

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	February 13, 2012
	Agenda Item No.	56
	Roll Call No.	[_____]
	Communication No.	<u>12-055</u>
	Submitted by:	Phillip Delafield, Community Development Director

AGENDA HEADING:

Public hearing regarding request from Conlin Properties to appeal the decision of the Historic Preservation Commission conditionally approving a Certificate of Appropriateness for the replacement of ten windows in the multiple-family dwelling at 826 18th Street.

- A. Resolution affirming the decision of the Historic Preservation Commission
- B. Alternate resolution reversing the decision of the Historic Preservation Commission

SYNOPSIS:

Conlin Properties is appealing the November 30, 2011 decision of the Historic Preservation Commission to conditionally approve a Certificate of Appropriateness (COA) for the replacement of ten wood windows at 826 18th Street in the Sherman Hill Local Historic District. The applicant believes the conditions of approval are unreasonable as they will require use of a more expensive product than originally proposed. The conditions of approval are consistent with the Architectural Guidelines for Building Rehabilitation in Des Moines’ Historic Districts and are consistent with past actions of the Commission for both investor-owned and owner-occupied properties.

The staff report, photographs and meeting summary from the November 30, 2011 Historic Preservation Commission meeting and the appeal by Conlin Properties are attached. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

Conlin Properties is appealing the November 30, 2011 decision of the Historic Preservation Commission to conditionally grant a Certificate of Appropriateness (COA) for the replacement of ten wood windows at 826 18th Street in the Sherman Hill Local Historic District. The Commission approved the staff recommendation by a vote of 8-0 and found that the replacement of the ten windows would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic Preservation Ordinance, the Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines’ Standard Specifications so long as the replacement windows comply with the following conditions.

1. The windows shall be constructed of wood with no metal cladding.
2. The windows shall be of the same general style, shape and dimensions as the existing windows.
3. Review and approval of the selected window product by staff prior to installation.

Conlin Properties believes that it is unreasonable to require a property owner to incur higher cost in replacing windows by requiring the use of wood windows that generally match the design of the existing wood windows. The appeal indicates that ten wood replacement windows would cost over \$12,000 whereas, the proposed vinyl replacement windows would cost \$6,275. Bid documentation has not been submitted to support these figures. It is also not clear if the \$12,000 figure includes the cost of the five vinyl windows that have already been installed. The appeal suggests that the Commission did not take into consideration the purpose of the Historic Preservation Ordinance as defined by Section 58-26 or the criteria for reviewing applications as established by Section 58-31. The appeal notes that the ten windows are located in a later addition that has little historical significance and that the house has metal siding. Applicable Municipal Code sections are as follows:

Sec. 58-26. Purpose.

It is declared as a matter of public policy that the protection, enhancement and perpetuation of districts of historical and cultural significance is required in the interest of the health, prosperity, safety and welfare of the public. The purpose of this article is to:

- (1) Promote the educational, cultural, economic and general welfare of the public through the protection, enhancement and perpetuation of districts of historical and cultural significance;
- (2) Safeguard the heritage of the city by preserving districts in the city which reflect the elements of its cultural, social, economic, political, historical, aesthetic and architectural significance;
- (3) Stabilize and improve property values and the equity held by the citizens in their property;
- (4) Foster civic beauty and pride and enhance civic design;
- (5) Protect and enhance the city's attraction to tourists and visitors;
- (6) Strengthen the economy of the city;
- (7) Facilitate the rehabilitation and revitalization of certain older neighborhoods; and
- (8) Provide for a variety of living experiences within the city for both old and new residents.

Sec. 58-31. Certificate of appropriateness required.

(c) All applications received before the closing date, to be established by the commission, shall be considered by the commission at its next regularly scheduled meeting. In acting upon each application, the commission shall consider the following:

- (1) Design guidelines, standards and criteria developed by the commission and approved by the city council, pursuant to subsection 58-30(e)(2) of this article.
- (2) Standards for rehabilitation promulgated by the Secretary of the Interior.
- (3) The relationship of proposed changes to exterior features of structures in the neighborhood.

Furthermore, it is the intent of this article that the commission shall be reasonable in its judgments and shall endeavor to approve proposals for alteration of structures of little historical, architectural and cultural value, except when such a proposal would seriously impair the historical values and character of the surrounding area. Also, the commission shall be sympathetic to proposals utilizing energy saving modifications, such as solar panels.

Staff believes the Commission's action followed the purpose and procedures established in the Historic Preservation Ordinance. The Commission was "reasonable in its judgment" and approved the replacement of windows subject to conditions. In requiring the replacement windows be constructed of wood the Commission followed the Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts as approved by the City Council. The guidelines state that "any replacement windows should duplicate the original window in type, size and material." Design guidelines by nature eliminate some design and material options that may be lower in cost.

Maintenance of the subject property impacts the collective value and historic integrity of the district, which impacts all property owners within the district. The Historic Preservation Commission reviews a substantial number of requests that involve window restoration or replacement. The November 2011 staff report noted that over the previous twelve month the Commission had reviewed eight cases similar to this case and in all instances the Commission either required the existing wood windows to be repaired or replaced with wood windows. The eight properties consisted of four multiple-family residential properties and four owner-occupied, single-family dwellings. Copies of the staff reports and COAs for these cases were provided to the applicant's legal representatives.

The appeal notes that the subject building is sided with metal and that the windows are located in a later addition. The windows are located in an addition that was constructed sometime between the 1920 and 1957. The original portion of the building was built 1888 according to the Polk County Assessor's web page. The Commission's action took into consideration the alternations to the property as they found that requiring the existing wood windows to be repaired and retained was not warranted. Cover up siding, such as metal or "depression brick" is not a material or architectural element of significance in the Sherman Hill Historic District. The Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts state "artificial and cover-up siding should be removed and the original siding restored." Removal of the siding was not proposed by the applicant or required by the Commission.

During the Commission meeting, the applicant implied that the windows needed to be replaced in response to findings made by City inspectors. Unit 1 of the subject property was inspected by the Housing Services Department for compliance with Section 8 Program requirements on September 7, 2011. As a result of this inspection the application was advised to repair or replace missing and damaged storm windows, to repair or replace damaged window sills, and to repair windows so that they will remain open without the use of props. The entire building was last inspected by the Neighborhood Inspection Divisions on June 16, 2010. No violations of the Rental Code were found during this inspection. The applicant was issued a rental certificate on June 24, 2010, which is valid until June 27, 2013. Replacement of windows was not required by the Housing Services Department or the Neighborhood Inspection Division. The repair or replacement of storm windows is not subject to review by the Commission as it is defined as ordinary maintenance by the Historic Preservation Ordinance.

Conlin Properties has owned the subject property since 1989. Conlin Properties owns a second property in the Sherman Hill Local Historic District located at 677 16th Street. This property contains "The Harrington" apartment building. In 2006 and in 2007 Conlin Properties submitted applications for review by the Historic Preservation Commission. Work that was approved by the Commission included the replacement of windows.

PREVIOUS COUNCIL ACTION(S):

Date: January 23, 2012

Roll Call Number: [12-0084](#)

Action: **On** setting the date for the appeal by Conlin Properties of decision by the Historic Preservation Commission regarding replacement of windows at 826 18th Street, (2-13-12). **Moved by Hensley to adopt. Motion Carried 7-0.**

BOARD/COMMISSION ACTION(S):

Board: Historic Preservation Commission

Date: November 30, 2011

Resolution Number: 20-2012-5.14

Action: Historic Preservation Commission voted 8-0 to approve a Certificate of Appropriateness with conditions regarding the replacement of 10 windows.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

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

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