

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
STATE HISTORIC PRESERVATION REVIEW BOARD

FREDERICK E. KUPSKY, IRMA SCHULKINS,
AND GEORGIA YOUNG,
Applicants/Appellants,

Docket No. 95-313-HP

v

FARMINGTON HILLS HISTORIC
DISTRICT COMMISSION,
Respondent/Appellee.

FINAL DECISION AND ORDER

This matter involves an appeal of a decision of the Farmington Hills District Commission denying an application to demolish the house and outbuildings, and/or to remove them, from Site No. 302, sometimes known as the Myron Crawford House, which is located at 3617 Thirteen Mile Road, Farmington Hills, Michigan.

The State Historic Preservation Review Board (the Board) has appellate jurisdiction to consider such appeals under section 5(2) of the Local Historic Districts Act, as amended, being section 399.205 of the Michigan Compiled Laws.

At the direction of the Board, an administrative hearing was held on July 17, 1995, for the purpose of receiving evidence and argument.

A Proposal for Decision was issued on January 16, 1996, and copies were mailed to all parties pursuant to section 81 of the Administrative Procedures Act, as amended, being section 24.281 of Michigan Compiled

Laws.

The Board fully considered the appeal, along with the Proposal for Decision and all materials and any exceptions submitted by the parties, at its regularly scheduled meeting conducted on Friday, February 9, 1996.

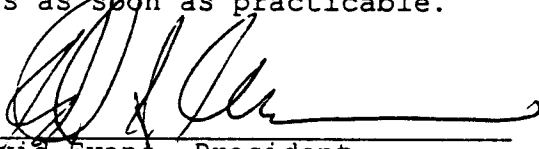
Having considered the Proposal for Decision and the official record made in this matter, the Board voted 5 to 0, with NO abstention(s), to ratify, adopt and promulgate the Proposal for Decision as the Final Decision of the Board, and to incorporate the Proposal into this document; and,

Having done so,

IT IS ORDERED that the appeal be and the same is hereby denied.

IT IS FURTHER ORDERED that a copy of this Final Decision and Order shall be transmitted to all parties as soon as practicable.

Dated: 9 FEB 1996



David Evans, President
State Historic Preservation
Review Board

Note: Section 5(2) of the Local Historic Districts Act provides that a person aggrieved by a decision of the State Historic Preservation Review Board may appeal the Board's decision to the circuit court having jurisdiction over the commission whose decision was appealed to the Board. Under section 104(1) of the Administrative Procedures Act, such appeals must be filed with the circuit court within 60 days after the date of the mailing of notice of the Final Decision and Order of the Board. In addition, MCR 2.105(G) and 7.205 may prescribe other applicable rules with respect to appeals of decisions of administrative agencies.

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
HEARINGS DIVISION

**FREDERICK E. KUPSKY, IRMA SCHULKINS,
AND GEORGIA YOUNG,**
Applicants/Appellants,

v

Docket No. 95-313-HP

**FARMINGTON HILLS HISTORIC
DISTRICTS COMMISSION,**
Appellee.

PROPOSAL FOR DECISION

This matter involves an appeal of a decision of the Farmington Hills Historic Districts Commission (the Commission) denying an application for a permit to demolish the house and outbuildings, and/or to remove them from, Site No. 302, sometimes known as the Myron Crawford House, which is located at 36217 Thirteen Mile Road, Farmington Hills, Michigan.

The appeal was filed under section 5(2) of the Local Historic Districts Act.¹ Section 5(2) provides that a person who is aggrieved by a decision of an historic district commission may appeal the decision to the State Historic Preservation Review Board (the Board), which is an agency of the Michigan Department of State.

¹ 1970 PA 169, § 5, as amended by 1992 PA 96; MCL 399.205; MSA 5.3407(5).

Upon receipt of the appeal, the Board directed the Michigan Department of State, Hearings Division, to convene an administrative hearing for the purpose of taking relevant evidence and argument. The Hearings Division conducted a hearing on Monday, July 17, 1995, in Hearing Room No. 123, the Mutual Building, 208 N. Capitol Avenue, Lansing, Michigan. The hearing was held pursuant to the procedures prescribed in Chapter 4 of the Administrative Procedures Act.²

Frederick E. Kupsky, a co-owner of the property at issue, personally appeared at the hearing. Irma Schulkins and Georgia Young, the other co-owners of the property, did not attend. Robert Schulkins, the husband of Irma Schulkins, appeared on her behalf. Antoinette Walsh, who is the daughter of Georgia Young and is also licensed as an attorney, appeared on behalf of her mother. Although Ms. Walsh is an attorney, she appeared only in a personal capacity on behalf of her mother. The Commission/Appellee was represented by John Donohue, Attorney at Law, of the law firm of Kohl, Secrest, Wardle, Lynch, Clark & Hampton, of Farmington Hills, Michigan. Gary W. Brasseur, Administrative Law Examiner, Michigan Department of State, Hearings Division, presided at the hearing. Jane Busch, Certified Local Government Coordinator and Historic Preservation Planner for the Michigan Department of State, Michigan Historical Center, State Historic Preservation Office, appeared as an observer/representative on behalf of the Board.

² 1969 PA 306, § 71 et seq; MCL 24.271 et seq; MSA 3.560(171) et seq.

Issues on Appeal

By letter dated May 15, 1995, the owners appealed a decision of the Farmington Hills Historic Districts Commission issued on April 21, 1995. The decision rejected the owners' January 19, 1995 request to remove or demolish the home located at 36217 Thirteen Mile Road, Farmington Hills. In their appeal, the owners'/Appellants asserted that the Commission's decision should be modified or set aside for several reasons, to wit: 1) that the "resource" does not possess architectural or historical significance, 2) that it constitutes a hazard to occupants and public safety because of damage, 3) that its mechanical systems are inadequate, 4) that it is situated on the right-of-way easement of Thirteen Mile Road and therefore constitutes a deterrent to the development of the surrounding area, and 5) that continuing the building's historic designation has and will cause undue financial hardship to the owners.

Summary of Evidence

Section 5(2) of the Act, supra, authorizes appellants to submit all or part of their evidence and argument in written form. In that vein, the Appellants submitted nine substantive exhibits in support of their appeal. The exhibits, among other things, included two large indexed notebooks (Appellants' Nos. 1 and 5). Appellants' No. 1 contained minutes, summaries, and other materials (e.g., blueprints, photographs, specifications, applications) regarding Commission meetings held on September 20, 1989, October 19, 1994, January 18, 1995, February 15, 1995, March 15, 1995, and

April 14, 1995; a report of a public hearing before the City of Farmington Hills Planning Commission held on May 25, 1995; excerpts from the minutes of the December 16, 1981 meeting of the Michigan Historical Commission which indicated that the Crawford House was not approved for registration; research materials regarding the history of the Myron Crawford family and ownership of Site No. 302; marketing appraisals; copies of certain City of Farmington Hills ordinances and Michigan statutes; costs for sewer and water hook-up; a listing of defects in the property; and a statement of the condition of the utilities. Appellants' No. 5 contained: a narrative description of the Appellants' issues on appeal; Appellants' arguments with regard to the limits upon the space encompassed by an historic resource in a larger property; a blueprint which indicates the location of the house and sheds on the property; an affidavit listing property that has been designated an historic district in the City of Farmington Hills (36217 Thirteen Mile Road appears on the list); copies of two purchase agreements; and materials pertaining to the age of the house, including photographs, census data about Crawford family members, pages from a period Sears catalogue, and maps of the area where Site No. 302 is located. Appellants also submitted certain computer printouts which contained real estate marketing data for residential properties listed in Farmington Hills ranging from \$250,000 to \$1,000,000 and vacant land listed for sale at from \$1,000 to \$1,000,000 as of July 10, 1995; Oakland County Probate Court records regarding a petition for appointment of a guardian

for Jennie Holmes in 1917; an agreement dated February 15, 1995, signed by Jeff Stewart, Sherrie Stewart, Anne Stewart and Victoria M. Sanderson agreeing to receive the Myron Crawford House; a composite of nails taken from the house in January 1995, nails dug from the yard near the house on July 13, 1995, and nails purchased at Jean's Hardware and Home Depot on July 15, 1995; a letter from Ronald Anthony Jona dated May 22, 1995, canceling the agreement dated February 18, 1995, for the purchase of four acres/36217 13 Mile Road, Farmington Hills; and a revised offer to purchase 36217 13 Mile Road submitted by Jona and dated May 31, 1995.

The Appellants also presented testimony from three witnesses. Frederick Kupsky testified extensively about the research he had conducted regarding Site No. 302 and the Crawford family. This testimony also provided the foundation for admission of the Appellants' exhibits, with the exception of Jona's cancellation letter, which was admitted into the record after the hearing by agreement of the parties.

Hugh Schulkins testified briefly. Schulkins offered his opinion, based on his experience as a call-in fireman, that the fire-damaged roof of the Crawford House should be replaced. He also described the difficulty in making a left turn from the property at 36217 Thirteen Mile Road. Schulkins indicated that he thought that the right-of-way on Thirteen Mile Road would eventually have to be widened to 60 feet.

Robert Schulkins testified that he believed Thirteen Mile Road will be widened sometime in the future. Schulkins indicated that

he is familiar with the property at 36217 Thirteen Mile Road and that houses constructed about the same time as the Crawford House seemed to be built on that same plan. He also stated that there had been some vandalism of the property; however, the vandalism was not reported to the Farmington Hills Police Department.

