

From: [Bailey, Heather](#)
To: [Heiser-Ertel, Lauren](#)
Subject: FW: Marquette Bungalow Neighbors Group concerns.
Date: Tuesday, September 03, 2019 2:30:11 PM
Attachments: [BungalowLetter to City_122618.pdf](#)
[ATT00001.htm](#)
[Alliance 4-1-19 letter.pdf](#)
[ATT00002.htm](#)
[Lead - Erin Jonaitis.pdf](#)
[ATT00003.htm](#)
[LORC - jim 8-29-19 testimony.pdf](#)
[ATT00004.htm](#)



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From: Jim Murphy <[REDACTED]>
Sent: Tuesday, September 03, 2019 2:15 PM
To: Martin, Arvina <district11@cityofmadison.com>; Albouras, Christian <district20@cityofmadison.com>; Furman, Keith <district19@cityofmadison.com>; Rummel, Marsha <district6@cityofmadison.com>; Heck, Patrick <district2@cityofmadison.com>; Bailey, Heather <HBailey@cityofmadison.com>; Scanlon, Amy <AScanlon@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>
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Deven McGlenn <[REDACTED]>; Katie McGlenn <[REDACTED]>; Jordan Petchenik <[REDACTED]>; Linda Kastein Puls <[REDACTED]>; Michael Puls <[REDACTED]>; Gordon Malaise <[REDACTED]>; Morris Young <[REDACTED]>; Grace Van Berkel <[REDACTED]>; Tony Van Berkel <[REDACTED]>; Paul West <[REDACTED]>; Avicia West <[REDACTED]>; Brian Stoltenberg <[REDACTED]>; Erin Powell <[REDACTED]>; Graham Jonaitis <[REDACTED]>; Trisha Prosis <[REDACTED]>; Dave Mollenhoff <[REDACTED]>; Jim Skrentny <[REDACTED]>; Linda Lehnertz <[REDACTED]>; Fred Mohs <[REDACTED]>; Jim Matson <[REDACTED]>; John Martens <[REDACTED]>; Franny Ingebritson <[REDACTED]>; Gary Tipler <[REDACTED]>; Kitty Rankin <[REDACTED]>; Peter Ostlind <[REDACTED]>; Kurt Stege <[REDACTED]>; Kira Loehr <[REDACTED]>; Mary Morgan <[REDACTED]>; Sarah Coyle <[REDACTED]>; Tobi Silgman <[REDACTED]>; Minh <[REDACTED]>; Hausbeck, John <JHausbeck@publichealthmdc.com>

Subject: Marquette Bungalow Neighbors Group concerns.

September 3, 2019

To Landmarks Ordinance Review Committee (LORC) and city staff,

Alder Arvina Martin - District 11 - district11@cityofmadison.com
Alder Christian Albouras - District 20 - district20@cityofmadison.com
Alder Keith Furman - District 19 - district19@cityofmadison.com
Alder Marsha Rummel - District 6 - district6@cityofmadison.com
Alder Patrick Heck - District 2 - district2@cityofmadison.com

Staff: Heather Bailey - HBailey@cityofmadison.com
Amy Scanlon - AScanlon@cityofmadison.com
Bill Fruhling - bfruhling@cityofmadison.com

cc: Marquette Bungalows Neighbor Group
Madison Alliance for Historic Preservation
John Hausbeck, City/County Dept of Health

Thank you for your time and dedication to the historic ordinance rewrite. For many of you, this is new and there is a lot of information to absorb. And I am very aware that you all have many other personal, professional and aldermanic responsibilities.

However, as I testified at the August 29, 2019 LORC meeting, I think it is important that LORC understand the concerns of our bungalow neighborhood. I represent 63 individuals from 39 of the 47 homes in the Marquette Bungalows Historic district. Our group includes 6 who worked on our 1993 original bungalow ordinance and many of us have strong concerns on the materials presented over the last year. I suggest we are the only historic district that can truly say we represent the majority of the owners in their district. We live in this neighborhood because we respect the architectural uniqueness of our bungalow homes - and, we have to live in those homes - we are not museum pieces.

Since the only current member of LORC who has seen our documents and heard our testimony is Alder Rummel, I am sending you all electronically a number of submissions and statements we have made detailing our concerns. These documents have been reviewed by the leadership in our group.

1) We are concerned that there seems to be little reference addressing the hundreds of public comments made during and after the 15 public hearings, 3 hearings in each of the 5 historic districts. City staff can provide links to those comments on Legistar and we encourage you to read them - if you have not done so - as they are a critical part of understanding concerns from the 5 historical districts. When the final version of the ordinance goes out to stakeholders, I suggest that those who made comments at those 15 hearings will assume you have read and understand neighborhood concerns.

2) Attached is the December 26, 2018 letter we bungalow neighbors sent to LORC and staff. Our comments reflect the concerns over the consultant's comments and her original 2018 draft. While that draft is no longer under consideration and new drafts are now under review, many of the issues we presented in that letter signed by 63 neighbors are still not satisfactorily addressed.

3) Attached is a note sent by a very concerned member of our group about lead paint. We feel that it should be owner's discretion on how to handle lead paint on windows and be able to receive automatic approval by staff to replace windows which have lead paint (*given requirements/guidelines on replacement*). Staff and Landmarks Commission should not drag their heels - and even disallow - replacement vs encapsulation if that is the owner's choice. Safety "trumps" this every time.

