



**HISTORIC LANDMARK COMMISSION MEETING MINUTES
1st FLOOR, CITY COUNCIL CHAMBERS
CITY HALL BUILDING, 300 N. CAMPBELL
AUGUST 5, 2013
4:00 P.M.**

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 1st Floor, City Hall Building, August 5, 2013, 4:00 p.m.

The following commissioners were present:

Chairman David Berchelmann
Commissioner Edgar Lopez
Commissioner Randy Brock
Commissioner Beatriz Lucero
Commissioner Ricardo Fernandez (4:09 p.m.)
Commissioner William C. Helm II

The following commissioners were not present:

Commissioner Cesar Gomez
Commissioner John L. Moses

The following City staff members were present:

Ms. Providencia Velázquez, Historic Preservation Officer, City Development Department-Economic Development Division
Ms. Kristen Hamilton, Assistant City Attorney, City Attorney's Office

Chairman Berchelmann called the meeting to order at 4:06p.m., quorum present.

CHANGES TO THE AGENDA

None.

I. CALL TO THE PUBLIC – PUBLIC COMMENT

None.

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Oscar Leoser

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II. REGULAR AGENDA – DISCUSSION AND ACTION

Certificate of Appropriateness

- 1. **PHAP13-00015:** Being 10 Sunset Heights 0 & W ½ of 29, City of El Paso, El Paso County, Texas
 - Location: 620 Prospect Street
 - Historic District: Sunset Heights
 - Property Owner: Carlos and Yadira Rubio
 - Representative: Jose Lozano
 - Representative District: 8
 - Existing Zoning: A-2/H (Apartments/Historic)
 - Year Built: 1921
 - Historic Status: Contributing
 - Request: Certificate of Appropriateness for the replacement of sash, wood, multi-light windows with fixed metal windows after-the-fact.
 - Application Filed: 07/24/13
 - 45 Day Expiration: 09/07/13

STAFF RECOMMENDATION

The Historic Preservation Office recommends **DENIAL** of the proposed scope of work based on the following recommendations:

The Design Guidelines for El Paso’s Historic Districts, Sites, and Properties recommend the following:

- *If windows are damaged beyond repair, replacement windows should match the type (such as double hung), style (for example six panes over six panes), and finish (paint).*
- *Replacement windows on the main façade shall be comprised of the operable portions of the window and match the type, style, operation, configuration and finish of the original windows.*
- *Do not use single pane picture windows or horizontal sliding windows if they are not the original window types.*
- *Installation of windows similar to the original in appearance and structural purpose, regardless of construction materials is permitted.*

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The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- *The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.*

Ms. Velázquez gave a presentation and noted the applicant sought approval for a Certificate of Appropriateness for the replacement of sash, wood, multi-light windows with fixed metal windows *after-the-fact*.

Via the PowerPoint presentation, Ms. Velázquez showed photos of the structure as it existed the last time a survey was done of historic districts in El Paso. She pointed out that:

1. The second story operable, sash, wood windows are the most prominent; and
2. Although the structure contained several window configurations, the windows were all operable, sash, wood windows;

Staff received notice that remodeling was occurring on the property. After researching, it was discovered that no permits had been approved/authorized for this property and City of El Paso, Code Enforcement staff was notified. After visiting the site, staff learned that the property owner had concealed the decorative wood panels beneath the second floor windows, removed windows, and installed the single-pane, multi-light, fixed, inoperable windows. Ms. Velázquez explained that the windows and panels are considered character defining features, which make the property unique.

Staff took great care composing the Design Guidelines, specifically the window replacement guidelines, due to the high volume of window replacements within historic districts. Furthermore, staff is authorized to approve window replacements administratively, as the guidelines allow for compromise. Replacing wood windows with wood windows can be very costly; therefore, as a compromise, windows can be replaced with vinyl, fiberglass, or metal clad wood as long as it matches the operation and the configuration of the original windows. Additionally, per the Guidelines, property owners are asked to install exterior, three-dimensionally applied muntins to better simulate the original window type.

