

Date February 13, 2012

RESOLUTION AFFIRMING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO CONDITIONALLY APPROVE A CERTIFICATE OF APPROPRIATENESS FOR THE REPLACEMENT OF TEN WINDOWS IN THE MULTIPLE-FAMILY DWELLING AT 826 18TH STREET

WHEREAS, on November 30, 2011, the Historic Preservation Commission conditionally approved an application from Conlin Properties for a Certificate of Appropriateness for the replacement of ten first floor windows in the multiple-family dwelling at 826 18th Street, subject to 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.

WHEREAS, pursuant to §58-31(f) of the Des Moines Municipal Code, Conlin Properties has appealed the conditions imposed by the Historic Preservation Commission and seeks to be allowed to use vinyl windows of the type that have already been installed in 5 of the windows to be replaced; and

WHEREAS, on January 23, 2012, by Roll Call No. 12-0084, it was duly resolved by the City Council that the appeal be set down for hearing on February 13, 2012, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on January 26, 2012, and a copy of the notice was provided to the attorney for Conlin Properties; and,

WHEREAS, in accordance with the said notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code provide that on an appeal such as this, the City Council shall consider whether the Historic Preservation Commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the Commission's decision was patently arbitrary or capricious; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the decision of the Historic Preservation Commission approving a Certificate of Appropriateness for the replacement of ten windows in the

(continued)



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Date February 13, 2012

multiple-family dwelling at 826 18th Street is not arbitrary or capricious and should be upheld.

- 3. The City Council hereby finds that the decision of the Historic Preservation Commission to require the replacement windows to satisfy the three conditions identified above was NOT patently arbitrary or capricious for the following reasons:
 - a) 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.
 - b) 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.
 - c) Although the City has ordered the repair or replacement of portions of the windows in question, that order did not excuse the applicant from repairing or replacing the windows in a manner that conforms with the requirements of Article II - Historic Districts, in Chapter 58 - Historical Preservation, in the City Code and the guidelines identified above.

(Council Communication No. 12- 055)

MOVED by _____ to adopt, and affirm the decision of the Historic Preservation Commission.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED	APPROVED			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

S8 INSPECTION SUMMARY REPORT

Des Moines Municipal Housing Agency
100 E. Euclid - Suite 101 - Des Moines, IA 50313

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826 18TH ST APT 1
DES MOINES IA 50314-1157

Inspection Number: 49975
Inspection Date: September 07, 2011
Inspector: David Bettis

Unit ID: 1009725
Inspection Type: ANNUAL
Overall Status: 1ST FAIL

ANY DEFICIENCY LISTED BELOW THAT IS NOT MARKED "PASS" IN THE ITEM STATUS COLUMN MUST PASS RE-INSPECTION WITHIN 28 DAYS OF THE ORIGINAL INSPECTION.

<u>ROOM</u>	<u>FLOOR</u>	<u>LOCATION</u>	<u>DEFICIENCY</u>	<u>ITEM STATUS</u>	<u>RESPONSIBLE PARTY</u>	<u>COMMENTS</u>
Bedroom <i>Bob</i>	1	Left Rear	WINDOW CONDITION	1ST FAIL	OWNER	REPAIR/REPLACE MISSING, DAMAGED, BROKEN STORM WINDOWS AND FRAMES
Bathroom <i>Don</i>	1	Center Center	CEILING CONDITION	1ST FAIL	OWNER	REPLACE WATER DAMAGED AND OR DAMAGED TILES
Bathroom <i>Don</i>	1	Center Center	FLUSH TOILET IN ENCLOSED ROOM IN UNIT	1ST FAIL	OWNER	SECURE TOILET SEAT
Bathroom <i>Don</i>	1	Center Center	SECURITY	1ST FAIL	OWNER	REPAIR/REPLACE/ADJUST DOOR TO OPERATE AS DESIGNED
Building Exterior <i>Bob</i>	1	Center Rear	CONDITION OF EXTERIOR SURFACES	1ST FAIL	OWNER	REPAIR/REPLACE ROTTED WINDOW SILLS ON THE EXTERIOR OF THE BEDROOM WINDOWS
Living Room <i>Bob</i>	1	Center Front	WINDOW CONDITION	1ST FAIL	OWNER	REPAIR WINDOW(S) TO REMIAN OPEN WITHOUT USE OF PROPS
Living Room <i>Don</i>	1	Center Front	SECURITY	1ST FAIL	OWNER	REPAIR/REPLACE ENTRY DOOR OF APARTMENT TO LATCH AS DESIGNED



BrownWinick
ATTORNEYS AT LAW®

Brown, Winick, Graves, Gross,
Baskerville and Schoenebaum, P.L.C.

666 Grand Avenue, Suite 2000
Ruan Center, Des Moines, IA 50309-2510

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December 16, 2011

direct phone: 515-242-2410

direct fax: 515-323-8510

email: gross@brownwinick.com

Via Hand Delivery

Honorable Frank Cownie
Des Moines City Council Members
City Hall
400 East 1st Street
Des Moines, IA 50309

**Re: Appeal from December 5, 2011 Historic Preservation Commission Filing
Certificate of Appropriateness; Case Number 20-2012-5.14**

Dear Mayor Cownie & Des Moines City Council Members:

BrownWinick represents the interests of Conlin Properties with regard to the property located at 826 18th Street, Des Moines, Iowa (hereinafter the "Home"). Conlin Properties hereby formally appeals the December 5, 2011 decision ("Decision") of the Historic Preservation Commission ("Commission") that unreasonably requires Conlin Properties to incur twice the cost for replacing non-original windows in the steel-sided Home. A copy of the Commission's Decision is attached as Exhibit 1.

BACKGROUND FACTS

This appeal arises from the City of Des Moines issuing a notice requiring Conlin Properties to replace certain windows in the Home and the Commission's subsequent Decision that doubles the cost of complying with the City's requirement. The subject windows are indisputably non-original and decaying windows that are located in a newer addition to the steel-sided Home. After receiving notice from the City of Des Moines that the non-original windows needed replacement, Conlin Properties arranged for and began investing over \$6,000.00 in the Home and neighborhood to replace the single-paned, single-locked, non-original windows with double-paned, double-locked, energy-efficient windows to create a safe, secure, and energy efficient Home. After replacing five (5) of the ten (10) non-original windows, the Department of Building posted a "Stop Work" Order citing the "Historic District Guidelines," at which point Conlin Properties immediately ceased replacing the windows. Conlin Properties was unaware of the requirement to apply for a certificate of appropriateness.

Conlin Properties promptly filed an application for a certificate of appropriateness ("Application"). The Application seeks to replace 10 of 54 windows in the Home and explains the replacement windows are thermal-pane windows. On November 30, 2011, the Commission

Mayor Cownie & Des Moines City Council Members
December 16, 2011
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reviewed Conlin Properties' Application and heard argument on the issues. Thereafter, on or about December 5, 2011, the Commission filed its Decision granting the Application subject to three 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; and (3) Review and approval of the selected windows product by staff prior to installation. *See* Exhibit 1.

On appeal, the City Council is required to consider several criteria. For example, "the city council shall consider whether the commission has exercised its powers and followed the guidelines established by law and ordinance..." Des Moines Municipal Code § 58-31. Further, "the city council shall consider ... whether the commission's action was patently arbitrary or capricious." *Id.* The Commission's Decision requiring wood windows fails to satisfy these important requirements and the condition should be waived.

