



DEMOLITION BY NEGLECT REPORT ADDENDUM

PREPARED FOR THE COMMON COUNCIL, CITY ATTORNEY, BUILDING INSPECTION DIVISION

Project Name/Address: 121 Langdon St. (Suhr House)

Application Type: Demolition by Neglect

Legistar File ID # [56727](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: November 14, 2019

Background

On June 24, 2019, the Landmarks Commission made a finding that demolition by neglect was occurring at 121 Langdon. The property owner filed an appeal on July 3, 2019. The Common Council held a public hearing on August 6, 2019, and referred the matter back to the Landmarks Commission for their reconsideration with the instructions to rescind their finding of demolition by neglect if the property was found to be in full compliance with the conditions of the December 2018 Certificate of Appropriateness (COA) or to refer the matter back to the Common Council due to continued noncompliance.

At the September 16, 2019, Landmarks Commission meeting, the property owner had completed all of the building-related work as of August 30, but had not commenced the site work from the COA. The property owner assured the commission that the work would be completed by the November 1, 2019, site plan deadline from Zoning. As such, the commission referred their consideration to the November 11 meeting. Building Inspection and Zoning supplied documentation for that meeting showing that the site work was substantially incomplete. The full conditions of the COA were not met and the conditions of the site directed water to pool towards the foundation.

As such, the Landmarks Commission referred the appeal of the finding of demolition by neglect back to the Common Council for their December 3, 2019, meeting. The demolition by neglect finding would be resolved by completion of the Zoning Site Plan Review and the Landmarks Commission's Certificate of Appropriateness. Zoning will establish a new deadline for completion of the site work for next year when landscaping and asphalt paving can be accomplished. The Certificate of Appropriateness must be completed by December 6, 2020. A finding of demolition by neglect would assist in ongoing City actions to ensure compliance with the required permits and approvals related to the Building Inspection Work Order, which initiated the demolition by neglect process.

Below is a summary of key dates related to the appeal of the demolition by neglect finding:

July 3, 2019

Per the remedies in MGO 41.15(4), the property owner filed an appeal of the Landmarks Commission finding of demolition by neglect on July 3, 2019.

August 6, 2019

The Common Council held a public hearing related to the appeal of the Landmarks Commission's finding. While the property owner had not completed work by the August 1, 2019, deadline from the City Attorney's Office to complete the building work, substantial work had been completed at the property. The City Attorney's Office had established a new compliance deadline of September 1, 2019, and it seemed reasonable for the property owner to complete the work by that time. The Council referred the appeal to the Landmarks Commission's September 16, 2019, meeting with the instructions that if the work related to the COA was complete, they

should rescind their finding of demolition by neglect; or refer the item back if the property remained noncompliant.

August 30, 2019

The Preservation Planner and Building Inspection signed off on the Building Inspection work order for the property. At that time, the site work associated with the Certificate of Appropriateness was not completed. The property owner had established a deadline of November 1 with Zoning as part of the Site Plan Review.

September 16, 2019

The Landmarks Commission reviewed the status of the project and the instructions from Common Council regarding the appeal of the finding of demolition by neglect. The site work remained incomplete, but the property owner represented that the work would be completed by the November 1 deadline from Zoning. The Landmarks Commission referred their consideration to their November 11 meeting.

November 5, 2019

Zoning inspector found that the site work remained substantially incomplete. The landscaping was not completed, the rear parking lot was covered in debris, no parking stalls were painted, the curb stops were not installed in the parking lot, the ADA parking sign did not meet code, and the front yard was being used as parking. Building Inspection and Zoning prepared a statement of their findings for the Landmarks Commission.

November 11, 2019

The Landmarks Commission reviewed the current status of the project. As the property was not in full compliance with the conditions of the Certificate of Appropriateness and the condition of the site was detrimental to the preservation of the building, the commission referred the appeal of the finding of demolition by neglect back to the Common Council for their December 3, 2019, meeting.



DEMOLITION BY NEGLECT REPORT

PREPARED FOR THE COMMON COUNCIL, CITY ATTORNEY, BUILDING INSPECTION

Project Name/Address: 121 Langdon St. (Suhr House)

Application Type: Demolition by Neglect

Legistar File ID # [53000](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: July 10, 2019

Background

On June 24, 2019, the Landmarks Commission made a finding that demolition by neglect was occurring at 121 Langdon. The commission had been working with the property owner since September 2018 to allow him to address the deterioration of the property, regularly referring their finding in the hopes that the property owner would complete the necessary work as promised. At the June 24, 2019, Landmarks Commission meeting, the property owner had still not complied with all of the conditions of the December 6, 2018, Certificate of Appropriateness to complete the work, had not secured a building permit, and had not initiated a site plan review process with Zoning. At that meeting, Kyle Bunnow, representing Building Inspection, provided an updated memo with his estimation that it was not possible for the property owner to complete the Building Inspection work order by the court-approved agreement deadline of August 1, 2019, and that the building was still in a state of demolition by neglect. Because the building was in a condition of demolition by neglect and because the property owner was still noncompliant with City processes to address the deterioration of the property, the Landmarks Commission made a unanimous finding that demolition by neglect was occurring.

Below is a summary of each Landmarks Commission meeting:

August 29, 2018

Landmarks Commission received a report from Kyle Bunnow, representing Building Inspection, with his determination that the building at 121 Langdon was undergoing demolition by neglect. After two years (first notice issued in November 2016) of no response from the property owner, Building Inspection was initiating the demolition by neglect process to preserve the landmark property.

September 17, 2018

Landmarks Commission held a public hearing to consider a finding of demolition by neglect. The property owner requested that he be given the opportunity to address the work order from Building Inspection. The Landmarks Commission referred their finding to December 3, 2018, for the applicant to prepare a complete submission for a Certificate of Appropriateness (COA), which would be necessary to complete exterior work to the structure.

December 3, 2018

Landmarks Commission approved a COA for work at the property with the following conditions: repair the front, side, and rear porches and stairways with the condition that all final details must be approved by staff; tuckpoint damaged masonry, with the extents of the work and the mortar mix and mortar color to be approved by staff; replace the arched storm window on the lower level of the front façade, with specifications for the window to be approved by staff. The applicant supplied a timeline to show how all required work would be completed prior to the work order deadline. The commission referred their finding of demolition by neglect to the April 22, 2019, meeting with the stipulation that they wanted to see signed contracts from the hired tradespeople in order to assess if the work could be completed by the deadline between the property owner and the City Attorney's Office.

April 22, 2019

None of the conditions of the COA had been met, the property owner had not hired any contractors to complete the physical work, and none of the items on the applicant's timeline from the December meeting had been completed. The property owner assured the commission that the work would be completed on time and submitted a new timeline. The Landmarks Commission referred their finding to the next commission meeting to check on progress.

May 6, 2019

Applicant submissions were incomplete and noncompliant with preservation standards, therefore none of the terms of the COA had been met. Staff assured the commission that staff would continue to work with the applicant and contractors to meet the necessary requirements. Commission referred their finding to the next commission meeting.

May 22, 2019

The applicant had submitted construction drawings addressing the front porch of the house, but did not address the rear and side porches or the arched window. On May 19, staff had recommended that the applicant submit for a building permit to complete work on the front porch due to meeting that part of the condition of the COA. On May 20, staff met with the project mason and cleared them to initiate work as their scope was now compliant with preservation standards. The commission referred their finding to the June 24, 2019, meeting as there was some progress and to give the applicant time to meet the rest of the conditions of the COA.

June 24, 2019

The property owner had fired the previous mason and brought the new project mason to the meeting. The property owner assured the commission that he was in discussions with other contractors to complete the necessary work on the building. Kyle Bunnow, representing Building Inspection, spoke to his new memo supplied to the commission, which stated that no substantive work had been completed on the work order and it was not possible to complete the necessary work by the deadline. While the City would work with the applicant to expedite building permit and site plan reviews, the City had not received any submissions. The applicant assured the commission that onsite investigations were underway and work would begin shortly, and made a case that therefore the building was no longer undergoing demolition by neglect. The preservation planner advised that the current condition of the building was due to a cumulative effect of unaddressed maintenance and that the totality of the work order must be completed in order for demolition by neglect to no longer be occurring. As none of the associated work or City processes had been completed to date, the commission determined that the building was undergoing demolition by neglect and advised the applicant that he could appeal the ruling once work was complete or appeal their finding. The Landmarks Commission made a unanimous finding of demolition by neglect.