The Commission also submitted written evidence at the hearing. Commission Exhibit No. 1 is the minutes of the Commission meeting held on April 19, 1995. The Commission submitted copies of original records held by the City of Farmington Hills regarding 36217 Thirteen Mile Road which included: a letter from Ronald Jona of the J/RJ Group to the City of Farmington Hills Department of Planning and Community Development dated April 20, 1995, concerning his application for a "cluster" option; a Certificate of Appropriateness dated May 12, 1995, granting approval for the conceptual development plan submitted by the J/RJ Group, subject to certain conditions, under cover letter by Katherine Ulrich of the Planning Department; an inter-office memo dated April 10, 1995 from Katherine Ulrich to Edward Gardiner, City of Farmington Hills City Planner, concerning the status of Jona's plans for developing the property; an Application for Historic District Commission Review submitted by Jona on April 3, 1995; a letter dated April 5, 1995, from Irma Schulkins to the City of Farmington Hills indicating that the owners of the "Myron Crawford House" grant their permission to the J/RJ Group and Ronald Jona to submit site plans to the City of Farmington Hills; a site plan for Historic District Site No. 302; and a proposed front renovation for the Crawford House and drawings

of proposed site plans for Site No. 302. The Commission also submitted eight photographs depicting Site No. 302 and other properties; an aerial photograph showing Site No. 302 and the surrounding area south of Thirteen Mile Road; and the "Blue Book" compiled by the Farmington Hills Historic District Commission. This book describes, among other things, the history and purpose of the district and the importance of historic preservation in planning. It contains a photograph of Site No. 302, together with a brief narrative about the property. The Commission also submitted a copy of the City of Farmington Hills ordinance dealing with natural beauty roads and the guidelines for designation and maintenance of natural beauty roads, and a copy of three site plans for Site No. 302 submitted by Jona, along with his application for review by the Commission.

The Commission presented testimony from two witnesses. Ruth Moehlman, Chairperson of the Commission for the past seven years, testified about her involvement with published books concerning historic preservation, including the Blue Book. Moehlman indicated that no strict historic format was followed in preparing the Blue Book and that the photograph in the book of Site No. 302 was taken at least ten years ago. Moehlman admitted that some of the narrative information about the Crawford House contained in the Blue Book is wrong and that the farmhouse is bordered on both sides of Thirteen Mile Road by modern subdivisions. She also described the origins of other historic houses in the surrounding area.

Katherine Ulrich, staff planner and liaison to the Commission, testified that she is familiar with roadway right-of-way easements in Farmington Hills. Ulrich stated that right-of-way easements are 60 feet in most locations and that the roadway is presently 33 feet wide on Thirteen Mile Road in the area where the Crawford House is located. Ulrich testified that Jona submitted three different plans for development of Site No. 302. She indicated that two of the site plans involve a cluster option and that the third plan would require platting.

Findings of Fact

Based on the evidence presented during the administrative hearing, the facts of this matter are found to be as follows:

A. Background

1. The house and other buildings located at 36217 Thirteen Mile Road are situated on a four-acre parcel. The house contains about 2,200 square feet of living area, along with a partial, unfinished basement. The house sits 48 feet from the centerline of Thirteen Mile Road and is located near the center of the 252 x 641 foot lot. The current owners (Frederick E. Kupsky, Irma Schulkins, and Georgia Young) inherited the property from their sister, Eugenie Mahoney, who died intestate on September 28, 1988. Eugenie Mahoney had purchased the house with her husband, Jack Mahoney, on a land contract in 1945. Jack Mahoney died in the mid-1970s.

B. Farmington Hills Historic Districts

2. The City of Farmington Hills adopted an historic districts ordinance in 1981.³ The purpose of this ordinance was articulated in the ordinance as follows:

3.600. Purpose. Pursuant to Act 169 of the Public Acts of 1970, of the State of Michigan, as amended, it is declared to be a public necessity to safeguard the heritage of Farmington Hills, by preserving districts in the City which reflect elements of the cultural, social, economic, political or architectural history; to stabilize and improve property values in and adjacent to such districts, to promote civic beautification of structures and lands within the historic districts for historic and cultural preservation, to strengthen the local economy, to promote the use of historic districts and local history for the education, pleasures and welfare of the citizens of the City, State and Nation.

3. The definition of an historic district is contained in ordinance section 3.602(5), which provides:

(5) Historic District. Any area or areas created by Ordinance C-01-81 for the purpose of this Chapter as a historic district, said areas not necessarily having contiguous boundaries. The area included in a non-contiguous historic district shall be the structure on the property and 100 feet therefrom or the property boundary, whichever is less.

4. A numbering system was used to classify buildings within the historic districts, as follows: Greek Revival Buildings constructed before 1860 were numbered from 1 - 200; other early Pre-Civil War buildings were numbered between 201 - 300; Michigan Farmhouses erected between 1860 and 1900 were enumerated from 301 - 500; other buildings (Post 1900) are numbered between 501 - 900; and Pioneer Cemeteries began at number 900. A total of 43 sites

³ Ordinance C-1-81 was enacted March 9, 1981, and was renumbered and amended as Ordinance C-4-83 on March 14, 1983.

were listed in section 3.603 of Ordinance C-4-83, with 17 sites listed within the Michigan Farmhouses category. The Myron Crawford House, located at 36217 Thirteen Mile Road, was listed under Michigan Farmhouses as Site No. 302.

5. Section 3.609(12) of the Ordinance requires the Commission to work with owners to preserve valuable structures. Section 3.609(11) provides as follows:

(11) Plan for Preservation of Structure. In case of an application for repair or alteration affecting the exterior appearance of a structure or for moving or demolition of a structure which the Commission deems so valuable to the City, State or Nation, that the loss thereof will adversely affect the public purpose of the City, State, or Nation, the Commission shall endeavor to work out with the owner an economically feasible plan for preservation of the structure.

6. The City of Farmington Hills has a public policy which discourages the demolition or moving of structures possessing historical or architectural value. In that regard, section 3.309(12) of the Ordinance provides as follows:

(12) Demolition or Moving of the Structures Within Historic Districts. It shall be the public policy of this City to discourage the demolition, demolition by neglect, or moving of structures within a historic district which are of historic or architectural value.

7. The Historic Districts Ordinance also established the seven-member Historic Districts Commission. By law, the Commission has the duty to investigate and report requests for modification of historic districts; to review and approve applications for construction, alteration, repair or demolition; to request periodic inspections for violations; and to maintain a current listing of historic districts. The Commission has authority to initiate

modification procedures, to request enforcement of the ordinance by the appropriate City officers, and to exercise such other powers as are reasonable and necessary for the efficient administration and implementation of the Ordinance.

8. Section 3.609(4) of the Ordinance describes the procedures for reviewing applications for construction, alteration, repair, moving, or demolition affecting the exterior appearance of a structure within an historic district. The Commission is required to review applications according to certain criteria so that its decision will be consistent with the purposes of the Ordinance. The review criteria are set forth in section 3.609(4) as follows:

(4) Review of Application; Standards. The Historic Districts Commission shall review such applications giving specific consideration to the proposed action and proposed plans in light of the following criteria so that the decision will be consistent with the objectives set forth in this Chapter:

(a) The historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area;

(b) The relationship of the exterior architectural features of such structure to the rest of the structure and of the surrounding areas;

(c) The general compatibility of exterior design, arrangement, texture and materials to be used;

(d) Those features of the particular structure identified in the report of the Ad Hoc Historic Districts Study Committee or the Historic Districts Commission, which supported their recommendation of the site or structure for inclusion within a historic district.

9. Section 3.609(6) prescribes additional grounds for approving applications. This section states as follows:

(6) Grounds for Approving Application. In addition to approval of an application pursuant to subsection 5 above, an application for repair or alteration affecting the exterior appearance of a structure within a historic

district or for its moving or demolition shall be approved by the Historic Districts Commission if any of the following conditions prevail, and if, in the opinion of the Commission, the proposed changes will materially improve or correct these conditions:

(a) The structure constitutes a hazard to the safety of the public or occupants;

(b) The structure is a deterrent to a major improvement program which will be of substantial benefit to the community;

(c) Retention of the structure would cause undue financial hardship to the owner; or

(d) Retention of the structure would not be in the interest of the majority of the community.

10. Sections 3.609(4) and 3.609(6) of the Ordinance incorporate much of the language of section 5 of the Act, supra.⁴

Section 5 states in pertinent part:

Sec. 5. * * *

(3) In reviewing plans, the commission shall follow the U.S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the bureau. The commission shall also consider all of the following:

(a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the commission finds relevant.

(4) The commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the local legislative body or unless interior work will cause visible change to the exterior of the resource. The commission shall not

⁴ See footnote 1.

disapprove an application due to considerations not prescribed in subsection (3).

(5) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the local unit, state, or nation, and the commission determines that the alteration or loss of that resource will adversely affect the public purpose of the local unit, state, or nation, the commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(6) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

(a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.

(c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(d) Retaining the resource is not in the interest of the majority of the community.

C. Consent To Include Home In "Statewide" Historic Inventory

11. Sometime during 1980, Eugenie Mahoney began the process of having her home designated as an historic site. In response to her request for information about placing her home in the historic district, by letter dated July 10, 1980, Mrs. J. M. Fox of the Ad Hoc Historic District Committee advised Eugenie Mahoney that only one form was used to cover both state and local listings.

(Appellants' No. 5, H-2)

12. On August 14, 1980, Eugenie Mahoney signed a consent to have her home included in the statewide historic resource inventory. This made the home eligible, potentially, for nomination to the State Register of Historic Sites.

D. Site Not Accepted for Certification

13. In completing the inventory form for the National Register Nomination Report with regard to the Myron Crawford House, Farmington Hills, staff of The Michigan History Division, Michigan Department of State, recommended that the house not be included in the nomination report. The form, dated October 6, 1981 under the heading Significance/Description, contained the following statement:

The Crawford house is a typical, frame, 'L-plan', vernacular farmhouse lacking historic or architectural significance. A modern vestibule has replaced the original front porch.

14. The minutes of the Michigan Historical Commission meeting held on October 16, 1981, reflected that the Michigan History Division staff did not recommend the Myron Crawford House for consideration for listing on the State Register. On October 22, 1981, Martha M. Bigelow, Executive Secretary of the Michigan Historical Commission (MHC), wrote to Eugenie Mahoney and informed her that although the MHC was impressed with the Farmington Hills Study Committee's survey, which included the Myron Crawford House, the MHC had decided that the Crawford House did not meet the criteria for listing in the State Register. Bigelow also indicated that the site would be added to the Michigan History Division's Inventory of Cultural Resources.

