



**MANITOU SPRINGS
HISTORIC PRESERVATION COMMISSION
REGULAR MEETING MINUTES
Wednesday, December 2, 2009, 7:00 P.M.**

I. CALL TO ORDER

A Regular Meeting of the Manitou Springs Historic Preservation Commission was held Wednesday, December 2, 2009 in Council Chambers @ 606 Manitou Avenue. Chairwoman Nichols called the meeting to order at 7:03 pm and declared a quorum present. The following were in attendance:

PRESENT: Alternate Commissioner ROGER ARMSTRONG
Commissioner KAREN CULLEN
Commissioner RANDY HODGES
Commissioner ANNE HYDE
Chairwoman ANN NICHOLS
Vice Chair MOLLY WINGATE
Commissioner TAMMILA WRIGHT

ABSENT: Commissioner CHARLES CASE (excused)

GUESTS: None

STAFF: Dan Folke, Planning Director
Kari Kilroy, Assistant

II. APPROVAL OF MINUTES

ITEM 1. Minutes from November 4, 2009 Regular Meeting.

MOTION:

Commissioner Hodges moved to accept the Minutes as presented.

SECOND:

Vice Chair Wingate seconded the motion.

DISCUSSION:

None.

VOTE:

Motion passed, 4-0 (Commissioners Armstrong, Cullen and Hyde abstained).

III. NOTICE OF COUNCIL ACTION

None.

Chairwoman Nichols reviewed the meeting procedures and asked the Commissioners if they had any ex parte contacts or conflicts of interest to declare. Hearing none the meeting continued.

IV. UNFINISHED BUSINESS

ITEM 2. MCAC 0908 – Material Change of Appearance Certification (MCAC 0811 State Tax Credit – Final Approval) – 723 Manitou Avenue – Rhynette Bergmann, Applicant.

DISCUSSION REGARDING REQUEST AND PUBLIC COMMENT:

Dan Folke (Planning Director) presented the Staff Report dated 11/23/09 and written by Michelle Anthony (City Planner), who was on vacation. Staff recommended Final Approval of the State Tax Credit application.

Rhynette Bergmann (Applicant), 723 Manitou Avenue, said she was very pleased with the way the project turned out.

There was no public comment.

MOTION:

Commissioner Cullen moved to approve MCAC 0908.

SECOND:

Commissioner Wright seconded the Motion

DISCUSSION:

None.

VOTE:

Motion passed, 7-0.

Chairwoman Nichols asked the Commissioners if they had any ex parte contacts or conflicts of interest to declare. Hearing none the meeting continued.

V. NEW BUSINESS

ITEM 3. MCAC 0910 – Material Change of Appearance Certification (Demolition for New Parking Lot – Initial Meeting) – 1134 Manitou Avenue – Chad Kuzbek (WestWorks Engineering) on behalf of the Manitou Springs Metropolitan Parking District, Applicant.

DISCUSSION REGARDING REQUEST AND PUBLIC COMMENT:

Dan Folke (Planning Director) presented the Staff Memo dated 11/23/09 and written by Michelle Anthony (City Planner), who was on vacation. Mr. Folke explained that the purpose of the meeting was to ask questions and request any additional information. He said that the Commission would also schedule a site visit and that there would be a public hearing in January when the Commission would make a recommendation to Council.

Vice Chair Wingate confirmed with Mr. Folke that the Design Guidelines concerning fences would apply.

Vice Chair Wingate asked Mr. Folke if a structural/engineering report was needed. Mr. Folke replied no because the structure was considered a non-contributing resource and also because the demolition request was not based on the state of the structure.

Chairwoman Nichols commented that the basis for the demolition was a little foggy – Because it was a noncontributing structure? Due to no historic significance? Based on economic return? She was having a little trouble determining which part of [Municipal Code] Section 17.04.080 to consider.

Vice Chair Wingate wanted proof of the Applicant's financial ability to do what was planned. Mr. Folke explained that it had been provided by the Applicant, but not included in the packet.

