



Historic Preservation Commission

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Agenda

Monday, September 19, 2016	6:00 PM	De Pere City Hall Council Chambers
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Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **Historic Preservation Commission** of the City of De Pere will be held on **September 19, 2016** at **6:00 PM** in the **De Pere City Hall Council Chambers, 335 S. Broadway Street, De Pere, WI 54115.**

This meeting can be viewed LIVE at www.depere.tv. This meeting is also rebroadcast on TW Cable Channel 4 and AT&T U-verse Channel 99 throughout the week and available on demand at www.depere.tv.

Call to Order

1. Roll Call
2. Approval of the minutes of the August 15, 2016 Historic Preservation Commission meeting.
3. Review and recommendation regarding revisions to the Historic Preservation Ordinance to allow the Historic Preservation Commission to designate historic buildings with the awareness of property owners.*
4. Staff update to the Historic Preservation Commission regarding the N. Broadway Historic District plaque project.
5. Staff update to the Historic Preservation Commission regarding the Wisconsin Historical Society grant for an intensive survey.
6. Other items for discussion.

Adjournment

Any person wishing to attend this meeting who, because of disability, requires special accommodations should contact the City Planner's office at 339-4043 by Noon on the day of the meeting so that arrangements can be made.

Agenda Sent To:

Alderspersons
City Administrator
Mayor
Department Heads
TV, Newspapers & Radio Stations
Kress Family Library
De Pere Chamber of Commerce

City of De Pere, Wisconsin



Request For Historic Preservation Commission Action

MEETING DATE: September 19, 2016

DEPARTMENT: Historic Preservation Commission

FROM: Kelly Barker

SUBJECT: Approval of the minutes of the August 15, 2016 Historic Preservation Commission meeting.

ATTACHMENTS:

- HPC_Aug2016_Minutes_Draft (PDF)



Historic Preservation Commission

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Draft Minutes

Monday, August 15, 2016

6:00 PM

De Pere City Hall Council Chambers

Call to Order

The meeting was called to order at 6:00 PM by Chairperson Mike Fleck

Attendee Name	Title	Status	Arrived
Scott Crevier	Aldersperson	Present	
Mike Fleck	Chairperson	Present	
Gene Hackbarth	Commissioner	Present	
Brian Netzel	Vice Chairperson	Present	
Kate Sabel	Commissioner	Present	
Sue Sands	Commissioner	Present	
Adam Turriff	Commissioner	Excused	

Also present: City Planner Peter Schleinz.

2. Approval of the minutes of the June 20, 2016 Historic Preservation Commission meeting.
Gene Hackbarth motioned, seconded by Scott Crevier, to approve the minutes. Upon vote, motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gene Hackbarth, Commissioner
SECONDER:	Scott Crevier, Aldersperson
AYES:	Crevier, Fleck, Hackbarth, Netzel, Sabel, Sands
EXCUSED:	Adam Turriff

3. Discussion regarding the status of the Wisconsin Historical Society Grant for an Intensive Survey Update.

City Planner Peter Schleinz reported that on June 20, 2016, the City received a signed memorandum of agreement for a \$19,000 grant to conduct an intensive survey update. He outlined a timeline which provided a staff-created summary of the steps that need to be taken in order to complete the survey, which needs to be completed by September 30, 2017. The city is currently in the process of drafting a request for qualifications, an RFQ, in order to begin the process of finding a consultant who can perform the survey. He outlined the four sections of this project:

- 1.) Reconnaissance survey with survey maps
- 2.) Intensive survey
- 3.) Site-specific research
- 4.) Preparation of an intensive survey report

Peter explained that a quarterly report must be submitted to the state regarding the status of the project. Once a consultant is hired, they will submit the information to Peter and he will submit it to the state. At these times, reimbursements can be requested as well. Peter stated that it is most likely that reimbursements will be requested in 2017, either in one lump sum or in two halves. Mike Fleck asked if requests for proposals have been submitted. Peter stated that the requests are being prepared at the present time and his goal is that they will be completed by the end of August. Scott Crevier asked what the difference was between a reconnaissance survey and an intensive survey. Peter explained that a reconnaissance survey looks at the data that we already have readily available

