

From: Scott Mitchell [<mailto:smitchell82@gmail.com>]

Sent: Friday, November 17, 2017 12:05 AM

To: Leslie Soden <lsoden@lawrenceks.org>; Stuart Boley <sboley@lawrenceks.org>; Mike Amyx <mamyx@lawrenceks.org>; Matthew Herbert <matthewjherbert@gmail.com>; Lisa Larsen <llarsen@lawrenceks.org>

Cc: Tom Markus <tmarkus@lawrenceks.org>; Scott McCullough <smccullough@lawrenceks.org>; Lynne Zollner <lzollner@lawrenceks.org>; Diane Stoddard <dstoddard@lawrenceks.org>

Subject: Re: Historic Resources Commission - Update

Commissioners,

I wanted to provide you with an update on the Historic Resources Commission action on a local landmark nomination I oppose - 1655 Mississippi St. Like all nominations before it, the landmark nomination was approved by the HRC tonight (6-0). As I'm sure you have many issues before you, I'll remind you that the my neighbors and I are opposed to the landmark designation and our inclusion in the environs (250 ft radius) around this property that requires we obtain certificates of approval from the HRC for major projects.

There is clear opposition to this from homeowners within the environs of this property. 15 properties are opposed and 6 properties supported the nomination by my count. We had a large number of residents weigh in on the nomination, including Lawrence residents that live well outside of the environs and are not impacted. Some properties (including me) weighed in multiple times for the public record over the past 3 months. Attached is a list by property that I compiled for the record based on letters submitted. Unfortunately for those of us in the environs, current code does not allow us to vote on our inclusion.

As I said to the HRC, it was not lost on me that I was explaining our case to a commission that is made up of members of the organization that made the nomination, the Lawrence Preservation Alliance. At least 4 commissioners are current or recent members of the LPA. At least 2 commissioners have been or their spouse has been a past board member and officer of the Lawrence Preservation Alliance. 2 commissioners are past paid suppliers of work for the Lawrence Preservation Alliance. This seems to be within the letter of the law, but it is frustrating to find out that the government body that makes these recommendations to you is made up of members of the very organization that is funding and creating the nomination we oppose! It certainly doesn't seem fair and impartial, and it is hard to believe that our concerns were heard by such a group. I understand the need for some preservation experts to make determinations, but it is troubling to me that these memberships are not disclosed in some way to the public during this process and that we can't find a more impartial group.

I will certainly speak about my stance and submit a statement when this nomination comes before the City Commission (I've also attached my statement from last night). I also hope to lobby city staff for broader changes to the Chapter 22 environs code as I oppose this nomination. The environs review of the area around local landmarks is unique to Lawrence. I've found no other city in the country that has such a review when tax credits are not involved. The President of the Lawrence Preservation Alliance noted last night that the Chapter 22 code hasn't been updated in decades. The LJWorld published articles discussing the public's requests to update the environs code as far back as the 90's. I feel it is a costly and slow process

for homeowners that we should not have to deal with without our consent. Last night a local builder at the meeting for another issue supported this notion. I urge you to listen to his comments when published as I've spoken to others outside our environs area that feel the same way.

My hope now is that you will listen to the concerns of the residents in the environs of this property when this nomination goes before the City Commission. I will continue to communicate with city staff and hope to somehow influence a timely and real review of the Chapter 22 code. I believe there needs to be considerable improvement in the code. Opening up the code to public comment and benchmarking ourselves with other communities will result in an outcome that reflects the desires of all residents, not just those affiliated with the Lawrence Preservation Alliance. I have been hesitant to gather support outside of our environs zone or write letters to the paper thus far. Please let me know if there is anything I can do to lay out our arguments and concerns about the current Chapter 22 code and this nomination in a more comprehensive and clear manner that isn't in our letters to the HRC.

Thank you for your attention to this matter once again. I'd like to add again that while I strongly disagree with the utility of the current Ch. 22 code and this outcome, I appreciate Lynne Zollner and the rest of the staff's prompt replies to my questions and requests.

Scott Mitchell
1648 Mississippi St.

On Oct 20, 2017, at 11:51 AM, Scott Mitchell <smitchell82@gmail.com> wrote:

Commissioners,

I wanted to send you an update to my email last month regarding the Historic Resources Commission (HRC). I have 4 items I'd like some help addressing at the end of this email. Two are procedural questions.

I am opposed to the 'environs' review portion of Chapter 22 code. I believe it is a bad policy that does not pay respect to resident wishes as it impacts our property without our consent.

