

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: September 26, 2016
	Agenda Item No. 68 Roll Call No. <u>16-1675</u> Communication No. <u>16-563</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Public hearing on appeal by James Conlin from the conditions imposed by the Historic Preservation Commission on the issuance of a Certificate of Appropriateness for the replacement of four (4) windows at 826 18th Street.

A. Resolution affirming the decision of the Historic Preservation Commission requiring the use of wood replacement windows.

B. Alternate resolution approving the use of the proposed vinyl windows.

SYNOPSIS:

Mr. James Conlin proposes to replace four (4) windows on the south façade of the building. The Commission’s approval mandated the use of wood windows that have no cladding and that are of the same general style, shape and dimensions as the existing windows as approved by staff. The discussion summary, staff report, map of the Sherman Hill Local Historic District and other exhibits from the July 20, 2016, Historic Preservation Commission meeting, as well as the Certificate of Appropriateness (COA) and the appeal filed by Mr. Conlin are attached to the roll call. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission (Option A).

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

Mr. James Conlin is appealing the July 20, 2016, decision of the Historic Preservation Commission to approve a COA for the replacement of four (4) windows subject to the use of wood windows that have no cladding and that are of the same general style, shape and dimensions as the existing windows as approved by staff. Mr. Conlin proposes the use of vinyl windows.

The subject windows are located at the western end of the south façade of the building. The windows are grouped in sets of two (2), with one (1) set located on the first floor and one (1) set located on the second floor. The first floor windows consist of the third and fourth windows from the west end of the building. The second floor windows consist of the first and second windows from the west end of the building.

The appellant is proposing to install a vinyl window product produced by Vector, which was formerly known as Vinylite. The proposed vinyl windows do not comply with the City's Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts, which state "any replacement windows should duplicate the original window in type, size, and material."

In addition to the local design guidelines, the City Code states the Commission shall utilize standards for rehabilitation promulgated by the Secretary of the Interior. The National Park Service produces documents known as Preservation Briefs. These documents are intended to assist in the interpretation of the Secretary of the Interior's Standards, which provide broad direction.

Preservation Brief #16 (The Use of Substitute Materials on Historic Building Exteriors) provides guidance on the use of substitute materials. Utilizing this information, the Commission reviews substitute materials to ensure that they are comparable in composition, design, dimensions, durability, color, texture and visual properties as the historic material. The following chart compares the proposed vinyl window against a typical wood window.

	Proposed Vinyl Windows
Composition	Vinyl does not have the same composition as wood.
Design	They are double-hung style but their dimensions, color and visual properties do not match. These variations are visually noticeable.
Dimensions	The dimensions of the frame components are not the same. There is minimal depth between the framing and the glass.
Durability	In general, modern replacement windows constructed of vinyl or wood are not as durable as historic windows constructed of old growth lumber.
Color	The vinyl windows have a glossy white appearance typical of a vinyl product, which does not match the appearance of a typical painted wood window.
Texture	Vinyl has a different textural quality than wood when touched or visually inspected.
Visual Properties	The variations in visual properties of the proposed product are noticeably different from those of a wood window due to the differences in dimensions and design.

The proposed vinyl product does not substantially match the composition, design, dimensions, color, texture and visual properties of a wood window.

The appeal references the following language from Page 5 of Preservation Brief #8 (Aluminum and Vinyl Siding on Historic Buildings: The Appropriateness of Substitute Materials for Resurfacing Historic Wood Frame Buildings):

For historic residential buildings, aluminum or vinyl siding may be an acceptable alternative only if (1) the existing siding is so deteriorated or damaged that it cannot be repaired; (2) the substitute material can be installed without irreversibly damaging or obscuring the architectural features and trim of the building; and (3) the substitute material can match the historic material in size, profile and finish so that there is no change in the character of the historic building. In cases where a non-historic artificial siding has been applied to a building, the removal of such a siding, and the application of aluminum or vinyl siding would, in most cases, be an acceptable alternative, as long as the above-mentioned first two (2) conditions are met.

The appellant contends that this language supports their request to use vinyl windows. The appellant chose not to quote the following language from Page 1 of Preservation Brief #8:

Standard 6 of the Secretary of the Interior's "Standards for Rehabilitation" states that "deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities." Therefore, **the Secretary's Standards and their accompanying Guidelines never recommend resurfacing frame buildings with any new material that does not duplicate the historic material** because of the strong potential of altering the character of the historic building.

