

CITY OF WEST CHICAGO

WHERE HISTORY & PROGRESS MEET

Approved with changes on March 9, 2015

MINUTES

DEVELOPMENT COMMITTEE

February 9, 2015, 7:00 P.M.

■ 1. **Call to Order, Roll Call, and Establishment of a Quorum.**

Alderman Stout called the meeting to order at 7:00 p.m.

Roll call found Aldermen John Banas, James Beifuss, Laura Grodoski, Melissa Birch, John Smith and Becky Stout, present.

Also in attendance were Director of Community Development, John D. Said, City Planner, Jeff Harris, Historical Preservation Commission Chairman Janet Hale, Historical Preservation Commissioner Richard Vigsnes and Historical Preservation Commissioner Bill Andrews.

2. **Approval of Minutes.**

A. **January 12, 2014**

Alderman Beifuss made a motion to table the approval of the minutes until modified. He requested that the minutes be revised to include a summary of the Hoving representatives' responses from the January 12, 2015 meeting be added to Section 5A. The motion was seconded by Alderman Banas and all remaining members agreed and the motion was carried.

3. **Public Participation.**

None.

4. **Reports from Staff.**

John Said explained that the City is participating in the Homes for a Changing Region study with the Chicago Metropolitan Agency for Planning. On January 26, 2015 staff

members and some elected officials participated in a workshop session and a tour of the City's housing options.

There will be a public hearing on Tuesday, February 17, 2015 regarding a proposed Thornton's gas station at the northwest corner of Route 59 and Roosevelt Road.

Staff is working with Menard's and other surrounding properties on the signalized intersection along North Avenue. A revised agreement may soon be brought before the City Council.

Jeff Harris informed the Development Committee that on March 3, 2015, there will be a public hearing before the Plan Commission for Wheaton Academy to amend their PUD. Specifically, they are proposing some campus improvements and requesting to expand their athletic field lighting usage.

5. Items for Consent.

None.

6. Items for Discussion.

Alderman Stout opened the discussion regarding Property Owner Consent and Application Fee Amendments for Individual Landmark and Historic District Nominations, which included the members in attendance from the City's Historical Preservation Commission.

Alderman Banas began by thanking staff for their hard work on the agenda item summary and expressing his support of their proposed solution.

Commissioner Hale asked that the problem be defined and Alderman Banas replied that there is currently no requirement to consult with property owners living outside a historic district prior in regards to possible landmark nomination applications for their property.

Alderman Beifuss said that in the case of St. Mary's Catholic Church, where the notion of property owner consent surfaced, it raised the question of what obligations the City has to the property owners and vice versa with respect to historic preservation. He then summarized the two historical aspects of preservation in the City: individual landmarks and historic districts. The latter requires property owner consent to designate while the former does not.

Alderman Beifuss raised the question of how to best provide protection for the property owner, while balancing the interests of the community. He invited the Historical Preservation Commission to share their ideas.

Alderman Banas added his concerns regarding property owners outside of a historic district. He recognized there might be some advantages, but that the property owner's rights are paramount.

Alderman John Smith agreed with Alderman Banas about the importance of property owner rights.

Commissioner Hale explained that there are two sides to the historic preservation issue—the preservation side and the property owner's individual rights side—and that there is some legal precedence regarding both sides. She further explained about what it means to have a property landmarked. Plans are reviewed about older structures and how changes can be made respectfully. The historical appearance is protected for future generations.

In terms of the application fees, she mentioned that more information is required. Elgin charges a fee, but they also offer financial incentives. Other communities have a historical preservation planner on staff and yet West Chicago does not.

Alderman Banas inquired about the matter of the application fee and John Said clarified that it is currently \$200.00, but that there is some consideration of adding a deposit amount to cover ancillary costs. Alderman Banas acknowledged that he trusts staff to accurately assess the costs associated with the landmark nomination process.

Commissioner Hale asked when the fee was originated and Jeff Harris explained that staff was not aware the fee existed until research revealed that it was already part of the City Code.

Commissioner Hale furthered that the Historical Preservation Commission is charged with identifying which properties in town are significant and then bringing them to the City for further protection. She felt that the proposed ideas would take away the Commission's ability to do so. Alderman Stout inquired as to why Commissioner Hale said it was because of the fee and their not having a budget.

John Said explained that the Historical Preservation Commission, because it is a City entity, would not be required to pay an application fee to the City in order to nominate a property to be landmarked.

Commissioner Hale expressed that the Wiant House will be a great asset downtown, but that with the landmark nomination application fee and property owner consent in place, it might not have been saved. John Said clarified that because that property is within the Turner Junction Historic District, the changes being proposed do not apply. The proposal of property owner consent specifies those properties that are not currently landmarked or are outside of a historic district.

