

**NOTE TO COMMISSION**  
**July 6, 2010**

**Legistar ID # 17835**  
**Landmarks Ordinance Revisions**

**University Heights Historic District**  
**100 square foot addition - Public Hearing Notice History**

The Ordinance was amended in 1994 to require a public hearing for any new buildings, accessory buildings or additions to existing buildings that are over 100 square feet in size in the University Heights Historic District. Upon the review of numerous files, it seems this change in process was in response to the 1993 proposal to build a new residence at 2118 Chadbourne Avenue and the resulting neighborhood outcry for a more straightforward process that included public opinion.

Related historic documents are attached.

Rebecca Cnare and Amy Scanlon  
7/6/10

**CITY OF MADISON  
INTERDEPARTMENTAL  
CORRESPONDENCE**

**TO:** Eunice Gibson, City Attorney  
**FROM:** Katherine Rankin, Preservation Planner *Kitty Rankin*  
**DATE:** August 26, 1994  
**SUBJECT:** Ordinance Changes to Landmarks Commission Ordinance

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At its meeting on June 25, 1994, the Landmarks Commission voted unanimously to recommend the following ordinance changes. We recommend that all of the ordinance changes be written into one packet for ease of understanding.

1. Regarding the holding of public hearings for certain building projects, we recommend the following:

Add new Paragraph 3. of Subdivision (b) entitled "Regulation of Construction, Reconstruction and Exterior Alteration" of Subsection (5). . . to read as follows:

3. Whenever, under Subdivision (b)2. above, the Landmarks Commission receives an application for a project in the University Heights district which proposes to erect a new primary building, an accessory building over 100 square feet in size or an addition over 100 square feet in size to the footprint of an existing building, not including decks and open porches, the Landmarks Commission shall hold a public hearing. The Commission may establish rules and procedures for the conduct of such hearings and shall see to it that a record of the proceedings is made and preserved.

Notice. . . (the rest is the same as in Alternate #2).

2. Regarding appeals to decisions of the Landmarks Commission, we recommend using the existing appeal procedure for demolition to also apply to projects that require a public hearing, to wit:

Amend Paragraph 4. of Subdivision (b) entitled "Regulation of Construction, Reconstruction and Exterior Alteration" of Subsection (5). . . to read as follows:

4. If the Commission determines Subparagraphs a., b., and c. of Paragraph 3, above in the negative, it shall issue the Certificate of Appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the Director of the Inspection Unit. The Commission shall make this decision within ~~thirty (30)~~ sixty (60) days of the filing of the application. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the above guidelines, the Commission shall, at the request of the applicant, cooperate and work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

Delete Paragraph 4. of Subdivision (c) entitled "Regulation of Demolition" of Subsection (5). . .and create new Subdivision (d) of the same Subsection.

- (d) Appeal. An appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness may be taken to the Common Council by the applicant for the permit. In addition, an appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness for any building or demolition project requiring a public hearing, whether this determination is made upon receipt of the application for a demolition permit or at the end of the one-year period in a case where action on the application has been suspended, or to suspend action on a demolition application, may also be taken to the Common Council by the Alderperson of the district in which the subject property is located, or by 20% of the property owners within 200 feet of the subject property. Such appeal shall be initiated by filing a petition to appeal within ten (10) days of the date the final decision of the Landmarks Commission is made. The City Clerk shall file the petition to appeal with the Common Council. After a public hearing, the Council may by favorable vote of two-thirds (2/3) of its members, reverse or modify the decision of the Landmarks Commission, if, after balancing the interest of the owner in using it for his or her own purposes, the Council finds either that owing to special conditions pertaining to the specific piece of property, failure to grant the Certificate of Appropriateness will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the Landmarks Commission's decision.

These suggestions were ratified by the Plan Commission and are acceptable to Ald. Golden.

