

**Municipal Building
625 52nd Street – Room 204**

***Kenosha Historic Preservation Commission
Agenda***

**September 25, 2014
5:00 p.m.**

*Alderman Jan Michalski - Chairman and Merike Phillips - Vice-Chairperson,
Peter Shaw Johnson, Royanne Moon, Sue Dyke O'Day and William Siel*

Call to Order and Roll Call

Approval of Minutes from September 11, 2014

1. Certificate of Appropriateness for Library Park Properties LLC at 807 61st Street, Library Park Historic District. (Masonic Temple) (District #2) PUBLIC HEARING
2. Historic Preservation Commission Training

Public Comments

Commissioner Comments

Staff Comments

Adjournment

Community Development & Inspections
625 52nd Street – Room 308
Kenosha, WI 53140
262.653.4030 phone / 262.653.4045 fax
www.kenosha.org

If you are disabled in need of assistance, please call 262.653.4030 at least 72 hours before this meeting.

Notice is hereby given that a majority of the members of the Common Council may be present at the meeting. Although this may constitute a quorum of the Common Council, the Council will not take any action at this meeting.

HISTORIC PRESERVATION COMMISSION
Minutes
September 11, 2014

MEMBERS PRESENT: Alderman Jan Michalski, Merike Phillips, Royanne Moon and Sue Dyke O'Day

EXCUSED: Peter Shaw Johnson and William Siel

STAFF PRESENT: Mike Maki and Pa Phouala Vang

Other present included: Alderperson Wicklund

The meeting was called to order at 5:03 p.m. by Alderperson Michalski, roll was taken.

A motion was made by Ms. Phillips and seconded by Ms. O'Day to approve the minutes of the May 29, 2014 meeting as written. The motion passed. (Ayes 4, Noes 0)

1. Certificate of Appropriateness for Residences at Library Park Apartments at 720 59th Place, Library Park Historic District. (Old YMCA) (District #2) PUBLIC HEARING

Public hearing opened.

David Nankin, 2008 St. Johns Avenue, Highland Park, IL, attended representing the Developer, Varin/Library Park LLC. Mr. Nankin said the State Historical Society has requested no brick pillars in the parking lot, wrought iron only.

Public hearing closed.

Mike Maki, Community Development Specialist, gave a brief overview of the project and recommended approval.

A motion was made by Ms. Phillips and seconded by Ms. O'Day to approve the Certificate. The motion passed. (Ayes 4, Noes 0)

Mark Molinaro, Partners in Design Architects, architect for the project, asked Staff to address the issue of the pillars. Mr. Maki recommended approval of the omission of the brick pillars. The Commission amended the approval to include the omission of the brick pillars.

Ms. Phillips said the applicant did a good job on the layout and development of the project.

2. Certificate of Appropriateness for Gilbert M. Simmons Memorial Library at 711 59th Place, Library Park Historic District. (District #2) PUBLIC HEARING

Public hearing opened.

Barb Brattin, 2117 Green Street, Racine, is the Library Director and supports the project.

Public hearing closed.

Mr. Maki explained the project and work to be performed.

Aldersperson Michalski asked if there is a different kind of roofing material and how the seam will be maintained and guaranteed. Mr. Maki said there will be proper flashing installed to prevent any leakage.

Ms. Phillips asked if there was work being done to the skylight at this time. Mr. Maki said no, not at this time.

Ms. Moon asked if there was other damage to the rotunda. Ms. Brattin said you can see in some of the pictures the amount of damage to the interior walls. This is more of a slow leak.

A motion was made by Ms. Moon and seconded by Ms. O'Day to approve the Certificate. The motion passed. (Ayes 4, Noes 0)

3. Certificate of Appropriateness for Southport Beach House at 7825 3rd Avenue, Southport Park. (District #12) PUBLIC HEARING

Public hearing opened.

Margaret Heller, 217 69th Street, does not support the replacement of the slate roof with asphalt shingles.

Susan Andrea Schlenker, 505 73rd Street, has concerns they are replacing the roof when it was not addressed in the study that was done.

Gregg Kishline, 8638 32nd Avenue, said a slate roof requires regular inspection and maintenance and he would like to see that the roof is properly inspected before a replacement of the slate.

Public hearing closed.

Mr. Maki said buildings that are owned by a municipality and are listed on the State Register of Historic Places are required to be reviewed by the State Historical Society. This was presented to the State as a Rehabilitation project. This type of project give flexibility to stewards of the building. The State's recommendation is advisory only. The City, as the steward of public funds, has to consider the State recommendation and the cost of the project. The recommendation was made to approve the Base Bid with Alternate 4.

The **Base Bid** (4,781 sf of roofing) will remove all slate roof and flashing down to the roof decking to properly inspect the decking. Any deteriorated decking will be repaired/replaced. Leak barrier, underlayment and sheet metal flashing will be replaced and Slateline shingles will be installed in an "English Gray" color, as approved by the State Historical Society.

Alternate Bid 4 will retain salvaged slate in all three (3) of the most prominent areas facing west (total of 787 sf), as noted on the marked-up photo (triangular areas facing west, and larger upper middle roof area behind the west cornice above the main entrance)

Aldersperson Michalski said the Alford Park warehouse had a slate roof. Was any of that

slate salvaged? Mr. Maki said there was a fire at the warehouse and the roof collapsed. The slate was damaged and to the best of his knowledge, no slate was retained. Alderperson Michalski said slate is destroyed by breakage more than by wear.

Ms. O'Day asked if the roof on the uptown library was slate. Where did that go when it was removed? Mr. Maki said the roofing company doing the work probably had salvage rights to the slate.

Ms. Phillips asked if the City spoke to Millen roofing? Mr. Maki said this is a Public Works Department project and that he did not personally speak to Milen or any other slate contractor. The City does not invite individual bidders to a project. It is up to the bidder to look at the City website to see if there are any projects they would like to bid on. The project was also advertised twice by the City.

A motion was made by Ms. Philips and seconded by Ms. O'Day to reject the recommendation and to request that the City contact professionals who are capable and knowledgeable of slate roofs to evaluate the roof, and for the City to study alternatives to repair the slate roof.

A motion was made by Ms. Moon and seconded by Ms. O'Day to reopen the public hearing.

Ms. Heller thanked the Commission for proposing additional studies to be done.

Mr. Kishline said that Millen roofing will be at the pre-bid meeting on Tuesday and they hope to view the roof at that time.

Ms. Andrea Schlenker thanked the Commission for their consideration.

Kathy Dissellow, 5710 4th Avenue, supports preserving the roof.

Public hearing closed.

The motion passed. (Ayes 4, Noes 0)

Public Comments

Mr. Maki said he will send a memo to Public Works with information from this meeting.

