

PLANS AND POLICIES COMMITTEE MEETING

October 25, 2023

1:30 p.m.

2nd Floor West Conference Room (Busch Building)
840 Boonville Avenue

MEMBERS

PRESENT: Abe McGull, Chair; Callie Carroll; Craig Hosmer; and Derek Lee.

MEMBERS

ABSENT: None.

COUNCIL/ STAFF

PRESENT: Monica Horton, Zone 1 Councilmember; Jason Gage, City Manager; Collin Quigley, Deputy City Manager; Maurice S. Jones, Deputy City Manager; Michael Sparlin, Senior City Planner; Amanda Ohlensehlen, Director of Economic Vitality; Brock Rowe, Director of Building Development Services; Cora Scott, Director of Public Information and Civic Engagement; Kyle Tolbert, Assistant City Attorney; Anita Cotter, City Clerk; and Lauren Fischer, City Clerk Administrative Specialist.

GUESTS: Christine Schilling, Commercial Street Community Improvement District and Commercial Club; Shelly Gibson, Midtown; Jack McGee, *Springfield Daily Citizen*; Mary Collette, Commercial Club; Layne Hunton, Throughline Architecture and Landmarks Board; and Marta Mieze, *Springfield News-Leader*.

Councilman Abe McGull, Chair, called the meeting to order at approximately 1:36 p.m., and roll call was conducted. Present: Callie Carroll, Derek Lee, Craig Hosmer, and Abe McGull. Absent: None.

Councilman Hosmer moved to approve the minutes of the September 20, 2023, meeting as presented. Councilwoman Carroll seconded the motion, and it was approved by the following vote: Ayes: Carroll, Hosmer, Lee, and McGull. Nays: None. Absent: None. Abstain: None.

Councilman McGull discussed the proposed resolution to update the historic building survey and apply for a Historic Preservation Grant (Exhibit A). He noted the proposed resolution was scheduled to go before City Council on November 6, 2023. Kyle Tolbert, Assistant City Attorney, clarified with the Committee members the motion to present the proposed resolution to City Council was passed during the previous Plans and Policies Committee meeting.

Councilman Hosmer asked if the resolution was contingent on the City receiving the Historic Preservation Grant. Mr. Tolbert responded the grant would not be contingent on the historic building survey. Councilman Hosmer asked if the survey would still be completed if the City did

not receive the grant. Mr. Tolbert responded the proposed resolution instructed the City Manager to pursue an updated historic building survey while concurrently applying for the Historic Preservation Grant.

Councilman McGull noted the next agenda item was the continued discussion of demolition by neglect. He introduced Mr. Tolbert as the presenter.

Mr. Tolbert provided an overview of the St. Louis, Missouri, demolition by neglect, Ordinance 69735. He noted St. Louis Ordinance 69735 was adopted in 2014 and had not been used by St. Louis city staff. He explained the ordinance was created to address demolition by neglect and used information regarding previously-identified high-merit historic properties. He noted the ordinance provided standards used to identify demolition by neglect of the high-merit historic properties and provided information regarding enforcement methods, such as prosecution of the person in control of the property or an administrative hearing procedure.

Mr. Tolbert explained, based on a previous ordinance used in St. Louis, the buildings were evaluated and classified into one of four categories: high merit, merit, qualifying, and noncontributing. He noted a high-merit building was defined as a major contributor to a historic district or deserving of consideration as a historic landmark. He noted the demolition by neglect ordinance only applied to high-merit buildings, which if structurally sound, may not be demolished.

Mr. Gage asked how the St. Louis staff members differentiated between the phrase “major contributor to a historic district” when defining high-merit buildings and “contributes to a historic district” when defining merit buildings. Mr. Tolbert responded it was left to the discretion of the Department of Cultural Resources, but he would verify the information.

Mr. Tolbert discussed potential issues regarding St. Louis Ordinance 69735. He noted one issue would be the cost to the City to keep an up-to-date list or inventory of high-merit buildings. He further noted some property owners could challenge the high-merit designation of their property if the designation carried additional burdens or restrictions.