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For this case, the newly installed windows do not resemble the original historic windows in any way. The new windows are inoperable, the muntins are in between panes of glass, and they are a departure from the historic windows.

When work was halted, per the Code Enforcement staff, the property owner stated that she would remove the plain panels and restore and paint the original wood panels. Staff will monitor this administratively. However, the removal, restoration and painting of the original wood panels would not be approved until the permit violation issue is remedied.

COMMENTS/QUESTIONS FOR STAFF FROM COMMISSIONERS:

Chairman Berchelmann asked if this property had requested and was authorized permits in the past.

Ms. Velazquez could not recall if this particular property applied for and received permits in the past. However, she noted that the property owner does own another piece of property within the Sunset Heights Historic District.

COMMENTS/QUESTIONS FOR THE REPRESENTATIVE FROM COMMISSIONERS

Mr. Jose Alexandro Lozano, representing the applicant, was present and apologized for the remodeling/reconstruction without a permit. He stated that he is willing to do whatever it takes to maintain the integrity of the neighborhood as it should be. Mr. Lozano explained that, due to the installation of refrigerated air conditioning and the safety of the tenants, the front, seven windows were inoperable. Other than the second story, front windows the remaining first floor and side windows would be operable. He hoped commissioners would accept/approve the newly installed second story, front windows; additionally, he stated that he would do everything he could to simulate the original window style.

Commissioner Berchelmann wondered if the second story, side bedroom windows were operable.

Mr. Lozano responded yes.

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At the time of purchase, Chairman Berchelmann wondered if the property owner was aware this property was located within a historic district; additionally, was she aware of the historic district guidelines and application/permit processes.

Mr. Lozano responded yes, the property owner was aware the property was located within a historic district at the time of purchase. However, the property owner was not aware a permit was required to replace the windows as the windows had never been replaced before.

Chairman Lopez asked Mr. Lozano if he had brought samples or pictures of the proposed *operable* windows with him today.

Mr. Lozano did not have samples or pictures to present to commissioners. He noted that first floor, side and rear windows would be replaced with windows that open and close.

Commissioner Helm wondered if the exterior frame could be added to the second story, front windows.

Mr. Lozano responded yes, the molding of the frame resembling the original windows could be added to the outside front of the second story, front windows.

Chairman Berchelmann asked Ms. Velázquez if adding the molding to the outside of the second story, front windows, was permissible.

Ms. Velázquez responded:

1. Code violations are a serious matter; furthermore, since she became the Historic Preservation Officer three years ago, staff has never recommended approval for a Code violation;
2. Should a fire occur on the second floor, due to the windows being inoperable, how will the tenants escape;
3. Fixed windows retain air conditioning very well, as do operable windows. In the event operable windows do not retain air conditioning, a storm window could be inserted on top;
4. Regarding tenant/child safety issue, if used as an excuse; all structures in El Paso would be irrevocably changed because all windows above the second floor would then become inoperable.

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Chairman Berchelmann asked if commissioners had any further questions of staff or the applicant's representative/contractor.

At this time, Mr. Lozano presented photos of the structure to commissioners. He stated that there are inconsistencies throughout all historic districts in El Paso. He acknowledged that a mistake was made, he is willing to fix it as much as possible; additionally, all other windows will be operable except for the second story, front windows.

Commissioner Berchelmann asked if there was anyone in the audience who would like to comment on this case. *There were none.*

Chairman Berchelmann made comments regarding setting a bad precedent.

Mr. Lozano asked commissioners if their solution would be to remove the second story, front windows. He went on to say that, at the end of the day; these windows will look just like the original windows except that they are inoperable. He noted that the windows were preordered at \$300.00 each. He then asked commissioners for their forgiveness. He explained that the other historic property owned by the property owner is located at the far end of the street. Renovations to this property consisted of a porch remodel. There were no windows replaced. He added that the property owner had submitted the proper documentation to staff and the request was approved by the Historic Landmark Commission.