Staff can also describe in more detail the issue of a woman - as I remember her testimony - who manages a sorority in Mansion Hill with 200 (?) residents who labored for 2 years to replace windows which had lead paint. As I remember the testimony, she was finally allowed to replace the bedroom windows but not windows in the living area. While I may not have the complete story, I was not able to get her name to confirm her testimony but if provided with her name, I am happy to contact her and encourage her to address this issue with the new LORC for the new ordinance.

I have been in contact with John Hausbeck of the City/County Health Depart - who testified at the Jan 20 LORC meeting - and will ask him to review your final language on this issue and he has agreed to testify again if needed. He is cc'd on this note.

Again, if there is lead paint on windows and the owners wish to replace, it should be an automatic staff approval as long as replacement requirements/guidelines are followed.

4) Finding contractors for repair work in historic districts is problematic at best, and very expensive when a contractor can even be found - some will not work in historic districts at all due to all the restrictions. I have many examples, but here are a few:

One owner needed tuck pointing on a chimney that is not even being used as the furnace and hot water heater now vent through the side of the house so the chimney is not needed. She searched for a long time to even find someone to give her a bid. When she finally found one, it was for \$4,880 - for a non functioning chimney. I can tell you that some of my neighbors will not currently support a prohibition from removing chimneys, which is in our current ordinance. You will need to make the case to continue that prohibition not only for our

district but expanded to the other 4 in the current staff draft.

Personally, I need about 4 hours of tuck pointing just on the first floor - no ladders needed - and the only bid I can get was for \$4,400. And when that was too expensive, I had to still pay the company \$89 just to get the estimate! I have a hard time getting contractors to even return my calls.

5) Window replacement — energy efficient windows with true mullions that had been approved 20+ years ago now sometimes are not being approved. When they are approved, it seems to be with the greatest reluctance. I can personally attest to the response of Landmarks Commission to my request replacing 1927 windows for an attic remodel. Said a Landmark Commission member to staff (*my paraphrase*): “Do we have to approve these replacement windows.” “Yes, for life safety as an exit, you must.” Said a Landmark member: “That’s too bad.” This attitude must change.

6) We ask that you consider the final language for window replacement (*this based on 7/30/19 staff draft*) 41xx Standards for Alterations, 4 Windows and Doors, (f) Replacement, 1, Requirements c: (page 10) (*upper case is our additional text*): AT THE DISCRETION OF THE OWNER TO REPLACE, “Multi-light windows shall use true divided lights or simulated divided lights with window grids on the exterior and interior with spacer bars between the panel of glass.” We want the option to replace if we wish using the requirements/guidelines above and without addressing maintenance or repair. While we wish to encourage owners to maintain and repair, for many that is not possible and we feel that the owner should decide the best course of action based on their own circumstances.

7) I have attached a letter I sent to the Alliance for Historic Preservation when I joined the Alliance in early April, 2019 - it provides more details on our concerns. Amongst other things, there is more detail on the problems with finding contractors. In my opinion, the other points in that letter are also worth noting.

8) We do support a new district specific ordinance — we bungalow neighbors have our own concerns for our own neighborhood. And we support having the alder appoint a working committee in each district - as was done with in our district in 1993 - to help guide an ordinance to protect the architectural uniqueness while meeting bungalow owner’s needs. There seemed to be acknowledgment at the August 29th LORC meeting on the need for historic district stakeholder buy-in to the final ordinance.

9) Our group will wait to provide comments for the “final” ordinance that is sent to stakeholders for final review as current language you are working on is changing with each LORC meeting. We still do have many concerns as you can see in this note.

10) I have also attached my August 29, 2019 testimony at LORC.

11) LORC has added a 1/2 hour time slot on the September 18 , 2019 LORC agenda to discuss windows in some detail. While the discussion is for LORC, I unfortunately am out of town and cannot listen to the discussion so please take this note as detail on our concerns on windows. It seems that most every current and recent LORC member are aware that windows are a huge issue for historic district homeowners. I recommend serious consideration to our recommendations above on windows.

And, as I mentioned in my previous testimony, I suggest part of your job is to help convince homeowners in ALL of the five districts why being part of a historic district is worthwhile and does not just add onerous regulation and expense. You need to provide reasons why

homeowners wish to be part of these districts - you need to market the advantages. When I heard a member of LORC mention very recently: (*my paraphrase*) "... a homeowner knew when they bought a house in a historic district they had to abide by the ordinance and has to accept the cost to maintain, repair and replace." That is just flat out not true - labor and material costs and Landmarks decision-making have driven costs very high.

Thank you for your dedication in providing a new ordinance that meets the needs for historic preservation while also meeting the needs of those who live in those neighborhoods.

I am happy to answer any questions or provide additional information.

Marquette Bungalows Neighbors Group

% Jim Murphy

1500 Rutledge St

Madison, WI 53703

[REDACTED]

[REDACTED]



MARQUETTE BUNGALOWS NEIGHBORS GROUP

August 29, 2019

My Name is Jim Murphy. I represent 63 individuals from 39 of the 47 homes in the Marquette Bungalows Historic District. I have taken on the role to keep my bungalow neighbors informed of all the meetings and documents that have been presented over the last year during the rewrite of the current ordinance by the LORC. Our group includes 6 who worked on our 1993 original bungalow ordinance and many of us have strong concerns on the materials presented over the last year. I suggest we are the only historic district that can truly say we represent the majority of the owners in their district.

We live in this neighborhood because we respect the architectural uniqueness of our bungalow homes - AND, we have to live in those homes.

