

**NASHVILLE DEVELOPMENT REVIEW COMMISSION  
ORIENTATION SESSION  
TUESDAY, MARCH 15, 2016**

**SWEETEA'S TEA SHOP  
225 S. VAN BUREN STREET, SUITE C, NASHVILLE, IN 47448**

**Commission members present:** President Penny Scoggins and Member Teresa Waltman.  
Also in attendance –Indiana Landmarks Representative Laura Renwick.

**ORIENTATION SESSION 4:00PM**

The work session was called to order by President Scroggins and she advised the work session was to help inform the new members of their responsibilities to the Commission and to the Town Council. Indiana Landmarks Representative Renwick then presented the following information:

**DESIGN REVIEW** and protecting character of special places - been around since establishment of 'Old and Historic District' in Charleston, SC in 1931 – response to proliferation of gas stations in historic core, removal of interiors for museums – now more than 2300 across US;

Numerous court cases across US have established as legitimate use of local power, including 1978 U.S. Supreme Court case – Penn Central v City of New York; **Police power** (health/safety/welfare) – use of state authority to regulate private actions, justified b/c district strengthens local economy, enhances property values, affirms history and enhances tourism – value of district as a whole greater than sum of parts, regs being applied to all equally;

Our legal basis for design review comes through state enabling legislation (IC-36-7-11) – gives parameters for local communities – and local ordinance 2002-7; as discussed last meeting, Nashville ordinance doesn't fit neatly into this, may need to look at amending to be sure covered

Page 1 of ordinance outlines why Town chose to create DRC, what goals of design review are {read thru} **IN BIG PICTURE, THAT'S WHY WE DO WHAT WE DO, DECISIONS SHOULD BE CONSISTENT WITH, SUPPORT THESE GOALS**

Section III of ordinance – Design Regulation and Evaluation – provides framework for our process and decision-making; guidelines help to flesh out, provide additional guidance to both DRC members and to property owners – should provide clear understanding of DRC expectations, lead to consistent decision-making; revised fall 2013 to include commercial buffer zone, in addition to B1, B2 and B3 areas

As a reminder, guidelines were developed in-house starting with other communities' as basis, approved by Town Council; designed to be dynamic document: have been added to and amended several times – like what we're doing now with sandwich boards and marquees, probably due to re-examine overall (adopted 2006)

**DUE PROCESS IS CRITICAL, CAN OPEN UP TOWN FOR LAWSUITS IF NOT PROPERLY FOLLOWED. TWO MAIN COMPONENTS:**

- 1) **NOTICE** – everyone who has a potential interest in a pending matter should have the opportunity to know what is going on and voice opinion; includes posted meeting notice, letters to adjacent property owner, posted sign, etc.; also includes open meeting aspect – not making decisions behind closed doors; Town primarily responsible for this component, but also members – not meeting illegally or having discussion on matters outside public meeting
- 2) **TREATING EVERYONE FAIRLY AND IMPARTIALLY** – having good process in place for how meeting will be run and applications will be considered, following that process for all;

making decisions based on ordinance/guidelines rather than personal preference or taste, citing applicable guidelines; avoiding or disclosing potential conflicts of interest; quality record-keeping that clearly explains the decisions and their basis, making those records available

Objectives for design review – (from Wisconsin training program)

- Provide efficient and timely review
- Provide clear procedures, policies and information
- Be informed and prepared
- Be consistent and fair
- Base decisions on accepted design guidelines
- Encourage open communications and courtesy

## **HOW DOES PROCESS WORK?**

### **Pre-meeting**

Applicant picks up information – including application form, relevant design guidelines – from Town Hall, completes and submits COA or sign application

COA application must be submitted three weeks in advance of meeting, sign app must be submitted by prior Wednesday. Some applications for specific, minor work can be approved by Town staff (have a chart that outlines this); if major project, goes through TRC – opportunity to get input from all players who might have a say early in project review process, make revisions based on input

DRC members receive info in advance – via e-mail or pick up; should review applications, be familiar with property in advance of meeting

Encourage members to visit site, BUT **do not** talk to applicant about project while there; considered ‘ex parte communication,’ would need to disclose this or any conflict of interest at meeting

### **At meeting**

Bring application materials, handbook to meeting; handbook has guidelines, ordinances, etc. included

Dual role of guidelines: 1) provide framework for decision-making, 2) assist property owners in understanding expectations of DRC as they’re planning a project; ordinance may also be used as basis for decision-making, particularly in instances where design guidelines don’t address a specific area – provides some basic guidance, particularly Section III – General Design Regulations

Listen to info presented by applicant, ask any relevant questions; avoid use of words like “like,” “pretty,” etc. that reflect personal preference – makes DRC appear arbitrary and capricious, open up DRC to legal challenges

Each case is unique and should be judged on its own merits, but need to be aware of precedents and prior decisions. Decisions should be consistent with precedents and based on accepted criteria. If a commission approves a project and months later denies a similar project, the denied applicant could use the earlier decision against the commission in an appeal. If there are unique reasons or circumstances why a project is appropriate for one property and not another, the rationale must be clearly explained to justify the decision.

