



**Project Name/Address:** 121 Langdon (Suhr House)

**Application Type:** Certificate of Appropriateness for exterior alterations on a landmark site and demolition by neglect

**Legistar File ID #** [53824 – Certificate of Appropriateness](#); and [53000 – Demolition by Neglect](#)

**Prepared By:** William Fruhling, Acting Preservation Planner, Planning Division

**Date Prepared:** November 28, 2018

## Summary

**Project Applicant/Contact:** David Ferch, Ferch Architecture

**Requested Action:** The Applicant is requesting a Certificate of Appropriateness for exterior alterations on a landmark site. The Landmarks Commission is also considering whether demolition by neglect is occurring on the landmark site.

## Background Information

**Parcel Location:** The subject site is a designated landmark (Suhr House) located in the Mansion Hill District. It was designated as a landmark in 1974 and placed on the National Register of Historic Places in 1982.

On September 17, 2018, the Landmarks Commission held a public hearing on a notice of demolition by neglect. At that meeting, the Commission referred that matter “to a future Landmarks Commission meeting no later than December 3 with the stipulation that the applicant work closely with the Preservation Planner and other City staff to itemize work which can be done with and without tax credits and provide a timeline for addressing the work orders in a timely manner.”

Subsequently, the Applicant has submitted an application for a Certificate of Appropriateness to undertake the necessary work to be considered at the December 3 meeting. Staff has not been contacted about the tax credit work or the timeline for addressing the work orders. However, as stated at the September 17 meeting, there is a court-approved agreement to complete the items in the work order by August 15, 2019.

The Certificate of Appropriateness and the demolition by neglect are separate actionable items and are both addressed in this staff report. Since the Commission should first consider the Certificate of Appropriateness, those standards are addressed first, followed by the demolition by neglect discussion.

### Relevant Ordinance Sections - Certificate of Appropriateness:

- 41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS.** A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.
- (1) New construction or exterior alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
    - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior’s Standards for Rehabilitation.

- (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior’s Standards for Rehabilitation.
- (c) In the case of exterior alteration or construction on any property located in a historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
- (d) In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City’s historic resources.

**Secretary of the Interior’s Standards for Rehabilitation**

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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**Relevant Ordinance Sections – Demolition by Neglect:**

**41.02 DEFINITIONS.**

Demolition by Neglect means the process of allowing landmarks, landmark sites or improvements in historic districts to decay, deteriorate, become structurally defective, or otherwise fall into disrepair.

**41.14 MAINTENANCE OBLIGATION; ENFORCEMENT; PENALTIES**

- (1) Maintenance obligation. Every owner of a landmark, improvement on a landmark site, or improvement in a historic district shall do all of the following:
  - (a) Protect the improvement against exterior decay and deterioration.

- (b) Keep the improvement free from structural defects.
  - (c) Maintain interior portions of the improvement, the deterioration of which may cause the exterior portions of such improvement to fall into a state of disrepair.
- (2) Enforcement.
- (a) The Building Inspector or designee is authorized to enforce the provisions of this chapter.
  - (b) The Building Inspector may issue an official written notice to a property owner, requiring the property owner to correct a violation of sec. 41.14(1) above by a date specified in the notice.
  - (c) The Building Inspector shall notify the Preservation Planner of all official compliance notices issued to owners of landmarks or improvements in historic districts. The Building Inspector shall further notify the Preservation Planner whenever a property owner fails to correct a violations by the compliance date specified in an official notice.
  - (d) City agencies or commissions responsible for enforcing chapters 18, 27, 29, 30 and 31 of the Madison general ordinances, or, in the absence of such city agency or commission, the Building Inspector, may grant individual variances from those chapters to facilitate historic preservation and maintenance under this chapter, provided that such variance does not endanger public health or safety or vary any provisions of this chapter.

**41.15 DEMOLITION BY NEGLECT.** The owner of a landmark, improvement on a landmark site, or improvement in a historic district, may not allow the landmark or improvement to undergo demolition by neglect.

- (1) Notice of demolition by neglect. If the Building Inspector believes that a landmark or improvement is undergoing demolition by neglect, the Building Inspector shall give written notice of that belief to the owner of the landmark or improvement. The Building Inspector shall give a copy of the notice to the Preservation Planner and the Landmarks Commission.
- (2) Public Hearing. Upon receiving a notice under sec. 41.15(1), the Landmarks Commission shall issue a hearing notice under sec. 41.06 and hold a public hearing to determine whether the landmark or improvement is undergoing demolition by neglect. The Commission shall hold the public hearing within 90 days of receiving the notice under sec. 41.15(1).
- (3) Landmarks Commission Finding. If, after a public hearing, the Landmarks Commission finds that a landmark or improvement is undergoing demolition by neglect, it shall report its finding to the Common Council, the Building Inspector and the Office of the City Attorney. A Landmarks Commission finding of demolition by neglect is prima facie evidence of demolition by neglect for purposes of any administrative or civil court action, and also constitutes a determination that a public nuisance exists under sec. 27.05(3) of the Madison general ordinances.
- (4) Appeal of Landmarks Commission finding.
  - (a) An appeal from a Landmarks Commission finding under sec. 41.15(3) may be taken to the Common Council by the owner of the affected landmark or improvement, the Alder of the district in which the subject property is located, or by the owners of 20% of the number of parcels of property within 200 feet of the subject property, measured according to sec. 41.03(5).
  - (b) An appeal under par. (a) shall be filed with the City Clerk within 10 days after the Landmarks Commission makes its finding. The appeal shall include the name and address of each petitioner, and shall specify the grounds for appeal. The City Clerk shall forward the petition to the Common Council.
  - (c) The Common Council shall hold a public hearing regarding any appeal it receives under par. (b).
  - (d) Following a public hearing, the Common Council may, by favorable vote of two-thirds (2/3) of its members, reverse or modify the Landmarks Commission finding, with or without conditions, or may refer the matter back to the Commission with or without

instructions, if it finds that the Commission's decision is contrary to applicable standards under this subchapter.

