the decision before the Planning Commission is either to overrule the HPRC decision or affirm it.

Ms. Wellman explained that the replacement of the 3 front wood windows with vinyl windows requires a decision. This is a de novo appeal.

Commission Ernst asked how or when the main front vinyl window was replaced. The windows in question are those in the porch area, partially concealed by the overhang, but can be seen from the street.

Mr. Rhoades responded that our records do not show a specific date, but it was replaced before the current requirements were in place.

Opened for Public Comment.

Claudia Fraser, 410 West J Street, property owner and appellant, expressed frustration with the City's process. She desires to replace the old single-pane windows with updated energy efficient vinyl windows. She stated she has a permit for this work and the windows are paid for. The existing front vinyl window was permitted (put in years ago). It has cost them \$8,000 for the new windows. They would not have purchased them had then known they would have to go through this process. She stated her desire is that all the windows have a similar look.

Julian Fraser, 410 West J Street, property owner and appellant, stated that the City documents listing his property in the Historic District are incorrect. His house was built in the late 1940's. He stated that HPRC does not have jurisdiction over his house. His contractor has a permit to install the new

vinyl windows. He wants to have all the windows in the house match and expressed his desire to have the windows he purchased installed.

Commissioner questions.

Commissioner Sherry asked if the replacement windows have the same framing or will the molding be removed?

Mr. Fraser responded that the new windows are paintable and will pop into the same size window opening.

Chair Thomas asked if the new windows are in a narrower frame and close in size to the existing wood windows.

Mr. Fraser responded that they will match the other windows in the house.

Public Comment.

Jon Van Landschoot, an HPRC Commissioner, stated he is not representing the HPRC Commission but only his opinion, and spoke not in favor of the appeal. Mr. Van Landschoot commented that the HPRC minutes have not yet been approved. The historic guidelines do affect this residence and it is under the jurisdiction of the HPRC. The applicant, Mr. Fraser, was not present at the last HPRC meeting so the Commission did not know if the new windows had been purchased, nor if the applicant knew about the requirement for planning staff review. Mr. Van Landschoot further described the HPRC process and guidelines. He stated that he was sorry the applicant was misinformed at the Building Division.

Mr. Rhoades responded that there was no mistake made by Building and Planning staff. He explained that the Frasers' contractor came to the office for permits to replace the windows. There was an extensive conversation held with staff and staff noted in the computer system that the old windows being replaced were the same material as the new ones. The contractor advised staff that all existing windows on the house were vinyl. When it came to staff's attention that the existing windows were wood and not vinyl, staff left a note at the house asking the Frasers to contact City staff. Their contractor apparently misrepresented the facts.

Mr. Fraser stated that the HPRC rules are subjective and arbitrary. His contractor went to get the permit and then the new windows were purchased.

Claudia Fraser commented that Jon Van Landschoot talked about the City's asset is historical buildings. Her opinion is that the citizens are more important.

Toni Haughey, an HPRC Commissioner, spoke not in favor of the appeal. She stated that the house was built in 1943 and is historic. We are discussing the replacement of 3 windows and she has a difference of opinion with her fellow Commissioners. Her opinion is that all the wood windows should be replaced with wood windows. The HPRC is trying to compromise with the applicant. The HPRC would like to see the applicant keep the 3 original wood windows and repair them. If they cannot be repaired, then replace them "in kind." Ms. Haughey voted against the motion at the HPRC meeting. She further stated that all the front windows should be wood. This is not something new.

Leann Taagepera, an HPRC Commissioner, began speaking and was interrupted by Mr. Frasier.

Leann Taagepera stated that she is not representing the HPRC, and that she is also a historic homeowner. She spoke not in favor of the appeal. Ms. Taagepera summarized her letter and its attachments that had been distributed to the Commission and were available at the side table for members of the public. She stated that the HPRC did approve the applicant for replacing the windows with wood windows. Wood windows can be made exactly like those that are currently there. This is the first appeal of HPRC since she has been on the Commission. The vinyl windows are not in view from the street so it doesn't harm the historic district.

Mr. Fraser interrupted Ms. Taagepera.

Chair Thomas asked Mr. Fraser to return to his seat.

Commissioner Dean asked if the 3 wood windows were replaced with vinyl windows is that a violation of SHPO standards and not allowed with a CEQA exemption.

Public Comment Closed.

Chair Thomas expressed his desire to proceed with providing his comments on this item. He stated that he studied the SHPO Standards, and looked at the property prior to the meeting. His opinion is that the replacement windows are consistent with SHPO standards based on the following:

1. The SHPO standard is not a black/white document. If the issue is visibility from the street, the side windows (that were approved by HPRC to be replaced with vinyl windows) are equally visible. The front prominent window is vinyl. The 3 recessed windows are visible but only slightly more visible than those on the side of the house.
2. He reviewed the documents and the house is considered historic, but the windows were not mentioned. One can't tell from the street if the existing windows are wood except for one decorative piece on the trim. The windows are not significant.
3. The new vinyl windows will look more like the wood windows than vinyl. Most citizens would not be able to tell the difference. The HPRC could.
4. These 3 windows are not an important feature of the house. If the test is visibility from the street, one really cannot see the recessed front windows; they are just as difficult to see from the street and the side windows.

Commissioner Sherry stated that he agrees with Chair Thomas. He also visited the site and agrees with the HPRC about holding to a visual standard, but could argue that the materials may not appear to be that different.

Commissioner Dean stated that he spoke with Jon Van Landschoot and Toni Haughey before the Planning Commission meeting about this project. He was on the original HPRC and spent a number of meetings working on a window policy. Regarding the visual issue, the spirit is about keeping original materials to maintain original integrity of the structure. There is a balance of liveability while maintaining the historic integrity of the residence. At the time he served on the HPRC, the policy was that all wood windows must be replaced with wood, not just those visible from the street. His opinion is the wood window policy should be maintained. He supports the HPRC decision and would like to see the Planning Commission uphold it.

Commissioner Ernst asked about a difference of opinion about what happened in the permit process. He agrees with upholding the HPRC decision to require wood windows.

Mr. Rhoades restated and emphasized that City staff did not make a mistake regarding issuing the building permit because at the time of issuance the contractor stated all the existing windows were vinyl. It states on the building permit that the applicant is replacing vinyl with "in kind" (vinyl) windows. The only reason the permit was issued and approved was based on the contractor's statement that all existing windows were vinyl.

Commissioner Oakes stated that he supports staff's decision. The conversation from the HPRC is holistic and the reality is that materials change over time. These windows have an insignificant impact to the historic quality of this residence.

Chair Thomas commented that 75% of the windows on this residence are now vinyl and 25% wood, if the HPRC decision is upheld.

Commissioner Syracuse asked if the Planning Commission could request that the City Council offer the applicant an offset for their financial loss.

Commissioner Ernst commented that maybe the contractor should reimburse the applicant for the extra cost since the contractor misrepresented the facts to the City.

On a motion made by Commissioner Ernst and seconded by Commissioner Dean that the Planning Commission uphold the HPRC's decision denying a request by Julian and Claudia Fraser for replacement of 3 front wood windows with vinyl, failed by the following (tied) vote:

Ayes:	Commissioners Dean, Ernst and Syracuse
Noes:	Commissioners Oakes, Sherry and Chair Thomas
Absent:	Commissioner Smith
Abstain:	None

The Commissioners and City Attorney discussed the above action.

On a motion made by Commissioner Sherry and seconded by Commissioner Oakes, that the Planning Commission continue discussion of this item and vacate the previous vote, and adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Oakes, Sherry and Chair Thomas
Noes: None
Absent: Commissioner Smith
Abstain: None

Commissioners continued their discussion -- key points include: the HPRC goals and how a change of materials affects historic integrity, and vinyl windows will look very similar (Sherry); if all were wood windows, then wood windows should be required. In this case 75% of the windows are vinyl, including the most prominent front window, therefore it is not significant in this case compared to the burden on the resident (Thomas).

Commissioner Oakes began a motion to adopt staff's recommendation.

Commissioner Ernst asked for clarification of staff's recommendation.

Mr. Rhoades and Ms. Wellman explained what a "yes" or "no" decision on staff's recommendation would mean.

Commissioners discussed and considered if this decision would set a precedent that may apply to other projects.

Ms. Wellman commented that the Commission is able to determine what's appropriate on a case by case basis.

On a motion made by Commissioner Sherry and seconded by Commissioner Oakes, the Planning Commission hereby upholds the appeal and approves the appellants' request to replace the 3 front wood windows with vinyl windows to the building at 410 West J Street, adopted by the following vote:

Ayes: Commissioners Ernst, Oakes, Sherry, Syracuse and Chair Thomas.
Noes: Commissioner Dean
Absent: Commissioner Smith
Abstain: None

B. USE PERMIT FOR AN INDOOR ARCHERY RANGE AT 3001 BAYSHORE ROAD, UNIT #9

3001 Bayshore Road, Unit #9

APN: 0080-340-020

11PLN-67 Use Permit for Commercial Recreation and Entertainment

PROJECT SUMMARY:

In accordance with the Benicia Municipal Code Section 17.32.020, the applicant requests approval of a Use Permit for the establishment of an indoor archery range at 3001 Bayshore Road of approximately 4,500 square feet. The archery range will have regular business hours of Monday through Friday 12:00pm – 9:00pm and Saturday 9:00am – 5:00pm.

Staff's Recommendation:

Approve a Use Permit for an indoor archery range (Commercial Recreation and Entertainment) located at 3001 Bayshore Road, Unit #9, based on the findings, and subject to the conditions listed in the attached resolution and as discussed during the public hearing.

Commissioner Ernst recused himself due to a conflict of interest.

Mr. Rhoades reviewed the application and proposed project. The new business would be located in an existing multi-tenant building in the industrial park. The space is in the back of the building and allows for 24 participants. There was not a parking study requirement, but staff did prepare a less formal type of parking survey to assist with evaluating whether this additional use would create a parking problem at this location.

Questions from Commissioners.

Commissioner Sherry asked for a more detailed explanation of the parking survey used for this project.

Mr. Rhoades responded that there is not a specific number of parking spaces required of this applicant because there are lots of spaces available during their business hours. The purpose of the survey was to make sure there would be no conflict with the current industrial use. After review, staff has determined that there should be plenty of parking spaces available for this business. The survey uses a simple methodology.

Opened for Public Comment.

Carl Massey, applicant, reviewed his background, proposed business and use. He taught archery for eleven years and wants to provide a place for children and youth to learn and practice this sport. No other archery is located in town. Their busiest hours are from 6 to 9 pm and Saturday mornings.

Commissioner Dean asked how the lanes are organized, if there are partitions and will rental equipment be available.

Mr. Massy answered that there will be a partition wall and all activities are organized for safety. Yes, rental equipment will be available.

Commissioner Sherry asked if there would be any retail space; he is concerned about safety – could an arrow pierce the roof; and is there an emergency response procedure.

Mr. Massey responded that yes they may repair and sell bows, arrows and other equipment. Arrows would not pierce through the metal roof – they have blunt tips. He will provide first aid kits and instructors are CPR/first aid certified. He will have insurance and he has never seen an accident in his experience.

Other public comment.

A resident spoke in favor of the applicant. She is an archery coach and has taught at Benicia Middle School. She supports this business applicant. This sport is very safe for youth and children.

Public Comment closed.

Commissioner Dean spoke in favor of this applicant. It is an opportunity to fill more space in the industrial park.

On motion of Commissioner Syracuse and seconded by Commissioner Sherry, the Planning Commission approved a Use Permit for an indoor archery range at 3001 Bayshore Road, adopted by the following vote:

Ayes: Commissioners Dean, Oakes, Sherry, Syracuse and Chair Thomas

Noes: None

Absent: Commissioner Smith

Abstain: Commissioner Ernst

C. GENERAL PLAN CONFORMANCE ASSOCIATED WITH VACATION OF PORTION OF ACCESS EASEMENT ADJACENT TO 532 CAMBRIDGE DRIVE

PROJECT SUMMARY:

To allow the property owner of 532 Cambridge Drive to purchase a pie-shaped portion of an existing easement along his east property line. The portion is approximately 40' wide at the north edge of the subject property, tapering easterly to 20' at the south property boundary. The change still allows for a wide access to the open space area that is approximately 38 feet wide along Cambridge Drive, and remains 25' wide at the open space boundary. Consistent with the Benicia Municipal Code, staff recommends Commission approval of a General Plan Conformance to vacate the approximately 2,340 square feet of existing access easement adjacent to 532 Cambridge Drive. The proposed request is that the Planning Commission determines that the vacation of a portion of an existing open space access easement on the east edge of the property at 532 Cambridge Drive is consistent with the General Plan. A 25+ foot wide strip would be retained for public access.

Staff's Recommendation:

Approve a General Plan Conformance to vacate an access easement along the east side of the property at 532 Cambridge Drive consistent with the goals, objectives and policies of the General Plan and based on the findings set forth in the attached resolution.

Mr. Rhoades presented a brief overview of the item. The adjacent resident wishes to purchase at fair market value the access easement adjacent to his property. It's a triangular shape parcel and leaves 25 feet for open space access. It is zoned residential, not open space.

Commissioner Questions.

Commissioner Ernst asked if the City sells this easement, will there be 25' access for fire trucks. This parcel is wider at the street and narrower at the back.

Commissioner Sherry commented that it is not an open space easement but a parcel deeded to the City. He noted that staff should take the topography into account, which makes the open space access narrower. Will the property owner fence this in. The existing pole with sign (shown in the staff report) may need to be relocated. The City may want

to install a post and chain to allow foot and bicycle access to the remaining access easement but prevent vehicles from using it. He asked if we can add that condition.

Mr. Rhoades responded that we can forward those comments to the City Council and check with Public Works staff on the cost to relocate the sign.

Commissioner Syracuse asked if this additional square footage would provide enough room to build another house.

Mr. Rhoades responded that no, it falls short of that size.

Commissioner Ernst referred to Commissioner Smith's written comment that 25' may not be enough room for fire access. Has the Fire Dept been asked to comment.

Mr. Rhoades responded that he will forward those concerns to City Council.

Commissioner Sherry commented that the access at the back of the access parcel is closer to 20' because of the slope.

Commissioner Dean asked regarding General Plan consistency, are there any policies on the sale of public property. Is there a public benefit by the sale.

Mr. Rhoades responded that the action before the Planning Commission is to determine General Plan consistency. The parcel will be sold at fair market value and an appraisal is being conducted. There is no loss of open space to the public, which is a City policy.

Public Comment Opened.

Robin Stewart, owner of 532 Cambridge Drive and applicant, stated that this request was made 3 years ago. She and her husband have been in touch with Fire Department staff and they have no concerns about the easement purchase. There are other access points the Fire Staff can use

and 20' is ample width. The parcel will look no different than it does now other than they it will be fenced.

No questions from Commissioners.

Public Comment closed.

On motion made by Commission Ernst and seconded by Commissioner Syracuse, the Planning Commission hereby finds the vacation of a portion of open space access easement in conformance with the goal, policies and programs of the General Plan, and directs staff to forward Planning Commission's recommendations to City Council concerning adding a post and chain across the open space access and moving the existing sign, and adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Oakes, Sherry, Syracuse and Chair Thomas
Noes: None
Absent: Commissioner Smith
Abstain: None

VI. COMMUNICATION FROM STAFF

Mr. Rhoades informed the Commission of the 2012 Meeting Calendar memorandum distributed to Commissioners at the beginning of the meeting. The next regular meeting of the Planning Commission is January 12, 2012. The rest of the 2012 meeting calendar will be in the agenda for that meeting.

Mr. Rhoades updated the Commission that the New Harbor Church (on Blake Ct) project is moving forward. The applicant has agreed to present their site plan and staff's diagram plans to the HPRC and Planning Commission at a joint workshop. Mr. Rhoades asked if Commissioners would prefer a date of 1/12 (before the regular meeting) or on 1/26 (the HPRC regular meeting).

The Commissioners decided on the January 12 meeting date.

Mr. Rhoades informed the Commission that regarding the 410 West J Street project, a new procedure has been added to the building permit application process. The new procedure will require the applicant to sign a statement that for a window replacement in the historic district the window replacements must be "in kind." Staff will inspect the property before the permit is finalized.

VII. COMMUNICATION FROM COMMISSIONERS

Commissioner Dean commented on surplus property sales and determining General Plan conformance. He stated that it feels like the Commission is “bending some lines” to make the points needed. The Commission is looking at one narrow issue and the General Plan conformance is one sub-set of that, which is frustrating. Isn’t the real issue “is this a good idea or not?”

Ms. Wellman read from Gov. Code Section 65402 which requires the Planning Commission to find that the sale of public property is in conformance and consistent with the City’s General Plan. There are a number of actions that require the Planning Commission to make these findings before the City Council can act.

Commissioner Dean asked for any recommendations or what is the mechanism for a Commissioner.

Ms. Wellman advised the Commission to pass along comments with your findings, but it does not weigh in on the vote.

VII. ADJOURNMENT

Meeting was adjourned at 9:45 pm.

RESOLUTION NO. 11-3 (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA AMENDING ESTABLISHED WINDOW STANDARDS FOR DESIGNATED BUILDINGS IN THE DOWNTOWN HISTORIC OVERLAY DISTRICT

WHEREAS, the City of Benicia has an established Downtown Historic Overlay District;
and

WHEREAS, property owners of designated buildings in the Downtown Historic Overlay District are required to obtain Historic Preservation Review Commission approval to make modifications to their structures; and

WHEREAS, on August 18, 2005, October 27, 2005, November 17, 2005, and December 22, 2005, the Historic Preservation Review Commission held public hearings on the establishment of window standards for designated buildings in the Downtown Historic Conservation District, considered the staff report, presentations, and public testimony, and directed staff to draft a Resolution formalizing the Commission's findings; and

WHEREAS, on December 22, 2005, the Historic Preservation Review Commission adopted resolution No. 05-14, establishing window standards; and

WHEREAS, on May 27, 2010, the Historic Preservation Review Commission reviewed and amended Resolution No. 05-14 to incorporate Preservation Brief 9 as Exhibit A to clarify the process for verifying feasibility of repair of windows, and adopted Resolution No. 10-4; and

WHEREAS, on February 24, 2011, the Historic Preservation Review Commission held a workshop on windows, and reviewed and amended Resolution No. 10-4.

NOW, THEREFORE, the Historic Preservation Review Commission of the City of Benicia hereby resolves as follows:

SECTION 1. The Benicia Historic Preservation Review Commission hereby determines that proposals to modify windows in a designated building in the historic district shall be repaired, if possible, or if replaced, replaced with wood or historically appropriate material. Upon verification of feasibility of repair per National Park Service Preservation Brief 9 (Exhibit A), staff is authorized to approve window repairs or replacements meeting the above criteria. Replacement windows shall be those typical of the period and appropriate to the architectural style. Staff can approve dual-paned windows that convey the visual appearance of the original windows. All other repairs and replacements, other than those approved as above, are to be reviewed by the Historic Preservation Review Commission.

The foregoing motion was made by Commissioner Crompton, seconded by Commissioner McKee, and carried by the following vote at a regular meeting of the Commission on February 24, 2011:

Ayes: Commissioners Crompton, Mang, McKee, Taagepera, Van Landschoot, and Chair Haughey

Noes: None

Absent: Commissioner White



Toni Haughey

Historic Preservation Review Commission Chair



**BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES**

**City Hall Commission Room
Thursday, October 27, 2011
6:30 P.M.**

I. OPENING OF MEETING:

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Commissioners Haughey, McKee, Taagepera, Van Landschoot, White
and Chair Crompton

Absent: Commissioner Mang

Staff Present:

Charlie Knox, Public Works and Community Development Director
Lisa Porras, Senior Planner
Stacy Hatfield, Sr. Admin. Clerk, Recording Secretary

- C. Reference to Fundamental Rights of Public**

II. ADOPTION OF AGENDA:

On motion of Commissioner White, seconded by Commissioner Van Landschoot,
the Agenda was approved by a majority vote.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN COMMENT**
None
- B. PUBLIC COMMENT**
None

IV. PRESENTATIONS

None.

