



PLANNING DIVISION STAFF REPORT

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PREPARED FOR THE LANDMARKS ORDINANCE REVIEW COMMITTEE

Legistar File ID # [56516](#) Additional Public Engagement

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Introduction

In its proposal presented to the Landmarks Ordinance Review Committee (LORC) on January 14, 2020, the Madison Alliance for Historic Preservation (Alliance) recommended the creation of district advisory committees as a vehicle to develop district-specific ordinances and receive additional input. This concept was further detailed in a memo and testimony from Alliance member James Matson at the January 23 LORC meeting. At that meeting, the Committee asked staff to provide some level of response as to the amount of resources necessary for additional public engagement.

Public Engagement to Date

At the beginning of the process to revise the Historic Preservation Ordinance as it pertains to the five local historic districts, a comprehensive Communication + Public Engagement Strategy was endorsed by LORC (December 18, 2017) and the Landmarks Commission (January 29, 2018) to set expectations and guide the public process. This strategy has been implemented, including 16 Ordinance specific meetings (with 3 in each district) and 20 LORC meetings to date.

Summary of the Alliance's Proposal

As stated in their January 23 memo, the Alliance's proposal would authorize (not require) an alder, after consulting with the City Preservation Planner, to appoint a district advisory committee for a historic district that the alder represents.

- The purpose of the district advisory committee would be to review and recommend historic district ordinance standards, based on the Preservation Principles that apply to all districts. The committee would also consider existing district ordinance standards, if any.
- The alder would determine the size and membership of the district advisory committee, and appoint a non-voting committee chair. The alder could serve as committee chair or as a non-voting member of the committee, but would not be required to do so.
- A district advisory committee would include knowledgeable district residents; owners of historic resources and other properties in the district; experienced rehabilitation contractors; experienced historic district infill developers; architects; and neighborhood association leaders.
- The City Preservation Planner could assist a district advisory committee, suggest key discussion topics, and offer draft ordinance language for consideration by the committee.
- District advisory committee meetings would be conducted as open meetings. Members of the public could attend, but could not participate in the meetings unless invited to do so. The committee could seek public input in a variety of ways.
- District advisory committee recommendations are advisory only, not mandatory. They do not in any way change or limit the powers or prerogatives of the Landmarks Commission, City Plan Commission or Common Council.

Staff Response

Staff agrees with the need for additional public engagement to help identify any conditions unique to each district that property owners feel would not be adequately addressed through a unified ordinance. Also, since it has been a year since the last district meeting, arranging for additional public input will provide an opportunity to update owners on the process to date and the plan for completing this effort.

Although staff have several concerns with the Alliance’s proposal, there is a fundamental legal issue. According to Assistant City Attorney John Strange, if the LORC were to endorse the District Advisory Committees (“DACs”) in the way proposed by the Alliance, the DACs would be considered subcommittees of the LORC. However, MGO 33.01(4)(d) only allows committees like LORC to create subcommittees made up of members of the parent unit. If a committee creates a subcommittee that includes individuals not on the parent committee (e.g., residents), the Common Council must approve. If that were to happen, the subcommittee would be required to follow all City of Madison requirements for meetings, including allowing the public to participate at every meeting. Thus, MGO 33.01(4)(d) would not allow the creation and operation of the DACs as proposed.

Possible Options

Although there are other alternatives for additional engagement as discussed at the last LORC meeting, staff has prepared the following table with the intent of facilitating a LORC discussion on potential future engagement efforts. Staff recognizes that there are other options and that the pros and cons represent only a partial listing of considerations from the staff’s perspective.

