

AGENDA # 4

City of Madison, Wisconsin

REPORT OF: LANDMARKS COMMISSION	PRESENTED: 5/9/22	
TITLE: Amending Sections 41.02, 41.03(5), 41.05, 41.11, 41.14(2)(b) and (c), 41.14(3), 41.15(1), 41.18(3); and Repealing and Recreating Subchapter 41G of the Madison General Ordinances.	REFERRED:	
	REREFERRED:	
	REPORTED BACK:	
AUTHOR: Heather Bailey, Preservation Planner	ADOPTED:	POF:
DATED: 5/13/22	ID NUMBER: 70641	

Members present were: Richard Arnesen, Katie Kaliszewski, David McLean, and Maurice Taylor. Excused were: Anna Andrzejewski and Ald. Arvina Martin.

SUMMARY:

Jim Murphy, registering in support and wishing to speak
Paul Creswell, registering neither in support nor in opposition and wishing to speak
Bill Connors, registering neither in support nor in opposition and wishing to speak
Marsha Rummel, registering neither in support nor in opposition and available to answer questions

Bailey provided background information on the ordinance revision process.

Jim Murphy, representing himself and not speaking on behalf of any groups, spoke about exterior alterations and conduit. They suggested the language be changed to “discouraged” rather than “prohibited.” They said the larger issue is lead paint, and in response to concerns raised by residents, the LORC changed the language in the latest draft of the ordinance to include a discussion of lead paint. They said that if the Landmarks Commission had concerns about the lead paint-related language, they have lead paint experts they can bring in to explain why the proposed language makes sense.

Paul Creswell said that they didn’t see any discussion of how the ordinance aligns with the City’s sustainability plan. They thought the ordinance seemed wood-oriented but were happy to see it was easier to request review of alternative products.

Bill Connors, representing Smart Growth Greater Madison, said they support the consistent definitions, standards, and processes for all historic districts in the proposed ordinance. However, we need new affordable housing units throughout Madison and no part of the city should be exempt. They said that NIMBYs will use parts of the historic preservation ordinance to exclude new housing units and residents from the neighborhood. They asked if a RESJI analysis had been done to find out who is impacted by the exclusionary function of the ordinance. They referenced their written materials, which went into detail about suggested policy changes that they thought would make it less difficult to construct housing units in historic districts.

McLean said he was curious about Jim Murphy’s comments about conduit. Bailey said that conduit needs to be minimally visible and cannot be on the front of a building. She said the same is true for meters and service connections to the building. She said that she had a discussion with MG&E, and they did not have concerns about the ordinance language. In terms of lead paint, she said that the language is based on the City of

Baltimore's ordinance. She explained that concerned parties had come to LORC regarding lead paint, so LORC has drafted the legislation in light of those comments.

Bailey said that Bill Connors' comments had also been submitted to the Economic Development Committee and Housing Strategy Committee. She said that the Housing Strategy Committee did not recommend approval of the amendments Connors suggested and instead recommended to adopt the ordinance as drafted by the LORC and would benefit the construction of additional housing into the historic districts. She said that the Economic Development Committee did not think it was appropriate to have had the ordinance referred to them, and review of the ordinance should be left to the subject-matter experts: LORC and Landmarks Commission. She said that Connors' proposal has evolved over the course of those meetings, but it still doesn't address the concerns raised by the State Historic Preservation Office about the process for rescinding a landmark designation. She said that Connors is suggesting that anyone can rescind a landmark designation as opposed to only the property owner. The State Historic Preservation Office said that they did not think the proposal met State standards and process by allowing other parties to remove historic property protections from someone else's property. She said that the language proposed to slow down the nomination process would also prevent development for a minimum of 120 days as the nomination waits to be reviewed by various bodies, and she didn't want the landmark nomination process to be weaponized in that way. Bailey said that most comments were related to LORC 1, which is outside of the purview of the current LORC 2 process. She explained that LORC 1 dealt with Certificates of Appropriateness and the process for nominating and rescinding landmark nominations, whereas LORC 2 is dealing with the historic districts. She said that she has provided comments to Connors multiple times, and the State Historic Preservation Office also provided comments that the language Connors is proposing for the front end of the ordinance, completed in LORC 1, does not meet State statute and would endanger the City's funding for completing surveys and other work. She spoke about Connors' recommendation to get rid of the 200' rule and use any historic resource as a point of reference, pointing out that the 200' rule has been in place since 1979 and provides a good point of context for assessing appropriate infill in the historic districts. She gave an example of Third Lake Ridge being a large historic district, and if one were to choose a point of reference from several blocks away in a different corner of the district as an example of appropriate infill, it would create a jarring look. She said that the standards for the language as developed were strongly focused on making sure one has an appropriate context given the historic resources within 200'. She said that the current 200' rule has been a primarily successful part of the current ordinance that has made for appropriate infill and alterations that are in keeping with the character of that particular section of a historic district.

Connors said that currently, anyone can nominate a landmark and asked why it is different for rescinding a landmark. They said the rescinding process should mimic the designation process. Bailey said the State Historic Preservation Office comments are posted in Legistar, but overall, it would be disadvantageous to the property owner because a historic designation comes with certain incentives and support for the property owner, so allowing people to take that away is problematic. Arnesen said that a rescission would still need to go through the normal City process, and Bailey gave the recent example of the 7-11 N Pinckney Street demolition and rescission.

Arnesen said that the public has had numerous opportunities to comment on and discuss the ordinance, so this is not the first time people have had a chance to comment on this language. Bailey confirmed that there were 18 public meetings, 35 LORC meetings, an Economic Development Committee meeting, a Housing Strategy Committee meeting, and now it was before the Landmarks Commission. Arnesen asked about opportunities to comment since the final draft. Bailey said they had a near-final draft at three public meetings, then the final draft was introduced to Common Council at the end of March.

Kaliszewski asked if they should comment on Smart Growth's proposal because it is not part of LORC 2's purview. Bailey said the commission could provide comments or deal with the ordinance as proposed.

McLean asked about Lehnertz' written comments. Bailey said that Lehnertz has commented at most of the individual LORC meetings, so staff has largely responded to the points raised in their staff reports over the last three years. Arnesen referenced Mollenhoff's written comments. Bailey said that LORC has heard their

concerns and wrote a good deal of the ordinance based on feedback from the Alliance. She said that she was aware they do not like the new construction standards, but the LORC spent a long time on the standards and she thinks they are solid. She said that it is a balance of providing an ordinance that is not overly prescriptive or strict and allows some room for flexibility. Regarding comments about using mathematical metrics to measure volume, etc., she said that it gives the illusion of safety, but she doesn't think it is our easy solution to this.

Arnesen said that it is difficult because the ordinance needs a certain amount of flexibility, but not too much. He pointed out that the using the language "visually compatible" is fairly subjective and relies on the Landmarks Commission to determine if something is visually compatible, even if they were to prescribe the method of calculating things such as volume. McLean said that is why they are a commission of many rather than one. He said that visual compatibility is subjective, but to those in the industry, they are trained to understand what is compatible and what is not.

Jim Murphy added that if the intent was to prohibit conduit on the front of a property, the ordinance doesn't say that, and the language for the developed public right of way is more detailed. They suggested that if conduit is prohibited, they should specify that it is referring to the front of a building.

ACTION:

A motion was made by McLean, seconded by Arnesen, to Recommend to Council to Adopt – Report of Officer. The motion passed by voice vote/other.