E. Ownership of Property and Crawford Family History

15. In the work "If Walls Could Talk - Heritage Homes of Farmington" by Ruth Moehlman, The Farmington Hills Historical Commission, published in 1980, the Crawford House was described as a Victorian house which probably dates to 1860. Moehlman reported that the house was built on land "taken out" from the (federal) government in 1827 and 1829 by Myron Crawford, the son of a local farmer John Crawford Jr., and his wife Elizabeth, early Farmington settlers, who had two sons, R.W. and Myron, and possibly a third. Moehlman also wrote that R.W. Crawford built his farm on Thirteen Mile Road at Haggerty, and that his brother Myron, who was born in 1832, built the home at 36217 Thirteen Mile Road. Moehlman supposes that because the 1877 Farm Map shows the Myron Crawford property as being only forty acres, he probably had another occupation besides farming. She further wrote that Myron Crawford, who died in 1898, was survived by his wife, Jane (Putnam) Crawford. Moehlman recounted that when Jane Crawford died, her daughter Emma and husband, Charles McCullough, a Harvard graduate, assumed ownership of the property. Moehlman reported further that after the McCulloughs, who had no children, the next owner of the property was a man named Smart. Moehlman concluded her accounting of the Crawford House by noting that Smart had purchased the land on speculation, that he did not live there very long, and that the house was then purchased around 1940 by Jean (Eugenie) Mahoney and her husband, whom she survived. (Appellants' No. 1, B-5)

16. Moehlman admitted that she "missed it" when she compiled the Crawford House narrative in "If Walls Could Talk". She indicated that after visiting the house in October 1994, and seeing the hewed beams in the basement, she was convinced that the house was much older than stated in the volume, i.e., "probably dates to 1860", and that it probably was not built by Myron Crawford but rather by his grandfather.

17. A title history of the property compiled by Frederick Kupsy indicated that J. Crawford, Jr., a resident of Michigan, obtained title to a parcel of land (which included what is now Site No. 302) on April 8, 1828. On September 2, 1829, John Crawford Jr. and Elizabeth Crawford conveyed part of the parcel to the heirs of Robert Crawford and Polly, his wife, reserving a life-estate for themselves. The heirs, of course, were John N. And Myron Crawford. On February 22, 1856, John N. Crawford et al executed a quit claim deed to Myron Crawford which was recorded on April 20, 1883. On March 23, 1857, Myron Crawford quit-claimed to Morgan Crawford. On January 7, 1918, the Estate of Myron Crawford executed a quit claim deed to Emma (Mrs. Charles) McCullough, which was recorded on February 4, 1918. On November 14, 1938, C.R. McCullough quit-claimed to A.E. Smart and that deed was recorded on November 15, 1938. On November 6, 1943, A. E. Smart executed a warranty deed to P.L. Vail. A land contract between P. L. Vail and J. Mahoney was recorded on May 22, 1945. A warranty deed dated February 2, 1953 from P. L. Vail to J. Mahoney was recorded on February 13, 1953. (Appellants' No. 1, B-8)

18. Jean (Eugenie) Mahoney died intestate on September 28, 1988. The property was devolved to her heirs-at-law, Frederick E. Kupsky, Irma Schulkins, and Georgia Young, by Deed of Personal Representative Distributing Real Property dated May 6, 1991, and recorded in deed liber 12022 at page 782 of the Oakland County records.

F. Age of Crawford House and Family History of the Crawfords

19. The Appellants' evidence focused on the Crawford family history, based on property transfers, other records, and census data. Most of the Appellants' evidence concerning the physical characteristics of the house is contained in Appellants' No. 5, H-3, entitled "Age of Structure - Clues. Under the heading "Who Built the House at 36217 Thirteen Mile Road and When Did They Build It" subjects are listed alphabetically beginning with "Balloon Framing" and ending with "Victorian House Details", in an attempt to determine the true age of the house. By way of example, under the heading "Chimneys", the smaller chimney indicates either a chimney replacement or that the house was designed for post 1830 heating methods such as stoves or furnaces. And further, that the machine-made brick which was used in the house could date from no earlier than the second half of the nineteenth century. Based on observing the lathe and plaster near the chimney, Appellants' posited that the walls were constructed after the chimney, which indicates that the chimney was constructed with the house. Lathe in the stairwell was attached with wire nails which were available only after 1880. With regard to flooring, the "matched flooring"

present throughout the house was not available until after 1885. Additionally, the stonework where the sanitary soil pipe penetrates the foundation indicates this was an original installation in a private dwelling which could not have occurred before the 1870's. Door knobs in white porcelain which appear throughout the house were available in the 1897 Sears Roebuck catalog.

20. Census data indicated that there were five persons living in the Myron Crawford household in 1860, seven persons in 1870, and five persons in 1880. Oakland County Clerk records indicated that Myron Crawford married Charlotte Seaton in 1856. He divorced Charlotte in 1867 and then married Melinda Jane Putnam. Myron Crawford died in March of 1898. Melinda Jane (Putnam) Crawford died in October of 1922. Oakland County Register of Deeds records indicated that John M. Crawford and other heirs of Robert Crawford conveyed 80 acres (which contains what is now Site No. 302) to Myron Crawford on February 22, 1856. Myron Crawford conveyed 40 acres of the parcel to Morgan Crawford on March 23, 1857. The Estate of Myron Crawford conveyed the remaining 40 acres to Emma McCollough on January 7, 1918.

21. Based on the physical evidence concerning the house and other evidence concerning the size of the household, the conveyances, and the marriage records, the record indicates that the house was likely built around 1880.

F. Historical or Architectural Value, and Significance of Structure in Relation to Historical Value of Surrounding Area

22. As previously noted, in 1981 staff of the Michigan History Division concluded that the Crawford house was a typical, frame, L-plan, vernacular farmhouse lacking historical or architectural significance and recommended that the house not be included in the nomination report for state register certification.

23. With regard to the architectural value or significance of the structure, evidence submitted does not establish that the Crawford House has architectural value or significance greater than that expressed by the historians in 1981 when the property's state register nomination was being considered, i.e., that it is a typical, frame, L-plan vernacular farmhouse lacking historical or architectural significance.

24. Houses on Valley Bend, Shenandoah, Pineview Drive and Birchwood Way in Farmington Hills are contemporary structures. The historic house nearest to the Crawford House is the John Cox House, a pre-Civil War era building listed as Site No. 211, which is almost directly across Thirteen Mile at 36218 Thirteen Mile Road. Other "districts" within a quarter-mile of Site No. 302 include the John Garfield House, a pre-1860 Greek revival building listed as Site No. 2, at 35810 Thirteen Mile Road, and the Eber Durham House, a pre-1860 Greek revival building numbered as Site No. 11, at 35835 Thirteen Mile Road. The next nearest site is the Drake House, a pre-Civil War era building listed as Site No. 206, at 28804 Drake

Road, which is located about one-half mile southeast of the Crawford House.

G. Condition of Structures and Reported Deficiencies

25. The residence sustained considerable damage to its roof rafters and the sheathing underneath the main roof from a fire in 1940. (Appellants' No. 1, E-2) Even after replacement of the roof in 1989, the ceiling in the master bedroom leaked.

26. The outbuildings on the site are in an advanced state of decay. Some of the main supporting members of the shed are rotted and have been shored-up with temporary braces. The roof framing and sheathing of the shed and barn are in very poor condition. The exterior walls of the barn have deteriorated and are in need of painting, and in some places, replacement. (Appellants' No. 1, E-2)

27. In response to an inquiry from the law of Plunkett and Cooney, who were attorneys for the Estate of Eugenie Mahoney, on June 26, 1989, William Costick, City Manager, City of Farmington Hills, sent a letter to the firm in which he reviewed the status of Site No. 302. With regard to problems with the septic system, Costick indicated that in general septic systems can be easily repaired, and on occasion, there is the option of connecting a system to a sanitary sewer at an adjacent subdivision. With respect to the well, Costick added that public water was available from one of the adjacent subdivisions. Concerning problems with the wiring and roof, Costick stated that it was not uncommon for older buildings to require entire rewiring, and also that many 30-

year old structures require complete reroofing, including some structural repairs. Costick also indicated that the roadway of Thirteen Mile Road in front of the site had been rebuilt just two years earlier and that the city council had designated it as a "Natural Beauty Road". Costick also indicated that no structure classified historic had been removed from the district since its creation in 1981 and that in his view, any attempt to demolish the structure, or to remove it from the district, would be met with great local public opposition. Costick concluded his condition statement by asserting that the City would strongly encourage that any plans regarding the property consider the preservation of the residence as a major component.

28. On February 28, 1990, Jeffrey Cohen of Cohen Shawn Building Company in Birmingham, Michigan, prepared a comprehensive inspection report for Frederick Kupsky regarding the structures located at 36217 Thirteen Mile Road. Cohen is a licensed builder specializing in residential renovations since 1985. He owns a residential home inspection company, has served on the Remodelers Council for two years, and is certified as a home owner remodeling contractor. Cohen holds a bachelor of science degree from Wayne State University and has studied civil engineering at Michigan State University for three years. At the time of the inspection, Cohen was enrolled in the National Association Home Builders Certified Graduate Remodelers Program. Cohen's report was based upon a visual inspection of the buildings and was presented under 11 headings which included structure, interior, rear porch,

greenhouse, kitchen, front vestibule, attic, mechanicals, exterior and the bathroom, parlor, dining room and bedrooms as well as the barn.

29. With regard to structural integrity, Cohen found two problems with the exterior walls which had been constructed using stone and block. He found that there was no weight bearing member in the area of the wall where a hole was punched through for electrical service. He also found water infiltration at the base of the walls and through the mortar joints. He attributed this to an ineffective or non-existent drain tile system. Cohen found evidence that insects had been living in the joist logs in 50% of the basement and recommended that the insect damage be investigated further. He observed a tremendous amount of settling throughout the house.