Since the only current member of the LORC who has seen our documents and heard our testimony is Alder Rummel, I will be sending you all electronically a number of statements and testi we have made detailing our concerns.

Some of them include:

- Lead paint abatement - I even asked John Hausbeck of the City/County Health Dept to attend the Jan 24 LORC meeting as we felt the consultant was ignoring our lead paint concerns. As you heard at the Aug 20 LORC meeting, our feelings have not changed that we are being ignored on this life safety issue;
- Affordability of ownership of homes that were originally built for the working class — this is not Mansion Hill. Many of us are retired and are on fixed incomes. I suggest when I send you detail on cost of repairs, when a contractor can even be found, will be shocking.
- Overreach, from our point of view, of staff and the Landmarks Commission on the need to repair repair before replacement is possible as to cost of repairs versus those of replacement, including recognition that a strict adherence to a repair first model is not always an economically feasible, nor sustainable, option;
- Window replacement — energy efficient windows with true mullions that had been approved 20+ years ago now sometimes are not being approved. When they are approved, it seems to be with the greatest reluctance;
- Considerations as to aging in place, including accessibility; and
- Sustainability, both for the future of our neighborhood, and for generations to come.

Over →

My email to you will detail additional concerns. We as a Bungalow Neighbors Group have not submitted detailed critique of the current city staff ordinance you are reviewing and will hold off until there is “final” version out for review since things seem to be changing and many of my neighbors are tired of reviewing draft after draft.

We do support a district specific ordinance — we bungalow neighbors have our own concerns for our own neighborhood. And we support having the alder appoint a working committee in each district - as was done with in our district in 1993 - to help guide an ordinance to protect the architectural uniqueness while meeting bungalow owner’s needs.

There are some bungalow neighbors who will advocate that we leave the historic district. I suggest part of your job is to help convince homeowners in ALL of the five districts why being part of a historic district is worthwhile and does not just add onerous regulation and expense.

These are our homes — not museum pieces.

I have kept my comments brief so has not to impinge on the time allotted to the Alliance’s presentation tonight – and to honor the 3 minute rule.

Thank you,

Jim Murphy

1500 Rutledge St
Madison, WI 53703

[Redacted]



MARQUETTE BUNGALOWS NEIGHBORS GROUP

Thank you for inviting me to join the Alliance for Historic Preservation meeting on April 1, 2019. I represent only myself today, but many of the following comments have been vetted by our Marquette Bungalow Neighbors Group, representing 63 individuals from 39 of the 47 homes in the district.

Since I must leave today by 4:45 pm, I am providing some written comments you can later review and then decide if still wish me to be part of the Alliance. Please inform me later if you wish me to continue. If not, there are no hard feelings.

- We strongly support maintaining the historic character of our neighborhood and want to preserve the style and architectural features, especially from the front view.
- However, standards need to reflect the reality and needs of those living in the neighborhood with realistic standards, especially for repair and remodeling.
- We want flexibility in remodeling or repairs, as expressed in our original 1993 guidelines, for the rear and sides of the house (for the sides, starting about 10' back from the front of the house). As some of our group were members of the committee establishing the original standards in the 1990's, we feel this is a good balance between total historic adherence and an owner's right to update things.
- Using original materials is often prohibitively expensive and/or they are not always available. Reusing materials is not always possible due to deterioration. And there are new materials, such as non-textured cement board siding, and double pane windows (with interior and exterior mullions and foam spacers within) that maintain the appearance of the old while bringing us the improvements of new technology. Indeed the windows as described above were approved for several Marquette Bungalow houses by the Landmarks Commission but are not now automatically permitted. Intense remediation is required first. We feel that repair or replacement should be the owners prerogative.
- Please do not require or even recommend the use of contractors who specialize in restoration of older houses. I am sure all of us would pursue that choice if feasible, but this class of artisans are not readily available and are often more expensive. The list of such contractors on the website of the Wisconsin Trust for Historic Preservation is out of date. Some no longer repair windows, others do not return calls, and most or even perhaps all are unable or unwilling to handle all aspects of the job (i.e., are certified to work with/remove lead paint, can repair windows, and have experience with permanent storm/screens made for historic homes). We will work to get an authentic looking result but we do not want the cost of repairs to send us out of our neighborhood. In fact, this neighborhood was built for workers with lower incomes and many of us current owners are now retired on fixed incomes.

- There seems to be a momentum to capture control of some aspects of these houses away from us and give it to the Landmarks Commission as official guardians of the historic district. We re-emphasize: We want the historic style and features, but WE own the houses, and like any other owner, we want the freedom that should bring.
- When lead is discovered in window frames, there should not need to be a protracted process to replace contaminated windows or other trim features. New ordinance language needs to reflect this by providing an automatic approval to replace windows which have lead.
- There is no current need for new construction standards in the bungalow neighborhood as there are no empty lots, so we currently do not have comments on your current draft for new construction, but we are involved in all aspects of the ordinance development and I will send your final draft to our neighborhood group for review.
- Attached are the December 26, 2018 neighborhood letter from the Marquette Bungalows Neighborhood Group as well as a letter on lead concerns, both addressed to the LORC.

