



# 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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Tuesday, June 25, 2019

5:30 PM

215 Martin Luther King Jr. Blvd.  
Room 153 (Madison Municipal Building)

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### CALL TO ORDER / ROLL CALL

Rummel arrived at 5:58 pm

**Present:** 4 - Patrick W. Heck; Christian A. Albouras; Keith Furman and Marsha A. Rummel

**Excused:** 1 - Arvina Martin

### APPROVAL OF MINUTES

**A motion was made by Heck, seconded by Albouras, to Approve the April 10, 2019 Minutes. The motion passed by voice vote/other.**

### SUSPENSION OF RULES

**A motion was made by Heck, seconded by Albouras, to Suspend the Rules. The motion passed by voice vote/other.**

### PUBLIC COMMENT

*Linda Lehnertz, registering in opposition and wishing to speak*

Lehnertz discussed the difference in treatment of landmarks and historic districts. When landmarks are reviewed by the City of Madison, the Secretary of the Interior's Standards are applied, and when the State reviews tax credit projects for landmarks, they apply the Standards as well as additional Guidelines that do not apply to decisions made by the City of Madison. She said that the standards the consultant developed rely heavily on the Guidelines, so we would be taking a document intended to be guidelines with exceptions and discretions applied and adding them into an ordinance where they will become standards to be complied with. She mentioned that the National Park Service says that Guidelines are meant to assist in application of the Standards. She stated that guidelines lack clarity or guidance as to what is appropriate. She said that historic districts are going to be more tightly regulated than landmarks because originally only features that define the historic character needed to be preserved, but now it is not only features, but anything within the period of significance for the historic district that need to be preserved. She said that resident input is needed for the historic district criteria, and a discussion of what is important to defining the character of the neighborhood should occur. She said that she is a fan of historic preservation, but moving to a vague, lengthy ordinance is a bad direction. She mentioned that there are other things they can do to encourage people to maintain their homes, and suggested historic easements as an example.

Ingebritson requested that the following be added to the Public Comment section of the June 25, 2019 minutes:

"Lehnertz raised the issue that there are variations in historic districts and the ordinance is designed to preserve the character of the individual districts...During the three public hearing of the Third Lake Ridge Historic District, the consultant did not discuss the importance of the district's character. Resident input concerning the historic district's character was not obtained. The ordinance is suppose to address the defining characteristics of each historic district. Each district needs targeted criteria to preserve the entire district's character."

A motion was made by Albouras, seconded by Heck, to recess the meeting at 5:43 pm. The meeting was recalled at 5:50 pm.

## DISCLOSURES AND RECUSALS

None

Note: Item 1 was taken after Item 2 to allow Alder Rummel to be present

### 1. Election of Chair and Vice Chair

**Heck nominated Furman as Chair. Furman accepted the nomination. A motion was made by Heck, seconded by Rummel, to elect Furman as Chair. The motion passed by voice vote/other.**

**Albouras nominated Heck as Vice Chair. Heck accepted the nomination. A motion was made by Albouras, seconded by Rummel, to elect Heck as Vice Chair. The motion passed by voice vote/other.**

### 2. [56305](#)

#### Review Process to Date

Scanlon explained that staff is beginning with a review of the process to date because the membership of the Committee has changed. She discussed the timeline of the ordinance revision process, which began in 2014. She said that the goal has always been to make the ordinance easier to understand and use current industry best practices for historic preservation, and staff anticipates this effort being completed in late summer. She went over feedback received during the public meetings, as well as the ordinance language that discusses the policy and purpose of the historic preservation ordinance. She explained that the way to preserve the character of the historic districts is to retain as much historic fabric from the period of significance as possible, so the ordinance language must ensure that historic resources retain their historic integrity. As the ordinance is crafted, she said they need to be careful not to be overly prescriptive or too general in order to maintain the focus on historic preservation and creation of an enforceable ordinance.

### 3. [54447](#)

#### Discussion of Consultant's Recommendations

*Linda Lehnertz, registering in opposition and wishing to speak*

*Franny Ingebritson, registering neither in support nor in opposition and wishing to speak*

*Jim Murphy, registering neither in support nor in opposition and wishing to speak*

*Nancy Jensen, registering neither in support nor in opposition and wishing to speak*

Sample Chapter-Revised Organization

Scanlon described the revised organization that staff is proposing, which establishes new sections for standards for maintenance, repairs, alterations, additions, and new structures, as well as subsections for each that are consistently structured. She went through a sample chapter that was formatted in this way for the Committee to review. Furman asked how they would deal with exceptions and differences between historic districts with this revised format. Scanlon suggested that they could add any specific exceptions within the ordinance. Strange said that it will depend how many district-specific requirements the Committee creates; if there are a lot, it may require different organization than if there are only a handful, so it might be too soon to determine the format.