Bailey, Heather

From: Bailey, Heather
Sent: Thursday, July 18, 2019 2:53 PM
To: info1
Cc: David Ferch; Bunnow, Kyle
Subject: RE: 121 Langdon_Side and Rear Porch

Harold,

David and I just spoke about the drawings. I can approve these designs as being in compliance with the Landmarks Commission approvals. David and I talked about introducing some type of venting for the side porch, but otherwise the design is compliant. You're ready to submit for the site plan and building permit review.



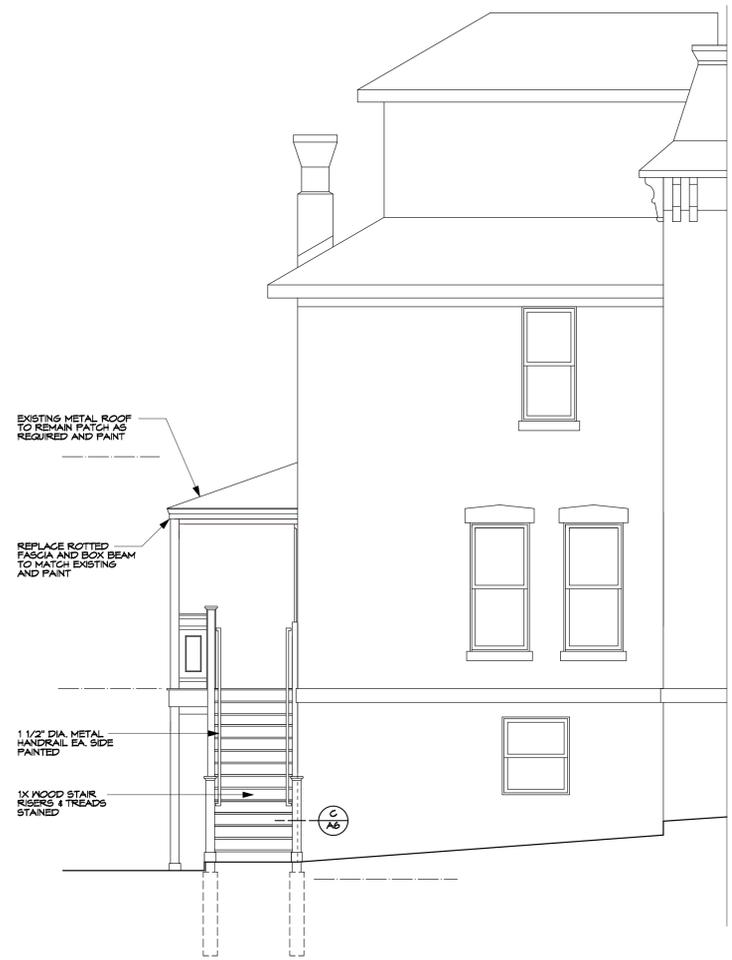
Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

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PO Box 2985
Madison WI 53701-2985
Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: info1
Sent: Thursday, July 18, 2019 12:39 PM
To: Bailey, Heather <HBailey@cityofmadison.com>
Cc: David Ferch <david@fercharchitecture.com>
Subject: Fwd: 121 Langdon_Side and Rear Porch

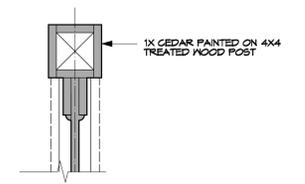
Hi Heather. Here are David's porch elevations. Please respond asap. Harold



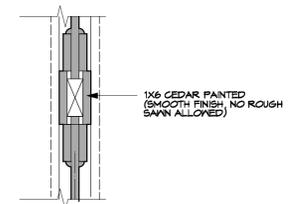
NORTH ELEVATION
0 4' 8' 16'



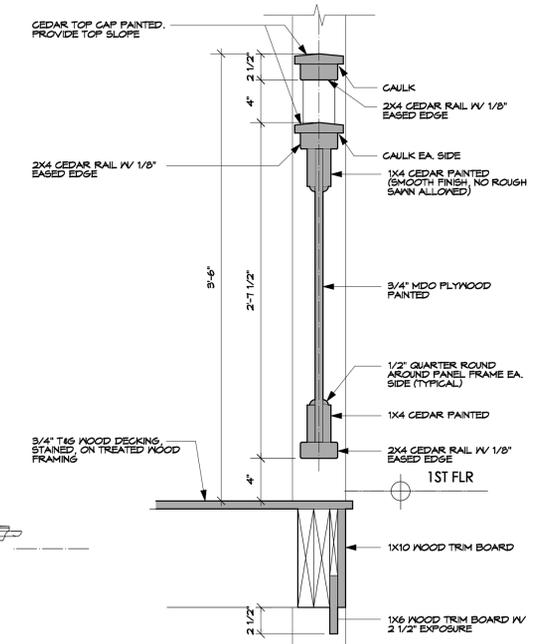
REAR ELEVATION
0 4' 8' 16'



C REAR PORCH & STAIR - CORNER POST
SCALE: 1 1/2" = 1'-0"



B REAR PORCH & STAIR - CENTER RAIL
SCALE: 1 1/2" = 1'-0"



A REAR PORCH RAILING DETAIL
SCALE: 1 1/2" = 1'-0"

Bailey, Heather

From: info1
Sent: Tuesday, July 23, 2019 7:51 AM
To: Bailey, Heather
Cc: Bunnow, Kyle; David Ferch
Subject: Fwd: 121 Langdon_Side Porch Balusters
Attachments: 121 LANGDON_side porch baluster_7-22-19.pdf

Hi Heather. Attached is David Ferch's drawing for the side porch balusters. I received a sample yesterday from the manufacturer in accordance with the drawing. I can bring it to you before 9am if you would like to see it. The manufacturer would like to begin producing them at that time. Please let me know. Thanks. Harold

----- Forwarded message -----

From: David Ferch <david@fercharchitecture.com>
Date: Mon, Jul 22, 2019 at 4:18 PM
Subject: 121 Langdon_Side Porch Balusters
To: Harlod Langhammer <info@centralapts.com>

Harold,

Attached is the drawing template for the side porch balusters.

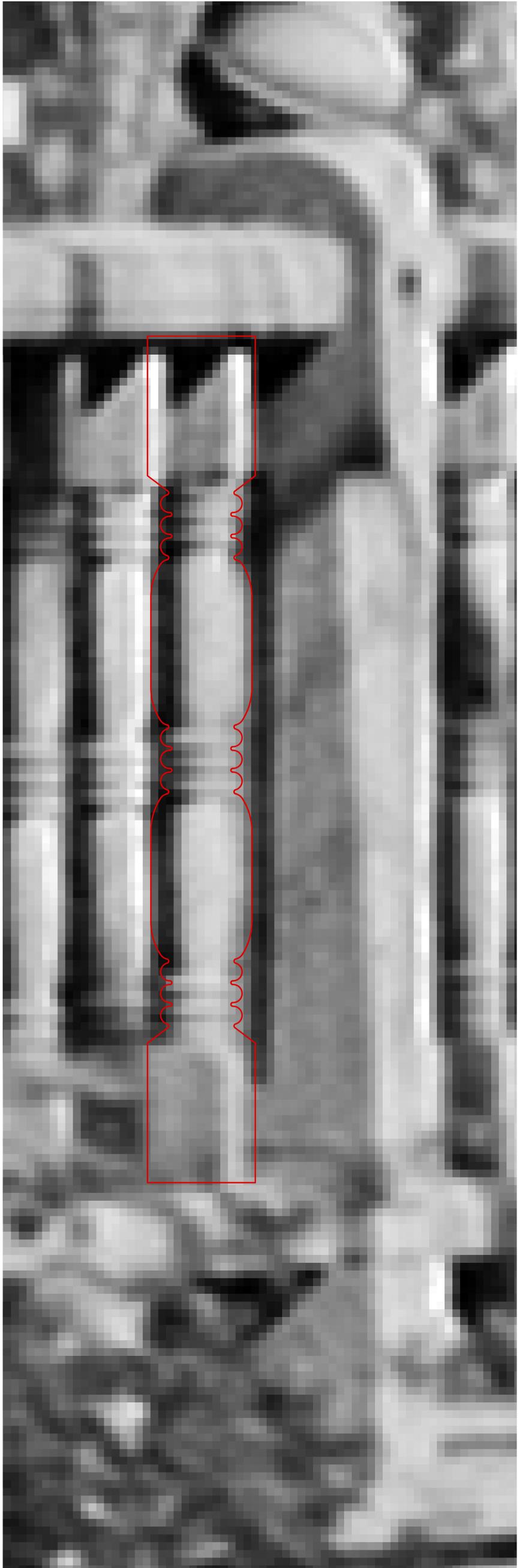
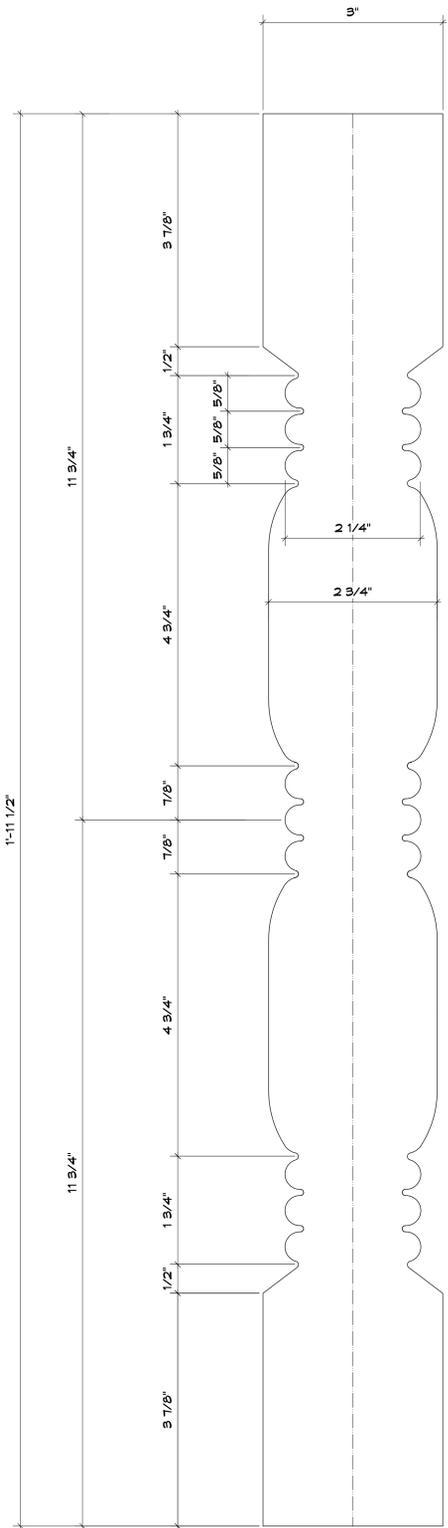
Regards,