Vice Chair Wingate felt that they needed to talk about under what auspices the Commission could approve the demolition – she wanted to make sure they were working within the Guidelines. Mr. Folke explained that the Staff Report for the public hearing in January would provide that evaluation.

Chairwoman Nichols summarized that the Commission was struggling a little with what category to fit the demolition into within the Ordinance.

Commissioner Hyde commented that the request would result in a change in use and she wondered if the neighbors had been consulted. Mr. Folke replied yes and explained the notification procedures.

Commissioner Wright asked if a Phase I EPA evaluation was required. Mr. Folke replied that it was something Staff had requested. He also mentioned that it would be evaluated during the Conditional Use review [by the Planning Commission].

Chad Kuzbek (Westworks Engineering), 945 Osage Avenue, speaking on behalf of the Applicant, explained that the Manitou Springs Metro District had been seeking additional parking for 20 some years. They had had the opportunity to purchase the property so they took it. Mr. Kuzbek displayed and explained the landscape plan. He told the Commission that they had had a neighborhood meeting with approximately 20 people in attendance and had gotten good feedback regarding fencing and buffering. In regards to concerns about the Creek, Mr. Kuzbek explained that there was no plan or room for a trail system so they were proposing a rod iron fence. He concluded by explaining that an angled, stucco wall would separate the cottage in the back west corner from the parking area.

Chairwoman Nichols asked Mr. Kuzbek to address the structural questions. Mr. Kuzbek said that the building was in horrible shape – one could see daylight, corners were crumbling, and there were leaks. He described it as “kind of a nightmare.”

Mr. Folke commented that Staff had met with Mr. Kuzbek about the structural issue and although they had not required an assessment since the building was noncontributing, the Commission could request it.

Commissioner Hodges asked if there were any artifacts or signage related to the Pikes Peak Hill Climb. Mr. Kuzbek said he had seen none.

Commissioner Cullen wondered about the response from neighbors. Mr. Kuzbek said that they had been surprisingly supportive, their concerns were about lighting and landscaping, and no one was outright opposed. They were also slated to have a follow-up meeting. Mr. Kuzbek further explained that they had investigated the possibility, based on a suggestion from someone in the community, of leaving the building façade intact, but they could not make it work because there would not be enough parking. He felt that Metro’s legitimate goal was to take a bite out of the parking issues in Manitou that came up year after year.

Vice Chair Wingate commented that the need for parking spaces was clear and that the HPC could allow the demolition, but not just because “we don’t want it there.” She encouraged Mr. Kuzbek to work with Staff and address any thoughts on how the Commission could allow the demolition.

Chairwoman Nichols felt that the Applicant had tried to fit into the constraints of the Ordinance. She encouraged Staff to make crystal clear the conditions of demolition and suggested the Commission ought to direct Staff to provide a write-up of the structural integrity.

Chairwoman Nichols opened the discussion to the public.

John Bailey, 141 Spencer Avenue #9, showed where he lived in relation to the site (using Mr. Kuzbek’s display) saying it was completely behind the old bronze foundry. He said that the allegation that the Applicant had met with the neighbors was incorrect. He was at the HPC meeting on a separate issue and just happened to be present for the discussion. Mr. Bailey

was concerned that there would be nothing keeping the Applicant from adding 3 or 4 levels in a few years. He concluded by reiterating that he had had no contact.

Mr. Kuzbek said he had followed the Code for notification and had notified the owner of 141 Spencer Avenue – perhaps he did not pass on the information. *[Mr. Bailey provided Mr. Kuzbek with his contact information so he could be informed of future meetings.]*

Larry Erpelding (previous owner of 1134 Manitou Avenue) said he had come to see what the gist of the plan was because he had first right of salvage when the building was torn down. He thought that maintaining the façade would definitely incur more costs and had questions about blocking off all access to the Creek – he was hoping to see some green space towards the back, maybe picnic tables.