3. We would also like to add two housekeeping amendments to the package.
- A. When the Marquette Bungalows historic district was adopted by the Common Council, the language providing for the zoning suffix to be added for those properties in the district was inadvertently not included. The new language should read as follows:

Create a new Subsection (6) of 28.106 as follows:

- (6) HIST-MB Marquette Bungalows Historic District. The HIST-MB suffix applies to all zoning lots located within the Marquette Bungalows Historic District and the owners of such zoning lots are notified that any improvements thereon, whether present or proposed, shall be constructed, maintained, altered and demolished or reconstructed in accordance with the applicable general provisions of Section 33.01 and the specific provisions of Section 33.01(13), in addition to the applicable requirements of the Zoning Code.

- B. When the zoning code was changed in 1986 to provide for a new system of historic suffixes to the zoning district classification, the old procedure in the Landmarks ordinance for rezoning such properties to special district H was inadvertently not deleted. To my knowledge, the Landmarks Commission has never used that section of the ordinances. Specifically, we should:

Delete Subdivision (b) entitled "Petition for an Historic Zone" of Subsection (6).

and reletter the following subdivisions (c) and (d). (I don't know how you say this in proper ordinance-revising form).

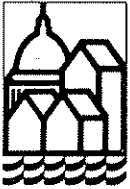
Please call me at 266-6552 if you have any questions.

cc: Ald. Ken Golden

## Office of the Common Council

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City of  
Madison



City-County Building, Room 107B  
210 Martin Luther King, Jr. Boulevard  
Madison, Wisconsin 53710-0001  
608 266 4071

November 29, 1994

To: Selected Residents in University Heights

I'm writing to those of you who live near and/or were concerned with the 1993 proposal to build a new house on vacant land on Chadbourne Avenue on a plot which has become known as the Peabody Garden. At that time there was much concern with the proposal and much concern with the review process. Many folks in the neighborhood felt like they were being rushed by the process, had not received adequate notification of significant Commission meetings and had no recourse once the Landmarks Commission rendered their decision to approve the proposal.

Whatever your thoughts were on the merits of that proposal, it seemed clear that changes to the process were worth considering. Since that time I've been working with representatives of the Regent Neighborhood Association on ordinance changes designed to make sure problems with the process noted above don't surface if any future proposals of this kind are made in University Heights. I'm pleased to report that these efforts have yielded success and that a new ordinance has been adopted by the Common Council on November 22nd.

This ordinance contains three important provisions. First, it requires a public hearing for any new buildings proposed to be constructed in University Heights, or accessory buildings greater than 100 square feet. Secondly, the ordinance extends the time which the Landmarks Commission has to consider such proposals so that tight deadlines do not get in the way of good and careful decision making. Landmarks Commission was under tremendous pressure to act within the 30 days required by ordinance. The new ordinance extends that to 60 days. The third and final provision of this new ordinance change is to create an appeal right allowing 20% of the property owners within 200', or the Alderperson, to appeal decisions of the Landmarks Commission to the Common Council. Many view independent power by an appointed committee with some concern and would prefer to see the elected officials be the final arbiter of decisions of this kind.

I'm extremely pleased with this product and want to go out of my way to commend and recognize the contribution of three of your neighbors to this product, Tom Hirsch, John Barsness and Paul McMann who were all very instrumental in helping craft these ordinance changes and work with City staff to see to their adoption. This has been a rewarding effort and hope it meets with your approval. If you would like copies of the actual ordinance, please call me at 266-4071 and leave a message with your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Golden', written over a horizontal line.

