



# City of Madison

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

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Thursday, June 25, 2015

6:00 PM

215 Martin Luther King Jr. Blvd.  
Room LL-120 (Madison Municipal Building)

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### CALL TO ORDER / ROLL CALL

Bidar-Sielaff left at 7:30 p.m.

**Present:** 5 - Marsha A. Rummel; Steve King; Mark Clear; Chris Schmidt and Shiva Bidar-Sielaff

### APPROVAL OF June 4, 2015 MINUTES

**A motion was made by Bidar-Sielaff, seconded by Clear, to Approve the Minutes of the June 4, 2015 meeting. The motion passed by voice vote/other.**

### PUBLIC COMMENT

Jason Tish, representing Madison Trust for Historic Preservation, registering neither in support nor opposition and available to answer questions.

David Mollenhoff, representing the Alliance for Historic Preservation, registering in support and wishing to speak. Mollenhoff explained that the Alliance believes great progress has been made in creating a state of the art ordinance, but that clarity and precision is needed and the variance section (41.19) needs substantial revision including the following: the four variance categories should reference titles having the same language that is previously referenced; the four variance categories should have clearly stated standards in the text, not in the definition; the alternative design variance should allow contemporary design and be renamed "Contemporary Design"; the Special Merit concept allows an exemption of ordinance standards which is a loophole and therefore should be narrowed to allow a public facility variance which retains the public interest element with definitions and clear standards.

Rummel asked Mollenhoff about the proposed public facility variance and the inclusion of publically owned structures and privately owned structures that would provide public benefit. Mollenhoff explained that the Alliance believes there are some privately owned structures that may rise to the level of providing significant public benefit. Rummel asked if this was a new variance type. Mollenhoff explained that it is a more tightly focused replacement variance type for the Special Merit concept.

Schmidt asked Mollenhoff to further explain the organization being requested. Mollenhoff explained that the inclusion of titles that relate to the variance types would make it easier to read. He also explained that the standard language could be tighter.

Zellers asked Mollenhoff how the language of exemplary architecture may be misused. Mollenhoff explained that without a definition, any new development proposal may claim to qualify and that the language should be tighter and appear in the text instead

of the definition section. Zellers asked Mollenhoff to explain why it would be better in the text. Mollenhoff explained that it could be in both places, but they should be in the appropriate section for clarity.

Rummel explained that the organization proposed by the Alliance was an improvement.

Franny Ingebritson, registering neither in support nor opposition and wishing to speak. Ingebritson explained that preservation values are community values and the discussion about the revisions to the Landmarks ordinance should include people who do not live in landmarks or in historic districts. She expressed a desire to engage a community-wide audience for feedback. Ingebritson explained that gross volume should be defined and that the second sentence of the proposed definition of visually compatible has a negative connotation and structure that should be revised or removed.

Zellers asked Ingebritson if "gross volume" is used in the ordinance. Ingebritson explained it is listed in 41.11(1)b.

Jeff Vercauteren, representing Urban Land Interests, Apex Properties, Inc., Hovde Properties, Steve Brown Apartments, and Wright 2102 LP, registering neither in support nor opposition and available to answer questions.

Michael Soref, registering neither in support nor opposition and wishing to speak. Soref explained that he is interested in including in the ordinance a provision to remedy street construction vibrations that may damage historic buildings. He explained that he does not have proposed ordinance language or monitoring procedures prepared for discussion, but he wanted the Committee to know that this was an issue that should be addressed.

Fred Mohs, registering neither in support nor opposition and wishing to speak. Mohs explained that in his interpretation of the ordinance, he would advise clients that the special merit provision is vague and in a historic district may be devastating. He explained that the Committee has done good work in improving the ordinance and that in the interpretation of special merit and visual compatibility there should be reference to historic district preservation plans and neighborhood plans.

Rummel asked Mohs for clarification on which plans offer more direction. Mohs explained that many neighborhood plans provide guidance for potential development sites and that this guidance is based on a publically vetted planning process. Rummel explained that some plans specify the maximum number of stories. Mohs explained that historic district preservation plans specify an appropriate height based on adjacent buildings. He also explained that buildings that do not conform to the context of the neighborhood tell the story of the time before the historic district. Rummel asked how to address the contradiction between zoning and neighborhood plans and the allowable heights. Mohs explained that he would prefer to limit it to historic district preservation plans and that the bottom line is that the special merit provision should not be able to undermine the established standards and character of the historic district.

Carole Schaeffer, representing Smart Growth Greater Madison registering in support and not wishing to speak.

## DISCLOSURES AND RECUSALS

None

1. [34202](#) Ad Hoc Landmarks Ordinance Review Committee Materials

No discussion on this item. This file is used as a document repository only.

2. [34577](#) SUBSTITUTE Creating Chapter 41, Historic Preservation, and repealing and amending Section 33.19 of the Madison General Ordinances to include only the creation of the Landmarks Commission.

**A motion was made by King, seconded by Rummel, to Refer this item to the AD HOC LANDMARKS ORDINANCE REVIEW COMMITTEE's next meeting. The motion passed by voice vote/other.**

ACA Strange explained the memo related to the latest changes made to the draft ordinance while looking at the draft ordinance on the screen. He explained that the policy and purpose introductory paragraph does not mention preservation and this is the Historic Preservation Ordinance so it may make sense to add the word preservation. There was general discussion that "preserve" should be added in the introductory paragraph before the word "conserve".

