

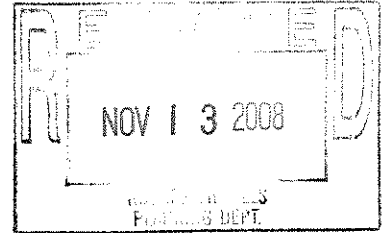


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November 11, 2008



Mr. Derek L. Delacourt
 Planning Department
 City of Rochester Hills
 1000 Rochester Hills Drive
 Rochester Hills, Michigan 48309-3033

Re: ***Amendment of City Code Chapter 118, Historical Preservation***

Dear Derek:

Per your direction, I am re-sending to you a proposed ordinance to amend various sections of City Code Chapter 118, Historical Preservation, to adopt the State Historic Preservation Office's ("SHPO") recommended changes. Apparently, these changes to the City's ordinance are necessary in order to qualify the City for the Certified Local Government ("CLG") designation. The benefits of becoming a CLG include:

- o Eligibility to apply for grants available only to CLG communities,
- o Increased participation in historic preservation programs, and
- o Promotion of a positive image for the community.

Although I have made all the requested changes, I am impelled to comment on two subject areas to assist you, the Mayor and the City Council to make an informed decision. My first comment relates to the proposed expanded definitions of "resource" and "historic resource." The proposed amended definitions of those terms would match the corresponding definitions in the Local Historic Districts Act, which is the State enabling legislation that authorizes and prescribes the procedures for the establishment and regulation of historic districts. The amended definitions are broader than the existing definitions, in that "resource" and "historic resource" would include not only buildings, structures and site features located within a historic district, but also any "site," "object," or "open space" located within a historic district. This will expand the scope of the Historic District Commission's oversight and regulation. It was not inadvertent, but rather, by design that the current ordinance definitions do not include site, object or open space. That is due to concern, which dates back to Mayor Ireland's administration, that the HDC's jurisdiction should be limited to buildings and structures, and not include grounds or other things. The Ireland administration was concerned the broader definition may involve the HDC in road, utility or other public improvement projects occurring within a historic district, which could delay, increase cost or interfere with projects the Mayor and City Council desire to

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proceed with. I do not believe this reflected any disdain by the Ireland administration or the City Council for historic preservation but, rather, reflected their view that historic preservation should be balanced against other health, welfare, safety and economic considerations and that such determinations should be made for the City by the elected Mayor and City Council, not the HDC or the State Historic Preservation Review Board. That is why the current definitions are more restrictive than what the State law allows and SHPO recommends.

My second comment relates to the requested deletion of subsection (e) of Section 118-169. The City Council adopted Section 118-169 out of concern the City's dangerous buildings ordinance and the historic districts ordinance potentially conflicted and needed to be reconciled. As you know, the City's dangerous buildings ordinance provides a procedure, authorized by State law, to demolish or otherwise make safe hazardous buildings and structures. Concern arose that a hazardous structure located within a historic district could be determined to be unsafe and ordered demolished by the Building Department and Dangerous Building Hearing Officer, but the HDC may want to preserve it. What Section 118-169 provides is that in the event such a conflict arises between the Hearing Officer's and the HDC's decisions, the City Council reserves the authority to decide whether or not to demolish the building or structure. By repealing subsection (e) as SHPO requests, the City Council will be removed from the process, and the HDC's decision will prevail. Therefore, if the HDC disapproves demolition of a building or structure deemed dangerous under the City's dangerous buildings ordinance, the City Council's recourse would be to appeal the City HDC's decision to the State Historic Preservation Review Board -- an awkward situation which pits the City against its own HDC and leaves the destiny of the building or structure in the hands of the State Historic Preservation Review Board.

In conclusion, the City may adopt these changes in order to qualify for the CLG designation, but the City should be aware that doing so will lessen the City Council's control in the two above respects.

Very truly yours,



John D. Staran

JDS/ijd
Enclosure

cc: Mayor Bryan K. Barnett (w/enc)