



City of Madison

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

*Consider: Who benefits? Who is burdened?
Who does not have a voice at the table?
How can policymakers mitigate unintended consequences?*

Wednesday, March 2, 2022

5:30 PM

Virtual Meeting

Some or all members of the LORC and members of the public participated in the meeting remotely by teleconference or videoconference.

Note: A quorum of the Landmarks Commission may be present at this meeting

CALL TO ORDER / ROLL CALL

Present: 6 - Patrick W. Heck; Keith Furman; Arvina Martin; Regina M. Vidaver; Tag Evers and Marsha A. Rummel

Staff present: Heather Bailey and Bill Fruhling, Planning Division, and Kate Smith, City Attorney's Office

Landmarks Commission members present: Chair Anna Andrzejewski and David McLean

Furman called the meeting to order at 5:33 pm

APPROVAL OF MINUTES

A motion was made by Heck, seconded by Vidaver, to Approve the December 21, 2021 Minutes. The motion passed by voice vote/other.

PUBLIC COMMENT

1. [59517](#) Public Comment - Ad Hoc Landmarks Ordinance Review Committee
None

DISCLOSURES AND RECUSALS

None

Martin arrived at 5:38 pm

2. [56918](#) Draft Historic Preservation Ordinance

Chuck Mitchell, registering neither in support nor in opposition and wishing to speak
Jim Murphy, registering in support and wishing to speak
Joshua Garoon, registering in support and wishing to speak
Bill Connors, registering neither in support nor in opposition and wishing to speak
Linda Lehnertz, registering in opposition and wishing to speak
Joe Schirmer, registering in support and wishing to speak

David McLean, registering in support and available to answer questions

Chuck Mitchell said they were happier with the recent draft than prior versions, but there is still work to be done. They were glad to see lead paint added, but would like to include doors and other moving features as well. The approval process is reasonably clear. They did not think color should be included in the ordinance. They emphasized that these are not museums, they are homes where they live and work hard to maintain their historic ideal. They said that if there are concerns to discuss, the committee should stretch out the process longer.

Bill Connors, Smart Growth Greater Madison, said the concept is a good step forward. Smart Growth supports allowing more administrative approval for projects rather than appearing before the Landmarks Commission. They do not think the draft ordinance makes the process easier because it carries over the requirements that make keeping up historic properties expensive and time consuming, and makes redevelopment projects unviable. Redevelopment projects that provide additional housing units could replace existing buildings outside the period of significance or those that have been modified to an extent that they lack historic significance, but the ordinance makes these projects difficult or impossible. The existing and draft ordinances are powerful weapons for NIMBYism by stopping worthwhile development and keeping out affordable housing units because of opposition to change. They asked how many families are priced out of the local historic districts because of the requirements and cost of maintaining buildings. They encouraged the City to explore how to protect historic resources without stifling beneficial redevelopment within historic districts.

Linda Lehnertz said the ordinance is not a powerful weapon for NIMBYs, it is about preserving the historic districts and their character. People are priced out of many areas of the city, including newer suburbs. They said that the previous Landmarks projects that went to Common Council used standards involving visual compatibility for new construction, and this ordinance continues to use that. LORC I found a way to move objective measures out of the context of visual compatibility because it was a shortcoming. They referenced their written statement for more details. They said that visual compatibility is too vague, difficult to understand, and difficult to apply, so if clarity and certainty is a goal of the ordinance, it doesn't do that.

Joshua Garoon introduced themselves as UW faculty who has undergone public health training, and spoke about lead paint. They appreciated that homeowners had the option to replace features when lead paint is present and hazardous. They referenced their written comments, which discussed the current science related to health and historic preservation as well as the City of Baltimore's model. They said that it isn't a black and white issue, but public health and protecting those who live in homes where they are exposed to lead dust should be the priority, balanced with preserving historic features in homes.

Jim Murphy said they appreciated the option to replace features when lead paint is present. They still had questions about grandfathering, non-conforming features, and permission for repairs. For the introduction of conjectural features, they recommended returning to earlier wording of "shall be avoided" rather than prohibited. They suggested that color requirements on storms and windows be removed. Regarding conduit, they said the language proposed is not often feasible in practice. They suggested an exception that principal structures should include only a bungalow design in the

Marquette Bungalow historic district.

