

Unofficial Transcript Sept. 8, 2022 HAHC Discussion On This Item

September 8, 2022 – Houston Archaeological and Historical Commission Meeting Transcript

Beginning at 2:29:07:

CHAIR DAVID BUCEK: And with that, I think we're going to move to Item B of public hearing consideration of and possible action for 615 Heights Boulevard, involving a demolition in Houston Heights south.

CITY PLANNER JASON LILIENTHAL: Alright Wilson, for this presentation will you please advance on my cue please. Next slide. Okay first, I want to start with the application. There was an approved COA for two things. One, a rear addition of this original historic structure. There was a second one that was approved for a detached accessory dwelling. And that occurred in—just in January, I believe and then what we had was the revision to the attached or detached accessory dwelling. There's a revision. And what occurred—and let me go through the timeline. Next slide please. Okay so here you can see here's the original structure. On the top is the inventory photo that was included in the staff report earlier this year. I did a Google street view to see if it still remains. That is from April 2022. You can see it has remained unchanged. Next slide please. So when they began the work and they're removing the drywall on the inside, they discover that there was some fire damage. And so the building inspector went out to look at the site and the fire damage. But if you look beyond the photos—next slide please, there is also shiplap, was removed from the exterior wall assembly. The building inspector redtagged them. They were not supposed to take off that shiplap. And that was in the permit when it was printed out, when those purchases have contact staff to inspect any damaged materials before that happened. In that lower image you can see that's the demolition plan that was approved. They're only going to demolish the interior walls, but as you can see it says there the exterior wall assembly to remain, as well as the original windows. Next slide please. Here's a little bit closer view of all that. Next slide. Also too please note the date of these pictures. This was on a Tuesday. Next slide. Okay here is the permit that was printed out. I have circled where it says that staff must inspect if there is any damage of materials. Next slide. I went out two days later. And in two days, the shiplap was gone. The original windows were gone. And let me go through my timeline here. I was in contact with the agent, Luis Chacon, not the owner, but Luis Chacon and I sent these photos to him. And I said "Look, this is no longer the original structure." And he said "Everything's been removed." I asked him, "Please ask if the original windows and shiplap is in that dumpster." The property was locked, I could not get on grounds. This is all photographs through a chain-linked fence. Next slide please. As you can see, all of this is new framing, new wood. There on the top image, the approved COA did say that they would alter the front porch, the concrete steps, but not anything else. Next slide. So again, I'm just trying to get as much as I can from the public right away. Cannot gain access on to the property all together, although Luis Chacon said I could go on the property. Next slide. Here's on one side. Now, you can see from this image where the original foundation was kept, but they did alter a little bit. And we'll see that when the Stop Work Order was issued. Next slide please. So this was the day after the Stop Work Order was posted on the site. Next slide please. And when they went out there to get more comprehensive, up-close photos. Next slide. And there you can see how the foundation still remains. But as Pete Stockton pointed out, these studs are not going down to

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the foundation. They're stopping above that 4 by 6, or 6 by 4, I believe. Next slide please. So we had the Stop Work Order issued. There's internal staff discussions that went on. And the owner, Apostolos (A.K.A. Paul) Lamnatos was contacted and an administrative hearing was set up to hear. And this took place on Monday, August 22, 2022. Next slide please.

LEGAL COUNSEL KIM MICKELSON: Could I clarify that, Jason?

LILIENTHAL: Yes.

MICKELSON: Just a little bit? So that the Commission understands the administrative hearing was over whether or not the Stop Work Order was properly issued. That's all that can be decided at that hearing. So we went and the hearing officer upheld that Stop Work Order. So that Stop Work Order is still in effect.

LILIENTHAL: Presenter, would you please zoom in on the conclusion of this Stop Work—administrative hearing please...Yeah, I believe there's gonna be the second to last paragraph, if you can zoom in on that please. This says "The photos show the demolition of the entire structure with new framing. The property owner had no evidence to present and acknowledged that the scope of work on the certificate of appropriateness had been exceeded." Alright, please zoom out and move to the next slide. If you would please enlarge, enlarge on the upper definition please. So, after this administrative hearing had concluded, there was internal staff discussion about, you know, about demolition and such and where we would go forward. And also too, I do want to point out, when I had this discussion with the owner, Apostolos Lamnatos, I did point out that this is in the criteria. There is the definition of, and there is also this part is—Section—don't have it. Yup. 203(d) and its enforcement penalties. I did make sure that I informed the homeowner of this. Now, again, our internal staff discussion was offering a path forward. And that is when we came up with recommendation. Please go to recommendation slide please. And so, we're gonna deny the certificate of appropriateness for demolition and issue a COR to deck and sheath construction to stabilize it. That is what we have come together as staff and this is our recommendation. The owner, Apostolos A.K.A. Paul Lamnatos is available and he would like to make a statement before Commission. I am available for any questions if you may have. This concludes my presentation.

CHAIR: Thank you.

COMMISSIONER BEN KOUSH: I have a question.

CHAIR: Proceed, please.

COMMISSIONER KOUSH: We don't approve this work around, there's either a two or ten period where they can't do anything on the property.

LILIENTHAL: So in that section, there's a segment where it says they cannot build for two years, they may apply for a COA before the Commission to build back original structure only in similar

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dimensions. But nothing else can be applied for ten years, that's talking about rear additions and detached accessory dwellings, garages, garage apartments. But this, I am up for the Commission to decide, whether it's staff recommendation or not.