Alderman Beifuss mentioned the possibility of there being a historically significant property owned by a governmental entity such as a school *district or park district or*

church that is located outside of a historic district—and questioned whether there is a middle ground whereby the landmark nomination process could be directed by the City and later approved by City Council.

Alderman Banas pointed out that governmental entities still have the classification of property owner and therefore the right to determine whether a process continues or not. He also remarked that the current landmark nomination process allows for the property owner to appeal before City Council, but that he does not support the appeal process as it could cause the property owner to incur costs. He reiterated his point about protecting the property owner's rights as much as possible.

Alderman John Smith stated his concerns for the individual citizen being controlled by the government, but he does not consider the same to be true for buildings owned by government entities.

Alderman Banas stated that properties owned by government entities do impact individuals because they are taxpayers.

Alderman Beifuss expressed that, in terms of other governmental entities, it is the City Council that has the final say and therefore, the possibility of weighing the different interests of the involved parties. He also made comments regarding the moral rights that historic preservation has vis-à-vis architectural structures and works of art in order to protect cultural heritage and the need for these rights to be balanced against other competing interests.

Alderman Banas expressed his support of staff's proposed ideas as a solution and reiterated the importance of property owner's rights above all else. The proposed solution provides the ability for the City to negotiate.

Alderman Grodoski inquired as to how the process of nominating a property for landmark status occurs and how often.

Commissioner Hale replied that since 1997, there have been two properties that have gone through the current landmark nomination process. The purpose of the current landmark nomination regulations is to allow for anyone to identify an opportunity or a potential threat as it relates to a historically significant structure. Once a landmark nomination application is received, the Historical Preservation Commission determines if the structure is historically significant. Without the ability to make recommendations to the City about historic preservation, the Historical Preservation Commission would be more of a recognition Commission.

Alderman Grodoski asked at what point in the landmark nomination process is the property owner is notified.

Jeff Harris responded that in the current landmark nomination process, the applicant needs to identify whether or not property owner consent has been sought when applying. Then the landmark nomination application goes to the Historical Preservation Commission for preliminary review. If deemed appropriate, it would move to a public hearing whereby the property owner is notified via certified mail.

Commissioner Hale explained that it is not the Historical Preservation Commission's task to landmark a property, but rather to inform City Council about whether a structure is historically important and why. From there, the City Council would decide to landmark it or not.

Jeff Harris mentioned that, outside of the City's two historic districts, there are seven individually landmarked properties, which were landmarked in the 1990's.

Alderman Banas expressed ~~a problem with a property owner's actions to their property being called a threat~~ and that it is an overreach of government for property owners to have to request permission to make changes to their structures.

Alderman John Smith stated the possibility of the property owner not being aware of the landmark nomination process is appalling and should not happen. Outside of City Code, he mentioned being bothered by the idea of having a property owner's design meet expectations and further agreed with Alderman Banas' comments.

Commissioner Hale clarified that, when it comes to property or structural changes, property owners might not be aware of all of the options available to them. She expressed that the Historical Preservation Commission has been a benefit in consulting with property owners who plan to make changes and in guiding them in a reasonable way without being detrimental to the permanent aspects of the structure.

Alderman Banas commented that even though there are rarely issues, there might be and that it is the City Council's job to protect the constituents of West Chicago from an overreach of government—none of which, however, precludes negotiation with the property owner. He further expressed that staff's solution is very fair to all parties.

Commissioner Vigsnes provided comments in regards to the two aspects of the issue: no property owner consent required and property owner consent required. He also raised the point that a property might also be historically significant because of an event that occurred there—not merely due to its architecture. There are seven aspects that are considered when the Historical Preservation Commission is reviewing a property for historic significance and any one aspect would qualify it for nomination as a local landmark. He further outlined opinions regarding how the City might best preserve historical structures.

Alderman Banas stated the City Council's job is to protect the City and its assets, but also the rights of the property owners. He repeated that there is nothing in the proposed solution that does not allow for negotiation and compromise.

Commissioner Vignes and Alderman Banas exchanged ideas about the point at which property owner consent should be required in the process. Commissioner Vignes suggested that consent not be required for the landmark nomination application but for the approval process. Alderman Banas felt that property owner consent should be required at all times to avoid expenditures of time and money. Currently anyone can designate a property, which he feels is wrong.

Alderman Birch asked what the notices to the property owners regarding the public hearing are like and if they are appealing to the homeowner or more informational in nature. Jeff Harris explained that the property owners are notified by certified mail and John Said added that notices sent by staff are very neutral and objective in nature. Alderman Birch stated that she would like the property owners notified sooner in the landmark nomination process.