For additional information, contact:

Jim Murphy,
1500 Rutledge St,
Madison, WI 53703



604 Rogers Street
Madison, WI 53703

January 1, 2019

Amy Loewenstein Scanlon, Registered Architect
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City County Building, Room 115
210 Martin Luther King, Jr. Blvd.
Madison WI 53703-3342

Via Email: AScanlon@cityofmadison.com
historicpreservation@cityofmadison.com

Cc: Landmarks Ordinance Review Committee:
Alder Amanda Hall: district3@cityofmadison.com
Alder Ledell Zellers: district2@cityofmadison.com
Alder Marsha Rummel: district6@cityofmadison.com
Alder Shiva Bidar-Sielaff: district5@cityofmadison.com
Alder Steve King: district7@cityofmadison.com
Jennifer Lehrke, Legacy Architecture: info@legacy-architecture.com

Dear Ms. Scanlon:

On December 10 I attended a neighborhood meeting to discuss the proposed changes to the ordinance governing Madison's historic districts. As a resident of the Bungalows district, I am concerned about lead exposure in our community, which is always a risk in homes built before 1950, when lead was a common additive in paint. I would like the revised ordinance to make it easier for homeowners to preserve their properties in ways that prioritize community safety. At this meeting, it became clear to me that the Landmarks Commission has been working with limited information about childhood lead poisoning and effective techniques for preventing it. I am writing to provide a fuller picture.

Lead exposure is a significant cause of childhood disability¹. High exposure can result in injury to renal, circulatory, and central nervous systems. Lead encephalopathy, if untreated, is often fatal. Further, low exposure has been associated with cognitive impairments, behavioral problems, and problems in school². Several research groups, using different cohorts and different study designs, have consistently estimated that each 10 to 15 μg increase in blood lead level corresponds to an average 2 to 4 point drop in IQ, with no safe lower threshold observed¹. Further, the deleterious effects of lead on cognitive performance may be even larger in lower-achieving children, placing them doubly at risk³. The behavioral problems are more insidious, and perhaps more serious. A recent investigative article in *Mother Jones* laid out the case that decadal changes in population-level criminal activity may be linked to the rise and fall of lead as an additive in gasoline⁴.

Children are at elevated risk of lead exposure for two reasons. First, the oral behaviors of young children lead them to chew on objects that may be coated in lead paint or lead-contaminated dust. For instance, a child who crawls on the floor of an older home and then places her hand in her mouth may be exposed via the dust on the floor. Second, whereas adults sequester 94% of their lead burden in their bones, the constant bone remodeling that takes place during childhood skeletal development causes lead to circulate in the blood for longer periods⁵.

Although there are many environmental sources of lead that can produce toxicity, the primary source of risk for young children is deteriorating lead paint². Windows in older homes, such as those in our historic districts, are a primary source of lead dust⁶⁷. When a window sash is raised, friction with the jamb disturbs the paint on both surfaces, creating dust. This dust accumulates on sills and floors, where it can be disturbed and ingested by small children exploring the home.

The good news is that lead-related disabilities are preventable. According to David Jacobs, former director of the U.S. Department of Housing and Urban Development's Office of Lead Hazard Control and Healthy Homes, and his colleagues, lead-safe window replacement is a preventive measure that could ultimately save the United States as much as \$67 billion, with benefits including improved lifetime earnings of those in older homes, reduced expenditures on childhood attention disorders and other medical problems, and reduced crime in adulthood⁸. In particular, window replacement has been shown to be a more effective long-term solution to environmental lead dust than are other, temporary lead control measures such as specialized cleaning and paint stabilization, with replacement leading to reductions in floor and sill dust of approximately 40 and 50 percent, respectively, relative to homes in which only temporary measures were used⁹.

In 2014, the Department of Health Services issued a report on the lead poisoning in the state of Wisconsin, in which they noted that Wisconsin children are at higher risk of lead poisoning than are those in most other states¹⁰. Madison in particular has a number of census tracts with high proportion of homes built before 1950, presumably including many or most of the historic districts. The report notes specifically that **"Repainting is less effective for controlling lead exposure from surfaces subject to weather, impact, or friction such as exterior walls, doors, or windows"** (page 22) and recommends replacement of deteriorated windows and doors, when finances permit.

Against this evidential background, it is of great concern to me that the proposed ordinance governing our historic districts does not take into account the public health relevance of window replacement in older homes. When the issue of lead abatement was raised at the neighborhood meeting I attended, the city's consultant, Jennifer Lehrke, stated that under the proposed plan, deteriorating paint would not be considered an acceptable justification for window replacement. This rule would in essence prioritize historic preservation over the life, health, and safety of our youngest and most vulnerable residents. This is simply unacceptable. In fact, one could even make the case that replacement of windows in older homes should be supported by city subsidies in much the same manner, and with the same justification, as it subsidizes homeowners in replacing lead-containing water service lines:

ultimately, healthy residents make for a more prosperous city. Absent such subsidies, the City of Madison should at least have the grace to allow homeowners who are concerned about the health and safety of their own children to use their own money on reasonable precautions against lead poisoning. The revised ordinance must contain language permitting homeowners who have evidence that their windows are contaminated with deteriorating lead paint to replace them.

On a final note, it was also concerning to me that, as a professional specializing in historic homes, Ms. Lehrke appeared to be unaware of existing research on common lead exposure routes for children. At the meeting I attended, she expressed both disbelief that windows with deteriorating lead paint are a primary source and dismissal of the utility of window replacement as a preventive measure. It is critical that our representatives be fully informed of the potential public health implications of the restrictions on homeowners that have been proposed.

