PROCEEDINGS OF THE HISTORIC CONSERVATION BOARD

MONDAY, SEPTEMBER 22, 2003

3:00 P.M., J. MARTIN GRIESEL ROOM, CENTENNIAL PLAZA II

The Historic Conservation Board met at 3:00 P.M., in the J. Martin Griesel Room, Centennial Plaza II, with members Bloomfield, Kirk, Raser, Senhauser, Spraul-Schmidt and Sullebarger, present. Absent: Kreider and Wallace

MINUTES

The minutes of the September 8, 2003 meeting were unanimously approved (motion by Spraul-Schmidt, second by Raser) as amended.

CERTIFICATE OF APPROPRIATENESS, 18 MERCER STREET, OVER-THE-RHINE HISTORIC DISTRICT

Mr. Raser recused himself from participating in the discussion and vote on this request for a Certificate of Appropriateness.

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness to demolish a contributing resource within the Over-the-Rhine Historic District, located at 18 Mercer Street.

Ms. Cowden explained that the Board had previously reviewed this building for demolition on August 25, 2003, but tabled it requesting that the applicant provide additional documentation to substantiate his claim that it was not economically viable to renovate. Since the writing of the previous staff report, the building is under new ownership, hence the new owner, OTR Walnut Housing, Ltd. is now the applicant.

Complying with the Board's request, the applicant submitted documentation to demonstrate a reasonable economic return could not be realized from the use of all or part of the building. Information received verifies the deteriorated condition of the structure and the substantial cost to renovate for residential use, which is estimated to be $354,000. Based upon that information and an inspection of the building, Rick Tripp, AIA, of Michael Schuster Associates submitted his opinion that the cost of restoring and renovating 18 Mercer Street for market rate rentals is not economically justifiable. Additionally, an economic analysis indicates a negative cash flow of $15,860 per year.

Ms. Cowden added that the applicant is assembling property on Mercer Street and Walnut Street for a new housing development, which would likely involve this property. Staff has no information on the project, but believes that sufficient evidence has been presented to justify demolition of the structure without information on the proposed housing development.

Charles Thomas with Eagle Realty was present to respond to questions from the Board. He voiced agreement with the staff recommendation.

BOARD ACTION

The Board voted unanimously (motion by Spraul-Schmidt, second by Sullebarger) to approve a Certificate of Appropriateness for the demolition of 18 Mercer Street, finding that OTR Walnut Housing, Ltd. has submitted the necessary documentation to

demonstrate that a reasonable economic return cannot be realized from the use of all or part of the building at 18 Mercer Street, with the following condition:

1) Per the supplemental guidelines of the Over-the-Rhine Historic District, any new construction on the cleared site shall be subject to the guidelines for new construction and site improvements for the Over-the-Rhine Historic District and shall be approved by the Historic Conservation Board prior to construction.

CERTIFICATE OF APPROPRIATENESS, ENVIRONMENTAL QUALITY APPROVAL, AND ZONING VARIANCES, 3742 SACHEM AVENUE, COLUMBIA-TUSCULUM HISTORIC DISTRICT

Staff member Adrienne Cowden presented the staff report on this request for a Certificate of Appropriateness and Environmental Quality approval for the construction of a two-family residence on the vacant lot at 3742 Sachem Avenue. The lot is within the Columbia-Tusculum Historic District and Environmental Quality-Hillside District No. 5 (EQ-HS No. 5) and is zoned R-3.

Ms. Cowden reminded the Board that they reviewed this project for a preliminary design on review on August 11, 2003. The application for a Certificate of Appropriateness was subsequently tabled twice by the Board, most recently on September 8, 2003 when the Board requested the applicant refine the design to address concerns regarding the overall mass and scale of the proposed residence.

Ms. Cowden distributed two additional letters received by staff. One was an email from Ben Young, president of the Columbia Tusculum Community Council, in which he reiterated concerns expressed in a previous letter: scale and massing, sightline, the garage, and environmental issues, all of which are still concerns. The second was a letter from Tim Burke, Attorney-at-Law, representing Ann and Vincent Stamp who reside at 3734 Sachem Avenue. Mr. Burke requested that the Board consider two conditions in the event they grant a Certificate of Appropriateness for the project. The recommended conditions included requiring the applicant to obtain a geotechnical report and submitting a Declaration of Contract for Geotechnical and Engineering Services to B&I; and that language be included that ensures the project be built substantially in compliance with the most recent plans (including stormwater) filed with the Historic Conservation Board.