Alderman Beifuss commented on the decision-making matrix of Commissioner Vignes regarding historic preservation and on how the landmark nomination process is initiated and by whom. He agreed that property owner consent should happen earlier in the landmark nomination process, but questioned at what point it is best. He stated that it would be beneficial to have the opportunity to begin the preliminary research and then summarized the landmark nomination process for the creation of a historic district. He inquired about the origination of the draft language.

Jeff Harris explained that the regulations included in the draft language already existed and the only draft portion is the section that relates to property owner consent. The draft language was presented to the Historical Preservation Commission in January of 2015. John Said mentioned that it was prepared in response to the direction of City Council and the Development Committee. The Development Committee requested that it be reviewed by the Historical Preservation Commission and then be brought back to the Development Committee for discussion within sixty days. Once the Historical preservation Commission reviewed it, the Commission requested to be part of the discussion at today's Development Committee meeting.

Alderman John Smith made the comment that, when it comes to being notified, it is the property owner who must be first so that they know about the discussion regarding their property. He also stated that a certified letter to the property owner might not be the best way to enlist cooperation.

Alderman Banas expressed that the notification of the property owner needs to be step 1 or step 1A and that furthermore, property owner consent is needed.

Jeff Harris pointed out that staff had informed St. Mary's Catholic Church of the preliminary review in front of the Historical Preservation Commission prior to when the official notification went out.

Commissioner Hale said that previously initiative was taken to reach out to property owners and to speak with them ahead of time, which was more than what was required by City Code.

John Said stated that, as a courtesy to the property owner, it seemed like the right thing for staff to do, even if it was not specified in the City Code.

Alderman Banas asked what St. Mary's Catholic Church response was.

John Said and Jeff Harris replied that staff did not receive any formal feedback up front from the Diocese of Joliet, who is the property owner.

Alderman Banas pointed out that staff was spending time on this issue only later to find out that the property owner did not consent to the proposed landmark nomination.

Alderman Beifuss mentioned that there are private property owners and properties owned by governmental agencies. In the case of the latter, it is not always beneficial to require property owner consent as we are not talking about private property rights. While government agencies all have interests, the City does have planners, a Historical Preservation Commission and a City Council to more aptly and expertly deal with development issues.

Alderman Banas disagreed, stating that a school district has taxpayers and if a school district wants to maximize the return on an investment, the City should not interfere with that. Even school districts should be in the same category as business owners and private property owners.

Alderman John Smith expressed his viewpoint about property owner rights as being middle of the road—he agrees with the points made about individual property owner rights, but he does not agree that the interests of government agencies and those of private property owners as being the same. He also stated that it is necessary to have permission from the property owner and that he/she should be notified first, before any activity is begun.

Alderman Banas asked how he would feel about a business being nominated as a landmark.

Alderman John Smith replied that a business is privately owned and that a governmental entity is not.

Alderman Banas agreed with Alderman John Smith's point and inquired about the need for a phrase to be added about properties outside of a historic district.

John Said responded that all properties within a historic district are already designated as local historic landmarks and that phrasing would not be needed.

Commissioner Hale stated that she would prefer to not have notarized statements required for researching. Research is something the Historical Preservation Commission should be doing regardless.

Alderman Stout clarified that the notarized statements are part of the landmark nomination application process and not part of the information gathering process. The property is identified prior to the landmark nomination application process.

Alderman Banas responded that the landmark nomination application is made to the Historical Preservation Commission.

Commissioner Hale said that the draft language states that the landmark nomination application is made to the Director of Community Development.

Alderman Banas pointed out that, as soon as a landmark nomination application is received by staff, they are already spending money to process it. He agreed that the notarized statement should not apply to the work the Historical Preservation Commission does, but that once the City is involved, the landmark nomination application fee should apply because that is when Staff starts work on it.

Alderman Stout stated that when a property is identified by a source, it is brought to the Historical Preservation Commission and then background information is gathered prior to the landmark nomination application being submitted.

Commissioner Hale replied that the Historical Preservation Commission has not done a lot of research as of late, but that as part of the old landmark nomination process, a landmark nomination application would be submitted or the Historical Preservation Commission would generate one. She furthered mentioned that the draft language changes this so that the landmark nomination application is submitted to the Director of Community Development. Commissioner Hale read from the draft language citing that the landmark nomination application would not be considered complete until it is deemed as such. She also stated that there is no consideration of time by which the landmark nomination application is completed.

