

PLANNING DIVISION STAFF REPORT

March 1, 2021

PREPARED FOR THE LANDMARKS COMMISSION



Project Name & Address: 115 N Spooner Street

Application Type(s): Certificate of Appropriateness for exterior alterations in the University Heights historic district

Legistar File ID # [63197](#)

Prepared By: Heather Bailey, Preservation Planner, Planning Division

Date Prepared: February 23, 2021

Summary

Project Applicant/Contact: Patrick and Jamie Aranda

Requested Action: The Applicant is requesting that the Landmarks Commission approve a Certificate of Appropriateness for the replacement of eight windows on the 2nd story.

Background Information

Parcel Location/Information: The subject site is located in the University Heights Historic District.

Relevant State Statute Section:

Wisc SS 62.23(7)(em)2m. In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this paragraph, a city shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.

Relevant Ordinance Sections:

- 41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS.** A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.
- (1) New construction or exterior alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
 - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
 - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
 - (c) In the case of exterior alteration or construction on any property located in a historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
 - (d) In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.
- 41.24 UNIVERSITY HEIGHTS HISTORIC DISTRICT.**
- (5) Standards for the Review of Exterior Alterations and Repairs in TR-C2, TR-C3, and TR-C4, Zoning Districts.

- (a) Height. No alterations shall be higher than the existing structure; however, if the existing structure is already a nonconforming one, alteration shall be made thereto except in accordance with Section 28.192. Roof alterations resulting in an increased structure volume are prohibited unless they meet the requirements in Sec. 41.24(4)(a)5. and are permitted under Chapter 28, or approved as a variance pursuant to Sec. 28.184 or approved as a conditional use or as part of a planned residential development.
- (b) Second Exit Platforms and Fire Escapes. Second exit platforms and fire escapes shall be invisible from the street, wherever possible, and shall be of a plain and unobtrusive design in all cases. In instances where an automatic combustion products detection and alarm system is permitted as an alternative to second exits, use of such a system shall be mandatory.
- (c) Repairs. Materials used in exterior repairs shall duplicate the original building materials in texture and appearance, unless the Landmarks Commission approves duplication of the existing building materials where the existing building materials differ from the original. Repairs using materials that exactly duplicate the original in composition are encouraged.
- (d) Restoration. Projects that will restore the appearance of a structure to its original appearance are encouraged and will be approved by the Landmarks Commission if such projects are documented by photographs, architectural or archeological research or other suitable evidence.
- (e) Re-Siding. Re-siding with aluminum or vinyl that replaces or covers clapboards or nonoriginal siding on structures originally sided with clapboards will be approved by the Landmarks Commission provided that the new siding imitates the width of the original clapboard siding to within one (1) inch and provided further that all architectural details including, but not limited to, window trim, wood cornices and ornament either remain uncovered or are duplicated exactly in appearance. Where more than one layer of siding exists on the structure, all layers except the first must be removed before new siding is applied. If insulation is applied under the new siding, all trim must be built up so that it projects from the new siding to the same extent it did with the original siding.
- (f) Alterations Visible from the Street and Alterations to Street Facades. Alterations visible from the street, including alterations to the top of structures, and alterations to street facades shall be compatible with the existing structure in architectural design, scale, color, texture, proportion and rhythm of solids to voids and proportion of widths to heights of doors and windows. Materials used in such alterations shall duplicate in texture and appearance, and architectural details used therein shall duplicate in design, the materials and details used in the original construction of the existing structure or of other structures in University Heights of similar materials, age and architectural style, unless the Landmarks Commission approves duplication of the texture and appearance of materials and the design of architectural details used in the existing structure where the existing building materials and architectural details differ from the original. Alterations that exactly duplicate the original materials in composition are encouraged. Alterations that destroy significant architectural features are prohibited. Side alterations shall not detract from the design composition of the original facade.
- (g) Additions and Exterior Alterations Not Visible from the Street. Additions and exterior alterations that are not visible from any streets contiguous to the lot lines upon which the structure is located will be approved by the Landmarks Commission if their design is compatible with the scale of the existing structure and, further, if the materials used are compatible with the existing materials in texture, color and architectural details. Additions and alterations shall harmonize with the architectural design of the structure rather than contrast with it.

- (h) Roof Shape. The roof shape of the front of a structure shall not be altered except to restore it to the original documentable appearance or to add a dormer or dormers in a location and shape compatible with the architectural design of the structure and similar in location and shape to original dormers on structures of the same vintage and style within the district. Alterations of the roof shape of the sides or back of a structure shall be visually compatible with the architectural design of the existing structure.
- (i) Roof Material.
 - 1. If the existing roof is tile, slate or other material that is original to the structure and/or contributes to its historic character, all repairs thereto shall be made using the same materials. In addition, in all cases any such roof must be repaired rather than replaced, unless the documented cost of repair exceeds the documented cost of re-roofing with a substitute material that approximates the appearance of the original roofing material as closely as possible, in which case re-roofing with a material that approximates the appearance of the original roofing material as closely as possible will be approved by the Landmarks Commission.
 - 2. If the existing roofing material is asphalt shingles, sawn wood shingles or a nonhistoric material such as fiberglass, all repairs shall match in appearance the existing roof material; however, if any such roof is covered or replaced, re-roofing must be done using rectangular sawn wood shingles or rectangular shingles that are similar in width, thickness and apparent length to sawn wood shingles, for example, 3-in-1 tab asphalt shingles. Modern style shingles, such as thick wood shakes, Dutch lap, French method and interlock shingles, that are incompatible with the historic character of the district are prohibited.
 - 3. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.

Analysis and Conclusion

The applicant is requesting a Certificate of Appropriateness to replace eight windows on the 2nd story. The applicant has provided the 3rd party windows assessment in compliance with the Landmarks Commission's process for evaluating windows replacement proposals.