Chairman Berchelmann clarified the property owner was aware of the historic district guidelines and processes.

Mr. Lozano responded yes, of course; however, the property owner did not consider windows as remodeling, compared to the porch replacement for her other historic district property.

Chairman Berchelmann asked commissioners if they had further comments and/or questions for the representative. *There being none.*

Chairman Berchelmann asked commissioners if they had further comments and/or questions for staff. *There being none.*

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DISCUSSION AMONGST COMMISSIONERS

Chairman Berchelmann concurred with staff’s recommendation. The property owner was aware of the historic guidelines and processes.

Commissioner Lopez commented on setting a bad precedent.

Prior to the motion, Mr. Lozano stated that the property owner is trying to fix the second story, front windows by simulating the framing on the windows. Furthermore, in the future, refrigerated air conditioning will be utilized throughout the structure. Furthermore, 50% of properties within the historic district have picture windows. Additionally, the first floor front, side and rear windows will be operable. Finally, he hoped commissioners would consider his proposals.

Commissioner Lopez clarified that inoperable windows, with exterior muntins, are visibly different than operable windows. Additionally, inoperable windows are a safety concern.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Lopez AND UNANIMOUSLY CARRIED TO DENY THE CERTIFICATE OF APPROPRIATENESS FOR 620 PROSPECT STREET.

- 2. **PHAP13-00016:** 14 Sunset Heights 7 & parts of 5 & 6 & parts of 8 & 9 (6000 sq. ft.), City of El Paso, El Paso County, Texas
 - Location: 1217 N. El Paso Street
 - Historic District: Sunset Heights
 - Property Owner: Leah and Tod Osborne
 - Representative: Leah Osborne
 - Representative District: 8
 - Existing Zoning: A-3/H (Apartments/Historic)
 - Year Built: 1930
 - Historic Status: Contributing
 - Request: Certificate of Appropriateness for covering and replacing damaged material including the fascia, soffit, trim, and dormer window siding with vinyl and aluminum.
 - Application Filed: 07/25/13
 - 45 Day Expiration: 09/08/13

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STAFF RECOMMENDATION

The Historic Preservation Office recommends **APPROVAL** of the proposed scope of work based on the following recommendations:

The Design Guidelines for El Paso's Historic Districts, Sites, and Properties recommend the following:

- *If areas are deteriorated beyond repair they should be replaced in kind to match the original historic material compounds. Aluminum, vinyl, plywood or other synthetic sidings shall be reviewed by the HLC. However, some may be considered on an individual basis if the proposed material matches the existing historic material, all original detailing is left exposed, window and door trim are not covered, and any unique finishes are intact and not covered or damaged.*

The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- *When the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible materials.*

Ms. Velázquez gave a presentation and noted the applicant sought approval for a Certificate of Appropriateness for covering and replacing damaged material including the fascia, soffit, trim, and dormer window siding with vinyl and aluminum. Although the property owner has made improvements, she is experiencing issues regarding water infiltration and maintenance.

The proposal is to remove the green fascia, repair or replace the damage underneath, replace metal with aluminum (samples were distributed to commissioners). The soffit and the dormer asphalt shingles will be replaced with vinyl. Currently the dormer window is covered with asphalt shingles with damage underneath. The property owner would like to replace the damaged portion with vinyl as well. The shingle, on the side of the dormer window, is not an issue because it is not a historic or original material.

Chairman Berchermann asked commissioners if they had any questions of staff.

Commissioner Helm wondered if using the proposed material would set a precedent in this historic district.

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Ms. Velázquez responded no, not in this historic district. She noted that the guidelines do not state that commissioners may not approve the use of synthetic material; they do, however, state that *aluminum, vinyl, plywood or other synthetic sidings shall be reviewed by the HLC. However, some may be considered on an individual basis ...*

Commissioner Helm wondered if the property owner would be repairing the roof at the same time.

