

**Common Council
City of Waukesha, Wisconsin**

Resolution No. _____ - 19

A Resolution Establishing the Rules of Procedure for the Hearing of Waukesha County's Appeal of the City Landmarks Commission's Denial of a Certificate of Appropriateness for the Demolition of the Former Moor Mud Baths Building, 500 Riverview Avenue

Whereas Waukesha County made an application to the City of Waukesha Landmarks Commission for a Certificate of Appropriateness for the demolition of the Moor Mud baths Building at 500 Riverview Avenue; and

Whereas the Landmarks Commission denied the application at its meeting on October 2, 2019; and

Whereas Waukesha County gave timely notice of its intent to appeal the denial pursuant to Municipal Code §28.05(3)(f); and

Whereas such appeals are to the Common Council pursuant to Municipal Code §28.05(3)(f) and (g), but procedure for such appeals is not given in those Code sections in any detail; and

Whereas it is in the best interests of the Common Council, the Landmarks Commission, Waukesha County, and due process of law to prescribe rules of procedure by which the appeal hearing will be conducted;

Now, therefore, the Common Council of the City of Waukesha resolve as follows:

The hearing of Waukesha County's appeal of the Waukesha Landmarks Commission's denial of a Certificate of Appropriateness for the demolition of the former Moor Mud Baths building at 500 Riverview Avenue shall be conducted according to the following rules:

1. The hearing will be *de novo*.
2. The Mayor will preside over the hearing and control the order of presentation.
3. No formal rules of evidence will apply, but the Mayor may use discretion in directing the proceedings to avoid irrelevant matters, to limit testimony that is repetitive, or to keep the proceedings efficient and orderly.
4. Public comment will be limited in duration, with speakers having no more than 2 minutes each, and public comment taking no longer than 30 minutes overall.
5. The Council will review the record, consisting of the materials submitted to the Landmarks Commission for its October 2 meeting, and the Commission's written decision.
6. Community Development staff will give an initial background presentation to the Council, just as it did for the Landmarks Commission.
7. As the applicant and the appellant, the County will make its presentation to the Council first. The presentation should be the County's complete case in favor of granting the Certificate of Appropriateness.

8. The Landmarks Commission will make its presentation to the Council second. The presentation should include an explanation of the Commission's findings and decision, any rebuttal to the County's presentation, as well as any other information the Commission wishes to present.
9. Additional rebuttal presentations may be made by either party, subject to the Mayor's reasonable limitations.
10. The Council may ask questions of staff, the County, and the Commission during their presentations.
11. The Council will not review the video recording of the Commission's October 2 meeting.
12. All Council rules will apply, unless suspended or superseded by these rules.
13. All procedural requirements imposed by law upon the Common Council shall apply.
14. When the presentations are complete, the Council will go into closed session to deliberate its decision. This is allowed by Wis. Stat. §19.85(1)(a), because the Council will be a quasi-judicial body for this appeal.
15. The Council will consider, and base its decision solely upon, the five factors given in Municipal Code §28.05(3)(b). This is expressly required by §28.05(3)(g).
16. The Council's decision will be made by a simple majority vote. The vote will be done in open session.
17. The Council will recite on the record its findings for each one of the five factors given in §28.05(3)(b).
18. A formal written decision reflecting the Council's decision will be prepared, signed by the Mayor and Clerk, and delivered to the parties.
19. Other matters of procedure arising during the hearing shall be determined by the Mayor, subject to appeal by a majority vote of the Council.

Passed the _____ day of _____, 2019.

Shawn N. Reilly, Mayor

Gina L. Kozlik, City Clerk-Treasurer