Joe Schirmer referenced the HUD guidelines regarding lead and historic preservation, noting it was a balance of childhood health, economic feasibility, and historic preservation. They said that historic preservation should not precede children's health. They said that when repainting windows, the issue of lead paint is postponed but not addressed if the paint is not completely removed, so it can become a cyclical issue of repainting. They said there is no safe level of lead for kids. They suggested the City specify what kind of evidence is acceptable to demonstrate the presence of lead because there are various options for testing.

Bailey referenced the staff report on public engagement and thanked everyone for their comments. She began discussion of the staff report on proposed edits to the draft ordinance. She said that they added lead paint language to the General standards because one can run into lead paint in more than just windows. She referenced Vidaver's suggestion to add "or hazardous" to the language about window replacement in section 41.33(5)(c)2, and said she agreed. She clarified that staff has never advocated for keeping lead paint, and they advise people on processes for removing lead paint using lead-safe procedures.

David McLean, Landmarks Commission member, echoed Bailey's statements about lead paint removal, noting that the discussion seemed to be about painting over or removing the apparatus but not actually removing the lead paint itself. For people looking for a more immediate solution for lead paint, he suggested using jamb liners, which put a barrier between the lead paint and the window. While not a permanent solution, it is a more economic temporary solution. He said that removal of lead paint is as cost-effective as replacing windows and also retains the historic nature of the house.

Vidaver said she liked the lead paint section and suggested that 41.33(1)(e)1. say "Replacement of features due to lead..." instead of "Window replacement." Bailey agreed.

Evers asked about lead paint on windows vs. doors and asked why doors were included if the majority of difficult cases are on windows. Bailey said she didn't want to limit it to windows in case there were another type of feature where this situation might come up. She asked the committee to discuss whether economic feasibility should be a factor in allowing replacement. Heck asked if other areas in the ordinance discuss economic feasibility. Bailey said no, but there is an economic hardship variance in 41.19. Heck asked if the Landmarks Commission considers economic feasibility. Bailey said that it might come up if an applicant proposes alternate materials due to cost. She said that they are homes, not museums, and they use the Secretary of the Interior's Standards for Rehabilitation, which are the most liberal in terms of allowing places and structures to evolve in a way that is still evocative of their historic character. Heck said that his inclination would be not to include standards related to economic feasibility as long as the Landmarks Commission feels like they have appropriate guidance and flexibility to render appropriate decisions. He added that if they included economic feasibility here, it seems there would be many other places where that lens could be used in the ordinance. Bailey said the economic hardship variance exists for that purpose. Heck asked if the variance covers all sections of the ordinance, and Bailey confirmed it does.

Rummel arrived at 6:25 pm.

A motion was made by Evers, seconded by Martin, to approve the changes regarding lead paint, including adding “or hazardous” to 41.33(5)(c)2 and “Replacement of features” in 41.33(1)(e)1. The motion passed by voice vote/other, with Rummel abstaining.

Bailey said that generally, the Landmarks Commission does not get involved in color. In the current draft, she included color only in places where it is permanent. For example, color on masonry and mortar is a big deal because it can last a long time. Regarding storm doors and storm windows, she said that she wanted storm windows to be coated rather than shiny metal and would recommend that they match the window or trim. She said the storm door should match the trim around the door and sidelights in order to meet the standard, which has a goal of making everything blend.

McLean said that shiny metals draw more attention than painted surfaces. He said that it is important to consider whether or not the paint can be reversed because not everything can have color removed from it once it is applied. If a feature can't be brought back to a more historic composition, that is where the detriment falls. Bailey pointed out that she had also included color when discussing blending and repair, where if part of a feature is replaced, it needs to match the adjacent in color. She said that if the committee doesn't want to include color for storm windows and storm doors, they could specify that it should have a painted coating so that it isn't shiny metal.

A motion was made by Evers, seconded by Martin, to remove all references to color except with regard to masonry and to specify that storm doors and storm windows must have a non-reflective coating. The motion passed by voice vote/other.

Bailey said that the previous language for screening of porch elements referred only to wood porches, though some porches have masonry components, so masonry was added as an option.

A motion was made by Heck, seconded by Martin, to approve staff's recommendation for the screening of porch elements to include masonry. The motion passed by voice vote/other.