Mr. Bailey vocally disagreed from the audience.

Mr. Folke felt that the Fountain Creek Restoration Committee would request access for creek restoration.

Mr. Erpelding said that a Phase I EPA evaluation had been done during the sale to the Metro District and confirmed that there were actually two buildings at two different levels.

Chairwoman Nichols asked Mr. Erpelding if he had any specific knowledge of the history of the property. Mr. Erpelding replied no but said that they had unearthed a dozen horseshoes so it was probably a farrier at one time.

Seeing and hearing no further comment, Chairwoman Nichols closed the meeting to the public.

Mr. Folke discussed Section 17.04.080 (Demolition of Structures) and summarized the information that the Commission was requesting: 1) information on the structural integrity (which need not be done by a structural engineer) and 2) updated historic inventory.

Chairwoman Nichols asked the Commission to discuss dates for a site visit. It was decided that before Christmas would be best. Commissioner Hyde would be gone from December 30-January 4 and Commissioner Cullen would not be available on December 11-12. Kari Kilroy (Planning Assistant) would check with Ms. Anthony and email the final date to the Commission.

ITEM 4. MCAC 0911 – Material Change of Appearance Certification (Temporary Accessory Structure) – 201 Spencer Avenue – Clint Lewis, Applicant.

DISCUSSION REGARDING REQUEST AND PUBLIC COMMENT:

Dan Folke (Planning Director) began by reading a portion of Municipal Code Section 2.52.050 (HPC Delegation of Powers and Duties), specifically numbers 6 and 7:

“The Commission delegates its decision-making authority to Staff to approve or disapprove the following applications:

6. All projects which, upon Staff review, are determined to have no significant or detrimental impacts on the resource or Historic District and do not require Planning permission.
7. Construction of secondary structures which do not exceed one hundred twenty square feet, do not have a permanent foundation, are not located in the front of the property and do not require Planning permission.”

He explained that Staff looked at the potential visual impact, if there were contributing resources surrounding the request, and if the request was consistent with the Design Guidelines. Mr. Folke went on to explain when a Material Change of Appearance Certification (MCAC) was required and read from Section 17.04.050:

“17.04.050 (A) (1) No Alteration visible from a public right-of-way of a Structure, exterior sign or historic landscape within an Historic District shall be made or permitted to be made by the owner or occupant thereof until an application for MCAC has been approved and, subsequently, any required permits have been obtained for such changes.”

“17.04.050 (A) (2) (a) Any person, owner or other entity is required to apply for and receive approval of a MCAC for any Proposed Project in an Historic District including, but not limited to any of the following: a. Any new Construction.”

Mr. Folke stipulated that according to Section 17.04.050 (A) (2) (a), new construction would require a MCAC, unless Section 2.52.050 applied. Staff had made the determination that the Applicant’s request required HPC review. The challenge, then, was determining which Guidelines were applicable. Mr. Folke referred to Chapter 9 (Secondary Structures) of the Historic District Design Guidelines and told the Commission that the Applicant thought that some of the Guidelines were not applicable. Mr. Folke felt that it would be difficult to write a Code that included every structure and that the Commission did have the definition of a secondary structure (from the Design Guidelines) and that accessory and secondary structures were the same thing.

Chapter 9, page 9.1: “Secondary structures include garages, studios, carriage houses and sheds.”

Mr. Folke did not believe that the intent of the Guidelines was to ONLY regulate garages, sheds, and carports; however, if the application was not evaluated as a secondary structure then the alternative was to evaluate it as a new structure.

Mr. Folke then presented his Staff Report dated 11/25/09 which recommended denying the request because the proposed structure was visible from the right-of-way and was inconsistent with the Design Guidelines for secondary structures. He further outlined the Commission’s options:

- 1) Take Staff's recommendation and deny the request
- 2) Find that there were no significant or detrimental impacts on the surrounding historic resources and direct Staff to conduct an Administrative review
- 3) Determine that the Guidelines for secondary structures were not applicable and review the request using the new construction Guidelines

Vice Chair Wingate addressed visibility saying that it would be visible from Higginbotham Flats and the trail. It was her opinion that the intent [of Chapter 9: Secondary Structures] was to avoid inconsistent structures popping up temporarily in the District.