Attachment: HPC_Aug2016_Minutes_Draft (5110 : Minutes)

including data from past surveys, while an intensive survey will provide new information to help identify specific projects. Scott then asked when the Historic Preservation Commission will need to take action on this project. Peter replied that the next time action will need to be taken is when it is time to hire a consultant, which will be in either September or October. This action will be in the form of a recommendation to the City Council. Gene Hackbarth remarked that there is nothing on the calendar regarding an actual presentation on the intensive survey results. Peter replied that a presentation can be included if the Commission desires. He asked if Gene is interested in a presentation among the HPC members or to the general public. Gene replied that because it is an intensive survey of properties within the community, he would like to see it as a presentation made available to the general public, with the possibility of making it available through the city's website and also as a hard copy. Mike Fleck added that there should be a lot of new areas opened up to districts since there will be many more homes over 50 years of age since the last survey was conducted in 2001. Scott Crevier questioned whether the survey results would be in depth or would they be more generic with just dates and numbers. Gene noted that the 2001 Intensive Survey was in-depth and provided a guideline for moving forward with potential historic districts or individual properties being listed.

RESULT:	NO ACTION
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4. Review and Recommendation on the Historic Preservation Commission Proposed Budget for Year 2017.

City Planner Peter Schleinz reported on the proposed budget for 2017, which had an approximate 3% reduction from 2016. He pointed out that the total budget of \$29,110 includes a grant of \$19,000 which will be spent in 2017. In comparison to previous years, seminars/conferences were reduced to reflect the approximate amount that was spent in previous years. A small amount was removed from travel expense and office supplies to get to the 3% reduction. Gene Hackbarth asked whether the grant to the De Pere Historical Society will remain the same at \$5050. Peter confirmed that this amount has not changed at all. Gene Hackbarth motioned, seconded by Scott Crevier, to approve the budget for 2017. Upon vote, motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gene Hackbarth, Commissioner
SECONDER:	Scott Crevier, Alderperson
AYES:	Crevier, Fleck, Hackbarth, Netzel, Sabel, Sands
EXCUSED:	Adam Turriff

5. Discussion regarding the Wisconsin Historical Society's Historic Places Photo Contest.

City Planner Peter Schleinz notified the Commission on the Historic Places Photo Contest, which is sponsored by the Wisconsin Historical Society. The photo contest will feature fifty photographs and the submission deadline is October 7, 2016. Peter encouraged the members to submit their own photos, as well as tell their friends about the contest in order to highlight some of the historical sites of De Pere.

RESULT:	NO ACTION
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6. Discussion regarding status of Broadway Historic Plaques.

City Planner Peter Schleinz reported on the Broadway historic plaque project, which was suspended after staff changes occurred earlier in 2016. Approximately 15 homeowners

were originally interested in the program and the plan is to contact them to see if they are still interested in receiving a plaque. The City will mail letters to the owners after establishing the costs for the plaques. The plan is to collect the fees this fall and install the plaques next spring, or possibly in winter if it is mild enough. Originally 54 individuals were surveyed. Gene Hackbarth mentioned that a few properties have changed ownership since the original survey went out and suggested that they should be contacted to see if the new owners would like to receive a plaque since they were not included in the original survey. Peter replied that he would verify any ownership changes and contact any new property owners to see if they would be interested in getting a plaque.

RESULT:	NO ACTION
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7. Review and Recommendation of funding for the Historic Preservation Commission members to attend the 2016 Tenth Annual Local History and Historic Preservation Conference.

City Planner Peter Schleinz stated that if registration occurs by August 26, the cost per attendee to attend the conference for two days is \$100 and one day is \$58. Gene Hackbarth mentioned that he would like to attend the conference and Mike Fleck polled the remaining members to see if anyone else would be interested in attending. No one else was interested in attending. Gene suggested contacting Adam Turriff to inquire if he'd like to attend, since he was absent from the meeting. Peter said that he would contact Adam to see if he'd like to attend.

RESULT:	NO ACTION
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8. Review of Revisions to the Historic Preservation Commission Ordinance to allow the Historic Preservation Commission to designate historic buildings with the acceptance of property owners.

