



City of Madison

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

Thursday, March 19, 2015

5:30 PM

215 Martin Luther King Jr. Blvd.
Room LL-130 (Madison Municipal Building)

CALL TO ORDER / ROLL CALL

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

APPROVAL OF March 12, 2015 MINUTES

A motion was made by King, seconded by Bidar-Sielaff, to Approve the Minutes. The motion passed by voice vote/other.

PUBLIC COMMENT

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.

James Matson, registering neither in support nor opposition and wishing to speak.

Matson explained that the Alliance has provided comments requesting a state of the art ordinance with consistent standards, but the language of the draft ordinance has not yet provided the desired clarity, transparency, consistency and certainty. Matson explained that the waiver section requires standards with a narrowed focus and that the Council should “apply” the same standards as the Commission in the appeal language. Matson explained that the Alliance suggests that the vague and unnecessary language about balancing should be removed given the conflicting interests. Matson clarified that the Commission could identify design guidelines for each historic district, but that the standards for the district must be defined and enforceable. He also suggested that the Ordinance contain a section on preservation planning coordination between agencies and that the City Attorney have the ability to provide clarity of the intent in the draft language.

David Mollenhoff, registering in support and available to answer questions. Mollenhoff explained that in the interest of time he would like to have his green sheet revised for available to answer questions.

Franny Ingebritson, representing Madison Alliance for Historic Preservation, registering neither in support nor opposition, and wishing to speak. Ingebritson explained that historic districts maintain history for the future. The landmarks ordinance that protects these historic districts should be grounded

in historic preservation principles and practices. The purpose and intent section captures the goals and outcomes the community should expect in City historic preservation practice. Ingebritson explained that for 40 years the community has understood the meaning of “strengthen the economy of the city” and that recently the development community has reinterpreted that phrase. In order to realign the goals and outcomes, this phrase should be changed to “strengthen the economy of the city through appropriate preservation of irreplaceable historic and cultural resources”.

Stu Levitan, registering in support and available to answer questions. Levitan was not present to speak during the Public Comment.

DISCLOSURES AND RECUSALS

None

1. [34202](#) Ad Hoc Landmarks Ordinance Review Committee Materials
2. [34577](#) Repealing and recreating Section 33.19 of the Madison General Ordinances to update the Landmarks Commission ordinance.

The discussion started with the language of 41.21(4)(b) and (c). There was discussion about leaving “elements” and removing the list of items.

There was general discussion about the waiver language. ACA Strange explained that the Landmarks Commission provided language including a provision for economic hardship in the original draft that was removed and there have been many concerns raised about this section. Scanlon explained that in order to balance the high bar of demolition by neglect, a relief valve provision for economic hardship should be included in the waiver section.

Clear asked for an example of an economic hardship case. Scanlon explained that the most recent case was a landmark property that is used as an income producing property where the owner could not afford to repair the original metal windows and requested replacement with vinyl units. As part of the submission materials for the COA, the owner provided information about the assessed value of the property compared to adjacent properties and the costs associated with the window work. The replacement of the windows would negatively affect the landmark integrity, but given the economics, the Landmarks Commission was persuaded. There was general discussion about how that example might fit in the proposed ordinance language. ACA Strange explained that the draft language from the Commission had an economic hardship provision and a catch all section which would be further described by policies as provided in the policy document.

There was general discussion about the need for an economic hardship provision and the documents required to prove economic hardship. There was discussion about revising the current waiver language to include landmarks.

Levitan arrived and was asked if he had any comments to offer the Committee. Levitan said he was available to answer questions.

There was general discussion about the appeal language. Bidar-Sielaff explained that two different sets of standards leads to confusion and an abuse of the Landmarks Commission. She explained that (4)(b) should be deleted. Clear and King explained that the Council should have different standards which allow for the balancing of the public interest. Schmidt suggested that the Landmarks Commission also have a standard to balance the public interest.

Levitan said this signals the mistake the Landmarks Commission made in the proposed draft by including this language which seems to undercut the purpose of the ordinance. Levitan explained that anyone can argue public interest and status quo and appeal to Council. He explained that for the Landmarks Commission to have the public interest standard would negate all other standards in the ordinance and that both bodies should apply the terms of the ordinance otherwise the ordinance is irrelevant. Levitan explained that the fact that the Committee is asking these questions points to the weakness of the ordinance that the Landmarks Commission proposed originally that the Committee now has the ability to fix.

Bidar-Sielaff explained that the application of the public interest standard is extremely subjective. There was general discussion about the appeal language in other similar ordinances where the Council and Commission use the same standards. Schmidt explained that those similar ordinances have "wobble room" that the Landmarks ordinance may not have. Rummel explained that the Landmarks Commission also has flexibility in the language and cited 41.20(2)(g) as an example. Schmidt also referenced the purpose and intent section as language providing flexible interpretation. King explained that the 2/3 bar was a high standard that required 2/3 of the Council to violate the purpose and intent of the ordinance to overturn the decision. Schmidt explained that the public interest should be strongly expressed in the ordinance language already. Clear explained that he is concerned that providing a public interest standard for Landmarks Commission application is also allowing the Commission to act in a manner that is larger than their area of expertise.

There was general discussion about how the current language would be used and how it might have affected a recent appeal to the Council. Bidar-Sielaff explained that applicants might push to receive their denial from the Landmarks Commission so that they can appeal to the Council on public interest arguments that the Landmarks Commission never heard. She explained that the other ordinance appeal language also requires a 2/3 vote. Clear explained that the Landmarks ordinance standards are much more specific than the standards in the other ordinances. Schmidt read 33.19(5)(f) of the current Landmarks ordinance. Schmidt explained that he cannot justify having different standards for the different bodies given the recent appeal examples. There was general discussion about the need for the Committee members to review the specific standards on their own time to come back to

this discussion at the next meeting.

There was general discussion about a section on interagency coordination. Schmidt explained that this is an institutional issue that should be happening internally and it would be impossible to cite a City employee for violating an ordinance of this type.

A motion was made by Clear, seconded by Bidar-Sielaff, to refer the item to the next meeting. The motion passed by voice vote/other.

3. Upcoming Meeting Dates

Schmidt explained that future meetings will be needed and that a schedule will be determined. The Committee tentatively scheduled meetings on April 14 and April 22 beginning at 5:00.

ADJOURNMENT

A motion was made by King, seconded by Clear, to Adjourn. The motion passed by voice vote/other. The meeting adjourned at 7:00 p.m.