30. In the interior, Cohen found that the house, like most other houses constructed prior to 1935, used wood lathe and plaster for construction. He indicated that in time, wood shrinks and causes the plaster to pull away from the studs and rafters. He recommended that in areas of water damage, the plaster be stripped to the studs and replaced with drywall. Cohen pointed out that stripping makes sense, considering how poorly the house is insulated. He added that it would be best to strip the walls and insulate from the inside. He also noted that all of the windows were single panel wood and that most of the sills were rotting and should be replaced. He found that although the sub-structure of

the floor was in poor shape, the actual hardwood flooring was in good condition.

31. Cohen reported that only two items on the rear porch needed immediate attention. He felt that a railing or knee wall should be built along the open stairwell and that the rear door and lock should be replaced.

32. Cohen's assessment of the greenhouse was that it should be torn down to the block and rebuilt. This recommendation was based on his determination that a number of items were in need of serious repair.

33. With regard to the kitchen, Cohen thought that the floor tile should be replaced. He observed that as a result of poor flashing and roofing, there were signs of rot and decay in the knotty pine ceiling in the vestibule. However, he could not determine the extent of the damage in the vestibule without tearing out the ceiling. Cohen found a strong sewer odor present in the bathroom as a result of poor plumbing throughout the house. He indicated that all bathroom fixtures should be replaced and that installation of a fan should be considered to facilitate ventilation during the winter months.

34. Based on his inspection of the parlor, dining room and bedrooms, Cohen felt that those rooms showed the same kind of structural problems that he had described earlier in his report and that such problems should be addressed accordingly. Cohen observed that there appeared to have been a fire in the attic. He did not determine the extent of the damage. However, he noted that nothing

had been done to provide additional support to the fire-damaged rafters and ridge boards. Cohen recommended that a structural engineer be hired to assess the load the roof could support and to determine whether the fire had affected the structural integrity of the timber.

35. Indicating that he could write several pages about the mechanical systems, Cohen stated that all of the mechanical systems, i.e., heating, plumbing and electrical, needed to be modified or replaced to meet current living standards and municipal codes. He specifically stated that frayed asbestos, galvanized plumbing covered by asbestos, the electrical panel, open boxes and wires, and the hot water heater needed immediate attention.

36. Cohen recommended that because all fascia boards, soffit materials, and window sills showed serious signs of rot and decay, they should all be replaced. He also suggested that 50% of the brick in the fireplace should be replaced, that the entire fireplace needed tuckpointing, and that the fireplace should be properly flashed to prevent further leaking. He also indicated that the entire house had to be caulked, flashed and painted, and that the entire roof, including that portion of the roof that had been recently replaced, should be replaced at this time.

37. With regard to the barn, Cohen stated that all of the fascia and much of the soffit should be replaced. He recommended that the entire structure should be examined by an engineer to determine whether the barn should be condemned. He also

recommended that the barn not be used until it was examined further.

38. Cohen concluded his report with the following statement:

In summary, the structure has several areas of concern which will require your immediate attention such as the attic, roof, mechanical systems and the barn. From past jobs it has been our experience that fully renovated projects of this magnitude generally run 180 - 220 thousand dollars. Unless you are emotionally attached to this home it is our recommendation, from strictly an economical point of view, the structure be torn down and rebuilt. Had this structure been kept up and on a regular maintenance program the structure, along with most of its integral components, would have been salvageable. However, due to constant neglect, it is again our opinion that the structure be removed.

H. Right-of-Way Easement

39. The public right-of-way from the centerline of Thirteen Mile Road immediately to the east and west of Site No. 302 is 33 feet. This right-of-way impinges substantially on the site. However, Site No. 302 is not the only parcel in the area with an incumbering 33-foot easement. The right-of-way easement for the 4.01 acre parcel which is 313.01 feet east of the easterly property line of Site No. 302, i.e., immediately east of Applewood Park, is also 33 feet.

40. On July 16, 1991, Ruth Moehlman, Chairperson of the Commission, reported to the Michigan Bureau of History that the Hamilton Jones House, which happened to be a State Registered Historic Building, was moved from 35901 Twelve Mile Road to 36510 Twelve Mile Road, because Twelve Mile Road was slated for widening. Moehlman indicated that the Commission would have preferred moving the building further back on its current site; however, because the

owners were uncooperative and favored demolition, the city permitted the building to be moved to a three-part complex within the district, where it was being restored.

I. Market Value and Marketing Information

41. Site No. 302 was listed as having a market value of \$225,000 in the inventory filed in the Estate of Eugenie Mahoney by the personal representative, Frederick Kupsky. Kupsky testified that the market value was established on the basis of an appraisal performed by Luzon Associates, Inc., contained in Appellants' No. 5, H-2. However, that appraisal was actually for estate property described as a 3.5-acre parcel located on the South side of Howard Road in Farmington Hills. Luzon estimated the market value of the Howard Road property at \$184,000 as of September 28, 1988. The Howard Road property is listed in the Historic Districts Property Affidavit dated September 5, 1986, as Site No. 204 located at 36671 Howard Road in the City of Farmington Hills.

42. In an assessment to determine the highest and best use of and the most effective marketing strategy for Site No. 302, Robert J. Kristofik, Realtor-Associate with Merrill Lynch Realty, reported that taking into account the property's location, current home values in the area, the condition of the home, and the historic significance of the primary structure, the property should yield between \$165,000 and \$175,000. Kristofik indicated that the property would be worth more if the historic structures could be changed and the land were developed. Kristofik's appraisal was not dated.

43. Marketing information was provided by Ben Skelton and Howard Novetsky of Rymal Symes Company, Realtors. This information placed the value of Site No. 302 between \$160,000 and \$180,000, and at \$225,000 if modernized. The report failed to include any explanation of how value was determined. Also, the date of the information was not indicated.

44. A Real Estate One representative, Bob Kaiser, recommended that Site No. 302 be listed for \$169,500. Kaiser did not describe how he arrived at this price other than to indicate that it was based on Real Estate One's marketing analysis. The date of Kaiser's recommendation is unknown.

45. Marvin Rollins, a developer from Farmington Hills, indicated that he would not be interested in acquiring the property unless the house and outbuildings were removed. The date of Rollins' statement was not given.

46. At the Commission meeting held on January 18, 1995, Larry Davis of the Prudential Great Lakes Realty, the realtor with whom the property is currently listed, stated that property values in the area are in the neighborhood of \$50,000 per acre, which places the value of Site No. 302 at \$200,000 for four acres. Davis indicated that the property was listed for sale at \$277,000, which includes giving away the house.

J. Offers to Purchase

47. On November 5, 1993, an offer to purchase the parcel was made by Heather and Robert Barlett. The offer was for \$240,000 and

was made through Coldwell Banker Schweitzer Real Estate. The offer did not result in sale of the property.

48. On February 29, 1995, Ronald Jona of the J/RJ Group submitted an offer to purchase the parcel for \$250,000 through the Prudential Great Lakes Realty. On May 22, 1995, Jona notified Great Lakes Realty that the contingencies pertaining to the environment, sanitary sewer, and city water were not met and requested refund of his deposit. In his cancellation letter, Jona indicated that he would be willing to submit a revised offer based on his findings about the property.

49. On May 31, 1995, Jona submitted a revised purchase offer for \$220,000. An addendum contained provisions similar to those in the May 22, 1995 offer to purchase.

J. Natural Beauty Road

50. Article VII of the City of Farmington Hills Ordinances deals with "Natural Beauty Roads". The City has prepared guidelines for the designation and maintenance of Natural Beauty Roads. These guidelines indicate that the City's goal is to identify and protect the rights-of-way of certain roads having unusual or outstanding natural beauty, for the use and enjoyment of residents and the public.

51. According to City Manager William Comstock, the area of Thirteen Mile Road near Site No. 302 was declared a Natural Beauty Road by the Farmington Hills City Council around 1987.

K. Offer to Donate Myron Crawford House and Agreement to Receive and Move House

52. In a letter to Larry Lichtman, Mayor of the City of Farmington Hills, dated October 4, 1994, Irma Schulkins, one of the property owners, offered to donate the Myron Crawford House "as-is" to the City at no charge, provided it was moved from the property. In addition, Schulkins and the other owners agreed to donate \$4,750 toward the costs of removing the residence from the property. (Appellants' No. 1)

53. At the Commission meeting held on February 15, 1995, Jeff Stewart addressed the Commission and read the following statement into the record:

We, the undersigned, agree to receive the house known as the Myron Crawford House currently situated at 36217 Thirteen Mile Road, Farmington Hills. Our intent is to allow the house to be moved onto the back half of the 1.92 acres, identified by sidwell #23-08-200-014. Our intent is to save the house from demolition, to keep it within the historic district, the confines of the "mini historic districts" that encompasses the east half mile of Thirteen Mile, between Drake and Halstead.

54. Stewart expressed his preference that the house not be demolished. He thought it would set a bad precedent.

55. On February 15, 1995, Jeff Stewart, Sherrie Stewart, Anne Stewart and Victoria M. Sanderson signed an agreement to receive the Myron Crawford House, to save it from demolition, and to move it within the confines of the "mini-historic district" that encompasses the east half mile of Thirteen Mile Road between Drake and Halstead. (Appellants' No. 7)

56. Commission Chairperson Moehlman complimented the Stewarts on their "fantastic job" of maintaining and restoring the Eber Durham House and on making it so lovely.