Mr. Tolbert noted a few examples of St. Louis standards for demolition by neglect, which were only applicable to the exterior features of high-merit buildings. He noted if city personnel observed any exterior issues with a building, written notice from the city was sent to the property owner requiring the owner to repair the deteriorating exterior features or the conditions contributing to deterioration.

Mr. Gage asked if items such as cracked and exposed wood due to peeling paint would give the city the authority under Ordinance 69735 to require the property owner to address the issue to keep the building from deteriorating. Mr. Tolbert responded affirmatively. He explained peeling paint itself would not be considered deterioration, but if the peeling paint allowed water into the structure and caused damage, it would be considered a contributing factor.

Mr. Tolbert discussed the standards St. Louis provided for a finding of demolition by neglect. He noted a finding of demolition by neglect in St. Louis included conditions such as the property not

being maintained pursuant to building codes or preservation ordinances, any conditions that cause or could cause structural instability, or issues that allow water to damage elements of the building. He further noted a finding of demolition by neglect could also be based on conditions which were not limited to a finite element of the building but contributed to overall deterioration of the building or if the owner was not improving the condition of the building to prevent deterioration that created instability of the building.

Mr. Tolbert noted once the Director of Cultural Resources became aware of the condition of a building, they could file a petition listing the specific defects and conditions with the Preservation Board. He noted it was unclear how the Director of Cultural Resources would become aware of the condition of a building because there was not a process outlined in the St. Louis code. He explained the Preservation Board then determined whether the petition should be filed with the Building Commissioner, who would then conduct any investigation necessary to determine if there was a good faith belief a building was undergoing demolition by neglect.

Mr. Tolbert noted once the Building Commissioner completed their investigation, the Commissioner then gave written notice to the owner identifying the reason there was a belief the building was undergoing demolition by neglect. He further noted the owner had 30 days to abate the issue which provided the owner with an opportunity to meet with the city representatives.

Mr. Tolbert noted if the owner failed to abate the issue, the Building Commissioner would direct a summons for prosecution or a notice for an administrative hearing. He further noted other sections of Ordinance 69735 state an owner “may” be issued a summons or notice for a hearing. He noted it was unclear how this section should be interpreted because the language in the ordinance uses mandatory directives when referring to the Building Commissioner and permissive directives when referring to the owner. He further noted this section could be reviewed if the City of Springfield chose to adopt this provision.

He explained the summons for prosecution would be conducted through Municipal Court. He noted the first offense would include a fine of \$300 to \$500 and up to 90 days in jail. He noted the second offense would impose a minimum fine of \$500 and up to 90 days in jail. He further noted it would be considered a separate offense for each day the conditions causing the demolition by neglect existed.

Mr. Gage asked if the demolition by neglect process could be modified during the 30 days if the owner was showing progress towards abating the issue. Mr. Tolbert responded he was unsure. Mr. Gage asked about the process after the 30 days. Mr. Tolbert responded a separate summons could be issued for each day the issue was not abated, but he was unsure because St. Louis had not enforced the ordinance.

Councilman Lee asked if anyone had been fined or put in jail based on this ordinance. Mr. Tolbert responded he was unsure at this time.

Mr. Tolbert noted the St. Louis ordinance could use an administrative hearing as an alternative to prosecution. He suggested if the St. Louis ordinance had been enforced, it was most likely done so through the administrative hearing process. He noted a notice was sent to the property owner

at least 20 days in advance of an administrative hearing, with a copy of the notice posted prominently on the building. He noted the case was presented by the City Councilor who then presented the evidence against the owner. He further noted if demolition by neglect was found, the hearing officer would enter an order of abatement. He noted at that point, the property owner had the right to judicial review.

Mr. Gage discussed the the administrative enforcement and judicial enforcement methods listed in the ordinance. He asked if the administrative enforcement method allowed the owner a separate form of due process that could extend past the allotted 30 days and could factor in issues such as undue hardship concerns. Mr. Tolbert responded affirmatively.

Mr. Tolbert noted economic hardship would be considered primarily under the administrative hearing process. He explained the result of the administrative hearing would require the person to correct the issue. He noted the prosecution enforcement method was more of a punishment which required the property owner to pay a fine as a penalty.