The building was constructed in 1914 and is in the Craftsman style. This was originally the home of Ford MacGregor, who served as director of the UW Extension Office's Municipal Reference Bureau from 1914-1935, president of Municipal Traffic Devices from 1923-1927, and as an assistant professor of political science at UW from 1929-1935.

Of the windows proposed for replacement, they appear to be original and in good condition. The 3rd party assessment found that the windows needed paint removal and weather stripping installed. Removing the lead paint abates the issue of lead dust and contamination. The applicant requested one window be replaced to make it tempered glass for safety purposes. However, the precedent for similar requests has been for property owners to use a window film that allows for the original window to remain in place while addressing the safety issue. This meets building code requirements. As all of these windows are easily repairable and this property can access preservation tax credits due to it also being located within a National Register historic district, staff believes that these windows should be repaired. If any of the storm windows need to be replaced, particularly to replace them with windows that do not have aluminum frames, replacement of those nonhistoric windows meets the standards of the historic preservation ordinance and the University Heights standards.

A discussion of the relevant ordinance sections follows:

41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS. A certificate of appropriateness shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.

- (1) New construction or exterior alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
 - (a) N/A
 - (b) N/A
 - (c) Proposal will need to meet the standards for the University Heights historic district.
 - (d) Removing character-defining windows that are repairable will frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources. Please see the attached memo from the City Attorney's office.

41.24 UNIVERSITY HEIGHTS HISTORIC DISTRICT.

- (5) Standards for the Review of Exterior Alterations and Repairs in TR-C2, TR-C3, and TR-C4, Zoning Districts.
 - (a) Height. N/A
 - (b) Second Exit Platforms and Fire Escapes. N/A
 - (c) Repairs. If the windows are repaired, the repair methods discussed in the 3rd party assessment meet this standard by retaining historic materials and repainting to replicate the historic appearance.
 - (d) Restoration. N/A
 - (e) Re-Siding. N/A
 - (f) Alterations Visible from the Street and Alterations to Street Facades. Some of the windows are on the street façade and visible from the street. The proposed replacements would be proposed to be manufactured to replicate the appearance of the existing. If the commission approves replacements, then staff will need to review the final specifications for the proposed replacements to ensure they replicate the historic conditions.
 - (g) Additions and Exterior Alterations Not Visible from the Street. Just as with the windows visible from the street, the proposed replacements will need final specifications to ensure that they would be complimentary to character of the historic windows.
 - (h) Roof Shape. N/A
 - (i) Roof Material. N/A

Recommendation

Staff believes that the standards for granting a Certificate of Appropriateness could be met by repairing the 8 windows proposed for replacement and the installation of safety film on the window needing to meet tempered glass standards.

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

TO: Alder Marsha Rummel

FROM: John W. Strange, Assistant City Attorney

RE: Certificate of Appropriateness -- Window Removal

Date: March 9, 2017

You have asked for my opinion regarding the standard for granting a Certificate of Appropriateness under Sec. 41.18(1), MGO, when the applicant wants to remove windows from a structure located in a historic district.

Sec. 41.18(1) states:

- (1) New Construction or Exterior Alteration. The Landmarks Commission shall approve a certificate of appropriateness for exterior alteration or construction only if:
 - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
 - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
 - (c) In the case of exterior alteration or construction on any property located in a historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
 - (d) In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.

Under this provision, the Landmarks Commission must approve a Certificate of Appropriateness for an exterior alteration (such as a window removal or replacement),

but only if the applicant meets all of the standards listed in (a)-(d).

Most relevant to the issue of removing windows from a structure in a historic district are subs. (c) and (d).

First, sub. (c) states that the applicant must meet all of the standards and guidelines contained in each district specific ordinance. For windows, some districts specifically address the removal of windows and some do not. *Compare* Sec. 41.25(5)(f) (Marquette Bungalows) *and* Sec. 41.22 (Mansion Hill). When considering an application for the removal of windows in a district that provides standards for the removal of windows, the Landmarks Commission, pursuant to sub. (c), may not grant a certificate of appropriateness if those standards have not been met.

However, even if a historic district ordinance has no standards related to window removal, or if the Landmarks Commission determines that a historic district ordinance's standards for window removal have been met, the Landmarks Commission may not automatically grant the Certificate of Appropriateness for window removal. It still must ensure that the standard in sub. (d) has been met. Specifically, the Landmarks Commission must find that the proposed window removal will not "frustrate the public interest in protecting, promoting, and conserving the City's historic resources."

The Historic Preservation Ordinance states a strong public interest in identifying, protecting, preserving, promoting, conserving, and using historic resources within the city. Sec. 41.02 defines Historic Resource as "any building, structure, sign, feature, improvement, site, or area having significant architectural, archaeological, anthropological, historical, or cultural value. Historic Resources include properties designated as...historic resources in historic districts." Each historic district ordinance defines historic resource as a Landmark, Landmark Site, or property constructed during the period of significance. Thus, the Historic Preservation Ordinance sets a strong public interest against destroying any feature of a historic resource.

Certainly, a window that is original to a structure constructed during the period of significance is the type of "feature" of a "historic resource" that the Historic Preservation Ordinance is designed to protect. Thus, if someone proposes the removal of an original window from a historic resource, then I think the ordinance creates a strong presumption that Landmarks Commission should determine that the removal of that window would frustrate the public interest in protecting historic resources, and deny the Certificate of Appropriateness pursuant to sub. (d).

If you believe that sub. (d) does not provide enough protection for windows in the historic districts, then each historic district ordinance would need be amended to replace any current standards and guidelines related to windows with a prohibition on window removal. This is something that could be addressed now or during Phase II of the Landmarks Ordinance Review Committee process.