Albouras asked if feedback from the public seems to support a uniform ordinance as opposed to district-specific ordinances which exist now. Scanlon said that feedback they have received is varied, but uniform standards are seen as an industry best practice that would be clearer to understand. Lehnertz said that general standards were proposed from the beginning of this process in 2017, and members of the public raised concerns at that time. She said that if there is confusion with having separate ordinances, it could be addressed by having a website with information for each historic district.

Heck said that the Alliance for Historic Preservation had discussed creating uniform standards along with separate district-specific sections rather than including exceptions within the text of the general ordinance. He pointed out that people want predictability and to easily find applicable portions of the ordinance, and asked which method of organization would be easier for people. Furman suggested the Committee proceed with staff's recommendation and go over the general standards for each section, while also discussing any exceptions. Rummel said that as they go through, if they end up finding too many exceptions, they can question the format. Ingebritson discussed the historic preservation ordinance in St. Paul, MN. She explained that each historic district is a separate article within the ordinance, making it easy to navigate. She suggested it might be helpful to look at that ordinance as an example.

Definition of Requirements and Guidelines

Scanlon explained the various questions for which staff requests feedback from the Committee, including defining the two terms "requirements" and "guidelines." She pointed out that guidelines as defined by the National Register and State Historical Society are different from how the City proposes using the term. Fruhling mentioned that at the previous LORC meeting, Committee members directed staff to proceed with developing an ordinance format that includes clear requirements, which is the bare minimum a project must meet, and guidelines, which is additional helpful information.

Rummel asked about the National Register Guidelines and where that stands in the ordinance language. Scanlon said that the Guidelines are good preservation practice, so the consultant was pulling them in to the ordinance language as a place to start the conversation. She explained that in response to feedback they have received, staff has tried to get at the essence of the standards and also pull out guidelines that would be useful to Madison into a City of Madison guideline rather than being part of the Secretary of the Interior's Standards and Guidelines. Heck asked about the enforceability of standards versus guidelines. Scanlon responded that standards are enforceable and guidelines are not; requirements are standards that must be met, and

guidelines are a suggestion of how one might meet that requirement. Albouras asked how detailed the guidelines will be. Scanlon said that after the ordinance is complete, staff hopes to find the funding to create illustrated guidelines as an appendix, but for now, they are relying on language. Furman said that he is good with moving forward with staff's definitions of requirements and guidelines. Heck said that his reaction is that we would want everything to be a requirement so it is enforceable, but he will see what he thinks as we move forward.

Should Buildings Outside of the Period of Significance be Treated Differently?

Scanlon introduced the question of whether buildings outside of the period of significance for a historic district should be treated differently than those within the period of significance. She pointed out that in the current ordinance, there is no distinction, so any property within the historic district must comply with the ordinance. She said that this can get tricky in terms of imposing the ordinance on a building that doesn't fit the mold of the historic district. She explained that there is a window after the end of the period of significance and before the historic preservation ordinance was created in which buildings were constructed, but there wasn't anything shaping what that building would look like at the time. Bailey said that the buildings constructed within that in-between window are not the reason for the historic district, and asked if we should make them comply with the standards to retain the historic fabric when that building might be out of character with the overall historic district. Scanlon asked if these buildings need to meet the same high standards that we are laying out for other historic buildings, or if there should be more relaxed standards that still get at the general essence of what we are trying to preserve in the historic district.

Murphy said that in Marquette Bungalows, one home has been determined to be non-contributing, and asked if that exists in other historic districts. Scanlon said that there are two historic districts that overlap, one local and one National Register, and the building to which Murphy is referring is non-contributing in the National Register Historic District, but because the City does not use the determination of contributing versus non-contributing, all buildings inside the local historic district must follow the ordinance.

Albouras asked if staff is able to quantify how much of each historic district is residential versus commercial to determine how much of a burden the ordinance might be for property owners with buildings outside of the period of significance. Scanlon said that it varies by historic district, but staff could create maps that include the period of significance and property types for each district. Rummel said that the years for the period of significance are arbitrary, and she thinks they could be more flexible in the standards, but not totally relax them. She mentioned that architectural style changes, and they shouldn't preclude future extensions of the period of significance because those styles could be appreciated in the future. Bailey pointed out that the periods of significance can be amended.