Dave

FERCH ARCHITECTURE

2704 Gregory Street, Madison, WI 53711

608-238-6900 david@fercharchitecture.com



From: [Bailey, Heather](#)
To: [info1](#); [Bunnow, Kyle](#)
Cc: [Heiser-Ertel, Lauren](#)
Subject: RE: comment at July 29 Landmarks Commission meeting
Date: Monday, July 29, 2019 3:50:23 PM

Harold,

I will include this as part of the record for the public comment portion of the meeting. If the commission asks about the what I saw on the site visit today and your characterization of the completeness of the work, I have to say that you're underestimating the amount of work that still needs to be accomplished. You've made a lot of headway, but there's a lot left to do.



Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

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Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: info1
Sent: Monday, July 29, 2019 3:23 PM
To: Bailey, Heather <HBailey@cityofmadison.com>; Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject:

Hi Heather. I would appreciate your reading this letter to the Landmarks Commission members during the 'comments' time at the beginning of tonight's meeting. I have nearly completed the repair work on the Suhr house. Heather and Kyle today made a list of remaining items that need to be done. The painting is done on the house except for today's request to paint one band of fascia high on the house, and finishing the front porch which is happening today and should be done tomorrow. This is all that remains to be done for the restoration of the front porch. It was completely taken apart, the columns removed and shored up for the process. Stone pedestals were removed with new concrete footings, new column bases were milled. Additional railing spindles were milled. All fascia and trim work was repaired. All masonry and tuck pointing is approved. Carpentry work is done except for five or six minor items pointed out today during the review. Except for the items told us in today's review, the work orders are substantially complied with at this time. In other words, all of the carpentry has been done, all of the painting except as noted above, all of the masonry and tuck pointing. One of the two new porches was removed on Friday, the other is being removed today. These porches will be completed by this week's deadline. We will have completed all of the work, as I told you at your meeting four weeks ago. You will recall that I asked you to postpone your neglect finding and allow me to get the work done by the city negotiated deadline date. One of your members, when you were deciding about approving the neglect finding, said he thought the vote should go forward and added: "we can rescind it." I now understand that there is no

process that allows the Commission to rescind, that being the prerogative of the City Council. I am, however, in light of the above, requesting you to recommend to the City Council that the rescission take place. I will remind you that your prior decision to proceed without allowing me the four weeks remaining under the agreement with the city was in part based on statements at the meeting, and in your staff report, that I would not be able to get the work done "during 2019". Given the incorrect and misleading effect of that opinion, I am asking you to request the City Council to rescind the finding. Harold Langhammer



PLANNING DIVISION STAFF REPORT

August 6, 2019

PREPARED FOR THE COMMON COUNCIL

Project Name/Address: 121 Langdon St. (Suhr House)

Application Type: Appeal of Demolition by Neglect Finding by the Landmarks Commission

Legistar File ID # [56588](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: July 10, 2019

Background

On June 24, 2019, the Landmarks Commission made a finding that demolition by neglect was occurring at 121 Langdon. Per the remedies in MGO 41.15(4), the property owner filed an appeal of the Landmarks Commission decision on July 3, 2019. The ordinance tasks the Common Council with determining if the Landmarks Commission's decision is contrary to the standards in the Demolition by Neglect section of the Madison General Ordinances.

History of the Project

Building Inspection Division first issued a citation in November 2016 pertaining to the exterior condition of the property. After two years of noncompliance, Building Inspection Division submitted a notice to the Landmarks Commission that demolition by neglect was occurring at the subject property. The Landmarks Commission held a public hearing on September 17, 2018, and referred their decision to a future meeting in an effort to work with the property owner to successfully remedy the deterioration of the building. The commission issued a Certificate of Appropriateness on December 3, 2018, to complete exterior repairs and again referred their finding of demolition by neglect to a future meeting. The commission reviewed progress of the project at their meetings on April 22, May 6, and May 22, 2019. The property owner had not completed required tasks or secured the necessary permits and approvals to proceed. The Preservation Planner approved an initial phase of work on May 19, 2019, so that the property owner could secure a building permit for the front porch repairs and begin masonry work.

At the June 24, 2019, commission meeting, other than initial investigations, no work had commenced at the site and the property owner had not secured a building permit or submitted for a site plan review. The applicant assured the commission that onsite investigations were underway and work would begin shortly, and made a case that therefore the building was no longer undergoing demolition by neglect. The Preservation Planner advised that the current condition of the building was due to a cumulative effect of unaddressed maintenance and that the totality of the work order and Certificate of Appropriateness must be completed in order for demolition by neglect to no longer be occurring. As none of the associated work or City processes had been completed to date, the commission determined that the building was undergoing demolition by neglect and advised the applicant that he could ask for a reconsideration of the ruling once work was complete or appeal their finding to the Common Council. The Landmarks Commission made a unanimous finding of demolition by neglect.

Please see associated Landmarks Commission Demolition by Neglect Report, submitted to Common Council for their meeting on July 16, 2019.

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.



Department of Planning & Community & Economic Development

Building Inspection Division

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215 Martin Luther King Jr. Blvd.
P.O. Box 2984
Madison, Wisconsin 53701-2984
Phone: (608) 266-4551
Fax (608) 266-6377
www.cityofmadison.com

Agenda Item No. 9
Legislative File No. 56588
8/6/19 Council Meeting

DATE: August 2, 2019

TO: Heather Bailey, Preservation Planner
John Strange, Assistant City Attorney
Lisa Veldran, Legislative Services & Council Office Manager

FROM: Kyle Bunnaw, Plan Review and Inspection Supervisor

SUBJECT: 121 Langdon Street – Demolition Via Neglect

On July 3, 2019 the property owner of 121 Langdon Street submitted a formal notice of appeal of the finding by the Landmarks Commission of demolition by neglect regarding the property located at 121 Langdon Street. I am writing to provide you with an update and timeline of the Building Inspection related events at 121 Langdon Street.

February 9, 2016

During course of regular duties, Building Inspection staff observed exterior deterioration at the property located at 121 Langdon Street. Case CB2016-040-01121 was opened and orders to make corrections were issued due August 21, 2016.

November 21, 2016

An inspection of 121 Langdon Street revealed no attempt to complete the items outlined in Official Notice CB2016-040-01121 had been made and that the scope of work required had not been sufficiently identified by Building Inspection. For clarity CB2016-040-01121 was closed and reissued on April 21, 2017 as case CB2016-333-13997 outlining the correct scope of work with an assigned due date of July 16, 2017.

