



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: June 14, 2019

Summary

Project Applicant/Contact: Harold Langhammer; David Ferch, Ferch Architecture
Requested Action: The Landmarks Commission is 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.”

On December 3, 2018, the Landmarks Commission approved a COA to complete the necessary work to stabilize and repair the building. The Landmarks Commission referred the Demolition by Neglect case to the April 22, 2019, meeting to have an update from the property owner regarding progress towards completing necessary work in order to meet the terms and deadline of the court-approved agreement to complete the items in the work order by August 15, 2019. The submissions for the April 22 meeting did not meet the requirements for completing the work, so the commission referred the project to the next available meeting. The submissions for the May 6 meeting also did not meet the requirements, so the commission referred the project to the next available meeting. At the May 20 meeting, staff notified the commission that part of the conditions of the Certificate of Appropriateness had been met and that the property owner would have time to begin work on the front porch and prepare additional materials prior to a June 24, 2019, meeting. The commission referred the case to that date. The Landmarks Commission has not made a final findings on the Demolition by Neglect case.

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

At the December 3, 2018, meeting, the Landmarks Commission approved the COA 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.**

Staff has approved the work for the masonry and the front porch. We are still awaiting finalized construction drawings for the other porches and the window. Staff has met with the property owner and contractors who would potentially be working on this project. Given their schedule and the fact that not all of the necessary contractors have been retained, staff does not believe it is possible to complete the work by the court-approved deadline. Included in the packet is an update from Kyle Bunnow stating that it is not possible for the property owner to complete the work by the August deadline.

A discussion of the pertinent code section follows:

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. The notice was issued on August 15, 2018, by Kyle Bunnow, City of Madison Housing Inspection Supervisor.
- (2) Public Hearing. The Landmarks Commission received this notice at its August 27, 2018, meeting and held a public hearing on September 17, 2018.
- (3) Landmarks Commission Finding. The property owner has not completed the work of any of the previous timelines he submitted to the Landmarks Commission. Per the most recent notice from the Building Inspection Division, it is not possible for the required work to be completed by the court-approved deadline.
- (4) Appeal of Landmarks Commission finding. The process has not reached this stage.

- (5) Abatement by the City. The Building Inspector and/or the Office of the City Attorney will have to determine if the City will take abatement steps or pursue other legal remedies.
- (6) Acquisition by City. The process has not reached this stage.

Recommendation

Staff recommends that the Landmarks Commission makes a finding of demolition by neglect, per the recommendation of the Building Inspection Division. The commission should make a report of this finding to Common Council, the Building Inspector, and the Office of the City Attorney, with the recommendation that the Landmarks Commission's finding serve to support actions taken through the Building Inspection Division and the City Attorney's Office to remediate the physical condition of 121 Langdon Street.