V. CONSENT CALENDAR

A. Approval of Minutes of September 22, 2011

B. 519 FIRST STREET – DESIGN REVIEW FOR EXTERIOR MODIFICATIONS (NEW DOOR) TO THE NON-HISTORIC COMMERCIAL STOREFRONT TO BE ADDRESSED AS 519 FIRST STREET (FORMERLY 523 FIRST STREET)

11PLN-00049 Design Review
519 First Street
APN: 0089-173-06-0

PROPOSAL:

The applicant requests design review approval to modify the east façade of the existing commercial building located at 519 First Street within the Downtown Historic Conservation District. The proposal results in the creation of a new storefront through the addition of an interior partition and new exterior entry. The new storefront will match the adjacent storefront (Char's Hot Dogs) located at 523 First Street.

Recommendation: Approve design review request for a minor exterior modification (new door) to the east façade of the existing commercial building located at 519 First Street, based on the findings, and subject to the conditions listed in the proposed resolution.

On motion of Commissioner White, seconded by Commissioner Haughey, the Consent Calendar was approved by the following vote:

Ayes: Commissioners Haughey, Taagepera, Van Landschoot, White and Chair Crompton

Noes: None

Absent: Commissioner Mang

Abstain: Commissioner McKee

VI. REGULAR AGENDA ITEMS

A. DESIGN REVIEW TO REPLACE FIVE WINDOWS ON THE SIDE AND FRONT FAÇADES OF THE EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 410 WEST J STREET

11PLN-00064 Design Review

410 West J Street
APN: 0089-031-090

PROPOSAL:

The applicant requests design review approval to replace five deteriorating wood windows with new, paintable custom vinyl windows on the existing single-family residence located at 410 West J Street, a contributing structure within the Downtown Historic Overlay District.

Recommendation: Approve the design review request for a minor exterior modification (replacement windows) to the sides and front façade of the existing residence located at 410 West J Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

Lisa Porras, Senior Planner, presented the staff report, as written, and gave an overview of the project reviewing the applicable policies and guidelines that provide direction for it. Lisa also pointed out a correction that needs to be made to the resolution that was distributed as part of the packet. Brian Maloney's name should be replaced with Julian and Claudia Fraser as the applicants requesting Design Review approval.

The Commissioners asked for clarification and additional information on the windows that are to be replaced. They also reiterated that homes designated as Contributing or Historic are to be treated the same. In addition, the same standards for window replacement apply to homes that are either Mills Act or non-Mills Act.

The appropriateness of the window replacement material was also discussed. If windows are unable to be repaired or restored, then they are to be replaced in-kind. They also noted that all property owners, both Historic and Contributing, should be treated with consistency and that no concessions have been made for previous applicants on the replacement of front windows in the past.

Commissioner McKee voiced his opinion that the characteristics of this house are not that distinguishing and are pretty plain in character. He believes this would be a good opportunity to exercise some flexibility with the applicant on replacement of the windows.

On the motion of Commissioner Van Landschoot, seconded by Commissioner Haughey, the following motion was made:

1. The three wood windows on the front façade of the house are to be refurbished or replaced with new wood windows.
2. The existing vinyl window on the front façade of the house is to be restored to its original state, which also was wood.
3. The two windows on the side elevations of the house may be replaced with vinyl.

After discussion among the Commissioners on the above motion, item number 2 of the motion was revised as follows and a new motion was made to include those changes.

1. The three wood windows on the front façade of the house are to be refurbished or replaced with new wood windows.
2. The Commission is encouraging the applicant to restore the one existing vinyl window on the front façade of the house back to its original condition, which was wood.
3. The two windows on the side elevations of the house may be replaced with vinyl.

RESOLUTION NO. 11-10 (HPRC) A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA ADDRESSING WINDOW REPLACEMENT AT 410 WEST J STREET

On motion of Commissioner Van Lanschoot, seconded by Commissioner White, the above resolution was approved by the following vote:

Ayes: Commissioners Taagepera, Van Landschoot, White and Chair Crompton
 Noes: Commissioners Haughey and McKee
 Absent: Commissioner Mang
 Abstain: None

VII. COMMUNICATIONS FROM STAFF

None

VIII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Van Lanschoot asked staff what it would approximately cost to rewrite the Downtown Historic Conservation Plan. Staff indicated that they thought it would be approximately \$150,000 and felt part of that amount could be grantable.

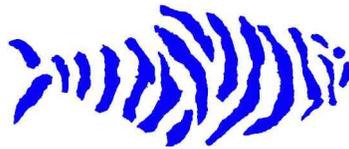
Commissioner Taagepera shared that she has heard positive comments about the HPRC. She believes that problems arise when property owners are not treated consistently.

Commissioner Haughey shared information about her attendance at the Design Awards presentation.

IX. ADJOURNMENT

Chair Crompton adjourned the meeting at 8:20 p.m.

HPRC Meeting 10.27.11



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HPRC Meeting 10.27.11

[Start of recorded material]

David Crompton: Next item is our regular agenda item. This is a designing review for replacement five windows on the side and front façades of existing single-family residence located at 410 West J Street. Does staff have a presentation?

Female Voice: Yes, good evening, Chair Crompton, uh, and commissioners. Uh, I'll be presenting, uh, the staff report to you tonight, uh, which, uh, applies to an existing single-family residence located at 410 West J Street. Uh, but, before we get started, I just wanted to know -- uh, note a couple of corrections on the dais. There's a replacement page to the first page of the resolution. Uh, but, on that page, it references the owner, uh, as -- uh, it, it includes the wrong owner on the, uh, on the first page of the resolution. So, we would change that to John and Claudia Frasier. So, that's just something I wanted to note, uh, before we got started.

Uh, so, as I mentioned, uh, a moment ago, I'll be presenting the information about the project that is -- as it is described in the staff report, uh, that you have in your packet. Uh, following the presentation, as always, is the opportunity for the Commission to ask questions. And most of the questions tonight will likely be able to be, uh, answered by, uh, the applicant if the applicant, uh, chooses to, uh, arrive and also by the Director Charlie Knox, who's with us tonight.

Uh, so, as the staff report states, uh, the applicant is requesting just your approval, the Commission's approval to replace five deteriorating wood windows with new paintable custom vinyl windows. Uh, the recommendation as written in the report is to approve this design review request.

The structure, uh, is located on the south side of J Street between West 3rd and West 4th Street and is listed as a contributing structure. Uh, specifically, the applicant's requesting, uh, the Commission's approval to replace five deteriorated single-paned wood windows. Uh, there are three, uh, located on the front façade. Uh, and there is, uh, another one on the east façade and one on the west-facing façade. Uh, there is actually, uh, a diagram in your packet that identifies where these five existing, uh, wood windows are located on the primary residence, uh, which are proposed to be, uh, replaced with high-quality paintable, paintable vinyl windows.

Uh, in the staff report, uh, it describes, uh, where these, uh, proposed, uh, window types will be, uh, will be placed on the primary, uh, residence. And as shown on the back wall there, there's a couple of diagrams. Uh, maybe I should just quickly [unintelligible] for discussion purposes. So, I could do this before, but we'll call this A, and we'll call this B and C.

So, basically, A, B, and C -- actually, A and B are the proposed windows that would occur on the front-facing façade. And, uh, this

particular window here would go on the east- and west-facing façades. So, basically, uh, window B would replace, uh, the three windows that are located under these arches and under the, uh, porch roof overhang.

Uh, the staff report goes on to describe a number of different policies that were, uh, reviewed in, uh, evaluating the applicants' request. Uh, rather than repeat them entirely, I would just quickly note that, as the staff report, uh, describes, uh, there -- the -- overall, basically, what the staff report's saying is that the window configurations are not going to change. So, that's consistent with policy guideline number two, and to maintain the proportions of the window opening.

And policy two is talking about window sash should match the original of window sash. And the sash dimension as proposed is nearly identical to the original work. Policy three describes where inappropriate or later materials have been removed, they should be replaced with the original material. Basically, as written in the report, it's described in the guidelines in so far as the applicant would replace all windows on the house that they should be replacing all of them with original wood windows, which would require that the applicant at significant expense would need to order windows for the entire structure and which the applicant is saying that this is not financially feasible and would constitute a burden upon them.

In addition, policy number four, it talks about using original materials whenever it's possible. Once again, as written in the report, it's not financially feasible for the applicant to replace all of the windows on the property with period-appropriate wood windows.

And finally, policy four is talking about substitute materials. They should be close as possible to that of the original. The five existing wood windows are smooth-painted single-hung narrow -- with narrow-frame dimensions. And the proposed replacement windows are the same, smooth in texture [unintelligible] and single hung.

Policy four, guideline 4.3 talks about wood window sashes preferred for historic buildings and vinyl clad wood or factory-finished aluminum frames are acceptable if the original design can be duplicated. And again, the report goes on to say that the structure is not itself a landmark but is listed as a contributing structure in the Downtown Historic Conservation Plan. And the features of the structure that are listed as character defining include the arch porch openings and stucco interior. And the applicant, again, is not proposing to alter either of these character-defining features.

And the staff report also references that the project is consistent with the Secretary of Interior's standards. And finally, to summarize, the applicant is not proposing to change any of the character-defining architectural features of the home, which include the stucco cladding and the arch porch openings. The structure is

not a landmark but is a contributing structure. And the window modifications will neither reduce the home's ability to convey its architectural character nor cause any impacts to designated landmark structures or Downtown Historic Overlay District in general.

The windows proposed for change from wood to paintable vinyl are not highly visible from the street façade because they are tucked behind a covered porch with arched openings. And the proposed new windows will provide more uniform design that is consistent in appearance with the original wood windows. The project will also include the most visible window with [unintelligible] dimensions that are more appropriate than what currently exists. The proposed new windows will fit with the original openings built for the structure.

As such, it is recommended that the Historic Preservation Commission approve design review based upon the findings, the Commission's approval and the proposed resolution. And that concludes staff's presentation.

David Crompton: Thank you. Are there any questions of staff?

Leann Taagepera: Chair Crompton, I have couple of questions. Can you say again or if you have [unintelligible] how many original wood windows are proposed to be replaced?

Female Voice: Five.

Leann Taagepera: So, the three in the front and two on the side?

Female Voice: Correct.

Leann Taagepera: And the ones on the side are currently the bigger double or single kind, and the top comes down.

Female Voice: Yeah, they're single hung.

Leann Taagepera: And, but, would the -- on the side ones propose a different style this way?

Female Voice: It's my understand that yes [unintelligible].

Male Voice: Yeah, the -- there's -- one of the side one is a single-hung one. It's on the west elevation. If you look at the page with [unintelligible]. And then there's one on the east elevation. That is a single-facing one. I'm sorry the one on the west elevation's single hung. The one on the east is [casement].

Female Voice: That's being replaced?

Male Voice: So, the question is, are the ones on the side that have [unintelligible]?

Female Voice: Being replaced with this?

Male Voice: There's one casement, one existing casement, one [unintelligible]. If you look at the page with the actual mapping of the windows, if you look at the bottom left, that's the east side. That's casement. If you look at the bottom right, that's single hung.

Leann Taagepera: Is there a picture of the casement one?

Male Voice: I do not see one.

Female Voice: This or --

Female Voice: [Unintelligible.]

Leann Taagepera: I can't really see this one. This one is a one over, you know, single or double like this one? So, which one is the -- ?

Male Voice: I think that's the same thing. That's the same window.

Leann Taagepera: Uh, it is? This window is that window?

Male Voice: There must be.

Leann Taagepera: So, there's another one that is not an original one that is a casement or that is -- it's original wood casement, not -- ?

Male Voice: Don't know. According to the application, it's wood and casement panel is originally not.

Female Voice: Not if it's casement [unintelligible].

Leann Taagepera: Yeah, so, it's wood, but --

Female Voice: It's casement. It's not original.

Leann Taagepera: Not in wood.

Female Voice: No. And this is the front.

Female Voice: That is --

Male Voice: Yeah.

Female Voice: It should be the front, yes.

Male Voice: And that [unintelligible] vinyl.

Male Voice: That is currently vinyl.

Leann Taagepera: Can staff clarify why the staff report says that the HPRC has no authority over the replacement of the existing vinyl window?

Male Voice: It's like to like, same size, same size dimensions. Is that fair?

Male Voice: [Unintelligible.]

Female Voice: Only if they're keeping the window, not if they're replacing it.

Leann Taagepera: And how does that compare to [Meals Act] applicants who have existing inappropriate windows and HPRC requires them to replace them with appropriate wood windows? That was not outside of our authority. So, I --

Male Voice: The Meals Act contracts are negotiated with the HPRC. It's agreed upon.

Toni Haughey: But, we use the same standards. We really basically use the same standards for window replacement with the Meals Act as well as the, uh, you know, non-Meals Act. And if, if a person isn't -- has [unintelligible] project, you guys correct me if I'm incorrect.

David Crompton: Let's try to keep this to questions at this point if --

Toni Haughey: Well, but, this is the an-- yeah, this is the question. I mean, if they -- get my train of thought back. Uh, if they're not replacing their windows, then we don't usually, uh, make any kind of recommendation. But, if they're replacing the windows, they -- we usually ask them to replace them with wood original-style windows. And we've asked the same thing of people not getting windows. But, but, I have a question for you.

David Crompton: Question, yes.

Leann Taagepera: Well, I don't understand what the authority is to say that we don't have the authority as HPRC. Where is that found in the ordinance or in the Downtown Historic Conservation Plan where it describes the authority of staff, the Community Development Director, the HPRC? And does it say someone comes in? If it, if it's been inappropriately -- inappropriate situation already, I understand if it's wood and they're putting in new wood or if you have a wood, uh, stair, and you're putting in -- and it's rotted, and you're putting in another wood stair that that's appropriate material replaced with in-kind appropriate material.

But, if you have inappropriate windows, for example, the Odd Fellows [unintelligible] First Street had inappropriate aluminum windows and then came in and put in newly appropriate aluminum windows. And we had discussed this and argued that in kind didn't mean inappropriate in kind. In kind meant appropriate materials or style replaced with other appropriate materials and style. So, I'm not understanding why HPRC has no authority over that window.

Male Voice: There's two places in the Downtown Historic Conservation Plan based on [unintelligible].

Female Voice: Sure. I can share with the Commission that, on page 25 of the Downtown Historic Conservation Plan, the subtitle is Applicability

and Exceptions. There's a couple of bold points describing examples that apply to designated historic structures. And one of the examples for an exemption would be -- sorry, page 25?

Leann Taagepera: Twenty-five.

Female Voice: -- would be replacement of existing windows or doors with windows or doors of the same diminish -- dim-- excuse me, dimension, finish, and overall appearance. And then I think --

Male Voice: [Unintelligible.]

Female Voice: Okay.

David Crompton: Mr. White?

Michael White: Does not finish include the type of material that the paint is put on, wood finish, plastic finish, steel finish?

Female Voice: Well, I believe the existing window the one that's most prominent on the side of the building that extends outward is an existing vinyl window --

Michael White: Mm-hmm.

Female Voice: -- which is I believe why -- I didn't write the report. But, it's which is I believe why it was noted in the staff report that that particular

window would be considered in kind because it's generally going to be of the same appearance. It's not changing its configuration or dimension. And it's of the same material.

Michael White: Was that window put in with or without a permit?

Female Voice: I don't believe the window that's propo-- I don't know if it's been put in yet actually. I'm not, I'm not certain.

Male Voice: You're saying that is the one that's existing?

Michael White: Yes, the existing vinyl windows that were put in, were they put in with or without a permit?

Male Voice: I don't know.

Michael White: So, they could've been put in illegally, so therefore not valid.

Male Voice: They could've been put in [unintelligible]. It's not [unintelligible]. It's not [unintelligible].

Michael White: Well, it is because we're talking about the Secretary of Interior Standards here, aren't we?

Female Voice: Right.

- Michael White: And if we had this Commission at that time applying these standards and the windows were put in then, then they were put in illegally. Therefore, they're not a valid window.
- Male Voice: And that's, that's a possibility. But, it really -- you know, it'd just be a guessing game at this point what happened, you know, in the past.
- Male Voice: Well, the Commission's been around for how many years? And I think -- you know, these windows are probably 20 or 30 years old, the vinyl ones that are in there.
- Toni Haughey: But, they were inappropriate when they were put in to begin with. And the whole point of all of this is to put the appropriate materials back in. It's not about replacing inappropriate materials with more inappropriate materials. But, I have a question.
- David Crompton: Question. Yes.
- Toni Haughey: My question is -- and maybe we can clarify this right now. But, I want to put this in the record. I don't think -- and everyone here can correct me if I'm incorrect -- that we have a different policy here for landmarks versus contributing buildings. I mean, so that -- landmarks, I don't think that has anything to do with anything. I mean, as far as my experience here is we have basically here a contributing building, whether a landmark or not. We have been using the same standards. We're using these standards, and we're applying them to all houses. And sometimes maybe we take a little

bit different -- you know, a little bit closer look at somebody, you know, who's got a landmark building, like the [Ridelle-Fish] house or, uh, [like winthose Captain Walsh]. And so, we're a little more nervous about those because, because of what they mean, not just for our community but for the state of California.

But, we use the same criteria for any work that they're doing there. So, to say that there's a difference between landmarks, I'm just questioning that. And maybe that's something we'll deal with in the future. I don't want to waste time on it. But, it came up a couple of times tonight in the report.

David Crompton: Any questions? Yes.

Male Voice: Do we know if the proposed vinyl windows resemble the profile and width of the existing vinyl in the front gable, you know, the, the existing one that we've just been talking about, most prominent window of the whole house, the two vinyls in the front?

Male Voice: I think the staff report actually says it has a slightly thicker sash width that more resembles what would've been there, you know, originally, the original.

Male Voice: Okay.

Toni Haughey: Did you have one more question?

Male Voice: Yes.

Toni Haughey: The windows that are on the porch -- there was a picture there [unintelligible]. All right. You know, they're different there than, you know, the kind of window. And they have a little kind of a dip around the edge, and they're the original windows. What is the problem with keeping those windows?

Male Voice: That's a rhetorical question.

Toni Haughey: Because what the policy is to repair -- if you have the -- this whole thing with windows is, if you have the original windows, you're supposed to -- all -- you're supposed to make the attempt. And this is part of what our -- we've talked about this several months over the years because we just came up with a policy months ago. We also spent time, you know, finding out what other cities were doing. But, anyway, the bottom line is, if you have the original windows, you're supposed to try to keep those windows, repair them, do -- at all costs. There's all kinds of brochures on how to replace those windows. This is not something indigenous to Benicia. This is all over. We've -- I forget how many different cities we went to.

Anyway, so, I guess my question is, what -- why are they not retaining those windows, you know, and repairing them? And do they have windows -- are the windows in? Or, do they have the windows? Have they bought the windows [unintelligible]?

Male Voice: I don't believe the applicant is here. I think -- my understanding from the applicant is they have purchased the windows they were applying for -- approval for. [Unintelligible.]

Male Voice: [Unintelligible.]

Toni Haughey: Before they went to the -- to, to you, before they went to --

Male Voice: Before they came to you?

