

**Appeal from the Decision of the Minneapolis Heritage Preservation Commission
Regarding the Property at 4401 Lyndale Avenue North**

The 4401 Lyndale Avenue North property (the “Property”) is owned by 4401 Lyndale Ave North LLC, whose members are Reed and Kyle Lewis (herein the ‘Owners’). The Owners file this appeal with the City Council from the following decisions of the Minneapolis Heritage Preservation Commission (“HPC”):

1. The HPC **denied** the certificate of appropriateness application to allow for demolition of the Merein Johnson Office Building, and the 32-foot by 48-foot “brick pattern vault” at the 4401 Lyndale Avenue North property; and
2. The HPC **denied** the certificate of appropriateness to allow for an addition to the Merein Johnson Factory Building at the 4401 Lyndale Avenue North property.

The Owners seek approval of the Certificate of Appropriateness to allow for the removal of the small office building on the Property and for construction of an addition to the existing warehouse building to facilitate the expansion of the Owners’ business at the Property. The approval of the Owners’ request will have direct as well as indirect benefits to the City and the local neighborhood (including but not limited to increased North Minneapolis employment with good wages, sustainable environmental benefits, crime reduction, and improvements to the Lyndale Avenue business corridor).

The Owners provide the following statement of reasons for this appeal and reserve the opportunity to supplement the record on or before any public hearing by the City Council:

A. The Proposed Designation of a Historic District exceeded the City Staff’s authority, and was not been timely noticed.

The Property was nominated for consideration as an individual local landmark on May 1, 2015. The Owners submitted a letter to the City Planner on July 10, 2015, requesting that the Property not be nominated or designated as a landmark. On July 14, 2015, despite the objections of the Owners, the City directed that a designation study be completed to bring the nomination forward. This was a nomination as a “local landmark,” and not a nomination for inclusion of the property in a historic district.

Instead of completing a designation study for the Property, the City staff and their consultant apparently decided to expand the scope of the assignment and undertake a study to evaluate the Property as part of a newly identified “CA Smith historic district.” The Owners were never advised that City staff were contemplating the creation of a historic district.

The expanded scope is improper under City Ordinance Chapter 559, and exceeded the City Council’s directions and budget. The City staff was not authorized to engage a consultant for the purpose of defining a new historic district. Further, there was a complete lack of public notice for the expanded scope and therefore an inability for all property owners to fully understand the proposed actions and their possible consequences.

The process of creating a historic district envisions an area of ongoing historic relevance and unique characteristics to be preserved, such as is found in the Warehouse District or Saint Anthony Main. The CA Smith Historic District was apparently proposed because of a short-lived history of logging, lumber yards and sawmilling located in an area **east** of Lyndale Avenue along the Mississippi River. However, this area has seen significant change, and has largely been replaced by the Interstate 94 corridor. The lumber yards and sawmills are no longer present and there is no integrity or critical connection to the river or lumber yard activities in this location.

Moreover, the 4401 Lyndale Avenue North Property is located **west** of Lyndale. The Property was previously a machine shop and its only connection to the former lumber and saw mill area is that its former owners (Mereen and Johnson) used to work for CA Smith and invented some saw equipment used in the sawmill business.

It is highly relevant to note that the Mereen-Johnson owners were not so enamored with their Minneapolis business connection. As their business grew, they decided to relocate the bulk of their operations, employees and operations to Webster, South Dakota. We do not think it is appropriate to designate and give historic accolades to a company that did not see fit to continue and grow its operations in Minnesota. We don't see the merit in a headline, "City establishes historic designation for company that moved its operation to South Dakota." That might be good for South Dakota, but we don't think it's good for Minnesota or the City of Minneapolis.

If the City desires to memorialize the former lumber and sawmill area, this can be done in a way that does not encumber the 4401 Lyndale Avenue North Property. For example, signage could be located along Lyndale Avenue North to reflect the former lumber yard and saw mill area.

