

Plan Commission
Meeting of July 26, 2021
Agenda #2, Legistar #65545

Review for historic significance

1. Proposed 7(d) is unclear to me: "This section does not apply to accessory buildings approved pursuant to sub. (8)(a)2. below."

The first time I read this, I thought it meant that a demo of an accessory building in a historic district could be done without Landmarks approval despite subsection (c). The second time I read this I thought it was trying to say that Landmarks review is not required for demo/removal of accessory buildings.

If the intent of the proposed language is to not require Landmarks approval for something like a garage, I suggest: "Every application for demolition or removal shall be reviewed by the Landmarks Commission, except an application for demolition or removal of an accessory building or structure, which ..."

2. "Every application for demolition or removal shall be reviewed by the Landmarks Commission, which shall provide input to the Building Inspection Division regarding the historic significance of the building or structure proposed for demolition or removal."
(a) Currently, the Preservation Planner can provide a report to the Plan Commission. Will all future reports need to come from the Landmarks Commission, or will the Preservation planner reports be accepted?
(b) Since the Director of the Building Inspection Division has the power to administratively issue demo permits, should the input be provided to the Director rather than just to the division?
3. "Nothing in this subsection eliminates the requirement in Secs. 41.09(1)(c) and 41.12(3), MGO, that the demolition of landmark structures or structures in historic districts must also be approved by the Landmarks Commission ..."

Add italicized:

3. "Nothing in this subsection eliminates the requirement in Secs. 41.09(1)(c) and 41.12(3), MGO, that the demolition *or removal* of landmark structures or structures in historic districts must also be approved by the Landmarks Commission ..."
4. Odd situations can happen when Landmarks reviews demolition -- the building itself may not have historical significance, but other historical issues can arise. For example, Landmarks said that 2410 Waunona Way had historical significance but had lost integrity. Landmarks recommended to the Plan Commission "that the applicant secure and submit an approved Request to Disturb permit to the Preservation Planner, provide notification to the Ho-Chunk Nation Tribal Historic Preservation Office of the development plans as they relate to the burial site, and explore salvaging parts of the Lustron home."

Should the Director of the Building Inspection Division have authority to place such conditions on a demo permit, or should those matters be referred to plan Commission?

Affordable housing units subsidized by the City of Madison

The Director of the Building Inspection Division can administratively issue a demolition or removal permit (once Landmarks has determined a lack of historical significance) when: "The building or buildings proposed for demolition are proposed to be replaced with residential or mixed-use buildings containing affordable housing units subsidized by the City of Madison."

1. What does "proposed to be replaced" require? Just that the developer tell the Director that the developer plans to seek a subsidy?
2. What are "affordable housing units?" Does a unit available to a person/family at 80% of the area mean income count, or should the policy focus be on lower incomes?
3. How much of a mixed-use property needs to be affordable? For example, the 2000 Winnebago block was proposed at 3,850 square feet of first floor commercial space, and 45 residential units to be developed as a cohousing community, with 11 units ultimately subsidized by the City. Is 25% of units being affordable enough to merit administrative approval of 3 demolitions?
4. What counts as "units subsidized by the City?" Does TIF funding count (e.g., TIF for the Westgate redevelopment, Legistar 64443)? Or just funding from the Affordable Housing Fund? Does a CDA project count as "subsidized by the City?" What about a City award of federal HOME Investment Partnership funds (e.g., Commonwealth's Raymond Road project)?

Administrative Approval by the Director of the Building Inspection Division

1. "The Director of the Building Inspection Division determines that the building proposed to be demolished or removed is an accessory building as defined in Sec. 28.211."

An accessory building or structure is defined as a "subordinate building or structure, the use of which is clearly incidental to that of the main building and which is located on the same lot as the principal building, and is subordinate to the principal building in height and floor area."

Although the proposed language mirrors existing language, should the Director be allowed to administratively permit removal of a building in a building complex, such as an apartment complex clubhouse?

2. In 2015, the Director was given authority to issue a demo/removal permit for a single-family dwelling being demolished due to damage by fire or other natural disaster if certain conditions are met. That is not included in the proposed ordinance.

Landmarks recommendations

Proposed: "In addition to receiving input from City Staff and from the Landmarks Commission pursuant to sub. (7) above, the Plan Commission may require the applicant to submit additional plans to the Landmarks Commission for comments and recommendation.

Currently, Plan Commission can refer a non-residential proposed use to Landmarks and to UDC if the use is non-residential. But since the proposed use is no longer a concern, I am not sure what there would be to refer to Landmarks.

Tree Canopy

A purpose of the ordinance is to “encourage applicants to strongly consider relocating rather than demolishing existing buildings.” And the first Plan Commission approval standard requires an applicant to engage in reasonable efforts to relocate a building. (“The applicant has engaged in reasonable efforts to relocate the building, including but not limited to assessing the costs of relocation, the impact of relocation on city terrace trees, and the structural soundness of the building.”)

But another standard is: “The Plan Commission has received and considered the report of the City Forester regarding the impact a proposed building relocation could have on City terrace trees.”

This could set up a conflict. What if a developer wants to move a building but the impact on street trees would be significant? This could well happen with the proposal to move 151 W Wilson to the 1100 block of Jenifer. 151 W Wilson is a 3-story building with a flat roof, proposed to be moved about 1.25 miles. This could have a major impact on canopy trees, yet the first approval standard and the ordinance purpose encourage relocation, perhaps resulting in relocation taking precedence over trees.

At a minimum, please consider removing the italicized portion: “The applicant has engaged in reasonable efforts to relocate the building, including but not limited to assessing the costs of relocation, *the impact of relocation on city terrace trees*, and the structural soundness of the building.” This could help clarify that the tree canopy is a separate consideration. Even better would be to strengthen the City Forester language.

Also, there are some private trees that overhang the City right-of-way – shouldn’t they also be considered?

Miscellaneous questions

1. The draft ordinance would allow anyone to demolish a building with no future proposed use.
2. What is removal? Demolition is defined, removal is not.
3. How can a developer replace “any affected Naturally Occurring Affordable Housing?” Does the naturally occurring affordable housing standard really provide the Plan Commission a basis on which to deny demolition?
4. Should a reuse and recycling plan be required for all demolitions, not just those needing Plan Commission approval?
5. When the Plan Commission has approved a demolition, can a relocation be substituted without further Plan Commission review (e.g., 151 W Wilson)?

Respectfully Submitted,
Linda Lehnertz