Be sure to be aware of and divulge any potential conflict of interest prior to discussion of an application. (SEE PAGE 3) Can be personal, financial (direct or indirect – i.e. will value of member's adjacent property be enhanced b/c of project) or professional. If in doubt, always best to avoid appearance of impropriety.

When presentation and discussion is over, time for motion; four options –

- ⌘ Approve
- ⌘ Approve with conditions
- ⌘ Deny
- ⌘ Table

Be sure to cite relevant guidelines and/or section of ordinance to support your motion, and include any conditions; don't need to cite every relevant guideline, but enough to make it clear why the decision was made (think about if someone was reading minutes – would they understand why decision was made/how work was or was not compatible?); we have a checklist/cheat sheet to help with sign applications

If proposed project not consistent with guidelines as presented, can work with the applicant on minor tweaks (if they are amenable); those tweaks would generally be included as conditions

If more significant problems with application, can deny – be sure to provide specific basis for why, citing specific guidelines or portions of the ordinance – or make specific suggestions on what needs to be addressed, or table until those are addressed with new info submitted

One important responsibility of chair is to be sure that the applicant understands the decision, is aware of next steps

### **After meeting**

Responsibility of applicant/property owner to obtain any other needed permits (e.g. sign permit or ILP, from Area Planning); also responsible for informing DRC or staff if need or want to make changes to scope of work as approved – we have a specific form for amending COAs

#### **Personal conflicts**

Personal conflicts of interests revolve around the relationship between a commission member and an applicant. The question here is if the relationship would create a conflict between the member's self-interest and his or her civic obligations. Easily identifiable conflicts are direct relationships, such as a relative (sibling, parent, child, etc.). Indirect relationships, such as neighbors or close friends, are more difficult to assess. If an appearance of impropriety exists, it is best if the commission member refrains from participating in the decision.

#### **Financial conflicts**

Financial conflicts of interests are usually easy to identify. They occur whenever a commission member's financial interests will be directly or indirectly affected by the commission's decision. A conflict exists if the commission member owns the property in question or if the value of the member's property will be directly enhanced by the decision. If the commission member owns property adjacent to or in the vicinity of the property under review, property value could be affected. Some preservation ordinances require that commission members who own property within a certain distance of the property under review refrain from participating in the proceedings.

#### **Professional conflicts**

Professional conflicts of interest exist when a commission member's professional interests interfere with the member's ability to make an impartial decision. For example, if a commission member is the

applicant's architect, a professional conflict of interest exists. Other professional relationships, such as past employers or an association with a particular advocacy group, present greater ambiguity. A relationship with a particular group or other organization does not necessarily constitute a conflict of interest, but commission members should publicly acknowledge their association with an organization, and do so early in the review process, to avoid any allegations.

### **Make the Case for Support**

- Educate the public (regularly and often) about the importance and benefits of historic preservation
- Present a positive image of the commission and preservation groups
- Stay active and generate positive press to place preservation in the public eye as much as possible
- Take advantage of prominent preservation projects, such as the rehabilitation of a significant building, to demonstrate the importance of its historic resources, bolster pride in the community, and create excitement about future preservation possibilities
- Hold lectures, give presentations, or create exhibits in easily accessible public places to highlight a project
- Develop a positive marketing strategy with a noticeable logo and motto, and use them at every opportunity to develop public recognition and familiarity

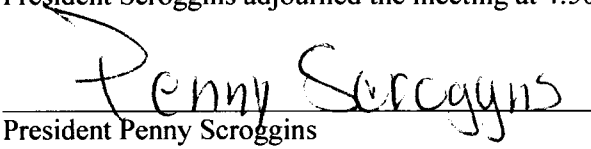
### **Educate the Public**

Educational programs, workshops, brochures, presentations, lectures, and slideshows can demonstrate the benefits of preserving historic resources. Use these tools to show the value of these resources to the community, and explain the threats to these resources and the consequences of losing them. Give your presentations to a variety of groups, such as local historical societies, social and civic clubs and organizations, the chamber of commerce, and church groups. Education efforts must be continuous to be effective, so develop an ongoing program to address this need.

Indiana Landmarks Representative Renwick advised there are training opportunities at: CAMP 4/28 @ statewide preservation conference; Forum 7/27-31, Biloxi.

### **ADJOURNMENT**

President Scroggins adjourned the meeting at 4:50pm.

  
President Penny Scroggins

  
Date