The appellant chose not to quote the following language from Page 2 of Preservation Brief #8:

The preferred treatment is always replacement in kind, that is, with the same material. Because this approach is not always feasible, provision is made under the recommended treatment options in the Guidelines that accompany the Secretary of the Interior's Standards to consider the use of a compatible substitute material. A substitute material should only be considered, however, if the form, detailing, and overall appearance of the substitute material conveys the visual appearance of the historic material, and the application of the substitute material does not damage, destroy or obscure historic features.

Preservation Brief #8 does not offer blanket support for the use of vinyl products. It is specific to siding. In addition, it states that using material that duplicates the historic material is always the preferred option. Furthermore, it indicates that if vinyl siding is to be used that it should match the historic material in size, profile and finish. It is staff's opinion that the proposed vinyl windows do not meet this criteria; in addition, they do not meet the criteria discussed in Preservation Brief #16 as previously noted.

The appeal includes 29 labeled exhibits. The following is a list of the exhibits and analysis as necessary.

Exhibit A contains photographs of the four (4) windows proposed to be replaced at the west end of the south façade of the building.

Exhibit B consists of a picture of the front (east) façade of the building and a picture of the eastern end of the south façade. Both pictures show existing wood windows and vinyl windows that were installed without a Certificate of Appropriateness and have not been replaced to comply with the conditions of approval for COA 20-2012-5.14.

Exhibit C consists of copies of the 1901, 1920 and 1957 Sanborn Fire Insurance Maps, which identify building footprints and related information.

Exhibit D is a manufactures flyer for the proposed window product.

Exhibit E are test reports prepared by Architectural Testing of Vinylite Window products indicating that they meet industry standards.

Exhibit F is a statement from Bob Lane, Moehl Millwork, Inc on the Design Pressure rating, U Value and R Value of the proposed vinyl window and an unspecified Marvin window.

The COA application states that “Exhibits E and F provide supporting information for the energy efficiency of the Vector windows”. The application goes on to reference the portion of Section 58-31(c) of the City Code that states “the commission shall be sympathetic to proposals utilizing energy saving modifications.”

There are many window products and means to achieve energy efficiency within a building. The proposed window product is not the sole option to achieve energy efficiency. Section 58-31(c) also requires the Commission to consider the City’s Architectural Guidelines for Building Rehabilitation in Des Moines’ Local Historic Districts, standards promulgated by the Secretary of the Interior, and the relationship of the proposed changes to exterior features of structures in the neighborhood.

Exhibit G is a letter from Gene Nelson, Nelsen Appraisal Associates, Inc., expressing his opinion on the impacts of installing vinyl windows in the subject building. This letter was provided to the Historic Preservation Commission and the City Council during the consideration of COA 20-2012-5.14 in 2012.

The COA application includes the following statement:

There is no evidence that the installation of vinyl windows in the non-original, steel-sided portion of this property would “seriously impair” the surrounding area. In fact, the prior installed vinyl windows in the property have had no impact on the historical values and character of the surrounding area. See Exhibit G – Opinion Letter of Nelson Appraisal Associates, Inc.

Although the historic significance of a property can have a direct relationship with its appraised value, they are not the same thing. Mr. Nelson’s letter does not address the issue of whether the proposed windows comply with the guidelines, as he states the following in his letter:

It is not our intent to comment whether the windows are conforming or not. Rather, you have asked that we provide an opinion as to whether the installation of vinyl windows at this property would have an effect on value of the surrounding properties.

Exhibit H consists of two (2) photographs of the house at 755 20th Street.

Exhibit I consists of two (2) photographs of the apartment building at 717 17th Street.

Exhibit J consists of four (4) photographs of the apartment complex at 707 18th Street.

Exhibit K consists of a photograph of the house at 840 17th Street.

Exhibit L consists of two (2) photographs of the house at 1939 Leyner Street. (This property is not located within the Sherman Hill Local Historic District.)

Exhibit M consists of a photograph of the house at 919 18th Street.

Exhibit N consists of five (5) photographs of the house at 920 18th Street. It appears that the fifth picture is of a different property as the architectural details do not match the house at 920 18th Street.

Exhibit O consists of two (2) photographs of the house at 736 20th Street.

Exhibit P consists of three (3) photographs of the house at 840 18th Street.

Exhibit Q consists of two (2) photographs of the garage at 714 20th Street.

Exhibit R consists of three (3) photographs of the apartment building at 718 18th Street.

Exhibit S consists of two (2) photographs of the house at 846 19th Street.

Exhibit T consists of a photograph of the condominium building at 824 18th Street.

Exhibit U consists of eight (8) photographs of the house and attached accessory structure at 1718 Crocker Street.