City Planner Peter Schleinz explained that in order to retain the ability to apply for grants, such as the recent \$19,000 grant that was received, as well as to retain CLG status, changes need to be made to the Historic Preservation ordinance. There are three parts of the ordinance change that need to be reviewed. The first change identifies the city as having the ability to designate a historic landmark or establish a historic district and the process for public notification that is related to that. The second change is the property owner having the ability to appeal a decision and the Common Council having the ability to overturn a recommendation for such a designation. The third change creates the appeal process in the case that the property owner disagrees with the Commission's designation. Peter explained that at this time, the intent is to look over the text and discuss any changes the Commission feels are important. Then next month, they can take formal action to recommend approval to the Common Council. Scott Crevier asked how the approval of the property owner is obtained. Peter replied that a notification to the property owner is required prior to Commission action on the designation. He stated that the City shall, by first class mail, notify the property owner of the designation and also the time and place of the public hearing. Scott Crevier questioned the language of the third section, which states that an owner of a property that is affected by a decision of a city landmarks commission may appeal the decision to the common council. He questioned whether that statement means that a neighbor or another person other than the property owner could appeal the decision. Peter stated that he would look into it further to clarify that statement before next month's meeting.

RESULT: NO ACTION

Adjournment

Scott Crevier moved, seconded by Sue Sands, to adjourn the meeting at 6:39 PM.

Respectfully submitted,
Kelly Barker

City of De Pere, Wisconsin



Request For Historic Preservation Commission Action

MEETING DATE: September 19, 2016

DEPARTMENT: Historic Preservation Commission

FROM: Peter Schlein

SUBJECT: Review and recommendation regarding revisions to the Historic Preservation Ordinance to allow the Historic Preservation Commission to designate historic buildings with the awareness of property owners.*

During the August 15, 2016 Historic Preservation Committee meeting, the Historic Preservation Commission discussed text revisions for Historic Preservation Ordinance Sections 38-5, 38-6, and 38-8, as well as the renumbering of Sections 38-9 through 38-12. The attached DRAFT Ordinance demonstrates the edits in red text with additional edits that were made in blue text prior to the August HPC meeting.

The revisions are required in order for the City of De Pere to retain its status as a Certified Local Government (CLG), which maintains the City's eligibility for grants from the Wisconsin Historical Society. The \$19,000 Intensive Survey grant awarded in 2016 is an example of a grant that would not be available if the City did not have CLG designation.

In summary, the proposed edits include the following:

- A format for the Historic Preservation Commission to designate local historic properties and sites.
- A method for the Common Council to override a HPC recommendation.
- A procedure for a private property owner to appeal a historic designation recommendation.

As a courtesy, on August 31, 2016, staff mailed 242 letters to property owners of the following historic districts and properties, informing the property owners of the proposed text changes as well as proposed HPC and Common Council meeting dates:

- * North Broadway Historic District
- * N. Michigan -- N. Superior Historic District
- * Randall Avenue Historic District
- * De Pere Lock and Dam
- * Old De Pere Library, LLC, St. Norbert Main Hall, Lawton Foundry, Union Hotel

Contact information for the City Planner was provided in the letter in case the property owners had questions or comments. As of September 13, 2016, no questions or comments were received from the property owners and two letters were returned as undeliverable.

STAFF RECOMMENDATION: Staff proposes that the Historic Preservation Commission approve the revisions to the Historic Preservation Ordinance (Chapter 38) and forward the recommendation to the Common Council for final approval.

ATTACHMENTS:

- Historic Preservation Ordinance Chapter 38 8-15-16 edits (DOCX)
- Chair Fleck-HPC Members 2015 WI ACT 176 Analysis -9-19-16-119-100-02 (PDF)
- Property Owner Letter - HPC Ordinance (DOCX)

Chapter 38 - HISTORIC PRESERVATION[1]

Sec. 38-1. - Purpose and intent of chapter.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of such improvements, sites, and districts which represent or reflect elements of the city's cultural, social, economic, political, and architectural history.
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic structures, sites, and districts.
- (3) Foster civic pride in the notable accomplishments of the past.
- (4) Stabilize and improve property values.
- (5) Protect and enhance the city's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.
- (6) Improve and enhance the visual and aesthetic character of the city.
- (7) Educate the public regarding the need and desirability of a city historic preservation program and its enhancement of the quality of life.

Sec. 38-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of appropriateness means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction, or demolition of an historic structure, historic site, or any improvement in an historic district.

City means City of De Pere, Wisconsin.