CHAIR: But Jason, my understanding is, this hearing that was referred to also determined that definition of demolition. Can I ask that question?

MICKELSON: Yeah, of course. And you know, that's what the hearing office put in her letter. I think that was part of what presentation discussion was an effective demolition of that structure. We did not go into great detail this provision in the historic preservation ordinance. We just simply talked about—although this provision was copied in the materials I handed to the applicant and the hearing officer. But we discussed that, you know, there were real severe penalties for this—if it's found to be a demolition. As Jason mentioned, amongst staff we had lengthy and complicated discussions about, you know, what could be a path forward. Is it better to get something there that's stabilized versus a vacant lot versus whatever. That's why we came up with this recommendation, bringing it to you guys who get paid the big bucks to make tough decisions, but—

CHAIR: Maybe they'll double it next year.

MICKELSON: Right, maybe. But in other words, there are some-some factors for you all to discuss. You may recall, there was a previous one and I'm suddenly blanking on the—

LILIENTHAL: I have that address.

MICKELSON: Okay.

LILIENTHAL: I'll bring that up.

MICKELSON: Jason can brief you on that. We had something somewhat similar about what, two years ago? And—

LILIENTHAL: Yes.

MICKELSON: —it kinda had the same issue, really totally demolished, we brought that idea to you so Jason—

COMMISSIONER STAVA: —what street?

MICKELSON: —so Jason can go over that and refresh your memory.

LILIENTHAL: So I would say that it came up as 1526 Cortlandt Street in Houston Heights east. This came before the Commission on March 21st, 2019. And the staff back then put in for the COR details, which said was "This is to inform you that our office, in consultation with the City

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of Houston permitting and legal departments, have concluded the remaining structure at 1526 Cortlandt as stabilized, does not meet the threshold of demolition UNDER Section 33, one of the Code of Ordinances of the City of Houston.” That’s what came up in 2019. But I was not here at that time. There were a number of conditions. There’s three conditions, I can give that to you if you so desire, but I will not read that.

COMMISSIONER KOUSH: I’d like the address again.

LILIENTHAL: 1526 Cortlandt Street.

COMMISSIONER KOUSH: Yeah, was that Queen Anne?

COMMISSIONER JOHN COSGROVE: If I recall, there was quite a bit of original framing left in that house. They had taken a lot of material out but there were still original windows retained on-site. I do believe these are different scenarios. And—

MICKELSON: You all may be totally able to just distinguish each property.

CHAIR: True. Well I’m gonna go to public comments.

COMMISSIONER COSGROVE: Can I ask one clarification?

CHAIR: Sure. Please.

COMMISSIONER COSGROVE: What is—tell me what is framed right now. Like, what does that encompass of the COA that was issued? Just the original house, or has the whole addition been framed?

LILIENTHAL: So there’s a whole new frame of the original house and the rear addition. Wilson, would you go back a couple of slides until I tell you to stop please? Now stop. Go forward—is that the rear addition? It should be able to show that there’s the rear addition.

COMMISSIONER COSGROVE: And is this a single story addition that was approved?

LILIENTHAL: Give me one second.

MICKELSON: It shows the porch, I think, in the photo.

LILIENTHAL: Here’s the one story, 308 square feet rear addition.

COMMISSIONER COSGROVE: Okay.

MICKELSON: That looks like it.

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LILIENTHAL: And there you go, you can see there on the image. That is the rear addition on the back, you can see how it cuts in on the inset. So that's the porch. And then if you go in, you'll see the rear addition goes up and then there's the inset where the original corner used to be. Yes, where the arrow is. Thank you very much, Wilson.

COMMISSIONER YAP: Question for you, Jason. You personally went to inspect this house as it's been framed new today. So, I just wanna clarify that the entire balloon framing and balloon studs are all taken out, as well as the original floors are all taken out. So they put a new subfloor and everything has been completed? Is that correct?

LILIENTHAL: That is correct. And so, point of order is, I could only see it through a chain-linked fence, but through the lense of my camera, this is what I was able to get. These photographs is done by the building inspector. He issued a Stop Work order and were able to get on the site.

COMMISSIONER YAP: Okay. I just wanna make sure that the original floors are gone as well, yeah?

LILIENTHAL: That is correct.

COMMISSIONER YAP: Thank you.

CHAIR: So I'd like to open up to the public in just a moment. I think Kim, my question after more discussion. What I'd like to know is, from your perspective, what are our options as you see them? I'm just trying to understand the—the gamut of what your interpretation of where we stand. I have an idea, but it's still a little, well, we don't see this kind of—I mean we've only seen this once before, as was pointed out. So this is a very rare occasion. And three of us have been on this Commission for a very long time, so. But at this time, I'll open to public comment and I think that the applicant is here virtually to speak. Would you state your name and please address the Commission?

APOSTOLOS "PAUL" LAMNATOS: Yes, David. Name is Apostolos Lamnatos, but I go by Paul Lamnatos and I assume everyone can hear me well. I'll just continue talking. Wonderful—

CHAIR: Yes.

