

Madison Trust for Historic Preservation

Position statement regarding “The East End” COA proposals before the Landmarks Commission

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Summary: The Trust has not had sufficient time to thoroughly review “The East End” proposal. (Contention G, below.) However, in its current form, “The East End” clearly does not meet various required standards of Ch. 41, MGO. (Contentions A through F.) Consequently, the terms of the Landmarks Ordinance require that the Commission deny the application. Preliminary analysis by the Trust President (only) is that additional required standards of Ch. 41 are not satisfied. (Contention H.)

Introduction

Historic districts comprise significantly less than 1% of Madison, and only 11.6% of the area encompassed by Madison’s Downtown Plan. It is in the public interest to protect, preserve, conserve and use the City’s historic resources because they “represent the City’s unique heritage, contribute to the health, prosperity, safety and welfare of the City’s residents, and serve as a source of great interest to the City’s residents and visitors.” 41.01, MGO.

The Madison Trust for Historic Preservation supports infill development in local historic districts as long as it complies with all relevant standards. A portion of Block 115 in the First Settlement Historic District (FSHD) is a prime candidate for such development.

“The East End” proposal seeks to obtain two Certificates of Appropriateness from the Landmarks Commission for a project in the FSHD. The first is to consolidate several lots found both within the First Settlement District and adjacent to the district into Lot 1 of a Certified Survey Map (CSM).¹ The second is to construct a new principal structure within the combined lots. The new structure would include six floors (two of parking and four residential floors) above grade (as well as a seventh floor community room of 700 SF and 3.5 feet of extensive mechanical screening), 153 residential units plus 11,000 SF of new commercial space as well as

¹ The “Come Back Inn” is Lot 2 of the CSM at 3,736 SF. The developer “intends to restore [that] building on a separate track.” May 29, 2019 Letter of Intent. The CSM merely notes: “Portions of Building to remain.” The term “restoration” is defined in 41.02, MGO as “the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.” The Trust is concerned that the developer may not be using the term consistently with this definition, but rather as including the “façadectomy” approach to historic preservation.

220 parking stalls.² The proposal would require the demolition of four contiguous buildings, totaling 110 linear feet of East Wilson Street frontage in the East Wilson Street National Historic District.

I. Proposal to consolidate lots within and adjacent to the First Settlement Historic District (FSHD).

Standard to be applied: 41.18(intro) and (4) of MGO:

A certificate of appropriateness **shall be granted only if the proposed project complies with** this chapter, including **all of the following standards that apply:**

(4) Land Divisions and Combinations. The commission shall approve a certificate of appropriateness for land divisions, **combinations**, and subdivision plats of landmark sites and properties in historic districts, **unless** it finds that **the proposed lot sizes** adversely impact the historic character or significance of a landmark, **are incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.**

The Landmarks Commission is **required** to apply all the rules in Ch. 41:

Standard means a rule that is required. Under this ordinance, **all standards adopted in a historic district must be complied with in every instance of development in that district.** 41.02, MGO

Contention A. The developer identifies the “current parking lot property behind the buildings along E. Wilson Street and adjacent to South Blair Street” as 37,209 square feet (SF), says the combination of properties within the FSHD would be 42,439 SF, and when the property within the FSHD is combined with the additional area within the East Wilson Street National Historic District, the total is “approximately 57,081 SF.”³

- Official city records show the largest *existing* lot in the historic district is 36,911 SF for the address of 134 South Blair Street which is only one of three lots identified as currently making up the Essen Haus parking lot.
- The next largest lot in the historic district is a preschool facility at 23,826 SF (107 South Butler Street). It is not property typically used for residential purposes.
- The third largest lot in the historic district is St. Patrick’s campus at 20,328 SF (410 East Main Street). It is not property typically used for residential purposes.

² Information relating to the size of the proposed structure is taken from the developer’s May 29, 2019 Letter of Intent.

³ Square feet numbers taken from developer’s June 1, 2019 submission to the Landmarks Commission.

- The *largest existing residential* lot in the historic district is the Germania Condominiums at 16,683 SF (135 South Franklin Street). These condominiums were designed to appear as at least four separate structures.

- Of the 83 lots in the FSHD, only eight exceed 10,000 SF.

- The median lot size in the historic district is 4,273 SF.

- The city records show the combination of the three existing lots making up the current Essen Haus parking lot would total 44,336 SF, more than ten times the median lot size in the district.

- “[A]ll standards adopted in a historic district must be complied with in every instance of development in that district.” 41.02, MGO This definition is unambiguous and establishes a mandatory requirement for any action taken by the Landmarks Commission.

