CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

September 14, 2015

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold the staff denial of a staff-level Certificate of Appropriateness to replace four existing wood windows with wood-composite (Renewal by Andersen) windows at an existing one story single-family residence located at 3732 Cerritos Avenue. The property is a contributing structure within the California Height Historic Landmark District. (Council District 7)

APPLICANT: William Boelter
3732 Cerritos Avenue
Long Beach, CA 90807
(Application No. HP15-300)

THE REQUEST

The applicant requested a certificate of appropriateness to allow the replacement of four existing wood windows with wood-composite windows (Renewal by Andersen) to match the existing window size, location and grille patterns. The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness.

EXISTING CONDITIONS

The subject site, 3732 Cerritos Avenue, is located on the east side of Cerritos Avenue between 37th Street and Bixby Road (Exhibit B – Location Map). The site is located within the R-1-N zone (Single Family Residential District with Standard Lots) and is improved with a 1,587 square-foot, one-story single-family residence. The home was constructed in 1930 in a Spanish Eclectic/Revival Style.

The home maintains the massing, orientation, design and materials of its original construction and is a contributing structure to the California Heights Historic Landmark District (Ordinance C-7702). The existing wood windows, which are the subject of the requested Certificate of Appropriateness, were inspected by staff and found to be in fair condition (Exhibit C – Plans & Photographs).

ANALYSIS

The standard of review for a contributing structure is whether or not the proposed improvements would complement or degrade the overall cohesion and aesthetic of the home as well as the district as a whole. In addition, the approval of a Certificate of Appropriateness requires a determination as to whether the improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (Guidelines).

Standard number two of the Guidelines instructs, "...the historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided." Standard number seven of the Guidelines is also instructive, stating that, "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."

In this application, staff determined that the removal of wood windows and the historic material of the home do not meet the Guidelines. As it relates to replacing windows in a historic home, the Guidelines prioritize maintenance to extend the window life, followed by repair of existing window components, followed by replacement with original materials. Replacement of windows with new materials is deemed appropriate only when the original material is not available, or the existing window is not the material from the home's period of significance. Although composite materials may be appropriate in some cases, it is not appropriate for this structure due to the removal of intact wood windows.

The proposed replacement windows, which use wood combined with synthetic materials, convey the historic character of some homes and are available in sizes and configurations that may be compatible with some historic homes. These windows have been approved in other Certificate of Appropriateness applications in a narrow range of cases, primarily when the existing window is a non-original material such as aluminum or vinyl. In these cases, the installation of a composite window brings the home closer to the original character and no existing historic materials are removed. Composite materials are also approved in limited circumstances for non-contributing structures where the standards relate to impacts on the district rather than the integrity of the individual home. The removal of historic building materials, in this case, wood windows, is not consistent with the Guidelines and cannot be approved under the Cultural Heritage Ordinance.

The role of the commission in hearing an appeal is to conduct a de novo review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines. The proposed project involves the removal of historic building materials from the home in conflict with Guideline standards two and seven.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the project does not meet the requirements set forth in Title 21 of the City's Zoning Code, Section 2.63.070 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards and Guidelines for Rehabilitation, and the California Heights Historic District Ordinance (Ordinance No. C-7702). Staff recommends denial of the appeal and upholding of the staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit D – Findings).

PUBLIC HEARING NOTICE

Public notices were distributed on August 18, 2015 and a notice was mailed to the California Heights Heritage Association. Staff has received two letters of opposition.

ENVIRONMENTAL REVIEW

In accordance with the 15301(e) Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single family residences.

Respectfully submitted,

CHRISTOPHER KOONTZ, AICP
ADVANCE PLANNING OFFICER

LINDA F.TATUM, AICP
PLANNING BUREAU MANAGER

LT:CK

Attachments: Exhibit A – Applicant Appeal of HP-300
Exhibit B – Location Map
Exhibit C – Plans & Photographs
Exhibit D – Findings

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

June 13, 2016

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold staff's denial of a Certificate of Appropriateness to replace five aluminum windows with vinyl windows and to enlarge two of the five window openings at an existing one-story, single-family residence located at 305 Obispo Avenue. The property is a contributing structure located within the Bluff Heights Historic District. (District 2)

APPLICANT: Glenda Gabel
305 Obispo Avenue
Long Beach, CA 90814
(Application No. HP16-129)

THE REQUEST

The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal and Narritive) of staff's decision to deny a Certificate of Appropriateness to allow the replacement of five aluminum windows with vinyl windows and to enlarge two window openings of the five windows proposed for replacement.

BACKGROUND

The subject site, 305 Obispo Avenue, on the west side of Obispo Avenue between Colorado and 3rd Streets, is located within the R-2-A zone (Two Family Residential District with Standard Lots) (Exhibit B – Location Map). The lot measures 39 feet wide by 95 feet deep, and is bounded by Obispo Avenue and a 10-foot-wide alley (Alamo Lane).

The home was constructed in the Craftsman architectural style (Exhibit C – Photographs). The site was developed with a 1,053-square-foot, single-story, single-family residence in 1920 and a detached garage was added in 1962. The home maintains the massing, orientation, design and most of the materials of its original construction and is a contributing structure within the Bluff Heights Historic District.

According to building permit records, the subject home was renovated in 1961 and aluminum-framed windows were installed (building permit #4980) at that time. According to the applicant, two windows on the front elevation, one window and one patio door on the side elevation were replaced with vinyl-framed windows in 2002. In 2014, a Certificate of Appropriateness (HP14-041) and building permit (BRMD162951) were issued for the enlargement/replacement of an aluminum window (side elevation) and one patio door (rear elevation), to vinyl-framed windows.

On April 14, 2016, the applicant requested a Certificate of Appropriateness to allow replacement of the five remaining aluminum windows to vinyl windows, including the enlargement of two of these window openings. Staff denied the Certificate of Appropriateness and the applicant filed an appeal of staff's decision.

ANALYSIS

The standard of review for considering an improvement or modification to a contributing structure is whether or not the proposed improvements would complement or degrade the aesthetic of the home or well as the district as a whole. The guidelines of the Bluff Heights Historic District state, "alterations of windows and doors are acceptable when the replacement windows and doors are consistent with the original architectural style and proportions of the house". The intent of these guidelines is to retain original exterior materials and architectural features/style of the home. The original wood windows were previously removed and replaced with aluminum windows.

The applicant's request to replace the existing aluminum window with vinyl windows is not consistent with the original architectural style of the house and vinyl is not an appropriate replacement window-framing material within the district. Vinyl windows were not widely used until the 1980s and they are not a window material that is commonly used in historic districts. Either wood, metal clad wood, fiberglass, or a similar material that achieves the look of wood, would be an appropriate replacement for the aluminum windows. The Secretary of Interior's Guidelines and staff policy (Exhibit D) were used to make this determination. Guideline #6 reads "[d]eteriorated historic features shall be repaired rather than replaced. Where the severity of the deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence."

Of the five aluminum windows requested to be replaced, two horizontal sliding windows and two double-hung windows are located on the side elevation facing Alamo Lane, and one horizontal sliding window is located on the rear elevation. The applicant is requesting to widen one window opening on the side elevation and one opening on the rear elevation, to accommodate larger horizontal sliding windows.

Staff does not support enlarging the window openings to accommodate larger horizontal sliding windows because the enlargement requested is not consistent with the original window design and the style of window is not consistent with the original window material. The Secretary of the Interior's Standards and Guidelines for Rehabilitation of

Historic Structures instructs, "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided. (Standard #2)"

Staff is not opposed to enlarging the window openings if the enlarged openings are vertical and designed to accommodate a double-hung window consistent with the architectural style of the house. However, the applicant has requested a larger horizontal opening to accommodate a vinyl sliding window that is not consistent with the original window style and that is not consistent with the window style commonly found in the district.

The role of the Commission in hearing an appeal is to conduct a de novo review of the Certificate of Appropriate request. The Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines and the proposed project involves a replacement material that is inconsistent with the architectural style of the house. A copy of the original request can be found in Exhibit E.

RECOMMENDATION

Staff has analyzed the proposed project and determined that the project does not meet the requirements set forth in Title 21 of the City's Zoning Code, Section 2.63.070 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the Bluff Heights Historic District Ordinance (Ordinance No. C-7937). Staff recommends denial of the appeal and upholding of the staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit F – Findings).

PUBLIC HEARING NOTICE

Public notices were distributed on May 16, 2016 and a notice was mailed to the Bluff Heights Neighborhood Association. As of the date this report was prepared, no letters or calls have been received regarding this request.

ENVIRONMENTAL REVIEW

In accordance with the 15301(e) Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for window replacement.