Commission means the historic preservation commission created under this chapter.

Historic district means an area designated by the common council, on recommendation of the commission, that contains two or more historic improvements or sites.

Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of humans, or upon which an historic event has occurred, and which has been designated as an historic site under this section, or an improvement parcel, or part thereof, on which is

situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage, or cultural characteristics of the city, state, or nation, and which has been designated as an historic structure pursuant to the provisions of this chapter.

Improvement means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

Improvement parcel means the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes, provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Sec. 38-3. - Historic preservation commission; composition.

An historic preservation commission is hereby created, consisting of seven members. Of the membership, if available in the community, one shall be a registered architect; one shall be an historian; one shall be a licensed real estate broker; one shall be a council member; and three shall be citizen members, one of which must reside within an historic district. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The mayor shall appoint the commissioners subject to confirmation by the common council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years.

(Code 1974, § 11.03; Ord. No. 02-01, § 1, 1-2-2002)

Sec. 38-4. - Historic structure, historic site and historic district designation criteria.

(a) For purposes of this chapter, an historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement, or structure located thereon, or any area of particular historic, architectural, archeological, or cultural significance to the city, such as historic structures, sites, or districts which:

- (1) Exemplify or reflect the broad cultural, political, economic, or social history of the nature, state, or community;
- (2) Are identified with historic personages or with important events in national, state, or local history;
- (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;

(4) Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or

(5) Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The commission may adopt specific operating guidelines for historic structure, historic site, and historic district designation providing such are in conformance with the provisions of this chapter.

Sec. 38-5. - Powers and duties of commission.

(a) Designation. ~~The commission shall have the authority to initiate. Upon request of the property owner, the commission shall have the power,~~ subject to section 38-6, infra, ~~to designation e of historic sites and historic~~ structures ~~and historic sites~~. The commission shall have the power to recommend designation of historic districts within the city limits. ~~Any designation of an historic site or historic structure shall be with approval of the property owner(s).~~ All owners of an historic site or an historic structure for which historic designation is proposed shall be provided with notice of the proposed designation prior to commission action on the designation. Such designations shall be made based on section 38-4, supra. Historic districts shall be approved by the common council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this chapter.

(b) Regulation of construction, reconstruction, alteration, and demolition.

(1) No owner or person in charge of an historic structure, historic site, or structure within an historic district shall reconstruct, alter, or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties, or cause or permit any such work to be performed upon such property, or demolish such property unless a certificate of appropriateness has been granted by the historic preservation commission. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

(2) Upon filing of any application for a certificate of appropriateness with the commission, the commission shall approve the application unless:

- a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy, or adversely affect any exterior architectural feature of the improvement or site upon which said work is to be done;
- b. In the case of the construction of a new improvement upon an historic site or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
- c. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose and

intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district;

- d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
- e. The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;
- f. Except as provided herein, in the case of a request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair. Upon the request for a demolition permit for a structure determined to be unfit for human habitation, occupancy, or use by any authorized public official or agency, the commission may defer the granting of approval for a period of up to six months from the time of such application, during which time the commission and the property owner shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the property owner and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this six-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is under way, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the building inspector may issue the permit to demolish the subject property without the approval of the commission. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and available for disbursement within a period of two months following the end of such six-month period, the building inspector may issue the permit to demolish the subject property without the approval of the commission.

(3) In addition, in determining whether to issue a certificate of appropriateness, the commission shall consider and may give decisive weight to any or all of the following standards:

- a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

- d. Most properties change over time. Those changes that have acquired historic significance in their own right shall be retained and preserved.
- e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(4) If the commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district and with the above guidelines, it shall issue the certificate of appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the building inspector. The commission shall make this decision within 45 days of the filing of the application. Failure of the commission to act upon a request for a certificate of appropriateness within 45 days shall result in the issuance of such certificate.

(5) Agencies of the city and all public utility and transportation companies undertaking projects affecting historic structures, historic sites, or historic districts shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the city.

(6) The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal

permit shall be invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work. Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this section, any provision of the plumbing code, electrical code, or building or housing of the city shall apply unless waived by the appropriate state or city officials. The commission may support or propose such waivers before the appropriate state or city appeals body.