If the Commission concludes that the asserted combined lot size in the FSHD of 42,439 SF would “fail to maintain the general lot size pattern of the historic district,” which has a median lot size of 4,273 SF, the Commission has no option, pursuant to the ordinance, other than to reject the applicant’s request for a Certification of Appropriateness.⁴

Contention B. The term “adjacent” is undefined in ch. 41, but means “next to or adjoining something else.”⁵ According to 44.18(4) MGO, **the proposed combined lot size cannot be “incompatible with adjacent lot sizes . . . of the historic district.”**

- The lots within the FSHD that are next to or adjoining the proposed combined lot in the district of 42,439 SF are 118 South Blair at 5,280 SF, 123 South Franklin at 4,356 SF and 135 South Franklin at 16,683 SF. The median adjacent lot within FSHD is 5,280 SF and the proposed combined lot within the district would be eight times as large as the size of the median adjacent lot.

If the Commission concludes that the asserted combined lot size in the district of 42,439 SF is “incompatible with adjacent lot sizes . . . of the historic district,” the

⁴ Page 3 (about 2/3rds down the page) of the Planning Division Staff Report dated June 19, 2019 states: “The Landmarks Commission can approve a lot consolidation if doing so will not distract from the historic character of the district.” The Staff Report appears to suggest that 41.12(5) permits consolidation irrespective of compliance with 41.18(intro) and (4). If this has been the past practice of the Commission, the Trust takes the position that it is in error. All that 41.12(5) provides is that no one may consolidate a lot in a historic district without a COA if doing so may distract from the district’s historic character. It does not suggest the obverse; that a COA should or must be issued when consolidation would not distract from that character. We are unaware of any provision in Ch. 41 that would allow the Commission to ignore the explicit language in 41.18(intro) and (4). The requirements of 41.18(4) are not subservient. They stand independently of 41.12(5) because they are separate standards.

⁵ Pursuant to 1.01(1), MGO, “All words and phrases shall be construed and understood according to the common and approved usage of the language”

Commission has no option, pursuant to the ordinance, other than to reject the applicant's request for a Certification of Appropriateness.

Contention C. While the combined Lot 1 of 42,439 SF (within the district)⁶ is adjacent to three lots that are in the district, the combined lot is also next to or adjoining eight lots in Block 115 with addresses on East Wilson Street (502, 504, 506, 510, 514, 516, 518 and 522) that are outside the FSHD. The largest of those eight lots is 506 East Wilson at 6,686 SF. The median of those lots is 2,230 SF at 504 East Wilson.

- The combined lot within the district would be 6.3 times the size of the largest adjacent lot that is part of Block 115 but outside the district and roughly 20 times the size of the median of those adjacent lots in the block but outside the district.

If the Commission concludes that the combined lot size of 42,439 SF is “incompatible with adjacent lot sizes,” the Commission has no option, pursuant to the ordinance, other than to reject the applicant's request for a Certification of Appropriateness.

Contention D. The sole justification cited by the developer⁷ for complying with 41.18(4) MGO is a comparison to two “blocks” across South Blair Street developed by MG&E, at 132,513 SF and 95,061 SF, both of which are outside of the FSHD.

- The developer relies on the two MG&E blocks “as a measure” for assessing whether the combination of lots within the FSHD would be “incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.” However, the developer's submission is completely silent as to why those blocks, which are within the borders of the Third Lake Ridge Historic District, a distinct historic district, are appropriate comparisons.

- Furthermore, the MG&E blocks across South Blair serve a massive industrial function, rather than providing places for Madison's population to reside.

There is no apparent justification for using two MG&E blocks across South Blair Street as a “measure” for determining the compatibility of the lot that is proposed to be created in the First Settlement Historic District.

II. Proposal to build a new structure in the First Settlement Historic District

⁶ The size of combined Lot 1 both inside and outside of the First Settlement Historic District is 57,081 SF.

⁷ “Standards for the Review of New Principal Structures in the First Settlement Historic District” dated June 1, 2019, on the letterhead of CaS4 Architecture, LLC.

Standard to be applied: 41.18(1)(intro) and (d), MGO:

The Landmarks Commission shall approve a certificate of appropriateness for . . . construction only if:

(d) In the case of . . . construction for which a certificate of appropriateness is required, **the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.**

Contention E. The applicant's proposal would require demolition of Madison's historic resources.