Mr. Folke, in reference to pictures Mr. Lewis had included in his submission, explained that a mix of things (temporary structures) had gone up because some were opted out of the District and some were put up without permits. He confirmed that the City did not limit the number of accessory structures erected, except by maximum lot coverage. Mr. Folke felt that it was a mistake to get hung up on whether the structure was a garage, shed or carport – it was most reasonable to determine that it was a secondary/accessory structure and then apply the Guidelines.

Commissioner Hodges commented that it was a well-prepared submittal and since the plan was for it to be temporary storage of equipment for projects, he would rather see the proposed structure than a bunch of blue tarps.

Commissioner Wright wondered what the definition of “temporary” was. Mr. Folke said it was not based on how long the structure was used; rather it was based on size, foundation, structural integrity and whether it needed Pikes Peak Regional Building Department review. He suggested that the Commission could impose a condition of “5 years”. Mr. Folke also suggested that the Commission could make the finding that the application was acceptable because it was temporary, but recommended that they define temporary.

Commissioner Hyde wondered how the application was different from a greenhouse. Mr. Folke did not think it was particularly different structurally and explained that Staff would also bring a greenhouse request to the HPC for review.

Clint Lewis (Applicant), 201 Spencer Avenue, said he had lived in Manitou since the roof could be rolled back over the pool. In regards to his site, no one lived to the north or west and to the east was Roger Treweeke who had submitted a letter supporting the proposal. Mr. Lewis said that to get to a place where one could see maybe 10% of the proposed structure one would have to get to a very specific spot. Mr. Lewis went on to say that Victorians require constant work and he was a “hands on” guy with tools who was pretty into what things should look like. He would like to put in a permanent structure but did not want to put money into a foundation until he was sure of what he wanted. Mr. Lewis felt that the neighbor to the south, Neil Plass, used his home as a second home and he had a big garage between the properties so that when he sat outside he looked south. Mr. Lewis said that he had been optimistic that the new Guidelines [adopted July 2009] would allow property owners to start doing things – they were a little too tight – regarding temporary structures,

green building, and solar structures. He felt that the [new] Guidelines hinted at a little less scrutiny but he was confused about whether the Guidelines really covered some things. Mr. Lewis said that the proposed fabric lasted only 15 years but he certainly did not plan to keep it up that long – maybe 5 years. He finished by saying that he had an economic need and he thought that the intent [of the Guidelines] was to prevent people from jabbing stuff in front of really historic stuff.

Commissioner Cullen confirmed with Mr. Folke that a Regional permit would be required.

Chairwoman Nichols opened the hearing to the public.

John Bailey, 141 Spencer Avenue #9, asked Mr. Folke to explain what could be approved Administratively then showed the Commission on the site plan where he lived in relation to Mr. Lewis, saying that there could be some impact to him. He was also concerned about the placement of the sign announcing the meeting – it was on the gate of 201 Spencer Avenue and one would have to go through two dead-ends and there was no turnaround before seeing the sign. Other than that, Mr. Bailey said he did not have much of an opinion as it was Mr. Lewis' house; however it did not seem in character [with the Historic District].

Gary Scholten, 202 Roca, said he was an architect, had never worked for Mr. Lewis, but was his friend and he thought that the temporary structure was a reasonable use since Mr. Lewis did not want to put up a labyrinth of 10x12 sheds. Even though the factory warranty was for 15 years, he doubted it would last that long since we had such fantastic ultraviolet rays and ultra heavy snow. He felt that since it was a temporary structure, the Historic Guidelines should not apply. It was not going to confuse anybody that it was an historic structure – it was like parking the Star Ship Enterprise next to a Civil War frigate. He finished by saying it was a reasonable use with no detrimental impact and that the balance of things would allow Mr. Lewis to use the property versus the community hope to preserve character.