THE COMMISSION'S DECISION WAS IMPROPER

The non-original and decaying windows, located in a newer addition of the steel-sided Home, do not have any historical, architectural or cultural value. Indeed, during the November 30, 2011 staff presentation, Mr. Jason Van Essen, a Senior City Planner with the City of Des Moines, explained that the Home has been "substantially altered" from its original configuration and that the subject windows are not the original windows. Mr. Van Essen further explained that the small portion of the steel-sided Home at issue was constructed around 1957 - long after the 1880s Victorian period that the Historic District was formed to preserve. Staff's admissions that the steel-sided Home was "substantially altered" and reconstructed around 1957 - nearly eighty (80) years *after* the 1880s era that the District seeks to preserve - and that the windows are not original confirms the lack of historical, architectural and cultural value. Tellingly, the Commission's Decision is void of any finding that the subject windows hold any such value. When a proposal, such as Conlin Properties' proposal, seeks alteration of items having "little" historical, architectural, or cultural value the Commission must endeavor to approve the proposal, which the Commission did not do here.

The Des Moines Municipal Code governs Historic Districts and states the purpose is to serve "Public Policy" concerns. Des Moines Municipal Code § 58-26. To this end, the Municipal Code requires the Commission to "be reasonable in its judgments" and "endeavor to approve proposals for alteration of structures of little historical, architectural and cultural value." *Id.* § 58-31(c). Here, instead of being reasonable and endeavoring to approve a proposal to replace non-original windows with no historical, architectural or cultural value, the Commission arbitrarily, capriciously, and unreasonably rejected the proposal and imposed a cost-prohibitive condition: requiring the windows to be constructed of wood with no metal cladding.

On November 30, 2011, Conlin Properties explained to the Commission that imposing the condition would be unreasonable and undermine the public policy of the Municipal Code. As

Mayor Cownie & Des Moines City Council Members
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explained to the Commission, replacing the non-original windows on this steel-sided Home with wood windows would cost over \$12,000.00 - nearly twice the \$6,275.74 cost of the double-paned, double-locked, energy-efficient windows that Conlin Properties seeks to install. Conlin Properties explained to the Commission that in these tough economic times where home prices are plummeting and the City of Des Moines itself is striving to reduce costs, it is patently unreasonable and violates all public policy concerns to mandate Homeowners incur double the cost for repairs and maintenance. This is especially true when the proposed windows are safer, more secure, and more energy efficient than the current windows and where, as here, the windows being replaced are not original and have no historic value whatsoever.

The Commission arbitrarily and capriciously ignored Conlin Properties' arguments regarding the excessive cost of using wood windows. In fact, during the November 30, 2011 meeting, the Commission made it abundantly clear that it does not consider cost: "We don't care how much [the windows] cost, its not our problem." The Commission's admitted position of turning a blind eye to cost, a fundamental element of any maintenance or repair, is not only unreasonable but it is arbitrary and capricious. The City Council should reconsider the Commission's unreasonable Decision and waive the condition requiring use of wood.

The foregoing is just one of the many items that the Commission failed to consider when it arbitrarily and capriciously imposed the condition of requiring wood windows. In addition to ignoring cost, the Commission also unreasonably ignored Conlin Properties' arguments regarding energy efficiency, safety, and city-approved guidelines that permit the use of vinyl in Sherman Hill. Conlin Properties will further explain these issues to the City Council when this Appeal is heard.

In short, the intent and purpose of replacing the non-original windows on the steel-sided Home is to provide a safer, more secure, and energy efficient living environment – fundamental ideals that undoubtedly promote public policy and should not be ignored. Granting Conlin Properties' Application, as submitted, serves the public policy concerns that the Municipal Code was adopted to advance. Conlin Properties respectfully requests that the City Council waive the requirement of using wood windows and permit the installation of windows as requested within Conlin Properties' Application.

Very truly yours,



Douglas E. Gross

Enclosure
cc: Conlin Properties

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HISTORIC PRESERVATION COMMISSION
CITY OF DES MOINES
CERTIFICATE OF APPROPRIATENESS
In the Following Matter

This Certificate of Appropriateness is valid for one year from the meeting date

REQUEST FROM:	:	CASE NUMBER: 20-2012-5.14
	:	
CONLIN PROPERTIES	:	
	:	
PROPERTY LOCATION:	:	MEETING DATE: NOVEMBER 30, 2011
	:	
826 18TH STREET	:	

This Decision of the Historic Preservation Commission does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

SUBJECT OF THE REQUEST:

Replacement of 10 first floor windows.

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to the conditions below 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.

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.



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Conlin Properties
826 18th Street
20-2012-5.14

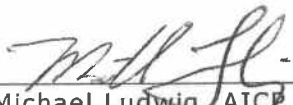
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November 30, 2011

VOTE: A vote of 8-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Griffin	X			
Holderness	X			
Estes				X
Fenton	X			
Marchand	X			
Shaw	X			
Taenzer	X			
Weidmaier	X			

Approved as to form:



 Michael Ludwig, AICP
 Planning Administrator



 Phil Delafield
 Community Development Director

Date Filed: 12/5/11

Filed By: JV

CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, November 30, 2011

AGENDA ITEMS #3 20-2012-5.14

Applicant: Conlin Properties (owner).
Location: 826 18th Street (Sherman Hill Historic District).
Requested Action: Replacement of 10 first floor windows.

I. GENERAL INFORMATION

- 1. **Site Description:** The subject property measures 60 feet by 125 feet and contains a 2½-story building built circa 1888. The building was originally constructed as a single-family dwelling but has been converted to a 7-unit apartment building.
- 2. **Sanborn Map:** The 1901 and 1920 maps identify the building as a single-family dwelling. The footprints shown on these maps are different than the current footprint. The 1901 map show a front porch limited to around the front door area. The 1920 map shows that the building had a full front porch. The 1957 map shows the current footprint of the building and indicates apartment use.
- 3. **Relevant COA History:** None.

II. APPLICABLE DESIGN GUIDELINES

- 1. **Architectural Guidelines for Building Rehabilitation (windows):**
 - a. Existing windows should be retained, reconditioned and well maintained to be energy sound.
 - b. Any replacement windows should duplicate the original window in type, size, and material. The shape of the original window subdivisions should not be changed. New muntin bars and mullions should duplicate the original in size and profile shape
 - c. Windows with true divided lights should be used in places where this type of window was used originally. Snap in muntin bars should not be used.
 - d. The original size of all door and window openings should be restored and replacement windows should match the shape of the original openings.
 - e. Existing door and window openings should not be blocked down to accommodate stock sizes.
 - f. Air conditioners should not be put in the windows of any primary façade.
 - g. When original doors or windows of some merit are removed and replaced with new, they should be kept in dry storage for a future owner who may be interested in a complete restoration.

The applicant is proposing to replace 10 first floor apartment windows including the 6 southernmost windows on the front facade and the 4 easternmost windows on the south facade. Five of these windows were replaced with a vinyl window product before a stop work order was issued. The applicant wishes to retain these windows and to replace the remaining windows with the same vinyl product.

The Sanborn Fire Insurances Maps indicate that much of the current front façade consists of additions that were constructed between 1920 and 1957. The subject windows are located in an area that appears to be an addition. The 1920 map shows this general portion of the building as an open porch. The windows may have been relocated from the original exterior walls or they may have been brought to the property when the additions were constructed.

On Monday, November 21, 2011, a tour was held for those Commissioners that were able to attend. The remaining 5 windows are in varying condition but most appear to be repairable. However, staff believes that the level of repair necessary is not reasonable given the modifications that have occurred to the building. The windows are located in an addition and some, if not all of the windows are not original to the property.

