

CITY OF MERRILL
HISTORIC PRESERVATION COMMITTEE
Thursday, May 13, 2021 at 5:15 P.M.
City Hall Council Chambers
1004 E. First Street

AGENDA

Voting members of Committee: Alderperson Paul Russell, Chairman, Bea Lebal, Elizabeth McCrank, Michael Caylor, Jr. and Alderman Steve Sabatke.

To attend remotely, call 470-839-8387 and meeting PIN 585 385 076#

1. Call to order
2. Approval of April 8, 2021 Minutes
3. Discussion and Recommendations on Ordinance Revisions
4. Discussion on Procedure and Policies for new nominations for Historic Structures
5. Discussion on Historic Preservation Standards
6. Update on TB Scott mansion tower
7. Public comment
8. Set date, time of next meeting.
9. Adjourn

Agenda prepared by Shari P. Wicke
Agenda reviewed by Chairman Paul Russell

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**City of Merrill
Historic Preservation Committee
Thursday, April 8th, 2021 at 5:15 P.M.
City Hall Common Council Chambers, 1004 East First Street**

Voting Members Present (5 of 5): Jeremy Thompson, Alderman Steve Sabatke, Elizabeth McCrank, Bea Lebal and Alderman Paul Russell.

Others meeting attendees (either in-person or remotely) included: City Administrator Dave Johnson, Building Inspector/Zoning Administrator Darin Pagel, City Attorney Tom Hayden, I/T Manager Dustin Brown, Heather, O'Neill, Michael Caylor, Tina Scott (arr. 5:31 – Remote) and City Clerk Bill Heideman. Merrill Productions was present to videotape the meeting.

Call to order

Alderman Russell called the meeting to order at 5:16 P.M.

Minutes of previous meetings

City Clerk Heideman requested that he be allowed to amend the February 22nd, 2021 minutes to include Tina Scott as an attendee. Without objection, it was so ordered.

Motion (Sabatke/Thompson) to approve the February 17th, 2021 minutes, the February 22nd, 2021 minutes (as amended) and the March 11th, 2021 minutes. Carried.

Discuss policies and procedures for new nominations of historic structures

Building Inspector/Zoning Administrator Pagel stated that the fundamental question to address is the intent of the committee on designating historic structures. Does the committee want to designate structures without the owner's consent?

Alderman Sabatke stated that he is not in favor of "subjecting" property owners to designation. He then cited a list of potential historic structures. This list was created in 1992. He urged that the list be updated and then used a tool for considering future designations. Twelve (12) properties per year can be added to the list. The last time the list had addition(s) was in 2011. All properties on the list were included at the request of the property owners.

Alderman Russell urged that the list be updated regularly.

Discussion was then held on building demolition policies.

Bea Lebal raised the question of whether commercial buildings should be included as potential historic structures.

Elizabeth McCrank suggested caution if/when the ordinances are updated, in order to encourage attracting property owners for potential historic designations.

Alderman Russell reported that City Attorney Hayden is drafting an ordinance for consideration. The ordinance would expand the Historic Preservation Committee to include more members.

Jeremy Thompson issued a reminder that, while the Historic Preservation Committee can recommend historic designations, the City Plan Commission has the authority to make the final decision.

City Attorney Hayden suggested the possibility of the joint meeting (Historic Preservation Committee & City Plan Commission) to discuss these issues.

Alderman Sabatke suggested that, as a starting point, the committee should consider a limited number of properties (12 to 20) for designation. Properties to be considered should be "high-profile" properties.

Bea Lebal stated that she is hesitant to recommend designating additional properties at this time. It seems to her that the committee is currently five people with five different ideas. She would like to see the committee take a "step back", analyze the current situation and establish some clear goals before moving forward.

Building Inspector/Zoning Administrator Pagel again stated that the crucial unanswered question is related to the committee's intent. He suggested that something as simple as changing "shall" to "may" at several places in the ordinance as a possibility.

No action was taken.

Discussion on historic preservation standards

Due to time constraints, this agenda item was not discussed. It will be placed on the next meeting agenda.

Public Comment Period

Michael Caylor thanked the committee for restarting to address historic issues. He hopes that consideration be given to putting procedures in place to, in some manner, honor famous Merrill citizens of the past.

Heather O'Neill stated that she is opposed to changing "shall" to "may" several times in the ordinances related to historic preservation. In her opinion, the City needs to get "tougher", not weaker, on matters of historic preservation. She urged the City and the Merrill Historical Society to work together.

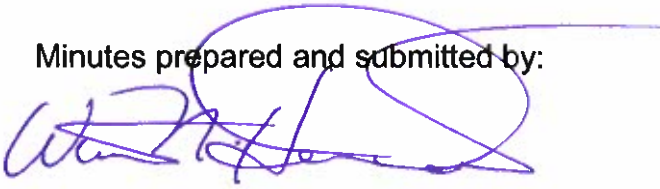
Establish date, time and location of next meeting

Thursday, May 13th, 2021 at 5:15 P.M. in the City Hall Common Council Chambers.