Male Voice: Has there been any consideration on the feasibility of restoring the wood windows, the three front wood windows?

Male Voice: Not the [unintelligible].

Toni Haughey: That's in our policy.

Male Voice: Yes.

Male Voice: Charlie, I have a question regarding Section 1 of the resolution that -- whether it's on the new page or the old page. It says in the -- at the sixth line, replacement [initially] of those typical of the period. I don't think [unintelligible] 1930s they had vinyl windows, which I think is to my point. Uh, uh, do you have a sense that vinyl windows were in existence in the 1930s?

Male Voice: I'm sorry. Where are you looking?

Male Voice: On the first page of the resolution of -- it's a copy of the one that Lisa gave out. Uh, no, I'm sorry. It's not. It's --

Female Voice: That's a diff-- that's a signed resolution on --

Male Voice: It's a signed -- it's a resolution. I'm sorry. I got my -- I got, you know. Uh, this is a resolution of the Commission, uh, this year, 11-3. And it talks about all the steps the Commission has gone through to talk about what -- uh, sorry, doors and windows and façades. Uh, and, uh, and my question boils down to, were -- you know of that vinyl windows were typical in the 1930s.

Female Voice: I don't know if they had vinyl.

Male Voice: Okay.

Female Voice: And they had [unintelligible] vinyl.

Male Voice: Yeah, I know. But, okay. Second one is -- and it's more to your question is, I have a sense that the, uh, the, uh, class that, that, uh, I forget. Is it Robert or, uh, the guy -- I mean, uh, Mark, uh, noted is, is wrong. He has 15331. And I think it's, uh, 15301. Uh, he has 15301 in his -- I think it's 15331, which is really more to the point, historic resource reallocation and rehabilitation. And, uh, it talks about maintenance repairs, stabilization, preservation, restoration, uh, of the Secretary of Interior Standards. So, if he says that it's

category -- categorically exempt because it's following the Secretary of Interior Standards, I think he's got an argument that goes around in a circle and bites its tail.

It's category -- categorically exempt, but it's not by the Secretary of Interior Standards on taking my -- if he -- if the applicant wants to do a study, I think it would cost him more than to just change the windows into wood.

Male Voice: The bottom line is that that's staff's recommendation. And, and you know, we're here to consider the recommendation and go -- either go with it or make amendments or whatever we're going to do.

David Crompton: Any more questions of staff?

Male Voice: Uh, yes, one last question. The report or the diagram here says they're going to replace seven windows.

Male Voice: No, actually, I think they're replacing the wall actually. They're replacing [unintelligible].

Male Voice: And on the bottom right, it says, "Scope, replace seven windows."

Female Voice: [Unintelligible.]

Male Voice: Five are the wood I believe.

Female Voice: Pardon me?

Male Voice: Five are wood.

Female Voice: I guess two are [unintelligible].

Male Voice: Uh, you may -- no, you may be right. It may --

Male Voice: I think --

Male Voice: -- be looking at the breadth as two single lines together and then just looking at the ones [unintelligible]. I don't know.

Female Voice: [Unintelligible.]

Male Voice: So, I didn't, I didn't go [unintelligible]. But, there's three woods in the front and two woods on the side. So, there's five woods that were proposed to be replaced with vinyl. And the rest are vinyl proposed to be replaced with vinyl, correct?

Female Voice: It's [unintelligible].

Male Voice: Make sense?

Male Voice: Pardon me? Cur-currently, there are five wood windows, three on the front, two on -- one on each side. Those are proposed to be

replaced with vinyl. The rest are vinyl. They're proposed to be replaced with vinyl. I think that's what's --

Male Voice: Mm-hmm.

Male Voice: -- what's going on, right?

Male Voice: I suppose --

Male Voice: [Unintelligible.]

Male Voice: I talked to [unintelligible]. But, I would suppose that the, the other option would be when they say the scope or what they've asked so far for -- so far seven windows that they would be talking about the five wood ones we've identified plus the two, the double -- the two single ones side by side on the front of the house that are vinyl now.

Female Voice: So, the seven windows are, are then in the rear.

Male Voice: I, I just told you what I, what I know.

Female Voice: Okay. Well --

David Crompton: More questions?

Female Voice: Unfortunate that he's not here. No.

Female Voice: One more question. On this, the [unintelligible] plan sheet, it shows the permit number and reviewed for code compliance date. I mean, does that mean the Building Department already approved -- ?

Male Voice: No, those permits [unintelligible]. It's got [unintelligible] become approved. But, as soon as it was discovered was that what was really being asked for was replacing wood with vinyl, it was brought to the Commission's, uh --

Female Voice: Okay.

Female Voice: [Unintelligible.]

Male Voice: That -- so, we have no applicant owner tonight?

Female Voice: No, I'm sorry. Another question.

David Crompton: Question, yes.

Female Voice: Our question is, says existing vinyl window. Then, uh --

Male Voice: This is on that little chart --

Female Voice: -- that you have, so --

Male Voice: -- of the house.

Female Voice: -- are the -- on the top of the page, it says, "Window to be changed."
And it has a light-colored star and then the more, you know,
aggrandized star is -- relates to the front windows. Does that mean
they're not changing the front window?

Male Voice: No, I, I think they are changing the front window.

Female Voice: All right.

Male Voice: So, what I think I know --

Female Voice: Yes.

Male Voice: -- is what's in the report, is if you look at the picture of the one that
Lisa labeled A on the top left of those photographs is the, the
window that's been ordered to replace the one that sits under the
eave and then on the furthest front protecting the side.

Female Voice: All right. Okay.

Male Voice: Okay. No, on the east or west side, in the family room?

Female Voice: West.

Male Voice: In the family -- on the front of the family room on the front.

Male Voice: And that's B.

Female Voice: So, that's that.

Male Voice: Okay.

Female Voice: Yes.

Female Voice: So, that's being -- so, it's one, two, three, four, five --

Male Voice: And then is B all the three that is --

Female Voice: -- six.

Male Voice: -- but, the dining room --

Male Voice: Yes.

Male Voice: Okay. And then C is on the --

Male Voice: C would be on the left side on the east side.

Male Voice: The east side and the west side?

Male Voice: No, the west side is single hung. On this diagram, the west side shows single-hung, SH. But, it's just casement on the east side on the far left.

Male Voice: Okay. And then the rest of the windows are not going to get touched?

Male Voice: You know, that's, that's my assumption from this. I mean, maybe they will in the future.

Male Voice: Uh-huh.

Male Voice: But, but, it looks like what was applied for originally before having to come back to HPRC was replace seven of those. My assumption is, is the five wood and then they count the double, the two over two as two windows, even though it's one.

Male Voice: In the family room.

Male Voice: Yeah.

Male Voice: Okay.

Male Voice: Yeah, because that makes sense because I think that that was that the other one was maintenance replacement. It wasn't part of the application. So -- questions? Are we done? Okay. No applicant. So, I'm going to open up to the public. Does anybody -- the public that would like to address this item? Seeing none, I would bring to -- act before the Commission for [dispatching] [unintelligible].

Male Voice: I had to wait until you [unintelligible]. Can I ask the res-- Charlie a question?

Male Voice: Yes, uh, yes.

Male Voice: Okay. Do you have any sense of why the applicants didn't come? Did they know?

Charlie Knox: Uh, I would just be guessing actually. Uh, sent an email today to Mr. Frasier. I think they may be out of town. I went to look at the windows today before this meeting. And usually, they have vehicle parking. And there's nothing there. So, [unintelligible] gone.

Male Voice: And they put -- it's your understanding, whether it's correct or not that they have purchased windows, five or seven windows.

Charlie Knox: I believe they have purchased all these windows.

Male Voice: And on the, on the, uh --

Charlie Knox: Yeah, the five, the five, five replacement window, far side.

Male Voice: Yeah.

Male Voice: Okay.

Male Voice: That's my understanding.

Leann Taagepera: Okay. Why don't we just start?

Male Voice: Please.

Leann Taagepera: Yep. Okay. Well, I guess I'd like to start by saying that, uh, I'd like to discuss it tonight. And what I'm really interested in is a reworking of the staff report and continue it, bring it back to us at a later date. Uh, issues are, one, like John said, the wrong categorical exemption is being used. And the same one that is now [unintelligible] the one John said, 15331, Historical Resource Restoration, Rehabilitation, is the one to use for historic buildings.

Uh, the staff report makes statements that says that, "Since the [BPR] form did not list windows as a contributing feature, they're not considered a contributing feature." I really think, uh, it sounds like a person who has no [unintelligible] preservation planning wrote this. If you even just --

Male Voice: You know, I'm -- stop you.

Leann Taagepera: -- Googling --

Male Voice: Excuse me. Point [unintelligible] that HPRC is required to follow the same code of conduct that the council is, which means no disparaging remarks about the staff or about the public or the [unintelligible]. Thank you.

Leann Taagepera: I'm sorry. I feel that person has background in historic preservation planning, they would know that it goes without saying that windows are contributing features, just like doors. You could Google for 30 seconds, and you come up with, uh, you know, National Park Service preservation briefs on the repair of historic [unintelligible] windows.

Male Voice: I [unintelligible].

Leann Taagepera: Uh, the other --

Male Voice: [Unintelligible.]

Leann Taagepera: -- [unintelligible] briefs on building exterior windows, uh, our window policy, and jurisdictions across every state of the nation that have policies about windows and wooden windows. Uh, so, I didn't mean to disparage [Mark Rose]. I'm just quite surprised that someone who, who would write this for us would make the statement that, if it's not in the [unintelligible] BPR, it's not considered a contributing feature.

Uh, if the -- [Carol Rollin] listed some contributing features of some buildings. She also made a lot of mistakes. You know, a lot of the buildings, she said some -- some parts she called out that are actually new. She called those contributing features. And then [Toni, Javi], and I sat on a committee and went through every one

of the 250 proximate survey forms. And we spent a lot of time with those. So, we actually have a lot of experience, uh, with that.

But, I mean, windows, doors, roof lines, they are contributing features to a building. Whether or not Carol Rollin put the word window in there, we routinely look at windows. And, uh, we approve windows and work plans for Meals Act projects, talk about restoring windows. So, uh, that's a problem.

Also, I'd really like to see an analysis looking at [Weaksin Grimmer] about recommended and not recommended and not just the 10 statements under rehabilitation. Uh, you know, if you go through the technical briefs and talk about windows, it says, "As one of the few parts of the building surveying as both an interior and exterior feature, windows are nearly always an important part to historic character of the building. In most buildings, windows also comprise a considerable amount of historic fabric [unintelligible] and are best -- are deserving a special consideration in a rehabilitation project." So, they run through not recommended and recommended, uh, when you're doing rehabilitation.

And not recommended, one of the items is changing the historic appearance of windows with the use of inappropriate designs, materials, finishes, or colors, which noticeably change the sash, depths of reveal and [muttoned] configuration. [You wrote], "Reflectivity and color of the glazing and appearance of the frame."

Uh, these aren't new topics. We spend a lot of time discussing this, particularly, uh, in -- uh, first in December of 2005 and then May of 2010. Uh, and that's how we came up with our Resolution 10-4, our window policy, uh, which we attached the preservation brief to. Uh, and we talked about how what we really wanted was staff to talk to people about first repair and see if it was possible to repair the windows. And I certainly understand if it is impossible to repair your wooden window and then, uh, after that, looking at the appropriate materials and style of the window.

So, uh, I think that Commission has actually done a lot of work already on this topic. I mean, uh, we spend hours -- or, at least I do of my own free time, uh, researching and trying to make the best decisions per the law, the Secretary of the Interior Standards and, uh, our policy and looking at consistency with other property owners. And we have our prior windows, uh, for every window that could be seen from the street in the past.

We have made concessions on windows that are in the back and on the sides. But, in the front-facing elevation in these houses, we have not approved any that I know of or aluminum or [unintelligible] windows. So, uh, I'd be interested in, in, uh, more of a detailed analysis in the staff report of the materials and how that's consistent with the Secretary of the Interior Standards.

Male Voice: Mr. Chair, could I -- ?

David Crompton: Yes, Mr. --

Male Voice: Just a couple quick points, uh, [unintelligible]. So, where you've ended up is an interesting point. Uh, if you were to determine as a Commission this evening that the windows on the sides would be consistent with the policy, same on 128 East F or West F, excuse me, and other places where you allowed the use of vinyl on the sides. I think that's, that's an interesting idea.

The other is, uh, I, I really, I really -- I'm not sure that asking us to come back and repackage this is going to make any difference if you have a staunch feeling about -- as Commissioner Haughey said, staff makes a presentation -- after he makes a proposal, staff makes a presentation, you decide. I think it'd be much more, uh, effective, uh, or efficient if you would make a determination rather than ask us to come back with a reorganized staff report.

Uh, [unintelligible] is I just want to point out that I know you did a lot of work that's much appreciated by staff on 11-3 to get there, to get a window -- a determination on windows. But, I want to remind you that it's not a policy of council's. It's policy, not the staff, not the Commission. I think what you did was good in terms of trying to, trying to articulate to people why it was important, why original materials are important, why [unintelligible] important. And I think you did -- in the determination, and it's a good one, but it's not a policy.

The last thing I would say is staffing will have an opportunity to talk about [unintelligible]. You're absolutely right that, that we do encourage that. Uh, but, when someone, you know, moves further along in the process than we're able to catch up with and comes before you, it's not, it's not like we didn't do it because we weren't on the ball or something, just [unintelligible].

So, just in closing, what I would say is, it seems like you have some fairly strong-type opinions on, on the Commission about consistency and about materials. I would much prefer to decision tonight, whatever it is, than to rehash what staff [unintelligible].

Male Voice: Thank you. And [Thomas] down this way.

Steve McKee: Sure. Uh, right, uh, this house, uh, I think a pretty good example where we might cut somebody some slack on this when digging in the, you know, subparagraph blah, blah, blah, and piling up, you know, reams of paper on it. Me, I'd just, uh, take a step back. And this house is filled with, for the most part, with vinyl windows. It's not that distinguished a house. It's pretty plain. I mean, it seems like a, uh, uh, one where I'm ready to -- I think I'd do is, you know, paintable vinyl. And, uh, uh, and I mean, it's -- for -- it seems pretty reasonable to me. And, uh, that, you know, if we just continue to get this -- uh, to have no flexibility on this, uh, it's -- continue to reinforce that kind of, uh, sense that the last thing you want to be is to be [unintelligible] district here 'cause you don't get to do what, you know, everybody get, uh, to do.

And, and this seems like, uh, a pretty reasonable window to, to do this for. Like, I'm -- I don't know if, uh, kind of sense I might be in the minority on that, but that's it for me.

Male Voice: [Sully]?

Sully: Uh, yes, I, I'll do that [unintelligible] say. I do agree with Commissioner Haughey. We've never treated contributing or historic -- any historic structure differently. We've treated them all the same in the past since I've been on this Commission. We've not said, "Uh, it's only contributor. They can, they can do what they want."

Uh, I find Commissioner Taagepera's arguments valid in my opinion. Uh, we spent lots of time making a policy when staff has sit here and encouraged us to do this and helped us put together this Commission's policy. It's not a council's policy. It was adopted formally in a meeting if I remember correctly as our policy. So, it's somebody's policy. And the intent was to fulfill the goals and the mission of this Commission to preserve the historic, uh, character of our district that we've formed.

Uh, so, I wholeheartedly agree. I've looked at those windows. I personally have been involved with that house since I was in kindergarten because a friend of mine grew up there. And I actually

walked up, huh, the other day, hoping not to get chased off as soon as that word got out.

I think that vinyl windows pathetic compared to the wood sash windows, as was pointed out by other commissioners before the meeting. Look at the way the wood does this and the top's offset from the bottom. You cannot tell me and justify to me that that vinyl window is historic and maintains the character of that building as that wood does, the way that wood is placed in that window frame.

You know, uh, as our Planning Director says, we, we need to make a decision. And if somebody has chosen to go off and spend their money before they find out what they need to do, that is not your fault as commissioners. You are charged as commissioners to further these programs and goals and codes and policies that we've been charged with to follow, not worry about somebody that didn't want to follow the guidelines, like we had the meeting before, you know?

And that guy, you know, should we have cut him some slack because of the financial considerations? Well, if you want to be a bleeding heart, yes. But, you know what? He knew better, and he did it anyway. And it's not your fault. You have to follow these guidelines.

And you -- I hate to say it. I don't want to be coldhearted, but if you don't, then you don't need to be on this Commission because you're not doing what you're charged to do here for the council. Uh, you need to go back and tell these people you did this wrong. This is the opinion of seven people that are charged with making that decision. And you need to rethink what you're doing. I'm done.

Male Voice: Thank you. I'm, I'm going to go next because I'm [unintelligible].

[Laughter]

Male Voice: Well, I'm kind of in between these two. So, I wanted to throw out my comments so that you can react to them. You know, we, we, we make decisions on a -- you know, a lot of buildings around town, but I think everyone is individual. And I think we have to look at what makes sense on a case-by-case basis. I, I don't think you can say, "This is what we've done here, here, here, so therefore, it has to be done here."

I certainly agree with you that we shouldn't be treating this any differently because they've already bought products and they've gone about it the right -- the wrong way. We should treat it as if this is coming for us, you know, and it's a proposal, which it is, but as if there's no, there's no vested money spent here.

To me, the -- you know, it's kind of a little bit different here than some of the other buildings that we've looked at is that, you know,

for instance, the example, uh, of Meals Act. You know, those are, those are under contract. They're get, they're getting tax savings to go towards restoration of the property. This is the -- this property owner's not here for a big restoration project. This property owner is here to maintain what is on the property. So, I guess I'm a little bit hesitant to say that somebody comes in and wants to replace vinyl with vinyl on non-character-defining, uh, elevations of the building that we should now make this a restoration project and say that you have to go back to where it was 30 years ago. I think that's going to, that's going to cause a lot, a lot of problems. To me, I think that's, that's onerous.

So, where I kind of come down on this is that, uh, there's flexibility in the way you interpret the -- you know, our codes and the Secretary of Interior Standards and that, you know, replacing like for like and the similar, uh, treatments for the, uh, front -- you know, you call the materials that, that looks and feels the same, I'm, I'm okay with somebody wants to come in and replace vinyl with vinyl on the non-character-defining sides and rears. I'm okay with that. I certainly think that we think a system with the front elevation, if you have wood, you know, appears to be in pretty good shape. It is kind of unique. It has the, you know, the detailing. It's, it's not just the, you know, standard wood window. It's been there for a long time. Every effort should be made for the front elevation wood windows to be restored and replaced -- restored and reused.

Uh, so, where I, like I said, would come down on this is that I would, I would support a approval of this that allows for the replacement in kind in the rear and the restoration of the wood windows in the front. And we certainly have the purview. I think that you're probably right on the CEQA Section 15301 is for, uh, minor new construction. This is probably 15305. That is the, you know, historic finding. What we're doing here is historic -- is in keeping with historic character. Those are my thoughts.

Male Voice: [Unintelligible.] Before she [unintelligible].

David Crompton: Commissioner Haughey?

Toni Haughey: I have to support Commissioner [unintelligible] and Commissioner White. So, I won't take everyone's time and go reiterate that because they pretty much agree with what I think. Uh, but I do hear what you're saying. What I think you're saying is that we need -- the front, it's a character-defining feature, a window. I mean, like Leann said, you can read -- we've got everybody's -- uh, we have each city's, uh, statements on windows. And they all start out with the same thing. Windows are an integral part of the design and character of most buildings. Okay.