LAMNATOS: So first I just really wanna say thank you to Jason and Kim and giving me a pathway forward. I mean, clearly after we had the hearing, you put your heads together and come up with an option. I really, really appreciate that. What I'd like to let everybody know is a term was used negligence early in the process toward the end of July, early August when this started coming about. I looked up the term and it's a very appropriate term to be used with what's transpired and what's happened. The negligence is on my part and truly no one else's. I say that because the responsibility of everything that has occurred is on me. I am the owner of the property and I am the one who pays the bills. So pointing fingers. In the end, it is what

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happened but the responsibility is mine. I hired a good friend of mine to be the contractor, hired a good friend of mine to be the architect. I assumed that I'm paying them, it would be handled. The communication between them wasn't there regarding the COA. My contractor is saying that he never got it. My architect goes, I sent it, and my contractor is telling me that all the materials are really bad and need to get torn down. Ok, you guys, continue moving the process forward. During the demolition, I said on a few occasions, I said do we really have to tear this down? Can we not replace, can we not salvage any of it? Cause from the very beginning, I looked at it and said, yeah it's a really ugly building but it's made with old pinewood, with old materials that can be restored. Not my business. These are my friends, I'm trusting them with it. They are going to move forward with it. During the windows, when the rehab budget came to me. I asked why, on God's green earth, did I spend \$37,000 dollars on windows. My contractor tells me that it's a certain type and it's historic windows. And you can't just get any type of windows. So that's why we have to do it. Then the lights are going off and I'm across the street at 638 Heights at my friend's office and I'm looking at his windows and I notice that his windows haven't been replaced. They have been painted shut. There's fire hazard or regulation against that. I go why on god's green earth am I spending \$37,000 dollars. that A) the historic district didn't want me to replace; B) I didn't have to replace, I could've just painted over. And in the photos, if you see two of the windows were open. So they're even functioning windows. It's...my negligence in this in taking my hands off and assuming. I never asked my contractor if he's worked in a historic district before. I never followed up with my contractor to make sure that he sent over the COA. I never scheduled a meeting with my contractor and my architect for us to sit down and go over everything. I'm in a historic district and the house got torn down like, I'm like not sure the gentleman that said, you know, been on this committee for a long time and has—hasn't seen anything like this come up. I'm embarrassed. I've lived across the street at 602 Heights Boulevard. My grandfather bought that apartment complex in the mid-eighties. I lived there from 1999 until 2018 when I bought my first house. So I literally lived directly across the street from this house for close to 18 years. I know the neighborhood. I live in the Heights now. The office that I'm in talking to you today is on West—on 11th Street, 603 West 11th Street. So I am so embarrassed and I'm so sorry that that this has happened and it has cost me close to \$150,000 this year. And I get that there's I get that you're in full with in power to shut this down for the next two years. And I'm asking that you don't. I'm you know, if I was in a courtroom and I, I kind of get the setting, I'm told myself at the mercy of the court. There were mistakes made along the way, but they weren't intentional mistakes. They were out of just—I never intended to do anything wrong. And if there's any question about that, how do I benefit by going about it the wrong way and ending up in this situation to where it's costing me \$150,000 more? I'm paying rent on the office I'm in right now. I'm paying my mortgage on the house that you see. I have property taxes. I'm having to renew my insurance policy for six months. It's another \$3,500 because builders risk. I mean I'm bleeding cash here. And I wish I would have just sat down and said, "Hey, you're not gonna tear anything down." You're reading this. And I didn't. And it's cost me a lot and I don't want to keep going, but that's—I really want to move the project forward. I'm building it the exact same way it was. It's the exact same ship lap, the exact same roof, the exact same windows. I mean, the house is the exact same with the difference with the additions in the back, adding on as, as you see in the photo there. So all the materials that have been ordered, the windows, they're

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sitting in storage right now. They're the historical exact grades. Again, the site, everything on that house is going to look exactly the way that it did, just brand new and straighter and all that stuff. So I'm—with that, I again, I apologize. I did not mean any wrong. I definitely didn't do this on purpose. I made a mistake that's cost me a lot of money. I'm done.

CHAIR: Okay. Thank you. I think there may be some questions from commissioners, I think. Commissioner Jackson?

COMMISSIONER JACKSON: Yes, thank you Chair.

CHAIR: You had a question?

COMMISSIONER JACKSON: Chair, I'm trying to figure out, given the timeline that Jason has laid out here. On July 19th, we still saw the ship lap, the windows, the flooring, the original members. On the 22nd, it was all gone. And I think Jason asked from outside the chain link fence if those original materials were in the dumpster adjacent. It all happened so quickly, it appears you were on it. None of those materials are salvageable.

LILIENTHAL: So—

LAMNATOS: No ma'am, the dumpster—

COMMISSIONER JACKSON: Let me ask the staff first, please.

LAMNATOS: Oh, sorry.

LILIENTHAL: So I was having email conversations with the architect, Luis Chacon about this. I said, "I cannot get on the property, but I see a dumpster. I cannot see in it. Is the original shiplap and original windows in there?" He replied, "Let me get with the contractor." Came back to me, it was gone. But I did try to see if anything would be left available to salvage.

COMMISSIONER JACKSON: And do you, as the property owner, know where those materials were gone to, if not the dumpster on site?

LAMNATOS: They would have gone to the salvage yard. We ended up—I believe we did six dumpsters total. So as they were filling up, they were just getting out of there and they would have just been taken to any salvage yard that would take all the items. But nothing was there.

CHAIR: Any other questions for the owner?

COMMISSIONER YAP: No, I actually have a question for Kim. So not to belabor the issue, and see what's the problem. Can you let us know what other different path going forward, please? Thank you.