Sincerely,

Erin Jonaitis

1. Council NR. *Measuring Lead Exposure in Infants, Children, and Other Sensitive Populations*. Washington, DC: The National Academies Press; 1993. doi:10.17226/2232
2. Amato MS, Magzamen S, Imm P, et al. Early lead exposure (<3 years old) prospectively predicts fourth grade school suspension in Milwaukee, Wisconsin (USA). *Environ Res*. 2013;126:60-65. doi:10.1016/j.envres.2013.07.008
3. Magzamen S, Amato MS, Imm P, et al. Quantile regression in environmental health: Early life lead exposure and end-of-grade exams. *Environ Res*. 2015;137:108-119. doi:10.1016/j.envres.2014.12.004
4. Drum K. Sick Kids Are Just the Beginning of America's Lead Crisis. *Mother Jones*. February 2016. <https://www.motherjones.com/environment/2016/02/lead-exposure-gasoline-crime-increase-children-health/>. Accessed January 1, 2019.
5. Barbosa F, Tanus-Santos JE, Gerlach RF, Parsons PJ. A Critical Review of Biomarkers Used for Monitoring Human Exposure to Lead: Advantages, Limitations, and Future Needs. *Environ Health Perspect*. 2005;113(12):1669-1674. doi:10.1289/ehp.7917
6. Jacobs DE, Clickner RP, Zhou JY, et al. The prevalence of lead-based paint hazards in U.S. housing. *Environ Health Perspect*. 2002;110(10):A599-606. doi:10.1289/ehp.021100599

7. Centers for Disease Control and Prevention (CDC) Advisory Committee on Childhood Lead Poisoning Prevention. Interpreting and managing blood lead levels < 10 microg/dL in children and reducing childhood exposures to lead: recommendations of CDC's Advisory Committee on Childhood Lead Poisoning Prevention. *MMWR Recomm Rep Morb Mortal Wkly Rep Recomm Rep*. 2007;56(RR-8):1-16.
8. Nevin R, Jacobs DE, Berg M, Cohen J. Monetary benefits of preventing childhood lead poisoning with lead-safe window replacement. *Environ Res*. 2008;106(3):410-419. doi:10.1016/j.envres.2007.09.003
9. Dixon SL, Jacobs DE, Wilson JW, Akoto JY, Nevin R, Scott Clark C. Window replacement and residential lead paint hazard control 12 years later. *Environ Res*. 2012;113:14-20. doi:10.1016/j.envres.2012.01.005
10. Wisconsin Department of Health Services. *2014 Report on Childhood Lead Poisoning in Wisconsin*.; 2014. <https://www.dhs.wisconsin.gov/publications/p01202-14.pdf>. Accessed January 8, 2019.



MARQUETTE BUNGALOWS NEIGHBORS GROUP

December 26, 2018

Amy Loewenstein Scanlon, Registered Architect
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Engineering Division
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210 Martin Luther King, Jr. Blvd.
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Via Email: AScanlon@cityofmadison.com
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Cc: Landmarks Ordinance Review Committee:
Alder Amanda Hall: district3@cityofmadison.com
Alder Ledell Zellers: district2@cityofmadison.com
Alder Marsha Rummel: district6@cityofmadison.com
Alder Shiva Bidar-Sielaff: district5@cityofmadison.com
Alder Steve King: district7@cityofmadison.com
Jennifer Lehrke, Legacy Architecture: info@legacy-architecture.com

Dear Ms. Scanlon:

Thank you for the opportunity to comment on proposed changes to Subchapter 41G, Historic District Ordinance, and to those who have been working to revise the ordinance on behalf of the City of Madison. Many of those in the Marquette Bungalows District have been following this extensive process over the last few years. We are aware of how complicated it is to weigh many – sometimes conflicting – views to both protect the historic integrity of the five historic districts while balancing the interests of property owners.

After reviewing the report issued by Legacy Architecture (“Consultant”) and the presentation on November 26, 2018, at the first of the Round Three meetings, we have some initial comments.

Lack of Incorporation of Public Comments. One of the stated goals of the City of Madison’s Historic Preservation Project is to “[e]nsure an actively inclusive engagement process.”¹ Indeed, a comprehensive public engagement strategy, to include a planned total of 32 public meetings, was developed by the City’s Planning Division and has been systematically implemented starting in mid-2017

¹ City of Madison, Historic Preservation Project, July 25, 2018.

with the first round of public meetings. Yet, the Consultant's proposed changes to the ordinance do not take into account the public comments to date from the Marquette Bungalow owners nor, based on notes we've reviewed posted to the City's website, the other four historic districts. We set forth below those comments consistently shared at public meetings by Marquette Bungalow owners in attendance. You will see these comments repeated throughout this letter as they pertain to certain aspects of the Consultant's recommendations.

We respectfully request that issues raised in these comments be incorporated into revisions to the ordinance. After all, it was the Marquette Bungalow owners who in 1993 requested to become a historic district as a means to protect the integrity of the bungalows we are fortunate enough to inhabit and care for.² Our views on changes to the ordinance, which some of the undersigned originally helped to draft, should be respected.

- Consideration as to cost of repairs versus those of replacement, including recognition that a strict adherence to a repair first model is not always an economically feasible, nor sustainable, option;
- Flexibility with repair and replacement materials that are similar to (but not necessarily the same as) original materials;
- Considerations as to aging in place, including accessibility; and
- Sustainability, both for the future of our neighborhood, and for generations to come.

