Call the meeting to order.

CERTIFICATE OF APPROPRIATENESS

1. Davis Furniture Buildings at 1119-1123 Main Street, the continuation of the Certificate of Appropriateness application for the proposed demolition of the two contributing historic structures in the Over the Rhine Historic District. (Harris – 3:00 pm)

ADJOURN
SUBJECT: CONTINUATION REVIEW OF THE CERTIFICATE OF APPROPRIATENESS

1119-1123 MAIN STREET
OVER THE RHINE HISTORIC DISTRICT

Applicant: Scott Stough, Owner

Type of Work: Application to demolish two structures at 1119-1123 Main Street.

Background: Scott Stough representing the Stough Group and Banker Choice, the owners, has submitted a Certificate of Appropriateness (COA) application for the demolition of two contributing structures at 1119-1123 Main Street. The property is located in the Over the Rhine Historic District. A pre-hearing was held on February 4, 2014 with several neighborhood residents present who were opposed to the demolition request. Representative from the Stough Group were present and responded to questions about the demolition request.

The property was purchased by the Banker Choice, LLC, through Sheriff Sale in late 2013, for the price of $125,000.00. The property was vacant at the time of the purchase and weather damaged after several years of neglect from the previous owner. The new owner has made some efforts to secure the property by agreement with the city, moved to stabilize any structural damage suffered through the year of neglect. The applicant completed a demolition questionnaire at the request of the historic staff to provide information on the buildings and their cost to maintain the property. Staff has summarized their answers below.

The property latest assessed value by the Hamilton County Auditor was $155,220.00 in 2011 with taxes of $4872.59 in 2012. There is no debt service on the property and the new owner has not had the property appraised since purchase. The new owner has not offered the property for sale since the purchase and has considered and submitted cost estimates for redevelopment of the properties for both commercial/retail and residential uses. The owner cares liability insurance with an annual premium of $480.00. Insurance cost was submitted as part of the redevelopment estimates for the commercial and residential uses. A structural engineering letter was submitted that outlines the requirement to stabilize the properties. This is no annual gross income, operating cost or cash flow on the vacant property.

They have determined that redevelopment for commercial or residential use is not economically feasible because it would not provide an acceptable return on their investment. The new owner has not indicated a new use for the property if demolition was allowed.

The Historic Conservation Board (HCB) continued this item during its regular meeting on February 10, 2014, at the request of the applicant, to allow for a 180 day delay as prescribed by the Cincinnati Zoning Code, §1435-09-3. The goal of the delay is to allow the applicant and the HCB, represented by the Urban Conservator (UC), 180 days to actively pursue alternatives to the demolition, working also with civic groups, public agencies and interested public citizens. The UC was asked by the board at that meeting, also at the request of the applicant, to consult with the City’s Property Maintenance Division of the Trade and Development Department to request
in writing a suspension of enforcement of the orders to correct building code violations at the subject properties, during the delay.

The UC consulted with the Division Manager, Property Maintenance Code Enforcement Division, Edward Cunningham and reported that the a writing memo to the owner’s agreed to suspend enforcement any further action to enforce compliance with the building code during the Delay Period, provided that the Owner apply for permits to construct stabilization task to abate hazardous deteriorating conditions at the properties within 30 days of the date of the notice, (dated 2/28/214, received 3/3/2014). The Owner met the conditions within the deadline.

Since purchasing of the property the owner has installed plywood over deteriorating windows to prevent public harm from falling glass at rotten window framings. The south building at 1119 Main Street required brick repairs tuck pointing and roof repairs that were completed in compliance with the conditions of the suspension of enforcement granted.

**Discussion of the 180 Demolition Delay:**

Over the past six months and by the agreement of the HCB and the applicant (the “Applicant”) for the Certificate of Appropriateness for Demolition of 1119-1123 Main Street (“Davis Furniture Demo COA”), the Urban Conservator, Applicant, and various members of the public have been participating in a demolition delay process to pursue alternatives to demolition as provided by §1435-09-03 of the Cincinnati Zoning Code (“Demolition Delay”). Scott Stough representing the Stough Group and its subsidiary, Banker Choice, the owner of record, submitted a Certificate of Appropriateness (COA) application for the demolition of two contributing structures at 1119-1123 Main Street. The property is located in the Over the Rhine Historic District. Hamilton County Auditor’s records show that Banker’s Choice, LLC purchased the properties at 1119-1123 Main Street in 2013. The owners at their request were granted a stay from prosecution for existing building code violations issued by the Property Maintenance Division of the Trade and Development Department.

Six, (6) bi-monthly meeting were held during the months of May, June, and July 2014. Attendees base on sign-in sheets from all meeting were: Derek Scacchetti, Julie Fay, Alyssa McClanahan, Danny Klingler, Margo Warmins, Tim Mara, Kate Casey-Leininger, Scott Stough, C. Francis Barrett, Michael Paul, Tom Moosbrugger, Myra Greenberg, John Blatchford, Lucy May, Robert Dearth, Jr., Nick Daffin Patrick Daffin, Judi Craig, Diana Tisue, Michael Stough. David Cawdrey and Sara Bedinghaus were not signed in but attended at least one meeting.

A summary report of each meeting was prepared by the UC for the HCB and public and posted to the HCB webpage. The agendas for the six (6) meetings are listed below by date of the meeting.

**Meeting Date: May 13, 2014**
- Discussion of the progress to date since the conditional approval of the 180 day delay.

**Meeting Date: May 27, 2014**
- Progress of the Commercial listing
- Progress of the repairs

**Meeting Date: June 10, 2014**
Honorable Historic Conservation Board  
Cincinnati, Ohio  

- Update on Commercial Listing of the property.
- Update on Property Maintenance Conditions mandated building repairs.

