

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	May 4, 2009
	Agenda Item No. 53 Roll Call No. <u>09-</u> Communication No. <u>09-260</u> Submitted by: Larry Hulse, Community Development Department Director	

AGENDA HEADING:

Appeal of the Historic Preservation Commission action regarding restrictions of fencing at 649 18th Street located in Sherman Hill Local Historic District (Kristin and Edward C. Muelhaupt III, owners).

SYNOPSIS:

Kristen and E.C. Muelhaupt III are appealing the March 18, 2009 decision of the Historic Preservation Commission to conditionally grant a Certificate of Appropriateness (COA) for the retention of a retaining wall reconstructed without a COA at 649 18th Street. The consideration of the retaining wall by the Commission was the result of an enforcement action in response to complaints received by staff. The property owner contends that the wall was restored as nearly as practicable to its condition prior to the damage and therefore a COA was not required.

Staff recommends that the City Council uphold the decision of the Historic Preservation Commission.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

Kristen and E.C. Muelhaupt III are appealing the March 18, 2009 decision of the Historic Preservation Commission to conditionally grant a Certificate of Appropriateness (COA) for the retention of a retaining wall reconstructed without a COA at 649 18th Street. The Commission’s consideration of the retaining wall was the result of an enforcement action taken by staff in response to complaints that had been received from concerned citizens. The property owner contends that the wall was restored as nearly as practicable to its condition prior to the damage and therefore a COA was not required.

The subject property is adjoined to the east by a north/south alley. This alley contains a brick retaining wall along portions of its western perimeter including the subject property. The portion of the retaining wall that adjoins the subject property was damaged during the construction of the applicant’s garage. The applicant was advised that the City Code would allow him to repair the wall without obtaining a Certificate of Appropriateness if the brick was reused, and laid in the same pattern and location as before. Below are the applicable sections of the City Code.

Sec. 58-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Alteration means any action to change, modify, reconstruct, remove or demolish any exterior features of an existing structure. For the purposes of this article, ordinary maintenance and repair to correct any deterioration, decay or damage to a structure and to restore the structure as nearly as practicable to its condition prior to such deterioration, decay or damage are excluded from the definition of the term "alteration," provided such work does not involve a change in type of building materials. For the purposes of this article, changes made in the type and design of storm windows and in the color of the outer surfaces of a structure are considered to be ordinary maintenance and repair.*

Sec. 58-31. Certificate of appropriateness required.

- (a) *No individual or corporation shall undertake the construction of a structure within a historic district or the alteration of any exterior features of a structure within a historic district, nor shall the community development department issue a building permit for any such proposed construction or alteration, unless a certificate of appropriateness has been granted by the historic preservation commission.*

When the wall was reconstructed it was integrated with the concrete retaining wall and foundation system of the garage. Therefore, the portion of the restored wall that runs along the garage consists of both concrete and brick and is not comprised completely of the original building material type.

The portion of the reconstructed wall to the north of the garage consists solely of brick, but was not restored to its prior design. The City Code allows for some variation if there is practical difficulty in reconstructing the original design. Staff believes that the wall could have been constructed without a bow and that the top line of the historic wall could have been maintained across the reconstructed wall.

Staff determined that the property owner must obtain a COA given the introduction of a new building material type for the portion of the wall along the garage and for the lack of evidence that they applicant faced a practical difficulty in matching the historic design for the segment of wall to the north of the garage.

The Commission approved the staff recommendation by a vote of 6-0 and found that the retaining wall would be in harmony with the historic character of the neighborhood and would meet 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 and modifications:

1. Removal of the reconstructed brick wall identified as Section 1 on the photograph attached to the roll call.
2. Removal of the brick veneer from the concrete wall identified as Section 2 on the photograph attached to the roll call.
3. Reconstruction of the brick retaining wall segment identified as Section 3 on the photograph (Attachment "A") attached to the roll call, subject to the following:

- a. The existing historic bricks shall be removed, cleaned and reused.
- b. The wall shall be constructed without a bow.
- c. The line of the top course of bricks shall match the top of the historic wall to the north.
- d. The joint, mortar strike, and brick pattern from the historic brick wall shall be matched row for row.
- e. The brick shall be “toothed” into the historic wall.

The staff report, photographs and meeting summary from the March 18, 2009 Historic Preservation Commission meeting and Mr. and Mrs. Muelhaupt’s appeal are attached.

PREVIOUS COUNCIL ACTION(S):

Date: April 20, 2009

Roll Call Number: 09-638

Action: Set date of hearing on appeal from Edward C. Muelhaupt III on the Certificate of Appropriateness for the reconstruction of a retaining wall at 649-18th Street, in the Sherman Hill Historic District, (5-4-09). Moved by Vlassis to adopt. Motion Carried 7-0

BOARD/COMMISSION ACTION(S):

Date: March 18, 2009

Roll Call Number: N/A.

Action: Historic Preservation Commission voted 6-0 to approve a Certificate of Appropriateness with conditions regarding the retention of a retaining wall reconstructed without a Certificate of Appropriateness.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Enforcement of the Certificate of Appropriateness depending on the action taken by the City Council.

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