Mr. Tolbert discussed the safeguards listed in Ordinance 69735 to help address economic hardships. He noted if the Building Commissioner heard a claim of economic hardship from the owner during the investigation, the Building Commissioner must notify the City Councilor within 10 days of receiving the claim. He noted within 30 days of receiving the notice of undue economic hardship, an administrative hearing would be scheduled to review the claim. He explained all other proceedings would be put on hold until an order was issued on the claim. He noted a finding of undue hardship or no undue hardship must be made within 30 days of the hearing and was subject to a judicial review.

Mr. Tolbert noted the St. Louis code provided a list of evidence to be presented during an undue economic hearing to prove the hardship exists. He noted the evidence would include information such as the nature of ownership of possessions, financial resources, cost of repairs, and assessed value of the land and improvements. He further noted the St. Louis code was unclear whether the economic hardship was specific to a property or to the overall financial capacity of the owner.

Mr. Tolbert explained if no undue economic hardship was found, then an order to repair the building would be issued within a specified time. He noted if there was undue economic hardship, an order to repair the building would be issued with the economic hardship considered in the finding. He further noted the economic hardship finding may include an adjustment or reduction of requirements imposed in the original notice to help mitigate the hardship.

Mr. Tolbert noted the issues with Ordinance 69735 which would require additional research and clarification. He explained the process to identify demolition by neglect relied on City staff to intervene early enough to prevent deterioration of a building. He noted under the administrative hearing process, the city of St. Louis could order the property owner to make the repairs to correct the issue, but if a property owner did not have the funds, the imposition of additional fines did not change the property owner's circumstance. He noted the additional penalties only affect the property owners who have the means to make the repairs, but the cost of the fine usually was not substantial enough to change the behavior. He noted this ordinance was less effective when addressing property owners who did not have the means to perform the required

repairs. He further noted enforcement actions and litigation could take months or years while the building continues to deteriorate to the point where demolition is necessary.

Mr. Tolbert explained the steps for demolition by neglect were necessary because it could be considered a taking.

Mr. Gage noted Ordinance 69735 addressed both the administrative process and the criminal process. He expressed his opinion it would be better to follow the administrative process until it was exhausted and then begin the criminal process.

Councilman Lee expressed his opinion the ordinance also posed a potential issue when defining a high-merit building. He explained defining a high-merit building was important when identifying the criteria that qualified a building as a historic landmark.

Mr. Tolbert noted St. Louis defined high-merit buildings in the ordinance, but the description of “a major contributor to a historic district” was vague. Councilman Lee asked if St. Louis had a count of buildings designated as high merit. Mr. Tolbert responded St. Louis kept a map of its high-merit buildings. He noted he could provide that information to the Committee. Councilman Lee asked about the criteria of a high-merit building. Mr. Tolbert noted the high-merit buildings must contribute to the City, such as having a unique architectural style or having been designed by a famous architect. Mr. Gage added St. Louis also used factors such as how the person or their family contributed to the City as criteria for a high-merit building.

Councilman McGull expressed his concern regarding the definitions that were not defined in the ordinance, such as a building’s degree of decay or structural defects that may affect the health and safety of those in the community. He further noted some of the terms used were very vague and could lead to legal problems if the City of Springfield chose to adopt the ordinance.

Mr. Tolbert noted Springfield had a consultant who was currently working to update the Springfield Land Development Code. He explained historic preservation issues could be addressed separately but could also be combined with other approaches such as incentive zoning or transfer of development rights as part of the broader update to the Springfield Land Development Code.

Brock Rowe, Director of Building Development Services, asked about St. Louis’ approach to abatement. He noted the City of Springfield follows the abatement process leading to demolition. Mr. Tolbert responded the city of St. Louis orders the owner to repair the building. He noted if the owner was unable to repair the building, the city used the American Rescue Plan Act (ARPA) funding to stabilize the building. He further noted St. Louis’ definition of abatement was to repair the building. Mr. Gage asked if the City of St. Louis still expects the private owner to repair the building using the ARPA funding incentives. Mr. Tolbert responded affirmatively.