So, going back, anyway, I -- because if these people do -- have bought the windows, this kind of concerns me because it's another one of those things where, okay, they've got the windows. So, now, what do we do? You know, it's like, again, we're asking for, uh,

forgiveness where I don't have permission. So, I have a problem with it. But, I feel the same way. If the back windows -- I don't care if they want to put, you know, whatever back there. But, I think what you see from the street -- and because it's under an arch doesn't mean you don't see it -- I think the front windows should be replaced, repaired in kind, and in kind means with what would've been there originally, not -- if you put an aluminum window, it does not mean put another aluminum window.

So, uh, mm, I could probably compromise. But, I just want to make a couple comments. You know, this is -- I want [unintelligible] historic [unintelligible] and so does a lot of people here. And we try to play the -- by the rules. And I brought my [Harris] -- I got the book. And I -- before I brought, before it's closed, I read the book to see what the restrictions were because I wanted to make sure that I was going to be onboard with what was in that book. And I was onboard. And so, I stick with what, what the city -- whether on this Commission or off this Commission, I stick with what's -- whatever the rules are. If they change the rules, fine. But, right across the street diagonal from that house, this woman is putting 17 windows in there, all wood. Okay. Yes, she has a Meals Act. But, on the other hand, that's not a burden on a single woman who's retired?

This is a contributing building. If it's not a contributing building, that's a different thing. Why do they get treated differently from the way I get treated? I may as well go out and I may as well spread the word, "Go out there. Go get your, get your, uh, windows first. Then

come over and see if you get it approved." I mean, I can't agree with that, you know? They did the wrong thing. They -- people need to know -- and maybe we're at fault because we don't let people know. Maybe we need to write articles in the newspaper. These are the requirements, folks. Maybe people don't understand they have to get a permit for a window.

But, the fact is, you know, I feel like we need to treat people -- you know, we need to be reasonable. But, you know, we need to go put our money where our mouth is. And you know what? A lot of people don't like us. And a lot of people give me a hard time. You know, that's fine. You know what? I believe in restoring and preserving this town. You know, and I'm going to -- you know, as long as I'm on here, I'm going to do that. And I am going to try to be flexible. If they want to put vinyl windows in the back, fine. But, I think they need to either replace with double-paned wood. We, we, we've gone to that degree, you know, previously. We were going for single-pane windows. And we all agreed, okay, let's go for the double-paned windows. So, it's slightly more expensive.

You know, and these people I believe have bought this house recently. So, their realtor I'm sure let them know they were in a historic district and what they -- that there were requirements. So, you know, I'm sorry they made a mistake. But, uh, and I agree with Charlie. I do not think we need to get another report because we're only going to sit here all night and pick that apart and disagree with it. I think we need to just do what we did last month.

If you -- everyone here feels that they need to put wood windows, then go for it. And if you don't, then go for that, too. But, you know, I went -- you know, we spent a lot of time, like Leann said. And I'm getting very frustrated. My time is valuable. I'm getting older. And I'm not getting paid for this vote. Do what you think is right. I think that's all you can do, you know? Sorry for preaching. But, you know, every month, I feel like I dread -- I got to be honest, guys. And you know, I dread sometimes coming to these meetings because I do not feel that there should be a fight. And I feel like if the people in this town don't really want to preserve this town, then who are we to tell them to do it? We're only seven people.

And maybe -- Charlie, if you're right about policy, then maybe we need to go to the Commission -- to the City Council and say, "What do you want to do?" Disband the HPRC. If you want, you know, to be that flexible about everything and not, not adhere to standards, which a city like San Francisco, which is one of the most liberal places on earth, read their reports and their standards. And if they can do it, what's wrong with us? But, yet, we're all on council and get up everyday and say we're going to start preservation.

Well, you know what? [Unintelligible.] That's, you know, how I feel. So, I know. I'm just upset because I've spent a lot of time volunteering in this town. You know, I was at the museum all day today. And you know, I -- and I don't want to be in this position anymore to be fighting people.

Male Voice: [Unintelligible.]

Male Voice: What?

Male Voice: Give her another candy bar.

Toni Haughey: Sorry. I mean, it's --

Male Voice: And I think it's all been said. My background on the law just -- and being a Catholic, uh, following rules, uh, uh, I'm sort of [unintelligible] Catholic. But, I, I have -- I think it hurts me inside and it hurts me in my brain if we have a rule and then we say we're not going to follow it. And I like flexibility. I mean, when I first saw this, I thought, you know, someone over there -- it's not -- kind of like what, uh, was said about the fact that it's not a particularly good-looking building and all that stuff.

But, if we get into that, then all the policy we made is all subjective. And that's where the -- I scream in my head saying, "You can't do that. You, you're not God. You can't say, uh, that's the pretty house, so you got to put wood windows in it. I don't like your house, so you can put in whatever you want."

But, there are two things that really, that really sort of stop me from, from, uh, uh, approving wood windows into plastic windows, vinyl, whatever you like. We have a, uh, a history, a 20-year-old history

of, of having rules for things. Uh, 2000 -- 1991, uh, we have the [CLG] rule. We promised to state that we would adhere to the rules in our Downtown Historic Plan, that we would use the Secretary of Interior Standards. In fact, with that CLG, we have been able to write -- the city has been able to write grants.

One of those grants allowed us just recently -- and I shouldn't say us, this Commission -- I wasn't on at the time. I attended a few meetings but had really no input -- a context statement for our town, which basically said this is who we are.

And then we say we need to be flexible. And I, I -- my wife tells me I -- yes comes out of my mouth more than, you didn't want me to do that. But, this is, is -- I feel like I have an obligation to the rules. But, but, the rules are not just the rules. Historic preservation is a financial boon to the town. Anybody who's here knows anybody who's got a non-historic home as opposed to a historic home, statistics show that in the last three years, even before this Great Recession, historic homes tend -- that are kept up -- tend to hold their value a lot better than non-historic homes. And, and I, I, I -- that's the deciding thing.

Last point is to, uh, to, uh, Dave's idea about the, uh, wood windows on the front. Uh, I, I can't vote for anything other than wood windows. Uh, also, I just don't think the -- because we don't really know what they look like. But, I know what the ones there look like. The rest of the vinyl windows, you know, it's okay to me.

I do have -- would like to hear some discussion on that front window. Uh, I, I think I'm going to replace with original. And that was my early comment before is that I don't think they had vinyl in the 1930s. And it says replace in kind, which was original. So, thank you.

David Crompton: Any comments or any -- a mo-- a motion that -- it sounds like there's, there's a lot of commonality in our comments. There's some I think possibility of some technically [unintelligible] compromise that I'm hearing from at least half of us, maybe more. So --

Jon Van Landschoot: Could I make a partial to be added on motion in that the first -- ?

David Crompton: Are you making a motion?

Jon Van Landschoot: Yes, that the three, uh, uh, windows that are, uh, on the porch that have the Spanish, uh, should be retained as wood, uh, and that I would like some discussion, if possible, on the, uh, window that's in the -- it's called the family room, uh, on the, uh, southwest, uh -- no, northwest side.

Male Voice: The --

Jon Van Landschoot: Southwest.

Male Voice: The large?

Jon Van Landschoot: Yeah, the large, right.

Male Voice: Double --

Jon Van Landschoot: I, I, I would like it to go back to wood. But, I --

David Crompton: Well, why don't you make a motion? Then we'll -- then we can discuss it.

Jon Van Landschoot: To make it back to wood? Okay. And then --

Female Voice: [Unintelligible] motion.

Jon Van Landschoot: Okay. And, and, uh, uh, that's the partial. The side windows that are up front on the, uh, extreme, uh, northeast side and southeast side, uh, the double-hung and the casement windows, maybe we can do that in a second motion or a second part of this motion.

David Crompton: Okay. Your motion -- if that's your motion, then your motion would be to amend the resolutions before us to retain the three wood windows, restore them, replace, or put them back, replace them and re-restore and reuse those windows and replace the existing vinyl -- double vinyl [unintelligible] front elevation with a wood, keep all the ones -- we let them be replacement vinyl.

Jon Van Landschoot: Mm-hmm.

David Crompton: Have a motion. Is there a second?

Female Voice: Can you, uh, say that again, what -- ?

David Crompton: So, the -- Jon's motion at this point would be that the three wood windows under the porch would be restored and, and [unintelligible] the large double window in front elevation to the right, the family room I guess, would be replaced. The vinyl would be replaced with wood. The side and rear windows would be replaced with vinyl.

Charlie Knox: One point of clarification. I can't say I can't let you make that motion. You can make whatever motion you want. But, I can tell you that that motion can't pass because the applicability [unintelligible] Downtown Historic Conservation Plan do not let you deal with that front window if it's going from vinyl to vinyl. It's exempt from the review. And if you make, if you make that motion and the applicant doesn't appeal it, you'll be forcing staff for the first time in my 25-year career to appeal that to the Planning Commission, which I really do not want to do.

You cannot tell this guy that he can't take a vinyl window that's there and replace it with vinyl of the same size. So, I mean, you're free to do whatever you want. But, I just want you to know that that's not within the purview of tonight's decision.

Female Voice: Then maybe we do need to continue it. But, I don't see how that --

Male Voice: Well, it's like we're going to be --

Female Voice: How do we tell other people that they have to do -- ?

Charlie Knox: You have --

Female Voice: I mean --

Charlie Knox: I mean, we explained the exemption to you. It's replacement of existing siding trim or replacing of existing windows or doors same dimension, finish, and overall appearance. It's -- I don't know, I, I don't know what example you're talking about [unintelligible] the record. But, he's got, he's got a vinyl window, a two-by-two single-hung window in, in the front there that's vinyl. It doesn't come before you to replace it with vinyl in the same dimension. I'm sorry. I mean, I know -- I, I very much appreciate and sympathize with, you know, the point we're trying to make, which is, if you're going to want to support historic district, the best thing to do is to try and make -- is to try and recreate the original conditions. But, it's not -- that's not the way -- you know, we're very -- we've talked a lot of times about following our rules and being consistent. And that's not one of our rules.

David Crompton: Commissioner Haughey?

Toni Haughey: Yeah, I, I -- well, uh, you know, I got -- I can't think of other examples. But, my question will be -- I could understand that if he wasn't replacing the window that we certainly --

Charlie Knox: It says replacement --

Toni Haughey: [Unintelligible.]

Charlie Knox: On page 25, you get to the -- it says, "Replacement of existing windows."

Toni Haughey: Yeah, but, uh, normally, if he wasn't -- didn't want to replace his windows with anything, we could not ask him to replace his windows.

Charlie Knox: Right, but, I'm -- what I'm saying is all he's doing is replacing that window, he wouldn't even be here if that was the only window he was replacing. The, the reason we're here is because they're asking to replace wood with vinyl. Where I, where I, where I really thought you might be going, which I thought was a good compromise and good show of flexibility was allowing the vinyl for wood on the sides but not the front. That seemed like a good, good approach.

Toni Haughey: You know, I did -- I mean, it's not that I want to, you know, give anybody a hard time. But, I guess my, my concern would be about anybody else that come along in the future with front windows who --

Charlie Knox: You'd have same story.

Toni Haughey: You know, I, I mean, I'm not an expert in this area. Uh, so, I, I don't know. It's like the first time it's coming before us.

David Crompton: All right. We've got a, uh, motion, Jon. Uh, are you going to stick with your motion, including the wood replacement of the double window -- vinyl with wood?

Jon Van Landschoot: Well --

David Crompton: [Unintelligible.]

Female Voice: I think, should we second and discuss it, or -- ?

Female Voice: Yeah. I'll second the motion.

David Crompton: Okay. We have a first and a second. That includes replacement of the vinyl double with wood. Any discussion?

Leann Taagepera: Well, I guess it all comes down to how you interpret the plan. And I mean, we all know that our plan is from 1992, and it's old and that we, we have a fantasy of getting a grant and getting it rewritten, and there are ideas for how we might do that. We know that it's not consistent with [Weeks and Rimmer], which came out after our plan. So, parts of this actually are not consistent with how the

Secretary of Interior Standards are interpreted. Uh, and this section on page 25, uh, talked about applicability and exemptions.

And I don't -- it, it, it doesn't say existing -- replacement of existing historic features or placement of existing non-historic features. It's not specific in here. And, uh, the original -- you know, Sally whoever who wrote this originally.

Toni Haughey: Weaks.

Male Voice: [Unintelligible.]

Leann Taagepera: [Unintelligible], uh, with Rich something like that, I don't know if she was thinking -- I mean, because it goes through "replacement of existing building features or elements with identical ones and routine maintenance are exempt from design review as are repairs of an emergency in nature to rehabilitating a safe building. Specific examples of routine maintenance and repairs which are exempt from design review include the following -- painting, reroofing with the same material, replacement of existing siding or trim with siding or trim of the same material and appearance, replacement of existing windows or doors with windows or doors of the same dimension, finish, and overall appearance, other repairs or replacements as determined by planning staff."

So, this could be interpreted two different ways. It can be interpreted the way staff is interpreting it that says, if you have

existing inappropriate, non-historic features, it's acceptable and exempt from design review if you replace them with the same kind of inappropriate and non-historic design features.

Or, it could be interpreted meaning that, if you have existing wood windows, uh, or existing wooden, uh, porch stairs or [unintelligible] or something like that and then you replace them with new wood porch stairs or a new wood frame that that's exempt. But, because it doesn't specifically say, it's open to interpretation. And the question is, who's in charge of interpreting the plan? Is it -- where does that interpretation come from?

David Crompton: Us.

Leann Taagepera: What Commission?

David Crompton: I thank you for reading that. And you know, I fall on the side of -- when you talk about finish, to me, the finish is the type of material that's being used on it. And clearly, as I said before, this is not a -- somebody's coming in to replace and maintain their property. They're not coming in asking to rehabilitate or restore or go back to what they were 50 years ago here. And I don't -- I agree that we don't have the authority to impose that on them. So, that's the way that I would interpret that [unintelligible].

Leann Taagepera: And could you say [unintelligible]?

David Crompton: Yes.

Leann Taagepera: I'm not sure what you -- what was your conclusion.

David Crompton: My conclusion was -- is that I believe that when you, when you have the interpretation of, you know, you're replacing in kind, and that talks about the types of -- doesn't say materials, doesn't say vinyl for vinyl. But, it says the finish. And to me, I interpret that as being the type of materials. I'm interpreting that to say that replacing vinyl with vinyl is exempt from our review.

Leann Taagepera: Uh --

David Crompton: Any other comments?

Male Voice: However, if they do come -- apply for Meals Act sometime down the road, that should be applied --

David Crompton: Negotiate it.

Toni Haughey: Well, how is that even legal? I mean, how do we impose that?

David Crompton: As a Meals Act?

Toni Haughey: Yeah, I mean, I understand that they're getting a tax break. But, still, I mean, I don't --

David Crompton: We renegotiate the contract with them. The staff negotiates, bring it to us, and we ratify it basically. And we look at -- we prioritize what is non-historic and what needs to be done to the home to bring it back to its historic -- to maximize its historic value. If replacement of the windows was one of those, that would be on the part of the contract.

Toni Haughey: I mean, if I were these owners, would I want to have three wood windows and a vinyl window out there? I mean, even if I had a house that wasn't historic.

Male Voice: Obviously not. That's why they want to get rid of --

Toni Haughey: I mean, that doesn't make any sense.

Male Voice: -- three wooden windows.

Toni Haughey: I know. That's what I'm saying is we're saying to them, "We want you to repair or replace these windows with wood."

Male Voice: Well, we can't really have it both ways.

Toni Haughey: Or, you can keep it at vinyl. I mean, I -- it doesn't -- you know, I guess I don't have the expertise on that. But, I don't think that's a good aesthetics even. You know, forget about rules and regulations.

Leann Taagepera: You know what? It's [unintelligible] in the future that, if somebody wanted to do a restoration, they would still have their three original wood windows there. They're able to repair them, or if they're replaced with wood, they would have a start on the restoration of the property instead of some -- you know, if they sell it in the future and it was, "Uh, every single window's already plastic." So, uh, you know, they don't -- they don't have a head start in restoration. It, it would be a piece of the overall puzzle if someone was going to be working on different parts.

I just want to say, I guess under this, if I don't want to build it, if I would like to come in and replace my asbestos siding with, uh, uh, new asbestos siding, I could do that. So, any --

Toni Haughey: Yeah, under this interpretation, that's right.

Male Voice: Were they Meals Act?

Leann Taagepera: No, and if I did not have the Meals Act, well, because it's replacement of existing siding or trim with siding or trim the same material and appearance. So, I could take off all my asbestos siding. And I could go turn around and buy new ones. And I could put up all new asbestos siding.

Male Voice: Yes, you could.

Leann Taagepera: I could.

Male Voice: You know, just --

Male Voice: -- by the Building Department [unintelligible].

Male Voice: Let's just --

Male Voice: You wouldn't --

Male Voice: Let's have some more discussion. I just, I -- just one more comment I have here is that, you know, the bottom line is here is that we're not losing anything. You know, we aren't losing anything historically. We're -- in fact, we're gaining something because they're restoring under this motion that they'll be restoring three windows.

Female Voice: Mm-hmm.

Male Voice: And they're maintaining their house in an appropriate way that maintains the historic structure for future possible complete restoration.

Toni Haughey: Well, maybe the decision's up to them. If you're saying -- if we're saying to them, "Okay. You have to keep the wood windows, you know, restoring them, whatever, uh, or replace them with wood," is what we're saying in a sense. And it's up to them if they decide I

guess if they want to keep a vinyl window over there with three wood windows.

Male Voice: They could certainly change to wood if they wanted.

Toni Haughey: I mean, you know, I mean, I don't -- this is becoming beyond --

Leann Taagepera: But --

Male Voice: But, but, you know, the view of it from any distance is all -- at all is going to be sized correctly and [unintelligible] correctly that you're not going to notice any difference from beyond the sidewalk.

Toni Haughey: And I don't understand --

Male Voice: I have one more --

Toni Haughey: -- I guess just --

Male Voice: -- question.

Toni Haughey: Or, would -- I just --

Male Voice: Go ahead.

Toni Haughey: Me first?

Male Voice: Me first.

Toni Haughey: So, my question is, all right, we make, uh, the decision. Let's say we do agree with Jon's motion. Uh, then isn't it up to the applicant to appeal? Since when -- can staff appeal our decision?

Male Voice: Yes.

Charlie Knox: Staff can always appeal your decision and call it to the council. The only reason I would do that is because I think there aren't two ways to interpret this statement. This statement basically is very clear. It's one of the clearer statements we have. It says replacement of existing windows or doors. It doesn't say historic, non-historic, as Leann pointed out, doesn't say what kind of building. In fact, up above, it says they apply to all the buildings in the district. So -- and it's actually -- I don't disagree with Chair Crompton that you have some ability to interpret this. But, as a matter of zoning, this is part of the Zoning Code. And it's my job fortunate or unfortunate as that may be to interpret to something. And I can tell you I see no -- I don't see two ways to read this. The way I read this is this is not [unintelligible].

Toni Haughey: So that you're saying that then when the -- we were, we were on the Commission then. But, when the, uh, that the [unintelligible] whatever.

Leann Taagepera: Odd Fellows.

Toni Haughey: Odd Fellows was made to take their windows out by a former Commission --

Charlie Knox: Odd Fellows took the windows out because --

Toni Haughey: -- you're saying that --

Charlie Knox: -- I told them, because I told them if they really wanted to --

Toni Haughey: No, no, not the Odd Fellows on First Street. We're talking about the ones -- uh, I'm talking about -- what is it, the Masons' building. Do you remember when they took the windows out?

Charlie Knox: That predates me.

Toni Haughey: This is before our time. And they were made to take -- they were [unintelligible] put in -- goes back over 10 years. They were made to take all those windows out and put wood windows in.