Respectfully submitted,

CHRISTOPHER KOONTZ, AICP
ADVANCE PLANNING OFFICER

LINDA F.TATUM, AICP
PLANNING BUREAU MANAGER

LFT:CK:gc

Attachments: Exhibit A – Applicant Appeal and Narrative
Exhibit B – Location Map
Exhibit C - Photographs
Exhibit D – Staff Policy - Windows
Exhibit E – Original C of A Application
Exhibit F – Denial Findings

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

April 10, 2017

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Uphold the staff decision to deny a staff-level Certificate of Appropriateness. The decision involves replacement of thirteen non-historic windows and replacing with new fiberglass and vinyl windows on an existing single-family residence located at 3637 Gaviota Avenue. The site is a contributing property within the California Heights Historic Landmark District. (District 7)

APPLICANT: Adam Stephenson
3637 Gaviota Avenue
Long Beach, CA 90807
(Application No. HP17-084)

THE REQUEST

The applicant requests an appeal of a staff-level Certificate of Appropriateness to allow replacement of thirteen non-historic windows with fiberglass and vinyl windows. The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness (HP16-563).

BACKGROUND

The subject property, is located on Gaviota Avenue between 36th Street and 37th Street (Exhibit B – Location Map). The site is located within the R-1-N zone (Single Family Residential District with Normal Lots) and is improved with a 1,612 square-foot, one-story single-family residence. The building was constructed in 1937 in a Minimal Traditional architectural style.

On November 14, 2016, the applicant filed a staff-level Certificate of Appropriateness to replace 13 non-historic windows. The request involves replacing six non-original windows along the front of the building with new white fiberglass windows and replacing seven non-original windows along the two sides of the building with new white vinyl windows (Exhibit C – Plans & Photographs). After a mutual attempt by staff and the applicant to find acceptable materials or alternate design, the application was denied by

staff on the basis that the proposed fiberglass and vinyl windows were not a compatible material for a contributing building in a historic district and do not meet the Secretary of the Interior's Standards.

The non-original windows, that are the subject of this appeal, are not functioning operable windows. Instead, the original windows have been replaced with individual single plates of glass over the entire window opening. Because it is a single plate of glass there is no mechanism to have a functioning operable window (Exhibit C - Plans and Photographs) without replacement. There are no building permits records indicating when the original windows were replaced. The window openings and frames generally appear original and intact.

ANALYSIS

Window replacement cases in historic districts are one of the most frequent issues that the Development Services department encounters. Generally, the circumstances surrounding these cases involve unpermitted installation and violation notices issued by the City's Code Enforcement Bureau. A more unique, but common code enforcement situation that arises involves window changeouts on buildings located within historic districts that were built outside of the period of significance for a historic district. A typical example, involves an apartment building constructed in the 1960s or 1970s with aluminum windows, but located within the historic district boundaries. In these cases, staff requires that replacement windows be from the same period of construction of the building.

Where the original window no longer exists, Development Services staff uses different methods to conclude the types of windows that were original to a building including the use of old photos, surveys, original architectural plans, window opening sizes, architectural style and the period of construction of subject building.

In historic preservation, prominent building features that help to illustrate an architectural style are called character-defining features. Windows, both modest and ornate fall into this category. Windows are particularly important features because they occupy a substantial part of wall surfaces. In historic districts, wood windows are important as they help to visually define the appearance and cohesion of properties that constitute a historic district.

The California Heights Historic District Ordinance C-7702 incorporates by reference the Secretary of the Interior's Standards for Rehabilitation. Thus, any project in the California Heights Historic District must meet both the Secretary of the Interior's Standards and Section 1(II) the "General Guidelines and Standards for Any Changes."

Standard # 6 of the Secretary of the Interior's Standards for Rehabilitation is the most applicable in this case and reads as follows:

"Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in

design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence."

Staff's decision to deny the applicant's Certificate of Appropriateness is based on Standard #6. The proposed fiberglass and vinyl windows do not match the texture and visual qualities of wood windows as they have flat surfaces, joints and proportions that do not replicate the visual qualities of wood windows. This same standard also provides the guidance to match the same materials where possible. Staff's position is that wood windows are readily available and not impossible to obtain as many window manufacturers continue to manufacture new wood windows. There is clear evidence that the original windows would have been wood as one original wood window remains: a single-hung wood window and wood windows would have been used in 1937 when this building was constructed.

As discussed in this report, the request must meet both the Secretary of the Interior's Standards and the California Heights Historic District ordinance. The applicant's appeal letter cites, the California Heights Historic District ordinance Section II (A)(1)(e.) which states that "substitute materials which maintain the original design shall be permitted." However, staff does not find the basis for permitting substitute materials in this case since wood windows are available and would be the architecturally appropriate materials that would be consistent with the period of construction for the building.

The Secretary of the Interior's Standards does allow for substitute materials for buildings. Some examples where substitute materials may be considered include circumstances where the materials no longer exist, or where compliance with fire or building codes make the use of historic building materials infeasible. Substitute materials can also be considered where historic materials are no longer feasible to use structurally in construction of buildings.

Staff also obtained a third-party professional opinion to evaluate the application of the Secretary of the Interior's Standards involving substitute materials. ESA consultants prepared a memo evaluating the request and its compliance with the Standards and concludes that requiring wood windows is the correct application of the standards. In addition, memo provides that several other cities that apply the Secretary of the Interior's Standards for Contributing Structures in the same way as staff has in this case.

The standard of review for a contributing structure is whether or not the proposed improvements would complement or degrade the overall cohesion and aesthetic of the home as well as the district as a whole. In addition to the approval of a Certificate of Appropriateness, the California Heights General Guidelines and Standards require that proposed improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (Guidelines).

The role of the commission in hearing an appeal is to conduct a de novo review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines. The proposed project involves the alteration of original building features in conflict with Standard #2 of the Guidelines.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the project does not meet the requirements set forth in Title 21 of the City's Zoning Code, Section 2.63 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards and Guidelines for Rehabilitation, and the California Heights Historic District Guidelines. Staff recommends upholding the staff decision to deny the appeal of the Certificate of Appropriateness. The findings for denial are attached as (Exhibit D – Findings).

PUBLIC HEARING NOTICE

Public notices were distributed on March 24, 2017 and a notice was mailed to the California Heights Neighborhood Association.

ENVIRONMENTAL REVIEW

In accordance with the 15301(e) Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single family residences.

Respectfully submitted,

CHRISTOPHER KOONTZ, AICP
ADVANCE PLANNING OFFICER

LINDA F.TATUM, AICP
PLANNING BUREAU MANAGER

LT:CK:ap

Attachments: Exhibit A – Applicant Appeal of HP16-563
Exhibit B – Location Map
Exhibit C – Plans & Photographs
Exhibit D – Findings

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ADAM STEPHENSON,

Petitioner,

vs.

CITY OF LONG BEACH, a California municipal corporation,

Respondent

Case No.: BS170097

(TENTATIVE) ORDER DENYING THE PETITION FOR A WRIT OF MANDATE

Hearing Date: April 27, 2018
Dept.: 86

I. Introduction

Petitioner Adam Stephenson ("Petitioner") seeks a writ of mandate pursuant to Code of Civil Procedure section 1094.5 directing Respondent City of Long Beach ("City") to set aside its decision denying Petitioner's application for a Certificate of Appropriateness to replace thirteen windows at his property located at 3637 Gaviota Avenue, Long Beach, CA 90807. Petitioner also seeks a writ of mandate pursuant to Code of Civil Procedure section 1085 directing the City to

cease applying an alleged informal policy of prohibiting substitute materials to be used for window replacement projects affecting historic landmarks. The City opposes the Petition.

For the following reasons, the Court DENIES the Petition for Writ of Mandate.[1]

II. Statement of Case

Petitioner owns a single-story residential building located at 3637 Gaviota Avenue, Long Beach, CA (the "Property"). (AR 7, 25.) The Property was constructed in 1937 in the Minimal Traditional architectural style and is a contributing structure in the City's California Heights Landmark District. (AR 34, 91, 137.) The original wood frames of the 13 windows are intact. (AR 156.) At some point, however, the original wood sash windows were replaced with 13 single pieces of non-tempered plate glass. (AR 97, 156.)

On November 4, 2016, Petitioner submitted an application for a Certificate of Appropriateness ("CoA") permitting Petitioner to replace the 13 windows on the Property with 6 fiberglass windows and 7 vinyl windows (the "Application"). (AR 7-19, 22-24.) On February 27, 2017, the City denied Petitioner's Application explaining:

> The appearance of vinyl windows does not mimic building materials from the home's period of significance. Vinyl windows cannot be painted and contain a glossy sheen materially different than the wood windows characteristic of the period of significance. Fiberglass windows have a flat appearance and their exterior profiles, depth, and dimensions do not match the dimensions of common wood window sashes. The relevant ordinances allow substitute of window materials only when the change will "maintain the original design." Vinyl and Fiberglass windows are inconsistent with Secretary of Interior's Standards and do not maintain the original design from the period of significance.

(AR 25.)