The proposed vinyl windows do not comply with the design guidelines, specifically guideline "b" listed above, which states replacement windows should duplicate the original windows in type, size, and material. The Commission has consistently required the use of wood windows when replacement has been approved including the applicant's property at 677 16th Street in 2006. During the past 12 months the Commission has reviewed 8 cases similar to this request and required the applicant to repair the windows and/or replace them with wood windows. Staff recommends approval of replacing the 10 windows subject to the windows being constructed of wood with no cladding.

III. STAFF RECOMMENDATION

Staff recommends approval subject to 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.

CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: November 30, 2012
TIME: 5:30 P.M.
PLACE: City Council Chambers
City Hall, 400 Robert D. Ray Drive

COMMISSIONERS PRESENT: Susan Holderness (Chair), York Taenzer (Vice Chair), Patricia "Pat" Barry, Robert "Bob" Griffin, Scotney Fenton, Denny Marchand, Shirley Shaw and Teresa Weidmaier.

COMMISSIONERS ABSENT: Elaine Estes.

STAFF PRESENT: Jason Van Essen, Senior City Planner.

DISCUSSION SUMMARY OF AGENDA ITEM #3

Request from Conlin Properties (owner) to allow the replacement of 10 first floor windows at 826 18th Street in the Sherman Hill Local District. (20-2012-5.14)

Chair Susan Holderness: Read the agenda description for item #3.

Jason Van Essen: Presented photographs of the subject property, the windows under review and a 1910 era picture of the property. Showed the 1901, 1920 and 1957 Sanborn Fire Insurance Maps and noted the changes in the buildings footprint over the years and the change in appearance from the 1910 photograph. Showed interior photographs of the windows from the November 21, 2011 tour of the property including the five replacement windows that were previously installed. Noted that it is normal procedure for staff to arrange a tour of a property prior to the Commission meeting when windows are proposed to be replaced. This is because it is hard to determine their condition from a photograph, you really need to see them first hand. Asked the Commissioners that attended the tour to share their observations during the Commission's discussion. Showed the replacement window spec sheet submitted by the applicant.

Stated that in developing the staff recommendation we took into account the modifications that have occurred to the building over the years. Noted that the Commission has reviewed many window replacement request including eight cases of the past twelve months as noted in the written staff report. The design guidelines for building rehabilitation indicated that the Commission must first determine if replacement is an unnecessary alternative to repair. The first goal of historic preservation is to maintain existing fabric. If it is determined that something is beyond a reasonable level of repair then the next step is to determine what type of replacement material is appropriate. The design guidelines state that any replacement window should duplicate the original window in type, size and material. Stated that staff recommends approval subject to 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.

Noted that this recommendation is consistent with the Commission's previous actions. Emphasized the importance of treating all applications the same while understanding there are some differences between cases such as condition and previous alterations.

Chair Holderness: Ask the Commissioners that attended the tour to share their observations.

York Taenzer: Indicated he toured the property. Stated that the southern windows are old but do not appear to be original to the house. Thought that the windows that are most likely original construction are the northern windows that face east onto the porch. Stated that in most cases windows can be reconditioned. Indicated he is mostly concern with original material to the house and not as concerned with the other windows.

Scotney Fenton: Indicated he toured the property. Stated that the windows looked to be in fair condition. However, he was not sure they were worth the effort it would take to get them in full working order. Felt that replacement with wood windows was reasonable.

York Taenzer: Asked Mr. Fenton if he thought the windows that face the porch are original.

Scotney Fenton: Stated he did not recall them from the tour.

Denny Marchand: Asked staff to show the photographs of windows that face the porch. Indicated that he attended the tour. Stated he was not sure if the windows that face the porch are original as they do not match the detailing of the front door and the window to the north of the door, which clearly are original. Expressed support for replacement with wood windows.

Teresa Weidmaier: Indicated she toured the property and stated that she did not believe that the subject windows are original to the house.

Chair Holderness: Ask for the applicant to come forward.

Matthew McKinney (*BrownWinick P.L.C., 666 Grand Avenue, Suite 2000, Des Moines*): Indicated that he was representing the applicant. Stated that there is no dispute that the windows under discussion are not original to the building as supported by the fire insurance maps from 1901, 1920 and 1957. Stated the period of historical significance for Sherman Hill is from 1880's to 1900's. This portion of the building was built closer to 1957 and not during the same timeframe as the original portion of the house.

Indicated that they were informed by the City of Des Moines that the windows needed to be replaced. Stated that the existing windows are not in good condition, energy efficient or safe. Stated that Conlin Properties is ready to invest \$6,000 in new windows to improve the home and the neighborhood, as well as to improve the apartment for Harry, the tenant. Noted that Harry was in attendance and believes that the widows need to be replaced. Stated that Harry was excited by the thought of new windows that would keep the cold air out and the warm air in. Stated that the Commission's decision would greatly affect the lives of the people that live there.

Stated that Conlin Properties sought to put in new windows that are energy efficient, structurally sound and that have two locks to provide a safe living environment. Indicated that is the goal and that this should not be lost in the Commission's determination whether or not to approve this application.

Stated that the Municipal Code, specifically the Historic Preservation Ordinance specifies a particular purpose for these requirements and that purpose is to serve public policy concerns of healthy, prosperity, safety and welfare of the public. The application that is before the Commission tonight serves each one of those public policy concerns. For example health and prosperity, we are talking about adding insulated windows, adding double locks instead of single locks, double-pane instead of single-pane windows that are more structurally sound than the existing wood windows. By granting the application as proposed we are serving the purpose of the Code. Conversely, by not granting the application we are going to allow single-pane windows to stay that do not promote energy efficiency or safety and are not structurally sound. We have our carpenters with us tonight that can speak to the decayed state of the existing wood windows.

More importantly, the Municipal Code states that it is the intent of the Code that the Commission shall be reasonable in its judgment and shall endeavor to approve proposals for alterations to structures of little historic value. In this case, these particular windows have little historic value. They are not part of the original home that was built in the late 1800's. They are not part of something that was built in the 1920's. To the best of our knowledge these windows were built in the 1950's. This home has steel siding. There is no historical significance to these particular windows.

Stated that he understood Mr. Marchand thoughts on the window near the staircase by the front door and its intricate details and noted that they are not proposing to alter it. To the best of our knowledge the windows that are under consideration were install in the 1950's and have little to no historical value.

Indicated that the Municipal Code further states that the Commission should be sympathetic to proposals utilizing energy savings modifications. This proposal is an energy saving modification. Stated that the Municipal Code identifies solar panels as an energy savings modification. Noted that they are not proposing something as drastic as solar panels. They are just proposing white windows that fit in with the neighborhood. Referenced the house from the case the Commission heard previously and noted that it had white windows.

Stated that staff's recommendation to replace the windows with wood windows is not realistic in today's world. Referenced his previous comment that Conlin Properties was ready to invest \$6,000 to improve the property and the lives of the people that live there. Indicated that they got a bid for wood replacement windows and found that it was going to cost over \$12,000. Stated that in today's world where home prices are plummeting, it is unreasonable and against public policy to require somebody to incur twice the cost for a repair.

Stated that he was sure the Commission was aware of the tough time in which we all live. Referenced an article from the Des Moines Register business section that indicated about 20% of homes are underwater financially. Indicated that the property next to the applicant's is for sale and that they are having trouble selling it. Noted that despite this Conlin Properties is trying to increase the value of their property while being told that they may have to incur twice the cost to do so. Stated this is not reasonable and does not serve public policy as established by the Municipal Code.

