



APPROVED: January 6<sup>th</sup>, 2010

**CITY OF ALBANY  
LANDMARKS ADVISORY COMMISSION  
Municipal Court, 333 Broadalbin Street  
Wednesday, November 4, 2009  
6:30 p.m.**

**MINUTES**

Landmarks Commissioners Present: Linda Herd, Oscar Hult, Roz Keeney, Heidi Overman and Robyn van Rossmann

Landmarks Commissioners Absent: Derryl James, Dave Pinyerd

Staff present: Community Development Director Greg Byrne, City Attorney Jim Delapoer, Community Development Customer Services Supervisor Kristin Johns, Planner II Anne Catlin, Administrative Assistant 1 Sheena Dickerman, Administrative Assistant Heather Gravelle

Others present: 2 others present

**CALL TO ORDER**

Chair Oscar Hult called the meeting to order at 6:31 p.m.

APPROVAL OF October 7, 2009 MINUTES.

Commissioner van Rossmann noted she declared a site visit to the following addresses: 921 Washington Street SW and 438 9th Avenue SW.

**Motion:** Commissioner Herd moved to approve the October 7, 2009, minutes **as amended**. Commissioner Keeney seconded. **Motion passed unanimously.**

PUBLIC HEARING (HI-19-09): 3051 1st Avenue SW

Chair Hult called the public hearing on Planning File HI-19-09, a request to replace vents and framing on alley side of building and new stairs, to order at 6:33 p.m.

Declarations

Hult and Herd stated they conducted a site visit.

Staff Report

Planner II Anne Catlin summarized the written staff report. The applicants propose to remove the existing air intake vent for a former heating system, and recess and finish the area above the back door with stucco. Additionally, the applicants are proposing to replace the temporary handrail on the stairs with a simple metal or iron handrail more appropriate to the building. The building is in the downtown commercial historic district, and was built circa 1895. Catlin noted that the storefront had been

substantially altered over time, referring to pictures in the staff report. Based on how the area above the door was framed, the applicants feel the window is not original to the building. Catlin noted that the adjacent retail space in the same building has a recessed arch over the back door. She concluded that the applicants are willing to compromise on design details. Staff recommends approval of the proposed alterations above the back door and the handrail, with the condition to use a stucco finish that is compatible to historic finishes.

Commissioner Overman arrived at 6:35 p.m.

#### Applicant Testimony

Larry Preston, Contractor, 1152 12th Ave SW Albany or 97321 explained they want to clean up the existing ductwork that is fighting against the new heating system that was installed. The old heating system and vents will be removed and the opening will be checked for structural soundness and filled in. The rest of the building is brick with stucco, and they are trying to keep the finish consistent with the existing building construction.

Chair Hult closed the public hearing at 6:42 pm

#### Commission Discussion

Herd questioned if the removal of the existing vents and duct work is part of an air handling system that needs to be placed outside. Preston stated the system hasn't been used for years. The new unit was put in without discarding the old system. The old one will be disposed of.

Hult asked how deeply recessed is the window opening above the door. Preston said the opening is recessed about half a brick, or up to 2 inches, and they plan on keeping it consistent.

Hult questioned the transom window seen in the photo on page four of the staff report. He noted that when he did the site visit; it looks like there used to be a tall doorway there. Preston explained what he thought the changes to the back have been over time, noting that he thought the back part of the building was added or modified at a later date.

Herd asked what kind of stucco finish will be used. Catlin suggested that it will be regular stucco finish and not match the current "modern" finish on the back of the building.

Hult believes the transom window is older than originally thought. Preston asked if they put the transom window back in, how high should it be. He added they could put it in fixed glass so it appears like a transom window. He stated that when he starts taking the area apart, it will be easier to see what is there.

Herd suggested as a condition of approval, either Catlin, or a member of the LAC take a look once the contractor has uncovered the area to determine if the transom is an original window. Keeney commented if the window is original; it is likely one of the only surviving pieces of the original building.

#### Commission Action:

**Motion:** Commissioner Keeney moved to approve HI-19-09 with the condition that the stucco finish be compatible and simple, and when the venting system is removed, staff will be notified to evaluate the transom window to determine if it is original. If it is found to be original, it shall be retained in the design. Commissioner Herd Seconded. **Motion passed unanimously.**

## LEGAL TRAINING

Jim Delapoer City Attorney stated he is attending the LAC meeting to provide legal training. He complimented Chair Hult on how he is running the meetings and expressed it was apparent that this was in fact, a legal proceeding and was professionally done. He added when you are formal, the process tends to go smoother.

The LAC is considered a local government according to state law and is a public body, and all commission members are public officials, bound by public ethic laws that apply to the City Council. He added the LAC may be the only or first time a person of the community has dealt with the City in a formal way, and with a decision making body. The LAC has two very different functions. In one capacity, it is a legislative body, and the other it is a quasi-judicial body. Delapoer continued to explain the technical legal terms and explained why the laws are in place. The people who are affected don't realize how decisions are reached. It's better to disclose the how, when and where of the decision. It provides them the opportunity to share with you their input and have all the facts on the table. He explained when site visits are conducted, it's very important to disclose exactly what you saw, not just that you visited. If there is anything while on the visit that may sway your decision, disclose that. Ensure that everyone makes decisions on the same set of relevant facts. Keep the hearing focused so everyone can participate fairly. There is nothing wrong with having an ex-parte communication, just disclose what you saw that may influence you.