Ms. Leah Osborne, property owner, responded no, the roof was replaced in 1986. However, due to winds having blown the asphalt shingles off damage to the dormer windows has occurred. Furthermore, due to the angle of the house and the manner in which the home is situated on the hill, she is unable to reach that portion of the roof in order to repair/maintain the area around the dormer window.

Chairman Berchelmann thanked Ms. Osborne for following proper protocol.

Ms. Osborne noted that she is the President of the Sunset Heights Neighborhood Improvement Association, therefore, setting the proper precedent is paramount.

Chairman Berchelmann asked commissioners if they had any further comments/questions for the property owner or staff. *There were none.*

Commissioner Berchelmann asked if there was anyone in the audience who would like to comment on this case. *There were none.*

DISCUSSION AMONGST COMMISSIONERS

Regarding repair materials, Commissioner Helm suggested utilizing James Hardie Corporation products (hardiewood) for a longer life span because they would not decay like wood.

Chairman Berchelmann asked if there was any further discussion amongst the commissioners.

Commissioner Lopez noted that James Hardie Corporation products can be seen in the UTEP/Schuster dormitories, most notably between the windows.

Regarding colors, Ms. Osborne noted she would be flexible as she did not have a color preference.

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In the past, Chairman Berchelmann noted that commissioners have requested that staff work with the property owner when choosing colors.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Helm and UNANIMOUSLY CARRIED TO APPROVE THE CERTIFICATE OF APPROPRIATENESS FOR THE PROPERTY LOCATED AT 1216 N. EL PASO STREET AND DEFERRING COLOR SELECTION TO STAFF.

- 3. **PHAP13-00017:** 86 Government Hill 7 & 8 (7000 sq. ft.), City of El Paso, El Paso County, Texas
 - Location: 4415 Cambridge Avenue
 - Historic District: Austin Terrace
 - Property Owner: Frederick and Linda Bostick
 - Representative: Frederick Bostick
 - Representative District: 2
 - Existing Zoning: R-4/H (Residential/Historic)
 - Year Built: 1940
 - Historic Status: Contributing
 - Request: Certificate of Appropriateness for the replacement of existing windows with new vinyl sash windows with multi-lights on secondary facades and fixed windows on main façade to replace operable casement windows.
 - Application Filed: 07/24/13
 - 45 Day Expiration: 09/07/13

STAFF RECOMMENDATION

The Historic Preservation Office recommends **DENIAL** of the proposed scope of work based on the following recommendations:

The Design Guidelines for El Paso’s Historic Districts, Sites, and Properties recommend the following:

- *If windows are damaged beyond repair, replacement windows should match the type (such as double hung), style (for example six panes over six panes), and finish (paint).*
- *Replacement windows on the main façade shall be comprised of the operable portions*

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of the window and match the type, style, operation, configuration and finish of the original windows.

The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

Ms. Velázquez gave a presentation and noted the applicant sought approval for a Certificate of Appropriateness for the replacement of existing windows with new vinyl sash windows with multi-lights on secondary facades and fixed windows on main façade to replace operable casement windows. She explained that the front, casement windows were operable. However, the property owner is requesting *inoperable casement windows in the front* due to his 10 year-old autistic grandson, whom he has custody of. The property owner has explained that his grandson has escaped through the existing windows, at least once, if not several times. His grandson has previously removed the operable lever from the inside, granting him access to the front yard.

STAFF CONCERNS

1. While shopping for windows at a home improvement retail warehouse, the property owner informed the sales person that his home was located in a historic district. The sales person, knowing the property was located in a historic district, suggested the property owner purchase *fixed* windows. Ultimately, Ms. Velázquez explained to the property owner the window replacement request would have to be heard by commissioners;
2. For this case, safety for the grandson is a concern; and
3. Except for the front windows, all other windows in the home will be operable.

At this time, Ms. Velázquez presented a photo of the proposed windows, as selected by the property owner. Staff surveyed the neighborhood properties and noted several homes with operable sash or operable casement windows.

