



City of Madison

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

Wednesday, April 22, 2015

5:00 PM

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

CALL TO ORDER / ROLL CALL

Present: 5 - Marsha A. Rummel; Steve King; Mark Clear; Chris Schmidt and Shiva Bidar-Sielaff

APPROVAL OF April 14, 2015 MINUTES

A motion was made by Bidar-Sielaff, seconded by King, to Approve the Minutes of the April 14, 2015 meeting. The motion passed by voice vote/other.

PUBLIC COMMENT

David Mollenhoff, representing the Alliance for Historic Preservation, registering in support and wishing to speak. Mollenhoff provided comments related to the memo dated April 17. He explained that the proposed variance authority is very broad and allows the Commission to waive any or all standards. He explained that the authority should not be made broader. Mollenhoff explained that a Certificate of Appropriateness should never be allowed for the demolition of a landmark and that the landmark should go through the rescission process to have its landmark designation rescinded. He explained that The Secretary of the Interior Standards are not embedded in the ordinance and should be provided in the ordinance. Mollenhoff explained that the definitions are being researched and developed by a subcommittee of the Alliance group and that the group is looking at definitions from the National Trust, the American Institute of Architects, and other model ordinances to aid in the LORC discussion.

Jeff Vercauteren, representing Urban Land Interests, Apex Properties, Inc., Hovde Properties, Steve Brown Apartments, and Wright 2102 LP, registering neither in support nor opposition and wishing to speak. Vercauteren explained that he supports the language that ACA Strange proposed in an April 17 memo related to the variance section and appeal section.

Bidar-Sielaff asked Mollenhoff about comments related to the ACA Strange April 17 memo specifically related to the standards for appeal. Staff provided Mollenhoff with the April 17 memo for review. Mollenhoff explained that he is not comfortable with the balancing clause and creating a dual standard.

King explained that the point was not to create a dual standard.

Franny Ingebritson, registering neither in support nor opposition but wishing to speak. Ingebritson explained that she has concerns related to the proposed Purpose and Intent language. She explained that it seems some are interpreting the purpose of historic preservation is to contribute to the overall economy through redevelopment in historic districts and that is not the intent of the language. She explained that larger

new buildings in historic districts that increase the tax base are not the appropriate interpretation of the purpose and intent language and that the language should be revised to better explain the intent. Ingebritson explained that language from other ordinances has been misinterpreted to convey broad generalizations about economic development. She also explained that “perpetuation and enhancement” which is in the model New York ordinance is not in the proposed ordinance language and should be .

Rummel and Schmidt asked Ingebritson asked where the “perpetuation and enhancement” language should be added. Ingebritson explained that it should be in the introduction description of the purpose and intent section.

Jason Tish, representing Madison Trust for Historic Preservation, registering neither in support nor opposition and available to answer questions. Bidar-Sielaff asked Tish to describe his position of the language in the ACA Strange memo of April 17. Tish explained that his green sheet notes that he is representing the Madison Trust and he is not comfortable answering.

Bidar-Sielaff asked Tish to describe his personal position of the language in the ACA Strange memo of April 17. Tish explained that his personal reaction is that the definitions and language get at the escape hatch concept for the appeal language that was previously discussed by the LORC. He explained that the definition of special merit captures the intent and establishes that a high bar for weighing preservation and the public interest is required for appeal. Tish explained that these are his personal reactions to the language and are not necessarily the message of the Madison Trust .

DISCLOSURES AND RECUSALS

None

NEW BUSINESS

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.

The discussion started with the revised appeal language. King explained that the proposed language is exactly what the LORC was looking for. ACA Strange explained that the appeal language was revised to incorporate “apply” instead of “consider”. He asked where the LORC would locate the language in the ordinance because it could fit in the appeal standards or the demolition standards. He explained that it could be in either location.

Bidar-Sielaff asked ACA Strange how the special merit language was controversial in Washington D.C. ACA Strange explained that the DC ordinance allows the Mayor to have the sole authority to determine special merit which would not be appropriate with the municipal government structure in Madison, but might explain some of the controversy in DC. He explained that the cases that have been litigated on this premise, have been based on what is special merit and what does it mean to be necessary in the public interest. He explained that the definitions of each are included for discussion and that the discussion memorializes the legislative history and legislative intent so that any future challenge can use this discussion to understand the intent was a very narrow exception to be used in very special circumstances. ACA

Strange explained that the use of “substantially outweigh” in the language provides the narrow direction that the LORC intends.

Bidar-Sielaff explained that this language and the explanation by ACA Strange seems to meet the goals that all parties have been interested in achieving. She explained that her preference would be to keep the language under 4d (variance), but remove it from 2f (demolition). Clear clarified that Bidar-Sielaff was suggesting that the language would be under the variance section and not in 2f. Bidar-Sielaff confirmed. There was general discussion about the appropriate location for the language. Rummel explained that she is generally neutral and without input from others, she would like more time to consider the language location.

There was general discussion about how the language of the proposed ordinance should move forward. Bidar-Sielaff asked that ACA Strange prepare a memo describing the main discussion points to use for outreach to constituents and for the education of the Common Council.

King asked for clarification on why the language would not be appropriate in both locations. ACA Strange explained there is redundancy in having it in both places which may lead to confusion, but that there is no harm in having it in both places. He explained that someone can request a variance from the construction, alteration, and demolition or removal standards. During the process for approval, they will find that a variance is needed and then the variance process will begin.