Delapoer explained why the LAC should not take questions after the public hearing has closed. If you have a contentious issue, and the hearing has been closed, and people have questions, there is no opportunity for the opposition to comment. Ideally, if you have questions the chair can invite testimony before the public hearing is closed, so others have the opportunity to comment.

Sheena Dickerman, Administrative Assistant I, asked for clarification on what should happen if the public hearing has been closed, and the applicant wants to speak on the issue again. Delapoer stated it's up to the Chair's discretion to either let the person speak, or if they are providing repetitive information, to let the applicant know the hearing has been closed and no other testimony is being considered, unless they have new information to share. You can always limit the comments to the topic at hand and specify whether it's a response to a specific question. The goal is to not impair the integrity of the historical review process. If they feel the process wasn't fair, they won't support the LAC again. If it's fair, they might not like it, but they will know they were treated right.

Delapoer noted at one point the LAC broke down into several side conversations while Chair Hult was reading the legal and procedural protocol. It makes it difficult for people to hear or focus on the separate conversations taking place. The chair has to preside to make sure were listening to the same discussion. It's also an issue of perception from the public. Remember to keep the proceedings formal and stick to the procedure. He added the LAC struggled with the condition at the end of the motion. When you struggle with the motion, ask staff to assist. Community Development Director Greg Byrne suggested taking a break if necessary, stopping the proceedings in order to develop the motion.

Delapoer stated another concern with the motion was delegating staff to go out to the site and determine if the transom window is original. Keeney responded it's fairly common for the LAC to instruct staff to investigate and determine if conditions placed upon the applicants are heeded. This also eliminates the need for applicants to come back to the LAC for further action. Delapoer stated to the best of your ability, and to the greatest extent possible, try to frame you decision to an objective standard, so returning isn't an issue. He added part of the issue is making a decision based on what you don't know yet. Staff needs to do their best to anticipate what you will need. It won't be perfect, but again do your best. Keeney

questioned if it would be better to stay away from conditions when they make approvals. Delapoer responded ideally yes, because how do you find out if it's been done.

Catlin expressed concern with redesigning applications at the table. At that point should we stop the hearing? For example, tonight, the proposal did not include saving the transom window. What they presented as desired modifications, met the review criteria. Byrne agreed and stated re-designing applications should not take place on the fly. If you get into a discussion, and agree to do it differently than the application, and something goes drastically wrong, you just made the wrong decision. It is better to table it, discuss with staff and bring back to the next meeting.

Overman commented on the perception due to the name of the commission makes people think the LAC is only an advisory commission, not a decision making body. Delapoer agreed and added that a name change may be an option. Another idea is to hold the meetings in the Council Chambers so it's a more formal setting.

Catlin asked for clarification on ex-parte communication. Delapoer explained communicating with other staff members would not be considered ex-parte. He reminded the LAC that perception is key. Ensure that you communicate precisely what was disclosed, on the issue, if anything.

Catlin questioned what should be done when the applicant does not follow the LAC decisions. Delapoer commented creating a compliance board may resolve the issue. Designate three members and they would be given decision making authority to make factual determinations on which the condition rests. Byrne explained the role of the Planning Commission Hearing's Board, it's binary and doesn't have to necessarily be a public hearing; it can just be a public meeting where citizens are invited to attend, but may not necessarily speak on the issue.

Delapoer explained when the LAC constructs its motions, to be careful to frame them as specifically as possible. This may help to avoid the applicants having to return, or have it move forward to a compliance case. However, if they still don't comply have staff file a report and we will take them to municipal court. Most people don't want to be convicted and have their name in the paper, and most people will comply. Municipal court can be a tool to enforce the process.

Herd commented a lot of confusion would be eliminated if there was a set of guidelines established of what kinds of items are acceptable. For example, a resource file could be created that has ten acceptable garage doors, five acceptable front doors, etc. based on historical precedence of houses here at that time.

Keeney stated often owners will buy a home and not know it was on the historical register, because they weren't informed when they purchased the home. They move forward with their modifications without coming forward to the LAC for review. Catlin added she sends out "welcome" letters to new owners of historic homes. Additionally, a newsletter is distributed that includes a reminder of the rules and regulations. van Rossmann questioned if the information could be placed on the title report. Catlin stated she has called title companies and the counties and was told they can do it, but it would be time consuming and costly. Delapoer replied that information should be disclosed on the title report. He commented it needs to be further researched to determine if it can be accomplished.

## OLD BUSINESS

No old business.

NEXT MEETING DATE

The next meeting of the Landmarks Advisory Board is scheduled for December 2, 2009, at 6:30 p.m.

ADJOURNMENT

Chair Hult adjourned the meeting at approximately 8:16 p.m.

Submitted by

Reviewed by

*Signature on File*

*Signature on File*

Heather Gravelle  
Administrative Assistant

Anne Catlin  
Planner II