Ald. Ken Golden  
District Ten

KG:jm

cc: George Austin, Director of Planning and Development  
Katherine Rankin, Planner III

**CITY OF MADISON  
INTERDEPARTMENTAL  
CORRESPONDENCE**

**TO:** Regent Neighborhood Association Board

**FROM:** Katherine Rankin, Secretary, Landmarks Commission

**DATE:** May 23, 1994

**SUBJECT:** Proposed Changes to Landmarks Commission Ordinance

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The proposed changes to the Landmarks Commission ordinance have major implications for the way the City and property owners do business. After discussing these ordinance changes with the Landmarks Commission, Ald. Golden asked me to prepare a memo outlining some of the issues for your consideration. Enclosed please find a substitute amendment prepared by the City Attorney for Ald. Golden and an alternative that I prepared for the Landmarks Commission. These alternatives raise several questions that we would like your input on. The questions are as follows:

**Question: What projects should require a public hearing?**

A balance must be struck between notifying residents of remodeling projects being proposed by their neighbors and the delays that will be caused by the public hearing process. The downside of having a public hearing for project reviews is that it will add to the time a property owner needs to get through the bureaucratic process. Currently, a property owner must submit plans one week before the meeting at which they wish their project reviewed. Then, if approved, they can get their permit first thing the next morning. If there is a public hearing required, the owner will have to submit plans three weeks before the meeting. This time is the minimum necessary to prepare a mailing list of all owners within 200 feet and send the public hearing notice to the Wisconsin State Journal so that property owners are notified ten days before the meeting. Therefore, I recommend limiting the kinds of projects that require a public hearing to ones that the RNA really feels could have a strong adverse impact on surrounding properties.

The kinds of projects that could require a public hearing notice are:

New construction of primary buildings.

New construction of accessory buildings (such as garages and garden sheds).

New construction of accessory buildings over 100 square feet (this would omit the need for a public hearing for most garden sheds).

Additions to the footprint of a building.

Additions to the footprint of a building over a certain square footage, such as 60 or 100 square feet.

Open porches

Decks

Other remodeling, such as window replacement, dormers, etc.

**Question: What projects should be appealable?**

The balance here is the same as for the kinds of projects that will require a public hearing. In general, I would recommend that the same projects that require a public hearing be the ones that can be appealed by non-owners. Projects that can be appealed will have an additional delay before they can receive their permit, because the Building Inspection Unit will have to wait until the appeal period is over before issuing the permit. Most appeal periods in city processes are for ten days. Assuming a ten-day appeal period, a project requiring a public hearing and that can be appealed will have a 32-day wait to get a permit compared to the current 8-day wait.

**Question: Who should be allowed to appeal a building project?**

Some of the current appeal processes allow for the following persons to appeal:

Current Landmarks Ordinance, for new construction or alterations: Applicant

Current Landmarks Ordinance, for demolitions: Applicant or Alderperson

Plan Commission conditional use approval: Applicant, Alderperson or 20% of property owners notified for the public hearing (in other words, within 200 feet of subject property).

Urban Design: Applicant or Alderperson.

Zoning Map Amendments: 20% of landowners in area to be rezoned; 20% of adjacent property owners within 100 feet; or 20% of opposite landowners within 100 feet, with complicated procedures for submitting petition.

The ordinance drafted by the City Attorney uses the Zoning Map Amendment model. Instead, I recommend using the Plan Commission conditional use approval model, which is far less complicated and enables 20% of the property owners within 200 feet to appeal, along with the applicant or the alderperson. You may wish to look at maps prepared by Tom Hirsch to see how many people might constitute 20% of landowners within 100 feet and 200 feet.

**Question: What percentage of the Common Council should it take to overturn the Landmarks Commission's decision?**

The drafted ordinance follows the Zoning Map Amendment Model requiring a 3/4 vote. I recommend following the current Landmarks Commission ordinance demolition appeal percentage of 2/3.

**Question: What basis should the Common Council use to overturn the Landmarks Commission's decision?**

The ordinance as drafted gives no criteria for Common Council review. I recommend adding the criteria in the current Landmarks Commission demolition appeal process for cases in which the Landmarks Commission denies a project. For projects in which the Landmarks Commission approves a project, I recommend adding that the Common Council can overturn the Landmarks decision if it is clear that the Landmarks Commission did not follow its criteria for the review of alterations and new construction.

I would be happy to attend the RNA meeting or provide further information on any of these issues. Please call me at 266-6552 if you have any questions.

Enclosure