Alderman Banas suggested that perhaps the landmark nomination applications should go to the Historical Preservation Commission first, but that the application fee needs to be in place for when the landmark nomination application goes to the Community Development Department. The application fee needs to be paid by the individual who initiated the landmark nomination process.

Jeff Harris explained that the proposed landmark nomination application process was written to be consistent with how other zoning related applications are processed.

John Said pointed out that the landmark nomination language is intended to identify that the landmark nomination application is complete and correct, but it is not about it being evaluated. This is consistent with City Code requirements.

Jeff Harris affirmed that a landmark nomination application is not complete until all necessary elements, as defined in the City Code, are submitted. Staff will verify that all information is there.

John Said mentioned that ensuring the landmark nominations applications are complete is a service to the Historical Preservation Commission. It has nothing to do with preliminary research.

Alderman Beifuss inquired about where in the landmark nomination process property owner consent would occur. He suggested that the property owner be notified at the time the preliminary review is set and that property owner consent be required before the public hearing. This would allow the Historical Preservation Commission to do its job in considering the landmark nomination application. If the property owner desires, they could submit a letter to express their lack of consent.

Alderman Banas said that property owner consent should be obtained prior to the submission of the landmark nomination application and the application fee payment.

John Said explained that the \$200 application fee is non-refundable, but that whatever is not used from the proposed \$500 deposit would be refundable.

Alderman Banas stated that if they do not have property owner consent, the application should never go to a public hearing.

Alderman John Smith agreed with Alderman Beifuss' idea about when to notify the property owner and that it is best to let the property owner know that nothing can happen without their consent.

Commissioner Hale mentioned that the mood in which the landmark nomination regulations were written presumes that the City wants to preserve its assets and gives it the option to do so, citing that when a landmark nomination application is received, all work being done on the property must cease and no building permits be issued. She suggested that the wording of the proposed language be altered to be more specific about the application processing time.

John Said asked about the timeframes for processing other zoning related applications.

Jeff Harris replied that there are not established timeframes, but that all zoning related applications are processed in a timely manner.

Commissioner Hale asked if there is a stop on work and building permits being issued.

Jeff Harris pointed to the subsection of the City Code to which Commissioner Hale was referring.

John Said read this subsection out loud.

Jeff Harris confirmed that greater clarity is needed to address Commissioner Hale's point.

Alderman Banas indicated that this points to the need to have property owner consent up front because the timing of a landmark nomination application may put a building project on hold.

Alderman John Smith agreed that it is necessary to obtain property owner consent immediately.

Alderman Beifuss stated that the maximum for the landmark nomination application process would be forty-five days after the preliminary review and that although it would be a rare event, it is nice to have these protections in place.

Alderman Banas requested clarification about whether or not the building permits would be cancelled during those forty-five days.

John Said responded that no building permits would be issued during the landmark nomination process.

Alderman Banas replied that the decision from the property owner is needed first. This does not mean that the Historical Preservation Commission cannot do their research, but the landmark nomination application should not be made until the research is done.

Alderman Stout offered that not having property owner consent is not the end as there is always room for negotiation and for providing more information. Some property owners might feel intimidated, however, if they are notified later in the landmark nomination process when the research has been taking place without their knowledge.

Commissioner Hale said that the former City Museum Director did reach out to property owners and have those conversations. She also mentioned that she was informed that she cannot talk with property owners without staff being present. If the Historical Preservation Commission is to negotiate, then that needs to be added to the regulations.

Alderman Banas inquired what that liability would be and where this direction came from.

Jeff Harris replied that he was not aware.

Commissioner Hale said that she was informed of this by John Said, who then clarified that this is incorrect and that staff has no authority by the Municipal Code to direct her as the Chairman of the Historical Preservation Commission.

Alderman Stout asked how a property owner could talk to her without staff being present.

Commissioner Hale said that in the past the landmark nomination applications were received at City Hall and then given to the Historical Preservation Commission. If changes are going to be made to the landmark nomination procedures, then she expressed wanting the whole picture considered along with timelines.

Alderman Stout asked why it mattered which staff person receives the landmark nomination application.

Commissioner Hale insisted on the need for a timeline for the landmark nomination application process.

John Said clarified that the landmark nomination application process is to make sure that all items submitted are consistent with City Code requirements.

Alderman Stout asked how the proposed landmark nomination application process deviates from the current process, because the onus of the application decision is still on the part of the Historical Preservation Commission. Commissioner Hale expressed her understanding of that point, but also stated that the Historical preservation Commission and staff have been on opposite sides of previous issues.

Alderman Banas asked if the receipt of the landmark nomination application would constrain the building permits immediately.

John Said stated that the proposal requires further detail in terms of this issue.