Lehnertz said that the period of significance for the Jenifer-Spaight National Register Historic District goes up to the start of WWII, so there would be support for mirroring those dates in the local Third Lake Ridge historic district. She said that she looked at the number of buildings constructed after 1929, and if the period of significance went up to 1938 instead, about half of those buildings would then be inside the period of significance. She said that she hopes the Committee will consider that if they were to change the dates for the period of significance.

Jensen, representing the Apartment Association of South Central Wisconsin, said that a lot of multi-family property is considered commercial, so she attended to hear the conversation about the period of significance. She said that she hopes that the Committee will consider granting some latitude when working with properties that fit into the period of significance grey area because they don't fit with the original intent of the historic district and provide needed affordable housing. She said that if these properties were held to the same standards as other historic properties, it would make it more expensive to comply and create a burden that would cause housing to become less affordable. She said that the properties are not pertinent to why the historic district was created, but they can still be well-maintained and fit in the neighborhood. She suggested that creating more relaxed standards would help to retain affordability in the historic districts.

Should Accessory Structures be Reviewed with the Same Standards as Principal Structures?

Scanlon discussed whether accessory structures should be reviewed with the same standards as principal structures. She pointed out that accessory structures are often not historic, and asked if they could also be treated with slightly softened standards. Rummel said that people often don't take care of historic accessory structures, and there are other factors that would make an accessory structure more important to review carefully, such as if it is going to become an accessory dwelling unit or if it is attached to the house.

Revisit New Construction General Standards Section

Scanlon referenced the chart on page 4 of the staff memo and discussed the different approaches for the New Construction General Standards section. She pointed out that the left column has five primary categories with more detailed information within each, while the right column lists each individual item separately in a longer list as was requested by the Committee at their March meeting. Fruhling said that staff's recommendation is to use the format in the left column because once all of the pieces are broken out individually, we end up with a big list and lose the important piece that is called out when they are grouped together. He explained that the extra detail in the left column provides more direction on what to consider, which will help the Landmarks Commission make a determination.

Rummel said that she wants to be sure they capture everything that is important. Strange said that the right column would make everything in the list a requirement, and the left column has five requirements along with examples of things to consider in order to meet the requirement. Rummel said that it can be tedious to nuance every detail, but also wants to have something that covers all of the elements because the ordinance is there to back up the Landmarks Commission as they review projects. She expressed a concern that making it really difficult to comply will cause people to not comply, and emphasized that they need to find a balance somewhere in between being too prescriptive and too broad.

Scanlon said that there are many elements that work together to create the appearance of a building, and it is not just each piece that can make or break a project. She pointed out that the formatting in the right column is such that each individual piece is enough to hold up a project, and said that it needs more nuance and flexibility than that so the Landmarks Commission can look at the larger pieces and

options within each description to see if the pieces work together to create a successful project that meets the requirements. Albouras asked for confirmation that the format in the right column is more restrictive and offers less latitude. Fruhling confirmed, and pointed out that using the right column, the Landmarks Commission would need to make a finding on the 19 individual items instead of the five items in the left column that provide some flexibility. Furman asked if there is an option in between the left and right columns. Heck asked about the language of "shall" versus "may," noting that "may consider" provides more flexibility so the Landmarks Commission can choose the pieces that are most pertinent to the case. Rummel said that former Committee members Zellers and Bidar had suggested they use "shall." Fruhling said that is why they used "shall" in the right column, and the left column says that the design "shall" meet the five requirements, but within each requirement, there are various factors that the Landmarks Commission "may consider." Regarding the left column, Strange said that within each of the five requirements, they could change the language from "may consider" to "shall consider," and it would not create additional requirements, it would simply say that the Landmarks Commission should consider those factors. It was the consensus of the Committee to proceed in that direction.

4. [54448](#)

Discussion of Next Steps and Schedule

Scanlon went over the work plan, and pointed out that the next meeting will bring back outstanding discussion items from tonight and will also include the review of a draft of the full ordinance. She said that they are trying to get some momentum established so that they can have a final review of the proposed ordinance language in September. There was brief discussion of the upcoming meeting schedule, and it was decided the Committee will schedule one meeting in July and one meeting in August.

**ADJOURNMENT**

**A motion was made by Albouras, seconded by Rummel, to Adjourn at 7:27 pm.  
The motion passed by voice vote/other.**