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MICKELSON: I can certainly tell you some of the past that staff and I discussed. And I invite staff to jump in if I forget anything. And I don't necessarily mean that this is a fully inclusive list. But certainly, you know, we brought you this because it was similar to the one that you all had seen in 2018, perhaps different in some degree. But they salvaged the floor and the pier and beams in the front main portion, I think the original portion of the structure. But that was, no pun intended, enough to stand on to at least get the question to you all. So I think your considerations going forward, I think what staff has suggested as far as their recommendation to sheath it and get it stabilized and protected so the wood doesn't further deteriorate, while—and part of this part of this is a question for staff, but I do not believe plans have been submitted yet for the for the full redevelopment or renovation of it. The owner may be waiting until this decision is made, but you could certainly approve that as step one. I think can put some time limit on...how long it can be before he can come back. The language in the code regarding the longer length of time before someone can add an addition is certainly another element in the prior one on Cortlandt—if you'll remember those of you who were on Commission, if you'll remember back—the final decision actually included allowing the immediate construction of the additions.

COMMISSONER YAP: Yes.

MICKELSON: Which was against staff recommendations. They wanted to delay that and for some time.

CHAIR: Do we also have some salvage materials that had to be used?

MICKELSON: You may have and yeah, I defer again, Jason's reviewed the tapes, I think in the record of that particular item, probably more in detail than I have. I went back and watched the tapes. But—

COMMISSONER YAP: But I think—

MICKELSON: —You can certainly deny the COR and deny the staff recommendation that's within your purview to decide that this has been demolished to a point that it can't be put back together. And then I guess the question is do you have any discretion to say you can come back in sooner than two years? Again, talking with staff, kind of what was the intent of, or the purpose of, this ordinance? Is it really punitive and is it what's better in a historic district was part of what we went through. So I hate to Commissioner Yap to not say there's a clear cut A or B, but it's fairly, I think, open and somewhat flexible in determining which path forward you go to. I'd like Jason to comment about the availability of plans or that timing and then anything else I've forgotten.

LILIENTHAL: Okay. So kind of fill in a little bit more about our staff discussions that we had. And one of things, is, you know, the recommendation to deck and sheath it consider this structurally stabilize it was as brought up. We don't want to leave this as this is just framing. We don't want this to be as an abandoned building. This is near a school. And so, that was the option to come

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up with. The other discussions was, allow the homeowner to keep what's here and use salvage materials, bring back original shiplap that they can get that salvage yards, original windows, doors and build back. That was another option that we had discussed. The other thing to that, going back to the recommendation for deck and sheath it to structurally stabilize it, is we are in the hurricane season. If we get high winds, we don't want those flying through the air and causing any harm. And, one of the things that we discussed about a path forward is if the Commission decides to accept the staff recommendation, then the homeowner will come back and apply for new construction with the exact same plans and come before the commission on October 20th. But again, this was internal staff. These were the options that we discussed ad nauseam. But again, what we came down to was, we're gonna offer this as a path forward. But again, really the ultimate decision we're leaving with you. But we want give you all the information possible on the alternatives. And, I feel like can leaving one more thing out. Yes, there was also the option is, do we ask the homeowner or does Commission ask the homeowner to raise it to the ground? I mean, there's a lot of alternatives that were discussed. But again, one of the things that kind of carried some weight was, is this what we want in a historic district? We want a structure to be there. We don't want a vacant lot. And so it lean more forward towards this staff recommendation.

COMMISSONER YAP: The question I have for you, and thank you, Kim. I didn't expect you to have ABC answers of what we can choose. But my whole point is that, okay, so we have a building that's been completely demolished. You know, this, this house is a lot worse than 1526 Cortland. This house has no semblance at all of the old house, existing house. So this is a complete new construction and I take it as such. Second thing, is we say we want to present to sheath the house and sheath the framing to sheathe and as well as obviously you need to put a roof as well in that sheathing, means that you already have permits that, you know the likes of structural has already inspected all this framing windstorm and so on because you just can't sheet without those approvals. So does that mean that then now we have to go back to the step of going through the permitting and then get this drawing of proof? If that's the case, then they will go to a point where you—they get a new drawings done and then they get everything approved and then get inspected and then sheath and then they sit there for two years. Is that what you're suggesting?

LILIENTHAL: No, sir.

COMMISSONER YAP: Okay.

LILIENTHAL: There are no permits right now to deck and sheath it. It's only if you accept the staff recommendation, then can the homeowner get the permits to deck and sheath it. And then again, if you accept the staff recommendation, he will apply for the October 20th Commission with new construction plans and then fall under the criteria of a new construction .

COMMISSONER YAP: That's my understanding that you were asking for sheathing, but you actually going to hold a process of permitting as well?

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LILIENTHAL: In my staff recommendation I did say sheath and deck it.

MICKELSON: Yeah. And I will add that recommendation was in part from the building inspector's side.

COMMISSONER YAP: Yes.

MICKELSON: Who were concerned about a wind. They haven't inspected it because this exceeded the scope of their original building permit since it exceeded the scope of the survey. So it meant that, yeah, as Jason mentioned, they have to get this COR in order to go get a permit to get it inspected, to pass that to go any further. It may not.

LILIENTHAL: And I would like to elaborate off of Kim. We're not talking about deck and sheathe it to structurally stabilize it then it remains as such for two years. That's part of the discussion is we do not want an abandoned building that opens it up to it being illegally occupied and it is near school. Again to deck and sheathe is the path forward for him, the homeowner, to apply for new construction at the next commission meeting. That's the rationale for the deck and sheathing. But we do not want it to remain as abandoned building for two years.