Charlie Knox: Well, as unfortunate as the brick situation [unintelligible] the Odd Fellows at staff's request, my personal request, took out those aluminum windows, which they were just going to put back in, put in wood windows with the appropriate dimensions looking at the house [unintelligible] period. So, you never know.

I mean, that's [unintelligible]. I mean, clearly, this owner wanted to do all vinyl. There, there are, uh, energy efficiency objectives that they stated to council. Uh, obviously, it's probably cheaper. I mean, they'd like -- you know, the cost of the dual-pane vinyl versus wood. But, a new owner might in the future -- might not be aware of the objectives that some of the commissioners have stated tonight.

And you're right that, regardless of where this goes, if some of the wood windows are preserved and a new owner came in and said, "Thanks for the vinyl, but I'd rather have the [unintelligible] wood," they could come back and change it. And we've seen -- so, we've seen it before. It's not -- I don't think it's the common occurrence. But, we saw it with the Odd Fellows. And that's [unintelligible].

Leann Taagepera: You know, and it's under our policy, though, if somebody has inappropriate window, uh, if you wanted to come back and change that vinyl into wood, then it wouldn't be replacement in kind. They'd come back and --

Toni Haughey: It's catch 22.

Leann Taagepera: -- pay to come before us and need approval.

Charlie Knox: We'd put on [consent at will].

Male Voice: Which I -- brings me to my point. Jon's current motion is to go ahead and all wood in the front, vinyls in the back. That's the way the motion is at this time, which probably is -- doesn't look like it's going to pass. And if we turn around and say, "Okay. You can replace in kind or repair the wooden windows. You're not getting rid of the wooden windows. You can replace the vinyl ones." Be it my house, you know, I sure wouldn't be too proud of that vinyl window sticking out there with those three wood windows because you can really tell the difference. I don't care if there's a porch there or not. If you are -- have an eye for architecture, you're going to see the difference. It's that noticeable. And that one vinyl window looks terrible. It's installed terribly, the caulking smeared all over it.

But, anyway, my point was going to be what you're bringing up. If the applicant decides, "I don't want that vinyl window now in the front because it" -- maybe they have the same opinion I do. If we do make another motion if Jon's motion doesn't pass, I think we should word it so that they don't have to come back again for consent, that if they choose to replace that front vinyl window with the wooden that it match the existing wooden windows in the front so they don't have to come back here again because I sure wouldn't want to be held up another month.

Female Voice: Mm-hmm.

Male Voice: I agree with that.

Male Voice: But, anyway, we have --

David Crompton: So, we have a, we have a motion and a second. Do we have more discussion?

Jon Van Landschoot: Can I amend my own motion? Does that [unintelligible] -- ?

Female Voice: Yeah.

Jon Van Landschoot: -- allow me to do that?

David Crompton: You can amend your motion.

Jon Van Landschoot: I think it's [unintelligible].

David Crompton: Actually, we have a second. We need to go ahead and act on it.

Male Voice: You can amend and second it.

David Crompton: Okay. We'll go ahead and [unintelligible].

Jon Van Landschoot: Okay. I was thinking like what you said and I -- uh, Mike. And I, I agree. Let's keep the, the wood wood. And can we -- this is for staff if possible. Can we in the whereases and all, all that stuff, uh, recommend that, uh, you can put in the, the vinyl in the front but that, uh, for historic purposes, uh, it's recommended that wood to match the other one but not quite?

Charlie Knox: You probably want to amend the conditions of approval, uh, because the way it -- the way it is now on that amendment, they would be replacing, uh, the vinyl with vinyl. So, you might want to add a condition saying that the approval includes the allowance for replacing the vinyl with wood on the front double window at the applicant's discretion.

Jon Van Landschoot: Yeah.

David Crompton: Did that -- so, we have an amended first. Is the seconder accept that?

Male Voice: I'll second.

David Crompton: One second from [unintelligible].

Male Voice: Okay.

David Crompton: We had a second from [Sherry].

Leann Taagepera: It was -- Toni Haughey is the second.

David Crompton: Were you second?

Toni Haughey: Mm-hmm.

Leann Taagepera: I think it's --

David Crompton: Okay. Did, uh, did you -- uh, would you accept that second?

Toni Haughey: No.

David Crompton: Okay. Do we have another second?

Male Voice: I'll second.

David Crompton: Any discussion on our new motion?

Male Voice: Point of clarification, yes. So, in this motion is not included anything about the non-front façade windows, the one casement and the one single hung that they're hoping to replace with vinyl. That's not, that's not --

David Crompton: No modification to the, to the recommendation from staff.

Male Voice: So --

David Crompton: So, can we have the -- so, the motion and second is to, uh, restore and reuse the three front wood, uh, and everything else would be as recommended except that the approval would allow for at the applicant's discretion to replace the front vinyl double window with wood.

Male Voice: [Unintelligible.] So, are you remaining silent on the, the proposal to replace the two on the sides? Or, are you denying -- were you denying?

David Crompton: We're accepting staff's recommendation.

Male Voice: You'll be accepting the recommendation. Okay. Thank you.

Male Voice: I would vote that in the front window that is vinyl now that the word recommend -- allow but recommend so that they know that we have --

David Crompton: Okay. All right. We have the, uh, the motion and a second. We're --

Male Voice: Can we go around all once before we vote just to see how folks feel?

David Crompton: I do not see any, any hands come up. So, we'll --

Male Voice: I was going to --

Female Voice: [Unintelligible.]

Male Voice: -- or wait for the second.

David Crompton: We have a second.

Female Voice: We have a second.

Steve McKee: Okay. [Unintelligible] in that, I mean, we get -- [unintelligible] vinyl on the side, the front. Everybody just wants to have it wood because that's what we see in the front. You know, from the point of view of being in room, it'll kind of look like crap because you'll have a different window here and here. If we were the -- you know, let's make the whole house a good house, you know, Commission, we would be all over that. But, we're not. So, we throw that aside instead of -- uh, you know, we're requiring this guy to make this house kind of look like crap. And, uh, you know, [unintelligible] like we're doing a great thing in the process. And, uh, I think [unintelligible] great thing.

I think maybe [unintelligible] really it'd be nice to just -- you know, this is probably completely against the rules but, you know, do some [unintelligible], like, yeah, do your three windows in the -- the wood windows in vinyl but give us, you know, wood in the front, the one, ones you see and maybe the one on the side so, you know, it can look pretty good to be in the room.

If I was that guy and I had to do three wood windows, I'd really prefer that over, you know, what we're talking about here. I don't know if we have any kind of means of, you know, asking for that without breaking three rules and therefore it's not going to ever happen even though, you know, they would -- I suspect would

prefer it. I mean, I, I would if I were them, to do three, three wood windows.

But, uh, so, you know, if we're going down this path because of some, you know, principles we have, you know, we're not making this house better. Uh, so, uh, you guys do what you're going to do here.

Toni Haughey: Yeah, I agree with Steve.

Leann Taagepera: Commissioner McKee, though, it's the same house that they bought. They bought a house with some wood windows and some vinyl already. So, as far as us making it look some --

Steve McKee: Well, and the guy's trying to make it consistent.

Toni Haughey: And I, I agree with Steve. I mean, that's -- because like where's the design review point of this? Okay. We're the historic preservation. We're also design review. I mean, I think this is like crazy.

Leann Taagepera: [Unintelligible] design review, take out that vinyl [unintelligible].

Toni Haughey: You know, that's why I would rather continue this because I'm not convinced, you know, all due respect, Charlie, I'm not convinced that this is the way we have to go. I really am not. And, uh, and I, I agree. I mean, we're also design review. And I, and I agree with Steve. What are we doing here? Are we just like interpreting these

rules and then so, you know, we're supposed to be making -- we're supposed to be protecting our historic district. And part of it is the aesthetics of the whole thing. And, and like he said, how many times have we talked to people, you know, what was going to make it look better, I mean, if it wasn't a historic home, you know?

We talked about the windows and all that stuff. I can't -- I mean, I can't be part of this one vinyl window and three wood windows. I think it's crazy.

Male Voice: [Unintelligible.]

Toni Haughey: Maybe we continue and ask them about how they feel about what they're willing to do. Are they going to go appeal to the City Council? I don't know.

Male Voice: I think so, too. They obviously -- you know, they want what they want. And they're not here. And they're, they're either going to accept what we do, or they're going to appeal it anyways. I don't see any value of coming back here in a month. You know, the way -- my take on this is, you know, we already salvaged that, uh, our authority here is for not replacing in kind. Our authority is to say yes or no for their proposal to replace wood with -- uh, replace the wood windows. So, you know, we're doing everything we can saying, "No, you can't do that." And we're giving them the flexibility if they want a balanced front elevation, a character-

defining front elevation, we're giving them the flexibility to do that. And that's all we can do.

Toni Haughey: All right. But, then just [unintelligible] because doesn't -- we can't deal with this. But, these people are also trying to do something for energy efficiency. So, we're saying -- and if -- unless I'm incorrect, we're saying, "You have to keep your single-pane windows," correct, because that's what they are. Are they not single-pan wood windows in the front? "You keep those single-pane windows in the interests of preservation, uh, and repair them, replace them. You can't -- you know, you replace -- you have to repair them. Uh, and - - but, then we're going to allow them to put a double-paned vinyl window in.

Leann Taagepera: Commissioner Haughey, are you playing devil's advocate here?

Toni Haughey: Yeah, I just think this is wrong. I mean, I just am not comfortable with this whole thing. So, you know --

Male Voice: If this is an energy efficient move on their part, you know, we have done our research. And we have been told there is a single-pane [E] glass that will provide the insulation and energy efficiency that they're trying to attain. So, they can replace the glass in these windows if they so choose.

Male Voice: It's not --

Male Voice: As Mr., Mr. McKee said earlier, you know, if it was his house, he wouldn't be too happy with looking out the room and seeing two different styles of windows. Well, we're not forcing that on that person. That person has apparently bought the house that way. And we're just recommending and giving them the option. We're not forcing them to do anything. So, they brought this project before us. We didn't go out and design this project for them or say, "You need to do this." They brought it before us to get it approved based upon what standards and guidelines and recommendations we have to follow.

Obviously, we can't do what some of us think are the Secretary of Interior Standards. Some things were already done to this building in the past that prohibit from doing this. But, we shouldn't make it any worse. Retain what we've got, but hopefully in the future, somebody will see the light and say, "What did they do to these windows? Why'd they put these vinyl windows in?" And some day, they'll get all changed out to [unintelligible].

Male Voice: [Unintelligible.]

Charlie Knox: I hate to [unintelligible] this conversation because this is a really, really good discussion that we should be having. But, I just want a couple points of clarification. They're not here because they want to be here. They're here because they wanted to do something, basically started down a path, made decisions. And we realized you can't go down that path. You've got to go to the Commission.

The way this came to my attention is I was sitting in a council meeting during public comment. You know, I take a reading everyday. And I don't know where it's going to come from. So, I'm sitting in a council meeting preparing for a bunch of other things. And Ms. Frasier stands up and says, "You ask Sustainability Commission. They're telling us to create energy efficiency. And that's all I want to do to our house. And we went out and bought these dual-paned windows. And now the city's telling -- city staff, not HPRC [unintelligible] -- staff's telling we can't put them in." And I'm sitting there thinking, "Do I know anything about this?" And I didn't. So, I went back and found out where we were. And that's why we're here now.

But, you know, Toni raised a really good point before, which is there may not be enough education and awareness out there about what it means to live in an historic district within a historic home. And I think it's important to put ourselves, staff and Commission, in the, in the mindset of these folks. I mean, I don't -- I -- you know, I don't want to make any guesses. But, there are definitely people out there who you can tell it's a historic district measure rules. And they say, "Yeah, yeah, yeah." They're homeowners. We're all, we're all homeowners [unintelligible]. And I can very much see their point of view. They come in. The house has obviously changed a lot over time. You know, we had discussions when we went through the, the [unintelligible] this blah and this home and whether it's really historic. I mean, there's a lot of decisions that have been made.

But, it's a very reasonable thing for a homeowner to look at the home and say I want the windows to be consistent. And it's very reasonable for people to not share our passion or our professional understanding of historic resources and to say, "I just want [unintelligible]." That's what these people said to the council. "We just bought these windows that are the same as the rest of the windows in our house. They're nicer than the other vinyl windows. How come we can't put them in?"

And so, I understand the need for consistency. I think we're -- maybe that is a reasonable motion. It won't, it won't satisfy them. They'll probably appeal. That's just the process we have. That's life. But, I think for us to sit up here and pass some kind of judgment on somebody right [unintelligible] we're wrong tonight. And I really, I really want you to think about that because, from a homeowner's point of view, from this homeowner's point of view, I get the sense they don't think there's anything wrong with this at all.

And I think they're going to -- I think they'll be blown away if the response is just what you all think is, is -- or most of you think is -- what's in here, which is, "No, it should be wood." And so, just -- I just want to add a perspective that, from the perspective of the homeowner, wanting the windows to be consistent both on the inside and the outside is not necessarily some kind of evil or wrong approach.

Male Voice: I have one more question --

David Crompton: Yes.

Male Voice: -- to ask. Charlie has chosen to make more comments. If we pass the motion that's before us now, Charlie, and they do appeal the City Council.

Charlie Knox: Planning Commission.

Male Voice: Or, Planning Commission. And if Planning Commission says, "No, you got to do what HPRC said," they go to council.

Charlie Knox: Right.

Male Voice: You know, are you in support of what we're doing here tonight? Do you agree with our interpretation [unintelligible]?

Charlie Knox: If I'm doing my job the best I can, I'm neutral. Obviously, we made an initial recommendation [unintelligible]. But, if, if, if you approve a motion tonight where they're able to do the two vinyl ones on the side but they -- you want them to keep the three wood in the front, all the appeal's going to -- and they decide to appeal, right? I'm not, I'm not going to appeal that decision. Only reason I would appeal is if I thought you weren't following --

Male Voice: No, no, no, I'm, I'm saying --

Charlie Knox: So, they, so, they -- no, all, all the appeal will be is a one-page form they sign and this staff report and your decision and resolution. There's not going to be another staff report on it saying, "Here's what you should do." The Planning Commission I think should take a neutral and objective stance. And, and no, I don't -- if I, if I'm injecting my own personal feelings or, uh, opinion about something, I'm not going to do my job very well. So, uh, you -- hopefully, at this point, you don't really know what I think. What I'm going to tell you is here's what, here's what the rules are. Here's what I think we can do.

But, but, I do support Mark's staff report on this. Believe me. I'm really sorry Mark wasn't here tonight to give the presentation because normally he would be before you. I wouldn't. I always feel like when I'm in front of you, there's some kind of added intangible pressure. You know, here's the Director and trying to tell you what to do. I'm not trying to tell you what to do.

But, I do support Mark's, Mark's findings. And the reason I support them is basically what we're talking about now, which is the design review quality of this building, not the historic quality. And that is, when I go to the building -- and I went there tonight with good light -- I see wood from about the middle of the street, maybe a little bit closer, certainly not from across the street. And when I see the wood -- and yes, it could be repaired -- and it could be replaced

with another, you know, double-pane wood -- I see the in -- the blatant inconsistency between that style and the rest of the house.

And so, ideally -- and I agree with Leann on this -- ideally, people would be motivated in a historic district to say, "One of the reason I'm going to buy this house is to turn them all back into wood."

Well, I don't think that's happened. But, I'll tell you I had a somewhat similar situation. I lived in -- and I live in a, in a, in a really a true, uh, Spanish revival, you know, two stories with the one-floor living room in the front, still has the red tile. I mean, we haven't even talked about what if someone came in and wanted to replace -- we'll talk about it I guess with vinyl, but you know, replace the shingle roof like this with red tile, they have to come back.

But, I have this, I have this horrible mélange of aluminum double-pane 1970s windows, which at the time were probably state of the art, uh, but basically conduct mold, and I have all kinds of other problems. And I would like to replace them all with wood. And when the windows were put in, the wood -- the old windows that were removed in the '60s, the sash, the sashes were made smaller. The window openings were smaller so they could fit these standardized aluminum windows in.

So, I -- this is something that's really dear to me at home. And I [unintelligible] cost. Uh, and you know, this stuff's expensive. So, I'm, I'm saying make the decision you're going to make. But, I think

at least factor in that, from the standpoint of most of the people in this community who are not versed in historic resources the same, same way that you are that this doesn't really seem like some kind of crazy idea. It seems like, "Hey, I want -- I'm getting new windows that are nicer. And I'd like them to be consistent."

Leann Taagepera: Well, I'm sorry. But, I just have a couple more comments. It just -- there's a part in the staff report at the end, where it says, "Finally, it should be noted that allowing property owners some flexibility when appropriate has positive policy-level implications relative to a relationship between the city and the community." And to me, this really does sound like staff's opinion that you need to -- the Commission needs to offer flexibility and allow them to put in vinyl.

Charlie Knox: Well, really, what I was trying to say there is really just what I said. Uh, I, I think it's worth thinking about. Uh, and I don't want to get too philosophical. But, we are in election season. Uh, and I can tell you there's -- there is this basic theory in politics of the pendulum swing. And we see this in a small community. Honestly, if you take I think [unintelligible] all the politicians in our community and you put them in a much larger, like a real urban environment, they would appear to be pretty close together ideologically. But, because we live in a small and we're a small place and politicians and others often chart their positions based on where they think somebody else. And I'm going to be 180 degrees from them or I don't agree

with this person on the subject, it seems like a wide -- much wider spread.

But, there is some spread in ideology. And the pendulum does swing. You rarely see in any election in any [unintelligible] any change of, uh, the ideology of the politicians. You know, something -- you know, it was way over here, and now it's going to stop in the middle. It usually goes all the way across.

And, and the reason I put that sentence in there after some discussion with my staff and the city manager is I'm really concerned that if the impression of us as staff and you as a Commission continues to be -- and I'm saying continues to be because it is now -- that we can't be reasonable or we're not flexible or the way we interpret our rules is always to try to force people to learn about history and become more historic in their approach to buildings that at some point we may get told from those who do make policy that that's not really okay.

And my thinking in putting that sentence there and my feeling in, in spending time to talk to you now is I think it's really important that this Commission has a good relationship and staff has a good relationship with the citizens over historic resources and that, that maybe -- and maybe you all think this is the right [unintelligible]. You know, maybe this is maybe your, your view as a Commission is, yeah, we'd be -- we would be flexible if it were the right proposal. This isn't it. That's cool. And I'm really glad that you've

had a discussion where you've talked about that. But, my feeling was this was one where it was worth looking at whether this was the kind of, the kind of building and the kind of location with the kind of features where you thought, "You know what? It's really not going to make that much difference whether it's wood or vinyl as viewed from the street and sidewalk, whatever. Uh, and maybe we should think about."

And that's why I liked where you were going with the windows on the side at least because that's, that's kind of the, that's kind of the professional view I have of this, of this house is that if, if you -- because, because where I think maybe you and I disagree on this, Leann, but where I come from is you can't, you can't make them put wood in that double window. So, the double window is going to be that new kind of cream-colored vinyl instead of the white one or slightly -- I think it's just the color of the picture. Then that's what's going to be there. That's the character-defining window of, of the building.

You know, the arches are, are character defining. But, you really do have to look back in there, especially in shady conditions, to see those wood windows. And so, [unintelligible] from the street is vinyl, and maybe it's going to be better vinyl, you know, my feeling was, is it worth it holding wood on these other windows when they're obviously going to look inconsistent? And it's just going to look more of a hodgepodge, which I think is what Commissioner McKee was saying. That's why I put that sentence [unintelligible].