July 25, 2017

An inspection of 121 Langdon Street revealed no attempt to complete the items outlined in Official Notice CB2016-333-13997 had been made, and the owner had not made any contact with Building Inspection. The case was referred to the City Attorney for prosecution to compel compliance.

August 15, 2018

Building Inspection submitted notification of belief of demolition via neglect at 121 Langdon Street to the property owner as a result of failure to make exterior repairs, respond to communications from Building Inspection, or appear in Municipal Court for legal proceedings.

May 29, 2019

An inspection of 121 Langdon Street revealed no attempt to complete the items outlined in Official Notice CB2016-333-13997 had been made.

June 3, 2019

Building Inspection submitted a memorandum to Preservation Planner Heather Bailey, outlining the lack of progress in completing work at 121 Langdon Street, reaffirming Building Inspections belief of demolition via neglect.

June 21, 2019

Building plans outlining the necessary repairs to the front porch were submitted to Building Inspection and building permit BLDNCC-2019-08848 to complete this work was issued on June 25, 2019

July 22, 2019

Building plans for the right side porch and rear porch and a revision to the approved site plan and were submitted to Building Inspection and building permit BLDNCC-2019-10856 to complete this work was issued on July 25, 2019.

August 2, 2019

An inspection of 121 Langdon Street revealed some work has been completed to correct items outlined in Official Notice CB2016-333-13997. Notably, all required permits and approvals have been obtained and the required masonry repairs to the building have been successfully completed. Progress across all remaining items has been made. The existing right side and rear porch structures have been removed except for their original roof systems. The porches are in the process of being re-built to meet today's building codes. The right side porch is approximately 60% complete and the rear porch is approximately 75% complete. Landscaping work and regrading of the site will need to be completed upon finishing the construction related activities. Other smaller details across the building still need to be repaired and finished as well.

Bailey, Heather

From: Bunnow, Kyle
Sent: Monday, September 02, 2019 7:15 PM
To: Bailey, Heather
Subject: 121 Langdon St

FYI, I marked you down as having approved the landmark requirements of 121 Langdon in COA on 8/30. I've closed the record and reported the results to the City Attorney. Building Inspections role in the case referred for prosecution has concluded. Harold has been informed of this information as well.

Zoning will monitor the site to ensure the site work is completed to bring the landscaping into alignment with the approved site plan. None of this will impact the structure or is part of the case referred for prosecution or demo via neglect proceedings. If you need anything else from me let me know. Thanks.



Kyle Bunnow, P.E.
Plan Review and Inspection Supervisor

City of Madison Building Inspection Division
Madison Municipal Building
215 Martin Luther King Jr Blvd Suite 017
Madison, Wisconsin 53701-2984
Tel: 608-266-6503
<https://www.cityofmadison.com/dpced/bi>



PLANNING DIVISION STAFF REPORT

September 16, 2019

PREPARED FOR THE LANDMARKS COMMISSION

Project Name/Address: 121 Langdon St. (Suhr House)

Application Type: Appeal of Demolition by Neglect Finding by the Landmarks Commission

Legistar File ID # [56588](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: September 11, 2019

Background

On June 24, 2019, the Landmarks Commission made a finding that demolition by neglect was occurring at 121 Langdon. Per the remedies in MGO 41.15(4), the property owner filed an appeal of the Landmarks Commission decision on July 3, 2019. The Common Council held a public hearing on August 6, 2019, and referred the matter back to the Landmarks Commission for their reconsideration with the following motion:

A motion was made by Heck, seconded by Bidar, to Refer to the LANDMARKS COMMISSION and should be returned by 9/16/2019. The motion passed by voice vote/other with the following instructions:

1. Rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness, or
2. Refer the Appeal back to the Common Council if the property owner continues to be in non-compliance.

The property owner received a one month extension to complete the Building Inspection work order items and completed that required work on August 30, 2019. The construction activities triggered site plan requirements from Zoning. The site work was included in the plans that the Landmarks Commission approved for the Certificate of Appropriateness for this property. That work has not been completed at this time, but is scheduled for completion on November 1, 2019.

Analysis

The Demolition by Neglect proceedings were triggered by the work order from Building Inspection. As that work is now complete, staff does not believe that demolition by neglect is still occurring. The work including ground disturbance around the perimeter of the building, which currently directs water to pool up against the foundation. In the short term, this is not problematic, but will cause problems if not corrected. However, the grading and drainage on the property will be addressed as part of Zoning's site plan process, and those required changes will be monitored and inspected by Zoning staff in cooperation with the Preservation Planner.

Recommendation

Staff believes that demolition by neglect is no longer occurring and recommends the Landmarks Commission rescind the finding of demotion by neglect, and direct staff to amend the Landmarks Commission's report to the Common Council on the demolition by neglect proceedings to reflect this new determination.

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.

AGENDA # 1

City of Madison, Wisconsin

REPORT OF: LANDMARKS COMMISSION

PRESENTED: 9/16/19

TITLE: Appeal of Madison Landmarks
Commission finding of Demolition
by Neglect of a Designated
Madison Landmark in the Mansion
Hill Historical District regarding 121
Langdon Street.

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Heather Bailey, Preservation Planner

ADOPTED:

POF:

DATED: 9/26/19

ID NUMBER: 56588

Members present were: Richard Arnesen, Katie Kaliszewski, Arvina Martin, and David McLean. Excused was Anna Andrzejewski.

SUMMARY:

Stu Levitan, registering in opposition and wishing to speak

Bailey explained that this item is a reconsideration of the demolition by neglect finding made by the Landmarks Commission on June 24. She provided an update, and said that on July 3, the property owner filed an appeal of the Landmarks Commission's decision. The property owner also renegotiated the previous August 1 deadline to complete the Building Inspection work orders and was given an extension to September 1. She explained that on August 6, the Common Council referred the appeal back to the Landmarks Commission for reconsideration due to substantial work completed on site. She said that on August 30, she and Building Inspection signed off on the work orders because all items had been completed. She read the motion from Common Council, which instructed the Landmarks Commission to "rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness or to refer the Appeal back to the Common Council if the property owner continues to be in non-compliance." She showed photos of the property as the work was in progress and on August 30 after the work orders were completed. She said that the Certificate of Appropriateness dealt with the sum total of required work, and the work required by Building Inspection to bring the property into compliance triggered a site plan review by Zoning. She said that the deadline for completing the site work through Zoning is November 1, and pointed out that the site work is outside of the work orders that were referred to Landmarks by Building Inspection, which have been resolved. She said that during the work on the porches, the ground disturbance has caused water to pool against the foundation, which is a long-term issue that needs to be resolved. She said that this work is scheduled to be completed on November 1. She said that staff's recommendation is that demolition by neglect is no longer occurring and she recommends that the Landmarks Commission rescind the finding of demolition by neglect and direct staff to amend the report to the Common Council on the demolition by neglect proceedings to reflect this new determination.

Levitan urged the Commission not to rescind the finding of demolition by neglect for two reasons, the first of which is that it is terrible public policy. He pointed out that it took Building Inspection three years to get the property owner in compliance, which involved hours of work for the Preservation Planner and several meetings for the Landmarks Commission to resolve the issue. He said that if the Common Council can then snap its fingers and direct the Landmarks Commission to rescind their finding, what message does that send to future

owners of landmark properties? He said that it sends the message that if you let your buildings deteriorate and get to the point of demolition by neglect, once you take three years and finally fix them, the Common Council will wave a magic wand and absolve you. He said that there have to be consequences, and pointed out that the property in question is a contributing building in a National Register Historic District and a local landmark. He said that to wipe the slate clean after three years of the City's trying to get the property in compliance sends a bad message. He said that the second reason not to rescind the finding is the ordinance itself, and read from section 41.15(4)(d) that "...the Common Council may, by favorable vote of two-thirds 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 the applicable standards under this subchapter." He said that the Common Council made no such finding and instead made a motion with no debate. He said that the Common Council did not make the finding that it was supposed to under the ordinance. He said that to honor the ability of Building Inspection to act in a meaningful manner and the words of the ordinance, at the very least, the Commission should refer the item back to the Common Council. He said that if the Common Council thinks the finding should be rescinded, it has the power to do so, but instead it directed the Landmarks Commission to do its dirty work with no basis, no justification, and no finding that the Landmarks Commission's decision was against the applicable standards. He said that he hopes the Landmarks Commission will act in furtherance of the ordinance, Building Inspection, and all the work the Landmarks Commission did and not rescind the finding of demolition by neglect.