B. The Consultant evaluating the 4401 Lyndale Avenue North Property has an inherent conflict.

The 4401 Lyndale Avenue North Property was nominated for consideration as a local landmark. The consultant engaged by the City staff to complete the study was Preservation Design Works LLC ("PDW"). We understand that the Chair of the HPC is one of the principals of PDW. For reasons not presently known, the scope of the designation study was increased to consider the creation of a historic district. No notice was provided to the public regarding this increase in scope. PDW certainly benefitted from the increase in scope. We think this is improper and creates an unavoidable conflict, both as to the designation study and the subsequent actions of the HPC to deny the Owners' requests for a Certificate of Appropriateness.

C. The 4401 Lyndale Avenue North Property does not Qualify as a Local Landmark.

There is nothing particularly noteworthy about the 4401 Lyndale Avenue North Property. It is located **west of Lyndale Avenue North** and was not part of the former lumber yards and saw mill operations. It is zoned Industrial (I2). The Property is comprised of a series of disjointed industrial and warehouse space, and does not include any significant architectural features. It is typical brick and mortar construction and concrete block construction. The Property has gone through many changes. A review of Minneapolis building department files show no less than 33 changes to the Property over time, including both **demolitions and additions**. In fact, the two largest changes (62' x 50' addition and 62' by 120' addition) were added in 1966 and 1969, after

any purported period of historic significance. A summary of the various building and demolition permits was included in materials presented to the HPC and is incorporated herein reference.

In 2014, the Owners requested and received permit approval from the City to construct a new \$650,000 bin and baghouse system at the Property. The system allows the Owners to expand their operation wherein they take recycled wood products and turn the material into kitty litter. This sustainable business provides an environmental benefit to the community. The Owners relied on the City's approval for expanding their operations.

The HPC's action to deny the Certificate of Appropriateness now precludes the ability of the Owners to expand their operations at the Property, and represents a significant encumbrance and limitation on their use. The decision arbitrarily limits an addition to the warehouse building for the efficient off-loading of trucks under cover. This means that off-loading will be done outside, subject to adverse weather and winter conditions. Moreover, the recycled wood use in the Owners' operations will be exposed to the elements, meaning more time for drying, bottlenecks in operations, more usage of energy, and limited opportunities for growth and expansion of employment.

The Owners have worked hard with the City to increase the aesthetics, the curb appeal and look of the Property. They have added landscaping, barriers, and fencing. The Owners seek to make additional improvements, including demolition of structures that are not useable and that would require over \$1,000,000 to renovate. The Owners also propose adding a new rain garden, new pavement, and a warehouse building addition for indoor off-loading of trucks that will reduce noise, outdoor storage, and enhance efficient business operations. The Owners' request will result in increased employment and concurrent benefits to area businesses and the local neighborhood community.

D. The Owners have submitted Substantial Information Meeting all of the Criteria for Approval of its Project and Issuance of a Certificate of Appropriateness

The Owners' application for Certificates of Appropriateness and additional submittals to the HPC (all incorporated herein by reference) provide specific details on the proposed building demolition and warehouse addition and are incorporated herein by reference. The application sets forth the facts in support of the Certificates of Appropriate, including a detailed estimate regarding the cost to renovate the small office building and demonstrating that such renovation is not economically feasible.

The criteria for approval of a Certificate of Appropriateness considers (i) the significance of the Property; (ii) the integrity of the Property; and (iii) the economic value or usefulness of the existing structures, including the current use, costs of renovation and feasible alternative uses.

These criteria favor approval of the Owners' request for demolition of the small office building and construction of the warehouse addition. As noted in the Owners' application, the small office building has been vacant for years. It has no current significance or utility, and would require over one million (\$1,000,000) dollars to renovate. It is not economically feasible to make a \$1,000,000 investment for a small building that is poorly configured, in need for significant

repairs, does not include sufficient useable space, and could not be rented at market rates in North Minneapolis to provide a reasonable return of investment.