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[1] The Court GRANTS Petitioner's Request for Judicial Notice of Exhibits A-F, which consists of sections from the Long Beach Municipal Code and guidelines from the U.S. Department of the Interior on rehabilitating historic and non-historic properties. (Evid. Code §§452(b), (c), (h).)

On March 8, 2017, Petitioner appealed the City's decision to the Cultural Heritage Commission ("Commission"). (AR 27-33.) Prior to the Commission's hearing, the City asked ESA, an environmental science and planning firm, to independently review Petitioner's application and analyze the proposed Project's conformance with local ordinances and national guidelines. ESA found that the proposed Project violated Standards 2, 6, and 9 of "The Secretary of the Interior's Standards for Rehabilitation" ("Standards") because it (1) did not retain and preserve the historic character of the Property; (2) failed to match the original windows "in design, color, texture, and other visual qualities and, where possible, materials"; and (3) required the destruction of historic materials. (AR 35-37.) ESA concluded that "the proposed vinyl or fiberglass window replacements are inappropriate as they go against common guidelines that proscribe removal of wood windows and their replacement with windows of non-wood material." (AR 40.)

On April 10, 2017, the Commission held a hearing on Petitioner's appeal. (AR 134, 139.) At the hearing, City Staff described the Property and provided an overview of Petitioner's proposed Project. (AR 152-56.) City Staff explained that "windows on historic buildings are a character-defining feature . . . that . . . define an architectural style and really help define the visual appearance of a building." (AR 157.) City Staff noted that "wood windows are still a material that is readily available . . . at the local level with many different vendors in the City." (AR 160.) City Staff recommended that the Commission deny the appeal on the grounds that the proposed Project did not meet Standard No. 6. (AR 160-161.)

Commissioner van Dijs asked Petitioner why he was proposing to replace the 13 windows with vinyl and fiberglass windows when he could instead install wood sashes "and have them original for probably about the same price." (AR 164.) Petitioner responded: "We did consider essentially a repair . . . taking brand new wood sashes and putting them in what we assumed to be the original wood frames. The economics of it ended up being slightly – slightly more than the quote we received for replacing the windows with either aluminum clad or a fiberglass and the primary elevation and a vinyl on the sides." (AR 165.) Petitioner testified that the proposed design of the vinyl and fiberglass windows was "as close as you can get to replicating the original wood windows." (AR 169.) Petitioner argued that the California Heights Ordinance "require[s] the City

to permit a window replacement of a substitute material if it maintains the original design." (AR 170.)

At the conclusion of the Commission's hearing, the Commission voted unanimously to approve the City Staff's recommendation to deny Petitioner's appeal. (AR 135, 182.)

Petitioner now seeks a writ of mandate setting aside the Commission's denial of his appeal and directing the City to issue a Certificate of Appropriateness for his proposed Project. The City opposes.

III. Standard of Review

Code of Civil Procedure section 1094.5 is the administrative mandamus provision providing the procedure for judicial review of adjudicatory decisions rendered by administrative agencies. (*Topanga Ass'n for a Scenic Community v. County of Los Angeles*, (1974) 11 Cal. 3d 506, 514-15.) Section 1094.5(a) states, in pertinent part, that "[w]here the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury." Under CCP § 1094.5(b), the pertinent issues are: (1) whether the respondent has proceeded without jurisdiction; (2) whether there was a fair trial; and (3) whether there was a prejudicial abuse of discretion. An abuse of discretion is established if the respondent has not proceeded in the manner required by law, the decision is not supported by the findings, or the findings are not supported by the evidence. (CCP § 1094.5(b).)

In general, an agency is presumed to have regularly performed its official duties. (Evid. Code § 664.) Therefore, the petitioner seeking administrative mandamus has the burden of proof. (*Steele v. Los Angeles County Civil Service Commission*, (1958) 166 Cal. App. 2d 129, 137; see also *Alford v. Pierno* (1972) 27 Cal.App.3d 682, 691 ["[T]he burden of proof falls upon the party

attacking the administrative decision to demonstrate wherein the proceedings were unfair, in excess of jurisdiction or showed prejudicial abuse of discretion."].)

To determine what standard of review to apply, courts examine whether the administrative decision "substantially affect[s] vested, fundamental rights." (*Bixby v. Pierno* (1971) 4 Cal.3d 130, 143.) "If the decision of an administrative agency will substantially affect such a right, the trial court not only examines the administrative record for errors of law but also exercises its independent judgment upon the evidence disclosed in a limited trial de novo." (*Id.* at 143.) "If the administrative decision does not involve, or substantially affect, any fundamental vested right, the trial court must still review the entire administrative record to determine whether the findings are supported by substantial evidence and whether the agency committed any errors of law, but the trial court need not look beyond that whole record of the administrative proceedings." (*Id.* at 144.) "The courts must decide on a case-by-case basis whether an administrative decision or class of decisions substantially affects fundamental vested rights and thus requires independent judgment review." (*Id.* at 144.)

"Land use cases generally do not involve fundamental vested rights because they involve proceedings concerning the amendment of land use plans or the issuance of new permits to which there is no inherent entitlement. [Citation.] Without a vested right, the substantial evidence test applies. [Citations.]" (Cal. Administrative Mandamus (Cont.Ed.Bar 3d ed. 2017) § 6.144.) In this case, Petitioner does not have a vested right to issuance of a Certificate of Appropriateness. Thus, substantial evidence is the appropriate standard of review. This means that, pursuant to section 1094.5(c), the court decides whether substantial evidence supports the administrative findings (rather than whether the weight of the evidence supports the findings).

"Where … a 'purely legal question' is at issue, courts 'exercise independent judgment ... , no matter whether the issue arises by traditional or administrative mandate. [Citations.]'" (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.)

IV. Analysis

A. Substantial Evidence Supports the Commission's Decision to Deny Petitioner's Application for a Certificate of Appropriateness

Petitioner seeks a Certificate of Appropriateness permitting him to replace 13 wood windows on his Property with vinyl and fiberglass windows. Petitioner's Property is a contributing structure in the City's California Heights Landmark District (the "District"). Long Beach Municipal Code section 2.63.80(B) states that "[t]he Director of Development Services shall be responsible for considering and issuing certificates of appropriateness within Landmark Districts [for minor alterations] including, but not limited to, the replacement of windows and doors (including screen doors) with like materials (e.g., wood window changed with wood or wood-clad window of similar aesthetics) . . . ." Municipal Code section 2.63.80(D) states that "the Director of Development Services, shall only issue a certificate of appropriateness if it is determined that the proposed modification:

> 1. Will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the Landmark or subject property within the Landmark District and that issuance of the certificate of appropriateness is consistent with the spirit and intent of this Chapter.
>
> 2. Will remedy any condition determined to be imminently dangerous or unsafe by the Fire Marshal and/or Building Official.
>
> 3. Will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.
>
> 4. Will comply with the Design Guidelines for Landmark Districts, for a property located within a Landmark District."

In this case, the Director was required to determine that Petitioner's application complied with the City's California Heights Ordinance (No. C-7702) (the "Ordinance"), which sets forth "General Guidelines and Standards" for "rehabilitation or alteration of existing structures" in the District. (AR 2-3.) With respect to "alteration or changes to windows" or an existing structure, the Ordinance states: "Substitute materials ***which maintain the original design*** shall be

permitted." (AR 3, emphasis added.) The Ordinance also incorporates by reference the "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" prepared by the Secretary of the Interior" (the "Standards"). (AR 2-3.) Those Standards, codified at 36 Code of Federal Regulations part 67.7(b), state in relevant part:

> (b) The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.
>
> . . .
>
> (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
>
> . . .
>
> (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, ***the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials.*** Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
>
> . . .
>
> (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(36 C.F.R. § 67.7(b).)

The Planning Bureau found that Petitioner's proposed vinyl and fiberglass window replacements did not comply with the Ordinance because they did not "maintain the original design." (AR 25.) The Planning Bureau explained that "[v]inyl windows cannot be painted and contain a glossy sheen materially different than the wood windows characteristic of the period of significance." (AR 25.) Similarly, "[f]iberglass windows have a flat appearance and their exterior profiles, depth, and dimensions do not match the dimensions of common wood window sashes." (AR 25.) The Planning Bureau also found that Petitioner's application did not comply with

Standard No. 6 because the proposed vinyl and fiberglass windows did not "match the . . . design, color, texture, and other visual qualities" of the original windows. (AR 25-26.) ESA, an environmental science and planning firm, independently evaluated Petitioner's application and concluded that the proposed Project violated Standards No. 2, 6, and 9. (AR 25-38.) ESA determined that "[t]he proposed vinyl or fiberglass windows will not only fail to match the material of wood, but also its texture, finish, profile, and design." (AR 26.) This is because " '[w]ood-grain texture and intricate details are only provided by solid wood,' and cannot be faithfully replicated by other materials or even wood veneer. [Citation.]" (AR 36.) After a hearing on Petitioner's appeal, the Commission upheld City Staff's recommendation to deny Petitioner's application.