David Crompton: Okay. We have a motion and a second. Let's try to focus on questions or comments on the motion.

Leann Taagepera: [Unintelligible] discussion.

David Crompton: We are. We're discussing, we're discussing the motion that was --

Toni Haughey: I guess my concern is that then how do you apply that -- your -- you know, what you're saying and your rationale for doing this then to the rest of us in the district who may come along and want to change our windows and put double-paned vinyl or what's -- there's other -- there are other materials we could use. You know, I have all wood windows in my house, you know? And, uh, and, and that, that's one of my concerns, you know? And --

Male Voice: [Unintelligible.]

Toni Haughey: And I don't see what -- you know, it's not something we can discuss tonight. But, I think it's so interesting that we have such a problem with this when other communities don't. And they, and they have it spelled out. I mean, maybe that's our problem. We don't have it spelled out. I don't know. But, uh --

Charlie Knox: You have, you have discretion. And the reason you exist as a Commission is, is, is to exercise that discretion. And, and so, uh, again, I, I want to be clear on [unintelligible] question. I'm not

trying to convince you. I'm not trying to talk you into this. I'm just telling you that's why staff took the position we did. We as staff thought a reasonable interpretation of the rules that you have purview over would allow you to do that in this case. If you don't agree, that's your call.

Toni Haughey: So, let me just clarify one thing. So, what you're basically saying is, if we were, you know, go along with the theories here, that if a person has wooden windows in the house, then we should remain fast on keeping those wood windows or replacing them with wood windows, double-paned wood windows. Okay? But, if you have [unintelligible] vinyl, then you can replace it with [unintelligible] vinyl.

Charlie Knox: If -- well --

Toni Haughey: Is that what you're saying? I mean, I'm saying, how do we go do with the next person who comes along here?

Charlie Knox: Yeah, I'm really -- believe me. I'm really sympathetic to that because ultimately we're doing our jobs well if you don't even see those situations if it's like for like. I -- you know, I think, I think Chair Crompton really framed this well somewhere in the middle of this conversation, which is, you, you do have this [unintelligible] between consistency and evaluation on a case-by-case basis. And I think I put -- I think, uh, when you and I were emailing the other night, I think I said, "This is the first case I've seen [unintelligible]"

this is the first case I've seen where I don't authorize my staff to make this kind of recommendation." I, I've never -- I've not seen another case come before you where I thought, man, the house is so [unintelligible] that it really doesn't make since to keep the wood. And so, I don't know if there's some mathematical formula like there's 12 [unintelligible] and nine of them are already vinyl [unintelligible] the three wood. I mean, I don't know if it's that simple.

But, this is one of those ones where I felt like staff's looking and that was discussed with me was, "Hey, look at this place. It's all -- you know, upgrading the vinyl to nicer vinyl would actually be a more consistent, better design review approach. It may not be, you know, the most perfect strategic, uh, historic preservation approach. But, it seems to make sense from the design standpoint." So, that's, that's one thing you could point to. I mean, if you were going to make that kind of decision, you know, you've got basically 75 percent of the windows are already vinyl. Keep them. If they're wood [unintelligible] just kind of looks odd.

But, I still would never -- I would never support -- if all the windows in the front were wood right now, I would never support the same proposal. It's the fact that you look at that building [unintelligible] big vinyl double window that's not going to change. What's going to change [unintelligible] excuse me.

Leann Taagepera: [Unintelligible] I think allowing the, the three original wood windows to go vinyl just perpetuates the inappropriate alterations have already been done to this building. And that's now our purview and our goals under the ordinance.

Uh, yes, it is more of a hodgepodge, uh, to have some wooden and have some vinyl. So, I don't understand why it would be best to err on the side of the vinyl, you know? And I think that a person in the future, if they still have -- if they have wood or if they had the original wood that they can possibly repair, then it starts them on this process for potential restoration of the other front window. And then all of the front windows will be wood.

I mean, there is a big difference. I mean, in the San Francisco window policy described, they talked about what is the difference to the viewer when you walk past. And some of it is the features are gone. And Toni -- Commissioner Haughey talked a little bit. I mean, if you have the vinyl ones, it goes straight across. They're very, uh, geometrical. If you had the old ones, there's always this little part that comes down on the -- the two sides. And you can see the window lock in the top. And the size on the bottom is different.

So, I mean, driving past in the car, I could tell these were different because these were wood, obviously. And the other one was vinyl. The vinyl, you lose these little features that are part of the look of the house. So, I have [unintelligible] before that if the -- you can't see the windows, you know, I think I, I argue that if the public can't

see part of the house that it's not, uh, not much -- it's actually character defining. So, if people's windows are going to their backyard, we have some other ones. And there was one where you could pretty much not see the window. And I spent time in a different house where I walked back and forth and just said, "Well, can I see it? Can I see it?" I can't really see it. I don't see it affects me as the public, doesn't affect the streetscape. I don't see how it affects historic district if I can't see it.

And so, in those, we went with vinyl, new windows. But, the ones in the front, the one primary elevation, the prominent part, I, I would be in favor of keeping that. And I think it's great to put in a word into encourage people. I think that our role is supposed to be to encourage preservation. I mean, I like to do that by having no fees when people come in. If someone comes in to restore a building, I don't think they should have to pay for anything. And I think there's ways that we can encourage people, even like financially like that to come in. So, I, I like your motion to encourage, uh, and then allow wooden window in front without coming back to us.

Male Voice: Save them money if they put that into the, put it into the wooden window. I agree.

Leann Taagepera: Yeah, and then repair first and if not possible, replace with wood the three and one -- and then replace the side ones with vinyl as they want.

Male Voice: You're aware if they replace them [unintelligible] little, you know, dog ears because they're --

Leann Taagepera: Yes [unintelligible] you make custom-made ones. When we had the person in here, he said --

Male Voice: Yeah, okay. They're custom made. Okay.

Leann Taagepera: [Unintelligible.]

Male Voice: Yeah, so that they could be custom made to be just like that. You're right.

David Crompton: Okay. Any, uh, any additional comments? So, every, uh, everybody understands the motion at this point?

Toni Haughey: The motion is --

Male Voice: No, not really. It was again --

Toni Haughey: Say it again.

Male Voice: -- just the three wood and --

David Crompton: The motion is basically three wood and to allow for and encourage the replacement of the double front one with wood if they want to.

Leann Taagepera: And [unintelligible] on the side.

Male Voice: And the idea that if they did that could be done by staff and --

Charlie Knox: Certainly.

David Crompton: We're authorizing staff to do that, yes. All right. We have motion and a second. Can we have a, a roll call?

Female Voice: Commissioner Haughey?

Toni Haughey: No.

Female Voice: McKee?

Steve McKee: No.

Female Voice: Taagepera?

Leann Taagepera: Yes.

Female Voice: Van Landschoot?

Jon Van Landschoot: Yes.

Female Voice: White?

Michael White: Yes.

Female Voice: And Chair Crompton?

David Crompton: Yes. Commission [unintelligible]. Thank you very much. Okay.
Next item, any communications from staff?

Charlie Knox: None.

David Crompton: Communications from commissioners?

Male Voice: Yeah, actually. I've talked for awhile about, uh, getting together some ideas for proposal revisions to the [unintelligible] master plan on elements that some -- in some cases we as a Commission have done cumbersome and that I found in my -- you know, working with people on my own problematic. And I would like to get that going soon. And I've been talking about it. And I know we have to like put it onto the agenda to really talk -- turn it into a discussion. I -- so, I would like to get that going. You know, procedural stuff's not my strong point here. So, I'm not sure what I, you know, do. I just request that it be on the agenda next month. And I guess I need to produce some material in advance to make it, you know, just go. So, I guess I can talk to staff about this later. But, that's --

Male Voice: [Unintelligible.]

Female Voice: Yeah, and it would be -- sorry, if I can just jump in for clarification for staff purposes. Revisions to the Downtown Mixed Use Master Plan, there's multiple sections. So, is it to the code, to revision, intent, or what -- which section? What -- ?

Male Voice: Specifics, you know, line items that are worded, you know, in such a way to create, uh, you know, example, uh, you know, you have to have 10-foot ceiling if you're [unintelligible] open. And, and sentence and now every room in this poor guy's house that's not going to be seen by anybody, you know, the little, you know, five-by-five-foot, you know, powder room even in the back of his house has to have a 10-foot ceiling. I -- you know, it's ridiculous.

Charlie Knox: You actually have two choices. One is you could seek the consensus of this Commission and schedule for this Commission. Or, you could go direct -- and then it would still go to [unintelligible] and the council. Or, you could directly to Planning Commission if you'd like for the proposal.

Male Voice: I think I'd like to have the input of everybody here. So --

Charlie Knox: It's probably a good idea because, actually, just thinking about that [unintelligible] private individual [unintelligible].

Female Voice: So, the proposal is then to bring, uh, copies of the Downtown Mixed Use Master Plan and kind of have a workshop and be able to

go through, uh, the development standards that are -- that you have found to be problematic.

Male Voice: Yeah, and I --

Female Voice: -- discussion of that with your peers here.

Male Voice: And, and make sure if it's, you know, a good idea or a bad idea to, uh, you know, uh -- of course, I would have some less with, you know, uh, examples and some -- uh, to, you know, uh, send that out to everybody in advance to look at, uh, or if that, you know, violates some kind of brown acting or not.

Male Voice: No, if you send it --

Female Voice: You can submit it to staff. And then we can distribute it in the packet.

Male Voice: Okay.

Female Voice: Yeah.

Male Voice: Okay. Work that out.

Male Voice: I agree with you because, I mean, when we did Phil's place, I mean, it was -- you know, you know what I mean? Right. And now that you've had someone, I -- Mike, I --

Male Voice: It's about, you know, eight or 10 of them, you know?

Male Voice: Yeah, and it'd be nice if we had them in our packet before so we're not reading while we're discussing.

Male Voice: Yeah. Okay.

Male Voice: Of course.

Male Voice: And can I ask Charlie a question? I know we're broke, but that's the comment. Do you have any sense of how much it would cost to rewrite this and then get the, the, the zoning and all that stuff together, just a ballpark figure?

Female Voice: [Unintelligible.]

Charlie Knox: Well, I'm thinking it's going to require a number of meeting here, number of meetings with Planning Commission Council. I don't think [unintelligible].

Male Voice: Probably a consultant to --

Charlie Knox: I'm thinking 100, at least 150,000.

Male Voice: Okay. Is --

Female Voice: \$150,000.

Charlie Knox: To change that, go through the process, change that, change the zoning and have [unintelligible] meetings.

Male Voice: So, let's --

Charlie Knox: -- final review.

Male Voice: Let's say 150 to be on the high side. My last question is, can something like that be -- given that we're CLG and we've got context, is something like that grantable?

Charlie Knox: Sure.

Male Voice: -- that's the word.

Charlie Knox: Sure.

Leann Taagepera: They start context because we're only \$25,000.

Male Voice: Yeah, no, but, I mean, that was 25.

Male Voice: 25,000 and 90 hours a week for --

Male Voice: Yeah. But, I mean, you know, that's six times. So, it's grantable whether --

Charlie Knox: Yeah, probably -- I mean, probably [unintelligible] some kind of partial grant. But, yeah, that would be --

Male Voice: And an incoming service.

Male Voice: Isn't Cal Poly looking for some -- ?

Male Voice: Yeah.

Male Voice: -- graduate, uh, work?

Male Voice: Yeah.

Male Voice: Yeah, because --

Female Voice: [Unintelligible] we were -- I -- last time I spoke to Gina that it was talked about applying to the Sustainability Commission for a grant. That's what I was told.

Male Voice: There's a lot of talk about the remaining [unintelligible] money and what it's going to be used for. I think it's been used about 30 times [unintelligible].

Male Voice: [Unintelligible] just the other day.

Male Voice: But, but, that is, that is not a bad idea. That's not a bad idea.

Male Voice: Emails all the time saying can we spend it, even people who think they can use the money [unintelligible] police and fire [unintelligible].

Charlie Knox: You know, even among people that know the so-called color of money that know that that money is set aside for [unintelligible] and conservation [unintelligible] to pay staff. You know, how can you be laying people off or cutting our -- I'll take 10 percent, I'll take 10 percent cut. And people said, "Well, why'd you have to take 10 percent cut [unintelligible]?" It's hard to explain. But, there -- that is a possibility. If we, if we retool the Downtown Historic Conservation Plan to be a -- have a significant component of energy and water conservation within it, might be a proposal.

Male Voice: [Unintelligible.]

Charlie Knox: Then you could have things like replace any wood window you want with X, Y, or Z double-pane wood window, doesn't require any staff [unintelligible].

Male Voice: And save the money that would get you here.

Charlie Knox: Yeah.

Male Voice: Which you could [unintelligible].

Female Voice: Yeah, I realize we're not San Francisco. But, they actually [unintelligible] windows to their clients.

Charlie Knox: The exact style.

Female Voice: This is what you can put in.

Charlie Knox: See, that's not the way -- because one of the reasons that you have a [unintelligible] in front of you like this like tonight is this uncertainty. You know, if we're -- if we had modern rules with those kinds of bases, they would say, "Okay. I went down, you know" -- of course, you always have to have -- they communicate with [unintelligible] rules. They know what they are as opposed to this, you know, [unintelligible]. But, you know, that's a great -- the best -- I've always thought the best zoning, uh, best zoning district is one that just has all things permitted. And that's what you have.

Female Voice: Right.

Charlie Knox: You can't do that [unintelligible]. We kind of had it at some point [unintelligible]. And the best design review is you can do this, this, this, and this. And then you don't need, you don't, you don't have these kinds of intense conversations at Commission level. You're just basically --

Female Voice: Right.

Charlie Knox: -- blessing what staff has been able to [unintelligible].

Male Voice: [Unintelligible.]

Leann Taagepera: [Unintelligible] on a couple things. Uh, one, uh, the feedback I've gotten from people has not been negative toward HPRC. You know, I've had comments. You know, you were saying sort of negativity. Uh, I mean, we -- there was a woman that came up the last meeting who wanted us to go even further on things and wanted us to go to existing -- you know per pre-alterations and make people change those. And we had to explain that, uh, that's not legal. If someone already has a permit to do something some years past, we -- our job is not go around in Benicia and say, "You can't have that door you put in 30 years ago," so kind of explaining context and our legal authority of what we do.

And I've heard more of people who, uh, people who -- it's when there's an inconsistency between property owners. And that's when people think it's unfair or something. I mean, people who some people could put in skylights and other people couldn't put in skylights and they don't know why. Or, some people then did carefully restore windows. And they see other people who we encouraged restoration of windows. And you go back, and every single one's been removed and taken out.

And so, you know, the people I've talked to is there are people who all wanted to restore their houses and love to live downtown and

buy a historic house on purpose because of its value and, you know, become aware of these things. And I haven't, I haven't had people come to me -- you know, it's funny. Some people complain about pain colors to me. Why did you let that person paint that house that color? It's actually they could. That's not my job to tell that person 10 years ago what color their house could be, you know?

Uh, I would -- did want an update. I was wondering. Is -- how -- within two or three years now, [Amy Million] had been updating our demolition ordinance. And she brought us a draft. And we made comments. And then she was going to go back. And then Gina had been working on the ordinance to -- we have a whole Design Review Commission ordinance. And then DRC doesn't exist. You know, and then there's HRC things and HPRC things. And Gina had put together a draft already which she was cleaning up the wording. And she was also including, including some information about how property owners -- how a building could be designated as historic or not. I had submitted some suggestions for a method. She had talked to OHP, uh, I don't know, six or nine months ago. And will, uh, these things come back to us, so -- ?

Male Voice: I believe they will. You know, Amy, Amy's actually back with us now for a little while. I don't know how long. And, uh, basically I confirm on the -- she's working on that now. So, we'll --

Leann Taagepera: That takes --

Male Voice: We'll get you on it the next meeting. But, if you want to get in touch with us [unintelligible] like even in the next few days, I'll try to get, uh, [unintelligible].

Leann Taagepera: Well, I'm just hoping it will come back because, I mean, pretty soon, my four years will be up. And I'd like to, uh, see some moving forward on this [unintelligible]. Okay. Do you have -- are you going to tell us about the design awards?

Toni Haughey: Yeah, it was really -- uh, there were some great projects. They had people from all over, uh, California, you know, all the different projects. And they had little [unintelligible] awards. And we got to see what people had done and some amazing things that people do other places. And then that's why I, you know, get a little over the top here because, when you see what's going on in the rest of California and then we struggle.

So, uh, it was very nice. And they made presentations. And, uh, they had nice cocktails [unintelligible]. Uh, Gina got to go up on stage with, uh, uh --

Leann Taagepera: [Jonathan Members].

Toni Haughey: Jonathan.

Leann Taagepera: [Unintelligible.]

Toni Haughey: And yeah, it was very nice, a lot of interesting people there.

Leann Taagepera: And they gave us a plaque or something that we had.

Toni Haughey: Yeah, we got something. We got a -- it was a plaque. It was a, uh, kind of something, a scroll.

Leann Taagepera: Okay.

Toni Haughey: Yeah, it was good.

Male Voice: [Unintelligible.]

[Laughter]

Male Voice: -- before you leave.

Male Voice: Well, I was curious about [unintelligible], uh, when you go and apply.

Male Voice: Okay. Let me go ahead and -- are we done with -- ?

Toni Haughey: Yeah, I'm done. It was, it was great.

David Crompton: Meeting --

Leann Taagepera: Adjourned.

David Crompton: -- adjourned.

Male Voice: [Unintelligible.]

Charlie Knox: Somebody wants to change their windows, uh, when you go to a window company, aren't they, uh, responsible for owner permit? Or, is it the, uh -- ?

Male Voice: Contractor [unintelligible].

Male Voice: Whoever the owner authorize, whoever the owner authorizes [unintelligible].

[End of recorded material]

Applicability and Exemptions

The policies outlined above with respect to the design review process apply equally to individual designated landmark properties as well as all structures and sites in designated historic districts. Replacement of existing building features or elements with identical ones and routine maintenance are exempt from design review as are repairs of emergency nature to rehabilitate an unsafe building. Painting is administrative review for non-historic single-family residences and duplexes in the Central Area only. The following are specific examples of routine maintenance and repairs which are exempt from design review. These examples apply only to designated historic structures.

- Painting
- Reroofing with the same material
- Replacement of existing siding or trim or siding or trim of the same material and appearance.
- Replacement of existing windows or doors with windows or doors of the same dimension, finish and overall appearance
- Other repairs or replacements as determined by planning staff.

Criteria and Application Procedure

The criteria for review are those which are presented in the following sections of this conservation plan. Upon adoption of the Downtown Conservation Plan, the design review policies and the procedures outlined above will supersede the interim review procedures formerly in effect for First Street. The application process and materials to be submitted are described in Chapter 17.108 Design Review and 17.112 Development Plan Review of the Benicia Zoning Ordinance.

However, under this conservation plan, where review is administrative, the Planning Director will be given discretion in prescribing the materials and documents to be submitted by the applicant in accordance with the scope of the proposed project. Furthermore, administrative design review of non-historic single-family residential projects should be completed by the Community Development Director within 10 working days rather than 30 days. Where review is not administrative, application shall be made as specified in Chapter 17.108 and 17.112 of the Benicia Zoning Ordinance, unless modified by City Council Resolution 09-26.

As the design guidelines and regulations contained within this conservation plan will be used by the city staff and commissions in reviewing applications for development and alterations in the historic district, the first step a property owner should taken is to determine what level of review will be required for a give project. The following tables (1 and 2) are provided to simplify this process. All number of alterations are listed in the first column

D.H.C.P.