Requested that the Commission follow the stated intent of the Municipal Code, which is to be reasonable, to approve alterations to structures with little historical value, and to be sympathetic to energy savings modifications. Asked the Commission if they had any questions.

Chair Holderness: Asked why Conlin Properties put the five windows in without seeking a Certificate of Appropriateness first since they know this property is in a local historic district.

Matthew McKinney: Stated it was an inadvertent error and as soon as it was realized the work was stopped. Indicated that they had received notice that the windows needed to be replaced from the City of Des Moines.

Chair Holderness: Stated that windows are an integral part of a historic home.

Matthew McKinney: Stated that he did not dispute that windows can be part of a historic home's character. In this case, the portion of the home that the windows are located in is from after the era of significance for the area. Noted that the Architectural Guidelines for Building Rehabilitation indicate that combination aluminum, steel, or vinyl storms and screens may be used as a substitute for wood.

Denny Marchand: Stated that storm windows are an item that can easily be removed and are not considered permanent. For that reasoning it is not as important what they are made out of as long as the window underneath them is appropriate.

Teresa Weidmaier: Stated she saw the replacement vinyl windows first hand on the tour. Noted that at the time of the tour the sun had set and it was very dark in the neighborhood. Stated that as she drove to the property the glare off of the vinyl window framing was bright enough that she could see them from down the street. Expressed her belief that they do not fit the character of the structure. Stated the fact that they are white does not have anything to do with their appropriateness. Color is not something the Commission is charged with reviewing and neither is cost. The Commission is charged with looking at materials and preserving the historic integrity of buildings. Even though these particular windows may have been altered at some point between 1920 and 1957 they are the face of the building and impact the integrity of the neighborhood. That is why materials and design are important even if the existing windows are from the 1950's. The Commission has consistently not approved vinyl windows in Sherman Hill.

Matthew McKinney: Asked if the Commission completely ignores cost, because the Code requires the Commission to be reasonable. Questioned if it was reasonable to ignore the cost when the building owner has been told they have to replace the windows and the cost as proposed is double.

Teresa Weidmaier: Indicated her opinion that allowing replacement wood windows versus requiring the existing windows to be refurbished was being reasonable.

York Taenzer: Stated that repairing the existing windows would cost less than the price quoted to install wood windows. Stated the quoted bid for wood windows seems higher than typical. Stated he knows of carpenters that do window restoration work.

Matthew McKinney: Stated that if there are questions in terms of construction, we have our contractor here that can try to answer any questions you may have regarding the integrity of the existing windows or of their quote for wood replacement windows.

Teresa Weidmaier: Suggested that the Commission understands the integrity and condition of the existing windows. Noted that the Commission's membership includes a license architect, a contractor, a member with a masters degree in historic preservation and members with extensive personal renovation experience.

Chair Holderness: Asked if there were any other questions for the applicant.

Denny Marchand: Stated that he did not want the applicant to walk away thinking that the Commission is not sympathetic to the situation. Indicated that he has rehabbed a lot of old buildings and gone through the City's process many times. He noted that there are things you have to keep in mind when doing a project of like this. Noted that Mr. McKinney has referenced the Municipal Code multiple times. Stated the City's Building Code allows you to replace windows with windows of like kind and size without a permit. The window opening cannot be altered without a permit.

Stated that in the case of the set of three windows that have already been replaced, it appears that they are a single unit. That group of windows use to consist of three individual windows. There appears to be multiple things that were not followed in the installation of these windows. We do not want to be in the situation where we have to ask you to replace windows that you have already replaced. If the application would have come before the Commission before the five windows were installed the vinyl windows would not have been approved and we would not be in this position. Noted that the picture of the building that shows the previous three windows shows that they were three individual windows. Now they are a single unit. The trim that was around those three windows is now gone and now there are vinyl windows and vinyl trim.

Shirley Shaw: Stated that the Commission follows the design guidelines that have been approved for them to use to the extent possible. Expressed sympathy for the predicament that some of the windows have already been installed and may have to be replaced. Noted that cost is not the Commission's concern.

Chair Holderness: Clarified that cost is not in our purview as described by Teresa previously. Asked if there was anyone in the public that wished to speak on the item.

Harry Flipping (826 18th Street, Apt. 1, Des Moines): Indicated that he lives in the unit that the new windows would be in. Expressed appreciation for the Commission's concerns. Indicated that he had been working extensively with Conlin Properties to make sure the replacement operation would go quickly. Stated that he would not argue the issue of wood versus vinyl replacements but hoped that whatever the Commission decided that they would keep him in mind and have it be work that can be done in a timely manner.

Stated that the existing windows have been looked at by the City. Noted that during his tenure in the apartment that it seems that every time the property has been inspected the inspector has comments regarding the windows needing repair. Indicated that Mr. Conlin made the decision that the windows should be replaced and I agree with that decision. Appreciated the Commission's concern for Sherman Hill. Stated that the district is beautiful and the things that have been done there are outstanding. Stated that the work that has been done was done in good faith, so the work would be completed before winter. Hoped that whatever was approved could be completed in a timely manner.

Shirley Shaw: Asked how long he had lived at there.

Harry Flipping: Stated that he has lived there for 3½ years.

Shirley Shaw: Asked if he knew he lived in a historic district.

Harry Flipping: Replied yes that he knows that he lives in Sherman Hill.

Chair Holderness: Thanked Mr. Flipping for his comments and asked if there was anyone else in the audience that wished to speak. Noted that no one came forward and asked the Commission if they had any additional comments or if they were ready for a motion.

Jason Van Essen: Asked to make a couple of comments for clarification sake particularly since the next item on the agenda is a proposed new local historic district. Felt that it was important for those in the audience for the River Bend item to have a clear understanding and context of this item and the discussion that has taken place. Stated that the Commission's job is to review applications and in doing so they are to follow the City Council adopted design guidelines when making decisions. Noted that the design guidelines are flexible. For instance, tonight the discussion has focused on if something should be repaired or if it is in a state that is beyond a reasonable level of repair and replacement is appropriate.

Stated he has staffed the Commission for approximately seven years and that over that time the Commission and staff have worked very hard with applicants to find solutions that are appropriate to the district and cost effective. Noted that sometimes what is less expensive today often does not last as long and does not hold its value. Indicated that thirty years ago Sherman Hill did not look like it does today. Stated he was confident that the reason that it looks like it does today is because it is a local historic district with established design guidelines. Noted that the guideline language pertaining to windows and doors has not changed since the Architectural Guidelines for Building Rehabilitation were adopted in 1984.

Noted there has been many property owners that have come before the Commission that have had the same valid concerns about cost and energy efficiency and we have worked very hard with them within the context of what our job is in order to make their projects successful.

Noted, as a point of clarification that the Code specifically identifies storm windows as something that is not subject to review like painting. Also, the applicant has referenced that they received information from the City pertaining to window condition. The subject property is a rental property and is inspected on occasion as required by the Rental Code. It is typical for the rental inspector to provide a list of items that need to be fixed. This does not mean that the inspector or any other section of the City has priority over this process. The inspector is noting that the current condition is not adequate and that the item needs to be repaired or replaced to meet the City's rental requirements. Clarified that this case came forward as a result of a complaint being submitted by a neighbor. Following the complaint staff visited the site, found that work was underway and posted a stop work order. Assured the audience that staff tries to work with people and build positive relationships. We understand that things happen.