Commissioner Comments

Alderperson Michalski introduced new Staff person Pa PaPhouala Vang.

Staff Comments

Mr. Maki said the next regular Historic Preservation meeting is September 25, 2014.

A motion was made by Ms. O'Day and seconded by Ms. Phillips to adjourn the meeting. The motion passed unanimously. (Ayes 4, Noes 0) The meeting adjourned at 6:20 p.m.

<p>Community Development & Inspections 625 52nd Street - Room 308 Kenosha, WI 53140 262.653.4030</p>	<p>Kenosha Historic Preservation Commission</p> <p style="text-align: center;">FACT SHEET</p>	<p>September 25, 2014</p>	<p>Item 1</p>
<p>Certificate of Appropriateness for Library Park Properties LLC at 807 61st Street, Library Park Historic District. (Masonic Temple) (District #2) PUBLIC HEARING</p>			

HISTORIC DISTRICT:

Library Park

NOTIFICATIONS/PROCEDURES:

The alderman of the district, Alderperson Jenkins, has been notified.

ANALYSIS:

- Section 15.10 of the Zoning Ordinance requires a Certificate of Appropriateness for any exterior alteration, rehabilitation, reconstruction, or restoration of a Historic Structure that is not classified as an exempt item.
- Library Park Properties LLC has submitted a Certificate of Appropriateness application for replacement of an existing door and sidelites on the south elevation with a new double door.
- Two options have been submitted for review:
 - Alternative One removes the existing door and sidelites and replaces them with a double door. The existing transom with four (4) lites above the existing door is maintained along with the top lite of each sidelite.
 - Alternative Two, which is preferred by the applicant removes the existing door, transom and sidelites. New double doors are installed in the full length and width of the opening with twelve (12) lites in each door.
- The project was reviewed in conformance with Section 15.10 D. of the Zoning Ordinance, pertaining to Standards for Granting Certificate of Appropriateness. The project meets Standard 10, "New additions, exterior alterations or related new construction do not destroy historic materials that characterize the Historic District, structure or site."
- The project was also reviewed against the Secretary of Interior Standards and Guidelines. The alteration of the south entrance is consistent with recommendations in the Guidelines since it is limited to non-character defining elevation.

RECOMMENDATION:

A recommendation is made to approve the Certificate of Appropriateness for Alternative Two, in conformance with Standard 10 of Section 15.10 D. of the Zoning Ordinance for the City of Kenosha, the Secretary of Interior Standards and Guidelines, as well as the Library Park Preservation Plan.



 Michael Maki, A.I.C.P.



 Jeffrey B. Labahn, Director

**KENOSHA HISTORIC PRESERVATION COMMISSION
CERTIFICATE OF APPROPRIATENESS APPLICATION**

PROPERTY ADDRESS <u>807 61st St.</u>	DATE OF APPLICATION <u>9/16/14</u>
OWNER/APPLICANT <u>Library Park Properties, LLC</u>	ARCHITECT/DESIGNER/BUILDER <u>Amy Van Aalst</u>
ADDRESS <u>25 E. Erie St.</u>	ADDRESS <u>same as owner</u>
CITY, STATE, ZIP <u>Chicago, IL 60611</u>	CITY, STATE, ZIP
DAYTIME PHONE NUMBER <u>312-714-0014</u>	DAYTIME PHONE NUMBER <u>312-714-0014</u>

PROJECT DESCRIPTION

Replace existing door on south elevation with double door. Preferred design has doors taking up entire opening with integral lites, mimicking the original design. Alternately, the transom could be maintained + top side-lite modified. Both options shown

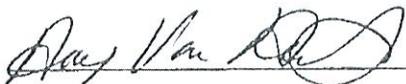
PROJECT TYPE

- > NEW CONSTRUCTION, ADDITIONS, DEMOLITIONS, AND PUBLIC IMPROVEMENTS
- > NEW CONSTRUCTION, ADDITIONS, DEMOLITIONS, EXTERIOR ALTERATIONS, REHABILITATION, RECONSTRUCTION AND RESTORATIONS
- > ALL PROJECTS
- > IN THE INSTANCE OF INTRODUCING MATERIALS WHICH DO NOT DUPLICATE THE ORIGINAL
- > IN THE INSTANCE OF INTRODUCING NEW ARCHITECTURAL DETAILS OR ARCHITECTURAL DETAILS WHICH DO NOT DUPLICATE THE ORIGINAL