Ms. Velázquez explained that, as the Historic Preservation Officer, she must recommend denial as the proposed windows are not in keeping with the Guidelines. However, the circumstances are quite unique. Furthermore, the windows have not been installed; the property owner has followed proper procedures. Secondly, the property owner is willing to install exterior applied, three-dimensional muntins to simulate the original window type. Finally, the safety concerns of his grandson are paramount.

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Commissioner Berchelmann asked if there was anyone in the audience who would like to comment on this case. *There were none.*

Chairman Berchelmann asked commissioners if they had any questions of staff.

Ms. Velázquez stated that Building Permits & Inspections staff will review the application, specifically the egress, prior to releasing permit(s). She explained that the proposed windows will be installed in the same location as the existing windows. She clarified that the three, front, operable, casement windows would be replaced with fixed windows. The remaining side and rear window sections would be replaced with sash windows.

Chairman Berchelmann asked commissioners if they had any questions for the property owner.

In each room of the home, Commissioner Helm wondered if at least one window would be operable.

Mr. Bostick, property owner, provided background information regarding the window replacement project. He noted he would be replacing the existing single-hung windows with same and repairing the wood frame around the windows. Only the interior of the windows would be replaced. Mr. Bostick clarified that the window replacement project is to prevent his grandson from fleeing the home through the front windows. He explained that he has ensured each room of the home allows for egress at all time, even with the fixed windows.

At this time, Mrs. Bostick spoke to commissioners on behalf of her grandson and how autism affects her grandson.

Chairman Berchelmann stated that, for the safety of the child, a need has been addressed. Although the proposed windows will be *inoperable*, the property owner has followed the historic district guidelines, as closely as possible.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Lucero TO APPROVE THE CERTIFICATE OF APROPRIATENESS FOR THE REPLACEMENT OF THE EXISTING WINDOWS WITH THE EXTERIOR VINYL SASH, AS PROPOSED.

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Prior to the vote, Commissioner Lucero asked Ms. Velázquez if she had a photograph of the exterior of the home with respect to window “13.” She was concerned that the window space was large enough to get out of the home.

Ms. Velázquez responded she did not recall taking a photo of window “13.”

Mr. Bostick explained that window “13” is located near the back of the bedroom, in the corner, away from the front of the home and the measurements for the window are 36”w x 56”h.

Ms. Velázquez reiterated that Building Permits & Inspections staff will review the application prior to releasing any permit(s).

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Lucero and UNANIMOUSLY CARRIED TO APPROVE THE CERTIFICATE OF APROPRIATENESS FOR THE REPLACEMENT OF THE EXISTING WINDOWS WITH THE EXTERIOR VINYL SASH, AS PROPOSED.

- Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. August 5, 2013 deadline for HLC members to request for agenda items to be scheduled for the August 19, 2013 meeting. August 19, 2013 deadline for HLC members to request for agenda items to be scheduled for the September 9, 2013 meeting.

Chairman Berchelmann asked if commissioners had any addresses they would like staff to review or investigate. *There were none.*

HLC Staff Report

- Update on Administrative Review Cases since the last HLC meeting for the properties listed on the attachment posted with this agenda. (See Attachment “A”)

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Brock AND UNANIMOUSLY CARRIED TO APPROVE THE ADMINISTRATIVE REVIEW REPORT.

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Other Business

6. Approval of Regular Meeting Minutes for July 22, 2013.

Chairman Berchelmann asked commissioners if they had any additions/corrections/revisions.

CORRECTION

Page 1, Commissioner Ricardo Lopez should read Commissioner Ricardo Fernandez.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Lopez and UNANIMOUSLY CARRIED TO APPROVE THE REGULAR MEETING MINUTES FOR JULY 22, 2013, AS CORRECTED.

MOTION:

Motion made by Chairman Berchelmann, seconded by Commissioner Helm AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 5:16 P.M.

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