Stated that our process can be a little intimidating. Noted the formal setting of the Council Chamber and that most people are not used to going through a design review process. People come into the process with an idea of what they would like to do and it can be upsetting to have others require changes. It can feel like you are being criticized. In actuality, we are here to help people make good decisions that allow their property to continue to be an asset or to be a greater asset to the district. Many of the people that have come through our process start out upset. It is common for the same concerns of cost to be raised and for the Commission's role and credentials to be questioned. However, once many have gotten through the process they have been grateful and we have developed very positive relationships with many of them.

Noted that Commissioner Marchand came though our process as a new Sherman Hill property owner before he was on the Commission. Stated that staff and the Commission met extensively with Denny as he developed his plans to construct a new house. Indicated that many neighbors followed the construction of his house and asked many questions. Noted that Denny was gracious enough to meet multiple times with staff to discuss details as the house was constructed. I think it is safe to say that Denny started out thinking the process was not that pleasant. But look at him now, he is on the Commission.

Referenced a case in Sherman Hill from a few years ago that had a lot of neighborhood opposition. Recalled a comment that was made to the Commission by Tom Chase, a nearby property owner. Tom had previously built a new house in Sherman Hill and was frustrated by the Commission’s review of his design. His request was continued and he was asked to consider design changes. However, that night he told the Commission that he now understood why we have this process and the value of it. He encouraged the Commission to make sure they continue to look at applications carefully because of the impacts that projects and alternations have on the value and character of the district.

Noted that one of the benefits of living in a local historic district is that you know that the investment that you make in your property will be protect because you know that when your neighbors decide to make improvements that they will have to go though the same process and will have to use quality materials. Stated that we will talk more about these types of things as we move to the next agenda item. But, that he wanted to say a few things now so that the people in the audience and the applicant have a better sense of what the Commission is about and know that local district designation is a positive thing and that the Commission and staff work very hard to have positive relationships with all property owners.

Shirley Shaw: Noted that Sherman Hill is a very important area in Des Moines and that is why it is a local historic district. When you go though Sherman Hill it is delightful and we want to keep it that way. If there are problems come to us that is what we are for and if we can help you out in any way we will. But, we do have design guidelines that we are suppose to follow and they are what we go by.

Chair Holderness: Asked if there was any more comments or a motion.

Teresa Weidmaier: Moved approval of the staff recommendation.

Robert “Bob” Griffin: Seconded the motion.

VOTE: A vote of 8-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Griffin	X			
Holderness	X			
Estes				X
Fenton	X			
Marchand	X			
Shaw	X			
Taenzer	X			

Weidmaier X

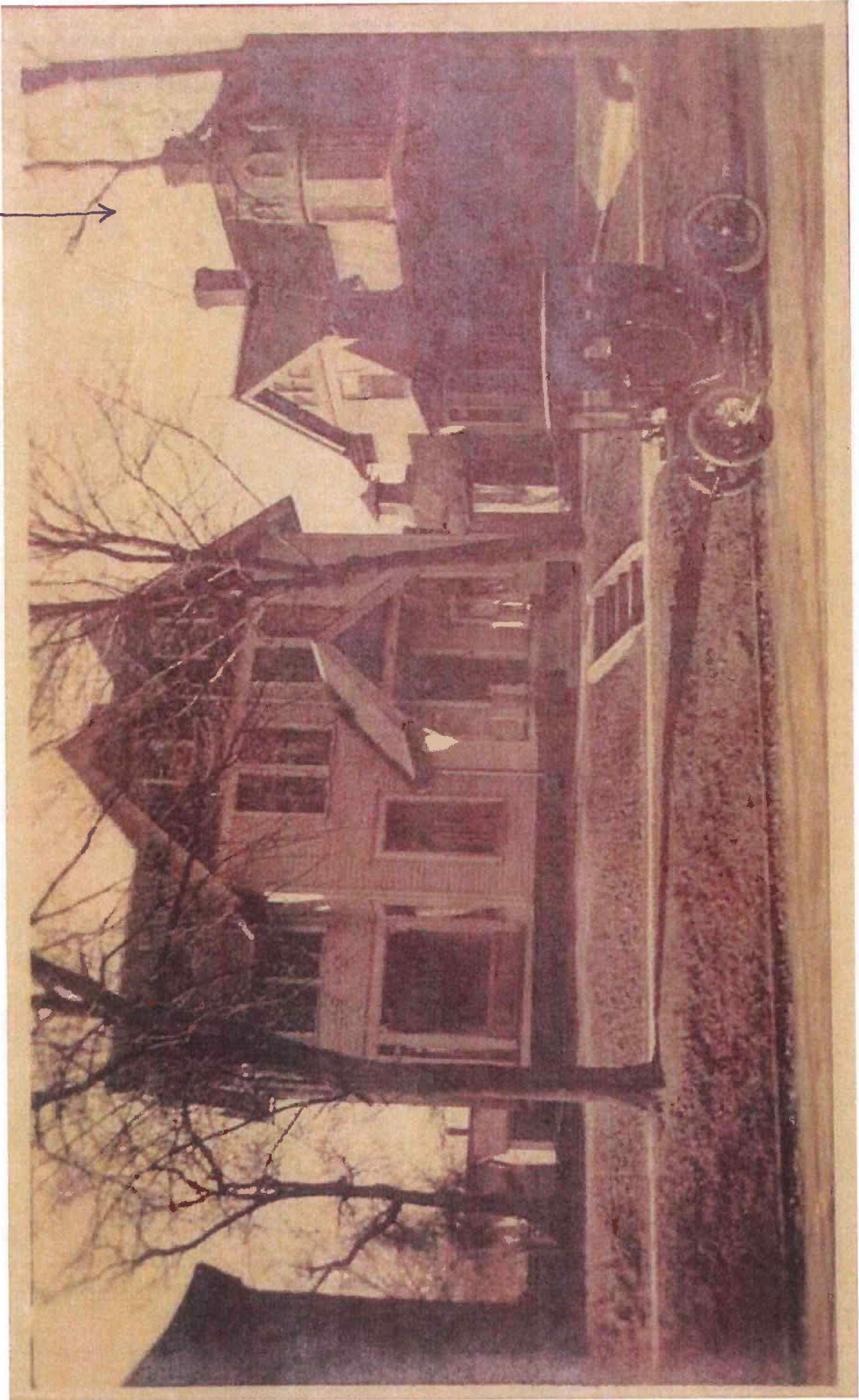
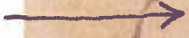
ACTION OF THE COMMISSION:

Granting the application as presented subject to the conditions below 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.

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.