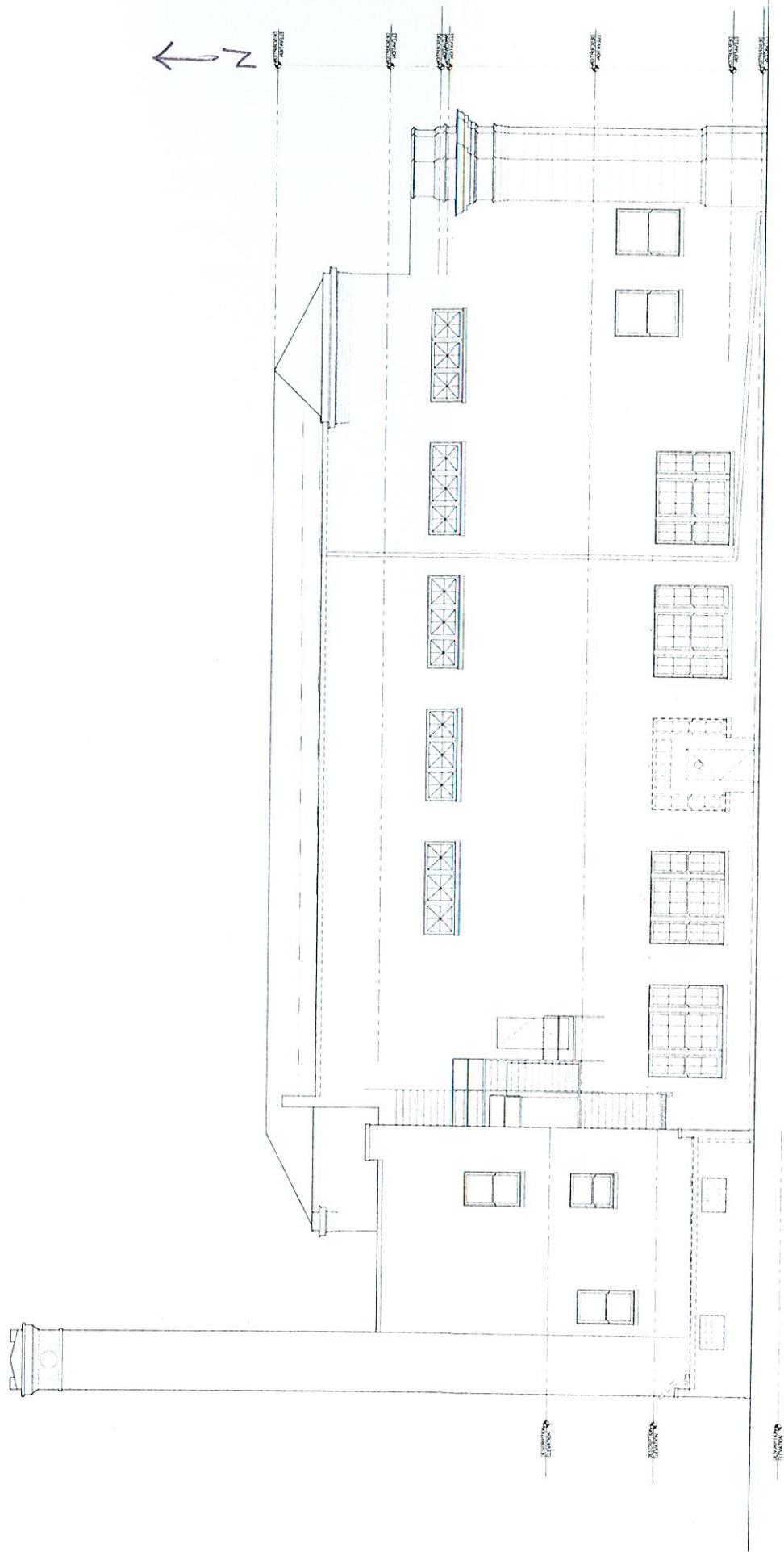
REQUIRED DOCUMENTATION

- SITE PLAN
(1 SET 24"x32" AND 12 SETS MAXIMUM SIZE 11"x17")
- BUILDING ELEVATIONS [EXISTING AND PROPOSED]
(1 SET 24"x32" AND 12 SETS MAXIMUM SIZE 11"x17")
- PHOTOGRAPHS (DIGITAL PREFERRED)
- MATERIAL SAMPLES
- PICTURES OR DRAWINGS

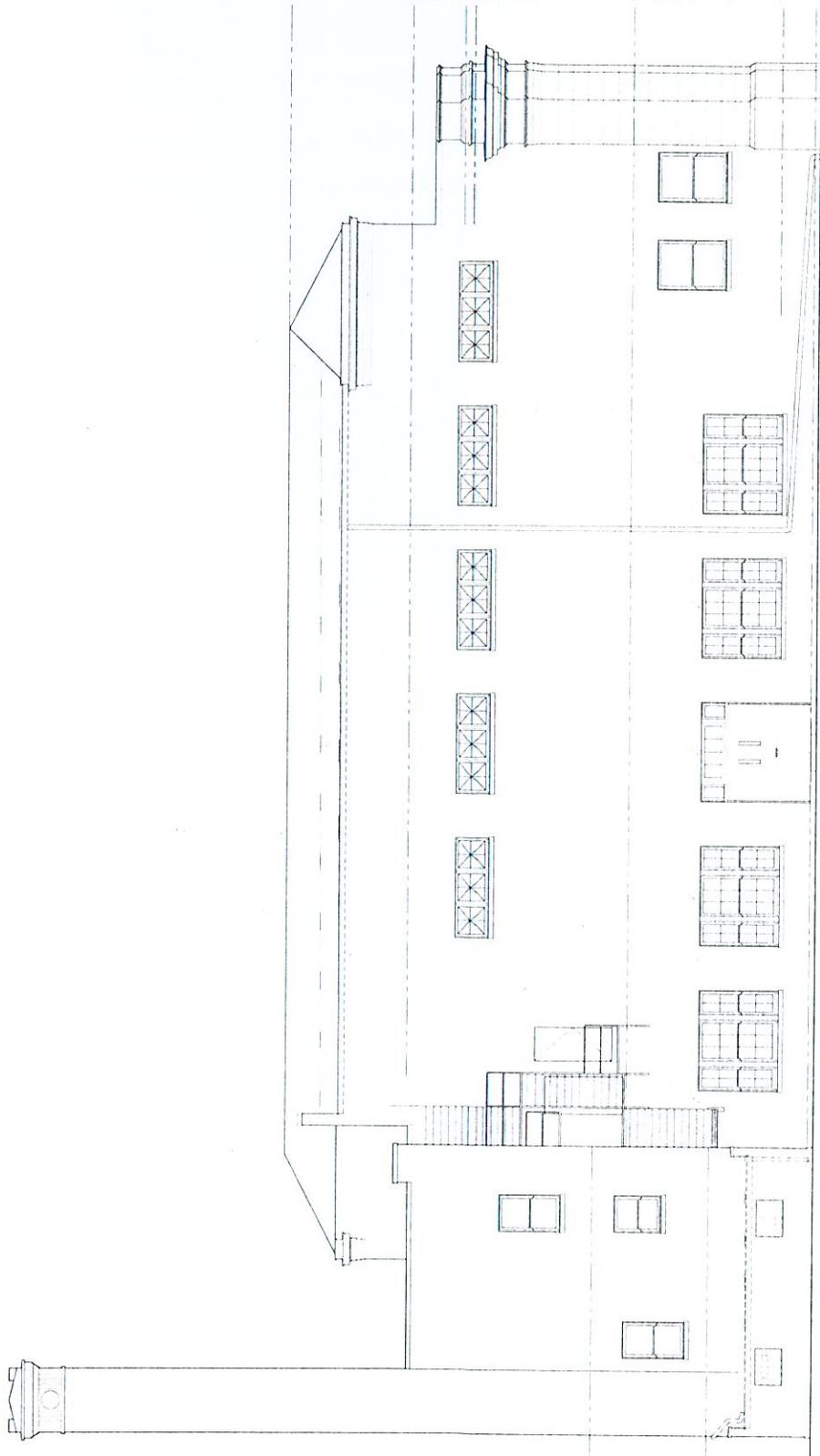
YOUR APPLICATION WILL BE FORWARDED TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT & INSPECTIONS, INSPECTIONS DIVISION FOR REVIEW AND INPUT. *REQUIRED DOCUMENTATION MUST BE SUBMITTED TO COMMUNITY DEVELOPMENT & INSPECTIONS A MINIMUM OF TWO WEEKS PRIOR TO THE MEETING DATE TO ALLOW FOR THE APPLICATION TO BE PLACED ON THE HISTORIC PRESERVATION COMMISSION MEETING AGENDA.*