We feel it is important to note that, historically, this neighborhood was an inexpensive neighborhood where people of average means could enjoy beautiful craftsmanship within close proximity to Lake Monona. We reject the notion that preservation must necessarily equate to only the wealthiest of Madisonians being able to live in and enjoy the beautiful craftsmanship of the Marquette Bungalows.

Conflation of Two Sets of Federal Standards and Guidelines. Before addressing the different sets of federal standards and guidelines in the Consultant's report, we feel it important to state our concern over the proposed application of standards used to award federal tax credits that are only available to income-generating properties. We do not understand the rationale for applying these standards to owners like us who cannot take advantage of such federal tax credits. And, to the extent an owner wanted to apply for state tax credits, the standards used by the State Historical Society would be utilized and do not need to be repeated in the ordinance, thereby subjecting owners to those standards, even when they are not applying for or able to take advantage of state tax credits.

In her report at page 4, the Consultant recommends incorporating the Secretary of the Interior's "Standards for Rehabilitation" into the ordinance "verbatim", while incorporating "applicable portions" of the Secretary of the Interior's "Guidelines for Rehabilitating Historic Buildings", citing <https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf>. While the Consultant did, indeed, copy the Secretary's "Standards for Rehabilitation" verbatim on page 4 of her report, she cites to and

² "At the request of neighborhood residents, the Marquette Bungalows were designated as an historic district in 1993." See, City of Madison, Local Historic Districts: <http://www.cityofmadison.com/dpced/planning/local-historic-districts/1601>

heavily borrows from guidelines that apply to the Secretary’s “Standards for the Treatment of Historic Buildings”, a separate section of the Code of Federal Regulations (“CFR”). The Secretary’s “Standards for Rehabilitation” are codified at 36 CFR Part 67, and the guidelines used by the federal government for interpreting those standards (the “Guidelines for Rehabilitating Historic Buildings”) can actually be found here: <https://www.nps.gov/tps/standards/rehabilitation/rehab/guide.htm>

The guidelines the Consultant cites to, namely the “Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings”, are used to interpret standards codified at 36 CFR Part 68. The distinction between these two regulations is clarified at 36 CFR §68.1, “Intent.” Specifically, Part 68 applies to “all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund.” That section goes on to clarify that Part 67, on the other hand, is used for preservation tax incentives and Part 67 “should continue to be used when property owners are seeking certification for Federal tax benefits.”³

Why does this matter? While the standards in Parts 67 and 68 are similar, statutory language and the guidelines on how those standards are to be interpreted differ in some key respects. Most notably, the introductory language to the “Standards for Rehabilitation” states: “The following Standards are to be applied to specific rehabilitation projects in a **reasonable** manner, taking into consideration **economic and technical feasibility**.” 36 CFR §67.7(b) (Emphasis added). This same “technically or economically feasible” language appears throughout the “Guidelines for Rehabilitating Historic Buildings”, but is not in the “Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings”, nor in the Consultant’s recommendations.

Creation of a Mandatory Hierarchy that is Inconsistent with Federal Guidelines. The Consultant’s recommendations would create a mandatory and inflexible hierarchy for reviewing alteration requests, more restrictive than even the reviews for federal tax incentives. Both the guidelines described above are just that – *guidelines*. Throughout both documents, the words “recommended” and “not recommended” are used. Again, federal law dictates that review criteria for the “Standards for Rehabilitation” is one of “reasonableness”, taking into account technical and economic feasibility. 36 CFR §67.7(b).

As stated, the Consultant took the recommendations set out in the “Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings”, and turned them into requirements by including the word “shall” – over a 100 times in her recommendations – where that word does not appear in either set of guidelines. Should the Consultant’s recommendations be adopted into the ordinance, the Landmarks Commission will be hamstrung into applying a more restrictive interpretation of federal standards than even the federal government uses to award tax credits (again, tax credits not available to us).

Failure to Strike an Appropriate Balance between Preservation and Private Property Interests. The Consultant’s proposed ordinance seemingly requires homeowners to identify character features in need of maintenance and make repairs without any consideration as to cost or technical feasibility. This mandatory hierarchy creates a framework of repair before replace, replacement in full only when materials are “too deteriorated to repair” (a term not defined), and then replacement using the same

³ The National Park Service website also differentiates these standards and guidelines, with links to both: <https://www.nps.gov/subjects/historicpreservation/standards.htm>

materials unless it is “not feasible”. Only then – a result, as described below, unlikely to be reached – an owner may use replacement materials “similar in design, color, scale, architectural appearance, and other visual qualities” (quoting §62.23(7)(em)2m, Wisconsin Statutes).

The difference in cost between repairing and replacing can be staggering, and there are fewer craftsmen today with the skills necessary, driving up the cost of repairs even further. We fear that implementation of this mandatory repair-first hierarchy will result in unintended, even destructive consequences. Homeowners who would otherwise be willing to replace or restore features on their homes using visually compatible materials (e.g., removing vinyl siding and replacing it with smooth cement fiber siding that is far more affordable than wood) could be forced to forego alterations that would dramatically enhance the character of the Marquette Bungalows district, as well as the comfort and enjoyment by homeowners’ of their property.

What a tragedy it would be if changes to the ordinance create the very situation LORC is attempting to avoid – demolition by neglect – by imposing a compulsory, rigid and costly repair before replace framework with which bungalow owners cannot afford to comply.