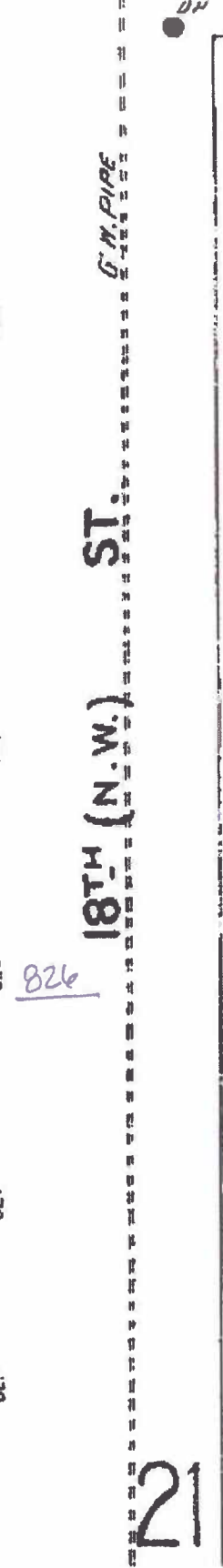
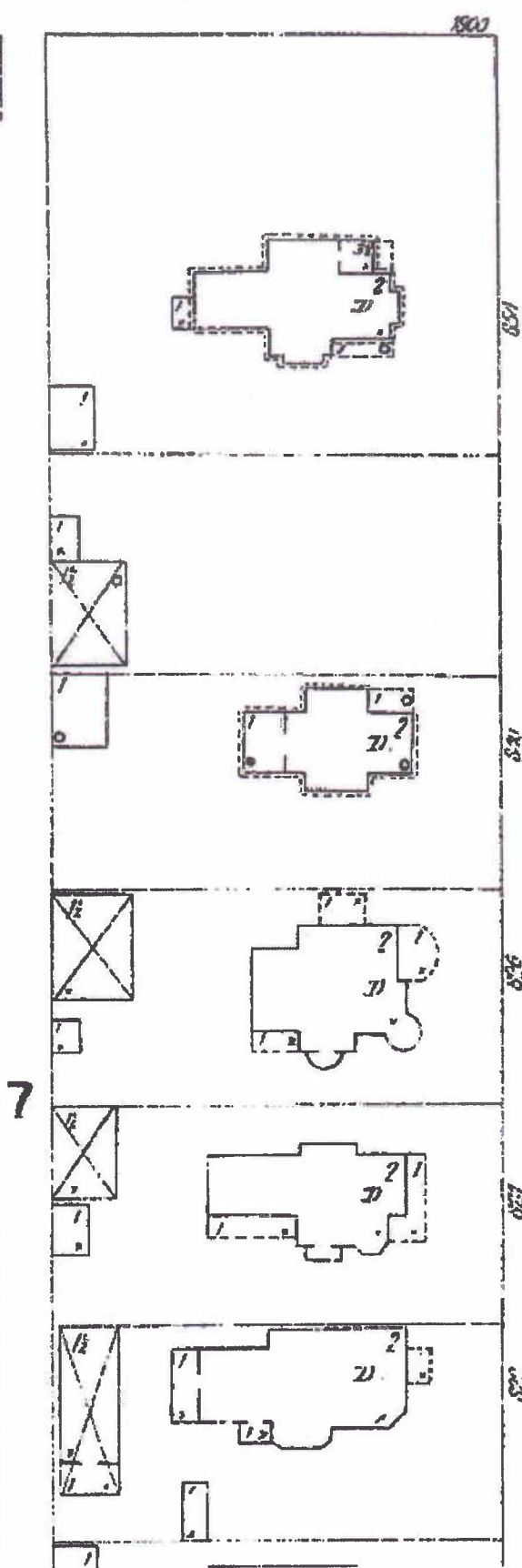
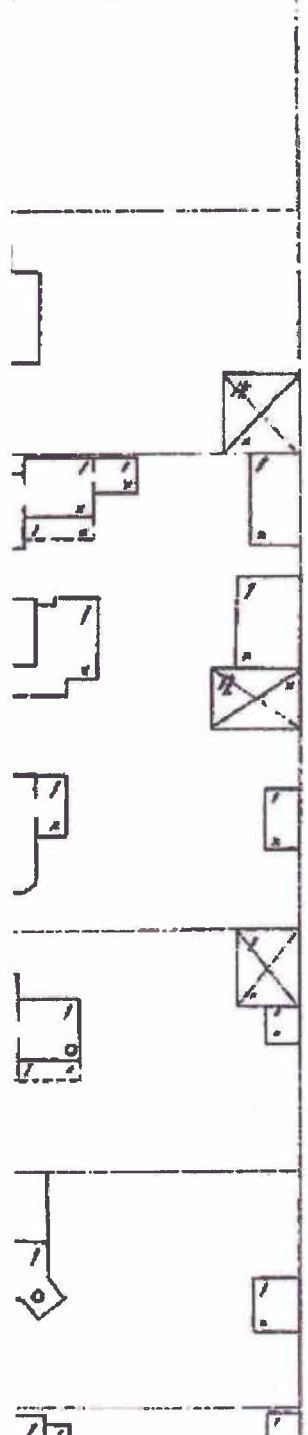
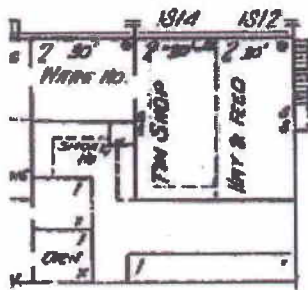
826 18th ST.