- 3.5 Integrally colored materials such as brick or stone and stained wood (shingles, rafters, trim) should not be painted over. Sandblasting of masonry surfaces to remove paint will damage the material. Other methods should be used.
- 3.6 Where necessary to re-build or replace an existing chimney or add a new one, the original material, generally brick, should be used.

Policy 4: Appropriate Materials, Colors And Finishes

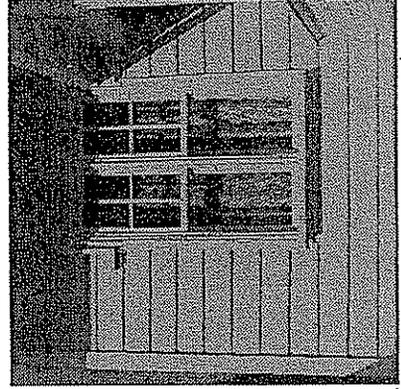
Promote the use of appropriate materials in restorations, renovations and additions to historic buildings and colors which complement their styles and particular combination of building materials.

Guidelines

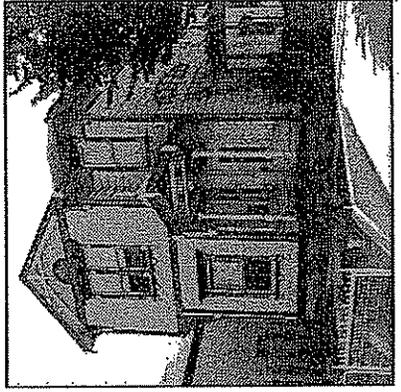
- 4.1 Use original materials wherever possible in restoration, renovation or repair work and use the same materials for building additions.
- 4.2 When necessary to use a substitute material, take care that its outward appearance, durability, texture and finish will be as close as possible to that of the original. If the original material was painted, be sure that the substitute will accept and retain the same painted finish.
- 4.3 Wood window sash is preferred for historic buildings. Vinyl clad wood or factory finished (i.e., baked enamel) aluminum frames may be acceptable as long as the original design can be duplicated.
- 4.4 Materials or colors listed as inappropriate for new construction are also inappropriate for historic buildings (New Construction - Policy 4).

4.5 Paint colors and color schemes should be appropriate to the style and design intent of the building. Some examples follow:

- "Salt Box" or "New England" White, off-white or neutral base; contrasting window sash and/or trim (optional).
- Italianate or Classical Monochrome: white or off-white; contrasting window sash (optional).
- Queen Anne or Stick/Eastlake Polychrome: white, light pastel or earth-toned base color; one to three compatible trim colors.
- Craftsman Monochrome: medium to dark stained wood (original); use similar paint color if original finish cannot be restored.
- Mediterranean, Tudor English or Norman Revival White, off-white or light beige; contrasting painted, trim similar in color to dark stained wood.



4.3



4.5 Stick/Eastlake

D.H.C.P. 62



standards for rehabilitation



1. A property will 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.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will 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, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

-GUIDELINES-

The Approach

Exterior Materials

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Site

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THE STANDARDS

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STANDARDS FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS

EXTERIOR FEATURES

windows



HISTORICAL OVERVIEW

[Identify](#) [Protect](#) [Repair](#) [Replace](#) [Missing feature](#) [Alterations/Additions](#)

Identify, Retain and Preserve

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.



This view of a historic building shows how the windows clearly help define its character, partly because of their shape and rhythm. If additional windows were inserted in the gap of the upper floors, the character would be drastically changed, as would painting the window heads to match the color of the brick walls.

Conducting an indepth survey of the condition of existing windows early in rehabilitation planning so that repair and upgrading methods and possible replacement options can be fully explored.

NOT RECOMMENDED

Removing or radically changing windows which are important in defining the historic character of the building so that, as a result, the character is diminished.

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

Changing the historic appearance of windows through the use of inappropriate designs, materials, finishes, or colors which noticeably change the sash, depth of reveal, and muntin configuration; the reflectivity and color of the glazing; or the appearance of the frame.

Obscuring historic window trim with metal or other material.

Stripping windows of historic material such as wood, cast iron, and bronze.

Replacing windows solely because of peeling paint, broken glass, stuck sash, and high air infiltration. These conditions, in themselves, are no indication that windows are beyond repair.

-GUIDELINES-

The Approach

Exterior Materials

[Masonry](#)

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THE STANDARDS



The historic steel sash has been removed and replaced with modern aluminum sash, resulting in a negative visual impact on the building's historic character. Photo: NPS files.

top

Protect and Maintain

RECOMMENDED

Protecting and maintaining the wood and architectural metals 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.

Making windows weathertight by re-caulking and replacing or installing weatherstripping. These actions also improve thermal efficiency.

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.

NOT RECOMMENDED

Failing to provide adequate protection of materials on a cyclical basis so that deterioration of the window results.

Retrofitting or replacing windows rather than maintaining the sash, frame, and glazing.

Failing to undertake adequate measures to assure the protection of historic windows.

top

Repair

RECOMMENDED

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

These historic steel windows are being prepared for repairs and re-finishing as part of a



*rehabilitation project.
Photo: NPS files.*

NOT RECOMMENDED

Replacing an entire window when repair of materials and limited replacement of deteriorated or missing parts are appropriate.

Failing to reuse serviceable window hardware such as brass sash lifts and sash locks.

Using 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.

top

Replace

RECOMMENDED

Replacing in kind an entire window that is too deteriorated to repair using the same sash and pane configuration and other design details. If using the same kind of material is not technically or economically feasible when replacing windows deteriorated beyond repair, then a compatible substitute material may be considered.

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.



Inappropriate change to a historic building means the loss of its distinctive visual qualities, as well as a lessening of its long-term historical and cultural value. Photo: Martha L. Werenfels, AIA.

top

The following work is highlighted to indicate that it represents the particularly complex technical or design aspects of Rehabilitation projects and should only be considered after the preservation concerns listed above have been addressed.

Design for the Replacement of Missing Historic

Features

RECOMMENDED

Designing and installing new windows when the historic windows (frames, 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 window openings and the historic character of the building.

NOT RECOMMENDED

Creating a false historical appearance because the replaced window is based on insufficient historical, pictorial, and physical documentation.

Introducing a new design that is incompatible with the historic character of the building.

[top](#)

The following work is highlighted to indicate that it represents the particularly complex technical or design aspects of Rehabilitation projects and should only be considered after the preservation concerns listed above have been addressed.

Alterations/Additions for the New Use

RECOMMENDED

Designing and installing additional windows on rear or other-non character-defining elevations if required by the new use. New window 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.

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

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.

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.



In the rehabilitation of a church for offices and apartments, the large open interior space was inappropriately subdivided by inserting a full second floor. Removing the stained glass windows further changed the historic appearance, compromising their size and proportion on the interior. Photo: NPS files.

Chapter 2.84
HISTORIC PRESERVATION REVIEW COMMISSION

Sections:

- [2.84.010](#) Purpose.
- [2.84.020](#) Established – Membership.
- [2.84.030](#) Members – Qualification.
- [2.84.040](#) Meeting time and place.
- [2.84.050](#) Tie vote.
- [2.84.060](#) Officers – Appointment.
- [2.84.070](#) Officers – Duties.
- [2.84.080](#) Powers and duties.

2.84.010 Purpose.

The purpose of the historic preservation review commission is to identify, register, designate, preserve, protect, enhance and perpetuate those historic structures, districts and neighborhoods which contribute to the cultural and aesthetic heritage of Benicia; to foster civic pride in the beauty and accomplishments of the past; to stabilize and improve the economic value of certain historic structures, districts and neighborhoods; to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used; to conduct design review in historic overlay (H) districts as provided for in Chapter [17.108](#) BMC; and to advise and assist the city council in implementing the goals, policies and programs set forth in the city's general plan relating to preservation and enhancement of the city's historic character and protection of the city's archaeological sites and resources. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.010).

2.84.020 Established – Membership.

A historic preservation review commission is established in the city. The commission consists of seven voting members. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.020).

2.84.030 Members – Qualification.

A. Each member of the historic preservation review commission shall be a Benicia resident and have a demonstrated special interest, competence or knowledge of historic preservation.

B. Members shall, to the extent possible, be:

1. Professionals in the disciplines of history, architecture, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that such professionals are available in the community; or
2. Lay members who have demonstrated special interest, competence, experience, or knowledge in historic preservation.

C. At least two members shall be owners of a historic property within the historic district. One of these members shall be the owner of a residence in the historic district. The other member shall be the owner of either a residence or business property in the historic district. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.030).

2.84.040 Meeting time and place.

The commission shall meet as often as necessary, but at least four times a year, with meetings held in a public place, advertised in advance, and open to the public, pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.) for open meetings. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.060).

2.84.050 Tie vote.

A tie vote on any matter before the commission shall be deemed to be a disapproval thereof. (Ord. 08-05 § 1).

2.84.060 Officers – Appointment.

The commission shall elect a chairperson and a vice-chairperson from among its members. The chairperson and vice-chairperson serve for a term of one year and until the successor of each takes office. The commission shall also appoint a secretary. The secretary need not be a member of the commission. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.100).

2.84.070 Officers – Duties.

A. Chairperson. The chairperson shall preside at all meetings of the commission. He/she shall appoint all committees and shall perform the duties necessary or incidental to his/her office.

B. Vice-Chairperson. The vice-chairperson is chairperson in the absence of the chairperson or in case of the inability of the chairperson to act.

C. Secretary. The secretary shall keep minutes of each meeting, shall record the official action taken and perform such other duties as the commission assigns. The secretary need not be a member of the commission. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.110).

2.84.080 Powers and duties.

The commission shall:

A. Conduct design reviews for restoration, remodeling and development projects in the historic overlay (H) zones in accordance with Chapter [17.08](#) BMC and/or Chapter [17.54](#) BMC, or which involve city-owned historical buildings. Ensure that restoration, remodeling and new development complies with the “Secretary of the Interior’s Standards for the Treatment of Historical Properties,” the criteria contained in the general plan and the criteria in the adopted historic plans for each district. Support decisions by specific findings based on the “Secretary of the Interior’s Standards for the Treatment of Historical Properties,” the general plan and the adopted historic plans for each district, as detailed in the relevant sections of the Benicia Municipal Code, as they may be amended from time to time;

- B. Maintain a program to compile, record and update an inventory of cultural resources within the city. The inventory shall be based on comprehensive surveys conducted in conformance with state survey standards and procedures;
- C. Make policy recommendations to the city council on matters that relate to historic preservation and the restoration of designated buildings and districts;
- D. Review and certify CEQA documents for projects which require only HPRC approval and review CEQA documents and make recommendations for approval to the planning commission and city council as appropriate;
- E. Each commission member is expected to annually attend an informational or educational meeting, seminar, workshop or conference that pertains directly to the work of the commission or would be approvable by the State Office of Historic Preservation;
- F. Produce an annual report, in accordance with the requirements of certified local government, on the activities of the commission;
- G. Oversee and establish a program to assist owners of historic homes in lower-income areas to apply for low interest loans through community development block grants (CDGBs), when available;
- H. Oversee the publicizing of opportunities and incentives for historic preservation to owners of historic buildings;
- I. Oversee the maintenance of a list of historic preservation review commission educational materials. These items will have been determined by the commission as providing important background information necessary for commissioners to do the work of the commission. The commission may modify this list at its discretion. As soon as is practicable after appointment, commissioners are required to review the items on this list;
- J. Pursuant to the program established by the city council, oversee a program for property tax incentives in accordance with the California Mills Act and recommend to the city council execution of Mills Act agreements. Provide potential buyers with information about the California Mills Act and federal investment tax credits;
- K. Maintain a program to coordinate with the California Archaeological Inventory to develop and maintain an inventory of existing and potential archaeological sites;
- L. Maintain a program to inform title companies that properties in Benicia may be affected by historic preservation regulations;
- M. Work with Main Street, the Benicia Historical Society, the Benicia Historical Museum at the Camel Barns, and other community groups on historic preservation issues;
- N. Recommend nomination of properties for the California and National Register;
- O. Create, maintain and increase the community awareness of our historic resources;
- P. Oversee the administration of the city's official historic plaque program; and

Q. Perform other duties as provided by the city council. (Ord. 08-05 § 1; Ord. 05-01 § 1; Ord. 01-3. Formerly 2.56.140).

This page of the Benicia Municipal Code is current through Ordinance 11-12, passed October 18, 2011.

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.benicia.ca.us/>
(<http://www.ci.benicia.ca.us/>)

City Telephone: (707) 746-4201

Code Publishing Company

(<http://www.codepublishing.com/>)

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(<http://www.codepublishing.com/elibrary.html>)

Chapter 17.54
H HISTORIC OVERLAY DISTRICT

Sections:

- [17.54.010](#) Specific purposes.
- [17.54.020](#) Applicability and zoning map designator.
- [17.54.030](#) Land use and development regulations.
- [17.54.040](#) Criteria for establishment of H district.
- [17.54.050](#) Criteria for designating landmark buildings.
- [17.54.060](#) Conservation plan required.
- [17.54.070](#) Application requirements.
- [17.54.080](#) Review and approval.
- [17.54.090](#) Establishment of H districts and landmark designation.
- [17.54.100](#) Demolition and design review procedures.
- [17.54.120](#) Maintenance of structures and premises.

17.54.010 Specific purposes.

The specific purposes of the H historic overlay district are to:

- A. Implement the city's general plan;
- B. Deter demolition, destruction, alteration, misuses, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past;
- C. Promote the conservation, preservation, protection, and enhancement of each historic district;
- D. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property;
- E. Encourage development tailored to the character and significance of each historic district through a conservation plan that includes goals, objectives, and design criteria. (Ord. 87-4 N.S., 1987).

17.54.020 Applicability and zoning map designator.

The H historic overlay district may be combined with any zoning district. Each H overlay district shall be shown on the zoning map by adding an "-H" designator to the base district designation followed by the number of the district based on the order of adoption. (Ord. 87-4 N.S., 1987).

17.54.030 Land use and development regulations.

A. The land use and development regulations applicable in an H district shall be as prescribed for the base district with which it is combined unless modified by another overlay district; provided, that the requirements of the district conservation plan shall govern where conflicts arise.

B. Exceptions for Historic and Architecturally Significant Structures.

1. The community development director may grant a use permit for an exception to the land use regulations of the base district with which an H district is combined when such an exception is necessary to permit the preservation or restoration of an historic or architecturally significant building, structure or site.

2. Applications for such use permits shall be filed with the community development director on a form provided. The community development director shall refer all applications for an exception under this section to the historic preservation review commission (HPRC) for a report and recommendation. In making a decision, the community development director shall make a written finding that shall specify the facts relied upon in rendering his decision. A copy of this written finding, together with all evidence presented to the community development director, shall be filed in the planning department. The written finding and decision shall be mailed to the applicant and shall be subject to appeal to the planning commission. Decision-making authority on such use permits may be deferred to the planning commission at the option of the community development director. Upon their decision in such instances, an appeal may be made to the city council as prescribed in Chapter [1.44](#) BMC. (Ord. 07-59 § 1; Ord. 05-03 § 4; Ord. 87-4 N.S., 1987).

17.54.040 Criteria for establishment of H district.

A. A portion of a base district shall be eligible for inclusion in an H district if one or more of the following criteria, rigorously applied, are met:

1. The area possesses character, interest, or value as part of the heritage of the city.
2. The area is the location of a significant historical event.
3. The area is identified with a person or group that contributed significantly to the culture and development of the city.
4. Structures within the area exemplify a particular architectural style or way of life important to the city.
5. Structures within the area are the best remaining examples of an architectural style in a neighborhood.
6. The area or its structures are identified as the work of a person or group whose work has influenced the heritage of the city, the state, or the United States.
7. The area or its structures embody elements of outstanding attention to architectural or landscape design, detail, materials, or craftsmanship.
8. The area is related to a designated historic building or district in such a way that its preservation is essential to the integrity of the building or district.
9. The area's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood.
10. The area has potential for yielding information of archaeological interest.

11. The area's integrity as a natural environment strongly contributes to the well-being of the people of the city.

B. Portions of a base zoning district that do not meet the above criteria may be included in an H district if inclusion is found to be essential to the integrity of the district. (Ord. 87-4 N.S., 1987).

17.54.050 Criteria for designating landmark buildings.

Individual buildings may be designated as historic or architecturally significant landmarks if one or more of the criteria set forth in BMC [17.54.040](#) are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an H district. (Ord. 87-4 N.S., 1987).

17.54.060 Conservation plan required.

Prior to filing an application for an H district, the applicant shall prepare an historic district conservation plan with the assistance of the planning department. Each conservation plan shall contain:

A. A map and description of the proposed district, including boundaries; the age, setting, and character of structures; urban design elements and streetscapes; major public improvements; and proposed objectives to be achieved;

B. A statement of the architectural or historical significance of the proposed district;

C. A list of specific alterations that should be subject to design review in order to protect the architectural or historical character of the proposed district;

D. A set of specific performance guidelines for new construction and alterations necessary to preserve the character of the proposed district;

E. Proposed rules and regulations for design review. (Ord. 87-4 N.S., 1987).

17.54.070 Application requirements.

A. Filing of Petition. An application for an H district or landmark designation may be initiated by the planning commission or city council, or by filing a petition requesting establishment of the district with the community development director, accompanied by the required fee. If initiated by petition, the application shall include:

1. The proposed conservation plan for the district as prescribed by BMC [17.54.060](#);

2. A form bearing the signatures of the owners of 51 percent of the land area within the proposed district.

B. Application Contents. An application for a landmark designation shall contain:

1. A map showing the location of the building or structure and building plans or photographs of the building exterior;

2. A statement of the architectural or historical significance of the proposed building and description of the particular features that should be preserved; and

3. Except when initiated by the city, the consent of the owner or authorized agent to the proposed designation is required. For purposes of this section, each condominium owner's association shall be deemed the property owner of common areas.

Prior to accepting the application as complete, the community development director may request additional information, plans or materials deemed necessary to support the application. A planning commission public hearing on the petition shall be held within 90 days of the date the petition is accepted as complete. (Ord. 87-4 N.S., 1987).

17.54.080 Review and approval.

A. Neighborhood Workshop. The planning department shall conduct a neighborhood workshop in the proposed district to explain the proposal and the amendment process to neighborhood residents. Notice of the workshop shall be given in the same manner prescribed for zoning map amendments by BMC [17.120.040](#).

B. Notice and Public Hearing. After the neighborhood workshop, the proposed district shall be the subject of public hearings before the planning commission and the city council. The hearings shall be set, noticed, and conducted as prescribed by Chapter [17.120](#) BMC.

C. Contents of Public Notice. In addition to the information prescribed by Chapter [17.120](#) BMC, notice of a public hearing for the establishment of an H district or designation of a landmark shall include a statement that original petitioners have the right to withdraw their support of the district at any time prior to the hearing, and that property owners who have not signed the petition have the right to do so prior to the date of the hearing. (Ord. 87-4 N.S., 1987).

17.54.090 Establishment of H districts and landmark designation.

A. Required Findings. In addition to the findings required by Chapter [17.120](#) BMC, the planning commission and city council shall find that the proposed district or landmark has a significant architectural or historical character that can be preserved and enhanced through appropriate controls on new development and alterations to existing buildings and landscaping.

B. Adoption of Conservation Plan. An ordinance establishing an H district shall include an historic district conservation plan in the form submitted or as revised by the planning commission or city council. The plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district, or creates a substantial number of nonconforming uses or structures.

