



# Council Communication

Office of the City Manager

Date

September 10, 2007

Agenda Item No. 58

Roll Call No. 07-

Communication No. 07-547

Submitted by: Larry D. Hulse, Community  
Development Director

## AGENDA HEADING:

Hearing on Appeal from the Sherman Hill Neighborhood Association, Carlton Salmons, Ralph Gross, Martha Gross, Chuck Farr, Marilyn Farr, Sue Terry, Jo Campney, Tom Chase, Rochelle Burnett and Doug Burnett regarding a Certificate of Appropriateness issued for construction of a 2-car garage at 1520 Center Street in the Sherman Hill Historic District.

## SYNOPSIS:

Recommend to hold a public hearing and uphold the decision of the Historic Preservation Commission. The hearing is on an appeal from the Sherman Hill Neighborhood Association, Carlton Salmons, Ralph Gross, Martha Gross, Chuck Farr, Marilyn Farr, Sue Terry, Jo Campney, Tom Chase, Rochelle Burnett and Doug Burnett regarding a Certificate of Appropriateness issued for construction of a 2-car garage at 1520 Center Street in the Sherman Hill Historic District. The subject property is owned by Trafalgar Holdings LC, represented by Mark Jesse (officer).

This item was continued from the August 20, 2007, meeting by the City Council to allow additional time for the Sherman Hill Neighborhood Association and Mr. Jesse to negotiate a compromise. The parties have agreed to explore an exchange of land that would allow the garage to be built to the south of the house at 1520 Center Street instead of to the west. As of September 4, 2007, the impacted parties have not agreed to any specific terms.

## FISCAL IMPACT: NONE

## ADDITIONAL INFORMATION:

The Sherman Hill Association (represented by Jim Quilty, President), Carlton Salmons, Ralph Gross, Martha Gross, Chuck Farr, Marilyn Farr, Sue Terry, Jo Campney, Tom Chase, Rochelle Burnett and Doug Burnett have appealed the Historic Preservation Commission's decision to conditionally grant a Certificate of Appropriateness for the construction of a garage at 1520 Center Street.

Section 58-31(f) of the City Code states that decisions of the Historic Preservation Commission may be appealed to the City Council. The Code further states that "in deciding such appeal, the City Council shall consider whether the Commission has exercised its powers and followed the guidelines established by law and ordinance and whether the Commission's action was patently arbitrary or capricious."

The subject property is located on the southeast corner of the 16<sup>th</sup> Street and Center Street intersection. It consists of two parcels with the house located on the eastern parcel. These parcels are the northern

remnants of two lots that were originally platted with a north/south orientation with access to an alley on the south and frontage on Center Street to the north. Around the turn of the twentieth-century, the south half of these lots were divided off and combined to form a new lot (751 16<sup>th</sup> Street) with an east/west orientation. A 3-story brick apartment building was built on this lot around 1913. This lot division left the subject property with no rear yard or access to an alley.

In 2005, the applicant obtained a Certificate of Appropriateness for the construction of a 14'-x-20', 1-car garage oriented to Center Street. In the process of laying out the footings for the slab and driveway, it was observed that the driveway would require the removal of a street tree. The City Forester indicated the street tree was mature and that alternatives should be explored. The applicant submitted a revised proposal, consisting of a 20'-x-24', 2-car garage oriented to 16<sup>th</sup> Street for the Historic Preservation Commission's consideration. On July 18, 2007, the Commission, in a 4-2 decision, found the new request in harmony with the historic character of the neighborhood and the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications, subject to the following conditions:

1. The garage is constructed in accordance with the submitted site sketch and elevations, with materials, including horizontal lap siding, trim, and shingles, which match the primary dwelling.
2. Provision of a small double-hung window in the front (west) gable.
3. Reduction of driveway width as reviewed and approved by staff.
4. Provision of a patterned driveway paving material as review and approved by staff.
5. Compliance with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center for any light poles installed.

The Sherman Hill Association believes the proposed garage and driveway do not meet the City's *Architectural Guidelines for New Construction in Des Moines' Historic Districts*, which state the following regarding the placement of new outbuildings and driveways:

1. New outbuilding should be set along the alley or as close to the alley as current city codes will allow.
2. The Sanborn maps should be consulted to determine the historical placement of outbuildings before considering any new construction.
3. Curb cuts should not be created where the alley pattern exists except where there is no other acceptable alternative for the continued functioning of the site.
4. The typical pattern of outbuilding established in the neighborhood should be continued in any new construction.
5. Additional curb cuts should be kept to a minimum and wherever possible avoided.
6. Double wide curb cuts and double wide driveways should not be created.

The appellant's letter specifically references guidelines #1, #2 and #5 as reasons why the Commission should have denied the request and encouraged the applicant to explore alternatives. The appellants specifically request that Trafalgar Holdings, L.C. exchange the western portion of their property for the eastern portion (rear yard) of 751 16<sup>th</sup> Street. This would generally restore the lots to their original north/south orientation and give the applicant a rear yard and alley access.

The Sherman Hill Association has contacted the applicant and the owner of 751 16<sup>th</sup> Street to see if a trade of land could be negotiated. Staff understands that the parties have agreed to the proposal in principal but have not negotiated the terms of a formal agreement. If the parties can reach a formal agreement, the proposed land trade would still require relief from the Zoning Board of Adjustment to the minimum lot area and off-street parking requirements for the apartment building (751 16<sup>th</sup> Street) as it will lose its "lot of record" status upon any voluntary conveyance of any portion of the current lot. The land trade will also require the release or refinancing of all mortgages on the traded parcels.

Staff recommends the Council uphold the Historic Preservation Commission's decision. Staff believes the proposed land trade has merit and hopes the parties involved can come to an agreement. However, staff believes requiring Trafalgar Holdings to trade land is beyond the purview of the Commission and that the Commission's action was not arbitrary or capricious. If a land trade is executed, the subject Certificate of Appropriateness will be void, and a new Certificate will be required for any garage or driveway off of the alley. The application, staff report and meeting summary from the July 18, 2007, Historic Preservation Commission meeting and the appeal from the Sherman Hill Association are included in the Council packet.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: August 20, 2007

Roll Call Number: 07-1647

Action: Continue the hearing on appeal of Historic Preservation Commission decision regarding 1520 Center Street, (9-10-07). Moved by Hensley to adopt. Motion Carried 6-0. Council Member Kiernan declares a conflict of interest and abstains from voting.

Date: August 6, 2007

Roll Call Number: 07-1558

Action: [Setting](#) Date of Hearing on appeal of Historic Preservation Commission decision regarding 1520 Center Street, (8-20-07). Moved by Hensley to adopt. Motion Carried 6-0. Council Member Kiernan declares a conflict of interest and abstains from voting.

#### **BOARD/COMMISSION ACTION(S):**

Date: July 18, 2007

Roll Call Number: N/A

Action: Historic Preservation Commission voted 4-2 to approve a Certificate of Appropriateness with conditions.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**