Suggestion that Owners use the Economic Hardship Variance is not a Practical Solution. As described above, the federal guidelines upon which the Consultant states she relied include, as part of the alteration review process, consideration of technical and economic feasibility. When this point was raised during the 11/26/18 meeting, the Consultant stated she did not include this same technical and economic feasibility language because it exists in section 41.19 of the existing ordinance. More specifically, she stated that an owner could apply for an economic hardship variance if the cost to repair or replace using the same materials were too great. This does not fully capture the variance criteria. An economic hardship variance may be granted if the circumstances justifying the variance are “unique to the property in question” and would not “apply to a substantial portion of the historic district...”. Section 41.19(4)(a) and (b).

Not only are these very different standards, but one interpretation of the ordinance is that the costly repairs homeowners are concerned about (e.g., repair or replacement of all wood windows using the same material) would not be eligible for an economic hardship variance because the circumstances justifying the variance request are not unique to an individual bungalow.

Finally, it must be noted that the variance process is by its nature costly and time consuming for the applicant. It requires additional legal process and may require the extra engagement of other professionals such as architects, engineers, and attorneys.

Stated Intent of the Recommendations is Not Consistent with Actual Language Used. During the 11/26/18 meeting, the Consultant provided examples of replacements that she *intended* to be permissible under her recommendations but which, in fact, could be prohibited by the plain language of the proposed ordinance. The best way to demonstrate the effect of the Consultant’s recommendations is to apply them to actual examples. We do so here.

Example 1: The Consultant stated during the meeting that an owner could replace all wood windows with new wood windows similar in appearance but with an exterior clad in metal to resist the elements. This also avoids the need for separate storms/screens. Applying the required framework from the Consultant’s recommendations at page 10, a homeowner could replace their

wood windows only if “too deteriorated to repair”. It is unlikely that every wood window in a home would qualify as “too deteriorated to repair” based on the picture the Consultant showed demonstrating a window with a significant portion of wood missing due to decay. Indeed, a main reason why homeowners want to replace their wood windows is because they are drafty, often inoperable, need an elevated level of ongoing maintenance, and can pose a concern for lead, especially in homes with children. The cost to repair broken ropes on weights, replace deteriorated glazing putty, adjust and lubricate windows to return them to an operable state, and repair or replace storms/screens, along with ongoing maintenance costs, can be significantly more expensive than the cost to replace using new, low maintenance windows not requiring a separate set of storms/screens. Because economic feasibility is not a consideration in the Consultant’s recommendations, a homeowner could only replace those windows too deteriorated to be repaired. And if repair is too costly, a homeowner could be stuck with windows in a state of disrepair. For the sake of argument, we’ll say one window is too deteriorated to repair. This window could be replaced, but would have to use the “same kind of material” when “feasible”, which could be interpreted to mean wood inside and wood outside (not clad as the Consultant intended to be permissible) along with a storm/screen.

Example 2: The Consultant also stated during the meeting that siding could be replaced on the sides and back of the home with a smooth cement fiber siding. Again, applying the mandatory framework from the Consultant’s recommendations at page 6, one interpretation is that this would not be permitted. It would be unlikely that every strip of siding would be “too deteriorated to repair” on three sides of a home. As above, a main reason why a homeowner would want to replace their siding with a smooth fiber cement siding is because of cost and resistance to weather as compared to wood.⁴ It can cost \$15,000 to \$20,000 to paint a bungalow, and using fiber cement can extend the time to paint to more than 12 years.⁵ It is also far more cost efficient if an owner is trying to replace old vinyl siding. Again, only if “using wood is not feasible” would a compatible material be allowed. The lack of feasibility is generally going to be in cost, not material.

We also note, as discussed below, that nothing in the Consultant’s recommendations treats the side and rear of a home differently than the front as it relates to wood features, including siding, though it was clearly her intent to treat the façade of a home differently than those sides less visible, and we endorse this approach.

Inconsistency with State Law. As you of course know, the State legislature recently amended state law to include a provision that the City, in the repair or replacement of a property in a historic district, “shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.” §62.23(7)(em)2m, Wisconsin Statutes. As demonstrated in the examples above, an ordinance framework that requires repair before replace, then replace using the same materials

⁴ Cement fiber siding “combines the performance of masonry – minimal upkeep; rot-; fire-; and termite-proof; unaffected by wind or cold...for just a fraction of the cost” of wood, stone or brick. This Old House website: <https://www.thisoldhouse.com/ideas/all-about-fiber-cement-siding>

⁵ <https://www.angieslist.com/articles/3-common-myths-about-fiber-cement-siding.htm>

when feasible, diminishes application of State law, even rendering it meaningless in some cases. This cannot have been the intent of the legislature when it used the words “shall allow” in §62.23(7)(em)2m.

Failure to Address Sustainability and Aging in Place. The Marquette Bungalow homeowners raised the issues of sustainability and aging in place at each of the three public meetings for our district. The Consultant indicated at the 11/26/18 meeting that she had not addressed sustainability because she had run out of time. We note that one of the goals of the City of Madison in its Historic Preservation Project, dated July 25, 2018, includes the integration of “historic preservation and environmental sustainability policies.” We applaud this goal, and again request that any ordinance revisions permit the use of visually similar energy efficient, low maintenance, and sustainable materials. We also request that such revisions recognize the desire of the owners to continue to inhabit their homes as they age and as mobility declines. The *Accessibility* section of the Consultant’s recommendations at page 15, like those sections discussed above, creates a compulsory, inflexible framework of preservation without regard to cost or technical feasibility when addressing accessibility needs.