Petitioner argues that the City abused its discretion by failing to follow the Ordinance which states that "[s]ubstitute materials which maintain the original design shall be permitted." (OB at 15-16.) Petitioner argues that the phrase "shall be permitted" presents a clear mandate to permit substitute materials. However, the Ordinance only requires the City to permit substitute materials "which maintain the original design." The Planning Bureau's analysis and ESA Report constitute substantial evidence that Petitioner's proposed windows did not maintain the original design of the historic wood windows. Thus, the City was not required to permit Petitioner's proposed use of substitute materials.

Petitioner cites two documents published by the National Park Service's Technical Preservation Services ("TPS") interpreting the Standards. (RJN Exhs. E and F.) Petitioner points out that these documents offer flexibility in the materials used in replacement windows. However, these documents do not support Petitioner's position that vinyl and fiberglass windows are appropriate substitutes for historic wood windows. The first document titled, "Replacement Windows that Meet the Standards," states: "[w]hile it may be theoretically possible to match all the significant characteristics of a historic window in a substitute material, in actuality, finish, profiles, dimensions and details are all affected by a change in material." (RJN Exh. E p. 34.) The document goes on to explain that "vinyl-clad or enameled aluminum-clad windows may have joints in the cladding that can make them look very different from a painted wood window." (*Ibid.*)

Thus, these guidelines support the City's findings that Petitioner's proposed vinyl and fiberglass windows did not "maintain the original design" of the wood windows.

In addition, Petitioner fails to address the City's determination that his application violated the Secretary of Interior's Standards. Standard No. 6 requires historic features to "be repaired rather than replaced," unless "the severity of deterioration requires replacement." Standard No. 6 also requires new features to "match the old in design, color, texture, and other visual qualities and, where possible, materials." The evidence in the record demonstrates that Petitioner's windows could have been repaired and that the use of wood was economically feasible. City Staff testified that "wood windows are still a material that is readily available . . . at the local level with many different vendors in the City." (AR 160.) Commissioner Van Dijs commented that Petitioner could "buy a fixed sash and an operable wood sash . . . for probably about the same price as a vinyl window, especially . . . consider[ing] the cost of removal [and] plaster repair." (AR 164.) Petitioner even admitted that the cost of repairing the original wood frames with new wood sashes was only "slightly more" than the cost of replacing the windows with aluminum clad, fiberglass, and vinyl. (AR 165.)

Accordingly, substantial evidence supports the City's decision to deny Petitioner's application for a CoA on the grounds that the application failed to comply with the California Heights Ordinance and Secretary of Interior's Standards.

B. Petitioner Fails to Demonstrate Grounds for Issuance of a Writ of Mandate Under Section 1085

In addition to his request for a writ of mandate under Code of Civil Procedure section 1094.5, Petitioner also seeks a writ of mandate under Code of Civil Procedure section 1085 compelling the City "to cease adhering to an informal and unlawful policy . . . prohibit[ing] substitute window materials." (OB at 14:25-26; 16:9.) Petitioner fails to demonstrate the existence of any such policy. As discussed, the City did not deny Petitioner's application solely based on the fact that Petitioner proposed the use of substitute materials. Rather, the City denied Petitioner's

application because his proposed windows did not "maintain the original design" of the Property's historic wood windows. Accordingly, Petitioner fails to demonstrate grounds for issuance of a writ of mandate under Section 1085.

C. *The Commission's Findings Comply with Topanga*

Finally, Petitioner argues that the Court should set aside the Commission's decision because it failed to comply with the requirements of *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 ("*Topanaga*"). In *Topanga*, the Supreme Court held that "implicit in section 1094.5 is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." (*Id.* at 515.) "Among other functions, a findings requirement serves to conduce the administrative body to draw legally relevant subconclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions. [Citations.] In addition, findings enable the reviewing court to trace and examine the agency's mode of analysis. [Citations.]" (*Id.* at 516.) "Moreover, properly constituted findings enable the parties to the agency proceeding to determine whether and on what basis they should seek review." (*Id.* at 517.)

In this case, the Commission's Findings and Analysis discussed each of the four requirements listed in Municipal Code section 2.63.80(D). (AR 137-38.) As to the first requirement, the Commission found that the proposed Project "would affect significant historical, cultural, architectural and aesthetic features of the subject property" by replacing the historic wood windows with vinyl and fiberglass windows. (AR 137.) As to the second requirement, the Commission found that the requirement was not applicable because there were no active code enforcement cases or dangerous conditions at the Property. (AR 137.) As to the third requirement, the Commission found that the proposed Project did not comply with Standard No. 6 because the proposed windows "do not match the design, texture and visual qualities of wood windows" and because "new wood windows are still manufactured and readily available." (AR 138.) As to the

fourth requirement, the Commission found that the proposed Project did not comply with the Guidelines for the California Heights Historic District because those guidelines require projects to comply with the Secretary of Interior's Standards. (AR 138.)

Based on these findings, the Court finds that the Commission's decision complies with the requirements of *Topanga*.

V. Conclusion

For the foregoing reasons, the Court DENIES the Petition for Writ of Mandate.

Dated: _____

_____

AMY D. HOGUE
JUDGE OF THE SUPERIOR COURT

CERTIFICATE OF APPROPRIATENESS
HP17-084
FINDINGS AND ANALYSIS
3637 Gaviota Avenue

ANALYSIS:

In compliance with Section 2.63.070 of the City of Long Beach Municipal Code (Cultural Heritage Commission), the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (the Standards):

The subject site is located at 3637 Gaviota Avenue between 37th Street to the north and 36th Street to the south (Exhibit A – Location Map). The property has a zoning designation of R-1-N (Single Family Residential) and is improved with a single-story residential building. The subject property is a contributing structure within the California Heights Historic District. The building was constructed in a Minimal Traditional architectural style in 1937.

In compliance with Section 2.63.070 of the City of Long Beach Municipal Code (Cultural Heritage Commission), the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (the Standards), staff has analyzed the proposed project and the project meets these requirements and those of the City's zoning codes.

FINDINGS: (from Section 2.63.070(D) of the Long Beach Municipal Code)

1. **(It) will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the Landmark or subject property within the Landmark District and that issuance of the certificate of appropriateness is consistent with the spirit and intent of this chapter.**

   The proposed project would affect significant historical, cultural, architectural and aesthetic features of the subject property. Replacement of missing architectural features with vinyl and fiberglass windows, should be replaced with appropriate materials in this case wood windows. Replacement with substitute materials is an aesthetic and architectural alteration that is not in conformance with the Secretary of the Interior's Standards for Rehabilitation.

2. **(It) will remedy any condition determined to be immediately dangerous or unsafe by the Fire Marshal and/or Building Official.**

   There are no active code enforcement cases or dangerous conditions at this site thus, this finding is not applicable.

3. **(It) will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preservation, Rehabilitating, Restoring, and Reconstructing Historic Buildings.**

The proposed fiberglass and vinyl windows are not consistent with the Secretary of the Interior's Standards for Rehabilitation.

In order to make the finding to support this application, the project must meet both the standards of the California Heights Historic District ordinance and the Secretary of the Interior's Standards which are incorporated by reference into the ordinance. In this case, staff finds this request does not meet Standard #6 of Interior's Standards. The guidelines instruct that when replacement is necessary the new feature "shall match the old in design, color texture, and other visual qualities and where possible, materials." The proposed windows do not match the design, texture and visual qualities of wood windows. Furthermore, new wood windows are still manufactured and readily available and would meet Secretary of the Interior's Standard # 6 for materials.

4. **(It) will comply with the Design Guidelines for Landmark Districts, for a property located within a Landmark District.**

The subject property is a contributing structure within the California Heights Historic District. The Guidelines for the California Heights Historic District require that projects comply with the Secretary of Interior's Standards for Rehabilitation. As proposed, the project would not meet Standard # 6 which states "shall match the old in design, color texture, and other visual qualities and where possible, materials." In this case the proposed materials do not match the design and visual qualities of wood windows and nor are they the original wood materials. The proposed windows would be inconsistent with this standard.

AGENDA ITEM No. 1

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES
333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

January 8, 2018

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold staff denial of a Certificate of Appropriateness to replace 13 aluminum windows with wood-composite (Fibrex, Renewal by Andersen) window at 3574 Walnut Avenue on a non-contributing structure in the California Heights Historic District. (District 7)

APPLICANT: Alexandria Kocsy
3574 Walnut Ave.
Long Beach, CA 90807
(Application No. HP 17-583)

THE REQUEST

The applicant requested a Certificate of Appropriateness to allow the replacement of 13 aluminum windows with double-hung windows constructed of a wood fiber combined with a synthetic polymer (known as Fibrex, Renewal by Anderson). The size and location of the window openings will not change from the existing condition. The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness.