APPLICANT'S SIGNATURE:  DATE: 9/16/14

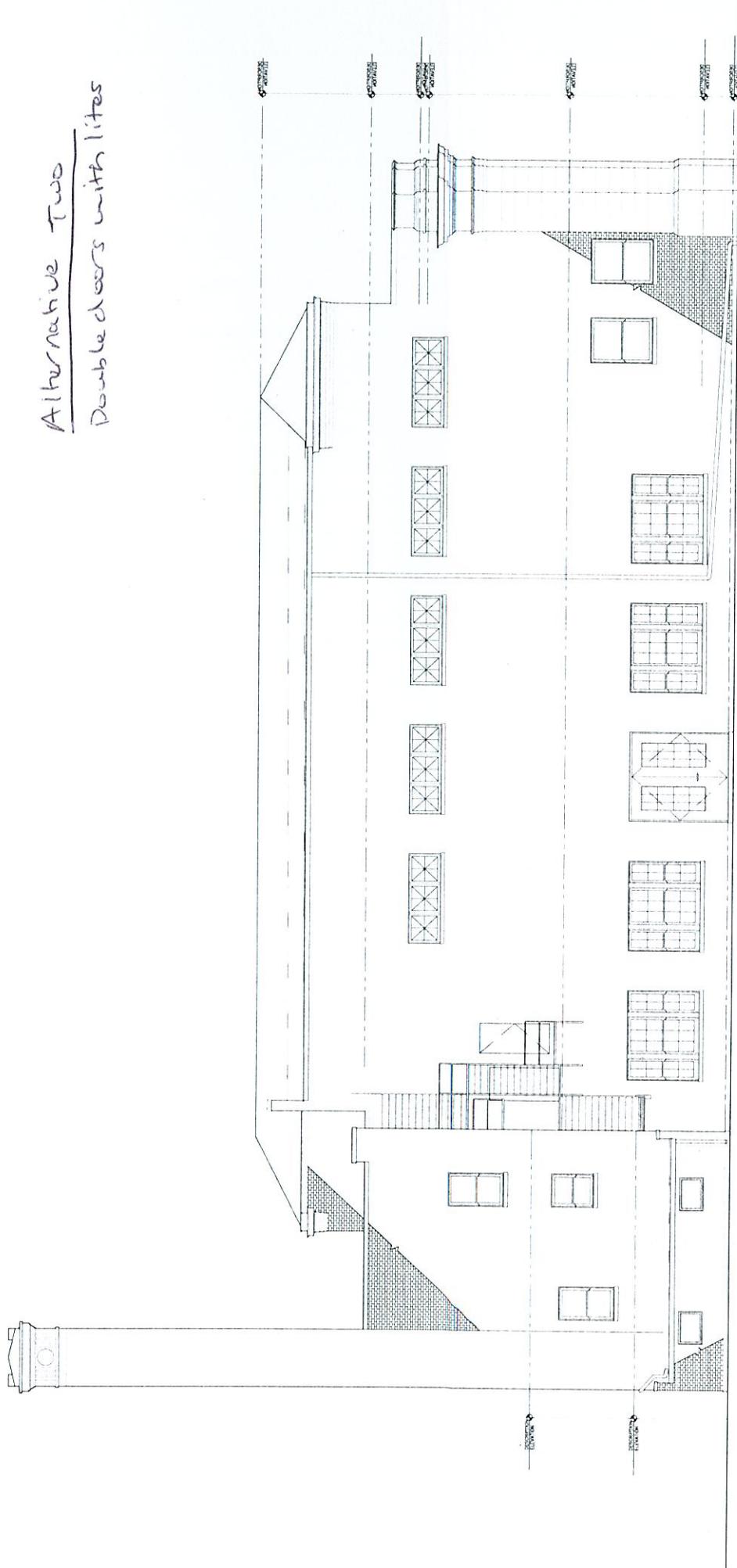
Existing



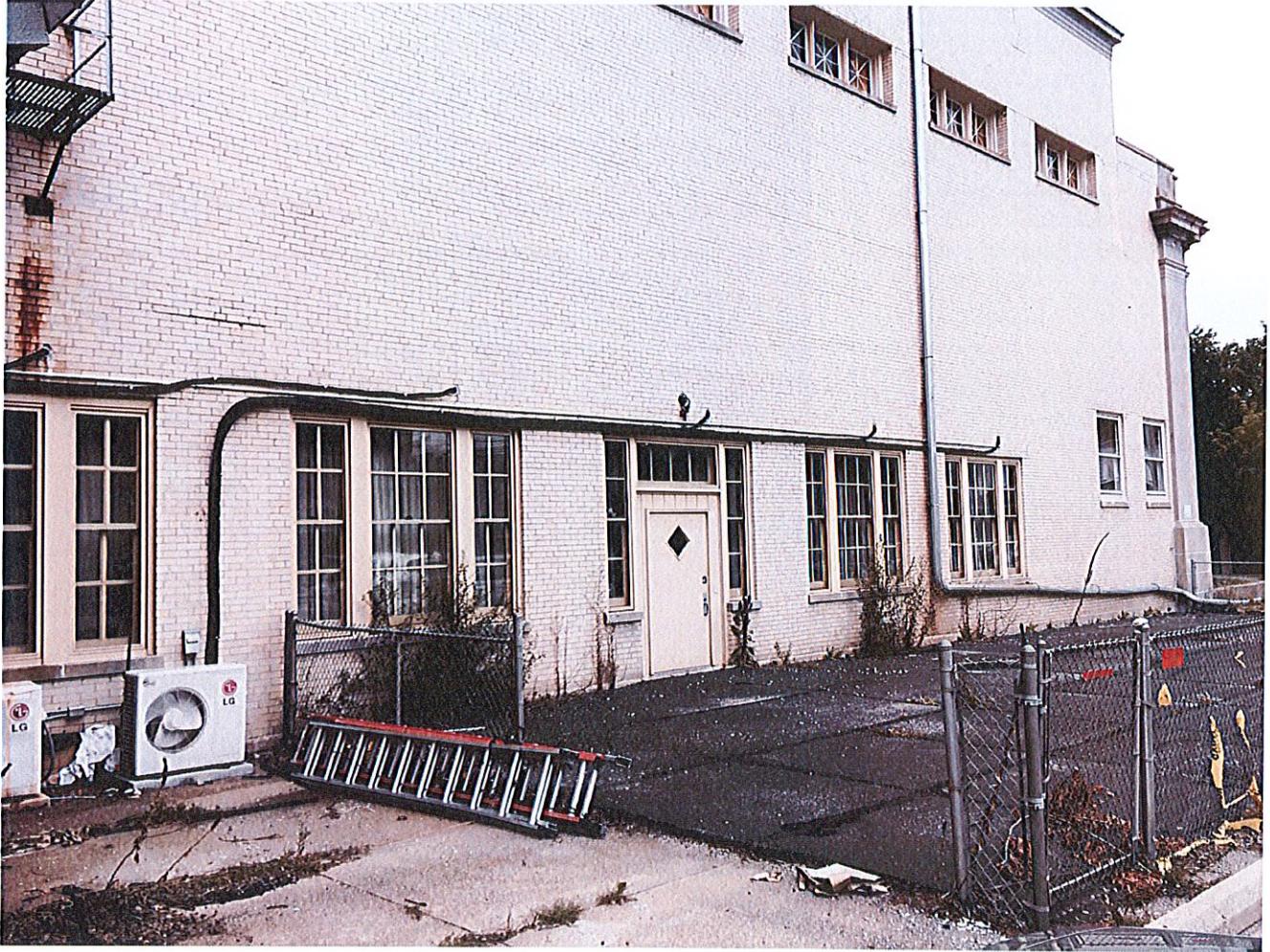
Alternative One
Transom above
Double doors