Tom Lewis, 547 Crystal Hills Boulevard, said he had offered sheds to his brother, but that they did not make sense – he needed room to work. It would be tucked in behind and pretty well hidden. Tom said that Mr. Lewis and his wife were pretty well invested in the town – they wanted what was best.

Paul Lewis, 3 Via Loma, said he appreciated Mr. Folke's hard work. He referred to the second paragraph on page 9.1 in Chapter 9: Secondary Structures – “The spaces between each structure as well as the public and private spaces resulting from these relationships...” – saying that no one was going to think the temporary structure was an historic structure. He went on to quote further in Chapter 9 – “...the overall character of the street and the neighborhood...” – saying that the point was that the only visibility from the street was on a street with essentially no traffic. Paul went on – “...as well as the secondary pedestrian walks that link the commercial core to adjacent residential neighborhoods.” – saying that the walks were not just any old walkway; clearly Higginbotham did not qualify.

Seeing and hearing no further comment, Chairwoman Nichols closed the hearing to the public.

Chairwoman Nichols summarized the Commission's options:

- 1) Adopt Staff's recommendation;
- 2) Find that Section 2.52.050 (6) applied and that the request was not subject to a MCAC;
- 3) Review the request as new construction; or
- 4) Approve the request with the finding that it was consistent with the Guidelines.

Vice Chair Wingate felt that she could not say that the request was "consistent with the Guidelines". She did not want the Commission to be chickens – "it was a tough one so don't say anything?" – that bothered her.

Chairwoman Nichols thought that the Commission would give clear direction. The facts that it was temporary and there was limited visibility from the public ROW were compelling arguments so the Commission could easily find that it could be administratively approved. That was not saying "nothing".

Commissioner Cullen agreed with Commission Hyde's earlier question: How was it different from a greenhouse?

Commissioner Hyde asked what "it" was – if it was a carport or shade structure, there were many rules.

Vice Chair Wingate said that she saw the list as not fully inclusive or exclusive.

Chairwoman Nichols agreed that the list could not be exhaustive but in hindsight felt it was too brief. She thought that the request was a sort of a shed.

Commissioner Wright felt for the Applicant but pointed out that it was an historic property – to put something behind or in front of one of the City's most beautiful houses was a shame and degraded what the Commission was trying to uphold.

Mr. Folke pointed out that visibility from the ROW was not the litmus test, but only something to consider – whether it had an impact.

Commissioner Cullen asked Mr. Lewis if he would take down the structure if he were trying to sell the property. Mr. Lewis said it would depend on the buyer.

Chairwoman Nichols asked for a Motion, saying that the Commission could find that it was visible and inconsistent or it had no significant impact because it was of temporary character; however, one would have to suppose a limited time.

Mr. Folke also suggested that the Commission could apply Guideline 9.2 (*Do not locate sheds and storage structures in front yards where they are visible from the street or public right-of-way*) finding that the request met the Guideline and issue a MCAC.

MOTION:

Vice Chair Wingate moved to deny MCAC 0911 to put up a temporary accessory structure at 201 Spencer Avenue with the finding that the proposed structure was inconsistent with the Design Guidelines for secondary structures.

SECOND:

Commissioner Armstrong seconded the Motion.

DISCUSSION:

None.

VOTE:

Motion passed, 4-3 (Chairwoman Nichols and Commissioners Cullen and Hodges cast the dissenting votes).

VI. OTHER BUSINESS

ITEM 5. Other.

Vice Chair Wingate requested an update on the status of hiring a Code Enforcement Officer.

VII. ADJOURNMENT

As there was no further business before the Commission, Chairwoman Nichols adjourned the meeting at 9:07 pm.

Minutes submitted by Kari Kilroy