Adjournment

Motion (Sabatke/Thompson) to adjourn. Carried. Adjourned at 6:03 P.M.

Minutes prepared and submitted by:

A handwritten signature in blue ink, appearing to read 'William N. Heideman', is written over the text 'Minutes prepared and submitted by:'. The signature is fluid and cursive, with a large loop at the end.

William N. Heideman CMC, WCMC
City Clerk

CITY OF MERRILL

1004 EAST FIRST STREET
MERRILL, WI 54452-2586

ORDINANCE NO. 2021-

Introduced: _____

1st Reading: _____

2nd Reading: _____

3rd Reading: _____

Committee/Commission Action: _____

AN ORDINANCE:

Re: Amending Chapter 38, Article VII, Section 105-314 through 105-322 Historic Preservation

AN ORDINANCE

The Common Council of the City of Merrill, Wisconsin, does ordain as follows:

Section 1. Chapter 38, Article VII, Section 105-314 through 105-322 of the Code of Ordinances for the City of Merrill is amended to read as follows:

Sec. 105-314. Definitions.

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

Committee means the historic preservation committee created under this article.

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

~~*Historic permit* means the permit issued by the building inspector approving the alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.~~

~~*Historic site* means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this article, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as 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 culture characteristics of the city, state or nation and which has been designated as a historic structure pursuant to the provisions of this article.

~~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.~~

Sec. 105-315. Historic preservation committee.

A historic preservation committee is hereby created, consisting of five members, ~~Of the three citizen members, if available in the community, one shall be a registered architect; one shall be a historian; and one shall be a licensed real estate broker. The remaining members shall be and two alderpersons.~~ The community development representative Building Inspector shall serve on the committee as an ex officio nonvoting member. The mayor shall appoint the members of the committee, subject to confirmation by the common council. Of the initial citizen members so appointed, one shall serve a term of one year, one shall serve a term of two years, and one shall serve a term of three years. Thereafter, the term of each citizen member shall be three years.

Sec. 105-316. Historic structure, historic site and historic district designation criteria.

For purposes of this article, a 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 nation, 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 age; or
- (5) Have yielded, or may be likely to yield, information important to prehistory or history.
- (6) No property shall be designated without the expressed written consent of the owner.

Sec. 105-317. Powers and duties.

- (a) *Designation.* The historic preservation committee shall have the power, subject to section 105-318, to designate ~~no more than 12 historic structures and historic sites annually and to recommend designation of no more than two historic districts annually~~ within the city limits. Such designations shall be based on section 105-316 and ~~Historic districts shall be approved by the common council, after consideration by the city plan commission.~~ Once

designated, such historic structures, sites and districts shall be subject to all the provisions of this article.

- (b) *Hearing.* Prior to the designation of any property or district, the historic preservation committee shall hold a preliminary public hearing to determine whether the proposed historic site or historic district structure meets the qualifications for designation under this article. ~~This preliminary hearing shall be in addition to the hearing required under section 105-348.~~ The committee shall give notice of the hearing in accordance with the requirements of the state Open Meetings Law, as amended from time to time. The historic preservation committee shall consider testimony from any interested individual at the preliminary hearing and forward their recommendation to the common council.
- (c) *Regulation of construction, reconstruction, alteration and demolition.*
 - (1) ~~The historic preservation committee shall establish historic preservation standards to be used in determining whether proposed alterations to a historic structure or in a historic district are appropriate under this article.~~
 - (21) No owner or person in charge of a historic structure, ~~historic site or structure within a 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 historic preservation permit has been granted by the historic preservation committee or its designee, who is the building inspector, and approved by the common council.~~
 - (3) ~~Upon the filing of any application for a historic preservation permit with the building inspector, the inspector shall notify the historic preservation committee of the application and 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 feature of the improvement or site upon which said work is to be done or otherwise violate the historic preservation standards established by the historic preservation committee;~~
 - b. ~~In case of the construction of a new improvement upon a historic site, or within a 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 or otherwise violate the historic preservation standards established by the historic preservation committee;~~
 - c. ~~In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this article and to the objectives and design criteria of the historic preservation plan for said district or otherwise violates the historic preservation standards established by the historic preservation committee;~~
 - 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; or~~