The property, located at 3574 Walnut Avenue, contains a non-contributing structure in the California Heights Historic District.

EXISTING CONDITIONS

The subject site, 3574 Walnut Avenue, is located on Walnut Avenue between East 36th Street and East Wardlow Road (Exhibit B – Location Map). The site is located within the R-1-N zone (Single Family Residential District with Standard Lots) and is improved with a 1,080 square-foot, one-story single family residence. The home was constructed in 1939 in a Neo-Traditional Style.

The home maintains the massing, orientation, design, and materials of its original construction and is a non-contributing structure to the California Heights Historic

Landmark District (Ordinance C-7702). The existing aluminum windows, the subject of the requested Certificate of Appropriateness, were inspected by staff and found to be in a deteriorated condition with inconsistencies in their framing, sills and final treatments (Exhibit C – Plans & Photographs). Any further window improvement including repair and/or replacement should be compatible and appropriate with the period of construction of the building and surrounding district character and architectural styles.

ANALYSIS

The standard of review for a structure in a designated historic district is whether or not the proposed improvements would complement or degrade the overall cohesion and aesthetic of the home and the district as a whole. While the subject property is classified as a non-contributing structure, the classification is based on field work from 1981. The original home and garage were constructed in 1939 in a Neo-Traditional style and if formally re-evaluated may be considered a contributing structure, consistent with many of the contributing homes in the district (Exhibit D – 1939 Building Permit Records). According to the California Heights Historic Landmark District Ordinance:

> *"War-time tract houses, Neo-Traditional in style, contribute to the district's architectural coherence, and represent continuity in residential development over three decades. Similarities in scale, setback, massing and materials relate the different architectural styles as a coherent, visually unified district. There has been relatively little physical alteration of the older houses, and relatively few non-contributing structures, so that the neighborhood has a high degree of visual harmony and period charm."*

The approval of a Certificate of Appropriateness requires a determination that the proposed improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (Guidelines).

Standard No. 2 states, "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."

While the current property has a mix of aluminum and vinyl windows, approved as recent as 2010, these materials are unlikely to be original to the 1939 construction. According to the National Park Service Technical Preservation Services, aluminum windows were developed and applied in few pre-war buildings and train cars. The majority of building applications were on, "signature buildings and high-end projects." It was not until after World War II that aluminum windows were widely available and used in single-family home construction. "By the 1970s, they [aluminum windows] rivaled the dominant wood window industry, particularly in commercial and institutional construction." [1] As documented in the California Heights Historic District ordinance,

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[1] Staveteig, K. U.S. Department of the Interior. (2008). *Preservation Tech Notes: Windows Number 22.* <https://www.nps.gov/tps/how-to-preserve/tech-notes/Tech-Notes-Windows22.pdf>.

several homes with similar architectural styles and construction years in the immediate vicinity are found to have original or replacement wood windows. The addition of Renewal by Andersen windows would be a further departure from the original historic materials that would have been part of the original construction.

Secondly, the Secretary's Guidelines Standard No. 5 stipulates that, "Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved." Historically, the most common materials used in window frame construction during the 1930s were wood and steel. A 2007 survey by the National Association of Homebuilders (NAHB) Economics Department placed the average life expectancy of aluminum windows at 20 to 30 years; therefore, it is very likely that the original windows on 3574 Walnut Avenue were replaced at least once since the home's initial construction. The replacement of windows with Renewal by Andersen windows would result in added materials that do not preserve the original construction or character of the home.

Finally, Standard No. 6 of the Guidelines states that, "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." While Planning staff was unable to locate original building permits that detail the application of specific window materials, it is unlikely that aluminum windows were included in the original 1939 construction of the home. During a site visit on December 21, 2017, staff found that many of surrounding homes were constructed with and retain wood windows (Exhibit C – Plans & Photographs).

Renewal by Andersen windows present affordable alternatives to all-wood windows; however, there are several disadvantages of these composite windows that must be recognized. Primarily, the exterior of the Renewal by Andersen windows cannot be painted. The window casing, sash, sill, and muntins are capped with a thin wood-grain veneer affixed to the window with an adhesive. These windows are attractive from a reasonable distance (i.e. a pedestrian's viewpoint from the sidewalk), but if the veneer is scratched, torn or cut, it cannot be painted, patched or easily repaired by the homeowner.

All Renewal by Andersen Windows have a ten-year limited warranty for non-glass components:

> *"The frame and sash members of your Renewal by Andersen window are constructed of Fibrex® material. All Fibrex material components of your Renewal by Andersen products are warranted not to flake, rust, blister, peel, crack, pit, corrode, or rot, under normal use, for ten (10) years from the original installation date."*

However, the Andersen Warranty excludes, "incidental or consequential damages," as stated:

> *"Renewal by Andersen excluded and will not pay for incidental or consequential damages, and its liability will in all instances be limited to repair or replacement of the defective product(s), component(s), or installation."*

In this regard, it is unclear how moisture and temperature variations will affect the underlying adhesive of the veneer if there are cuts that allow moisture to penetrate to the veneer adhesive layer.

Finally, all-wood windows remain the prominent feature in homes in the California Heights Historic District and of the pre-War era, including the subject home at 3574 Walnut Avenue. All-wood windows are currently manufactured and are readily available for homeowners in a wide range of styles, sizes and configurations. Therefore, staff prioritizes all-wood window replacements throughout the City's historic districts to create a cohesive historic character with consistent high-quality design and to meet the Secretary of the Interior Standards for replacing historic elements and materials described above.

CONSISTENCY WITH PRECEDENT CASES

In the past several years, the Cultural Heritage Commission has heard a number of similar appeals on staff denial of Certificates of Appropriateness applications proposing to use wood-composite windows (including Renewal by Andsersen products) as replacement elements. Excerpts of these a project descriptions are listed below. Precedent Staff Reports for these cases may be found in Exhibits E-1 to E-3.

E-1 April 2017 – 3637 Gaviota Avenue (California Heights, built 1938, HP16-563)
Recommendation for Denial Approved: A request to replace thirteen non-historic windows and replacing with new fiberglass and vinyl windows on an existing single-family residence located at 3637 Gaviota Avenue. The site is a contributing property within the California Heights Historic Landmark District. (District 7)

E-2 June 2016 – 305 Obispo Avenue (Bluff Heights, built 1920, HP16-129)
Recommendation for Denial Approved: A request to replace five aluminum windows with vinyl windows and to enlarge two of the five window openings at an existing one-story, single-family residence located at 305 Obispo Avenue. The property is a contributing structure located within the Bluff Heights Historic District. (District 2)

E-3 September 2015 – 3732 Cerritos Avenue (California Heights, built 1930, HP15-300)
Recommendation for Denial Approved: A request to replace four existing wood windows with wood and polymer composite (Fibrex, Renewal by Andersen) windows at an existing one story single-family residence located at 3732 Cerritos

Avenue. The property is a contributing structure within the California Height Historic Landmark District. (District 7)

CONCLUSION

Based on all the findings above, staff determined that the removal and replacement of aluminum windows with Renewal by Andersen windows does not meet Standards of the Guidelines. The Guidelines prioritize maintenance to extend the window life, followed by repair of existing window components, followed by replacement with original materials. Replacement of windows with new materials is deemed appropriate only when the original material is not available, or the existing window is not the material from the home's period of significance. Although composite materials may be appropriate in some cases, it is not appropriate for this structure due to the prevalence of wood windows in other Neo-Traditional homes built before World War II (Exhibit F – Findings).

The role of the Commission in hearing an appeal is to conduct a *de novo* review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines. The proposed project involves the addition of building materials to the home in conflict with Guideline standards two, five and six.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the proposed Renewal by Andersen windows and materials do not meet the requirements set forth in Title 21 of the City's Zoning Code, Section 2.63.080 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards and Guidelines for Rehabilitation, and the California Heights Historic District Ordinance (Ordinance No. C-7702). Staff recommends denial of the appeal and upholding of the staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit F – Findings).

PUBLIC HEARING NOTICE

Public notices were distributed on December 20, 2018 and a notice was mailed to the California Heights Heritage Association. No forms of opposition have been received at the time of this report.

ENVIRONMENTAL REVIEW

In accordance with the 15301(e) Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single family residences.

Respectfully submitted,

CHRISTOPHER KOONTZ, AICP
ADVANCE PLANNING OFFICER

LINDA F.TATUM, AICP
PLANNING BUREAU MANAGER

LT:CK:gb

Attachments: Exhibit A – Applicant Appeal
Exhibit B – Location Map
Exhibit C – Plans & Photographs
Exhibit D – 1939 Building Permit Records
Exhibit E – Precedent Staff Reports
Exhibit F – Findings

AGENDA ITEM No.

