



# City of Madison

City of Madison  
Madison, WI 53703  
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## Meeting Minutes - Approved AD HOC LANDMARKS ORDINANCE REVIEW COMMITTEE

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Wednesday, July 23, 2014

5:30 PM

215 Martin Luther King Jr. Blvd.  
Room LL-130 (Madison Municipal Building)

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### CALL TO ORDER / ROLL CALL

**Present:** 4 - Marsha A. Rummel; Steve King; Mark Clear and Chris Schmidt

**Excused:** 1 - Shiva Bidar-Sielaff

### APPROVAL OF July 3, 2014 MINUTES

A motion was made by King, seconded by Clear, to Approve the Minutes of July 3, 2014. The motion passed by voice vote/other.

### PUBLIC COMMENT

Stu Levitan, representing the Landmarks Commission, registering neither in support nor opposition and available to answer questions.

Carole Schaeffer, representing Smart Growth Greater Madison, registering neither in support nor opposition and wishing to speak. Schaeffer explained that Smart Growth Greater Madison supports historic districts and the special places of our city. She explained that a clear ordinance will clarify the process, diminish confusion, and allow for growth. Schaeffer explained that the purpose and intent statements could be revised to relate to economic viability and orderly growth. Schaeffer explained that protecting landmarks and historic districts can include redevelopment and that historic districts should not be frozen in time, but should promote the health and vitality of the city.

David Mollenhoff, registering neither in support nor opposition and wishing to speak. Mollenhoff explained that he has spent months studying best practices of ordinances from across the country and prepared some written documents for committee review. He discussed six criteria that would allow the evaluation of an ordinance, he prepared a generic ordinance template with common elements, and he distilled the common elements into 12 sections that could serve as a checklist. Mollenhoff explained that the purpose and intent comparison document shows that there is similar language in many ordinances and that some municipalities use different language that Madison may want to consider. He used the Pasadena statement (i) as an example of one that Madison may chose to include.

Schmidt asked if there were other gaps in the draft language that should be highlighted. Mollenhoff explained that encouraging heritage tourism should be important in Madison and could be stronger in the ordinance. The ordinance could also have a section on incentives for property owners. Mollenhoff explained that the Commission's responsibility to the city-wide comprehensive plan should also be included in the ordinance.

Schmidt asked why heritage tourism would be important in Madison. Mollenhoff explained that Madison has historic relevance through Frank Lloyd Wright, the effigy mounds, and the richness of the history of the capital city and the Wisconsin idea in the progressive movement to name a few. He explained that Madison has a great story to tell.

Fred Mohs, registering in support and wishing to speak. Mohs explained that the ordinance must be a powerful defender of historic districts and landmarks. The test of the ordinance is whether it can protect those historic resources with consistency. Mohs explained that the Mansion Hill Preservation Plan provides the standards for guided development in the historic district and that recent development proposals have pushed past what is appropriate in the district. He explained that other municipalities (Lincoln Park in Chicago) have ordinances that are very powerful and have been consistently applied in their review.

Mohs explained that economics are only one side of the historic preservation discussion and that owner objection to designation is not appropriate for historic districts and landmarks. Historic districts and landmarks provide value to the community.

Franny Ingebritson, registering in support and wishing to speak. Ingebritson explained that she would like the Committee members to consider three questions when reviewing the ordinance - does Madison have an identity? What is it? Are these things found in other cities? The capital square is unique to Madison as are Madison's historic districts and lakes. Ingebritson explained that the historic districts account for less than 1 percent of the land area of the City. Ingebritson passed out economic benefits brochure from Colorado.

Jeff Vercauteren, representing Urban Land Interests, Apex Properties, Inc., Steve Brown Apartments, and Wright 2102 LP, and Hovde Properties LLC, registering neither in support nor opposition and wishing to speak. Vercauteren provided an overview of the ordinances he has reviewed from around the country and explained that these should not be considered policy suggestions. Vercauteren explained that there is not one example that should be followed and that the ordinance revision process is an opportunity to find what is best for Madison. He explained that the second document provides policy recommendations for the purpose and intent section. Vercauteren explained that his goal is to include economic development in the current language.

Rummel clarified that "current ordinance" means the currently adopted working ordinance, not the draft ordinance. Vercauteren confirmed.