Alternative Two
Double doors with lites







FACT SHEET Kenosha Historic Preservation Commission	Community Development Division 625 52nd Street Kenosha, WI 53140 262.653.4030	September 25, 2014	Item 2
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Historic Preservation Commission Training

PURPOSE:

Commission Training

HISTORIC DISTRICT:

N/A

NOTIFICATIONS/PROCEDURES:

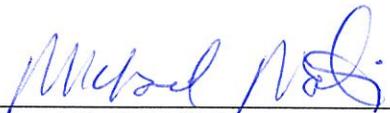
N/A

ANALYSIS:

- The attached training material will be discussed with the Historic Preservation Commission.

RECOMMENDATION:

A recommendation is made to receive and file.



Michael Maki, A.I.C.P.



Jeffrey B. Laband, Director

Training Material – Preservation Commission Operations

Preservation Commission Meetings and Bylaws

Commission meetings provide a venue where meaningful decisions can be reached. It is largely through public meetings and hearings that community members develop perceptions of their local historic preservation commission.

The key factors in holding effective meetings and projecting a positive public image are:

- Preparedness
- Attention to detail
- Consistency
- Decorum
- Communication
- Impartiality
- Fairness

Before Your Meeting

Be Prepared

Before a meeting takes place, make sure you are prepared. This includes being familiar with applicable laws, rules, and procedures; the commission's bylaws; local design guidelines and their criteria; your local preservation ordinance; and any other law or statute that affects the commission's business and actions. When possible, members should visit the property(ies) to be discussed to be familiar with its setting and details. If commission members visit a property as a group, the laws of public notice might apply.

Know Your Open Meeting Laws

Commission members must be careful to comply with any "sunshine acts" that apply to their community. These statutes define what constitutes a meeting and require that every portion of an administrative agency and legislative meeting be open to public observation with certain exceptions. Often a meeting is defined as any gathering of a given number of members where the group's business is discussed. Public notice of any such defined meeting must be given. Check with your commission's or municipality's counsel to know what laws apply to your commission.

Establish Written Bylaws and Procedures

Although bylaws are not technically required for most commissions, the creation and adoption of commission bylaws and rules of procedure are highly recommended to regulate the commission's affairs and actions. Adherence to commission bylaws results in consistency and fairness. In addition to the election of officers, matters that need to be addressed include determining who will coordinate and contact city staff regarding the commission's activities; the keeping and

publishing of minutes; meeting dates, times, and location; meeting procedures and formats; and setting agendas. In establishing these policies, the commission should review and comply with the local government procedures concerning public notices of meetings, mailings, and other issues.

A review of Robert's Rules of Order will help commission members to be familiar with how to properly conduct a public meeting. Robert's Rules of Order is a well-known and recognized manual on parliamentary procedure. The handbook serves as a guide to running meetings effectively and fairly and is used by a wide variety of organizations, clubs, and other groups. Originally published in 1876, the book is now in its tenth edition and remains the dominant authority on conducting business at meetings and public gatherings. Robert's Rules of Order provides rules for making and voting on motions, proper protocol for discussions, and other important elements of meetings. Following these rules helps to ensure that everyone is heard and that decisions are made without confusion. It is wise for commission members to obtain a copy of this handbook and have a good working knowledge of how it applies to their operations.

Set an Agenda

Having a good agenda helps the meeting stay focused and run more efficiently. Common elements include basic information such as the name of the group and its chairperson; the time, date, and place of meeting; and items to be considered and those responsible for presenting them. Identify items that will require action and those that will be open for discussion only. Action items should be addressed first, with issues addressed in order of importance or urgency. The agenda and any relevant background materials should be distributed ahead of time to participants.

Prepare the Setting

Make sure the room in which the meeting will take place has sufficient resources and is ready to go. Avoid rooms that are too big or too small for the anticipated number of attendants, and make sure there is adequate seating. Seating arrangements should enhance communication and involvement. A common arrangement is to have commission members sit in a semicircle facing public attendants. Make sure all necessary equipment, such as audio or video equipment, is present and in working order. Ensure that lighting and sound settings are appropriate. The room arrangement should be professional but not intimidating. Property owners are often wary of facing a commission. Examine ways to place the applicant at the same height level as the commission, and remove extra tables, desks, or other objects that stand between the commission and the applicant. Keeping applicants at an unreasonable distance from the commission can also make for an intimidating experience. Applicants are your neighbors and should be treated as cordially as possible.

During Your Meeting

Set the Tone

Start the meeting on time and project a positive, businesslike attitude. Thank the applicants for their time in coming before the commission and recognize how important their work is to better the community. Speak clearly and confidently, and avoid use of jargon and acronyms. Nervousness and uncertainty are easily noticed and give a perception of disorganization and arbitrariness. Begin the meeting by introducing commission members and summarizing the

agenda. Take care of legal, record, and housekeeping issues such as the presence of a quorum, statement of applicable rules, whether requirements for notices have been met, and approval of previous meeting minutes.

Facilitate Communication

Throughout the meeting, the chairperson of the commission will lead the process and serve as a moderator. He or she should have knowledge of the rules and procedures. The chair's primary job is to facilitate communication. The chair must ensure that all participants have an opportunity to be heard, maintain decorum, and anticipate and diffuse emotional buildups. He or she will need to clarify and summarize issues and help separate facts from opinions.