McLean asked what would follow if the Commission does not rescind their finding of demolition by neglect. Arnesen said that he had the same question, and asked what the consequences are of leaving the finding in place. Bailey said the Commission could say that they followed their process correctly and want the finding to stay, and refer it back to the Common Council to reconsider on their end. She explained that the justification for the Common Council returning it back to Landmarks is that the work was close to being completed and they were looking at it as keeping the process open with the idea that the Landmarks finding on June 24 was the final item that spurred the property owner to complete the work, so if the work was completed by the new September 1 deadline, then the provision within the ordinance had accomplished its task. She said that in terms of a penalty, the fine that was part of the court-approved agreement remains in place. Levitan said that his recollection is that the Common Council did not make the finding referenced in the last sentence of 41.15(4)(d). Bailey said that the Common Council framed it in a way that if the work is completed by September 1, their belief is that demolition by neglect is no longer occurring and they would ask the Landmarks Commission to look at the situation subsequent to that and send it back to Common Council if the work was still not in compliance. Levitan said that he doesn't think the Common Council made the determination that the Landmarks Commission's decision was contrary to the standards. Arnesen said that the fine will be levied, and asked what other consequences there are of not rescinding. He asked if there were more fines or if it is just a stain on the property owner's record. Bailey said that the finding of demolition by neglect was put in place so that a property owner can't say the property is so deteriorated that they must demolish it because it was through the owner's own inaction or action that it reached this deteriorated state. She said that in this case, the necessary repairs to remediate the situation are now complete, so there are no grounds for the property owner to make that claim.

Kaliszewski said that there is more work that needs to be done according to the site plan, and asked if that has the potential to lead to additional demolition by neglect if he does not complete that work. Bailey said that it has potential to lead to concerning deterioration on the property, but she recommends that it start over with another process rather than keeping on the demolition by neglect path. She said that it will start with the initial level of compliance with Zoning, who has enforcement actions they could take, and if it proves to be problematic, they could see it again as a demolition by neglect under a separate set of circumstances. Kaliszewski said that it sounded like the Common Council thought the finding of demolition by neglect made the work move forward, and asked what would happen if they rescind the finding and the site plan does not move forward. Bailey said that down the road, there could be a new demolition by neglect case with a new set of circumstances. McLean asked if the site work would be the new circumstances, and Bailey said that the site work that happened as part of the current construction created the situation with water on the foundation. McLean asked if there was any sign of water on the foundation prior to this. Bailey said that she doesn't know about there being any sign of water previously, but there is currently an approved site plan that would remediate the situation. McLean

said that he realizes there are some new issues due to construction, but he does not feel comfortable rescinding the finding until everything is resolved. Arnesen said that he feels the same way. He said that they went to all the trouble to go through this process, and it seems like the cause of the property owner completing the repairs. He asked why they would rescind at this point. He said that they are in the same position as they always have been, which is that they would consider rescinding if and when the work is finished. He said that if there are no additional consequences or fines in the next 60 days, what is the downside of not rescinding? He said that this way, it is still hanging over the property owner's head in order to make sure it gets done because he hasn't actually demonstrated a good track record.

Bailey said that given the November 1 deadline to complete the site work, there are two Landmarks Commission meetings in November to which they could refer the item. Arnesen said that it could be referred to November 11, so they would keep the finding and not rescind it. He said that when they made the finding, they were inclined to potentially rescind the finding if the property owner follows through, but they are not there yet.

ACTION:

A motion was made by Arnesen, seconded by McLean, to refer the item to the November 11, 2019 Landmarks Commission meeting. The motion passed by voice vote/other.

Bailey, Heather

From: Bunnow, Kyle
Sent: Wednesday, November 06, 2019 9:29 AM
To: Bailey, Heather
Subject: FW: 121 Langdon St
Attachments: IMG_8891.JPG; IMG_8892.JPG; IMG_8881.JPG; IMG_8883.JPG; IMG_8888.JPG; Langdon St 121.pdf

Heather,

The site plan for 121 Langdon Street has not been implemented as of 11/5/19. Below is an itemized list of elements not completed or needing correction / installation. Attached are photos showing the current conditions and the approved site plan that is being referenced (pages C1 and C2 are the site plan)



Kyle Bunnow, P.E.
Plan Review and Inspection Supervisor

City of Madison Building Inspection Division
Madison Municipal Building
215 Martin Luther King Jr Blvd Suite 017
Madison, Wisconsin 53701-2984
Tel: 608-266-6503
<https://www.cityofmadison.com/dpced/bi>

From: Moskowitz, Jacob <JMoskowitz@cityofmadison.com>
Sent: Wednesday, November 6, 2019 8:33 AM
To: Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject: 121 Langdon St

Hi Kyle,

I inspected the property at 121 Langdon Street yesterday. I found that the site was not in compliance with the approved plan.

1. Nearly all of the landscaping was missing.
2. Cars were parked outside of designated areas, including in the front yard and alongside the house in required landscaped areas.
3. Aside from a small portion of the site which was newly paved, most of the lot was mud/gravel.
4. Nearly all of the parking lot striping was missing.
5. The required curb stops were missing.
6. The handicap parking sign did not meet state requirements.

Please let me know if you have any questions.

Jacob Moskowitz
Assistant Zoning Administrator
608-266-4560
jmoskowitz@cityofmadison.com

Department of Planning & Community & Economic Development

Building Inspection Unit
215 Martin Luther King, Jr. Blvd.
P. O. Box 2984
Madison, WI 53701



11/05/2019 15:37



11/05/2019 15:38



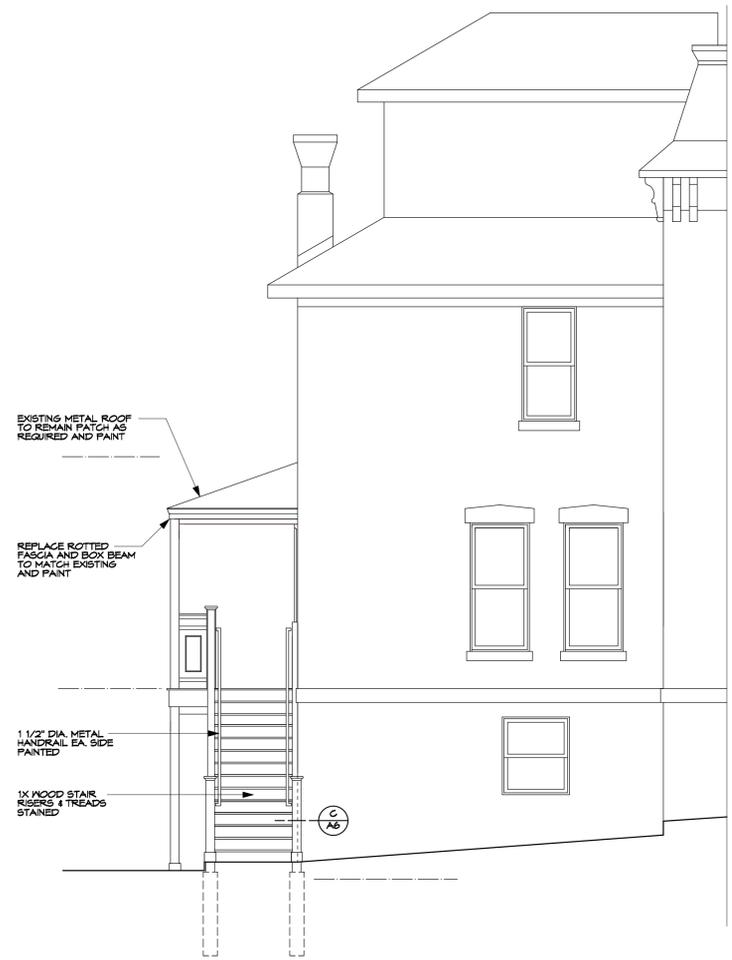
11/05/2019 15:39



11/05/2019 15:40



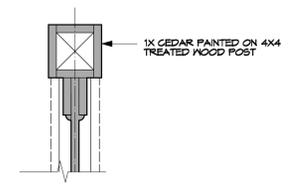
11/05/2019 15:40



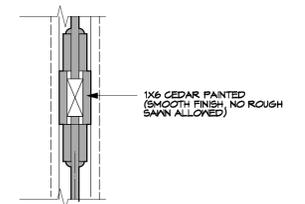
NORTH ELEVATION
0 4' 8' 16'