Unclear Which Parts of Existing Ordinance the Consultant is Suggesting Should Change. At page 3 of her recommendations, the Consultant suggests adding a definition for “visible from the street”. Her recommendations do not use this term, which indicates she is proposing to retain some parts of 41G of the existing ordinance. However, it is not clear which parts she believes should be retained, making it difficult to comment on the incorporation of any of the recommendations into the existing ordinance. We request the opportunity to comment on a draft that includes underlines and strikethroughs as is utilized when statutory changes are proposed.

We also request that the existing flexible framework in §41.25 is retained. More specifically, this section provides for more flexible alterations on the side of the home and at the rear (e.g., accessory structures at (4)(a); skylights at (5)(c); windows at (5)(f)3. and 4.). And we request that the flexibility for using visually similar materials in §41.25 is retained (e.g., siding at (5)(a); and windows and doors at (5)(f)1.), even on the front facade of the home. We agree with the Consultant’s suggestion at page 26 that standards for review for the primary, front, or street-facing facade would be more stringent than secondary, side, rear, or non-street-facing facades. However, we suggest that any changes to the ordinance retain the clarity of the existing ordinance in terms of what constitutes a primary, front, or street-facing facade with respect to stricter standards (i.e., windows and doors on the front and within 10 feet of the front at (5)(f)2.) Finally, we request that the new ordinance clearly allow for the grandfathering of existing non-conforming features, allowing them to be repaired and replaced as needed through an administrative staff approval. For instance, staff approval for the replacement of old skylights visible from the street with new, low-profile skylights in the same location. Although it was indicated by staff at the 11/26 meeting that such administrative staff approval would be given, there is no assurance of the same outcome in the future without such grandfathering spelled out in the new ordinance.

In conclusion, we again thank you for the opportunity to comment on the proposed ordinance changes, and request the opportunity to review and provide feedback on each actual draft of the ordinance as they become available.

Sincerely,

Signed electronically by the following neighbors residing in the Marquette Bungalows Historic District, representing 63 individuals from 39 of the 47 homes in the district:

Signatures follow

	NAME	STREET ADDRESS
1	Chuck Mitchell <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1514 Rutledge Street
2	Sally Weidemann <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1514 Rutledge Street
3	Richard Seguin <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1440 Rutledge Street
4	Greg Conniff <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1426 Rutledge Street
5	Dorothy Conniff <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1426 Rutledge Street
6	Guy Somers <ul style="list-style-type: none">• member of 1993 workgroup that helped draft the Marquette Bungalows ordinance	1427 Spaight Street
7	Megan Barrow	1520 Rutledge Street
8	Rob Barrow	1520 Rutledge Street
9	Ken Baun	1512 Rutledge Street
10	Douglas Endres	1506 Rutledge Street
11	Marsha Poburka-Endres	1506 Rutledge Street
12	Jim Murphy	1500 Rutledge Street
13	Rosa Garner	1500 Rutledge Street
14	Bertie Donovan	1450 Rutledge Street
15	Ralph Johnson	1446 Rutledge Street
16	Nancy Westphal-Johnson	1446 Rutledge Street
17	Rob Van Nevel	1438 Rutledge Street
18	Anton Jamieson	1438 Rutledge Street
19	Lisa Wilson	1434 Rutledge Street
20	John Krause	1434 Rutledge Street
21	Sally Behr	1430 Rutledge Street
22	Bob McDonald	1430 Rutledge Street
23	Dave Holton	1428 Rutledge Street
24	Linda Kastein Puls	1424 Rutledge Street
25	Michael Puls	1424 Rutledge Street

26	Gale Bender	1422 Rutledge Street
27	Ben Griffiths	1418 Rutledge Street
28	Katie Griffiths	1418 Rutledge Street
29	Devan McGlenn	1521/23 Spaight Street
30	Katie McGlenn	1521/23 Spaight Street
31	Morris Young	1519 Spaight Street
32	Molly Krochalk	1519 Spaight Street
33	David Van Lieshout	1515 Spaight Street
34	Nancy Van Lieshout	1515 Spaight Street
35	Grace Van Berkel	1507 Spaight Street
36	Tony Van Berkel	1507 Spaight Street
37	Gordon Malaise	1447 Spaight Street
38	Donna Malaise	1447 Spaight Street
39	Jim Bertolacini	1443 Spaight Street
40	Ann Sexton	1443 Spaight Street
41	Jordan Petchenik	1439/41 Spaight Street
42	Susan Churchill	1433 Spaight Street
43	Sharon Rickords	1433 Spaight Street #2
44	Gavin Macaulay	1431 Spaight Street
45	Thomas McSweeney	1423 Spaight Street
46	Susan Morrison	1415 Spaight Street
47	Kelly Miess	1415 Spaight Street
48	Nancy Blake	1411 Spaight Street
49	Egor Korneev	615 S. Dickinson Street
50	Kent Elbow	611 S. Dickinson Street
51	Paul West	605 S. Dickinson Street
52	Avicia West	605 S. Dickinson Street
53	RJ Auner	613 Rogers Street
54	Lois Bergerson	613 Rogers Street
55	BethAnne Yeager	612 Rogers Street
56	David S. Schwartz	612 Rogers Street
57	Richard Seitz	608 Rogers Street
58	Erin Jonaitis	604 Rogers Street
59	Graham Jonaitis	604 Rogers Street
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61	Erin Powell	612 S. Thornton Ave
62	Robert Batyko	606 S. Thornton Ave
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