ACA Strange explained that more definitions have been included. Zellers asked why gross volume was not defined. ACA Strange explained that the inclusion of the definition of gross volume should be discussed. There was general discussion about the intent of gross volume related to compatibility. Bidar-Sielaff suggested that the intent may be better addressed by "mass" or "scale" of the three dimensional form instead of "gross volume". Clear explained that the measure of volume is not an accurate quality. Zellers explained that volume clearly defines that the appearance of the building and that volume is an appropriate measure for visual impact as it relates to the context. Clear explained that two buildings with the same gross volume may have completely opposite visual effects on the context and that gross volume is not the quality that should be measured.

There was continued discussion about the possibility of omitting gross volume altogether and defining the quality that better addresses the intent. Rummel suggested that the intent may relate better to mass within the context and the relationship of masses and spaces as other sections of the ordinance identify. Bidar-Sielaff suggested that the proportion of the proposed building should be compatible with the context. Zellers explained that all of the items on the list should work together and should not be used independently. Mollenhoff provided the gross volume definition as proposed by the Alliance. Staff explained that the two earliest historic district (Mansion Hill and Third Lake Ridge) ordinance sections use gross volume, but the three more recent historic district sections use scale and proportion or other measuring concepts. Schmidt explained that this seems to indicate a change in thinking. Bidar-Sielaff suggested the terms scale, bulk, proportion, and massing seem to get at the intent. She explained that the conversation is proving that the Committee understands what it shouldn't be, but is having a difficult time describing what it should be. Clear explained that the idea is to avoid "outliers" and suggested that scale and proportion should be used instead of gross volume. Rummel explained that the intent should also relate to lot coverage. There was consensus that (b) gross volume would be replaced with (b) scale and proportion. There was discussion about language to address the

rhythm of masses and spaces among the historic resources within the visually related area. Zellers explained that it is not clear that the intent of rhythm of masses and spaces is concerned with the entire lot and lot coverage and not just what is seen from standing in front of the building. Clear explained that the discussion of the intent has shown that visual compatibility relates to the entire building, not just what is perceived from standing in front of the building.

ACA Strange explained that the definition of landmark site has been revised. He explained that all 182 landmark nominations were reviewed and around 10 landmark nominations did not specify a parcel number or a legal description so this information will have to be provided. He explained that the second sentence is provided in the definition to address the need to revise the nominations for the 10 that do not currently have the information. ACA Strange explained that the ordinance should provide procedure language to allow for the revision or amendment of landmark nominations.

There was general discussion and consensus to remove the second sentence of the visually compatible definition.

ACA Strange explained that the language describing how to measure the area for visual compatibility was revised from the draft that was provided. There was general discussion about the measurement language and the example maps.

Clear suggested that the language about newspaper publication notice be more general to relate to State statute.

Zellers suggested that language like 41.08(6) should be included so that a landmark designation may not be rescinded for 5 years after designation. There was general discussion and consensus that (6) should be removed.

Bidar-Sielaff explained that considerations should be made for construction vibrations, but it may be more appropriately addressed in the Board of Public Works process. There was general discussion about construction vibration and Schmidt will contact Engineering about the concern.

Bidar-Sielaff explained that including the titles in 41.19 is a good suggestion and that there needs to be a better way to define exemplary architecture and the intent of (d). King explained that the purpose of the ordinance and the goal of the Committee has been the conservation of historic resources. He explained that the special merit provision achieves this purpose and goal. ACA Strange provided a general overview of the Special Merit provision language. There was general discussion about including the definitions of special merit and necessary for the public interest in the text. There was general discussion about exemplary architecture and how it is determined to be exemplary.

A motion was made by Rummel, seconded by Clear to suspend the rules to allow Committee review of the Lehnertz document. The motion passed by voice vote/other. The Committee stood informal for 5 minutes to review the Lehnertz document.

There was general discussion about the comments provided by Lehnertz. There was consensus that the language at 41.19(4) should read "The Landmarks Commission may approve". Clear explained that the green washing example does not substantially outweigh the public benefit of historic preservation. Rummel explained that the discussion of special merit on the second page is interesting and should be discussed. Clear explained that the creation of affordable housing may substantially outweigh the public benefit of historic preservation in some specific cases. There was general discussion about the intent of the variance language. ACA Strange explained that the public facility language proposed by the Alliance identifies "high priority benefits" and does not enumerate what those benefits might be. There was general discussion about removing the examples of high priority benefits and changing the definition of special merit to read, "a building, object, site or structure providing unique high priority benefits to the general public". The last sentence would remain as proposed.

There was general consensus that ACA Strange should provide revised language to the variance section which would relate to the intent of the discussion of the meeting.

Staff suggested that the proposed economic hardship list of documents be changed to include the items proposed in the Alliance document. There was consensus that this change is appropriate.

ACA Strange will provide language to address any possible conflicts between Phase 1 and Phase 2.

A motion was made by King, seconded by Clear, to approve the proposed ordinance language with revisions as discussed at the meeting. A substitute motion was presented. No action was taken on this motion.

### 3. Upcoming Meetings

There was general discussion about possibly being on schedule for the July 21 Council review of the draft and the process involved to allow the Landmarks Commission to formally review the proposed ordinance language. It was determined that review of the proposed ordinance draft will be placed on the Landmarks Commission agenda for discussion on July 20 without formal referral from the Council or the Landmarks Ordinance Review Committee given the timing and the current resolution date of completion.

## ADJOURNMENT

A motion was made by King, seconded by Clear, to Adjourn the meeting at 8:27 p.m. The motion passed by voice vote/other.