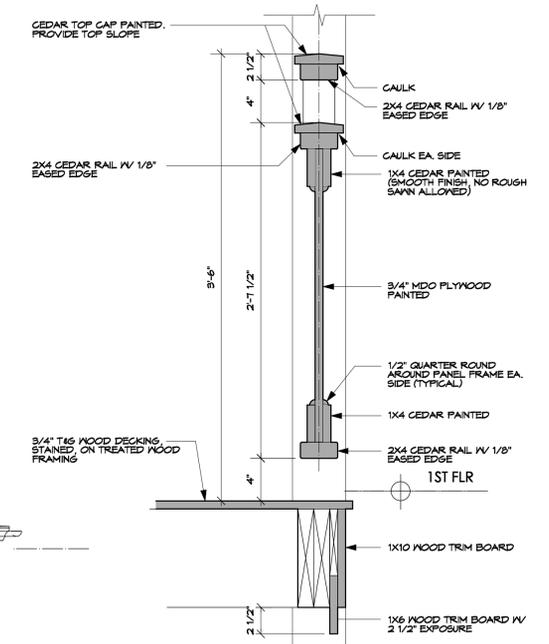
REAR ELEVATION
0 4' 8' 16'



C REAR PORCH & STAIR - CORNER POST
SCALE: 1 1/2" = 1'-0"



B REAR PORCH & STAIR - CENTER RAIL
SCALE: 1 1/2" = 1'-0"



A REAR PORCH RAILING DETAIL
SCALE: 1 1/2" = 1'-0"



PLANNING DIVISION STAFF REPORT

November 11, 2019

PREPARED FOR THE LANDMARKS COMMISSION

Project Name/Address: 121 Langdon St. (Suhr House)

Application Type: Appeal of Demolition by Neglect Finding by the Landmarks Commission

Legistar File ID # [56588](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: November 6, 2019

Background

On June 24, 2019, the Landmarks Commission made a finding that demolition by neglect was occurring at 121 Langdon. Per the remedies in MGO 41.15(4), the property owner filed an appeal of the Landmarks Commission decision on July 3, 2019. The Common Council held a public hearing on August 6, 2019, and referred the matter back to the Landmarks Commission for their reconsideration with the following motion:

A motion was made by Heck, seconded by Bidar, to Refer to the LANDMARKS COMMISSION and should be returned by 9/16/2019. The motion passed by voice vote/other with the following instructions:

1. Rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness, or
2. Refer the Appeal back to the Common Council if the property owner continues to be in non-compliance.

The property owner had completed all items related to the Building Inspection work order that had triggered the demolition by neglect finding as of August 30, 2019. However the building work had triggered site plan compliance with Zoning. The building and site work were both included in the Certificate of Appropriateness issued by the Landmarks Commission in December 2018. As of the September 16, 2019, Landmarks Commission meeting, the site work had not been completed and current site conditions were collecting water against the foundation of the building. The Landmarks Commission moved to refer the matter to their November 11, 2019, meeting so that the property owner could complete the required site work by the November 1, 2019, deadline on file with Zoning.

As of November 5, 2019, much of the site work has not been completed, which includes problematic grading and drainage that directs water to pool near the foundation, and use of the front yard as a parking area. Due to the time of year, the landscaping and paving cannot be completed until the Spring. Zoning is working with the property owner to establish a new date for compliance.

Analysis

The Demolition by Neglect proceedings were triggered by the work order from Building Inspection. As that work is now complete, staff does not believe that demolition by neglect is still occurring. The building work included ground disturbance around the perimeter of the building and that currently directs water to pool up against the foundation. In the short term, this is not problematic, but will damage the foundation if not corrected. The grading and drainage on the property should be addressed as part of Zoning's site plan process, and those required changes will be monitored and inspected by Zoning staff in cooperation with the Preservation Planner.

However, the site work now cannot be completed until next year. It is likely Zoning will set a deadline for early summer 2020. If that work is not completed by that time, the COA from Landmarks will expire on December 6, 2020.

Recommendation

Staff believes that the property owner has not met the conditions of the motion from the Common Council for all work related to the December 6, 2018, COA to be completed. As such, the instruction from Common Council was for the Landmarks Commission to refer the Demolition by Neglect Appeal back to Common Council for their reconsideration.

Staff recommends the Landmarks Commission refer the appeal back to Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018, Certificate of Appropriateness.

From: [Bailey, Heather](#)
To: [Heiser-Ertel, Lauren](#)
Subject: FW: 11/11 Landmarks Commission - 121 Langdon Staff Report
Date: Thursday, November 07, 2019 2:25:33 PM
Attachments: [image001.png](#)

From: Heck, Patrick <district2@cityofmadison.com>
Sent: Thursday, November 07, 2019 1:04 PM
To: Bailey, Heather <HBailey@cityofmadison.com>
Subject: Re: 11/11 Landmarks Commission - 121 Langdon Staff Report

Hello Heather,

I support staff's Nov. 6, 2019, recommendation that the Landmarks Commission refer the appeal of the Demolition by Neglect finding for 121 Langdon Street back to Common Council.

Thanks,

Patrick

Alder Patrick Heck
608-286-2260

To subscribe to District 2 updates go to:
<http://www.cityofmadison.com/council/district2/>

From: Heiser-Ertel, Lauren
Sent: Thursday, November 7, 2019 8:48 AM
To: info1
Cc: Heck, Patrick
Subject: 11/11 Landmarks Commission - 121 Langdon Staff Report

Harold,

Attached please find the staff report for the item that will be reviewed by the Landmarks Commission on November 11.

The agenda for the meeting can be found here:
<https://madison.legistar.com/View.ashx?M=A&ID=640648&GUID=F6B624F6-8072-4C9C-B75B-65E55B6112BF>

Best,
Lauren

Lauren Heiser-Ertel
Administrative Clerk
Department of Planning & Community & Economic Development



215 Martin Luther King Jr Blvd
PO Box 2985
Madison, WI 53701-2985
608-266-4807
lheiser-ertel@cityofmadison.com

Bailey, Heather

From: Bunnow, Kyle
Sent: Monday, November 11, 2019 10:32 AM
To: info1
Cc: Bailey, Heather; Moskowitz, Jacob; David Sparer
Subject: 121 Langdon Street

Harold,

Zoning Inspector Jacob Moskowitz was to 121 Langdon to meet Garth last Friday 11/8 and review the site and site plan conditions. Cars had been moved to the appropriate locations. Several issues still remain and will need get resolved. The weather conditions will no longer allow for much of this work to be completed until next spring summer.

1. Nearly all of the landscaping was missing – see page C2 for trees and landscape elements required. (Weather)
2. Aside from a small portion of the site which was newly paved, most of the lot was mud/gravel (needs to be paved in accordance with the site plan). Garth indicated this was paved area and the mud needed to be cleared from the site. If true and the pavement is in good condition no paving would need to be done. This cannot be evaluated until site is cleared of the mud. (Weather)
3. Nearly all of the parking lot striping was missing. (Weather)
4. The required car curb stops were missing in designated parking locations.
5. The handicap parking sign did not meet state requirements.



Kyle Bunnow, P.E.
Plan Review and Inspection Supervisor

City of Madison Building Inspection Division
Madison Municipal Building
215 Martin Luther King Jr Blvd Suite 017
Madison, Wisconsin 53701-2984
Tel: 608-266-6503

<https://www.cityofmadison.com/dpced/bi>

From: [Bailey, Heather](#)
To: [Heiser-Ertel, Lauren](#)
Subject: FW: 121 Langdon demolition by neglect appeal
Date: Monday, November 11, 2019 4:05:41 PM
Attachments: [ltr to Heather Bailey 191111.pdf](#)

From: David Sparer <Sparer@herricklaw.net>
Sent: Monday, November 11, 2019 3:59 PM
To: Bailey, Heather <H Bailey@cityofmadison.com>; info1 <info@centralapts.com>
Cc: Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject: RE: 121 Langdon demolition by neglect appeal

Greetings:

Please have the attached letter be presented to the Landmarks Commission at tonight's meeting.

Thank you.

Attorney David R. Sparer

Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
P: 608-257-1369 Fax: 608-250-4370
sparer@herricklaw.net | herricklaw.net



From: Bailey, Heather [<mailto:H Bailey@cityofmadison.com>]
Sent: Wednesday, November 06, 2019 12:35 PM
To: David Sparer <Sparer@herricklaw.net>; info1 <info@centralapts.com>
Cc: Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject: RE: 121 Langdon demolition by neglect appeal

David,

Where we are at is that the instructions from Common Council were very specific and that leaves Landmarks Commission with a prescribed set of options.

Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development



Planning Division
215 Martin Luther King, Jr. Blvd.; Suite 017
PO Box 2985
Madison WI 53701-2985
Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: David Sparer <Sparer@herricklaw.net>
Sent: Wednesday, November 06, 2019 12:30 PM
To: Bailey, Heather <HBailey@cityofmadison.com>; info1 <info@centralapts.com>
Cc: Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject: RE: 121 Langdon demolition by neglect appeal

Thank you Heather. I see you sent this to Harold too. I will wait to hear what he says.