Bailey discussed the proposed language to clarify the standards for accessory structures. Heck asked if there were situations where there may not be any accessory structures within 200'. Bailey said there could be. Heck asked if they should add language to look within the historic district if 200' isn't sufficient. Rummel said the distance for comparable structures was unclear and the revised sentence was awkward. Bailey said that it references the requirements for primary structures, which says the distance is 200'. Heck asked if the Landmarks Commission ever considered structures outside of 200' if there were limited comparable structures within 200'. Bailey said that while there are some circumstances where there are few, there has always been a comparable structure to review.

A motion was made by Heck, seconded by Martin, to approve staff's recommendation for the accessory structure standards. The motion passed by

voice vote/other.

A motion was made by Martin, seconded by Rummel, to approve the correction of typographic errors. The motion passed by voice vote/other.

Bailey discussed other topics mentioned in feedback received from the public, including density & affordability, alternative materials & material costs, nonconformities, and sustainability features, as outlined in the staff report.

Heck said they heard a comment about the exorbitant cost to fix buildings that are in bad shape, and the ordinance will make it difficult for those buildings to be replaced with new construction in the historic districts. He asked what has changed in the ordinance that would make it more difficult. Bailey said that nothing within the historic district portion of the ordinance is changing that; the demolition standards in 41.18 would need to be met, and that part of the ordinance is not changing. She said that the standards for land divisions and combinations are also in section 41.18, which has been in place since 2015 and is not changing.

Heck referenced Lehnertz' comments on visual compatibility and asked about how LORC I's discussion on visual compatibility varies from what they are considering now. Bailey said that LORC I only addressed the front end of the ordinance, so whatever decision they made on visual compatibility related to the existing historic district standards, some of which don't say much. She said that LORC II is talking about visual compatibility standards, but there is an entire page of detail on how to go about assessing that. She said that visual compatibility is at the very heart of most of the work in historic preservation.

Vidaver said her comments were addressed. Rummel thanked the public for their comments. She said that in LORC I, they went through the draft ordinance line by line and suggested they do the same now to see how the new sections relate to the front end. Furman said that the ordinance hasn't changed that dramatically over the last several months as they have made incremental changes based on feedback and discussion. He said that there have been options for feedback as the committee has been meeting for years, and he wanted a path forward.

Kate Smith said that part of her job when drafting the ordinance is to reconcile the front and back end of the ordinance to ensure the two parts fit together and there are no inconsistencies.

Before she left, Furman asked Martin if she had an opinion on whether to move forward with the draft ordinance. Martin said that she was inclined to move forward, but would be okay either way.

Martin left at 7:35 pm.

Heck asked about future opportunities for input if they were to move forward. Bailey said that they would take the feedback from tonight to make edits to the draft, then turn it over to the City Attorney's office for drafting. Once that is complete, the draft ordinance will be introduced to the Common Council and referred to the Landmarks Commission for their review, which is an opportunity for public input. The Landmarks Commission will refer it back to the Common Council for final adoption, which is

another opportunity for discussion.

Rummel asked about the guidelines being adopted at the same time as the ordinance. Bailey said that staff's workplan includes having the guidelines completed by the end of the year. While there is a small gap of time, having the new ordinance in place will allow for better stewardship of our historic districts than we have ever had before. Once the illustrated design guidelines are completed, they will mesh together with the ordinance. She said that staff will have an initial round of public outreach to talk through the ordinance and another once the illustrated design guidelines are in place.

A motion was made by Vidaver, seconded by Evers, to Approve the draft ordinance language and forward it to the Common Council for introduction. The motion passed by the following vote:

Ayes: 4 - Patrick W. Heck; Keith Furman; Regina M. Vidaver and Tag Evers

Noes: 1 - Marsha A. Rummel

Excused: 1 - Arvina Martin

3. [54448](#) Discussion of Next Steps and Schedule

Furman said that they currently have no scheduled next steps. While the LORC is not part of the referral process, he suggested they schedule a meeting after the Landmarks Commission's review of the ordinance before it goes back to the Common Council for final approval, just in case they might need to meet. He thanked everyone involved in this process, and Evers acknowledged Furman's hard work as Chair of the committee.

ADJOURNMENT

A motion was made by Vidaver, seconded by Heck, to Adjourn at 7:46 pm. The motion passed by voice vote/other.