Attachment D-5

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

September 10, 2018

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold staff denial of a Certificate of Appropriateness to replace fourteen (14) unpermitted vinyl windows with new vinyl windows at 2302 East 2nd Street on a non-contributing structure in the Bluff Park Historic District. (District 3)

APPLICANT: Mike Burrous
4626 North Virginia Road
Long Beach, CA 90803
(Application No. HP18-371)

THE REQUEST

The applicant requested a Certificate of Appropriateness to allow the replacement of 14 unpermitted vinyl windows with new vinyl windows. The size and location of the window openings will not change from the existing condition. The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness.

EXISTING CONDITIONS

The subject site, 2302 East 2nd Street, is located at the southeast corner of East 2nd Street and Kennebec Avenue (Exhibit B – Location Map). The site is located within the R-2-L zone (Two-Family Residential District with Large Lots) and is improved with a three-story 24-unit residence (condominium). The building was constructed in 1964.

The building maintains the massing, orientation, and, design of its original construction and is a non-contributing structure to the Bluff Park Historic Landmark District (Ordinance C-6835 [adopted 1990]; Ordinance C-5869 [adopted 1982]). The existing vinyl windows, the subject of the requested Certificate of Appropriateness, were not installed with a building permit issued by the City of Long Beach (Exhibit C – Building Permit Records). Any repair or replacement of windows should be selected for their compatibility and appropriateness with the surrounding district context character and architectural styles.

ANALYSIS

The standard of review for a non-contributing structure in a designated historic district is whether or not the proposed improvements would complement or degrade the overall cohesion and aesthetic of the property and the district as a whole. The original structure was constructed in 1964, which is outside the period of significance (1903-1949) for the district. In cases where properties are built outside of the period of significance, staff considers built dates for compatibility. Vinyl windows are not a material from the period of construction or the period of significance. The approval of a Certificate of Appropriateness requires a determination that the proposed improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (Guidelines).

The applicant is requesting the installation of vinyl windows to meet Title 24 Energy requirements. Limitations in manufacturers for aluminum windows that meet the Title 24 Energy requirements, as well as overall window design, are included in the applicant's appeal. The applicant provided staff with aluminum window specifications that meet Title 24 Energy requirements (Exhibit D - Aluminum Window Specifications Provided by Applicant), but cites issues with design compatibility and quality as reasons to choose vinyl material over aluminum.

Standard No. 2 states, "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."

While the current property has a mix of aluminum and vinyl windows, there were no permits issued for the existing vinyl windows. The few remaining aluminum windows along the alley are likely to be original to the 1964 construction. Several infill development projects with similar architectural styles and construction years are found to have original aluminum windows. The proposed windows are to be vinyl windows manufactured by Nuimage, which would match the existing unpermitted vinyl windows (Exhibit E – Site Photographs and Vinyl Window Specifications). The addition of new vinyl windows would be a further departure from the original historic materials that would have been part of the original construction.

Standard No. 6 of the Guidelines states that, "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." While Planning staff was unable to locate original building permits that detail the application of specific window materials, it is unlikely that vinyl windows were included in the original 1964 construction of the building.

Aluminum windows are currently manufactured and are available for homeowners. Therefore, staff prioritizes aluminum window replacements throughout the City's historic districts, when applicable, to create a cohesive historic character with consistent high-

quality design and to meet the Secretary of the Interior Standards for replacing historic elements and materials described above. Because vinyl was not a window material during the District's period of significance or the time of this property's construction, allowing the installation of vinyl windows on this property would be inconsistent with the property's aesthetic and would be detrimental to the Bluff Park Historic District as a whole.

CONSISTENCY WITH PRECEDENT CASES

In the past several years, the Cultural Heritage Commission has heard a number of similar appeals on staff denial of Certificates of Appropriateness applications proposing to use non-original materials as replacement windows. Excerpts of these a project descriptions are listed below. Precedent Staff Reports for these cases may be found in Exhibits F-1 to F-4.

F-1 **September 2015 – 3732 Cerritos Avenue (California Heights, built 1930, HP15-300)**
Recommendation for Denial Approved: A request to replace four existing wood windows with wood and polymer composite (Fibrex, Renewal by Andersen) windows at an existing one story single-family residence located at 3732 Cerritos Avenue. The property is a contributing structure within the California Height Historic Landmark District. (District 7)

F-2 **June 2016 – 305 Obispo Avenue (Bluff Heights, built 1920, HP16-129)**
Recommendation for Denial Approved: A request to replace five aluminum windows with vinyl windows and to enlarge two of the five window openings at an existing one-story, single-family residence located at 305 Obispo Avenue. The property is a contributing structure located within the Bluff Heights Historic District. (District 2)

F-3 **April 2017 – 3637 Gaviota Avenue (California Heights, built 1938, HP16-563) (Lawsuit verdict in City's favor)**
Recommendation for Denial Approved: A request to replace thirteen non-historic windows and replacing with new fiberglass and vinyl windows on an existing single-family residence located at 3637 Gaviota Avenue. The site is a contributing property within the California Heights Historic Landmark District. (District 7)

F-4 **January 2018 – 3574 Walnut Avenue (California Heights, built 1939, HP17-583)**
Recommendation for Denial Approved: A request to replace 13 aluminum windows with wood-composite (Fibrex, Renewal by Andersen) window at 3574 Walnut Avenue on a non-contributing structure in the California Heights Historic District. (District 7)

CONCLUSION

Based on all the findings above, staff determined that the replacement of unpermitted vinyl windows with new vinyl windows does not meet Standards of the Guidelines. The Guidelines prioritize maintenance to extend the window life, followed by repair of existing window components, followed by replacement with original materials. Replacement of windows with new materials is deemed appropriate only when the original material is not available, or the existing permitted window is not the material from the property's period of significance.

The role of the Commission in hearing an appeal is to conduct a *de novo* review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines. The proposed project involves the addition of building materials to the property in conflict with Guideline standards.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the proposed vinyl windows and materials do not meet the requirements set forth in Section 2.63.080 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards and Guidelines for Rehabilitation, and the Bluff Park Historic District Ordinance (Ordinance No. C-6835). Staff recommends denial of the appeal and upholding of the staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit G – Findings).

ENVIRONMENTAL REVIEW

In accordance with Section 15301(e), Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single-family residences.

PUBLIC HEARING NOTICE

Public notices were distributed on August 22, 2018 and a notice was mailed to the Bluff Park Neighborhood Association. As of this date, no written correspondence has been received in response to this project.

Respectfully submitted,

MARYANNE CRONIN
PROJECT PLANNER

ALEJANDRO PLASCENCIA
PRESERVATION PLANNER

CHRISTOPHER KOONTZ, AICP
PLANNING BUREAU MANAGER

CK:AP:mc

Attachments:
Exhibit A – Applicant Appeal
Exhibit B – Location Map
Exhibit C – Building Permit Records
Exhibit D - Aluminum Window Specifications Provided by Applicant
Exhibit E – Site Photographs and Vinyl Window Specifications
Exhibit F – Precedent Staff Reports
Exhibit G – Findings

AGENDA ITEM No.

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Boulevard, 5th Floor • Long Beach, CA 90801 • (562) 570-6194 • Fax (562) 570-6068

March 11, 2019

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold staff denial of a Certificate of Appropriateness to legalize the replacement of twelve (12) vinyl windows located on an existing single-family residence, addressed at 800 Gladys Avenue on a contributing structure in the Rose Park Historic District. (District 2)

APPLICANT: Aaron and Kilty Devine
P.O. Box 8495
South Lake Tahoe, CA 96158
(Application No. HP18-494)

THE REQUEST

The applicant is requesting approval of a Certificate of Appropriateness to legalize the twelve (12) unpermitted, vinyl windows located on an existing single-family residence. The size and location of the window openings will not change from the existing condition. The matter before the Cultural Heritage Commission is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness.

EXISTING CONDITIONS

The subject site, 800 Gladys Avenue, is located at the northeast corner of Gladys Avenue and 8th Street (Exhibit B – Location Map). The site is located within the R-2-N zone (Two-Family Residential District with Normal Lots) and is improved with a two-story, single-family residence with an attached garage. The building was constructed in 1950. The building maintains the massing, orientation, and, design of its original construction and is a contributing structure to the Rose Park Historic Landmark District (Ordinance C-7497 [adopted 1997).

On May 22, 2018, the property owner was issued a Code Enforcement citation (Number CEAC250802) for replacing twelve of the original metal casement windows located on the two street facing elevations without the approval of a Certificate of Appropriateness or the issuance of a building permit and on May 31, 2019 the property owner paid the

$310.00 citation fee. On December 18, 2018, the applicant submitted a Certificate of Appropriateness application requesting the approval (retroactively) for the installation of the twelve vinyl windows. On January 2, 2019, staff denied the application (Exhibit C – Staff Denial). On January 16, 2019, the applicant filed an appeal of staff's decision, citing that the windows are installed already.