Consider Applications Thoroughly

Make sure that both proponents and opponents have an opportunity to present their cases and time for rebuttal. Allow all parties to express their views. Thoroughly discuss the project — listen carefully, and ask questions to clarify issues. Make sure all required documentation is in order. Study the facts of each case and consider factors such as cost, practicality, effectiveness, and enforceability. Develop a consensus if possible, and call for a vote after all discussion is finished. Once a decision has been reached, it should be clearly stated along with the rationale behind it. Summarize the evidence, recount the standards that applied, and state why the commission is taking the action.

Conclude the Meeting

After action items have been addressed, the commission can then move on through remaining matters on the agenda. As the meeting reaches a close, it is a good idea to summarize what actions were taken and let participants know what will happen next in the process. Always close the meeting by thanking all participants and attendants.

After Your Meeting

Distribute Minutes and Follow Up

Make sure that detailed minutes of the meeting are produced and made available in a timely fashion. All meeting documents, including the agenda, minutes, and supporting documents, should be kept together and archived. Follow up on any necessary action, such as issuing a Certificate of Appropriateness (COA).

Communicate with the Public

Maintain good public relations and communication by keeping the public informed of the meeting's discussions and actions. Consider publishing summaries of the meeting in newspaper articles and on the commission's website.

Review, Reflect, and Provide Ongoing Training

Conduct a review of the meeting and the board's performance to determine what went well and where there is room for improvement. Strive to keep all commission members informed and productive by providing regular, ongoing trainings and up-to-date educational materials.

Preservation Commission Work Plans

Once each year, a preservation commission should formulate a plan of action for the next year. This plan should reflect the preservation interests and goals of the community and consider available resources.

It is a good idea for a commission to prepare two work plans — one that addresses short-term goals, and another for long-term objectives. All work plans should identify a timeline and assign responsibility for each work item.

Creating a Work Plan

A commission work plan should be kept brief and simple with specifically stated end goals. The objectives of a newly formed commissions often include the following:

- Inform and educate the public about the commission and its role, historic preservation issues and concerns, and the benefits of historic preservation to the community. This can be accomplished through promotional materials such as brochures, or Powerpoint presentations, public workshops, or other activities.
- Educate commission members about preservation topics and issues, such as identifying threats to historic properties, evaluating properties for historic significance, and creating incentive programs for rehabilitation.
- Initiate surveys of the community to identify significant historic properties and potential districts.
- Determine the criteria and procedures to be used for designation of a local landmark and a historic district, and set priorities for designation.
- Create design guidelines.
- Develop an awards program to recognize and honor local historic preservation efforts.
- Prepare a budget and identify requests for funding.

Example of an Annual Commission Work Plan

Here is an example of a preservation commission's annual work plan:

1. Adopt the preservation plan as the city's official historic preservation policy, and incorporate appropriate recommendations into the city's comprehensive plan.
2. Provide copies of the preservation plan to city departments, commissions, and county and regional planning agencies, accompanied by a notice that it represents the city's official historic preservation policy.
3. Provide copies of the plan for distribution to the general public, including the public library,

historical society, and other entities, accompanied by a notice that it represents the city's official historic preservation policy.

4. Identify locations where materials and brochures, such as a walking tour of the historic town square, can be made available to the public, including downtown businesses and the public library.
5. Amend the preservation ordinance to better facilitate the nomination of local landmarks, historic districts, and neighborhood preservation districts.
6. Send a letter of introduction to owners of properties listed in the recommendations section of the plan for National Register and State Register listings, including any survey forms on their property, information about relevant programs, and materials on financial incentives, as may be applicable; distribute a similar packet of information to local realtors and owners of listed properties.
7. Distribute copies of all completed architectural/historic survey forms to the present property owners of those documented properties.
8. Pursue National Register and State Register listings for properties that have owner support.
9. Create a neighborhoods committee, with liaisons from each of the city's neighborhoods, to work with the commission to develop some educational actions.
10. Initiate the development of a historic preservation resource section in the public library that includes information on the commission, the designation process, copies of all historic resource surveys, technical preservation resources, and other preservation-related materials.

Preservation Commission Record-Keeping

Keeping accurate and complete records is essential to effective commission operations. Meeting minutes are crucial administrative records that serve as evidence of the commission's deliberations and decisions.

Many commissions now record their meetings with either audio or video equipment. While this is a good practice and creates a more complete public record, a written record is still necessary. Written minutes continue to be the primary record and are referred to if the commission's decisions are ever called into question.

Contents of Meeting Minutes

Meeting minutes need to be prepared according to adopted policy and include the following elements:

- Date
- Identification of administrative body
- Full address of meeting location
- Names of members and staff in attendance

- Existence of a quorum
- Name of the chairperson
- Corrections and adoption of previous meeting minutes
- A clear statement on each separate item discussed or acted upon
- Name of the person who prepared the minutes

Online Posting of Meeting Summaries

Commissions should consider posting summaries of their meetings on an official website, either that of the commission or of the local municipality. The internet has become a favored means of accessing information and is readily accessible to almost everyone through schools, local libraries, and home computers. Commissions should take advantage of this inexpensive tool to effectively reach and inform the public.

Posting summaries of each commission decision quickly and effectively disseminates information and educates citizens on historic preservation issues, which will help the commission project a positive public image. As in the meeting, commission decisions posted online should include clear explanations of the rationale behind each decision and the criteria applied.

Paper Files

It is also important for commissions to place its minutes and other documentation, such as maps of local historic districts, copies of publication notices, and letters to property owners, in adequate working files. Maintenance of such files in a designated location is important. Often commission offices are moved from one location to another, and files can be misplaced or even lost.

Lost files can be detrimental to a commission if its actions are challenged and it does not have ready access to files that can support its decisions.

Designating Landmarks and Creating Historic Districts

A historic preservation commission has two key responsibilities:

- Designate (or recommend the designation of) properties as local landmarks
- Create local historic districts

A property receives a landmark distinction because of its importance to the community based on its historical, architectural, archaeological, engineering, or cultural significance. A historic district is a geographically defined area in a community that contains historic sites, structures, or buildings.

Designating a Landmark Property

Prior to designating a property, the commission must first have in place specific procedures and processes for nominating properties and established criteria by which to judge the nomination. Many of these procedures and processes will be set forth in the community's historic preservation ordinance. However, the commission will likely expand upon these basic guidelines and create additional materials to provide further guidance. Typically, communities use criteria similar to that used in nominations to the National Register of Historic Places.

Citizens as well as commission members should be able to nominate properties. To be fair and impartial, the nomination process needs to be fully open to the public. Public hearings on the nominations should be scheduled, and owners should be notified in a timely fashion. The commission should only proceed with individual designation if the property owner approves or if a majority of property owners approve within a proposed historic district.

Creating a Historic District

While National Register criteria is a good place to start, a commission will want to consider its community's unique character and needs when creating criteria for its local historic districts. Often the criteria for local districts will be more lenient than National Register district criteria, which enables more properties to be included and provides a wider amount of protection to historic resources.