- ~~f. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.~~
- ~~(4) If the building inspector or the historic preservation committee determines that the application for a historic permit and the proposed changes are consistent with the character and features of the property or district, the inspector shall issue the historic permit. This decision shall be made within 15 days of the filing of the application.~~
- ~~(5) Should the inspector or the historic preservation committee fail to approve a historic permit due to the failure of the proposal to conform to the historic preservation standards or the provisions of this article, the applicant may appeal such decision to the common council within 45 days. In addition, if the historic preservation committee fails to approve an historic permit, the committee shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain an historic permit within the guidelines of this article.~~
- ~~(6) The issuance of an historic permit 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 historic permit required for the proposed work. There will be no charge for an historic permit.~~
- ~~(7) Compliance with the historic permit shall be started within 12 months after the issuance of the permit, and the work shall conform to the provisions of the permit. Failure to comply with an historic permit or failure to obtain an historic permit 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.~~
- ~~(8) Ordinary maintenance and repairs may be undertaken without an historic permit, provided that 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 structures or site and does not require the issuance of a building permit.~~
- (d) *Recognition of historic structures, sites and districts.* At such time as an historic structure, site or district has been properly designated, the historic preservation committee may cause to be prepared and erected on such property at the city's expense, subject to common council approval, 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.

Sec. 105-318. Procedures.

- (a) *Designation of historic structures, sites and districts.*
- (1) *Designation.* The historic preservation committee may recommend and the city plan commission may, after notice and public hearing, designate historic structures and historic sites and recommend historic districts, or rescind such designation or

recommendation, after application of the criteria in section 105-316. At least ten days prior to such hearing, the ~~plan commission~~ historic preservation committee 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 200 feet of the boundaries of the property affected, ~~or within the boundaries of the historic district.~~ These owners shall have the right to confer with the ~~plan commission~~ committee prior to final action by the ~~plan commission~~ common council on the designation. Notice of such hearing shall also be published as a Class 1 notice, under the state statutes. The plan commission shall also notify the following departments or individuals:

- a. Mayor;
- b. Community development;
- c. Health and safety committee;
- d. Building inspector;
- e. Director of finance;
- f. City clerk;
- g. City assessor;
- h. City attorney; and
- i. Alderpersons.

~~Each recipient of notice may respond to the commission within 30 days of notification with its comments on the proposed designation or rescission.~~

- (2) *Hearing.* The ~~plan commission~~ historic preservation committee 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 plan commission may conduct an independent investigation into the proposed designation or rescission. Within 20 days after the close of the public hearing, the plan commission may designate the property as either a historic district, historic structure, or a historic site, or recommend its inclusion in a historic district, or rescind the designation.~~ After the designation or rescission has been made, notification shall be sent to the property owner. Notification shall also be given to the city clerk, building inspector and the city assessor. After approval by the common council the ~~The~~ historic preservation committee shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office, ~~or the recommendation to be submitted to the common council as provided by subsection (c) of this section.~~

~~(b) Creation of historic district.~~

- (1) *Defined areas.* ~~For preservation purposes, the historic preservation committee shall select geographically defined areas within the city to be designated as historic districts and shall, with the assistance of the plan commission, prepare a historic preservation plan for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city, after application of the criteria in section 105-316. Each historic preservation plan prepared for or by the historic preservation committee 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.~~

~~(2) Review and adoption procedure.~~

- ~~a. Historic preservation committee. The historic preservation committee shall hold a joint public hearing with the plan commission when considering the plan for a historic district. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 1 notice under the state statutes in the official city newspaper. Notice of the time, place and purpose of the public hearing shall also be sent by the city clerk to the alderperson of the aldermanic district 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 200 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 committee and plan commission shall separately vote to recommend, reject or withhold action on the plan.~~
- ~~b. Common council. The common council, upon receipt of the recommendations from the historic preservation committee and plan commission shall hold a public hearing, notice to be given as noted in subsection (b)(2)a. of this section and shall, following the public hearing, either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.~~

~~(eb) Appeal. Any decision of the historic preservation committee may be appealed to the common council pursuant to the provisions of section 2-212.~~

Sec. 105-319. 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 committee at which a nomination form is first presented until the final disposition of the nomination by the historic preservation committee 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 60 days.

Sec. 105-320. Conformance with regulations.

Every person in charge of a historic structure, historic site or improvement in a historic district shall maintain same or cause or permit to be maintained in a condition consistent with the provisions of this article the City of Merrill Municipal Code. The common council may appoint the building inspector or any other individual or group of individuals to enforce this article Building Inspector is appointed as the enforcement official.

Sec. 105-321. Penalties.

Any person or persons violating any provisions of this article shall be subject to a general penalty as provided in section 1-7. Notice of violations shall be issued by the building inspector. ~~Specific forfeitures will be by action of the common council.~~

Sec. 105-322. Emergency conditions.

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

Section 2. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 3. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Approved:

Moved by: _____

Adopted: _____

Approved: _____

Published: _____

Derek Woellner, Mayor

Attest:

William N. Heideman, City Clerk