Ms. Cowden described notable changes with the current application including the addition of a second front facing gable, a curved porch on the west elevation, and a side entry porch providing a connection with the public sidewalk and front entrance.

Retention of sightlines remains a point of contention. The front yard setback reflected in the most recent proposal is 21', which B&I affirmed meets zoning requirements. Historic district and EQHS No. 5 guidelines indicate view corridors should be respected – not protected; however, they do not specify how to quantify it. Ms. Cowden pointed out that if the structure were moved back, a notable portion of the view corridor would be retained and therefore, staff included this in their recommendation. The additional setback would require a rear yard variance and alteration to the retaining wall.

In response to Mr. Raser, Ms. Cowden stated that a geotechnical report must be submitted as part of the permit process to MSD and the building plans examiner.

Chairman Senhauser informed potential speakers that any testimony previously given would give that person standing, should this be heard in another forum. If anyone had

something new to add or address since there had been revisions, they were welcome to speak. He explained that proponents would be given the opportunity to speak first, with opponent following, and there would then be the opportunity for rebuttal.

Charles Schroer, Attorney-at-Law, representing the applicant, reiterated that the new design included an entry porch and a recessed second gable. He stated that their offer stands to set the structure back an additional three feet from the 21' proposed, conditioned upon a rear yard variance is granted and providing the building could remain the same height. He pointed out that with the redesign of the front façade, they have addressed the Board's and Mr. Lloyd's concerns with the view corridor.

Timothy Burke, Attorney-at-Law, stated he was here on behalf of Mr. & Mrs. Stamp (of 3734 Sachem). He referred to his letter of September 22, 2003 submitted to staff, in which he stated that his clients had no objection and would not appeal any variance necessary nor the increase in height sought by the applicant with an increase in the setback. Mr. Burke requested that if the Board approves the staff recommendation, they require the applicant to build what was submitted, including the perforated tiles to control the water runoff. If this could be included, it would meet any concerns of the Stamps.

[Mr. Kirk entered the meeting]

Mark Godby, Attorney-at-Law, representing Mr. and Mrs. Lloyd, owners of 3742 Sachem Avenue, stated that Mr. Lloyd was unable to attend the meeting. Mr. Godbey stated that everyone agrees that moving the structure back is necessary, but the question remains how far. He noted that they are in agreement that the rear yard variance is not an issue.

Ms. Alexandria of B&I informed him that there are three options for setback requirements under the zoning code. According to Section 1469-241, Option A would dictate a setback of 27' (25' plus 2' per story); Option B averages a setback of 33' (the average depth of abutting front yards, if each do not conform to the standards of Table A); and option C, averages 21' (which takes into account the average front yard of every residence within 200 ' on the same side of the street). Mr. Godbey stated that he was not contending that B&I erred, but that the difference between the three options stipulating setbacks from of 21' to 33' is significant. He added that because his clients' house and the Stamps' conform to Table A, it has worked against them.

Mr. Godbey presented a graphic representation of the view corridor from Mr. Lloyd's house originating from the midpoint of the two windows on the side elevation adjacent to the proposed residence. In response to Mr. Bloomfield, Mr. Godbey stated their recommendation is to set the proposed structure back 37.2' from the property line. After additional discussion considering the sight line to the adjacent homes to the west (downhill), Mr. Godbey agreed that the setback could be less (in the 31' – 32' range), which would be much better than the 21' setback proposed. He pointed out that when development of homes occurs on similar streets, to accommodate views, they are not only stepped in height, but stepped in depth as well. Given the view is at 2 or 3 o'clock, the proposed setback of 21' is not sufficient.

In response to questions from the Board, Mr. Godbey stated that his clients would have had no way of knowing if the property at 3742 Sachem was sold with the expectation that it would be developed. Additionally, although he was not privy to conversations, he assumed his client had the opportunity to purchase the property at 3742 Sachem.

Referring to the previous conversation regarding view corridors, Mr. Godbey emphasized that if two sight lines going in both directions dictate a similar setback, that is a good argument for a setback that respects everyone's views. In response to Mr. Bloomfield, Mr. Godbey stated that he is referring to a 33' setback, which is coincidently the average of the two adjoining properties.

Mr. Schroer stated their offer stands at 24' for the front setback. He reminded the Board that he has been unable to find any easement of records across his client's property, nor has anyone been accurately able to establish the setbacks.

