

# EXECUTIVE BRIEF REGULAR MEETING

**AGENDA DATE:** March 1, 2022

**DEPARTMENT:** Community Sustainability

**TITLE:**

HRPB 21-12400005 - Appeal by Madeline Burnside (property owner) of the denial of an application for a Certificate of Appropriateness (COA) by the Historic Resources Preservation Board (HRPB) for window replacement for the property located at 518 South L Street.

**SUMMARY:**

Madeline Burnside (property owner) is appealing the denial of an application for a Certificate of Appropriateness (COA) by the Historic Resources Preservation Board (HRPB) for window replacement for the property located at 518 South L Street. The subject property is a contributing resource to the Southeast Lucerne Local Historic District and is located in the Single-Family Residential (SF-R) zoning district. The windows were replaced without a building permit or historic preservation approval. The installed windows have a grey tinted Low-E coating with a VLT of 49% that does not comply with City's Historic Preservation Design Guidelines VLT standard of 60%. Additionally, the windows are not the most successful approach to replicating original windows in a Mission Revival structure. However, the openings on the front façade received approval in 2001 and can be replaced in-kind by the property owner.

**PROJECT REVIEW HISTORY:**

On October 7, 2020, a Code Compliance Case (#20-2325) was initiated for window replacement that began without a building permit or historic preservation approval. On October 21, 2020, Historic Preservation staff received building permit application #20-3247 for partial window replacement. Staff disapproved the request, as the building permit application did not include a COA Application, keyed photos of each opening, or glass specifications. In late December of 2020, staff exchanged several emails with the property owner regarding options for administrative review and HRPB review. As the windows were already installed, the property owner opted for HRPB review. Staff continued communication in January, March, and July of 2021, until a complete application for HRPB review was provided. The scope of work was amended to include replacement of all windows rather than three (3) windows, as initially submitted, since none of the installed windows received a building permit or historic preservation approval. The item was scheduled for the next available hearing in September, as the August meeting was canceled. The window replacement plan, product information, and glass specifications are included in the staff report attachments.

At the September 15, 2021 HRPB meeting, staff presented a summary of the attached staff report, which contained the review of the installed windows for consistency with the applicable standards found in the City of Lake Worth Beach's Historic Preservation Design Guidelines, Land Development Regulations (LDRs), Comprehensive Plan and Strategic Plan. The HRPB disapproved the project with a vote of 6-0 as the applicant had not established by competent substantial evidence that the application complied with the required 60% VLT standard.

## **QUASI-JUDICIAL PROCESS:**

Section 23.2-17(b) of the City's code outlines the process for appealing decisions of the Planning and Zoning Board and Historic Resources Preservation Board to the City Commission. It requires the appealing party to submit a basis of appeal, which the appealing party has done (it is attached). At the hearing, each party will be given 10 minutes to present its argument. Thereafter, the commission members may make comments, ask questions, request clarification and discuss the information presented at the HRPB meeting. The Commission's decision upholding or overturning the decision should be based on competent, substantial evidence.

The courts have defined substantial evidence as that which will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. It is such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Competent means that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. See e.g., Village of Palmetto Bay v. Palmer Trinity Private School, Inc. 128 So. 3d 19 (Fla. 3d DCA 2012).

## **POTENTIAL MOTIONS:**

1. I find that the evidence presented in the application materials, presentations, testimony and the staff report was competent and substantial, and therefore move to uphold the decision of the Historic Resources Preservation Board to deny the application for a Certificate of Appropriateness (COA) for window replacement for the property located at 518 South L Street.
2. I find that the evidence presented was not competent and substantial [based upon specified reasons], and therefore, move to overturn and reverse the decision of the Historic Resources Preservation Board denying the application for a Certificate of Appropriateness (COA) for window replacement for the property located at 518 South L Street.

## **ATTACHMENT(S):**

HRPB 21-1240005 Development Order (denial)

September 15, 2021 HRPB Meeting Minutes

Appellant's Basis of Appeal

HRPB 21-1240005 Staff Report

HRPB Staff Report Attachments