L. Commission Meetings

57. At the Commission meeting held on September 20, 1989, Randall Hall, Attorney for the Estate of Eugenie Mahoney, presented arguments to support the estate's application for demolition of Site No. 302. Hall's primary contention was that it would be an undue financial hardship for the heirs to maintain, renovate or rehabilitate the residence. Hall also argued that the residence presented a safety hazard. In addition, he asserted that there was no particular historical or architectural significance or value to the premises. Hall pointed out that the right-of-way easement ran very close to the residence and that it was extremely difficult to enter or exit the property from the driveway; that the septic system could not handle the normal flow of water and sewage from the residence; that the electrical system was not up to code and the cost to replace the system would be substantial; that the bedrooms are extremely small and lacked closet space; that the walls of the basement had deteriorated; that the ceilings are settling due to water damage; that the roof leaks in many places; that there is structural damage to the roof resulting from a fire; that the eaves and gutters are damaged or missing; that the floor supports are infested with insects; and that there is a lack of insulation throughout the residence and general overall deterioration of the residence due to a lack of maintenance. Hall

also told the Commissioners that most of the real estate agents with whom he talked were not interested in marketing the property after they learned it was designated as an historic site. In support of the estate's argument that the site had no historical or architectural value, Hall recounted the reason stated by the Michigan Historical Commission for rejecting the site for State Register certification in 1981, i.e., "The Crawford House is a typical, frame, 'L-plan', vernacular farmhouse lacking historic or architectural significance."

58. Following a lengthy discussion of the issues raised by Hall, the Commission denied the application. The Commission's motion denying the application stated the following:

Amendment to the motion by Blizman, accepted by Barber and Ludwig, that denial of the request is based on the ordinance outlined in Chapter 3, Section 3609, paragraph 6, that the building does not constitute a hazard to the safety of the public or its occupants; the house can be secured so that it would not constitute a hazard; it is not a deterrent to a major improvement program because even with the house remaining on the land, a good portion of the land can be developed; there is no undue financial hardship because a portion of the land can be sold and the house can be sold to someone interested in restoring the house; and retention of the structure would be an important contribution to the community.

59. Prior to the Commission's October 18, 1994 meeting, and at Kupsky's invitation, Chairperson Moehlman, Mrs. Fox, City Manager Costick and Staff Planner Ulrich toured Site No. 302 with Larry Davis.

60. At the Commission meeting held on October 18, 1994, the City Attorney, Mr. Donohue, pointed out that there was a procedural problem with the application as submitted in that a decision to

accept the proposed donation of the property could not be made by the Commission and that that request would have to be referred to the City Council. Frederick Kupsky made a presentation in support of the application to either move or demolish the house and other buildings on Site No. 302. In addition to Kupsky's presentation, which included written materials, Larry Davis, the fourth realtor to list the property for sale, addressed the Commission on behalf of the applicants. Following the Kupsky and Davis presentations, there was discussion about the site visit and also about possible options for the use of the property, including the possibility of a donation of the house and land to the City. The Commission did not make a decision on the application at that meeting.

61. At the Commission meeting held on January 18, 1995, a petition requesting the deletion of Site No. 302 from the Historic Districts of Farmington Hills was on the Commission's agenda. At that meeting, City Attorney Beckerleg stated that if the petitioners were seeking demolition, the Commission could deal with that application and make a decision, and if permission to demolish was denied, petitioners could at some time later go through the procedure to obtain permission to remove the property from the district. After some discussion, Frederick Kupsky stated that he would opt for demolition because that could be decided at that meeting. Once Kupsky made his preference clear, Beckerleg recommended that the Commission deal with the demolition plans as submitted.

62. Frederick Kupsky, realtor Larry Davis, and Hugh Schulkins, the son of Irma Schulkins, each spoke at the January 18, 1995 meeting. Commission members Moehlman, Ludwig and Olson and Planning Commission Liaison Blizman expressed their views about the site and the petition during the meeting.

63. The owners also submitted written materials in support of their request to remove Site No. 302 from the Historic Districts of Farmington Hills. The presentation inferred that the site had minimal architectural, cultural, economic, political and social significance and further argued that there was nothing important, famous or decisive in the history of the site or the families that lived there. The owners contended that the advanced decay of the outbuildings reduced the property values of homes surrounding the site. Following a discussion, the request was tabled until the Commission's February 1995 meeting to allow the petitioners to file a request for removal or demolition.

64. Public comments concerning the Myron Crawford House were accepted by the Commission at its January 18, 1995 meeting. John Willyard, who lives on Thirteen Mile Road near the property, spoke. Willyard stated that when he talked with Mrs. Mahoney many years earlier, she told him that it was her wish to have her home listed as an historic site. Jeff Stewart, who lives on Thirteen Mile Road, asked for clarification of the procedures that would be followed if the application for demolition were approved, or if the request were denied.

65. At the Commission meeting of February 15, 1995, a new "petition" which had been submitted to City Planner Edward Gardiner by Irma R. Schulkins on January 19, 1995, was considered. The petition requested permission to remove or demolish the historic home at 36217 Thirteen Mile Road and/or, in accordance with Chapter 15, Article II, paragraph 15-31 of the ordinance, for an affidavit sworn by the Farmington Hills City Clerk that the site does not meet the requirements of paragraph 15-26 of the ordinance.

66. At the February 15, 1995 meeting, City Attorney Beckerleg explained that approval of the application was a two-part process. Beckerleg indicated that if, for example, the applicant established that retention of the structure would cause undue financial hardship, the request would not be granted unless the applicant also obtained approval under additional criteria set forth in the ordinance. Beckerleg pointed out that the ordinance provides that it shall be the policy of the city to discourage the demolition, demolition by neglect, or moving of historic structures within a historic district. Following a discussion of the application, the request was tabled until the Commission's next meeting, set for March 15, 1995. Chairperson Moehlman stressed that the house had historical significance based on research which showed that "pioneers" lived in the house for three generations.

67. At the Commission meeting held on March 15, 1995, a motion to deny the request concerning the Myron Crawford House to demolish the house and/or remove the site from the Historic District of Farmington Hills carried by a six to zero vote. The

motion included eight reasons for denying the request and indicated as follows:

1. The house is basically structurally sound with the exception of the rear portion containing the kitchen, chimney and greenhouse. These areas could be removed and replaced with a modern kitchen and possibly a family room attached to the kitchen. A new roof is needed, but this is not unusual for an older home.
2. If any economic hardship exists, it is self-inflicted by the owners who have priced the property far above any realistic fair market price for a home needing extensive restoration, thus frightening off possible buyers who might be interested in restoring a home with a large back yard.
3. The property can probably be subdivided into six (6) lots on the rear three-acre yard, retaining the historic home on the front acre as the seventh lot. Access could be via a 27 ft. private road.

Support for this proposal has come from City Manager William Costick, and from the Historic District Commission. A sample site prepared by the Planning Staff which created six lots retaining the historic home as the seventh has been rejected by the owners.

4. It is noted there is some historical significance to the structure as the house was built by a pioneer family approximately 125 years ago.
5. The structure as-is does not constitute a hazard to the safety of the public.
6. The structure is not currently a deterrent to a major improvement program which would be a substantial benefit to the Community.
7. Retention of the structure would be in the interest of the majority of the Community.
8. With respect to removing the House from the District, it is the Historic District Commission's opinion that it is not reasonable at this time to take this kind of action.

Further, it is noted the property was placed in the Historic District at the request of a previous owner.

68. Ronald Jona, a developer with a pending offer to purchase Site No. 302, spoke briefly at the Commission meeting on March 15, 1995. Jona explained that it was his intention to retain the historic home. He added that six condominiums in the \$350,000 price range would be built on half-acre lots at the rear of the parcel.

69. At the Commission meeting held on April 19, 1995, the Commission approved sending a letter to the owners advising them of the rejection of their request to demolish and/or remove the Myron Crawford House. Ronald Jona spoke at the meeting and explained his plans for restoration of the Myron Crawford House and developing the rear of the property for six new single family homes which would be built on roughly one-half acre lots. Jona explained that he had discussed provisions of his plan with the homeowners association in the adjacent subdivision with regard to utilities and the retention pond. Jona also presented conceptual plans for restoration of the historic house. The first step of the plan included removal of the front porch and kitchen, and installation of a new roof and painting the house to make it weather-proof. The next step would be to add a garage, kitchen and bedroom/bathroom.

70. On April 19, 1995, the Commission authorized the issuance of a Certificate of Appropriateness to Ron Jona - J/RJ Group as the proponent and Irma Schulkins, Georgia Young and Frederick Kupsky as owners, approving the conceptual development plan submitted to the

Planning Office on April 3, 1995. The Certificate was subject to: 1) utilization of adjacent subdivision retention pond, elimination of the on-site pond, and moving the driveway away from the historic house if possible; 2) no work commencing until the deal was finalized; and 3) final review and approval required of detailed restoration plans for the historic house.

71. At that meeting, the Commission approved sending a message to the Planning Commission, indicating as follows:

The Historic District Commission feels it is in the best interest of the community to allow for development of this land as proposed by Mr. Jona which is to permit six new single family homes and most importantly the preservation and restoration of the Myron Crawford House which is critical to the ambiance of this portion of Thirteen Mile Road which is designated as a Natural Beauty Road and a "historic area" of Farmington Hills.

72. On April 21, 1995, Joan Barber, Secretary of the Commission, wrote to Irma Schulkins to advise her of the Commission's decision to deny her application.

M. Planning Commission Hearing

73. On May 25, 1995, a public hearing was held by the Farmington Hills Planning Commission concerning qualification to utilize the single-family housing cluster option submitted by Ronald Jona for the four acre site at 36217 Thirteen Mile Road. Several persons spoke at the hearing and expressed their views about Jona's cluster option proposal.

74. Allen Vinikour presented a petition signed by adjacent residents which indicated that the value of their property would be decreased by \$20,000 to \$30,000 if development of the site were allowed to proceed.

75. Robert Turner of County Oaks Subdivision stated that he has had to look at the property for over four years, that the property does not meet building standards and should be brought up to code, and that if the cluster option development proposal were approved, the developer should be required to make the historic house consistent with the new cluster homes.

76. Mr. Tang stated that he thought the house was an eyesore and that he was concerned about the retention pond and utility line easements.