When creating a historic district, it is important to get a head start on public education and support on the issue. Too often, commissions conduct their planning process in an isolated fashion and address the public only when they are about to execute a project. In the meantime, neighborhood rumor mills have been hard at work churning out misinformation about what is going to happen in their area:

- "They'll tell us what colors we have to paint our houses."
- "You won't be able to put on that addition you were planning."
- "Our taxes will go up and our property values will go down."

As a result of these rumors, owners may be convinced that their property rights are being violated, and fear and anger may rule the day.

To avoid this situation, it is imperative that the commission, along with any local preservation organization, embark on an educational and advocacy campaign well in advance of initiating a district designation. Here are some ideas:

- Hold public meetings and workshops to inform owners and residents what living in a historic district entails and show them the value of preserving their neighborhoods.
- Give them facts and details about the positive economic benefits of historic preservation using examples from other areas.
- Show them that they have a vested interest in preserving their neighborhoods.

- Develop good public relations strategies. Have positive articles in the local press, speak at local club and organization meetings, develop a positive slogan or motto and use it extensively.
- Communicate with public officials to keep them informed of the benefits of historic preservation and educate them about the role preservation can play in the community.

Designating Conservation Zones

An alternative to traditional historic district designation is to establish a conservation zone or district. Conservation zoning has been applied in historic neighborhoods across the country but has had limited usage in Wisconsin.

Conservation zoning should be considered by commissions as an available tool for protection and preservation of areas that may not qualify as historic districts or where public support for historic districts is lacking.

Criteria

Conservation zones are often applied to areas that may not fully meet the criteria for a local historic district, but where residents wish to control undesirable growth, changing land uses, and/or incompatible new designs. Conservation districts have also been approved for a number of low- to moderate-income areas.

Conservation zoning is sometimes a more attractive option for a neighborhood than historic district zoning. Conservation zoning requires review of only three design elements:

- New construction
- An addition to an existing property
- Demolition

Advantages and Disadvantages

The advantage of conservation zones is that they may generate more public support than historic districts because of the lower level of review. Such zones may also be more applicable to neighborhoods where much of the historic fabric has been compromised but interest remains in having compatible new construction.

The disadvantage of conservation zones is that this designation offers no review or enforcement for overall building rehabilitation. Within conservation zones, property owners can still apply synthetic sidings, replace original windows, and remodel porches without review. However, in most conservation zones, property owners seem more willing to pursue appropriate rehabilitation than in similar areas that are not designated as conservation zones.

Protecting Archaeological Sites

Archaeological sites are primarily protected at the federal level, so traditionally local commissions have had little authority over these historic resources. However, concern about archaeological sites is growing, and many commissions are increasingly being called upon to protect them.

Including Archaeological Sites in Preservation Planning

To better protect archaeological sites, commission members should include these sites in the community's preservation plan. Archaeological site protection should also be included in land use plans and zoning, development, and building permit processes.

Commission members should consult a professional archaeologist to develop the archaeological component of the preservation plan and public policies affecting archaeology. If your commission anticipates dealing with archaeology on a regular basis, it should seek a professional archaeologist to serve as a commission member.

Tips for Considering Archaeology in Planning

- Protect archaeological sites through local registers and historic districts
- Include an inventory of known archaeological sites in your preservation plan that contains information for judging the probability of the presence of sites as well as criteria for determining their significance
- Clearly define the review process concerning archaeological sites and stick to the established procedures so developers are less likely to make the process more difficult
- Require any projects concerning archaeological sites that come before the commission's review to be conducted by a qualified professional archaeologist
- Address the archaeological review of site development as early as possible to avoid delays
- Make sure enforcement rules are clearly defined and effective, and consider adding a clause that states, "No permits will be issued until an archaeological report is reviewed and approved"

Due Process in Public Preservation Hearings

A fundamental concept of the American legal system is the right to "due process," or equal treatment under the law. When due process is applied in the courtroom, the court's procedures are open and applied impartially and equally to everyone. This standard of fairness also applies to commissions and their proceedings.

Due Process Standards

Commissions should apply due process standards to all public hearings and property decisions they make. They can do this by:

- Following set policies and procedures
- Being impartial
- Making consistent decisions based on established guidelines
- Keeping clear and complete records

Commissions should strictly follow their local public hearing policies and provide ample public notice of hearings. This can be done through individual mailings, published notices in local newspapers, and posted notices. Individual mailings should be sent to people who are most directly affected, such as owners and residents of the property in question, and adjacent property owners. Commissions should also keep the State Historic Preservation Office informed with copies of notices, agendas, and meeting minutes.

Applying Due Process to Public Hearings

Public hearings should be held prior to governmental action affecting a property. Public hearings should be fair and efficient, and conducted in an orderly and business-like manner. It is helpful if at least one member of a commission has a good working knowledge of parliamentary procedures.

For the proceedings to be fair, the hearing must:

- Be held in a meeting open to the public
- Give fair notice of the proposed action and the grounds asserted for it
- Be conducted as an unbiased tribunal
- Provide an opportunity to present reasons why the proposed action should or should not be taken
- Provide an opportunity to present witnesses and relevant evidence

- Include a record of the proceedings with a statement of reasons

Public hearings have many of the same elements of courtroom proceedings, such as the presentation of evidence and testimony of witnesses. However, public hearings do not need to be as formal as courtroom proceedings as long as opposing interests have a reasonable opportunity to present their views. Most jurisdictions do not require that witnesses be sworn in at public hearings, but some municipalities have statutes that do require testimony under oath. Commission members should check with their local counsel to make sure they are complying with local laws.

Any interested parties have the right to be heard at a public hearing and should be given the opportunity. The commission can set reasonable time limits, but these limits must be applied equally to all parties. For example, the commission may allot a set amount of time to each party with a brief opportunity for rebuttal, and they may allow anyone to submit written comments for a period of time following the meeting.

It is important that commission members treat everyone fairly and impartially throughout a public hearing. Members should be polite, respectful, and give speakers their full attention. They should never express personal feelings about individuals. Commissions should always maintain control and decorum and not allow a meeting to get out of hand or become disruptive.

Good record-keeping of the proceedings is essential. Meticulous minutes will be helpful if questions arise later. In the case of an appeal, meeting minutes can help to support the commission's decision. Hearings should be audio or video recorded, and transcriptions should be made available to the public.

Defensible Decision-Making for Preservation

Commissions

When rendering a property decision, a commission must follow its own established criteria. By linking its decision to the applicable criteria, the commission will make certain that each party is treated fairly, and commission decisions will be consistent from case to case.