- For purposes of Ch. 41, MGO, the term "historic resources" is defined in 41.02, MGO:

Historic Resource means **any building**, structure, sign, feature, improvement, site, or area **having significant** architectural, archaeological, anthropological, **historical, or cultural value**. Historic Resources include properties designated as landmarks or historic resources in a historic district ordinance.

While the term "historic resources" includes formally designated local landmarks and local historic districts, the term is substantially broader than that because it includes "**any building . . . having significant . . . historical, or cultural value.**" This language is confirmed by the final sentence of the definition which states that these resources "include" designated landmarks and historic districts rather than limits the definition to those formally designated resources.

- The building at 518 East Wilson Street is a contributing structure in the East Wilson Street National Historic District.
- The proposal would demolish 518 East Wilson Street.
- Demolishing a contributing structure in a National Historic District found in Madison would "frustrate the public interest expressed in [Ch. 41 MGO] for protecting, . . . conserving, and using the City's historic resources."

If the Commission concludes that the demolition of a contributing structure to a National Historic District would "frustrate the public interest" in historic preservation, the Commission must reject the applicant's request for a Certification of Appropriateness.

Contention F. The proposal would demolish 518 East Wilson Street as well as the adjacent structures at 510, 514 and 516 East Wilson Street.

- All are two-story structures built between 1875 and 1909 which is within the period of significance for the district. Together, these four lots comprise 110 feet of East Wilson Street frontage. The consistent height of these buildings lends continuity to the existing streetscape.

- Demolishing the contributing and “of the period” (though non-contributing) two-story buildings on these four lots and replacing them with a six and seven story structure above grade that is obviously outside of the period of significance for the district would decimate the center portion of the East Wilson Street National Historic District.

- The proposal would clearly “frustrate the public interest expressed in [Ch. 41 MGO] for protecting, . . . conserving, and using the City’s historic resources” found in the East Wilson Street National Historic District.

If the Commission concludes that the demolition of a contributing structure to a National Historic District and the demolition of three complementary adjacent structures in conjunction with replacing them with a single structure massively larger than the other structures in that National Historic District would “frustrate the public interest” in historic preservation, the Commission must reject the applicant’s request for a Certification of Appropriateness.

Standard to be applied: 41.18(1)(intro) and (c), MGO:

The Landmarks Commission shall approve a certificate of appropriateness for . . . construction only if:

(c) In the case of . . . construction on any property located in a historic district, the proposed . . . construction meets **the adopted standards and guidelines for that district.**

Contention G. The Trust has had inadequate time to digest the proposal given the date we received the most relevant materials.

- The Trust, by its President, requested a meeting with the developer by letter dated May 28, 2019 to find out “how the most recent version of your proposed development addresses the various requirements of Madison’s Historic Preservation Ordinance, Chapter 41 of the Code of Ordinances.”

- The developer has not held a meeting with Trust representatives as had been hoped.

- The Trust only gained access to the developer’s June 1 “Standards for the Review of New Principal Structures in the First Settlement Historic District” on June 15, by way of the posting of the Agenda for the June 24 Landmarks Commission meeting.

- The Trust only gained access to the May 31 report by Preservation Architect Charles Quagliana on June 18.

- The Trust Board holds its regular monthly meeting on the third Tuesday. The Board met on Tuesday, June 18 and the Board voted to take the position set out above regarding the proposal and to seek additional time to respond to other issues raised by the proposal.

The Madison Trust for Historic Preservation has had insufficient time to prepare a response to the developer’s assertion that “The East End” project would meet the requirements of 41.26(4)(a), (b), (e), and (f), MGO. In addition, the Trust has had insufficient time to review the developer’s submissions to determine if there are other provisions in Ch. 41 that the proposal does not satisfy. The Trust has had insufficient time to review the preservation architect’s report.

Contention H. However, **preliminary review by the Trust indicates the proposal fails to meet important standards of the First Settlement Historic District as set forth in 41.26, MGO.** As has previously been noted, **“all standards adopted in a historic district must be complied with in every instance of development in that district,”** 41.02 MGO. For example, it is difficult to identify any compatibility that might exist where the proposed development would abut the adjacent contributing homes on the west side of South Blair Street. 41.26(4)(a) and (e), MGO.

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The Trust continues to support historic district infill projects that comport with the requirements of Ch. 41, MGO. The Trust hopes to work with developers and others to assist in generating projects that meet those requirements.

Thank you for considering the position of the Madison Trust for Historic Preservation on this important issue.

Respectfully submitted,

Kurt Stege
Trust President