Alderman John Smith remarked that obtaining property owner consent from the very beginning would eliminate many of these problems.

Commissioner Hale replied that the City's opportunity to potentially save a property would also be eliminated.

Alderman John Smith stated that he understands that perhaps every property might not be saved, but that the tradeoff would be that the property owner's rights would be protected.

Alderman Stout suggested tweaking the timeline, but holding to the notion that there has to be property owner's consent before the landmark nomination application is submitted to the City.

Alderman Banas offered the idea of having the Historical Preservation Commission involved right up front in order to do their research and that staff should decide whether or not the landmark nomination application should go to the Historical Preservation Commission. Commissioner Hale clarified that staff does help with research. John Said further explained that staff does not have the authority and is limited to processing applications, providing information, and conducting background research. Staff does not make recommendations or provide opinions on landmark nominations. The current City Museum Director and Jeff Harris provide a lot of the background information. They follow direction from the City Council. Alderman Banas suggested that application fees are needed to compensate for staff's time

Alderman Banas asked that the timeline be specified with the understanding that building permits will not be denied until property owner consent is obtained.

Jeff Harris added that no application fee covers the cost of staff time spent processing any type of application.

Alderman Beifuss thanked the Historical Preservation Commission for their work and that of staff and the Development Committee. He then suggested discussing the differing types of property owners—private or governmental—as it relates to consent, application fees, and timelines at a later date. He reiterated the importance of allowing staff the opportunity to do preliminary research and input.

Alderman Banas expressed his agreement with Alderman Beifuss, but added that not where private business or property owners are concerned as they should decide what happens to their property. He suggested sending a draft ordinance to City Council within one month.

John Said asked for consensus for staff about how this process should be continued.

Alderman Stout replied that before a formal landmark nomination application is submitted, there needs to be property owner consent. Information may be gathered so that the Historical Preservation Commission can complete their work. Additionally, there needs to be a timeline as to when the steps occur that way. The notion of other taxing bodies can be addressed separately.

John Said pointed out that there is no control over any preliminary discussions that might take place. In providing a timeline, they would have to note the first official submittal, which is the landmark nomination application. Alderman Stout replied that once the landmark nomination application is considered viable, property owner consent would be sought. John Said asked if that would include an evaluation.

Alderman Beifuss responded that the Historical Preservation Commission needs to be able to publically decide whether or not the landmark nomination application is viable. A landmark nomination application should be allowed to be submitted without property owner consent.

Jeff Harris surmised that Alderman Banas requests property owner consent up front, while Alderman Beifuss requests that property owner consent be obtained after the landmark nomination application is received and preliminary review conducted, but before it moves to City Council.

Alderman Stout added that building permits should not be withheld until the preliminary review.

Alderman Banas remarked that if the landmark nomination application shows no property owner consent then it shall not be processed by the City.

Alderman Stout added that if there is no property owner consent, then no landmark nomination application would be submitted.

John Said reviewed the proposed ideas and Alderman Banas expressed agreement.

Alderman Stout concluded that this proposal addresses everyone's issues. The notion of the differing taxing bodies would have to be part of a later discussion.

John Said expressed thanks for the clarification and asked for the next step for review.

Alderman Beifuss suggested that it come back before the Development Committee.

Commissioner Hale agreed but she wanted it added that Historical Preservation Commission members be given the ability to negotiate with property owners.

Alderman Stout mentioned that the negotiation be included so long as it is not hostile.

Alderman Banas asked about anything in writing that has prevented them from doing so.

Commissioner Hale stated that there was.

Alderman Grodoski stated that the language should be expressed in such a way as to speak more about the opportunity that historic preservation presents. She also expressed that it would be rare for a property owner to not give consent.

Alderman Stout agreed.

Aldermen Banas and Stout also expressed their agreement.

Alderman Banas asked if the Historical Preservation Commission preferred something in writing.

Commissioner Hale replied that in the past, historic preservation was managed by the City's Museum Director who acted as the ambassador for the City. She expressed wanting to have language to address these issues.

John Said recommended including a courtesy letter be provided to the property owner as an attempt to engage them early on.

Commissioner Hale expressed support of this idea.

Jeff Harris clarified that this topic will come back before the Development Committee in March, which would allow the Historical Preservation Commission one further discussion on the matter.

7. Unfinished Business.

None.

8. New Business.

None.

9. Adjournment.

Alderman Banas made a motion, seconded by Alderman John Smith, to adjourn the February 9, 2015 Development Committee meeting at 9:22 p.m. The Committee members unanimously agreed and the motion carried.

Respectfully submitted,

Jane Burke
Executive Secretary