77. Ms. Bessinger of Birchcrest stated that when she bought her property 15 years ago, she was told by the City that site was historical and landlocked. Bessinger indicated that she did not understand how a road could be constructed behind her house. She also expressed concern about what would happen to a 200 year old tree located on the site.

78. Ms. Sittsamer of County Oak Subdivision stated that she paid a substantial premium for her property, which backs up to the site. She did not object to the cluster option, so long as the trees which border her property were preserved.

79. Commission Chairperson Moehlman stated that the Commission's motion required that the historic house be restored and brought up to standard and that Jona had agreed to this condition.

80. Ms. Somber of Birchcrest pointed out that there are serious traffic problems on Thirteen Mile Road at Birchcrest or

Valley Bend and that seven new homes would generate too much traffic for the area.

81. Commissioner Ludwig stated that the current owners had inherited the property and were only interested in how much money they could get for the land. Ludwig indicated that economically speaking, the only way the historic house will be saved is if the rear parcel is developed.

82. Mr. Al-Azem of Valley Bend stated that he is one of the residents who paid \$10,000 extra for his lot because he was told that nothing would ever be built on the site. Al-Azem indicated that he felt that there was already too much traffic on Thirteen Mile Road.

83. Mr. Zadorozny of Shenandoah stated that he supported Jona's proposal and only asked that as many trees as possible be saved. He indicated that he would rather have a cluster development than a multi-family development.

84. The Planning Commission unanimously approved a motion indicating that a preliminary finding was made that the cluster plan submitted by Ronald Jona would qualify for the Cluster Development Option under paragraphs 2b and 2h of the Zoning Chapter.

Conclusions of Law

As indicated at the outset of this decision, section 5(2) of the Local Historic Districts Act, *supra*, allows persons aggrieved by decisions of commissions to appeal to the State Historic Preservation Review Board. Section 5(2) also provides that the

Board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. Relief should, of course, be granted where the evidence admitted into the record shows that a commission has, among other things, acted in an arbitrary or capricious manner, exceeded its legal authority, or committed some other substantial or material error of law. Conversely, where the evidence shows that a commission has taken a correct action, relief should not be granted. In a proceeding such as this, Appellants have the burden of proof with respect to their own factual allegations. 8 Callaghan's Pleading & Practice (2d ed), section 60.48, p 176; Prechel v Dep't of Social Services, 186 Mich App 547, 549; 465 NW2d 337 (1990).

Section 3.609(1) of the Farmington Hills Ordinance provides that before moving or demolishing an historic structure, a person must apply for and obtain permission from the Commission. As previously noted, section 3.609(4) of the Ordinance describes the standards the Commission shall use in reviewing applications, and section 3.609(6) prescribes additional grounds for approving an application.

In its March 15, 1995 decision concerning Appellants' request to either demolish the Crawford House or remove it, the Commission listed eight reasons for denying the request. The Commission did not specifically cite which sections of the Ordinance or Act it relied upon as authority for its decision; however, it is apparent that certain paragraphs of the decision relate to specific grounds

for approving or denying an application, as prescribed by sections 3.609(4) and (6) of the Ordinance, as well as section 5 of the Act. It may also be noted that when the Commission authorized issuing a certificate of appropriateness to Ronald Jona to proceed with the cluster option, it relied upon section 3.609(4).

A. Historical and/or Architectural Significance

Initially, Appellants argue that their application should have been approved because the Commission must not only consider the historical or architectural significance of the historical site but also that such significance, if any, must be considered in the context of the historic value of the surrounding area. Appellants further argue that even assuming that the Myron Crawford House has a significant degree of historical/architectural value, the Commission failed to properly apply the Historic Ordinance in that the Commission did not consider the absence of historical significance in the surrounding area, inasmuch as Site No. 302 is a non-contiguous district surrounded by new residential developments.

Evidence in the hearing record does establish that the Myron Crawford House is situated in a non-contiguous historic district which is surrounded primarily by contemporary homes. The nearest historic site is the John Cox House, a pre-Civil War era house located almost directly across from the Crawford House on the opposite side of Thirteen Mile Road, at 36218 Thirteen Mile Road. Two additional historic sites are located within approximately one quarter-mile of Site 302; the John Garfield House, a pre-1860 Greek

revival building situated at 35810 Thirteen Mile Road; and the Eber Durham House, another pre-1860 Greek revival building, located at 35835 Thirteen Mile Road. The Drake House, a pre-Civil War era building, is located about one-half mile southeast of the Crawford House.

Section 3.602(5) of the Ordinance provides that historic resources situated in an area created as an historic district need not be contiguous with other historic sites. There is no evidence in the hearing record which suggests that the houses closest to the Myron Crawford House have any historical or architectural significance. However, if section 3.609(4)(a) were applied in the manner the Appellants suggest, the Myron Crawford House, and any historically or architecturally significant structure which is situated in a non-contiguous historic district, would be subject to demolition at any time.

Section 3.609(4)(a) must be considered in conjunction with section 3.602(5), which provides that an area created as an historic district need not necessarily be contiguous with other historic sites. Clearly, where the historic district is non-contiguous, section 3.609(4)(a) should not be literally applied. In this case, the historical and/or architectural significance of the Myron Crawford House may properly be considered as a free-standing structure, i.e., as a non-contiguous historic district.

Having determined that the historical or architectural significance of the Myron Crawford House may be ascertained as a free-standing structure, the evidence within the record may now be

considered. With regard to historical significance, while the information concerning the Crawford family history appearing in "If Walls Could Talk" by Ruth Moehlman does not compare favorably in length to the more thorough "histories" compiled by Frederick Kupsky, neither source provides sufficiently reliable information to establish the significance (or insignificance) of the Crawford family to Farmington Hills. It may be observed that the evidence tends to show that neither the Crawford family as a whole, nor any member of the Crawford family, particularly Myron Crawford, held any significant status in the community or made any noteworthy contributions to the history of the area. On the other hand, the evidence in the record did establish that the Crawford family was indeed a "pioneer family", whose members occupied the Myron Crawford House for a significant period of time.

Although the Appellants submitted a great quantity of information concerning the building materials used in constructing the residence and the manner in which it was constructed, and also data pertaining to when particular systems and products which appear in the house became available for purchase, that information does not persuasively support the Appellants' argument that the residence was constructed by the McCulloughs sometime after the beginning of the 20th century. Similarly, Appellants' argument that the outbuildings were constructed using materials from the "original" house is not persuasive based upon the evidence submitted. And further, Appellants' argument that the current residence was built by the McColloughs sometime after 1910, based

on the assumption that Jennie (Mrs. Edward C.) Holmes (i.e., Melinda Jane Crawford the widow of Myron Crawford) moved to Novi after her marriage to Edward Holmes in 1910, because the house situated on Site No. 302 at that time was obsolete and not suitable, is not supported by the record. Evidence in the record concerning the house construction materials and the history of the Crawford family, supports a finding that the house may have been erected as early as the 1830s and was likely built no later than the 1880s. While the age of any structure is not determinative per se of its historical significance, it is generally understood that older structures have greater potential for historic significance than more recent construction. In this case, the fact that the house is at least 100 years old and was occupied by members of a pioneer family, establishes that it does have historical significance for and to the City of Farmington Hills.

With regard to architecture, the Appellants proved that the Myron Crawford House does not have any greater architectural significance now than was found by State History Staff when the house was evaluated and then rejected for State Register certification in 1981, i.e., that it is a typical, frame, 'L-plan' vernacular farmhouse. The house does not have any unique architectural features, and its design apparently is fairly common among the farmhouses of the 1880s.

As previously noted, when Eugenie Mahoney inquired about having her house considered for local historic designation, she was told that a single form was used for both state and local

designations. Due to a lack of evidence, it is unclear whether Mahoney ever aspired to having her home considered for state (as opposed to local) designation. In any event, the assessment by the History Staff was rendered strictly for the purposes of state certification, and it was their recommendation that the house not be certified as historic on the state level. However, while that assessment shows that the Myron Crawford House lacks statewide historical or architectural significance, it does not establish that the house lacks historical significance in the community of Farmington Hills. As one of only 17 historically designated Michigan Farmhouses in the entire City, and as a house that was once occupied by members of a pioneer family, the Myron Crawford House clearly possesses local historic significance.

In view of the hearing record, it must be concluded that the Myron Crawford House possesses historic significance.

B. Structure As Hazard

Appellants have claimed that their application should have been approved because the Myron Crawford House constitutes a hazard to the safety of the public and/or any occupants. In support of their contention, Appellants point out that the Commission admitted that the rear half of the house, which contains the kitchen, chimney and greenhouse, is not structurally sound. The Appellants argue that if any part of the building is not structurally sound, then the building as a whole must be considered structurally unsound. From a procedural perspective, the Commission determined that the house, overall, was basically sound, with the exception of

the kitchen, chimney and greenhouse, and that these areas could easily be removed and replaced with a modern kitchen and possibly a family room attached to the kitchen.

Evidence in the record, such as contained in Cohen's assessment, suggests that the house has significant problems associated with its physical condition. Some of these problems are cosmetic, but many are structural or functional. Although several persons have offered opinions about the condition of the house, it is Jeffrey Cohen's report, based on his February 28, 1990 inspection, which sets forth the most comprehensive and convincing information regarding the condition of the residence and surrounding buildings.

Cohen discovered that there was no weight bearing member in the area where a hole was punched through the wall for electrical service. He also observed water infiltration at the base of the walls and indications that insects had been living in the joist logs. He recommended that joist damage be investigated further. Cohen also recommended that the greenhouse be demolished because a number of items were in need of serious repair. Cohen indicated that a railing (or knee wall) should be built along the open stairwell in the kitchen and that a structural engineer should be hired to assess the load which the roof could support and whether the fire had affected the structural integrity of the timbers supporting the roof. Cohen's strongest recommendation involved the barn, where he suggested an examination by a structural engineer.