A procedural issue pushed all September landmark decisions to last night's HRC meeting. Last night the issue was pushed yet again to next month's meeting because the commission had a 2-2 split. 11 of my neighbors have now noted their opposition to their inclusion in the environs. 3 support the nomination (I believe).

Lawrence is the only city in Kansas that I've found with this review of the 250 foot 'environs' property improvements of the city's 128 local landmarks. Topeka, KC and Wichita all do not have such a review. The state does not do this design review of properties near state historic properties. I have even yet to find another city in the US with this review when there are no tax incentives involved. Why do Lawrence residents have to be subject to this potentially costly, time consuming, and burdensome regulation?

I also have concerns about the cozy relationship between the Lawrence Preservation Alliance (LPA) and the HRC. The Lawrence Preservation Alliance prepares most nominations. 100% of the 128 nominated properties have been approved, despite decades of neighbor opposition to the environs. I realize that Lawrence is a small town and that preservationists must have a say in this process. However, I believe that part of the reason for the 100% approval rate is the number of commissioners with a relationship between the Lawrence Preservation Alliance and the HRC. Members of the present HRC have had financial relationships with the Lawrence Preservation Alliance and some are members of the LPA. I want to be clear that I have no reason to believe the commissioners are not within the letter of the law (I don't even know what the law is for such committies), but it appears to an outsider that the optics, process and spirit of the law are stretched thin.

At last night's meeting it was announced that city legal staff is looking at the current Chapter 22 (historic preservation) code. I am happy to hear that the code is being improved as my last letter pointed out numerous issues. I feel strongly about this matter because of this process and I think there are a number of things that need to be improved in Chapter 22.

Please help me address four things in the interim:

1. It appears that Chapter 22-701 code has been violated. This section states impacted residents must be notified when there is a hearing. The nominations were pushed one month, yet impacted residents were not notified of the second hearing. I'm currently confused about when the nominated properties will be discussed again. All impacted residents and the public should be notified each time there is a hearing, as the code states. Please urge staff to improve the updating and reporting to residents impacted by the current nominations. What are the penalties for violating code and how do I explore this?
2. Verify that pushing the nomination decision to a third meeting is not a violation of Chapter 22 Section 404.2. This section says that following a hearing, a decision has to be made to nominate, not nominate, or make no recommendation to the City Commission. We've now had two hearings and we've pushed the decision to a third meeting. Last night it was a 2-2 split, but they opted to wait to vote for more commissioners even though there was a quorum. The code makes no allowance for continuances. This appears to me to be a violation of procedure as well. Is there an ordinance that supersedes Chapter 22 that I don't know about that allows for this?
3. Consider holding all nominations until Chapter 22 has been addressed by the city staff and the public. Your commission currently has a number of nominated properties waiting to be approved in future meetings. The city staff stated last night that they are planning to open Chapter 22 code and address issues brought up regarding the environs. Nominations should be held until these changes are made. Impacted residents cannot address rules that they don't know about at the moment.
4. Reconsider the make up of the HRC and verify that the HRC is clear of all financial relationships with the Lawrence Preservation Alliance (the nominating organization). I know of two current commissioners that have received past publicized funds and work from the LPA and

others are current members. With a 100% nomination success rate, I believe that the make up of the HRC needs to be altered to allow voices other than those affiliated with the nominating organization a better chance to be heard at this level. Why have an advisory board if all nominations are rubber stamped?

For further background, attached are some letters from residents that oppose the nomination of 1655 Mississippi. Several more were submitted to the HRC at the meeting that I do not have copies of. Last month a number of residents of other nominated properties also spoke out against the environs.

Thank you for your help and attention to this matter.

Scott Mitchell
1648 Mississippi St.

<HRC Opposition Letters.pdf>

On Sep 21, 2017, at 12:29 PM, Scott Mitchell <smitchell82@gmail.com> wrote:

Commissioners,

Attached is a letter I have submitted in opposition to the historic designation of a home under consideration for the Lawrence Historic Register this evening. When approved (no nomination has not been approved in my research), I plan to make some of the same comments at the next city council meeting.

I wanted to send it to you in advance as I believe there are particular issues with the intentionally fast designation process and Chapter 22 code that need to be addressed.

Thanks,
Scott Mitchell

<1655 Mississippi Nomination.pdf>

Statement to the HRC - 11/16/17

It won't come as a surprise to you to hear that I still do not believe that this nomination should go forward. This has been a divisive process for the neighbors because of the city's process. A mailer or letter went out in support of the nomination and Lynne spoke to the neighborhood on a similar initiative this month. As a result, we've now had residents that live outside of the environs boundaries weigh in on the matter. Since we're going on three months of this there have been duplicate letters written in for properties. I've gone ahead and done the math. There is clear opposition to this for those that live within the environs. The count is 15 neighbors against the nomination and 6 neighbors in support.