The City's evaluation also provides for consideration of the following criteria:

1. *The alteration is compatible with the designation of the landmark or historic district, including the period and criteria of significance.*

The demolition of the small office building does not affect the designation of the C.A. Smith Historic District. The small office building was used by the former owners until they decided to move their operation to South Dakota. It is a utilitarian structure with a brick and mortar outside construction and plywood paneling on the interior. The foundation has cracks that could undermine the structure. In addition, the building contains asbestos and lead paint materials that would have to be removed. The building is not configured for current office usage by the Owner. Moreover, it is situated on the Property in an area that blocks the Owners proposed expansion of the warehouse building.

2. *The alteration will ensure the continued integrity of the landmark or historic district.*

As noted above, the proposed alterations of the Property will not affect the integrity of the area. As noted in the City staff report (page 25), the Lyndale Avenue North business corridor has undergone significant changes and no longer retains integrity necessary for any historic designation. The property immediately adjacent and to the north of the 4401 Lyndale Avenue Property is a McDonald's restaurant. The property immediate to the south of the 4401 Lyndale Avenue Property is a recycling transfer station. The properties up and down the Lyndale Ave. business corridor are varied, from restaurants to commercial printing and other business operations. The 4401 Lyndale Avenue Property is zoned industrial. The Lyndale Avenue North business corridor will be enhanced by the improvements to the Property, and there will be no impairment to the proposed C.A. Smith Historic District.

3. *The alteration is consistent with the applicable design guidelines adopted by the commission.*

There are no applicable design guidelines that have been adopted for the C.A. Smith Historic District. The Owners are willing to work with the City staff to agree upon mutually acceptable building conditions for their project, consistent with City ordinance and building codes.

4. *The alteration is consistent with the applicable recommendations contained in The Secretary of the Interior's Standards for the Treatment of Historic Properties.*

The Property does not meet the criteria for listing on the National Historic Register, so the Department of Interior standards do not apply. Notwithstanding, the Property is zoned industrial, there are no distinctive architectural features to be retained. The alternations proposed by the Owners are consistent with the history of demolition and additions constructed at the Property, and consistent with City permit and building code requirements. The Owners are willing to work

with the City staff to agree upon mutually acceptable conditions, consistent with City ordinance and building codes, for their proposed alternations to the Property.

5. *The alteration is consistent with the spirit and intent of the preservation ordinance, the applicable policies of the comprehensive plan, and the applicable preservation policies in small area plans adopted by the city council.*

The Owners' proposed demolition and construction of a warehouse addition are consistent with sustainable growth desired for North Minneapolis and will result in increased jobs and economic value to the area. The project is consistent the applicable policies of the comprehensive plan and the spirit and intent of the City's preservation ordinance. The City staff urges that the small office building be retained to "help explain the successful expansion of the former Mereen Johnson Machine Company." There are other ways to recognize the former Mereen-Johnson Company (if that is the intent of the City), such as signage or photographic displays, which would not unfairly burden and encumber the Owners use and planned expansion of operations on the Property.

E. The Owners Project is supported by Union Representatives, Businesses in the Lyndale Avenue North area and Members of the Neighborhood.

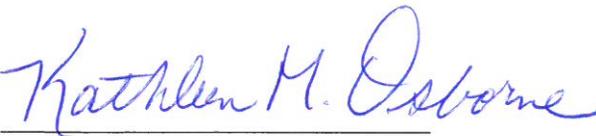
The Owners submit with this appeal available copies of letters and other communications of support regarding their proposed project. The Owners have contacted business property owners in the vicinity of the Property. There is strong local business support for the Owners' project. Other email communications have been submitted directly to staff or the City Council.

F. Conclusion

The Owners of the Property at 4401 Lyndale Avenue North request that the City not include their Property as part of the proposed CA Smith Historic District. The Owners further appeal from the HPC decisions and ask the City Council to approve their Certificate of Appropriateness for the demolition of a small office structure and the construction of a warehouse building addition.

Submitted on behalf of 4401 Lyndale Ave North, LLC

May 26, 2016

By: 
Kathleen M. Osborne, PE
4401 Lyndale Ave North, LLC

Attachments:

1. Permit Applications to City and Filings for Certificates of Appropriateness
2. Letter from Dorsey & Whitney LLP Submitted to the HPC on or about May 17, 2016
3. Local Letters of Support for the Proposed Project