Councilman McGull asked if there were any examples of buildings or structures in Springfield that would be considered demolition by neglect and if there were any methods in place to address the issue. Mr. Gage clarified the idea of the demolition by neglect ordinance was to intervene before a building got to the point of being dangerous. Mr. Rowe noted there were buildings in

Springfield that need to be demolished due to neglect such as the structure on the corner of Washington Street and Commercial Street. He explained any structure that was not maintained shortens the lifespan of the building, and the purpose of the ordinance was to prevent that from happening. He noted the City used a 275-day abatement process, and if the issue was not corrected, the City would demolish the structure. He further noted the City enforced Chapter 26 of the City Code which refers to property maintenance issues.

Councilman McGull noted the next step for the Committee would be to wait for the results of the survey to gauge the number of properties the demolition by neglect ordinance could affect.

Mr. Gage asked the Committee members how they would like to define the term high merit. He noted there are different types of criteria that could be used to identify a historic building, such as the age of the building, but he would like to have a consensus from the Committee members on how to proceed because the results of the survey could potentially be applied to the City Code.

Councilman McGull asked about the criteria used during the historic building survey in the 1980s. Michael Sparlin, Senior City Planner, responded the 1980s historic building survey looked at rock structured homes and properties with a high degree of craftsmanship. He noted a consultant could help find the appropriate criteria to fit the needs of the City for the upcoming survey.

Councilman Hosmer suggested using the criteria outlined for historic buildings by the Secretary of the Interior Standards for Rehabilitation. He explained if the City designated a building as a historic structure using the criteria outlined for historic buildings, it could qualify for historic tax credits. He noted the historic tax credits could be used as an incentive for those who are willing to update the buildings that have been designated to have historic significance and could lead to the building being added to the National Register of Historic Places.

Councilman McGull asked members of the Landmarks Board for feedback about what type of criteria the City should take into consideration regarding the historic preservation survey. Layne Hunton, Throughline Architecture and Landmarks Board member, responded the City should start by reviewing the list of local landmark building designations and the list of buildings on the National Register of Historic Places kept by the Landmarks Board. Mr. Gage asked if the 1980s historic building survey was still the document currently used by the Landmarks Board. Mr. Hunton answered affirmatively. Mr. Gage clarified the historic building survey would update the 1980s historic building survey. Mr. Hunton agreed.

Councilman Lee asked approximately how many buildings were on the local landmark buildings list. Mr. Sparlin responded roughly 150 buildings were designated as historic sites not associated with a district. He further noted he could provide a list of the local designated sites and the city sites which are on the National Register of Historic Places to the Committee. Mr. Gage asked how many of the local designated buildings would currently qualify for the National Register of Historic Places. Mr. Sparling responded he was unsure.

Councilman McGull noted the resolution instructed the City Manager to update the historic building survey from the 1980s which should provide some criteria for the City to follow. Mr.

Sparlin noted the State Historic Preservation Office recommended updating the local registry list because properties can change, and it made it easier for the Landmarks Board to distinguish any changes made to a building over the years.

Councilman Hosmer asked for feedback from the Landmarks Board regarding demolition by neglect. Mr. Hunton responded the Landmarks Board would be happy to provide the Committee with recommendations on the demolition by neglect process.

Councilman McGull expressed his opinion the best starting point for the City would be to complete an inventory of the current historic buildings and sites. He noted once the survey had been completed, the Committee could discuss the results and invite the Landmarks Board for further discussion. Mr. Gage noted the survey would help identify which local historic landmarks qualify for the National Register of Historic Places and provide the Landmarks Board with the updated inventory of local historic buildings.

Councilman McGull thanked everyone for their attendance.

Councilman Lee moved to adjourn. Councilwoman Carroll seconded the motion, and it was approved by the following vote: Ayes: Hosmer, Lee, Carroll, and McGull. Nays: None. Absent: None. Abstain: None.

With no further business to come before the Committee, the meeting adjourned at 2:24 p.m.

Prepared by Lauren Fischer