Options	Pros	Cons
A) District Advisory Committees <i>(Alliance’s Recommendation)</i>	<ul style="list-style-type: none"> •District-focused •Stakeholder driven 	<ul style="list-style-type: none"> •Does not meet MGO 33 •No staff support •Concern about transparency •Increased alder responsibility/work •No cross district interaction •Uncertain timeframe for each district (may take years)
B) LORC Hosted District Meeting(s) <i>(LORC hosts district specific meetings (1-3) in each district)</i>	<ul style="list-style-type: none"> •Increased transparency •Direct interactions with decision makers •Consistency across districts 	<ul style="list-style-type: none"> •No cross district interaction •Potential quorum challenges •Limited staff capacity
C) All Districts Meeting(s) <i>(LORC holds joint meeting(s) (1-3) with break out for each district)</i>	<ul style="list-style-type: none"> •Cross district interaction •Possible higher attendance 	<ul style="list-style-type: none"> •Potential quorum challenges
D) All District Charrette <i>(possible all day event that would start with an overview of the process and draft ordinance followed by breakout discussions for each district)</i>	<ul style="list-style-type: none"> •Defined date / time •Allows cross district interaction •Allows for district specific discussions •LORC participation (possibly as a LORC meeting?) 	<ul style="list-style-type: none"> •One time event •Expect limited attendance

Required Resource Allocations

Staff support for the City’s historic preservation program is provided by the Preservation Planner with part-time support from an administrative assistant and sporadically from other Planning Division staff. The day-to-day administration of the current Historic Preservation Ordinance (including providing professional staff support to the Landmarks Commission) fully consume this capacity.

Other Planning Division staff, staff from the City Attorney’s Office, and the Engineering Division (architect with the City and former Preservation Planner) have been assigned to support the special project of updating the Historic Preservation Ordinance for a defined amount of time, and that has already been exceeded. The project kicked off in September 2017. At that time, staff resources were committed for the duration of the project, which was anticipated to be completed by fall-winter 2018, with the adoption of the revised ordinance. Several

factors, including an intentional pause while the State considered statutory changes regarding cities' ability to regulate historic resources and a change in the Preservation Planner position have caused the timeline to be extended. There is little/no additional staff capacity to support a prolonged effort and commitments to other efforts in annual workplans will need to be delayed to support the effort beyond what is currently planned. For example, the Planning Division's 2020 workplan does not currently allocate any staff hours to this effort after the first half of the year.

The LORC discussed the possibility of hiring a consultant to direct additional public engagement. While this may help, staff notes that hiring, coordinating with, and overseeing consultants still require a significant amount of time. Based on the 2017 contract with Legacy Architecture, staff expects the cost of a consultant to support additional efforts to be in the range of \$ 1,500 to \$ 1,800 per meeting plus additional costs for time spent preparing for the meetings and post meeting follow up, which billed at \$65 to \$110 per hour. The 2017 Capital Budget included a total of \$250,000 to support this effort as well as conduct an underrepresented communities survey and develop the Historic Preservation Plan. Of that amount, up to \$210,000 is committed to consultant fees with another \$5,000 reserved for expenses (facility rental, etc.). This leaves a balance of approximately \$35,000 available for additional expenses, which could potentially include additional consultant support. If this money were to be used to hire a consultant, it would not be enough to engage stakeholders to update district-specific standards for each of the five districts. However, it could be enough to support options B, C, or D in the table above focusing on the differences between the existing district-specific standards and the draft unified ordinance to collect additional detailed feedback for LORC. Even with that approach, staff resources to support such an effort are insufficient.

Staff Recommendation

Staff recommend that the LORC consider the following next steps:

- 1) LORC complete a revised working draft of the unified ordinance.
- 2) Staff prepare case studies comparing the existing ordinance and the revised unified ordinance to show real examples of how these approaches would apply to the same property.
- 3) Provide direction on obtaining additional public input from the options described in the table above, or a different approach. This direction should include whether a consultant should be retained, the number of meetings, and level of staff support expected.

As an alternative to proceeding with a unified historic district ordinance, staff supports the Alliance's recommendation to start with an "interim" ordinance revision that would seek to provide clarity and consistency among the districts focusing on definitions and process without substantively changing the current requirements. After this is done, staff recommends that the process be reevaluated to determine if, and how, it should continue.