(7) Compliance with certificates of appropriateness shall be started within 12 months after the issuance of the certificate, and the work shall conform to the provisions of the certificate. The city may inspect the work during and after construction in order to assure compliance. Failure to comply with a certificate of appropriateness or failure to obtain a certificate of appropriateness shall be a violation of this section. In addition to other penalties and remedies, the city shall issue a stop work order, and all work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(8) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided the work involves repairs to existing features of an historic structure or site, or the replacement of elements of a structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(c) Appeals. Should the commission deny a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the common council within 30 days. In addition, if the commission denies a certificate of appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter.

(d) Recognition of historic structures, sites, and districts. At such time as an historic structure, site, or district has been properly designated, the commission may cause to be prepared and erected on such property, at city expense, a suitable plaque declaring that such property is an historic structure, site, or district. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the accepted name of the historic property, the date of its construction, and other information deemed proper by the commission.

(e) Other duties. In addition to those duties already specified in this section, the commission shall:

- (1) Work for the continuing education of the citizens about the historical heritage of the city and the historic properties designated under the provisions of this chapter.
- (2) Cooperate with the state historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as landmarks or landmark sites, or historic districts in the National Register of Historic Places and the State Register of Historic Places.

(3) As it deems advisable, receive and solicit funds for the purpose of historic preservation in the city. Such funds shall be placed in a special city account for such purpose.

Sec. 38-6. - Procedures.

(a) Designation of historic structures and historic sites.

~~_____~~ (1) The commission may, after notice and public hearing, and with property owner approval, designate historic structures and ~~_____~~ historic sites or rescind such designation or recommendation after application of the criteria in ~~_____~~ section 38-4, above. At least ten days prior to such hearing, the commission shall notify the ~~_____~~ owners of record, as listed in the office of the city assessor, who are owners of property in ~~_____~~ whole or in part situated within 100 feet of the boundaries of the property affected of the proposed designation and of the time and place of the public hearing. These ~~_____~~ owners shall have the right to confer with the commission prior to final action by the ~~_____~~ commission on the designation. Notice of such hearing shall also be published as a Class 1 ~~_____~~ Notice under the Wisconsin Statutes. The commission shall also notify the following: ~~_____~~ department of public works, redevelopment authority, parks department, fire and police ~~_____~~ departments, health department, building inspection department, and plan commission. ~~_____~~ Each ~~_____~~ such department may respond to the commission with its comments on the proposed ~~_____~~ designation or rescission.

~~_____~~ (2) The commission shall then conduct such public hearing and, in addition to the notified ~~_____~~ persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into ~~_____~~ the proposed designation or rescission. Within ten days after the close of the public hearing, the ~~_____~~ commission may with the approval of the property owner(s), designate the property as either an historic structure or historic site, or rescind the designation. After the designation or rescission has been made, official notification shall be sent to ~~_____~~ the property owner or owners, and ~~Notification shall also be given~~ to the city clerk, building ~~_____~~ inspection department, plan commission, and the city assessor. The commission shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.

(3) The Common Council may overturn the decision of the Commission by a majority vote of the Council.

(b) Designation of historic districts.

(1) For preservation purposes, the historic preservation commission shall select geographically defined areas within the city to be designated as historic districts and shall, with the assistance of the city planning department, prepare an historic preservation plan in ordinance form for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city, which:

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- a. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, or community;
- b. Is identified with historic personages or with important events in national, state, or local history;
- c. Embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods, or construction, or of indigenous materials or craftsmanship;
- d. Is representative of the notable works of master builders, designers, or architects who influenced their age; or
- e. Has yielded, or may be likely to yield, information important to history or prehistory.

(2) Each historic preservation plan prepared for or by the historic preservation commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(3) Guideline criteria to be considered in the development of historic district plans are as follows:

- a. Regulation of construction, reconstruction, alteration, and demolition shall conform to the criteria and standards in subsections 38-5(b)(1)—(3).
- b. All new structures shall be constructed to a height visually compatible with the building and environment with which they are visually related.
- c. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
- d. In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the building and environment with which it is visually related.
- e. The proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related.
- f. The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which they are visually related.
- g. The existing rhythm created by existing building masses and spaces between them should be preserved.
- h. The materials used in the final facade should be visually compatible with the buildings and environment with which they are visually related.