**Meeting Date: June 24, 2014**
- Update on Commercial Listing of the property.

**Meeting Date: July 15, 2014**
- Update on Commercial Listing of the property.

**Meeting Date: July 29, 2014**
- Update on Commercial Listing of the property.

At the August 11, 2014 regular meeting, the HCB begin discussions with the public on the scheduling of the continuation of the review for the COA for demolition, after the 180 day delay, and the rules and procedures that would govern the hearing. The applicant for the demolition and those opposing the public against the demolition stated varying opinions as to how the review would be governed. Also at that meeting the applicant through their attorney requested the first request for an extension of the hearing date until September 22, 2014 to allow review of various purchase offers received by the owner. The HCB approved the request with no objections from the public. A motion was made and approved to move the HCB into a closed session to discuss the proposed suspension of the rules and procedure for the hearing and vote on the results at the August 25, 2014 regular meeting.

At the August 25, 2014 regular meeting after moving into closed session, the HCB voted to extend the hearing date until November 3, 2014 and to adopt modifications to the HCB Rules, “Davis Rules A”

At the September 22, 2014 regular session, the HCB approved further modifications to the HCB Rules, Davis Rule “B” to replace Davis Rules “A”. A copy of the Davis Rule “B” is posted on the HCB webpage.

**Discussion:** The Cincinnati Zoning Code (CZC) §1435-09-2 “Certificates of Appropriateness; Standards for Review” state:

The Historic Conservation Board has the duty to review and make a determination on all Certificates of Appropriateness in the manner prescribed herein for the purpose of furthering the conservation and integrity of the Historic Asset or Historic District affected. The Board may approve or approve with conditions an application for a Certificate of Appropriateness when it finds either:

a) That the property owner has demonstrated by credible evidence that the proposal substantially conforms to the applicable conservation guidelines.

b) That the property owner has demonstrated by credible evidence that the property owner will suffer economic hardship if the certificate of appropriateness is not approved. In determining whether the property owner has demonstrated an economic hardship for purposes of (b) above, the Historic Conservation Board shall consider all of the following factors:

i. Will all economically viable use of the property be deprived without approval of a Certificate of Appropriateness;
ii. Will the reasonable investment-backed expectations of the property owner be maintained without approval of a Certificate of Appropriateness; and

iii. Whether the economic hardship was created or exacerbated by the property owner. In evaluating the above factors for economic hardship, the Historic Conservation Board may consider any or all of the following:

   aa) A property's current level of economic return;
   bb) Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents;
   cc) The feasibility of alternative uses for the property that could earn a reasonable economic return;
   dd) Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property;
   ee) Knowledge of landmark designation or potential designation at time of acquisition; and/or
   ff) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

The owners have petitioned the City Building Department to raze the building because it poses a hazard to the public and that petition has been denied. They have submitted a structural engineering letter stating the structural instability of the two structures, but the letter did not conclude that the buildings were in danger of collapse or a hazard to the public. Staff inspected the building at the request of the City to assess the conditions of the properties since they had been vacant for so many years. Staff concludes after the inspection that the buildings had suffer water damage, resulting in loosening of brick at the east and south wall and a partial collapse of the roof of a one story addition that did not affect any other part of the main structures. Finally, that the property was stable and suited for redevelop.

Staff has reviewed the new information submitted by the applicant and opposing parties and concludes that the property owners have not demonstrated by credible evidence that they will suffer economic hardship as prescribed in CZC §1435-09-2(b), if the certificate of appropriateness is not approved. The owners have listed the properties for sale and have requested that the HCB extend the hearing date to allow their commercial broker to conclude potential sale agreements. Although the requested extensions were granted, the owners have not entered into any agreement to purchase the properties, although offers have been tendered from credible potential buyer with experience renovating historic properties. The staff finds that the owners are communicating to the HCB much of the same arguments and evidence presented in the previous reviews for the COA petition to demolish the structures, including the alternatives presented in the 180 day delay.

Specifically, as outlined in the hardship language of the CZC the HCB shall consider:

   i. Will all economically viable use of the property be deprived without approval of a Certificate of Appropriateness

   Staff finds that the offers from credible developers indicate that an economically viable use can be found if the properties are sold.
ii. Will the reasonable investment-backed expectations of the property owner be maintained without approval of a Certificate of Appropriateness;

Staff finds that a reasonable ROI can be obtain by the owner if sold, based on credible offers communicated in the opposing party submissions.

and:

iii. Whether the economic hardship was created or exacerbated by the property owner.

Staff finds that the owners have not given sound reasons to reject offers to purchase the properties. The owners have repeatedly rejected offers based on the purchaser’s lack of commitment to historically rehabilitate the structures, which is a matter to be determined by the HCB not the owner, given the location of the properties within the boundary of the historic district. These potential purchasers have experience rehabilitating historic properties and will be required to submit Certificate of Appropriateness applications for review by the HCB.

This nebulous reasoning exacerbates the sale of the properties, which would relieve the owner of the hardship. The effect is that the owners are creating the hardship.

Recommendations: Staff recommends the Historic Conservation Board deny the COA for demolition of 1119-1123 Main Street as required by the CZC §1435-09-2 finding that:

1. The property owner has not demonstrated by credible evidence that the property owner will suffer economic hardship if the certificate of appropriateness is not approved.

Respectfully submitted,

Larry D. Harris
Urban Conservator
Figure 1 - Site Map
Figure 2 – 1119-1123 Main Street Facade
Figure 3 - 1119-1123 Main Street Looking North

Figure 4 - 1119-1123 Main Street Looking South