Notwithstanding Cohen's report, the totality of the evidence does not establish that the house constitutes a hazard to the safety of the public or potential occupants. The evidence shows, at worst, that floor joist damage from infestation by insects and roof damage from a fire merely establish the need for examination by a structural engineer. None of the photographs or other evidence provides convincing proof that any supporting member in the residence, or the residence itself, is in danger of collapsing, nor was there evidence of major structural damage or defect. Certainly, current building techniques and construction code requirements are more safety-conscious than the laws in effect when the house and other buildings were built. However, that does not make the structures unsafe.

It is also evident that it would be desirable to make major improvements to the house and to have an engineer investigate the condition of the floor joists, roof supports, and the condition of the barn. It is entirely conceivable that an engineer might recommend corrective measures to address perceived problems. Yet, evidence in the record as a whole does not support a conclusion that a safety hazard exists at this time.

Based on the proofs, it must be concluded that the Commission's determination that the house is not a hazard to the safety of the public or potential occupants was justified.

C. Deterrent to Improvements

In the appeal, the Appellants also argued that retaining the house would be a deterrent to a major improvement program of

substantial benefit to the community. The essence of Appellants' argument is that development of Site No. 302 would be a major improvement in Farmington Hills and/or that unless Thirteen Mile Road is widened, development of the area will be deterred.

Other than possible development of Site No. 302 as a six or seven unit subdivision, Appellants have not identified any potential improvement that would be of substantial benefit to the community which has been (or is being) deterred. Evidence in the record establishes that traffic in the vicinity of Site No. 302 is congested and that it is difficult to exit from the existing driveway onto Thirteen Mile Road. Certainly, widening Thirteen Mile Road would improve traffic flow. However, nothing presented by Appellants suggests that the City of Farmington Hills has any plans (short term or otherwise) to widen Thirteen Mile Road.

Moreover, the Appellants did not address the fact that the portion of Thirteen Mile Road fronting Site No. 302 has been designated by the City Council as a Natural Beauty Road. This normally means that the road will be protected in its present condition for the use and enjoyment of residents and the public. That benefit would be lost if Thirteen Mile Road were widened. While the record shows that "some day" Thirteen Mile Road may have to be widened to handle increased traffic flow, for the foreseeable future, Farmington Hills is intent on maintaining the road as a Natural Beauty Road at its present width.

In view of the record as a whole, it is must be concluded that the Appellants have not established that retention of the structure is a deterrent to any major in Farmington Hills.

D. Undue Financial Hardship

The Appellants additionally contend that retention of the house has caused (and will continue to cause) undue financial hardship to them. In particular, the Appellants claim that they have tried to sell the property for approximately five years and that, while a number of persons have expressed an interest in the property, because of its historic designation only a few offers have been made and, although offers to purchase have been accepted by the Appellants, no sale has been consummated.

An offer to purchase was submitted by the Bartletts in the amount of \$240,000 on November 5, 1993, and was apparently accepted by the Appellants, but for reasons not made clear in the record, the transaction did not proceed to closing. A purchase agreement was submitted by the J/RG Group (Ronald Jona) on February 18, 1995, in the amount of \$250,000, and the Appellants approved it. That agreement contained an addendum which provided, among other things, that the sale was contingent upon an environmental and soils report which indicated the property was suitable for development and was not contaminated, and further that sanitary sewers and city water were available. On April 19, 1995, the Commission authorized issuance of a Certificate of Appropriateness to J/RJ Group/Ronald Jona approving the conceptual development plan submitted to the Planning Office on April 3, 1995. However, on May 22, 1995, Jona

notified Prudential Great Lakes Realty that specified contingencies were not met. He requested the return of his deposit. Jona indicated a willingness to submit a revised offer based upon certain unspecified findings. On May 25, 1995, the Planning Commission made a preliminary finding approving Jona's plan.

On May 31, 1995, Jona submitted a revised Purchase Agreement in the amount of \$220,000. In addition to the same provisions contained in the addendum to the February 18, 1995 agreement, the addendum to the revised agreement provided that the contingencies must be resolved to the buyer's satisfaction within the 120-day contingency period. Both the February 18, 1995 agreement and the May 31, 1995 revised offer provide that the historical house must remain on the site or be moved and maintained at a location in Farmington Hills.

In their "brief", Appellants argue that the decision of the Commission, in effect, requires them to suffer a significant economic loss on the sale of the property. Appellants posit that using \$225,000 as a basis (the market value of the property as of September 28, 1988, as reported in the inventory of the Estate of Eugenie Mahoney) and adding the cost of renovation of the house at \$220,000 (per the assessment of Jeffrey Cohen), plus a new well and septic system at \$10,000, would result in a cost basis (after renovation) of \$455,000. Appellants posit further that in the "best case" scenario, based on a sale price of \$170,000 for the renovated house including one-half acre, they would suffer a capital loss of more than \$110,000. However, if a buyer intends to

use the entire parcel for a personal residence, their capital loss would be substantially greater. Appellants have also argued that the house was in poor condition when bequeathed. They state that they have performed ordinary repairs and maintenance since acquiring the property.

Section 5(6) of that the District Act, supra, requires a property owner pursuing a claim of undue financial hardship as justification for demolishing a resource to demonstrate that "all feasible alternatives to eliminate the financial hardship, which may include offering that the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted". (Emphasis added)

Evidence in the record establishes that an application was filed as early as 1989 for permission to demolish that the residence at Site No. 302. On September 20, 1989, the Commission denied the request of the Estate of Eugenie Mahoney to demolish the residence. This was based on its findings that the structure did not constitute a hazard, that it was not a deterrent to a major improvement program, that there was no undue financial hardship, and that retention of the structure would be important to the community.

The Appellants did not submit proofs regarding the financial resources they have available to restore the house and/or to develop the property. Appellants have generally stated that they are elderly persons living on fixed incomes. Appellants maintain that as such, they are not capable of, or interested in, either

restoring the residence or developing the property. The only other evidence concerning the Appellants' financial resources pertains to the value of the property at 36671 Howard Road. That parcel was appraised for the Estate of Eugenie Mahoney and was found to have a value of \$184,000 as of September 28, 1988. It was incidently included in Appellants' evidence, possibly as an unintended substitute for the appraisal of Site No. 302. The Appellants have limited their evidence and argument on undue financial hardship to Site No. 302 itself.

Although there are apparently no published Michigan cases discussing undue financial hardship in the context of historic rehabilitation projects, there is an unpublished Court of Appeals decision which discusses a somewhat related question. In that case, the question was: Given a \$30,000 project cost, could the Ypsilanti Historic District Commission order the owner of an historic building to paint the building. The Court, in Ypsilanti v Kircher (No. 128107, July 24, 1992), reasoned as follows:

Defendant's first argument on appeal is that neither the city building code nor the ordinances creating the historic district provides the plaintiff with the authority to require the defendant to paint the building. Statutory interpretation is a question of law for the court. Coddington v Robertson, 160 Mich App 406, 410; 407 NW2d 666 (1987). Appellate review of a trial court's conclusions of law is independent, and is not subject to the clearly erroneous standard. Beason v Beason, 435 Mich 791, 804; 460 NW2d 207 (1990).

We agree with the trial court that the plaintiff may require the defendant to keep his building painted. The court cited Ypsilanti Ordinance § 5.336(1), which provides that every person in charge of a landmark or structure in the historic district shall keep its interior and exterior in good repair. Moreover, Ypsilanti Ordinance § 5.324 provides that the purpose of

creating the historic district is to stabilize and improve property values and to foster civic beauty and pride.

Having decided the plaintiff has the authority to require the defendant to paint the building, we next review the trial court's decision that the plaintiff reasonably required the defendant to paint the building. A zoning ordinance is a valid exercise of police power, but if in its application it is unreasonable and confiscatory, it cannot be sustained. Burrell v City of Midland, 365 Mich 136, 141; 111 Mich NW2d 884 (1961). The (US) Supreme Court has held that financial burdens may be imposed upon a property owner to preserve historic landmarks. Penn Central Transportation Co v City of New York, 438 US 104; 98 S Ct 2646; 57 Law Ed 2d 198 (1978). The financial burden of abating a public nuisance is properly imposed on the property owner, rather than on the public. Moore v City of Detroit (On Remand), 159 Mich App 199, 203; 406 NW2d 488 (1987).

The unrefuted evidence presented at trial supports the court's finding that the building is an eyesore. The approximate cost of painting the building is \$30,000, including the necessary low pressure water cleaning. Requiring the defendant to paint the building is reasonable under the ordinances, and is not a confiscatory taking. Burrell. Further, it is reasonable under the ordinances for the historic district commission to have input into a determination of the color of the building. (Slip Op., pp 1-2)

In view of the Court's decision in Kircher, it must be concluded that expenditures as high as \$30,000 do not, on their face, represent undue financial hardships under Michigan law.

A Pennsylvania court recently considered the relationship between the cost of renovating an historic structure and a claim of economic hardship. In Weinberg v City of Pittsburgh, Historic Review Comm'n, 651 A2d 1182 (1994), the Commonwealth Court of Pennsylvania held that the rule of unnecessary hardship did not prevent the owner from asserting a claim of financial hardship

based on the fact that the cost of renovation for use as a family residence would exceed the value of the property after renovation.

In Weinberg, the property owners spent \$175,000 on a house in Pittsburgh which had been designated as an historic structure. The owners initially intended to restore the dilapidated structure and use it for a residence. However, after spending another \$36,000 for exterior repairs, they learned that the house had serious structural problems. Following an unsuccessful attempt to obtain financing with the intent of renovating the house for resale, the owners sought permission from the Historic Review Commission to demolish the house. In denying the owners' request, the Commission found that demolition would destroy a structure of major historical and architectural significance; that the house was not structurally unsound; and that the owners understood the restrictions imposed on the house by the historic designation at the time they purchased it. The Commission further found that although the value of the house after renovation would exceed its market value, the owners should not be allowed to claim financial hardship merely because they could not recoup their \$175,000 investment by selling the property "as is".