MICKELSON: The other public health and safety consideration in staff discussion.

COMMISSIONER COSGROVE: Can I ask a question?

CHAIR: Please.

COMMISSIONER COSGROVE: Do you a picture of 1526 Cortland?

LILIENTHAL: I do not have that in the staff report.

COMMISSIONER COSGROVE: Do you have access to the COA when it was done? I'd just like to see what it looks like from the street. As a point of comparison. Just to just the one on.

LILIENTHAL: What it looks like now?

COMMISSIONER COSGROVE: No, What it looked like when we did the application.

LILIENTHAL: I did not include that in this.

COMMISSIONER COSGROVE: Oh.

LILIENTHAL: But I do remember what it was is, it was the framing, the studs, the subfloor. When looking at those, still had the scalloped siding on the front gable with a front window and the roof was still there talking about the composition shingles.

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COMMISSIONER COSGROVE: Oh, I agree. I mean, this is the most egregious offense that can be committed in a historic district. And, you know, my knee jerk reaction is that they should we should enforce the ordinance in full and they should demolish it and it should sit vacant. And—but I understand that that is not necessarily the best path forward with this. But I think disregarding the ordinance altogether, which is if we were to let them proceed as the recommendation is, is they would get a new house with their addition with no penalty at all other than whatever the permit penalties are. And so I'm struggling with that is like, you know, I mean, I would be more inclined to tell them that they could rebuild the original house and remove the addition and then wait ten years to do the addition.

LILIENTHAL: If I may address, Commissioner Cosgrove, that's certainly in your purview. Yes, you could certainly say just only build back the original, take off the rear and not build any detached accessory dwelling units. I mean, that is something for the Commission to decide and recommend.

COMMISSIONER JACKSON: I agree with you, Commissioner Cosgrove. I can't get over the punitive part of it. I mean, this is the most egregious thing. And, you know, negligence is not a defense. And you can build back something that looks very similar, but it is not the same house, it is not the same materials. And it will not have the same longevity and story in that neighborhood as the original structure does. So I'm probably leaning more towards closer to enforcing the ordinance.

COMMISSIONER YAP: What about a possible compromise that—okay, we get to the permits where we sheath the house and we roof it and we deck it. And then just lock the property for two years. You know.

COMMISSIONER KOUSH: People will break into it. It will be like that other house that came up over and over—.

COMMISSIONER COSGROVE: At 901 Heights Boulevard, which yeah.

COMMISSIONER KOUSH: That we, we saw it like five times.

COMMISSIONER COSGROVE: It was close to demolition by neglect. And he took it all the way to the city council, I believe and lost and then sold it to—was it Gilbert Perez.

CHAIR: He's fixed it up.

COMMISSIONER COSGROVE: They've done a really nice job.

COMMISSIONER KOUSH: But the people, the neighbors kept complaining. They said people go in and climb in the house at night and do stuff in there. And then they were stealing—like they'll steal the two by fours out of it and all sorts of things.

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COMMISSIONER COSGROVE: And I believe that's back up to the—thank you. This backs up to the thing on Yale—

COMMISSIONER KOUSH: It seems like your option to build it back the way it is or take it to the ground and just be a vacant lot by the two.

COMMISSIONER YAP: Yeah. My, my point of taking it to the ground, you know, I feel that I need to speak about the trees that all died for no reason here. That we're removing everything that's been already built and framed. So you removing all these items, you know and is a waste as well, I mean.

COMMISSIONER KOUSH: But you can't just leave it closed up. It's going to become a nuisance. Going to be worse to have a half built house sitting there for years.

COMMISSIONER COSGROVE: If you look at the picture behind you, I mean, it's an interesting one.

CHAIR: What are we looking at now, please?

COMMISSIONER YAP: That's for 1526 Cortlandt.

MICKELSON: This is 1526 Cortlandt. The top one's the file photo. The second is after...much removal and new framing.

COMMISSIONER YAP: The second picture was after the hurricane came through.

MICKELSON: Well.

COMMISSIONER YAP: So at least that one still had a roof and some of the materials were still on site.

COMMISSIONER KOUSH: Okay. Yes.

TERESA GEISHEKER: For the record, Commissioner Collum did depart, and we still do have a quorum at this time.

CHAIR: Okay. But maybe not for long.

COMMISSIONER YAP: So who wants to make the recommendation?

CHAIR: So, commission members. The staff's recommendation is just to sheath the structure, to protect what's there and then. But it all hinges on what the next decision is going to be. Certainly, you know, regarding it, if addition were to be removed permanently, you know, for a time.

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COMMISSIONER STEVEN F. CURRY: So with that in mind, presumably the staff's recommendation to deck and sheathe is what's implied is some future progress towards some replica of what was there.

LILIENTHAL: What's implied here is—what's there is fitting on the original dimensions of the original structure because the original foundation is still left there. So your length and width is the same, with the addition of the rear addition. Again, going forward is accepting the staff recommendation then allows the homeowner to apply for the October 20th Commission with new construction that will be the exact same set of plans that were approved for the rear accessory dwelling unit.

COMMISSIONER COSGROVE: I don't think we should let them do that. That's like saying—

LILIENTHAL: That's not the staff recommendation. That is just allowing. Doesn't mean you have to set that.

MICKELSON: Understand—

COMMISSIONER KOUSH: But the rules say for a demolition, it's two years.

COMMISSIONER YAP: Yes.