While I can certainly see that the City would want to insist upon final and full compliance with the Site Plan, I just feel so strongly that demolition by neglect should not be reopened when the conditions are far from demolition at this point. Am I wrong about that being reopened? I hope so.

Thanks for getting me the fully detailed information.

David

Attorney David R. Sparer
Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
P: 608-257-1369 Fax: 608-250-4370
sparer@herricklaw.net | herricklaw.net



From: Bailey, Heather [<mailto:HBailey@cityofmadison.com>]
Sent: Wednesday, November 06, 2019 12:16 PM
To: David Sparer <Sparer@herricklaw.net>; info1 <info@centralapts.com>
Cc: Bunnow, Kyle <KBunnow@cityofmadison.com>
Subject: RE: 121 Langdon demolition by neglect appeal

David,

I am attaching the report and photos from Zoning and BI. If the conditions changed substantially since their inspection yesterday, I will make a site visit to document the existing conditions.



Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development
Planning Division

215 Martin Luther King, Jr. Blvd.; Suite 017

PO Box 2985

Madison WI 53701-2985

Email: hbailey@cityofmadison.com Phone: 608.266.6552

From: David Sparer <Sparer@herricklaw.net>

Sent: Wednesday, November 06, 2019 11:52 AM

To: Bailey, Heather <HBailey@cityofmadison.com>; info1 <info@centralapts.com>

Subject: RE: 121 Langdon demolition by neglect appeal

Hello Heather. Harold just told me that he was only aware of some remaining issues as of earlier today, this every day, when he talked to Kyle. Until then he thought everything was sufficiently completed.

Kyle promised him this morning that he would get him a list of the remaining items, which will be very minor. Harold believes that these items on the list can be dealt with within just a few days.

Blacktop was all completed yesterday, and striped the parking spots.

Heather, it really seems excessive to refer the matter back to the Council when the items remaining are so few and so minor.

David

Attorney David R. Sparer

Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500

Madison, WI 53703

P: 608-257-1369 Fax: 608-250-4370

sparer@herricklaw.net | herricklaw.net



From: Bailey, Heather [<mailto:HBailey@cityofmadison.com>]
Sent: Wednesday, November 06, 2019 11:17 AM
To: info1 <info@centralapts.com>; David Sparer <Sparer@herricklaw.net>
Subject: 121 Langdon demolition by neglect appeal

Harold & David,

I wanted to remind you that the Landmarks Commission referred their consideration of the appeal of the finding of the demolition by neglect to their November 11, 2019, meeting so that the site plan work associated with the Certificate of Appropriateness could be completed by the November 1, 2019, deadline Harold set with Zoning.

The instructions from Common Council were as follows:

A motion was made by Heck, seconded by Bidar, to Refer to the LANDMARKS COMMISSION and should be returned by 9/16/2019. The motion passed by voice vote/other with the following instructions:

1. Rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness, or
2. Refer the Appeal back to the Common Council if the property owner continues to be in non-compliance.

I believe that the Landmarks Commission will have to follow the direction of Common Council to refer the matter back to Common Council as the property is not in full compliance with the conditions of the December 6, 2018, Certificate of Appropriateness.

If you are unable to attend the meeting, you can also forward a statement to the Landmarks Commission as they consider this case.



Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development
Planning Division
215 Martin Luther King, Jr. Blvd.; Suite 017
PO Box 2985
Madison WI 53701-2985
Email: hbailey@cityofmadison.com Phone: 608.266.6552

Herrick & Kasdorf, L.L.P.

Carousel Andrea Bayrd
Patricia K. Hammel
Scott N. Herrick
David R. Sparer

Law Offices
16 N. Carroll, Suite 500
Madison WI 53703

Robert L. Reynolds, Jr. (1930-1994)
Robert T. Kasdorf (1952-2018)

November 11, 2019

Heather Mailey
Landmarks Commission

Sent via e-mail: Hbailey@cityofmadison.com

RE: 121 Langdon Street

Greetings:

As you know I am the attorney representing Harold Langhammer, the principal of the LLC which owns 121 Langdon. Please have this communication go to the Landmarks Commission for their meeting tonight, and if they send this matter to the Council, please have this communication go to the Council as well. Thank you.

I am writing because you have let me know that the Commission is going to be told that the property owner failed to fully comply with the site plan requirements associated with the Certification of Appropriateness for the property. The property had been the subject of a claim of Demolition By Neglect, however, the Council gave the owner an extra month to finish all the work on the building itself and that work did get done by that date. The Commission referred the matter to the meeting today to examine whether the site work had been completed by November 1st, the deadline for that work.

However, it is true that the owner had not, by November 1st, completed all the site work. I am not sure whether the Commission is considering somehow reopening the Demolition by Neglect claim because of this, but I certainly hope not. All the work on the building itself was completed by the earlier deadline. The only items remaining open had to do with site work exterior to the building itself. While some work has not been finished by the deadline, a finding of Demolition by Neglect is most certainly very wide of the mark at this point.

I am most certainly not suggesting that my client should not get these items completed. I am simply requesting an appropriate response in light of the specifics of the situation.

I am attaching a memo from the Building Inspection Department from this morning which touches upon the items. I will note that BID is NOT asking for any enforcement action or penalty. Please note in that communication the following points:

1. It is noted that while photos of cars on the lawn had been submitted earlier, the cars on the area to become lawn are moved. When the photos were taken, without advance notice to the property owner, they were taken the very day that the tenants could not park in the normal parking areas because that was the day that the blacktop was being poured. It was for that reason alone that the tenants parked in a location otherwise inappropriate, and it lasted for only one day.
2. Three of the five items in the BID list are identified as matters which can not be addressed until next spring because of the winter weather. We live in Wisconsin in the midst of crazy global weather patterns. In other development projects in Madison, upon which I am working, this year we have had the installation of final landscaping prevented because of the highly unusual early snow and cold temperatures. This has been an extremely unusual year in terms of wintery weather arriving well earlier than would be normal.
3. The fourth and fifth items - the curb stops have been ordered and should arrive in a matter of a few days; the new parking sign has been ordered as well, and also should be up in a few days. My client believed that the sign that was put up earlier was sufficient, and is glad to put in a different one instead.

In summation, if some appropriate fine must be imposed because the paving was not done until a few days beyond the deadline, I can not argue with that. The landscaping could have been completed timely at the end of October had the weather been as would be expected, but the winter weather in late October has prevented it here in Madison, just as it has been a problem all over the city.

I write to ask that if the Commission feels the need to impose some fine, please have it be a reasonable amount. I write to ask that the Commission not send this matter back to the Common Council, for these same reasons.

Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David R. Sparer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David R. Sparer

enclosure
DRS/ms
cc: Harold Langhammer

David Sparer

From: Bunnow, Kyle <KBunnow@cityofmadison.com>
Sent: Monday, November 11, 2019 10:32 AM
To: info1
Cc: Bailey, Heather; Moskowitz, Jacob; David Sparer
Subject: 121 Langdon Street

Harold,

Zoning Inspector Jacob Moskowitz was to 121 Langdon to meet Garth last Friday 11/8 and review the site and site plan conditions. Cars had been moved to the appropriate locations. Several issues still remain and will need get resolved. The weather conditions will no longer allow for much of this work to be completed until next spring summer.

1. Nearly all of the landscaping was missing – see page C2 for trees and landscape elements required. (Weather)
2. Aside from a small portion of the site which was newly paved, most of the lot was mud/gravel (needs to be paved in accordance with the site plan). Garth indicated this was paved area and the mud needed to be cleared from the site. If true and the pavement is in good condition no paving would need to be done. This cannot be evaluated until site is cleared of the mud. (Weather)
3. Nearly all of the parking lot striping was missing. (Weather)
4. The required car curb stops were missing in designated parking locations.
5. The handicap parking sign did not meet state requirements.



Kyle Bunnow, P.E.

Plan Review and Inspection Supervisor

City of Madison Building Inspection Division
Madison Municipal Building
215 Martin Luther King Jr Blvd Suite 017
Madison, Wisconsin 53701-2984
Tel: 608-266-6503
<https://www.cityofmadison.com/dpced/bi>

AGENDA # 1

City of Madison, Wisconsin

REPORT OF: LANDMARKS COMMISSION

PRESENTED: 11/11/19

TITLE: Appeal of Madison Landmarks
Commission finding of Demolition
by Neglect of a Designated
Madison Landmark in the Mansion
Hill Historical District regarding 121
Langdon Street

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Heather Bailey, Preservation Planner

ADOPTED:

POF:

DATED: 11/15/19

ID NUMBER: 56588

Members present were: Anna Andrzejewski, Katie Kaliszewski, Arvina Martin, David McLean, and Maurice Taylor. Excused were Richard Arnesen and Betty Banks.