- i. The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.
- j. Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which they are visually related.
- k. The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- l. The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- m. The street facade should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- n. Architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(4) Review and adoption procedure.

- a. Historic preservation commission. The historic preservation commission shall hold a public hearing when considering the plan for an historic district. Notice of the time, place, and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official city paper. Notice of the time, place, and purpose of the public hearing shall also be sent by the city clerk to the council member of the aldermanic district or districts in which the historic district is located, and the owners of record, as listed in the Office of the city assessor, who are owners of the property within the proposed historic district or are situated in whole or in part within 100 feet of the boundaries of the proposed historic district. Said notice is to be sent at least ten days prior to the date of the public hearing. Following the public hearing, the historic preservation commission shall vote to recommend, reject, or withhold action on the plan. This recommendation shall be forwarded to the city plan commission and the common council.
- b. The city plan commission. The plan commission shall review the historic district plan and make a recommendation to the common council. The plan commission shall make its recommendation on the historic district plan within 45 days.
- c. The common council. The common council, upon receipt of the recommendation from the historic preservation commission and plan commission, shall hold a public hearing, with notice to be given as noted in subsection a., above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic

district shall constitute adoption of the plan in ordinance form prepared for that district and direct the implementation of said plan.

Sec. 38-7. - Interim control.

No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the historic preservation commission at which a nomination form is first presented until the final disposition of the nomination by the historic preservation commission or the common council unless such alteration, removal, or demolition is authorized by formal resolution of the common council as necessary for public health, welfare, or safety. In no event shall the delay be for more than 180 days.

Sec. 38-8. - Conformance with regulations.

(a) Every person in charge of an historic structure, historic site, or improvement in an historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this ordinance. The common council may appoint the building inspector or any other individual or group of individuals to enforce this chapter. During the period of the certificate, the duties of the inspection officer may include periodic inspection at intervals provided by the common council of designated historic structures, historic sites, and historic districts.

(b) Every person in charge of an improvement on an historic site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause, or tend to cause, the exterior portions of such improvement to fall into a state of disrepair, including, but not limited to:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of external chimneys;
- (4) The deterioration or crumbling of exterior plasters or mortar;
- (5) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
- (6) The peeling of paint, rotting, holes, and other forms of decay;
- (7) The deterioration of surrounding environment; e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (8) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions; or

(9) All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

(c) The purpose of this section is to prevent the demolition of a building or structure by neglecting it and permitting damage to it by weather or vandalism.

(d) The building inspector shall give the commission notice of properties which, in his/her opinion, are unfit for human habitation, occupancy, or use prior to issuance of any raze orders under state statutes or municipal ordinances.

(e) Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this section, any provision of the Plumbing Code, the Minimum Housing and Property Maintenance Code, Building Code, Heating, Ventilating and Air Conditioning Code, and Outdoor Signs and Outdoor Advertising Structures regulations of the general ordinances may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the building inspector, provided such variance or waiver does not endanger public health or safety.

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council . Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the council.

Sec. 38-~~910~~. - Penalties for violations.

Any person or persons violating any provision of this section may be fined no less than \$200.00 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the building inspector.

Sec. 38-~~1140~~. - Emergency conditions.

In any case where the building inspector determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure, site, or a property in an historic district, the city may order the remedying of these conditions without the approval of the commission. The city shall promptly notify the commission of the action being taken. When the emergency conditions do not require demolition, the city shall make every effort to carry out the intent of this chapter and to use the design guidelines of the commission when remedying the emergency conditions.

Sec. 38-~~124~~. - Separability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

CITY OF DE PERE

MEMO

To: Mike Fleck, Chair
 Members of the Historic Preservation Commission
 From: Judith Schmidt-Lehman, City Attorney
 RE: 2015 Wisconsin Act 176 language regarding appeal of Historic Preservation
 Commission Action to the Common Council
 Date: September 19, 2016

On August 15, 2016, the Commission reviewed proposed revisions to the Historic Preservation Ordinance [Chapter 38 De Pere Municipal Code (DPMC)] made necessary to maintain the Commission's Certified Local Government status and by 2015 Act 176. The Commission requested clarification of the language used in proposed new §38-9 DPMC, which reads:

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the Council.