Bidar-Sielaff explained that redundancy can cause problems due to confusion. Clear explained that locating the language only in the variance section meets his needs and provides a clear process. There was general discussion about taking the language out of the demolition section for purposes of moving forward.

Clear explained that he appreciated ACA Strange’s addition of words in the language to strengthen the desired intent.

Schmidt asked about the need to define “competent financial evidence” (41.21(4)(a)) and/or list the desired documents as listed in the New York model ordinance, Wisconsin Historical Society and National Trust for Historic Preservation information on economic hardship. Bidar-Sielaff suggested that staff provide the applicants with an advisory list of documents. Clear explained that by not defining the term, the burden is placed on the applicant to provide as much financial evidence as they think is necessary to persuade the Commission. He explained that each project will present a different set of circumstances and that forming a comprehensive list may be impossible. King explained that he wants to at least provide a basic framework for the required documents. There was general discussion about language that would draw from the Wisconsin Historical Society and National Trust for Historic Preservation information on economic hardship to describe the documents that may be required which would be similar to the document list in the Rescission section. There was general discussion that staff would compile a representative list and language for future review.

The discussion shifted to review the Purpose and Intent language (41.01) to make sure that it relates to the revisions that have been discussed to date. Clear explained that adding the word “perpetuation” does not add anything that seems to be missing.

Schmidt asked if the word balancing was still needed in (41.01(9)) or redundant given the language and discussion to date. Clear explained that he has reread the Purpose

and Intent section numerous times and is satisfied with it and feels that the language has informed the conversations. King explained that the proposed Purpose and Intent language seems tight. Rummel explained that it has been her experience that applicants use the 60,000 foot view of the Purpose and Intent statements to claim that their project has met the standards of the Ordinance.

Staff explained that "public necessity" in the last sentence of the introductory paragraph should be changed to "public interest" and the sentence reworked. There was general consensus that this change should be made.

King asked if a statement originally suggested by Mollenhoff about conserving valuable energy and resources should be added. Bidar-Sielaff explained that there are significant sustainable benefits in maintaining the existing built environment, but sustainability is not a central function of the Landmarks Ordinance. Schmidt explained that the body that should weigh sustainability issues is the Plan Commission when reviewing the demolition permit. King explained that the proposed ordinance language touches on conservation. There was general discussion about adding the proposed statement and it was determined that it would not be included.

The LORC reviewed the document provided by Ingebritson.

The discussion moved to definitions and what definitions were needed. The definition of gross volume was discussed and the intent of the concept of gross volume was discussed. Staff suggested that the preservation plans for the districts that use gross volume be reviewed to guide the discussion.

ACA Strange explained that the previous discussion concluded that the period of significance references would be removed from the definition of visually related area and inserted into the individual historic district sections. He explained that the previously discussed definition of visually related area (VRA) is historic resources within a historic district that are at least partially within 200 feet of the boundary of the lot. The definition of historic resources would be those things that are defined in the historic districts as the historic resources related to the period of significance for that district. There was general discussion about the need for VRA maps and ordinance language examples at a future meeting.

There was general discussion about the subjective nature of the word "compatible". King explained that a general list of ways to provide compatibility would be desired. Rummel explained that this directly relates to architectural trends which make the solutions a product of the moment in time whether it should or not. Schmidt asked if it was defining the word compatibility or defining the process for determining compatibility. Staff explained that defining compatibility may be best completed through images instead of words and might border on the need for graphic guidelines that relate to height, width, color, alignment of openings, proportion, massing, etc. Staff explained that the psychology of compatible design is a topic worthy of doctoral dissertations and will not likely be easily defined. Bidar-Sielaff explained that "compatible" may be a term of art in historic preservation and that the National Park Service has a Preservation Brief on compatible additions.

Mollenhoff explained that the National Trust has a document that contains criteria and guidelines for sympathetic additions to historic buildings. He also explained that graphics may be needed to convey these nuances.

Tish explained that the Wisconsin Historical Society building has a "replica" addition

on the rear and it is very difficult to distinguish the two building campaigns which may have been the compatible way of thinking during the time the addition was constructed. He explained another example of a building with a later compatible addition is the American Exchange Bank on East Washington on the Square where the addition is different from the original building, but still compatible.

Schmidt asked Tish why replication of the original building is a bad thing. Tish explained that it is not preferred because one cannot read the history of the building - which provides a false sense of historic development. There was general discussion about the theory and practice of distinguishing later additions from original buildings.

Bidar-Sielaff explained that there are different ways to design compatible additions for historic buildings that range from exact replications to compatible modern interpretations. She explained that she found a document by the Preservation Alliance of Greater Philadelphia that contained this information.

Staff will work on definitions for master, height, and character.

Rummel asked if there was a way to protect National Register contributing properties through the Ordinance.

A motion was made by Clear, seconded by King, to Refer to the AD HOC LANDMARKS ORDINANCE REVIEW COMMITTEE's next meeting. The motion passed by voice vote/other.

3. Upcoming Meetings

Schmidt explained that future meetings will be needed and that a schedule will be determined after meeting options have been polled.

ADJOURNMENT

A motion was made by King, seconded by Clear, to Adjourn at 6:45 p.m. The motion passed by voice vote/other.