Exhibit V consists of four (4) photographs of the apartment building at 611 16th Street, the print out of the Polk County Assessor webpage information for the property and a copy of information regarding the property found on www.wikipedia.org as printed on May 19, 2016. (This property is not located within the Sherman Hill Local Historic District.)

Exhibits H through V consist of examples of buildings with one or more windows that the appellant believes are not constructed of wood. The properties at 1939 Leyner Street (Exhibit L) and 611 16th Street (Exhibit V) are not located within the boundaries of the Sherman Hill Local Historic District. Some of the windows shown at the other properties may predate the establishment of the district or may be storm windows, which are not regulated by the Historic Preservation Ordinance.

The Commission is charged with reviewing applications for Certificates of Appropriateness as they are brought forward. Enforcement of Article II of Chapter 58 of the City Code (Historic Preservation Ordinance) is coordinated by City staff in accordance with Section 58-34 of the City Code. The success of enforcement is affected by multiple issues that do not involve the Commission, including the strength and type of evidence of non-compliance and the City resources available in both the Community Development Department and the Legal Department to pursue owners who chose not to comply with City Code.

Exhibit W consists of two (2) photographs of the apartment building at 1913 Pleasant Street, a copy of COA 20-2003-5.53 that was issued on September 17, 2003 to allow the installation of vinyl clad double-hung windows along with other work and copies of the content of the associated application file.

Exhibit X consists of three (3) photographs of the apartment building at 1917 Pleasant Street, a copy of COA 20-2003-5.52 that was issued on September 17, 2003 to allow the installation of vinyl clad double-hung windows along with other work and copies of the content of the associated application file.

Exhibit Y consists of two (2) photographs of the apartment building at 713 20th Street, a copy of COA 20-2003-5.54 that was issued on September 17, 2003 to allow the installation of vinyl clad double-hung windows along with other work and copies of the content of the associated application file.

The properties at 1913 Pleasant Street, 1917 Pleasant Street and 713 20th Street are owned in common currently and were owned in common by a previous owner in 2003. The files for these cases do not provide a rationale for why the use of vinyl clad windows was approved. It is staff's opinion that the vinyl windows that were installed do not appear to comply with the City's Architectural Guidelines for Building Rehabilitation in Des Moines' Local Historic Districts or the Secretary of the Interior's Standard for Rehabilitation.

Exhibit Z consists of three (3) photographs of the duplex building at 649 20th Street, a copy of COA 20-2005-5.11A that was issued on May 12, 2005 to allow replacement of 9 out of 40 windows with wood framed, vinyl casement windows and copies of the content of the associated application file.

In accordance with Section 58-32 of the Code, a list of alterations have been identified that staff can approve with an administratively issued Certificate of Appropriateness. Included on this list is the replacement of no more than 25% of the existing windows. COA 20-2005-5.11A was approved by staff on May 12, 2005. The file for this case does not provide a rationale for why the use of vinyl clad windows was approved.

It is staff's opinion that these vinyl windows do not comply with the City's Architectural Guidelines for Building Rehabilitation in Des Moines' Local Historic Districts or the Secretary of the Interior's Standard for Rehabilitation. This COA appears to have been issued in error.

Exhibit AA consists of pictures of the buildings located at 828 17th Street, 834 16th Street, 841 16th Street, 839 16th Street, 1605 Woodland Avenue, 845 17th Street and 847 17th Street that the appellant contends are negatively impacting property values in the Sherman Hill Historic District.

The Historic Preservation Ordinance is not a property maintenance code. It provides a design review process for alterations as they are proposed by property owners. This exhibit is not relevant to the request under consideration.

Exhibit BB consists of pictures taken by staff of the subject property.

Exhibit CC is a report from Koester Construction discussing their observations of the existing windows proposed to be replaced.

Exhibit DD is a copy of the staff report to the Historic Preservation Commission.

Exhibit EE is a copy of the location map prepared by staff for the Historic Preservation Commission.

Staff believes that the Commission's decision was consistent with the Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission as their decision was not arbitrary or capricious.

PREVIOUS COUNCIL ACTION(S):

Date: September 12, 2016

Roll Call Number: [16-1520](#)

Action: On appeal by James Conlin from decision of the Historic District Preservation Commission granting subject to conditions his application for a Certificate of Appropriateness to install replacement windows at 826 18th Street in the Sherman Hill Historic Neighborhood District, (9-26-16). Moved by Gatto to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Historic Preservation Commission

Date: July 20, 2016

Resolution Number: COA 20-2017-5.01

Action: Historic Preservation Commission voted 9-0 to approve a Certificate of Appropriateness with conditions regarding the replacement of four (4) windows.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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