General Decision-Making Practices

When making a decision, commission members should follow these general practices:

- Listen closely to the evidence presented by both proponents and opponents, ask questions to clarify issues, and weigh the facts against the criteria.
- Base decisions on only the evidence provided.
- Avoid making a decision on a case until all the evidence and testimony has been reviewed.
- Clearly explain and present the rationale behind all decisions.

If a commission member has a conflict of interest, whether personal, financial, or otherwise, he or she should excuse himself from that particular case. If it is unclear whether or not a conflict of interest exists, the member should consult the commission's legal counsel.

If a commission has provided reasonable and fair due process and followed its legal policies and procedures, its record should be defensible in the case of an appeal or a court battle over its actions or decisions.

Review Process

The following points for ensuring the efficiency and legality of the review process are based on an article by Stephen Dennis, former Executive Director of the National Center for Preservation Law:

- Commission members must avoid appearing arbitrary or capricious. Decisions must be based on and supported by evidence presented at the hearing.
- Commission decisions should be clear and comprehensible, with specific and substantial details that explain and support the decision in both the meeting minutes and decision letters to applicants.
- Commission decisions should indicate the significance of the structure or district involved. The propriety of a decision might be based on the historical significance of a historic resource, and it is important to place the property in a context that can be easily and convincingly explained.
- Commission members need to have a thorough knowledge of existing precedents. Decisions should be consistent with precedents and based on accepted criteria. If a commission approves a project and months later denies a similar project, the denied applicant could use the earlier decision against the commission in an appeal. If there are unique reasons or circumstances why a project is appropriate for one property and not another, the rationale must be clearly explained to justify the decision.
- Commission members need to anticipate potential controversial issues and arguments that might come before them. Good legal counsel can help guide commissions on particularly complicated issues.
- A commission should address each issue of an application individually. Some applications have a variety of issues that require separate decisions, and the commission must not allow the applicant to confuse the issues.
- Commission members need to thoroughly question "experts" hired by applicants whose testimony does not seem credible. When a commission does not discuss or question testimony, it gives the appearance of support. If commission members question witnesses and challenge their assumptions and conclusions, the record will demonstrate the commission's decision-making process.
- Local preservation organizations or neighborhood groups can supplement a commission's work on individual applications. When a commission is faced with powerful and influential

developers, public support can boost the defense of a challenged commission's actions. Finally, a commission should ensure that all of its actions conform to relevant provisions of the state statutes and the state administrative code. Again, good legal council will assist with this matter.

Appeals Process and Enforcement

Each commission should establish procedures for appeals to its decisions and the enforcement of its decisions. These procedures, and the consequences of not complying with a commission's ruling, should be detailed in the community's historic preservation ordinance as well as the design guidelines.

Appeals

Typically, appeals will be made to the local governing administrative body, such as the city or town council or to local courts. If the commission has kept good records and has been conscientious about clearly stating how it reached its decision, it will be in a good position for the appeal. Again, decisions should be based on facts and evidence, and be consistent with adopted procedures or guidelines.

Enforcement Measures

The enforcement of decisions is an unpleasant, but necessary, responsibility of commissions. When a property owner deviates from a Certificate of Appropriateness (COA), he or she is in violation. Work undertaken contrary to an original approval in a COA or beyond the scope of the COA requires further approval from the commission or its staff. If a violation occurs, these measures are often taken:

1. The building inspector issues a stop work order. If the work does not meet the design guidelines, the commission may require that the work be redone.
2. If the property owner does not respond to the stop work order, the building inspector may issue a citation for violating the order. The owner will be given deadlines for responding.
3. If the property owner still does not respond, the building inspector may issue a citation to appear in court. Any work that deviates from the COA without approval is considered a violation. Penalties and fines will be applied, with each day of continuing violation constituting a separate offense.

It is of the utmost importance that the commission has a good working relationship with the building inspector's office and communicates well with its staff. The building inspector needs to be fully aware of the commission's policies and its enforcement regulations. It is essential that the building inspector's office and other government agencies take violations to the historic preservation ordinance seriously.

Ensuring Success with Enforcement Actions

Communication and good relationships are the keys to enforcement of commission decisions. Much of how enforcement plays out will depend on the image and perception that the community and local government have of historic preservation and the commission. If local officials value preservation and the work of the commission, or at least view it in a positive light, the commission will receive more cooperation with enforcement from the agencies involved. If they are unaware of what the commission does or have had little positive connections with the commission, they will be less likely to recognize its importance. Therefore, it is important for the commission to maintain good relationships with other governmental agencies and departments by:

- Making sure they are familiar with the community's preservation ordinance, the role of the commission, and its policies and procedures; and
- Keeping them informed of the commission's activities (encourage them to attend commission meetings and send them copies of minutes, press releases, and other information).

In turn, commission members should also keep abreast of the activities of city hall and attend meetings of the city council at least once a year. The mayor should be asked to appoint a liaison from the city council to the commission. Such a liaison would increase communication between the commission and city council and keep everyone apprised as to concerns and issues. If an issue arises on which the elected officials or other agencies do not agree, the commission should make its recommendation or decision according to the commission's duties as outlined in the ordinance. Elected officials can then act on the recommendation or reject it. Working outside the governmental process or using inflammatory language or threats to elected officials often backfires and is counter productive.

It is also important to extend this proactive approach to the community at large. Advocacy, education, and public relations are often the best enforcement tools and are essential to compliance with the local preservation ordinance. The commission needs to have a good relationship with residents and owners in local districts. The commission should strive to have a good image, to be known throughout the community, and to be positive. A commission can take a proactive approach by doing the following:

- Encourage public attendance and participation in commission meetings.
- Launch a long-range education and advocacy campaign to enhance the community's understanding and value of historic preservation.
- Ask for community input when developing preservation plans and design guidelines.
- Welcome newcomers and provide them with information about the district, design guidelines, and the value of owning a historic home.

Commissions need to work with local leaders to recognize that violations of commission decisions are similar to other citywide nuisance laws such as health violations, leash laws, and parking laws. Reasonable but significant fines should be applied so owners respond quickly. In some communities, such as New Orleans, the fines for violating a stop work order can be as much as \$500 per day. Other

communities have much smaller fines, such as \$50 per day. Each community should review its enforcement guidelines to see if they have worked and are perceived as reasonable but also with some teeth.

Enforcement ultimately comes back to the original decision of the commission, so the commission needs to make thoughtful, impartial decisions that are based on established criteria and procedures. If a commission decision is challenged, the courts will be more accepting of the commission's judgment if it followed established rules and procedures. If compliance with COAs is a repetitive problem, the commission should review its ordinance and guidelines.