COMMISSIONER KOUSH: I don't know why we would not do that.

CHAIR: Kim?

MICKELSON: I would say, understand, these are two separate questions. The question before you today is staff recommendation just to deal with this. With what's on the ground currently, he can't go any further without a COR, not even to stabilize it. And as mentioned, that was the recommendation from the building department.

COMMISSIONER CURRY: To stabilize it.

MICKELSON: To stabilize it and keep it. Yeah.

CHAIR: Even have it inspected.

MICKELSON: And then he could get a permit, then he could get inspected, then he can come back here. And then that opens up the next set of questions that I think some of you are going towards. In other words, this would have to be sheathed and stabilized to the point that you might anticipate not being allowed to put anything—to do anything else forward.

COMMISSIONER CURRY: Thank you.

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MICKELSON: Or you might see the plans and say, yes, we can go forward and put whatever conditions you want on it. That's a separate future question—

COMMISSIONER CURRY: Thank you.

MICKELSON: —In October, November, whenever.

COMMISSIONER CURRY: I think that needs to be said clearly. So thank you for that. That if we took that action of accepting recommendation. Now that's—that's an indication of what could happen in October.

MICKELSON: That is correct.

COMMISSIONER CURRY: So if the concern is about plowing money into a doomed project, that—that's continued risk.

MICKELSON: What is that they say in finance? Current performance is no guarantee of future earnings or?

COMMISSIONER KOUSH: Can we do something where we make them tear off the addition and stabilize what's left of the original house foundation area.

COMMISSIONER YAP: I'm still struggling when you say stabilized, where it's the punitive part comes in. That two years.

COMMISSIONER JACKSON: Well, I think that's what I'm saying. The question before us, and I'm repeating this for my own clarification, is what do we do with what's there now?

COMMISSIONER JACKSON: And then if the applicant comes to us at any point in the next six months or two years, then we get to determine if we choose to allow him to do something or if we want to enforce the ordinance for the two year stay and essentially a ten year stay. Is that right?

MICKELSON: Well, it be two years for the initial footprint and ten for the addition. My concern about separating out or requiring demolition of the addition at this point is that we just don't know what that—I certainly don't know what that does to the stability of the structure. Would that weaken that rear part? I'm just tossing that out there as a total non-technical.

COMMISSIONER JACKSON: Could that be a condition that that the addition portion be removed and the rear be stabilized...of the original footprint of the house based on the foundation?

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COMMISSIONER KOUSH: I just think if the two year time we should, we should start that now. Yeah. Because the house is gone instead of like kicking it down the road and say, "oh, well next month, we'll decide if we want to enforce the rules.

COMMISSIONER COSGROVE: I tend to agree that. Like if the action is to preserve just the original house and rebuild it and we don't need to approve some structural measures for the whole thing that's there now, only then to tell them a month from now or six weeks from now, that we want them to tear off the back. It seems like we can come to a consensus agreement, it's better to say "you can move forward and this is the only path forward right now." I mean, obviously it can be appealed.

COMMISSIONER JACKSON: But is that before us? Is that the question before us?

COMMISSIONER COSGROVE: I think anything is before us.

COMMISSIONER KOUSH: So we are allowed to make our own decision.

COMMISSIONER COSGROVE: Er—

COMMISSIONER YAP: Double checking. Do we still have quorum?

CHAIR: We still have quorum. And—and again, I think that any the recommendation to sheath in the structure is to sheathe a structure and not to have it abandoned look like a skeleton out there be caught in the wind. I still think this conversation has merit because it seems odd to sheathe something that you have to take off is we spend money—

COMMISSIONER COSGROVE: I think that's what I mean.

CHAIR: —and if the city just wants to sheet whatever is going to remain of that property, whatever that may be, and again, that's up to this commission to decide, but—

COMMISSIONER KOUSH: But honestly, even if they demolish at this point, there's hardly anything there. It's just two by fours concrete blocks. I mean, there's no other materials. It looks like, based on the photographs, it's not like there's tons of stuff that's been done.

COMMISSIONER CHARLES STAVA: This is Commissioner Stava.

CHAIR: Please.

COMMISSIONER STAVA: I just want to ask if—because I have to leave because the City scheduled the interpreters until 5:30 and its approaching 6:00. So I have to leave pretty soon. So if I left with that still—what would that do to quorum status?

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GEISHEKER: Thank you, Commissioner Stava. We would still have quorum if you left. We would be right at quorum with your departure.

COMMISSIONER STAVA: Well, thank you so much.

COMMISSIONER CURRY: Could we see the photo again, please, of the existing conditions?

CHAIR: And yeah, for time, I guess I'd like to ask the homeowner one more time. Just you're listening to the conversation. If you have any additional comments—and so, again, I don't know, given what I'm hearing, you know, it may be this is something we need to defer in order to get, you know, more into this. But I'm just curious if you have any more comments. I'd like to ask you that question.