Attorney Strange asked Vercauteren to clarify the language choice of using "to" instead of "that" because Strange believes that word choice means different things. King asked for clarification of the different meanings. Strange explained that using the word "to" in this context means that if there is new development then we are going to encourage you to do certain things which is different than encouraging new development "that" does certain things. Strange explained that one way means the purpose of the ordinance is to encourage new development and the other way means if new development happens the ordinance will encourage the applicant to do something. The current Ordinance and the draft language neither encourages nor discourages new development. If one of the purpose and intent statements is actually revised to encourage new development, instead of encourage new development to do something, those differences should be discussed further. Vercauteren explained that the intent of his proposed language is to the extent that

there is new development, it should be appropriate to the character of the historic district. Clear added that the language either proactively encourages development as a purpose of the ordinance or is agnostic on whether development occurs or not. Vercauteren explained that he would prefer the latter - that if development occurs, then the ordinance requires certain things. Vercauteren clarified that the purpose of the ordinance is not to encourage development.

Jason Tish, representing Madison Trust for Historic Preservation, registering neither in support nor opposition and wishing to speak. Tish commended the Landmarks Commission for the work that they have completed over the last several years to revise the ordinance and the research and thought David Mollenhoff has contributed to the effort. He explained that the common sections of ordinances document that Mr. Mollenhoff prepared is a very useful document for this Committee to consider as a guide for a practical conservation ethic. Tish explained that more definitions would provide more clarity. Tish explained that waivers are unusual tools in preservation ordinances, but some ordinances provide a provision for a special merit exception which may be useful to consider. The maintenance standards in the draft ordinance are an improvement. Tish will provide comments to staff for further review.

Clear asked Tish if Ingebritson's suggestion to use the word "preserve" in the purpose and intent statement provides a different meaning that would enhance the language. Tish explained that the word "preservation" has different connotations and that the National Register uses it in a standard legal way to define one of the four treatments of historic properties. The four treatments are preservation, restoration, reconstruction and rehabilitation and all are very narrowly defined. Tish explained that the overuse of the word may dilute the meaning. He explained that the Madison Trust for Historic Preservation prefers the use of the word "conservation" given the connotation of tending to places or being stewards as the place evolves in history.

Rummel asked Tish about the retention of the façade of a building as a preservation treatment (also known as facadism or facadomy). Tish explained that facadism is not a treatment that is not preferred by preservation professionals. He explained that it is considered only slightly better than full demolition. Tish explained that if a historic building is going to be demolished it should be replaced with a building that dignifies its loss.

Gary Peterson, registering neither in support nor opposition and wishing to speak.

## DISCLOSURES AND RECUSALS

1. [34202](#) Ad Hoc Landmarks Ordinance Review Committee Materials  
No discussion on this item. This file is used as a document repository only.
2. [34577](#) Repealing and recreating Section 33.19 of the Madison General Ordinances to update the Landmarks Commission ordinance.  
Staff provided a presentation about the theories and practices of historic preservation and compared Madison's ordinance language to other ordinances across the country. More specifically, the presentation covered enabling legislation granted by States so state statutes guide local ordinances; what is an acceptable practice in Texas may not be legal in Wisconsin; the City of Madison Landmarks Ordinance administers 5 local historic districts and 182 designated landmarks; the State administers the National Register sites and historic districts; the local historic districts comprise .71% of the total land area of the city; the National Register sites and historic districts hold

the incentive (tax credits); there is only protection/regulation for the local districts; where local historic districts overlap with the National Register districts, property owners have incentive and protection; historic preservation is integral to city planning and review processes (Comprehensive Plan Chapter 8 and Downtown Plan Key 7); the city's character is important to protect; what is appropriate to regulate in Williamsburg may not be appropriate in San Francisco; preservation values are specific to certain cultures and the uniqueness of certain places; preservation values are community values; ordinances should allow for interpretable standards instead of prescriptive formulas; purpose and intent language, composition of commissions, and powers and duties language; integrity issues.

Schmidt explained that the challenge is to develop a statement of values that captures the shades of gray in a way that can be applied to historic preservation of buildings, structures, objects and archaeological sites. Clear explained that part of that challenge is also realizing that the ordinance must be an interpretable document because it would be impossible to prequalify all issues into the ordinance.

King explained that the committee must determine what the values of the city are in order to move forward. He explained that the language cannot be wishy-washy so that it continues to be debated. He explained that the language should support the values of the community.

Levitan explained that there are sections in the draft that direct you toward a certain policy. The proposed language is layered on other policies and to change one item may change the underlying intent.

Given the materials received and the presentation, Schmidt suggested that the discussion be continued at the next meeting.

**A motion was made by Clear, seconded by King, to Refer the item to the Ad Hoc Landmarks Ordinance Review Committee meeting of August 14, 2014. The motion passed by voice vote/other.**

## ADJOURNMENT

**A motion was made by King, seconded by Clear, to Adjourn the meeting at 6:52 p.m. The motion passed by voice vote/other.**