The question, as I understand it, is whether the phrase “(a)n owner of property affected by a decision of the Commission” is limited to the owner of the property that is the object of a Commission decision or whether that phrase is intended to apply to other “affected” property owners. For the reasons set forth below, I believe the intent of the state legislature is that this phrase is meant to apply more broadly to *any* property owner affected by a decision of the Commission.

2015 Wisconsin Act 176 made two substantive changes to state law concerning Historic Preservation Commissions. This Act requires that a public hearing be held before an historic site or district may be designated, including notifying the “...owner of the place, structure or object ...” by mail of the time and place of the public hearing. The language used by the legislature in requiring mailing of a public hearing notice is clearly intended to apply to the owner of the property which is of an historic designation.

The second change made by 2015 Wisconsin Act 176 concerns the appeal language. The language used by the legislature for this change is:

62.23 (7) (em)3. An owner of property affected by a decision of a city landmark commission may appeal the decision to the common council. The common council may overturn a decision of the commission by majority vote of the council.

Had the legislature intended this section to apply only to the owner of the property that is the object of the decision, they could have used the same language used in the provision regarding mailing of the public hearing notice. However, it did not. Rather, the language used by the legislature in drafting this requirement is different; namely appeal rights apply to “*an* owner” of property affected rather than “*the* owner” of property affected (emphasis added.) Under the rules of statutory construction, the legislature is presumed to have used the words intended and the

words so used are to be given their effect if at all possible. Use of the word “an” rather than “the” indicates that the legislature intended the class of persons eligible for appeal to include property owners in addition to the owner of the object of the decision, provided they are “affected” by the decision.

There may be property owners other than the owner of the object of the decision affected by a decision of the commission. This is not to say however that *any* claim of being “affected” by a decision will give a right to appeal. Rather, in order to pursue an appeal, a property owner other than the owner of the object of the commission decision must have legal standing to do so. Under Wisconsin law, “standing” sufficient to pursue a legal action means the person must (1) have a personal interest (stake) in the controversy; (2) that personal interest will be adversely affected; and (3) the personal interest is one which public policy calls for protection.¹ Examples of standing sufficient to meet this test would include financial or property right impacts. Whether standing exists will be analyzed on a case by case basis.

In conclusion, I believe the legislature intended the right to appeal a commission decision to apply broadly to any property owner that could legitimately claim an adverse “affect” by the commission decision. Had the legislature intended the right to appeal to apply only to the owner of the object of the commission decision, it would have used the word “the” instead of “an”.

If you have any other questions or other concerns, please let me know.

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¹*Foley-Ciccantelli v. Bishop’s Grove Condo. Ass’n*, ¶15, 2011 WI 36.

CITY OF DE PERE

335 South Broadway
De Pere, WI 54115
Fax No.: 920/339-4049
Web: <http://www.de-pere.org>



August 31, 2016

RE: City of De Pere Historic Preservation Commission Meeting for a text revision to the Historic Preservation Ordinance

Dear Property Owner:

This mailing has been sent to inform you that the City of De Pere Historic Preservation Commission (HPC) is reviewing proposed changes to the Historic Preservation Ordinance. The proposed changes include the following:

- A format for the HPC to designate local historic properties and sites.
- A method for the Common Council to override a HPC recommendation.
- A procedure for a private property owner to appeal a historic designation recommendation.

The purpose for the proposed ordinance revisions is to allow the City of De Pere to retain its existing Certified Local Government (CLG) status and retain the ability to obtain historic preservation related grants from the Wisconsin Historical Society. The proposed ordinance revisions will be discussed at the following meetings:

1. **Historic Preservation Commission – September 19, 2016 at 6:00 PM.**
2. **City Council – October 4, at 7:30 PM.** *(if recommended by HPC in September)*

Both meetings are located in the Council Chambers on the second floor of De Pere City Hall.

As a courtesy, this letter has been mailed to property owners in the following historic districts and properties:

- | | |
|--|------------------------------------|
| • North Broadway Historic District | • Randall Avenue Historic District |
| • N. Michigan – N. Superior Street Historic District | • De Pere Lock and Dam |
| • Old De Pere Library LLC, St. Norbert Main Hall | • Lawton Foundry, Union Hotel |

A DRAFT sample of the proposed ordinance changes is printed on the back of this letter. The full ordinance, with draft changes shown, is available for preview in hard copy at the De Pere City Hall. You are welcome to attend the meetings to learn about the proposal and to provide comments. If you have any additional questions or comments regarding the proposal, please contact me at (920) 339-4043 or pschleinz@mail.de-pere.org.