LAMNATOS: Thank you, David. Look, my trade, I'm a lender. And, you know, my industry is rules. There's this rule and there's that rule. So. But Mr. Cosgrove and Ms. Jackson, I can certainly see where you're coming from. And I don't know if I quite understand it. It's cost me so much. And that being removed it seems that tearing it down and making me wait two years and reducing and taking away the framing it would be dumb to punish me and it you know their rules and then their intentions to the rules. And, you know, I ask if any of you really, truly feel that this was done on on purpose and their rules and their intentions. And you could say it doesn't matter. It doesn't matter if you did it on purpose or not. The result is still the same. But it—that house. You know, people haven't lived in that house for years. I am going to improve that block and make it look better than what it was by making it look exactly the same. I truly hope and I pray that I'm able to continue this. This is a dream of mine. My mom has an apartment across the street in our complex. My kids go there daily it seems. I'm able to ride my bike to work. I mean, never did I ever look and say, "Let me tear all this down and build something new and try to stick it to the historic district." I mean, if any rational person, if I had that much thought into it, I would have known I'd end up in this spot. And to jeopardize the two years, I mean, Mr. Cosgrove, I really appreciate what you said, and it doesn't make sense to have me see the back part of it and do that if in a few weeks it's going to come back. But I mean, the Heights is my neighborhood. I moved into the Heights in 1999. I know a lot of you have likely lived there longer, but it's so dear to me. And I would never do this on purpose. And to turn around and put a two year waiting period on me, I ask why? Like what? Why, why? I know it's getting late and I don't want to keep going round and round. And David, I really appreciate you allowing me to, to talk. I just ask that you reconsider making it the way it was, you know, to not add on to the back. But what does that do? It there's got to be is there something else I could do that be more impactful and helpful and just reducing it. Like I would ask what is the intention of that and what does that truly do? But I don't sit on the board. It's not my job. It's yours. And, you know, I've heard a few times that never—you guys have never seen this before. I mean, I put my head down every time I never, ever, ever would have imagined or wanted it to get to this point. I just want to build an office that's across the street from an apartment complex we own. Wanted to have a place there to where my mom could not stay at the apartment. She has her own place. And I'm creating a life here. I'm not moving out of the neighborhood. I don't want my company out of neighborhood. I ride my bike to work

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half the time. I walk the other half. Every now and then I drive. I just pray that I'm able to move forward with it. I'm making the house better. It doesn't, you know, having it vacant or having it sit there, it doesn't do the neighborhood any favors at all. But I need to stop talking because it's late and I want to be respectful of your time.

COMMISSIONER CURRY: Paul, thank you. So Commission members—

COMMISSIONER COSGROVE: I mean, I think it might be they might struggle with it is that it's not like I want him to have to tear off the addition. I don't think it's necessarily productive. We're not talking about something that's, you know, 2,000 feet. You know, it's tucked in behind. It's modest. I understand that. And you know, can see different scenarios. It's the precedent we're setting that someone can just tear down a house and then come in and say, "I didn't mean to do it." And then we just approve you to do exactly what she wanted to do. And you know, it's I feel like we are constantly battling that with the COR, which seems to be in front of us more often than it used to be. And I just worry that is my concern and really my response to why we're taking a hard look at how serious this is and what the ramifications of it are. We want to prevent this from happening again.

CHAIR: My question for Kim is the way the ordinance is written. Is it written based on tearing down an existing home of its free standing and then then someone trying to back and provide a new structure? I mean, because we don't see this when it's demolition, when we have a COA involved, right. So it's, you know, the demolitions I worry about are just so we just knock the house down in the middle of the night and there is no COA. There was no application, there was no addition plan. There was just nothing. It's just gone, right? And we've seen that in the city and, you know, downtown in Market Square. Yeah. But, so I just trying to understand from your perspective, this is a little bit different. I mean, we because we had to approve COA, it wasn't a very large addition. It wasn't a two story addition. It was, Mr. Cosgrove said, behind the main structure. Still one story.

MICKELSON: And...Mr. Chair, I think you're exactly right. The provision in the code is written in such a way, it talks about if the structure is demolished without a certificate of appropriateness required by this article. And we can kind of read that two ways. One, was there a certificate of appropriateness for anything? Or was there no certificate of appropriateness to demolish for permission to actually demolish the building? So it's vague enough that's you know, that's why we also thought it gave some latitude, but maybe vague isn't the right word, but it's certainly interpretive—interpretable to different ways. So, you know, that, I think my read of it is that, if there's not a certificate of appropriateness at all, that's when the two years kicks in. That's when the ten years kicks in. And I think that's when I went back and was listening back to the tape on the other, you know, that point didn't exactly come up, but, you know, back and looked at notes and that was part of the discussion then. They also had a COA but they exceeded it.

CHAIR: Sure. And we've seen I mean, we've seen siding, demolitions or window removals that were repairable and we made them put back salvaged old windows. We made them put back

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salvaged siding, we made them look like it's old because everything you see is, is actually salvaged at a past life.

MICKELSON: Right. Right. And so that was also part of the rationale of, again, meeting the building officials concerns, plus at least getting this squared away. I will add with regard to the question about whether or not this is a, you know, precedent setting. And I know we've referred to Cortlandt, but as I noted, every property is unique. So it doesn't mean you wouldn't get more of these and people would say, well, hey, what about that one? But every piece of property and every situation is going to be different, is going to be unique, maybe from the amount of original materials left to, you know, what's planned in the future or how the demolition came about.

CHAIR: So and as a hypothetical, if one could keep the house, the structure and the addition in clad it with old materials, is there a way that no additional additions or could be made in a certain time frame for instance?

MICKELSON: Yeah, I think if you see future plans for this come back before you, I think you can impose conditions to use original materials. I'll let you all decide to what extent and that there would be a limitation on future additions or changes to the property. Yeah. For 'X' period of time. Yeah. I do think that second step gives you all a lot of latitude.