- (5) Abatement by the City. If the Landmarks Commission finds under sec. 41.15(3) that a landmark or improvement is undergoing demolition by neglect, the Building Inspector may proceed under the non-summary abatement procedures set forth in sec. 27.05(3)(e) of the Madison general ordinances to repair the landmark or improvement to abate the nuisance. The cost of the required repairs shall be paid by the property owner, or shall be imposed as a special charge against the property and collected pursuant to the provisions of sec. 4.09(13) of the Madison general ordinances and Wis. Stat. § 66.0627.
- (6) Acquisition by City. If the Landmarks Commission finds under sec. 41.15(3) that a landmark or improvement is undergoing demolition by neglect, the Common Council may authorize the City to acquire the property under Wis. Stat. § 66.1111(2), if necessary through the initiation of condemnation proceedings under Wis. Stat. § 32.06.

## Analysis and Conclusion

The Applicant has submitted a comprehensive set of plans addressing the exterior alterations. A discussion of the relevant ordinance standards for the Certificate of Appropriateness is below, followed by a finding on the issue of Demolition by Neglect.

### Certificate of Appropriateness

Section 41.18(1)(a) instructs the Landmarks Commission to review the alteration request using the Secretary of the Interior's Standards for Rehabilitation. A discussion of the SOI standards follows:

#### **Secretary of the Interior's Standards for Rehabilitation**

1. The property will continue its use as a residential structure.
2. The proposed alterations seek to preserve the historic character of a property. Based on the submittal, most of the distinctive historic features such as the front porch columns, bases and capitals, railings and decorative trim and woodwork will be retained and preserved to the extent possible. When this is not possible because the elements are missing or too deteriorated to preserve, they will be recreated. No such features are proposed to be removed.
3. The alterations seek to preserve the property as a physical record of its time, place, and use. No changes are proposed that would create a false sense of historical development.
4. N/A
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved if possible, or duplicated using the same materials and replicating the original design.
6. It is proposed that any deteriorated historic features will be repaired where possible. Where these elements are too deteriorated to repair, they will be replicated to match the old in design, color, texture, and, where possible, materials. Photographs taken by the Building Inspection Division document elements that need to be replaced.
7. It is not clear if any chemical or physical treatments are being proposed.
8. N/A
9. The orientation of the current, non-original, stairs for the side porch is proposed to be rotated 90 degrees. From the historic photograph submitted, this alteration appears to be more consistent with the original design, but it is difficult to tell. Regardless, the design of the new stairs will not destroy historic materials, features, and spatial relationships that characterize the property and will be

compatible with the historic materials, features, size, scale and proportion to protect the integrity of the property and its environment.

10. N/A

41.18(1)(d) Although the majority of this work is to address long deferred maintenance on this landmark building, Staff believe that the proposed alterations are being undertaken with the intent of stabilizing the building and restoring important architectural features, hence will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.

#### Demolition by Neglect

The Historic Preservation Ordinance (Chapter 41) establishes a process to allow the Commission to find that a property is undergoing demolition by neglect (see Relevant Historic Preservation Ordinance section above). Based on the report and information provided by Inspector Robert Ales issued on April 21, 2017 (CB2016-333-13997), the notice sent to the property owner from Kyle Bunnow, Housing Inspection Supervisor, on August 15, 2018, and the continued deterioration since that time, staff believe that the property is currently undergoing demolition by neglect.

## **Recommendation**

#### Certificate of Appropriateness

Staff recommends that the Landmarks Commission find that the standards for granting a Certificate of Appropriateness for the proposed alterations are met and recommends that the Landmarks Commission approve the request subject to the following conditions:

- 1) The extents of tuckpointing, mortar mix, and mortar color shall be approved by the Preservation Planner prior to any work being done. Note that this may involve a one or more test areas.
- 2) Clarify that the only portions of the building to be painted are wood or metal- not brick or stone.
- 3) The specifications for the arched storm window on the lower level of the front façade shall be approved by the Preservation Planner.
- 4) Any cleaning or chemical treatment of the building shall be approved by the Preservation Planner.
- 5) The metal framing for the new metal/cable guardrail on the rear and side porches and stairs shall be painted a color complimentary to the overall brick color and be approved by the Preservation Planner.
- 6) Additional detail, including precise dimensions, for the original columns, bases, and capitals, and balusters and railing for each of the porches shall be provided to ensure they are replicated in a historically accurate manner. The specifications of the replacement components shall be approved by the Preservation Planner prior to their fabrication.

#### Demolition by Neglect

Staff recommends that the Landmarks Commission refer the finding that demolition by neglect is occurring until the April 8, 2019 meeting to ensure that adequate progress is being made on making the required repairs by the court stipulated deadline of August 15, 2019.