In reversing the Commission, the trial court found that when making its decision, the Commission had improperly relied upon equivocal testimony from the owners' real estate expert that the house could be sold for a price between \$200,000 and \$300,000. The Appeals Court affirmed the trial court's decision and found:

The Commission's conclusion that Weinberg could borrow enough money to renovate the building as a personal residence, making the issue of economic hardship irrelevant, it without legal authority. The rights of a private property owner to use his property do not vary in this context because he is a homeowner, a transportation company or a land developer, nor the extent of his personal wealth. Penn Central Transportation Co. v New York City, 438 US 104; 98 SCT 2646; 57 Law Ed 2d 631 (1978) United Artists' Theater Circuit, Inc. v City of Philadelphia, 535 Pa 370; 635 A2d 612 (1993) First Presbyterian Church of York v City Council of the City of York, 25 Pa Commonwealth Ct 154, 162; 360 A 2d 261 (1976)

Finding no substantial evidence that the cost of renovating the house would not exceed the value of the property after renovation, the Appeals Court ordered that the house should be demolished for the preservation of the public health or safety.

If this case were decided solely on the basis of the Pennsylvania court's decision in Weinberg, the fact that the actual final cost of restoring the Myron Crawford House might total as much as \$220,000, and that such cost may not be fully recovered when it is sold, would seem to support the Appellants' claim of undue financial hardship. However, additionally, under Michigan law, in addition to demonstrating that hardship exists, Appellants must also establish that all feasible alternatives to eliminate the financial hardship have been pursued.

In that regard, evidence shows that the property had a market value of \$225,000 as of September 28, 1988 and that Appellants listed the property for sale with four different realtors. Unfortunately, the asking price as contained in the four listing agreements was not submitted into evidence. Appellants' evidence

on listings is unclear. Only the listing price with the current realtor, Larry Davis, at \$277,000 was reported.

As previously noted, the evidence establishes that a purchase agreement to sell the property to the Bartletts in November of 1993 for \$240,000 was apparently accepted, but the deal did not proceed to closing. Additionally, the evidence established that Ronald Jona canceled his February 18, 1995 offer to purchase the property for \$250,000 because certain contingencies were not met. The most current evidence concerning an offer to purchase the property pertains to Jona's revised offer, dated May 31, 1995, to purchase the property for \$220,000. Appellants did not submit additional evidence concerning the current status of Jona's offers to purchase. As of the date the hearing record was closed, it appears that the Appellants had a viable offer from Jona at \$220,000, which may approximate the fair market value of the historic site.

Nevertheless, evidence in the hearing record does not establish that the Appellants have ever listed the property at its fair market value. Market value is defined as the price a property would command in the open market. In other words, it is the highest price a willing buyer would pay and a willing seller would accept, both being fully informed, and the property being exposed for a reasonable period of time. Black's Law Dictionary 6th ed 971 (1990). The market value of the property as of September 28, 1988 was \$225,000. Appellants' evidence did not establish that the property has ever been offered for sale at \$225,000, or at some other price based upon a revised market value from a more recent

appraisal of the property. Appellants' evidence only established that the property has been listed with four realtors, currently with Larry Davis for \$277,000. Appellants' evidence further established that offers of the Bartletts and Jona did not proceed to closing in the amounts of \$240,000 and \$250,000, respectively, and that Jona made a revised offer at \$220,000.

With regard to its approval of Jona's plan to develop the property, it is clear that the Commission was working with Jona and the Appellants to achieve an economically viable plan which would permit the development of the site and also, most importantly, provide for continued preservation of the Myron Crawford House. Clearly, approval of Jona's plan, which included a component to preserve the Myron Crawford House, was preferable to authorizing demolition or moving the residence. Approval of Jona's plan served the dual purposes of preserving the house and also satisfying the Appellants' desire to sell the property. However, after the Commission had approved Jona's development plan and denied the Appellants' application to demolish or remove the house, Jona canceled his offer, purportedly because certain contingencies had not been met. Again, the Appellants' evidence establishes that Jona submitted a revised offer to purchase the property for \$220,000. The actual status Jona's original and revised offer was not made clear in the evidence submitted.

The actions of the Commission, Jona, and the Appellants are significant because they relate to the legal requirement that Appellants must demonstrate that they have pursued all feasible

alternatives to eliminate any claimed financial hardship. Although the evidence does not clearly show that these Appellants have offered the property for sale at its fair market value, evidence in the record does establish that they accepted purchase offers for \$240,000 in 1993 and \$250,000 in 1995 and have listed the property for sale at \$277,000. Additionally, the Appellants showed that they offered to donate the residence to the City of Farmington Hills and also funds to move the house to another location. Also, Appellants offered the residence to the Stewarts, who agreed to accept the house and move it within the historic districts.

When examining the above described actions of the Appellants to determine whether they have exhausted all reasonable alternatives to eliminate their claim of hardship, the historical integrity of the resource involved must also be considered. In this case, it is clear that the Myron Crawford House has historical significance in Farmington Hills. Additionally, that the house is one of only 17 historic Michigan Farmhouses in Farmington Hills. And also, the cost to restore the residence could exceed by as much as \$200,000 or more the "after restoration" market value of the property. And further, the Appellants, who are elderly, are not interested in restoring the residence or developing the property. Against that background, the Appellants' offer to donate the property to the City, offering the property for sale under the terms established in the record, and the offer to give the residence to the Stewarts, must be considered.

Although the property has been listed with four realtors over a period of several years, there is no evidence in the record which establishes that it has been offered at its fair market value. In fact, the only evidence concerning the actual price at which the property is being offered on the market is that the current listing is at \$277,000. Additionally, although Appellants' offer to donate the residence to the City or give it to the Stewarts, represent attempts to eliminate the financial burdens that go with their ownership of the house, the Commission properly rejected those options, certainly at least until Jona's offer to develop the property and preserve and restore the residence was fully explored. In that regard, on March 15, 1995, when the Commission rejected the Appellants's request to move the house, it indicated that was not reasonable to take that kind of action at that time.

In view of the record as a whole, it must be concluded that although the Appellants have established that they have made some attempts to eliminate the financial burden associated with ownership of the Myron Crawford House, they have not established their claim of undue financial hardship nor that they have exhausted all reasonable alternatives.

E. Interest of Majority of Community

In their appeal, the Appellants asserted that retaining the structure is not in the interest of the majority of the community. Whether retaining the structure is in the interest of the community depends upon whether or not its retention serves a purpose for which the Ordinance was created. The purposes of the Ordinance

include: to preserve districts which reflect elements of that the cultural, social, economic, political or architectural history; to stabilize and improve property values in and adjacent to such district; to promote civic beautification of structures and lands for historic and cultural preservation; to strengthen the local economy; and to promote the use of historic properties.

Evidence in the record establishes that the resource reflects the cultural and social history of Farmington Hills. With regard to stabilizing property values, at the public hearing before the Planning Commission concerning Jona's plan to develop the site, several persons spoke and indicated that they paid a premium for their property because they were told by the City that Site No. 302 was an historic district and therefore nothing would ever be built on that the site. With regard to promoting civic beautification of structures and lands for historic and cultural preservation, the fact that this area of Thirteen Mile Road has been designated as a natural beauty road is significant; however, while the widening of Thirteen Mile Road would obviously destroy the natural beauty of the area, demolition or moving the residence would not necessarily do so. Additionally, with regard to the remaining purposes for historic districts, i.e., strengthening the local economy and promoting the use of historic districts and local history for the education, pleasure and welfare of the citizens, evidence within the record did not establish that demolition of the structure or moving it to another location within the historic districts would have a significant impact on these objectives.

The Appellants have not established that it would be in the interest of the community to demolish the structure or remove it to another location in the historic districts. Evidence in the record merely suggests that some members of the community may benefit from the demolition or removal of the structure, while others perceive that they will enjoy a diminished use of their property if the structure is demolished or moved from its present location and the site is developed.

In viewing the record as a whole, Appellants have not established that demolishing the structure or moving it to another location in the historic districts would be in the interest of the majority of the community.

Conclusion

In consideration of the entire hearing record developed in this case, it is concluded that the Appellants have failed to show the following: that the house situated at 36217 Thirteen Mile Road lacks historical significance; that the house constitutes a hazard to the safety of the public or occupants; that the house is a deterrent to a major improvement program which will be of substantial benefit to the community; that they have exhausted all feasible alternatives to eliminate undue financial hardship, or that retaining the structure is not in the interest of the majority of the community.

It is therefore concluded that the Commission did not act arbitrarily or capriciously, did not violate either state or local law, and did not act improperly under the Local Historic Districts

Act, supra, or the Farmington Hills Ordinances, supra, in denying the request to demolish or remove the house located at 36217 Thirteen Mile Road.

It is further concluded that it may be possible for the Appellants to demonstrate exhaustion of all feasible alternatives to eliminate their financial hardship by obtaining a current appraisal of the property to determine its fair market value and thereafter offering the property for sale at its fair market value for a period of not less than six months.

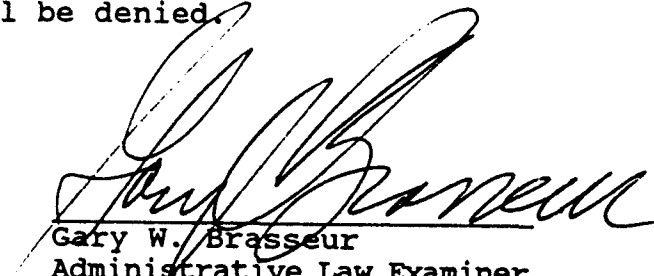
It is further concluded that if the property is not sold within six months, it may further be possible for the Appellants to demonstrate that they have exhausted all feasible alternatives to eliminate their financial hardship by offering to donate the Myron Crawford House to a person who agrees to preserve the house and move it to a vacant site within the City of Farmington Hills.

Recommendation

It is recommended that the appeal be denied.

Dated:

January 16, 1996


Gary W. Brasseur
Administrative Law Examiner

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