After Ms. Cowden reviewed the historic district and EQ-HS guidelines regarding views, Mr. Bloomfield opined that the proposal is reasonable. He added that it is not appropriate to argue that an entire view should be protected in a built-up urban environment. Ms. Sullebarger stated that based upon the guidelines, the historic pattern of development is as important as respecting views. The typical pattern for development in the area is with a much smaller front setback.

Ms. Sullebarger asked for clarification regarding the staff recommendation that suggests aligning the proposed residence with 3748 Sachem. Ms. Cowden stated she recommended aligning the residence instead of quantifying it, because there seems to be a discrepancy with the actual setback of 3748 Sachem Avenue. Ms. Sullebarger suggested that the distance be specified at 24', so the Board could approve the appropriate variance. Mr. Garber stated that the 24' proposed was arrived at by utilizing CAGIS. If a survey is done and it is actually 26' back as opposed to 24', they would move it back to be in line with Mr. Lloyd's. Ms. Sullebarger stated that a 24' setback would show consideration for the view because it would be an additional three feet back from what is required by zoning and it also exceeds the historic pattern of development for front setbacks. Mr. Rings agreed interjecting that their stipulation is that it should not be based upon a house, but should be quantified at 21' or 24' with respect to the lot lines. Mr. Bloomfield agreed with Mr. Rings in considering setbacks based upon the zoning code, but pointed out that the Board must also consider view issues.

Mr. Garber responded to questions from Mr. Raser regarding construction materials. He indicated they would use hardy plank siding for the house. The garage door would appear like the siding of the house, blending in color and material. Mr. Raser suggested that a metal roof on the bay would not necessarily be cost prohibitive.

Mr. Burke requested again that the Board include the language suggested in his letter (item #2) to ensure the building is built substantially in compliance with what the Board has approved. Mr. Senhauser explained that when the building permit is applied for, the drawings come back to the Urban Conservator to review for compliance with what was stipulated in these hearings. Mr. Burke replied that the Urban Conservator should be under the obligation to ensure the building is built substantially in compliance with what the Board has approved. He stated the language is included in approvals given by the hearing examiner for Environmental Quality reviews.

Mr. Schroer stated that the language of the recommendation included in the staff report is acceptable to his client. He questioned the meaning of Mr. Burke's proposed language since the drawings that have been submitted by his client are project design drawings and not construction drawings. Additionally, Mr. Schroer stated he would like to confirm that his client would be granted the necessary rear yard setback, so the building can be put

back the additional three feet, and that they are allowed the extra 1-½' in elevation. Mr. Senhauser read aloud the wording of Mr. Burke's proposal, to which Mr. Schroer responded the applicant is content with the language recommended by staff and that he is not in agreement with Mr. Burke's proposal.

Mr. Senhauser restated that when an application is submitted for a permit the Urban Conservator reviews it for compliance with preliminary drawings that were submitted to the Historic Conservation Board. Beyond that, Buildings and Inspections determines whether or not what is built in the field complies with the drawings that were submitted. It is not a matter for the Board, since the Board has no enforcement power beyond their review for a Certificate of Appropriateness. Therefore, the extent of the Board's review is completed at the point at which a building permit is issued.

BOARD ACTION

The Board voted unanimously (motion by Bloomfield, second by Kirk) to take the following actions:

1. Approve the necessary Zoning Variances from the front edge of the proposed residence to 24' from the property line, finding that such relief:
    a. Is necessary and appropriate in the interest of historic conservation so as not to adversely affect the historic, architectural or aesthetic integrity; and
    c. Will not be materially detrimental to the public health, safety and welfare or injurious to the property in the district or vicinity; and
2. Grant a variance for a rear yard setback to accommodate the additional 3' setback and allow the developer to raise the floor elevation 1-½'; and
3. Approve the application for development permission in the Columbia Tusculum Environmental Quality-Hillside District No. 5 and a Certificate of Appropriateness with the following conditions:
    a. A geotechnical report shall be submitted and approved as required by the Department of Buildings and Inspections for a building permit; and
    b. Final construction drawings shall be substantially in compliance with what has been approved and a landscape plan shall be submitted to the Urban Conservator for approval prior to construction.

Mr. Schroer stated the substantial compliance language is acceptable to his clients; however, he wanted to ensure they were eliminating the submittal of the interior of the building, since the ultimate occupants may want to change the dimensions of a room. Mr. Senhauser stated that is not an issue because the Board has no jurisdiction over the interior; the Board looks at the external footprint.