824 + 826 18th ST. CIRCA 1910

826 18th ST. YR: 1901

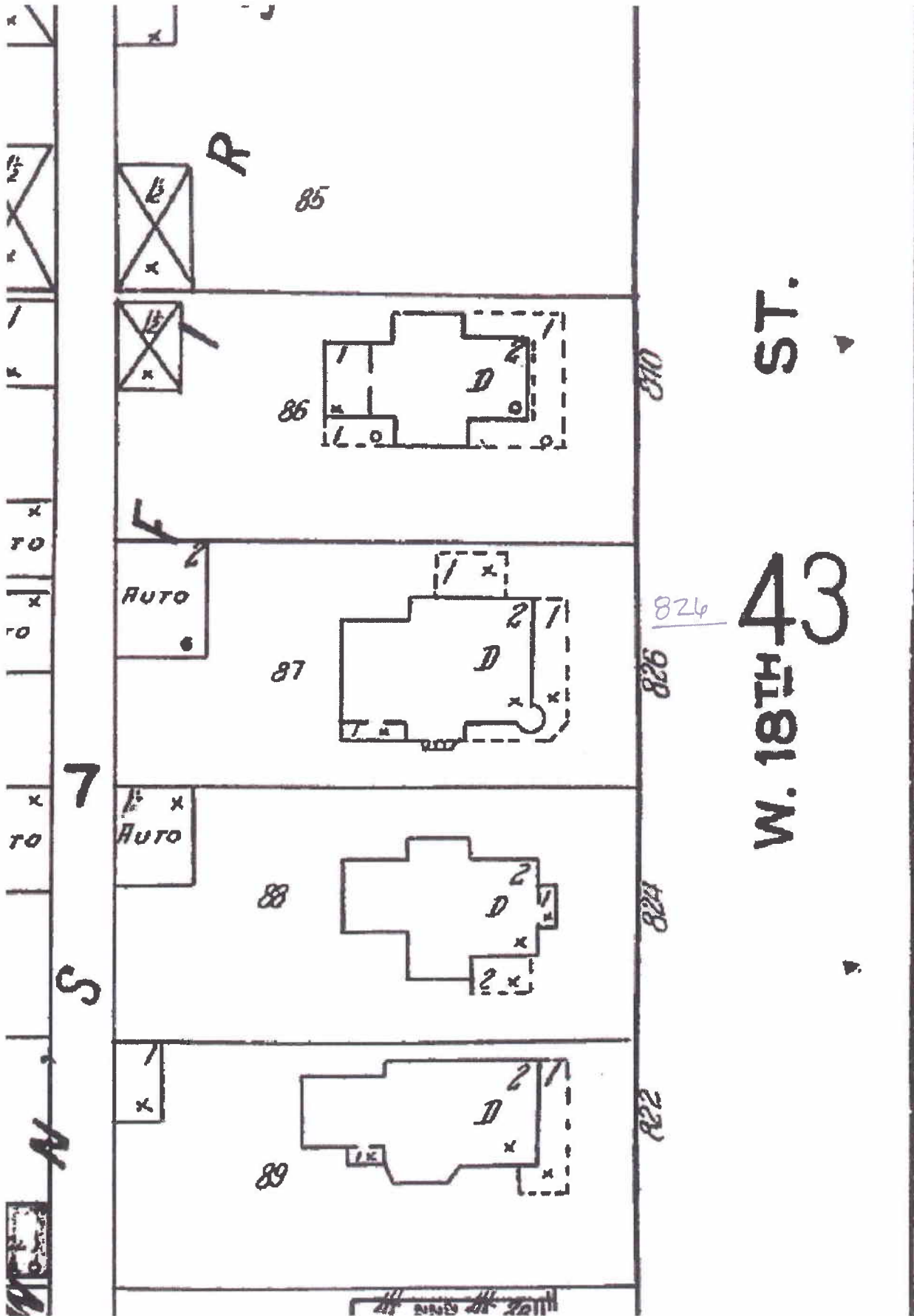
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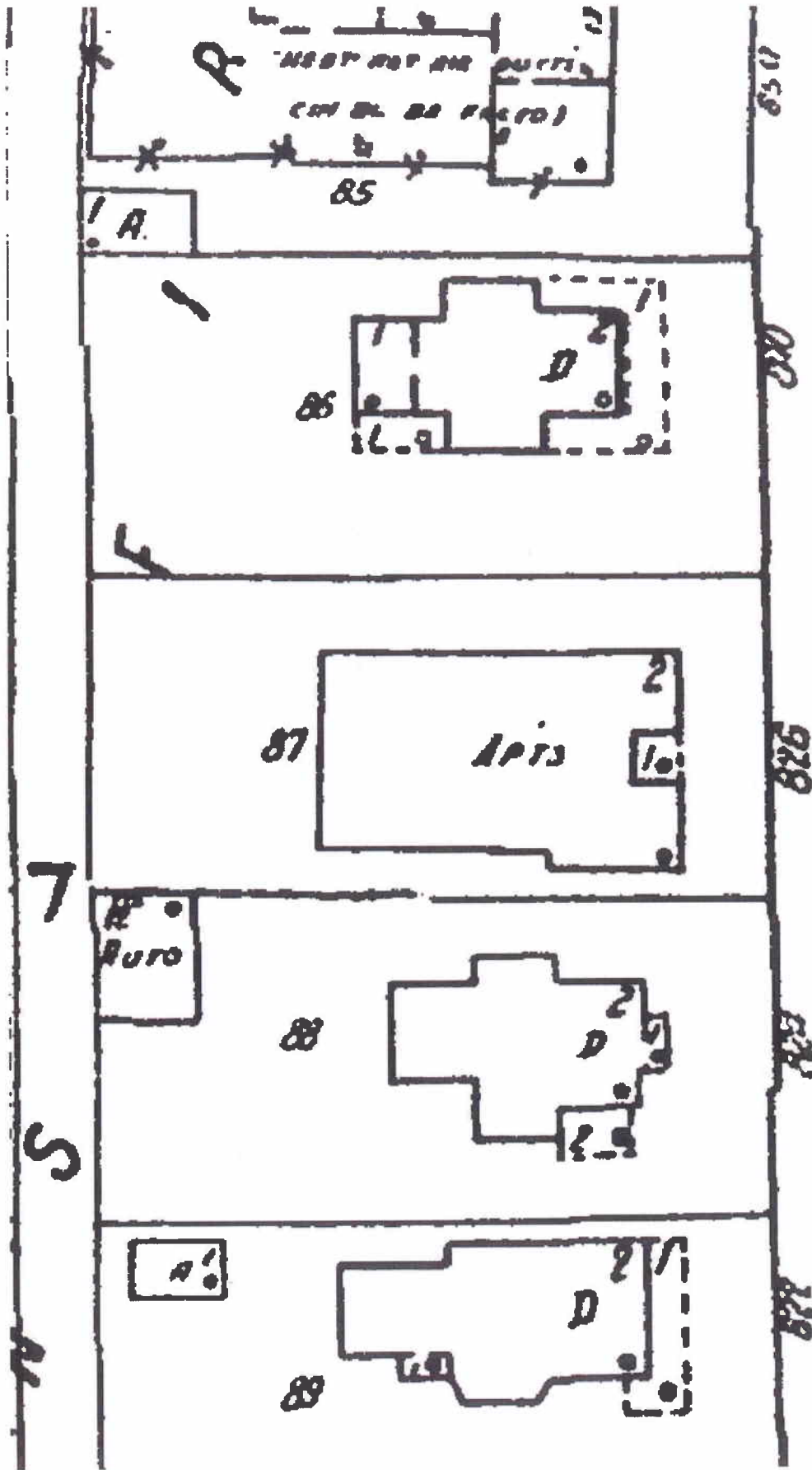


18TH (N.W.) ST. G.W. PIPE

826

21





ST.
43
W. 18TH

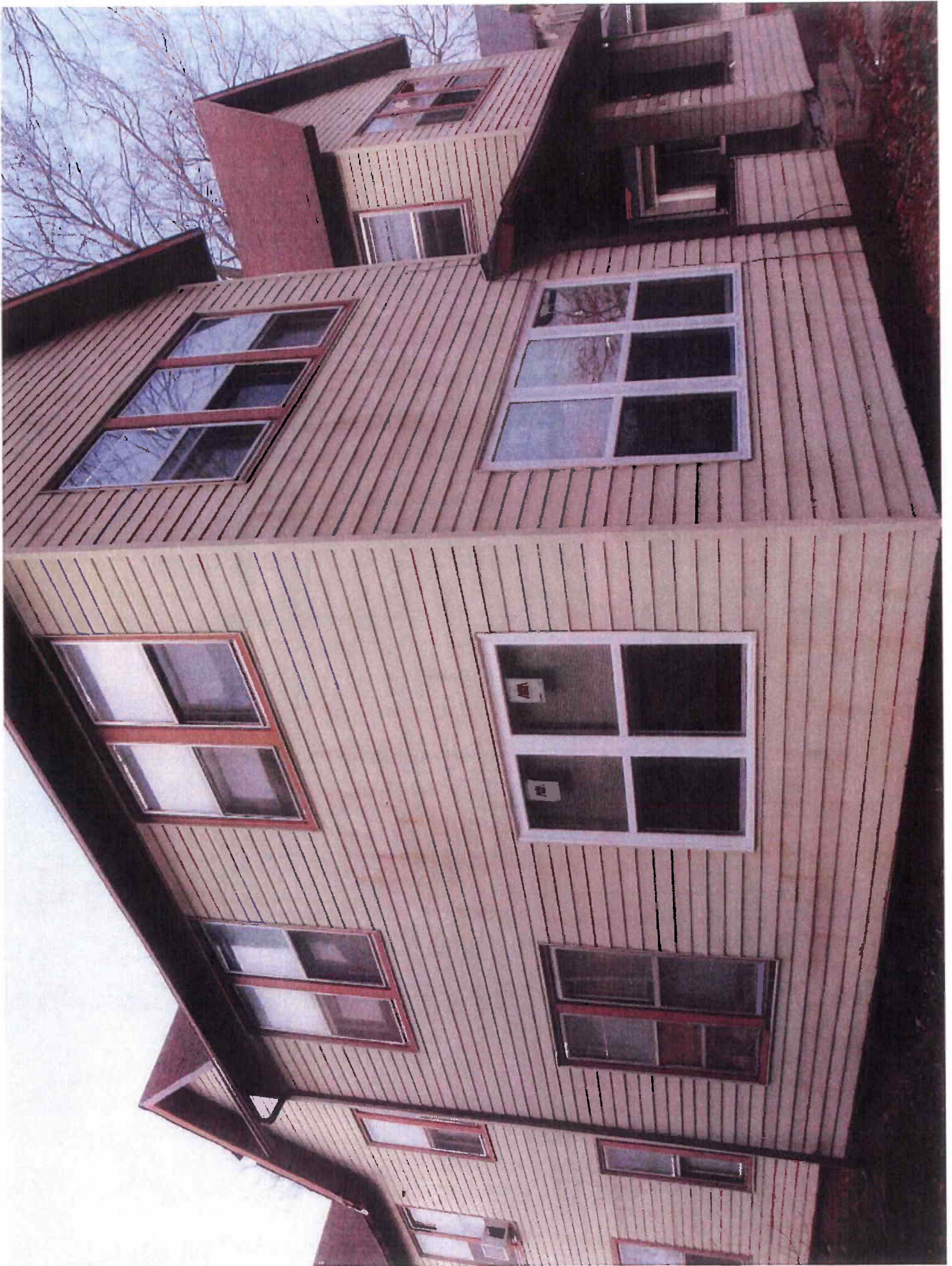
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826 18th Street -- Photograph Prior to Work -- Polk Co Assessor 1/24/2004