LILIENTHAL: Commission members, point of order. If I would ask you, presenter put up the criteria where there's two subsections of the application for demolition, financial hardship or unusual or compelling circumstances, and if you could please enlarge. And so we can read the red. Thank you. Yes. Bring this up so you have a little bit more information to make an informed decision.

LILIENTHAL: Unusual or compelling circumstances.

MICKELSON: So the determination of the existence of unusual and compelling circumstance shall be based upon the following: one, which does not apply, current information does not support the historic or archeological significance of this building; number two, which staff has checked as applies. Whether there are definite plans for re-use of the property of the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archeological character of the context area staff has added in the red the compelling circumstances that the original historic structure has been demolished. New framing has taken place that is similar in size and dimensions of the once existent historic structure. And you've heard, I'll add, you've heard from the applicant that he intends to or hopes to build back. Just in the same.

CHAIR: Thank you. So Commission, I need a motion. Or to defer.

COMMISSIONER CURRY: So I know we've been talking about it for a long time and I don't know why I'm asking Commissioner Yap. To what degree in case it's part of what is before us

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becomes before us is a motion to what degree do you think it's practical possible to replicate what was there on this new framing with recycled authentically period material?

COMMISSIONER YAP: To a high degree, actually, because the shiplap, as well as old historic floors, for example, shiplap and siding, they are always available in different various salvage places. And basically, if we do require the person to put back ship lap on the interior, it's only the exterior walls. We don't necessarily need them to put back the shiplap on the interior.

COMMISSIONER CURRY: Agreed. So we're talking about exterior material.

COMMISSIONER YAP: Exterior material.

COMMISSIONER CURRY: And windows, doors, trim and siding.

COMMISSIONER YAP: Windows, I'm not 100% sure because you—to get the originals back, you need maybe ten to twelve of the original same size windows and salvaged houses don't typically have that kind of stock.

COMMISSIONER CURRY: Perhaps we wouldn't have seen the plan to retain the original windows anyway under the surface.

COMMISSIONER YAP: Yeah. So to me, shiplap, the tragedy here is that even the ceiling, if you look at the original structure, has shiplap on it. So that is really historic material that shouldn't have been torn away. Then you can make him buy back, let's say a historic door, a prior appropriate historic door. I would actually ask the person, since there's already new framing and you have to sheath it anyway, to actually put back Jel-Wen windows as a replication of the historic look. But then the all the others can be salvaged. You can you can buy them at salvage yards.

COMMISSIONER CURRY: Thank you.

COMMISSIONER YAP: If you want to go that route. Yes.

COMMISSIONER CURRY: Yeah.

LAMNATOS: A comment on the roof.

COMMISSIONER KOUSH: With the shiplap be it because it'll be inside the wall when done, right?

CHAIR: I think the comment, though, is, well, the is more about siding. I think historic siding because it's now western frame. So it doesn't require shiplap structurally. Right.

COMMISSIONER COSGROVE: Once you sheath it, the shiplap is not necessary, right?

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CHAIR: Right. Well, but the shiplap is needed when it was blue framed. It's western frame. So it's a different system.

COMMISSIONER YAP: You're talking about structural integrity. No, but I would like to keep it there, because then you can have that as part of the historic nature of the house in that regard. Not because of the framing.

CHAIR: I see.

COMMISSIONER YAP: Because of the framing, but because it's there. And then one day you can set this replicated at the old house, at least the interior.

COMMISSIONER KOUSH: Want to switch it to balloon frame too? Where do you stop there?

COMMISSIONER COSGROVE: I think that the issue at hand here is what we do with—we can discuss what we potentially would do with a future application. I mean, right now we're just—the only recommendation the staff is making is, do we allow them to keep the existing structure, which is just the original house and this modest addition? And then they would have to resubmit an application for new construction, which would then allow us to give guidance as to the materials that we choose, whether that is all original siding and as many salvaged pieces as possible and any future accessory unit to be built on the site, we could regulate that at that time. So I think the real question we have to ask ourselves, are we willing to accept the structure that is there or are we going to try to impose some kind of penalty?

CHAIR: With it with the addition that we already approved this commission already approved as appropriate. And so—

COMMISSIONER COSGROVE: And the fact that it pinches in, you're not going to see it from the right of way. Really.

COMMISSIONER KOUSH: Okay. Can we just make a motion?

COMMISSIONER COSGROVE: So I would make the motion that we accept the staff's recommendation and let them secure it. But, you know, personally, I think that is setting the stage that we are agreeing that we are going to allow what is currently built to be finished. And as far as other site improvements, I would say that's up in the air. I mean, does that make sense?

CHAIR: And there may be conditions on the physical materials that we see so that—

COMMISSIONER COSGROVE: But we would need to see the—that application before. I mean, this is just step one of the COR, as I see it, that there is going to be...they're not going to be able

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to get any tax credits, am I correct that everything going forward is going to be a COR on this property?

MICKELSON: Probably.

CHAIR: So I'm gonna take that as a motion and I'm going to ask for a second.

COMMISSIONER COSGROVE: Okay, it is a motion.

COMMISSIONER KOUSH: I'll second it.

COMMISSIONER ASHLEY JONES: Commissioner Jones seconds.

CHAIR: Okay good.

CHAIR: All in favor?

[all say aye]

CHAIR: Any opposed? Any abstentions? So that motion passes and we will see the applicant, probably in the next meeting. I'm moving quickly. Comments from the public—

LAMNATOS: Thank you.