Respectfully,

Peter Schleinz
City Planner

For your convenience, the following “*redlined text*” represents the proposed changes for the Historic Preservation Ordinance Sections 38-5(a), 38-6(a), and 38-9:

DRAFT Section 38-5(a) changes:

(a) *Designation.* ~~The commission shall have the authority to initiate. Upon request of the property owner, the commission shall have the power,~~ subject to section 38-6, infra, ~~to designation e of~~ historic sites and historic structures ~~and historic sites~~. The commission shall have the power to recommend designation of historic districts within the city limits. All owners of an historic site or an historic structure for which historic designation is proposed shall be provided with notice of the proposed designation prior to commission action on the designation. Such designations shall be made based on section 38-4, supra. Historic districts shall be approved by the common council. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this chapter.

DRAFT Section 38-6(a) changes:

(a) *Designation of historic structures and historic sites.*

(1) The commission may, after notice and public hearing, designate historic structures and historic sites or rescind such designation or recommendation after application of the criteria in section 38-4, above. At least ten days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within 100 feet of the boundaries of the property affected of the proposed designation and of the time and place of the public hearing. These owners shall have the right to confer with the commission prior to final action by the commission on the designation. Notice of such hearing shall also be published as a Class 1 Notice under the Wisconsin Statutes. The commission shall also notify the following: department of public works, redevelopment authority, parks department, fire and police departments, health department, building inspection department, and plan commission. Each such department may respond to the commission with its comments on the proposed designation or rescission.

(2) The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten days after the close of the public hearing, the commission may designate the property as either an historic structure or historic site, or rescind the designation. After the designation or rescission has been made, official notification shall be sent to the property owner or owners, ~~and, Notification shall also be given~~ to the city clerk, building inspection department, plan commission, and the city assessor. The commission shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.

(3) The Common Council may overturn the decision of the Commission by a majority vote of the Council.

Draft 38-9 changes (added new section):

Sec. 38-9. – Appeal of Commission Decision.

An owner of property affected by a decision of the Commission may appeal the decision to the Common Council. Such appeal shall be made in writing, and filed with the City Clerk, not later than 24 days after receipt of the Commission decision at issue. The Council may overturn the decision of the Commission by majority vote of the council.

City of De Pere, Wisconsin

**Request For Historic Preservation Commission Action**

MEETING DATE: September 19, 2016

DEPARTMENT: Historic Preservation Commission

FROM: Peter Schleinz

SUBJECT: Staff update to the Historic Preservation Commission regarding the N. Broadway Historic District plaque project.

Per the request of the Historic Preservation Commission, Planning staff performed a review of the names of property owners that initially declined obtaining a plaque. This was done to determine if any new interested property owners moved to the district. There were 14 property owners that may be interested.

Last week, staff sent letters to property owners requesting reaffirmation of their interest in the plaque project. The delivery of letters could have occurred earlier, but was held until last week so as not to confuse the property owners about an unrelated letter that was mailed out about an ordinance revision.

The plaque expenses are being requested from sign making companies to determine the cost for plaque purchase and installation with part of the cost covered by the City and part of the cost covered by the property owners.

As discussed at the August Historic Preservation Committee meeting, the project is on schedule related to identifying the costs and final numbers of interested parties in 2016, and installing the plaques in 2017.

No action is required by the Historic Preservation Commission at this time.

City of De Pere, Wisconsin

**Request For Historic Preservation Commission Action**

MEETING DATE: September 19, 2016

DEPARTMENT: Historic Preservation Commission

FROM: Peter Schleinz

SUBJECT: Staff update to the Historic Preservation Commission regarding the Wisconsin Historical Society grant for an intensive survey.

Planning staff will provide an update at the Historic Preservation Commission meeting. Revisions to the project timeline were made by staff, per the request of the Historic Preservation Commission during the August 2016 meeting.

City of De Pere, Wisconsin



Request For Historic Preservation Commission Action

MEETING DATE: September 19, 2016

DEPARTMENT: Historic Preservation Commission

FROM: Kelly Barker

SUBJECT: Other items for discussion.