Several modifications were completed over time to the residence, however no building permits (or a Certificate of Appropriateness) were found to document City approvals for these modifications. During the process of the adopting of the Rose Park Historic District in 1997, a survey (or property inventory) was conducted on all of the properties within the boundary of the district to establish a list of contributing and non-contributing properties. Staff utilized the photo of the residence from the 1997 survey and Google Maps Street View images to determine a timeline of change to the residence.

The survey photo documented the two-story residence which featured a single front door that featured a large, decorative molding surround which was painted white, and casement style, metal windows. Google Map Street View images documented the modifications listed below (Exhibit D –Photos).

- July 2008 - Shutters were installed over the windows on the 8th Street frontage and new awnings were installed over the windows on the Gladys Avenue frontage.
- September 2014 – The decorative molding surround was removed from around the front door.
- February 2015 – New awnings were installed on the Gladys frontage and a new awning was installed over the new front door. New paint to the building and shutters and new fencing was installed.

ANALYSIS

The original structure was constructed in 1950, which is within the period of significance (1905-1953) for the district. The property is considered a contributing structure in the district. The approval of a Certificate of Appropriateness requires a determination that the proposed improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (Guidelines), the Rose Park Historic District Ordinance (Ord. C-7497) and the adopted Rose Park Historic District Design Guidelines.

The original windows for the structure were metal casement windows, as evidenced by remaining original windows and photos of the residence prior to the window replacement. Any replacement of original (metal casement) windows, should have been with like materials, in this case, metal (or aluminum) windows, as specified in the Secretary of the Interior's Standards. Replacement with substitute materials is an aesthetic and architectural alteration that is not in conformance with the Secretary of the Interior's Standards for Rehabilitation, nor consistent with the Rose Park Design Guidelines. The Rose Park Design Guidelines state "historic windows should always be regularly maintained and protected and repaired rather than replaced. In the event that

an original widow on any elevation is demonstrated to be damaged beyond repair and needs to be replaced, it should be replaced in kind. The installation of new incompatible windows such as vinyl is not permitted."

The subject property is a contributing structure within the Rose Park Historic District. Permitting the legalization of the (unpermitted) vinyl windows, would significantly affect the historical, cultural, architectural and aesthetic features of the property as well as historic district, as a whole. Vinyl windows are not compatible with the year of construction of the building or period of significance for the Rose Park Historic District.

Standard No. 2 states, "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." Standard No. 6 of the Guidelines states that, "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. The proposed vinyl windows are not consistent with the Secretary of the Interior's Standards for Rehabilitation. In order to make the finding to support this application, the project must meet both the standards of the Rose Park Historic District Ordinance and the Secretary of the Interior's Standards. In this case, staff finds this request does not meet Standard #6 of Secretary of the Interior's Standards. The Standards instruct that when replacement is necessary the new feature, "shall match the old in design, color, texture, and other visual qualities and where possible, materials." The proposed windows do not match the design, texture and visual qualities of the original metal windows. The installation of new incompatible windows such as vinyl is not permitted."

CONSISTENCY WITH PRECEDENT CASES

In the past several years, the Cultural Heritage Commission has heard a number of similar appeals on staff denial of Certificates of Appropriateness applications proposing to use non-original materials as replacement windows. Excerpts of these project descriptions are listed below. Precedent Staff Reports for these cases may be found in Exhibits E-1 to F-5.

E-1 September 2015 – 3732 Cerritos Avenue (California Heights, built 1930, HP15-300)
Recommendation for Denial Approved: A request to replace four existing wood windows with wood and polymer composite (Fibrex, Renewal by Andersen) windows at an existing one-story single-family residence located at 3732 Cerritos Avenue. The property is a contributing structure within the California Height Historic Landmark District. (District 7)

E-2 June 2016 – 305 Obispo Avenue (Bluff Heights, built 1920, HP16-129)
Recommendation for Denial Approved: A request to replace five aluminum windows with vinyl windows and to enlarge two of the five window openings at an existing one-story, single-family residence located at 305 Obispo Avenue. The

property is a contributing structure located within the Bluff Heights Historic District. (District 2)

E-3 **April 2017 – 3637 Gaviota Avenue (California Heights, built 1938, HP16-563) (Legal verdict in City's favor)**
Recommendation for Denial Approved: A request to replace thirteen non-historic windows and replacing with new fiberglass and vinyl windows on an existing single-family residence located at 3637 Gaviota Avenue. The site is a contributing property within the California Heights Historic Landmark District. (District 7)

E-4 **January 2018 – 3574 Walnut Avenue (California Heights, built 1939, HP17-583)**
Recommendation for Denial Approved: A request to replace 13 aluminum windows with wood-composite (Fibrex, Renewal by Andersen) window at 3574 Walnut Avenue on a non-contributing structure in the California Heights Historic District. (District 7)

E-5 **September 2018 - 2302 East 2nd Street (Bluff Park, built 1964, HP18-371)**
Recommendation for Denial Approved: A request to allow the replacement of fourteen (14) unpermitted vinyl windows with new vinyl windows on a non-contributing structure in the Bluff Park Historic District. (District 3)

CONCLUSION

Based on all the findings above, staff determined that the legalization of twelve vinyl windows does not meet Standards of the Guidelines. The Guidelines prioritize maintenance to extend the window life, followed by repair of existing window components, followed by replacement with original materials. Replacement of windows with new materials is deemed appropriate only when the original material is not available, or the existing permitted window is not the material from the property's period of significance. Metal windows are still widely available and would be the appropriate window material.

The role of the Commission in hearing an appeal is to conduct a *de novo* review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Guidelines. The Cultural Heritage Commission is the appeal body and all decisions rendered are final. The proposed project involves the addition of building materials to the property in conflict with Guideline standards.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the proposed vinyl windows do not meet the requirements set forth in Section 2.63.080 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Secretary of the Interior's Standards and Guidelines for Rehabilitation, and the Rose Park Historic District Ordinance (Ord. C-7497). Staff recommends denial of the appeal and upholding of the

staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit F – Findings).

ENVIRONMENTAL REVIEW

In accordance with Section 15301(e), Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single-family residences.

PUBLIC HEARING NOTICE

Public notices were distributed on February 22, 2019 and a notice was mailed to the Rose Park Neighborhood Association. As of this date, no written correspondence has been received in response to this project.

Respectfully submitted,

GINA CASILLAS
PROJECT PLANNER

ALEJANDRO PLASCENCIA
PRESERVATION PLANNER

CHRISTOPHER KOONTZ, AICP
PLANNING BUREAU MANAGER

CK:AP:gc

Attachments: Exhibit A – Applicant Appeal
Exhibit B – Location Map
Exhibit C – Staff Denial
Exhibit D - Site Photos
Exhibit E – Precedent Staff Reports
Exhibit F – Findings

CITY OF LONG BEACH

AGENDA ITEM No. 1

Development Services
Planning Bureau
411 West Ocean Boulevard, 3rd Floor, Long Beach, CA 90802
562.570.6194

April 28, 2020

CHAIR AND CULTURAL HERITAGE COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Deny the appeal and uphold denial of a Certificate of Appropriateness to legalize the installation of fifteen (15) vinyl windows in the same window openings on an existing two-story multifamily residential building addressed as 2206 E. 2nd Street located in the Bluff Park Historic District. (District 3)

APPLICANT: Mr. Edward Arnold
25 Laguna Place
Long Beach, CA 90803
(Application No. HLM1908-01)

THE REQUEST

The applicant is requesting approval of a Certificate of Appropriateness to legalize the unpermitted installation of fifteen (15) vinyl windows on an existing two-story multifamily residential building located at the rear of the property. The size and location of the window openings will not change from the existing condition. The matter before the Cultural Heritage Commission (CHC) is an appeal (Exhibit A – Applicant Appeal) of the decision by staff to deny the requested Certificate of Appropriateness.

BACKGROUND

This application was originally noticed for the March 31, 2020 Cultural Heritage Commission meeting. The applicant requested a continuance of this item due to the public hearing's change to a web-based format. This item was continued to April 28, 2020, the CHC's next regularly scheduled meeting.

The subject site, addressed as 2204 and 2206 East 2nd Street, is located on the southside of 2nd Street between Junipero and Kennebec Avenues. The subject site is located within the R-3-S (Three-Family Residential District with Small Lots) zoning district. The property is located in the Bluff Park Historic Landmark District (Ordinance C-6835). The period of significance for the Bluff Park Historic District is from 1903 to 1949. The property totals 8,250 square feet in area (55'-0" x 150'-0") (Exhibit B – Location Map).

The site is developed with two separate structures, a two-story single family house located in the front of the lot and a two story five-unit multifamily building located at the rear of the lot. The front house was constructed in the craftsman architecture style and is considered a contributing resource to the historic district. The two-story house maintains the massing and orientation and design of its original construction in 1912. The house features front and side facing gables, shiplap wood siding, large overhanging eaves with exposed roof rafters, and a large front porch. The dwelling still retains majority of the original wood windows.