This home does not warrant special protection from my possible home renovation, particularly not in a manner that strips my rights without consent. There are thousands of homes of this style in the region. If you want to make the argument that it is old and a common style, then why don't we just go about changing code for all of Lawrence east of Iowa?

Chapter 22 is riddled with inconsistencies and vague standards. I've pointed out only a handful in my correspondence the past two months. After following the HRC meetings over the past few months, I'm even more concerned about the wording and process environs homeowners are put through. I truly worry that because of the state of the current code, I'm going to be subject to the design whims of an appointed group that may greatly differ from this one in the future. This code needs to be much more specific if this is the path residents want to go down – just in the last two months we've had discussions about allowing a distinct contemporary addition and what it means to still be compatible with the existing structure. These unclear definitions and standards look like serious trouble if a resident wants to contest them. I'm surprised that such code has persisted this long. I've yet to find another city in Kansas or in the entire country that has a code that creates a district without owner consent (and environs is just another name for a historic district).

Last month the thought was put forward that this designation will protect the property from future development in the open front yard. I'm not sure that will be the case. The nomination protects the structure, but there is no discussion of the property line or yard. Perhaps an argument can be made that the HRC can weight in, however, Chapter 22 outlines that a future owner of the property can approach the city to remove a designation. The HRC and city council have to then make the property 'highly significant' to keep the designation against an owner's wishes. This more restrictive designation requires 2/3 approval of the two commissions and that the property, among other requirements, be one of the only or one of a few examples of this architectural style in the city. As the nomination and the city staff have stated, this is a common style in the city so that standard won't be met. If the future preservation of the lot is the end goal, there are other legal means to do so without adversely impacting the neighbors.

This nomination imposes regulations that the clear majority of neighboring homes object to. Why should I be required to ask for permission to make alterations to my home in perpetuity simply because I reside close to a house that, by the nomination's own admission, is a common style? The entire process appears unfair and stacked against those that oppose this. We were originally only given just over two weeks notice that this process was unfolding before objecting

to the timing. Chapter 22 code does not provide us the ability to vote on this matter as a district as it does for the other districts. I'm even here pleading our case to a commission that is made up of commissioners that are members, past board members, and past paid suppliers of work for the nominating organization, the Lawrence Preservation Alliance. 100% of past nominations have been approved, most unanimously. These procedures and this inbreeding make it hard for many of us to believe that we're going to get an impartial and fair hearing here today.

By my count we have 15 environs properties against this nomination and 6-7 environs properties in support. There is clear opposition from the neighbors. I urge you to put your associations with the LPA aside and listen to the request of the majority of the citizens that you were appointed to serve.

Thank you-
Scott Mitchell
1648 Mississippi St.

Commissioners,

Letters of support and opposition have been submitted to you over the past 3 months. Some properties have submitted multiple letters since this process has stretched over 3 months or to make it clear that there are multiple residents in a home. A fair number of Lawrence residents outside of the environs have also weighed in.

I want to highlight for the stance of those neighbors that live in the environs. There is clear opposition within the environs if each property is given one vote, 15-7. Below is the current stance of the neighbors.

Environs Homeowners

Address	Last Name	Stance
1701 Illinois	David	No
1656 Illinois	Snyder	No
1708 Illinois	Padget	No
1652 Illinois	Beecher	No
1630 Illinois	Legler	No
1638 Illinois	Strong	No
1705 Illinois	Hersh	No
1649 Illinois	Huston	No
1637 Illinois	Berger	No
1647 Miss	Beedles	No
1713 Miss	Krause	No
1648 Miss	Mitchell	No
1701 Indiana	Chapin	No
1657 Indiana	Slusky	No
1709 Indiana	Kriecker/Jones	No
1646 Illinois	Sundeen	Yes
1641 Miss	Young	Yes
1655 Miss	Rice	Yes
1714 Miss	Earnhart	Yes
1652 Miss	Wilkins	Yes
1701 Miss	Wilkins	Yes
1653 Indiana	Alla	Yes

Homeowners Outside Environs

Address	Last Name	Stance
1733 Miss	Smith	Yes
1709 Louisiana	Frick	Yes
1729 Miss	Evans	Yes
1804 Miss	Cole	Yes
1716 Miss	Dutton	Yes
1724 Miss	Pierce	Yes
3010 Harvard Road	Rappaport	Yes
1728 Miss	Phillips	Yes
1624 Indiana	Charlon	YES
1720 Indiana	Burkhead	Yes
1721 Indiana	Pierce	Yes