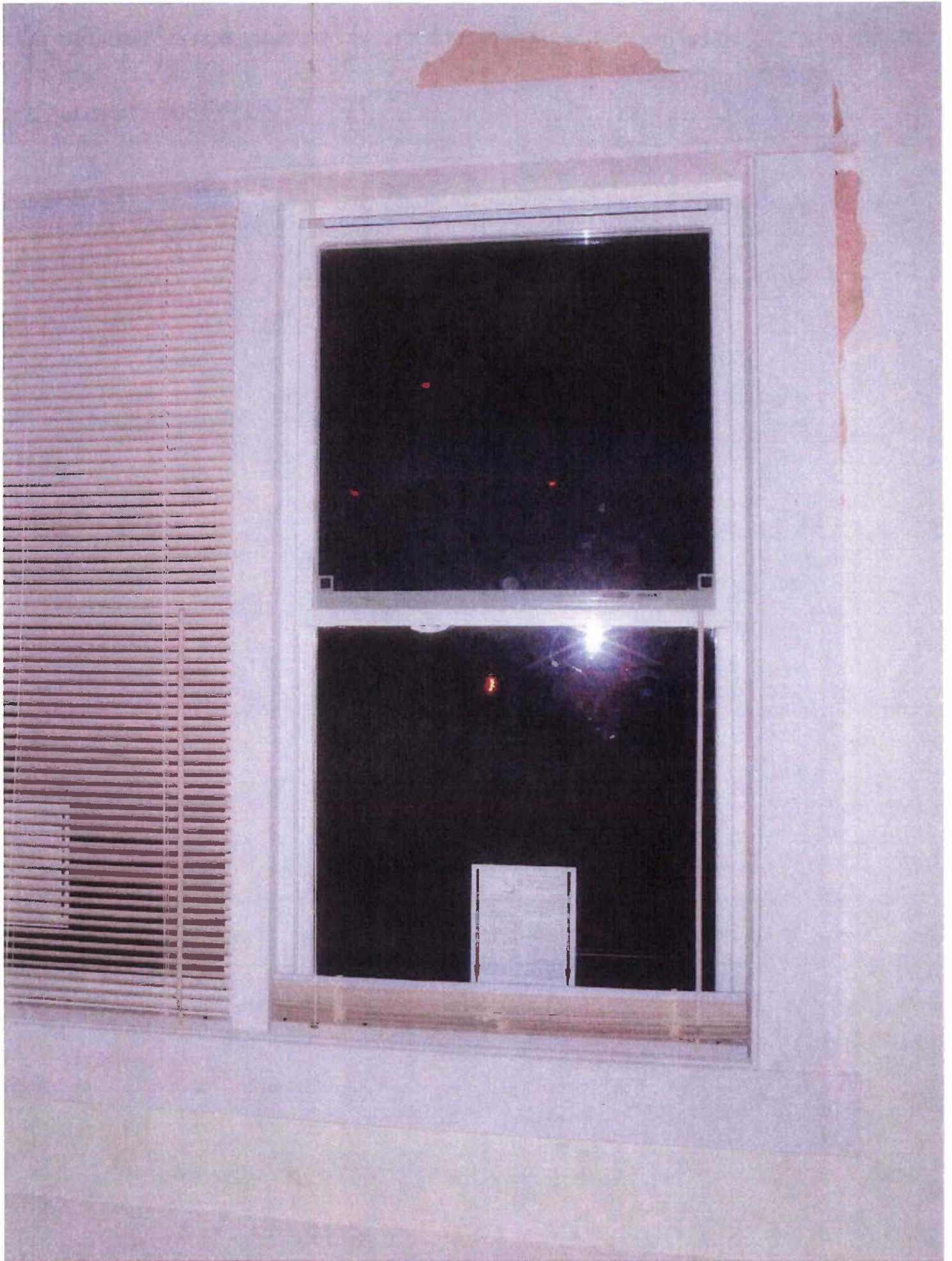




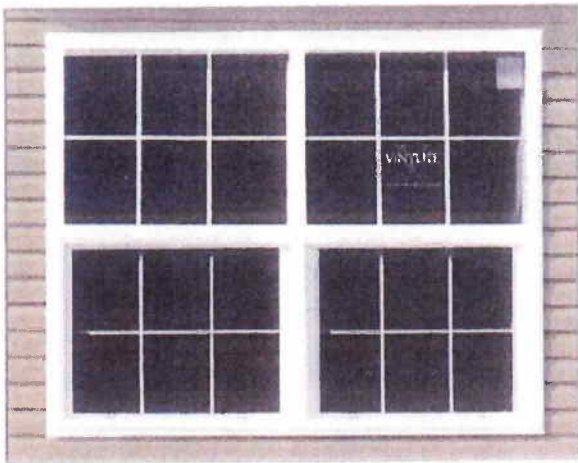
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VINYLITE SINGLE HUNG WINDOWS



Vinylite Single Hung windows are a popular standard and are built to last a lifetime. They open and close with ease due to their heavy duty block and tackle system. These windows come in a wide range of sizes and configurations and can be combined with geometric shapes and radius units to create a sophisticated, custom look to fit any home.

FEATURES AND BENEFITS

- Double wall thickness for exceptional strength and durability
- Fusion welded main frame and sash for enhanced performance
- 3/4" warm-edge insulated glass standard
- Low-E with Argon available
- Easily removable screen standard on all operating units
- Removable side load sash for easy cleaning
- Easy operating block and tackle balances
- Full sash perimeter fin and pile weatherstrip
- Integral lift handle located on checkrail for easy operation
- Internal grilles available
- Continuous head and sill on multiple units up to 7'6" width
- Metal reinforced check rail
- Choice of three colors - white, almond, and clay
- Color coordinated sash locks and keepers
- Available oak, pine, white or almond vinyl veneered extension jambs
- Custom sizing available
- Full complement of special shapes
- Limited lifetime warranty*
* see warranty for details

Model	Min-Max	Model	Min-Max	Model	Min-Max	Model	Min-Max
H1	W 1'6"-4'0" H 2'6"-6'0"	H2	W 3'0"-6'0" H 3'0"-6'0"	H3	W 4'6"-7'6" H 3'0"-6'0"	HP	W 1'6"-5'0" H 1'6"-6'0"

Custom sizing available in 1/4" increments.



"Vinylite products are tested to American Architectural Manufacturers Association (AAMA) and National Fenestration Rating Council (NFRC) standards. Specific performance information is available in the technical section of our dealer specifications catalog."