

MINUTES OF THE HOUSING, PLANNING & DEVELOPMENT COMMITTEE
September 21, 2020
Meeting held remotely

Present: Councilmembers Shachner, Kepple & Rader

Also Present: Councilmembers O'Malley & Litten, Sire Chief Dunphy, Mayor George, Assistant Law Director Swallow, Planning Director Leininger, Law Director Corrigan, Senior City Planner Milius, Deputy Clerk Lascu, Clerk Bach taking minutes

Call to Order: 6:00 p.m.

Approval of the minutes of the September 8, 2020 Housing, Planning & Development Committee meeting.

A motion was made and seconded to approve the minutes of the September 8, 2020 Housing, Planning & Development Committee meeting. A roll call vote was conducted as follows:

Yeas: Shachner, Kepple, Rader

Nays: none

Motion adopted. Minutes approved.

RESOLUTION 2020-31A - A RESOLUTION to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, amending Resolution No. 2020-31, adopted May 21, 2020, extending the authorization of the Planning Commission to grant temporary conditional use permits for outdoor/seasonal dining facilities throughout this state of emergency to qualifying applicants.

Councilmember Shachner explained that Resolution extends outdoor dining through the current state of emergency. Outdoor dining currently expires October 31st. Continuation of outdoor dining will help businesses to operate in a safer manner. A new version of the resolution was sent via email today by Assistant Director Swallow.

In response to questions from the committee, the administration clarified that the resolution will apply to all establishments who currently hold a temporary outdoor dining permit and any others who wish to establish one.

Assistant Director Swallow explained that the substitute version clarifies that the City will extend the existing public property agreements without the need to go back and amend each agreement individually. She added that this applies to outdoor dining on sidewalks and parklets.

The Committee discussed the use of outdoor heaters. Director Leininger explained that certain types are allowed with a permit that may be issued by the Building Department.

Councilmember Rader asked a question which highlighted that the City has received no new public health guidance regarding outdoor dining since the resolution was originally adopted. Given the absence of any update, Councilmember Rader expressed his support for the resolution.

A motion was made and seconded to recommend the substitute version of Resolution 2020-31A for adoption.

A roll call vote was conducted as follows:

Yeas: Shachner, Kepple, Rader

Nays: none

Motion adopted. Minutes approved.

ORDINANCE 17-2020 - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Section 1325.04, Authority of the Board, to include the exterior painting of existing natural brick structures within the authority of the Architectural Board of Review.

Assistant Director Swallow introduced the ordinance, explaining that it is meant to ensure that the Architecture Board of Review provides review and approval before brick can be painted. Currently there is nothing in the Code which gives ABR jurisdiction solely over the painting of brick.

Ms. Swallow remarked that part of the rationale of the ordinance is that painting brick can be detrimental and that painting it may hold in moisture and lead to quicker deterioration. Paint may also be used to attempt to cover up structural issues.

Building Commissioner Meyers took exception to the assertion that painting brick causes it to deteriorate. He provided examples of how painting brick may protect the brick, if done correctly.

President O'Malley spoke to the aesthetic concerns about painting brick. He referred to a recent project on the commercial corridor where a large brick structure was painted. He remarked that there are many smaller scale projects that require review by ABR. He stated that the legislation is not intended to prohibit the practice but to ensure that there is a fair level of review to maintain the character of the City.

In response to a councilmember's question, Ms. Swallow advised that more specific aesthetic standards would have to be drafted to help guide ABR.

It was clarified that the legislation as written applies to all structures, both residential and commercial. President O'Malley expressed his openness to narrowing the parameters to just commercial. Councilmember Shachner expressed interest in narrowing the legislation.

Councilmember Kepple remarked that Lakewood property owners enjoy a certain level of freedom of expression. She asked what kinds of painting restrictions there are on non-brick structures.

Ms. Swallow replied that painting is limited to three colors, which is the same with signage. She clarified that ABR deals with architectural questions as well as aesthetic ones when it considers new construction and modifications. The Board also weighs in on landscape design for parking lots.

Councilmember Kepple expressed concern that the legislation may be putting more restrictions on residents with brick homes than with other types of homes. She also expressed concern that the legislation could be adding to the workload of ABR and the Building Department.

President O'Malley stated that he is amenable to narrowing the legislation to commercial corridors.

Director Leininger remarked that there is an argument for treating residential and commercial properties equally and having uniform standards. He noted that there would not be a tremendous amount of applications from the residential side.

Commissioner Meyers remarked that the proposed legislation may conflict with an area of the code that prohibits bare surfaces and advised that the committee should investigate that. He stated that the City currently has no restrictions on paint.

Councilmember Litten noted that there are many homes with small amount of brick and suggested limiting the ordinance to structures that are 90% or more brick.

Mayor George stated that if the goal is to protect the brick then the regulation should be evenly applied. She pointed out that the business community may take exception to regulations that are only on commercial buildings.

Councilmember Shachner agreed with the Mayor's statement. He further remarked that the subjective nature of this makes him nervous but that he trusts the administration and ABR to develop fair and equitable standards.

Councilmember Rader expressed support for restricting the legislation to structures that are 90% or more brick.

Motion by Councilmember Shachner and seconded to defer Ord. 17-2020 to a future meeting and to have Law Department draft substitute language to include the suggestions of the committee.

A roll call vote was conducted as follows:

Yeas: Shachner, Rader, Kepple

Nays: none

Motion adopted.

There was a request to also have Law Department draft ABR standards for painted brick.
Housing, Planning & Development Committee adjourned at 7:00 p.m.