The five-unit apartment building, addressed as 2206 E. 2nd Street, was first constructed in 1950 with four units and modified in 1957, with the addition of an attached residential unit constructed above a two-car garage. The modest, postwar apartment building features stucco exterior, a hip roof system and composite roof material. The building originally featured metal casement windows.

A detailed permit history of the property is listed below for reference.

Permit history

- 1912 - Two-story, single-family dwelling and detached two-car garage
- 1949 – Single-story, 300 square-foot, rumpus room (which was converted into an apartment unit in 1953)
- 1951 – Four-unit apartment complex built over enclosed garages
- 1957 – Single dwelling unit located above a new two-car garage attached to the existing apartment building

The property owner removed fifteen (15) original metal casement windows on the five-unit apartment building and replaced them with vinyl windows without the issuance of a building permit or a Certificate of Appropriateness. On May 10, 2019, the property owner was issued a Code Enforcement citation (Number CEPH260456) for window replacement without the approval of a Certificate of Appropriateness or the issuance of a building permit. The property owner submitted a Certificate of Appropriateness (minor) application requesting the approval (retroactively) for the installation of the fifteen (15) vinyl windows on September 19, 2019. Long Beach Municipal Code (LBMC) Section 2.63.080 establishes specific regulations that permit staff to consider and issue (minor) Certificate of Appropriateness applications such as the replacement of windows and doors with like materials.

On October 15, 2019, staff denied the Certificate of Appropriateness application (Exhibit C – Staff Denial). LBMC Section 2.63.100 states that determinations made by the Director of Development Services may be appealed by the Applicant to the Cultural Heritage Commission. On February 7, 2020, the applicant filed an appeal of staff's decision, citing that the building was built outside the period of significance of the district and the vinyl windows are not visible from the street. The decision of the Cultural Heritage Commission on the appeal shall be final.

ANALYSIS

The apartment building was first constructed in 1950 (and modified in 1957), which is outside the period of significance for the historic district. However, due to the age of the front structure, the property is classified as a contributing property within the historic district and any work to the exterior of buildings on the site are subject to the issuance of a Certificate of Appropriateness. The Certificate of Appropriateness requires a determination that the proposed improvements comply with the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Structures (The Guidelines), the Bluff Park Historic District Ordinance (Ord. C-6835), and the Bluff Park Historic District Design Guidelines.

The original windows for the apartment building were metal casement windows, as evidenced by remaining original windows and photos of the building prior to the window replacement (Exhibit D – Site Photos). The Bluff Park Design Guidelines state that historic windows should always be regularly maintained and protected and repaired rather than replaced. Preservation of historically appropriate windows is critical to maintaining the historic character of a property. In the event that an original window on any elevation is demonstrated to be damaged beyond repair and needs to be replaced, it should be replaced in kind. Any replacement of original (metal casement) windows, should have been with materials that are characteristics of the architecture style and the period of construction for the structure, in this case, metal (or aluminum) windows. The introduction of incompatible materials, such as vinyl, is out of character with architecture style of the building and therefore is not permitted.

The Bluff Park Historic District Ordinance states that alterations with substitute materials that are uncharacteristically different from the predominant style of the immediate surroundings is not permitted. Majority of the windows within the Bluff Park Historic District appear to be original or are generally compatible with their respective historic styles. Introducing a material, such as vinyl, is not compatible with the year of construction of the building or the period of significance for the Bluff Park Historic District. Permitting the legalization of the vinyl windows, would significantly affect the historical, cultural, architectural and aesthetic features of the historic district as a whole.

CONSISTENCY WITH PRECEDENT CASES

In the past several years, the Cultural Heritage Commission has heard a number of similar appeals on staff denial of Certificates of Appropriateness applications proposing to use non-original materials as replacement windows. Excerpts of these project descriptions are listed below. Precedent Staff Reports for these cases may be found in Exhibits E-1 to E-6.

E-1 September 2015 – 3732 Cerritos Avenue (California Heights, built 1930, HP15-300)
Recommendation for Denial Approved: A request to replace four existing wood windows with wood and polymer composite (Fibrex, Renewal by Andersen) windows at an existing one-story single-family residence located at 3732 Cerritos Avenue. The property is a contributing structure within the California Height Historic Landmark District. The Commission affirmed the staff recommendation. (District 7)

E-2 June 2016 – 305 Obispo Avenue (Bluff Heights, built 1920, HP16-129)
Recommendation for Denial Approved: A request to replace five aluminum windows with vinyl windows and to enlarge two of the five window openings at an existing one-story, single-family residence located at 305 Obispo Avenue. The property is a contributing structure located within the Bluff Heights Historic District. The Commission affirmed the staff recommendation. (District 2)

E-3 April 2017 – 3637 Gaviota Avenue (California Heights, built 1938, HP16-563) (Legal verdict in City's favor)
Recommendation for Denial Approved: A request to replace thirteen (13) non-historic windows with new fiberglass and vinyl windows on an existing single-family residence located at 3637 Gaviota Avenue. The site is a contributing property within the California Heights Historic Landmark District. The Commission affirmed the staff recommendation. Subsequently, the applicant filed writ of mandate with the Superior Court of the State of California. On April 27, 2018 the court ruled in favor of the City's decision to require that the replacement windows to be wood. (District 7)

E-4 January 2018 – 3574 Walnut Avenue (California Heights, built 1939, HP17-583)
Recommendation for Denial Approved: A request to replace thirteen (13) aluminum windows with wood-composite (Fibrex, Renewal by Andersen) windows at 3574 Walnut Avenue on a non-contributing structure in the California Heights Historic District. The Commission affirmed the staff recommendation. (District 7)

E-5 September 2018 - 2302 East 2nd Street (Bluff Park, built 1964, HP18-371)
Recommendation for Denial Approved: A request to allow the replacement of fourteen (14) unpermitted vinyl windows with new vinyl windows on a non-contributing structure addressed as 2302 East 2nd Street in the Bluff Park Historic District. The Commission affirmed the staff recommendation. (District 3)

E-6 March 3. 2019 - 800 Gladys Avenue (Rose Park, built in 1950, HP18-494)
Recommendation for Denial Approved: A request to replace twelve (12) unpermitted, vinyl windows located on an existing single-family residence at 800 Gladys Avenue on a contributing structure in the Rose Park Historic District. (District 2)

CONCLUSION

Based on all the findings above, staff determined that the legalization of fifteen (15) vinyl windows for the two-story apartment building does not meet the guidelines for the Bluff Park Historic District Ordinance or the Bluff Park Historic District Design Guidelines. The Bluff Park Historic District Design Guidelines prioritize maintenance to extend the life of the window, followed by repair of existing window components, followed by replacement with original materials. Replacement of windows with new material is deemed appropriate only when the original material is not available. Replacement metal windows are still widely available and are considered the appropriate replacement window for this 1950s apartment building.

The role of the Commission in hearing an appeal is to conduct a *de novo* review. In this case, the Cultural Heritage Ordinance requires that no Certificate of Appropriateness be issued that is not in compliance with the Bluff Park Historic District and the Bluff Park Historic District Design Guidelines. The Cultural Heritage Commission is the appeal body and all decisions rendered are final.

RECOMMENDATION

Staff has analyzed the proposed project and has determined that the proposed vinyl windows do not meet the requirements set forth in Section 2.63.080 (Cultural Heritage Commission) of the Long Beach Municipal Code, the Bluff Park Historic District Ordinance (Ord. C-6835), and the Bluff Park Design Guidelines. Staff recommends denial of the appeal and upholding of the staff denial of the requested Certificate of Appropriateness. The findings for denial are attached as (Exhibit F – Findings).

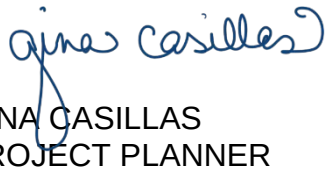
ENVIRONMENTAL REVIEW

In accordance with Section 15301(e), Guidelines for Implementation of the California Environmental Quality Act (CEQA), environmental review is not required for construction of small additions to single-family residences.

PUBLIC HEARING NOTICE

Public notices were distributed on March 17, 2020. This case was continued to a date certain at the March 31, 2020 Cultural Heritage Commission meeting, and therefore, no additional noticing is required.

Respectfully submitted,



GINA CASILLAS
PROJECT PLANNER

ALEJANDRO PLASCENCIA
PROJECT PLANNER PRESERVATION PLANNER

PATRICIA A. DIEFENDERFER, AICP
ADVANCE PLANNING OFFICER

CHRISTOPHER KOONTZ, AICP
ADVANCE PLANNING OFFICERPLANNING BUREAU MANAGER

CK:PD:AP:gc:ps

Attachments: Exhibit A – Applicant Appeal
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