PRELIMINARY DESIGN REVIEW, 2015 FREEMAN AVENUE, DAYTON STREET HISTORIC DISTRICT

Staff member Adrienne Cowden presented the staff report for this by-leave item for a preliminary design review of window replacement at Heberle Elementary School, located at 2015 Freeman Avenue. The school occupies a full block within sub-areas "B" and "C" of the Dayton Street Historic District.

Ms. Cowden explained that the Cincinnati Board of Health issued CPS a violation for lead contamination in Heberle. The school is undergoing lead hazard remediation that includes the replacement of windows in those areas utilized by students six years old and younger. Currently children in the school have been relocated; however, staff and students are scheduled to return on November 11, 2003. CPS applied for a Certificate of Appropriateness to replace the window sash on the first story, and the kitchen and lunchroom windows on the lower level. (Windows on the upper stories were repaired and repainted as necessary since they are to be used by older children.) The contractor started work prior to filing for a building permit and a Certificate of Appropriateness and subsequently removed and discarded the original wood pivot windows, six light transoms and nine-over-nine sash.

The applicant ordered Traco aluminum sash with a sandwich grid, which is scheduled for delivery within the week. Traco windows were selected based on cost, appearance, and delivery date. The wood windows to be replaced had a six light transom over a nine-over-nine pivot window. The proposed replacement has a substantially different configuration, comprised of a fixed six light transom over a six-over-six double hung sash. This selection was made based on the cost, appearance and time constraints. Included in the cost consideration is the fact that the school is scheduled for demolition as part of the CPS Facilities Master Plan. Staff met with Ms. Dierkes from CPS and discussed options including an exterior grid and a larger window. Ms. Dierkes responded that the weight of the replacement window was an issue, as well as the size of the openings. Alternative windows or manufacturing types have not been specified.

Ms. Cowden clarified that the opening would remain the same, but the configuration of the replacement sash would differ since it was dictated by weight. Mr. Kirk suggested he could respond; however, he would have to recuse himself if any action were to be taken because of his firm's relationship with the client. He explained that the weight of the window is controlled by the balances and counter balances which dictate a certain size sash. The counter balances can handle 150 lbs. each. Being made of aluminum, the windows exceed that weight allowance, so that governs the size of operable portion of the window. The operational mechanism can only be so heavy, so sometimes the proportions of what is fixed and what is operable may have to be changed from what they were for wood windows. Mr. Senhauser stated that a magnum series window has a heavy-duty spring that is capable of handling more weight, but would differ in price. Mr. Kirk explained further that Traco and other manufacturers would not warranty their window beyond a specified weight.

Michael Burson, representing CPS, was present to respond to questions from the Board.

The Board discussed the proposal for replacement. Mr. Senhauser explained that the Board was not as concerned that the replacement windows would be aluminum, or with the profile, but with how they will affect the appearance of the school, particularly since the level of vertical proportion and the detail established by the window mullions is critical to school's appearance. With the information given, it was difficult determine. Ms. Sullebarger questioned how well the new windows would match the color of the existing windows that have been repaired. Mr. Senhauser stated the existing windows are beige; Mr. Burson replied that the aluminum windows would be ivory. Mr. Senhauser suggested that a sample color of the aluminum would also be helpful to the Board.

Mr. Burson reiterated that the window replacement was being done in response to orders to abate lead hazards. The proposed method was acceptable with the Ohio and Cincinnati Departments of Health. He confirmed that the first floor windows on the east elevation, and ground floor and first floor windows on the west elevation are being replaced. He explained that they tried to match the original 18 lights. The material would be different, but the profile similar. In response to Ms. Sullebarger, Mr. Burson stated that encapsulation was not an acceptable alternative given the somewhat urgent situation and since it would require totally disassembling and rebuilding the window. In reply to Mr. Raser, Mr. Burson stated that he would provide details of the installation. but the wood must come out, and the stone would remain. Mr. Senhauser added that the information submitted by the applicant detailed the profile, sills, etc., and the Traco information showed the profile of the panning; however, without having information showing the existing window profiles, it is difficult for the Board to determine if there is similarity between the existing and proposed.

Mr. Burson replied that he would provide photographs of the existing windows at the next meeting. He apologized for the oversight in requesting the Certificate of Appropriateness before starting work, but noted it was a contentious situation they were pressed to resolve quickly.

BOARD ACTION

Because this was a preliminary design review, no action was required of the Board.

ADJOURNMENT

As there were no other items for consideration by the Board, the meeting adjourned.

_____
William L. Forwood
Urban Conservator

_____
John C. Senhauser
Chairman

_____
Date