SUMMARY:

Bailey provided background information on the demolition by neglect, including a timeline of events leading up to the Commission's review today. She explained that the motion made by the Common Council on August 6, 2019 is guiding the Commission's decision, and read the motion from the Common Council with the instructions to either rescind the previous finding of demolition by neglect if the property owner is found to be in full compliance with the conditions of the December 6, 2018 Certificate of Appropriateness, or to refer the appeal back to the Common Council if the property owner continues to be in non-compliance. She explained that the work associated with the Certificate of Appropriateness included both the Building Inspection work order items related to the building itself, which are complete, and the site work, which is not complete.

She said that the zoning deadline for the site work was November 1, 2019, and during an inspection on November 5, Zoning found that the work was substantially incomplete. She said that associated with the site work, there was substantial ground disturbance that is directing water against the building foundation. She displayed images from the November 5 inspection, and said that Zoning visited the site again on November 8 to confirm that cars were no longer parked in the front yard. In terms of work to be completed, she said that the area in back is supposed to be paved and striped for parking, but is currently covered in debris; it also does not have correct ADA signage. She explained that the landscaping is a bigger concern related to the structural integrity of the building, but it has not been installed. She said that Zoning has not set a new compliance date for the site work yet, but most of the work cannot be completed in winter, so a new date would likely be set for spring or early summer. She said that the Certificate of Appropriateness is good for two years, and would need to be complied with by December 2020. She referenced the instructions from the Common Council and said that staff's recommendation is to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness. She said that for agenda item 2, the Demolition by Neglect Report, she recommends that the Commission direct staff to update the report.

Andrzejewski asked about the related ordinance language. Bailey referenced the applicable standards in 41.15(3), and explained that the site work and building work were all approved together under the Certificate of Appropriateness; while building work which initiated concerns about demolition by neglect have been resolved, the site work is not complete. She said that she has concerns about the water that is collecting against the

foundation, which has long-term potential for deteriorating the building. McLean asked what type of material the foundation was, and Bailey said that it is soft sandstone. McLean requested confirmation that the landscaping was included as part of the Landmarks Commission's approval, and Bailey confirmed that the landscaping was part of the submission that the Commission reviewed and approved. Bailey said that when the Landmarks Commission first reviewed the appeal of the demolition by neglect on September 16, 2019, they had referred it to their November 11, 2019 meeting because the Zoning deadline for the site work was on November 1, 2019 and they had decided not to separate out the building work from the site work because it was all part of the Certificate of Appropriateness.

McLean referenced the photos asked about the large patches of mortar on the brick. Bailey said that it was pre-existing, and there had been spots of patching and parging in some areas, which she asked that they lift off if possible, but if it was attached strongly, she instructed them to leave it and let it break off naturally. On the rear stairway, McLean pointed out that the battens were placed 90 degrees to the slope rather than vertically like they would have been historically and as they are in the drawings. Bailey said that during the site inspection, they did not seem canted, and from her understanding, she thought the Commission wanted the railing on the back of the house to be new and differentiated in order to avoid creating a false sense of history. She explained that the front and side railings were being replicated from historic documentation, but there was no documentation for the back porch railings.

Taylor asked if Bailey thought the property owner would complete the landscaping work. Bailey said that the City has not had a particularly strong history of compliance with this property owner, so she does not know. She said that if the Commission determines that the intent of the Common Council's directive was compliance with the demolition by neglect-related items in the Certificate of Appropriateness and closes this tonight, they could let the Zoning process move forward with trying to get the site plan in compliance. She said that if the work is not completed by December 2020, the City could look at issuing a citation for noncompliance with the Certificate of Appropriateness and site plan, which would initiate a different process. Taylor asked where on the house the water was pooling, and Bailey said there are several areas, but primarily on the front of the house. She explained that they were excavating to address foundation issues on the east side and front of the house. On the front, they were trying to see if there was a lack of support under the front porch piers, and in the process of excavating the piers, it created trenches that filled with water. Taylor asked if there was significant erosion already. Bailey said that there might be some erosion, but the water pooling on the foundation is less than ideal because the freeze and thaw of water on the foundation can cause the sandstone to spall. Taylor asked if the problem will be fixed when the work is done. Bailey said that they are supposed to regrade as part of the site plan and landscaping, which will direct water away from the building.

McLean asked about the repercussions for the property owner if the Commission still finds that demolition by neglect is occurring. Bailey said that the finding of demolition by neglect serves as prima facie evidence for purposes of any court action the City may engage in with the property owner. Kaliszewski pointed out that the property owner did not meet the deadline to complete the site work, so it seems like court action could be a possibility, though it sounds like the City is open to extending the deadline. Bailey said that Zoning typically will extend the deadline in these circumstances, and if the work is not completed after that, they would look at issuing a citation. She said that the demolition by neglect finding could also be used if the Certificate of Appropriateness were to expire next year as a reason for the City to take action because the owner would be continuing to neglect the property.

Taylor asked if the property owner had completed the Building Inspection work orders, and Bailey said that the work orders for the building itself are complete. Kaliszewski said that it should be noted that the property owner was not moving forward with any work until the Landmarks Commission made the finding of demolition by neglect in June. Bailey confirmed that the work started in July, and the work on the building was done on August 30; however, only a little bit of site work was completed recently. Taylor asked the cost of the site work, and Bailey said that she did not know. McLean asked if the site work was initiated by a push from the City or if it had been on schedule. Bailey said that none of the site work had been initiated by the time the Landmarks Commission had their September 16 meeting, which is why they extended their determination of compliance to today's meeting. She said that the property owner had represented that the site work would be done by the

November 1 Zoning deadline. Andrzejewski said that the Landmarks Commission informed the Common Council that they thought demolition by neglect was occurring, and the Common Council referred it back to the Landmarks Commission with clear instructions that they rescind the finding or refer it back if the property owner continues to be in non-compliance, and that is all the Commission is deciding tonight.

Bailey referenced an email from Alder Heck, who stated that he was supportive of staff's recommendation to refer the appeal back to the Common Council. Andrzejewski said that this is new territory because it is the first case of demolition by neglect, and Bailey confirmed that it is the first case that has gone through the process. Taylor asked what the consequences were for the property owner. Bailey said that in this case, the finding of demolition by neglect was used to assist the City in proceeding with court actions they were pursuing related to the court-approved agreement to complete the Building Inspection work, and she pointed out that the site work was separate. As for other consequences related to the demolition by neglect, she said that the City could step in to complete the work and charge the owner for it, or could acquire the property because it is in the City's interest to preserve the landmark; however, the City is not considering those two options at this time. Taylor asked if the work was completed by the August 30 deadline. Bailey said that the original deadline had been August 1, which was not met because work did not begin until July. She pointed out that the property owner also had several years prior to that to complete the work. She said that when the Certificate of Appropriateness was issued in December 2018, the property owner had submitted a timeline for completing the work by the August 1 deadline, but the work did not begin until July, after the June finding of demolition by neglect. The City Attorney's Office then said that because substantial progress was made, they would give a month extension to complete the Building Inspection work, which was done.

A motion was made by McLean, seconded by Taylor, to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness.

McLean said that the house has been compromised throughout the years, and while the repairs are to the exterior, they are more than superficial. He said that they do not know how much damage has occurred beyond the face of the house, which over the years compromises its integrity from the inside. He said that he understands the Landmarks Commission's purview is the exterior of the house, but eventually that catches up with the interior. He said that in light of not completing the site work and getting a positive drainage situation in place before winter, the freeze and thaw of water around the foundation will be a problem. He said that is why he does not think the Landmarks Commission should rescind the finding of demolition by neglect and should instead refer the appeal back to the Common Council. Andrzejewski said that while the exterior building work has been completed, part of the completion of that work jeopardized the site, so one can't be separated from the other. She said that even though the property owner made good on the building repairs, if their trying to stabilize the porch ended up compromising the building, it is all the more reason to get the site work done quickly. She said that while that may be expensive, deferred maintenance leads to a deferment in paying for it, and it catches up with you. Bailey said that during the August 30 site visit, she had asked about the grading, and the owner said it would be completed as part of the landscaping work.

ACTION:

A motion was made by McLean, seconded by Taylor, to refer the appeal back to the Common Council as the property owner is still in non-compliance with the terms of the December 6, 2018 Certificate of Appropriateness. The motion passed by voice vote/other.