C. Effects on Projects Initiated Prior to Effective Date. No provision of this chapter shall apply to projects initiated prior to the effective date of an ordinance establishing an H district or designating a landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter [17.98](#) BMC. For the purposes of this

subsection, a project shall be deemed initiated if an application, plans, and materials for concept or development plan review have been filed and accepted as complete.

D. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted conservation plan shall be initiated in the same manner as an application for a zoning map amendment (Chapter [17.120](#) BMC). (Ord. 87-4 N.S., 1987).

17.54.100 Demolition and design review procedures.

A. In General. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter [17.108](#) BMC. Design review and approval shall be the responsibility of the community development director or the design review commission, as the case may be.

The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the design review commission. Prior approval of the community development director or the design review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.

B. Criteria. In addition to the requirements of Chapter [17.108](#) BMC, the community development director or design review commission, as the case may be, shall consider the proposed demolition, new construction, or alteration in the context of the adopted conservation plan and the architectural or historical value and significance of the site and structure in relation to the overlay district. These considerations shall include the visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, building siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors, and textures.

C. Required Findings. No demolition permit shall be issued for demolition of any historic structure within an H district or for demolition of a designated landmark without prior review and approval by the design review commission. Demolition permits for nonhistoric structures within the H district may be approved by the community development director. To assist any evaluation by the design review commission, the community development director shall submit a report and recommendation to the design review commission.

1. For Demolitions.

a. If, after review of the request for a demolition permit, the design review commission determines that the structure itself has historical, architectural or cultural interest or value, the commission may withhold approval for demolition for 180 days (from the date of commission action) or until environmental review is completed, whichever occurs later.

During the 180 days, the design review commission may direct the planning department to consult with recognized historic preservation organizations and other civic groups, public agencies and interested citizens; make

recommendations for acquisition of property by public or private bodies or agencies; explore the possibility of moving one or more structures or other features; and take any other reasonable measures.

At the end of the 180-day period, the demolition permit shall be issued if environmental review determines there will not be a significant impact on the environment and all requirements of this title are met or, if there may be substantial environmental damages, that specific economic, social or other considerations make infeasible the mitigation measures or alternatives identified during environmental review.

b. If, after review of the request for a demolition permit, the design review commission determines that the building or structure has no substantial historical, architectural, or cultural interest or value, a building permit for demolition may be issued.

2. For New Construction or Alterations. The director or the commission shall not grant design approval for new construction or alterations unless it finds that the proposed new construction or alteration will be compatible with and help achieve the purposes of the H district.

3. For Removal or Alteration of Certain Landscape Materials. The director's or commission's approval shall be required for removal or alteration of landscape materials identified as significant resources by the historic district conservation plan. Removal or alteration of such landscape materials shall require a finding that the proposed removal or alteration will not affect the character of the H district, or that the safety of persons or property requires the removal or alteration. No provisions of this subsection shall be construed as restricting routine maintenance of landscape materials.

D. Economic Hardship Waiver. If an applicant for design concept or design approval presents evidence of inability to meet the cost of complying with a condition of approval, the director or the commission may grant the approval with the requirement that all conditions be met within a period of up to five years. If such conditions are not met within five years, the property owner shall be subject to the enforcement provisions of Chapter [17.128](#) BMC.

E. Effective Date – Appeals. Decisions of the director or commission shall be final on the tenth business day after the date of the decision, unless appealed in accordance with Chapter [1.44](#) BMC. (Ord. 07-59 § 2; Ord. 93-1 N.S. § 5, 1993; Ord. 87-4 N.S., 1987).

17.54.120 Maintenance of structures and premises.

All property owners in H districts and owners of designated landmarks shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter. Good repair includes and is defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration,

dilapidation, and decay of the exterior portions of the structure and premises. (Ord. 87-4 N.S., 1987).

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Chapter 17.108 DESIGN REVIEW

Sections:

17.108.010	Purposes.
17.108.020	Applicability.
17.108.030	Sequence of design review.
17.108.040	Scope of design review.
17.108.050	Initiation of design review.
17.108.060	Review responsibilities.
17.108.070	Review process and time limits.
17.108.080	Notice and public hearing by design review commission.
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17.108.100	Appeals.
17.108.110	Design review guidelines.

17.108.010 Purposes.

Design review is intended to implement general plan policies. More specifically, the purposes of design review are to:

- A. Ensure that the location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;
- B. Ensure that the architectural design of structures, their materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;
- C. Ensure that plans for the landscaping of open spaces conform with the requirements of this title, and that they provide visually pleasing settings for structures on the site and on adjoining and nearby sites and blend harmoniously with the natural landscape;
- D. Prevent excessive and unsightly grading of hillsides, and preserve natural landforms and existing vegetation where feasible;
- E. Ensure the provision of adequate, safe and efficient parking and circulation areas, which conform to the requirements of this title;
- F. Provide a functional, efficient, and attractive site design which is sensitive to existing uses in the area and to the topography and conditions of the site;
- G. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan. (Ord. 92-9 N.S. § 23, 1992; Ord. 87-4 N.S., 1987).

17.108.020 Applicability.

A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a zoning permit for all projects that involve demolition, construction, or changes in exterior colors or materials, except signs.

B. In All Other Districts. Design approval shall be required prior to issuance of a zoning permit for all projects in all other zones, except single-family residences and related accessory buildings, that involve new construction or exterior alterations and additions, except signs. (Ord. 07-21 § 11; Ord. 01-6 N.S., 2001; Ord. 89-1 N.S. § 49, 1989; Ord. 87-4 N.S., 1987).

17.108.030 Sequence of design review.

Design review shall consist of two steps:

A. Preliminary consultation between the project sponsor and the community development director to discuss design guidelines and establish design criteria applicable to the site and use.

B. Design review by the community development director or the design review commission, as prescribed by this chapter. Approval shall require the findings prescribed in BMC [17.108.040\(A\)](#). (Ord 87-4 N.S., 1987).

17.108.040 Scope of design review.

A. Required Findings. Design approval shall require a finding that the design of a project is consistent with the purposes of this title.

B. Limits on Conditions Required. Changes in a project required as a condition of design approval shall not include use, density, FAR, private open space, parking, or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance. (Ord. 87-4 N.S., 1987).

17.108.050 Initiation of design review.

A. Preliminary Consultation. Preliminary consultation shall be initiated by requesting an appointment with the community development director or a designated representative.

B. Design Review. Design review shall be initiated by filing the following with the community development director:

1. A completed application form; and
2. Six sets of the following:
 - a. A fully dimensioned site plan showing the locations of existing and proposed structures, driveways, walks, walls, fences and open spaces, property lines, right-of-way lines, dedications and easements, and the relation of the site to the surrounding area;
 - b. A fully dimensioned landscape plan if required by BMC [17.70.190](#);

- c. Architectural drawings, renderings, or sketches drawn to scale showing elevations of proposed structures and describing exterior materials. Perspective drawings or scale models also may be required at the discretion of the community development director;
- d. Floor plans showing the proposed use and exterior wall openings;
- e. Proposed screening of all exterior equipment and electrical equipment;
- f. Proposed exterior lighting fixtures using catalog cuts or sketches; and
- g. Samples or descriptions of all proposed exterior materials and paint colors, including surfacing materials for paved areas.

C. Consolidated Review. An applicant may request simultaneous design review and approval of development plans under Chapter [17.112](#) BMC if:

1. Development plans and materials are submitted in lieu of, or in addition to, plans and materials required for design review;
2. All other requirements for a zoning permit have been met; and
3. The applicant acknowledges in writing an understanding of the risk of loss if development plans are disapproved or substantial redesign is required. (Ord. 87-4 N.S., 1987).

17.108.060 Review responsibilities.

A. By the Community Development Director. The community development director shall be responsible for design review for projects in the IG, IL, and IW districts, and for projects outside the district that involve construction of less than 2,500 square feet of floor area.

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC [17.108.080](#), and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter [1.44](#) BMC. (Ord. 07-67 § 1; Ord. 07-21 § 12; Ord. 01-6 N.S., 2001; Ord. 99-1 N.S.; Ord. 92-15 N.S. § 20, 1992; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. § 51, 1989; Ord. 87-4 N.S., 1987).

17.108.070 Review process and time limits.

A. Prerequisite for Review. Unless an applicant selects consolidated review, as provided in BMC [17.108.050](#)(C), review of development plans shall follow design review.

B. By Community Development Director (IG, IL, and IW Districts). The community development director shall review plans submitted for design approval within 30 days of

receipt and shall approve, conditionally approve, or disapprove the plans. Within five working days after a decision, notice shall be mailed to the applicant.

C. By Design Review Commission (R, C, IP, OS, PS and PD Districts, and H Overlay District). After a duly noticed public hearing, the design review commission shall approve, conditionally approve or disapprove the plans. Within five working days of a design review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

D. Action Required. All decisions shall be based on the findings required by BMC [17.108.040](#). Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. (Ord. 01-6 N.S., 2001; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. §§ 52, 53, 1989; Ord. 87-4 N.S., 1987).

17.108.080 Notice and public hearing by design review commission.

A. Time of Hearing. Within three working days after acceptance of a complete application for design review, the community development director shall set a date, time, and place for the hearing. A public hearing shall be held within 60 days of receipt of the application, unless the applicant agrees to a later date.

B. Notice. Notice of a public hearing required by this chapter shall be given in the following manner:

1. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.
2. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 300 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

C. Public Hearing. At the time and place set for the public hearing, the commission shall hear comments on the proposed design. The commission may continue a public hearing without additional notice. (Ord. 92-9 N.S. §§ 24, 25, 1992; Ord. 89-1 N.S. § 54, 1989; Ord. 87-4 N.S., 1987).

17.108.090 Effective date – Lapse and renewal – Alterations.

A. Effective Date. Design review decisions shall become effective on the tenth day after the date of the notices of decision required by this chapter, unless appealed as provided in Chapter [1.44](#) BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or
2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director or the design review commission, as the case may be, may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director or the design review commission, as the case may be, may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications. (Ord. 07-67 § 2; Ord. 92-9 N.S. § 24, 1992; Ord 89-1 N.S. §§ 55, 56, 1989; Ord 87-4 N.S., 1987).

17.108.100 Appeals.

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter [1.44](#) BMC.

C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final. (Ord. 07-67 § 3; Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).

17.108.110 Design review guidelines.

The design review commission may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process. (Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).

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December 13, 2011

Mayor Elizabeth Patterson and Members of City Council
City of Benicia
250 East L Street
Benicia, CA 94510

VIA U.S. MAIL

Re: Brown Act Violation
11PLN-00064 Design Review
410 West J Street
APN: 0089-031-090



Honorable Mayor and City Council Members:

On July 28, 2011, Julian and Claudia Fraser applied for and received a building permit to replace deteriorating windows in their home with energy-efficient vinyl windows. In reliance on that permit and at great expense, Mr. and Mrs. Fraser purchased custom-built windows to closely match the existing wood-frame windows.

City staff then notified Mr. and Mrs. Fraser that Historic Preservation Review Commission (HPRC) design review was necessary and, on October 27, 2011, the HPRC denied their design review request. The HPRC's decision disregarded Planning staff recommendations and misapplied several Downtown Historic Conservation Plan guidelines. Mr. and Mrs. Fraser appealed this decision to the Planning Commission.

At its December 8, 2011 meeting, the Planning Commission unanimously voted to overturn the HPRC's wrongful decision. At the meeting, three HPRC commissioners spoke in opposition to the appeal. Mr. Fraser repeatedly expressed his concern that it was inappropriate for the HPRC commissioners to give testimony in this manner.

The HPRC commissioners' coordinated testimony clearly suggests that the HPRC met and conferred in private, without giving notice to the public as required by the Ralph M. Brown Act (Govt. Code § 54960 et seq.). Furthermore, we are in possession of an email from City Attorney Heather McLaughlin to HPRC commissioner Jon Van Landschoot giving instructions for testifying in avoidance of the Brown Act. At Mr. Van Landschoot's request, Ms. McLaughlin also agrees to give the same information and instructions to the other HPRC commissioners, in violation of Govt. Code § 54952.2(b)(1).

Should City Council overturn the Planning Commission's decision on appeal, our clients would immediately bring suit to enjoin the HPRC's Brown Act violations.

VIII.A.371

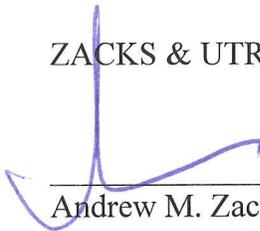
December 13, 2012
Mayor Elizabeth Patterson and Members of City Council
City of Benicia
Page 2

Our clients would also seek to recover attorney's fees and costs from the City, as authorized by Govt. Code § 54960.5.

Thank you for your attention to this matter.

Very truly yours,

ZACKS & UTRECHT, P.C.



Andrew M. Zacks
Attorneys for Julian and Claudia Fraser

cc: clients

Heather McLaughlin - Fwd: Planning Commission Meeting notice to H. P . R . C. members

From: Heather McLaughlin
To: Brad Kilger; Charlie Knox; HPRC; Kat Wellman
Date: 12/6/2011 2:31 PM
Subject: Fwd: Planning Commission Meeting notice to H. P . R . C. members

Hi! Yes, the HPRC's decision on the wood windows vs. vinyl will be heard by the Planning Commission on Thursday night. The agenda and packet are available on the City's website. You may attend the meeting and speak as individuals and explain your thoughts and reasoning for your vote. One can only speak as a representative of the HPRC if the HPRC authorized it.

Thanks, Heather

>>> Jon Van Landschoot <jonvanland@yahoo.com> 12/5/2011 5:23 PM >>>
Hi,

The planning Comm. will review the H.P.R.C.'s decision regarding replacing wooden windows with vinyl windows on the front face of an historic residence.

We , as the H.P.R.C. , have not had a meeting since that windows decision was made in October. I do not want to alert all the members as I feel that would be a violation of the Brown Act.

Can you send out an e-mail to all H.P.R.C. members to notice them of the Planning Comm. review of our decision ?

Also, can we as individuals , address the Planning Comm. as citizens to explain our individual reasoning and vote ?

Please advise.

your chum,
jon van



Feedback

CLG Program Q & A

[Recommend](#) Be the first of your friends to recommend this.

What is the Certified Local Government Program?

The 1980 amendments to the National Historic Preservation Act of 1966, as amended, provided for the establishment of a CLG program to encourage the direct participation of local governments in the identification, evaluation, registration, and preservation of historic properties within their jurisdictions and promote the integration of local preservation interests and concerns into local planning and decision-making processes. The CLG program is a partnership among local government, OHP, and the National Park Service (NPS) which is responsible for administering the National Historic Preservation Program.

[NPS CLG Information](#)

Who can apply to become a CLG?

Any general purpose political subdivision with land-use authority is eligible to become a CLG. It is the local government that is certified, not simply the preservation commission.

What is the certification process?

A completed application, signed by the chief elected official of the applying local government, will be reviewed by OHP. If the applicant meets the criteria, OHP will forward the application and recommend certification to the NPS who makes the final certification decision. When the NPS is in agreement with OHP's recommendation, a certification agreement is signed by OHP and the local government, completing the certification process.

[CLG Manual & Application](#)

What are the requirements to be a CLG?

CLGs must comply with five basic requirements:

- Enforce appropriate state and local laws and regulations for the designation and protection of historic properties;
- Establish an historic preservation review commission by local ordinance;
- Maintain a system for the survey and inventory of historic properties;
- Provide for public participation in the local preservation program; and
- Satisfactorily perform responsibilities delegated to it by the state.

[More](#)

Why become a CLG?

What's in it for the local jurisdiction? Why would you want to associate your local preservation program with state and federal programs? Would you be giving up autonomy?

[Answers](#)

★ Related Pages

- [Certified Local Government Program \(CLG\)](#)
- [CLG Grant Program](#)
- [WHY BECOME A CERTIFIED LOCAL GOVERNMENT \(CLG\)?](#)



➔ WHY BECOME A CERTIFIED LOCAL GOVERNMENT (CLG)?



Be the first of your friends to recommend this.

What's in it for the local jurisdiction? Why would you want to associate your local preservation program with state and federal programs? Would you be giving up autonomy?

Credibility

When your local preservation program is consistent with federal and state standards and regulations you have the backing of programs that have stood the test of time. The National Historic Preservation Act has been around since 1966. The National Register of Historic Places and its criteria are widely recognized and they have been tested legally (reviewed, refined by adoption into regulations, tested and upheld in courts). Although the California Register of Historical Resources is much newer (1992), its criteria and procedures parallel the National Register.

When your local survey and designation program is consistent with the National Register and California Register you know you are on safe ground. Similarly, in project review or adoption of Certificates of Appropriateness, the adoption and use of the Secretary of the Interior's Standards provides criteria for project evaluation that, again, have stood the tests of time, reasonableness, and the courts. It insulates the local preservation program from charges of being arbitrary and capricious. Becoming a CLG provides the local program the added value of prestige and cachet.

Technical Assistance

A perquisite for becoming a CLG is access to a listserv hosted by the State Office of Historic Preservation. Membership to the listserv is limited to SHPO staff, CLG coordinators, members of CLG boards/commission, and other interested staff in the CLG. It is a communication tool that offers the Office of Historic Preservation and CLGs the opportunity to submit suggestions or questions to other members of the listserv. SHPO staff also uses the listserv to forward information about training opportunities, publications, grants, and a variety of technical assistance to CLGs.

Streamlining

The use of the National Register/California Register criteria and the Secretary of the Interior Standards integrates local, state, and federal levels of review. It brings clarity to the question of what resources are significant when it comes to CEQA and Section 106 of the National Historic Preservation Act. Adopting the Secretary of the Interior's Standards will allow the use of categorical exemptions under CEQA, and likely result of findings of no adverse effect under Section 106. The use of these criteria and standards make environmental review faster, more efficient, and reduces costs and delays.

Involvement

The CLG program brings local preservation boards and commissions into broader land use planning and project approval processes. CLGs are obligated to involve their boards/commissions in the CEQA and Section 106 review process, as well.

Funding

Each state is required to pass through 10% of its annual Historic Preservation Fund grant from the National Park Service to CLGs to fund their preservation activities. In California, the CLG grant program is competitive for a wider variety of preservation planning activities. This funding is not a large amount, but it can support important activities including completion of a preservation element or plan, a survey, preparation of a National Register district application, or the update of an ordinance. When work is carried out under the CLG grant program, there is the assurance that the work conforms to time-tested state and federal standards.

Autonomy

When your local government decides to become a CLG, it agrees to carry out the intent of the NHPA and the Secretary of the Interior's Standards. OHP's role is advisory. Recognizing that individual local governments and individuals employed by those local governments often do not have all the background, training, and skills to achieve a good balance between development and preservation, OHP reviews the structure and processes of the local preservation program, and may comment on or make suggestions about strategies a local government can use to accomplish its goals and objectives. Beyond that, neither the NPS nor OHP have any regulatory authority over local governments.

Neither the NPS nor OHP dictate the content of historic preservation plans or ordinances; neither the NPS nor OHP review nor is their approval needed prior to the selection and appointment of individual local preservation commissioners by local government officials. In no way is the autonomy of a local government decreased by becoming a CLG. However, a CLG may be decertified if it establishes policies or adopts practices that violate the intent of the National Historic Preservation Act.

Economic Benefits

Although there are no direct economic benefits to being a CLG other than the opportunity to compete for CLG grants, your CLG's commitment to historic preservation does result in multiple economic benefits. Where preservation is supported by local government policies and incentives, designation can increase property values and pride of place. Revitalization of historic downtowns and adaptive reuse of historic districts and buildings conserves resources, uses existing infrastructure, generates local jobs and purchasing, supports small business development and heritage tourism and enhances quality of life and community character.