

September 12, 2011

Ken Jendryka, Chairman
Hospital and Neighborhood Committee
C/o Marshall City Hall
323 W. Michigan Ave.
Marshall, MI 49068

Dear Ken –

We are in receipt of a copy of the letter from Ms. Dena Sanford of the National Park Service (NPS) in response to the Hospital and Neighborhood Committee (HNC) information that was disseminated a couple weeks ago. As the HNC will have many inputs to consider at our next meeting on September 26, we felt it would be helpful to Committee Members, and the public, if they had the opportunity to review the hospital's perspective on the NPS suggestions prior to that meeting. As such, we have attempted to address the portions of Ms. Sanford's recommendations specifically relevant to the hospital.

We have copied those people who received Ms. Sanford's original letter, and would request that you provide our response to the HNC Members and the public when Ms. Sanford's letter is provided to them.

In reviewing the NPS letter it appears there are three general areas of comment relevant specifically to the hospital, which all focus on achieving historic preservation as the primary goal. Those areas appear to us to be:

1. To amend either the Healthcare Overlay District and/or the Development Agreement into a bona fide historic preservation ordinance, to include an externally appointed oversight body and legal restrictions that do not apply to any other area of the City or to any other business owner
2. To address questions in the Development Agreement
3. To make recommendations regarding future actions of the City of Marshall regarding parking.

Historic Preservation

We would first reiterate that the hospital has voluntarily, and transparently, engaged in this process in order to find a way to “accommodate hospital expansion that is satisfactory to both the community and the hospital”. Our actions over the years have demonstrated clear support of historic preservation (Craig Brooks house, Brooks Rupture Appliance Building, moving rather than demolishing several contributing structures, etc.). In fact, the only contributing structure we have razed since the creation of the NHLD was an out-building that the purchasers of the corresponding home did not want. We have also readily agreed that historic preservation is one of the issues to consider in reaching a compromise solution for hospital expansion that is satisfactory to both the community and the hospital.

The letter from the NPS, however, recommends that either the Overlay District or the Development Agreement include a variety of requirements that are commonly seen in Historic Preservation Ordinances, but are not commonly imposed on a small collection of properties singling out an individual business within a larger community of historic structures. Some of these requirements include:

1. Regulatory review of all proposed actions on any historic structure within the Overlay District
2. An oversight committee appointed by the Mayor and the City Council
3. Review of the minutes of all such meetings by City agencies determining the fate of requested permits for demolition, relocation or other site development

First and foremost, developing and implementing these kinds of regulatory restrictions, and developing a de facto mini-Historic Preservation Ordinance for the properties surrounding the hospital, was not the intent of the HNC as we understood it, nor is it a position we can support. If a Historic Preservation Ordinance were to be adopted it is only appropriate that it be adopted by the City as a whole, and apply to the majority of property owners and businesses in the City, rather than adopting an ordinance that unduly burdens a single business in one small area of the City.

Secondly, Oaklawn is a private business, not a public entity. We are subject to many, many regulations already. Compliance with these regulations is both time intensive and often expensive. Voluntarily subjecting our business decisions to additional regulation, and to governmental oversight regarding issues impacting our strategy and operations, is not an acceptable solution.

We are absolutely willing to open our doors to an Advisory Committee, as defined in the Development Agreement. Actually, we are so encouraged with the possibility that this will improve communication that it is the hospital which recommended that the Advisory Committee meet on a regular rather than ad hoc basis, regardless of whether or not there was any action needed on a historic structure.

Again, though, we are a private business. As with other private businesses, Eaton, State Farm, etc, an Advisory Committee by definition serves at the behest of the business, not based on appointment by a governmental agency. Likewise, the functions of an Advisory Committee are internal to the business and are not subject to the Open Meetings Act, Freedom of Information Act, or other regulations, which impact governmental or public entities.

This approach to an Advisory Committee in no way excludes the public from knowing what happens at these meetings. In fact, it is our hope and our expectation that the neighborhood members of the Committee will share freely with the rest of the neighborhood, and with others who are interested in activities of the Committee. We also fully anticipate that if the Committee members are dissatisfied with the outcome of these meetings, they would be among the first to address their concerns to the Planning Commission, Zoning Board of Appeals and/or City Council, as appropriate.

Development Agreement

The NPS letter additionally

1. Recommends inclusion of the Secretary of the Interior's Standards for the Treatment of Historic Properties into the Development Agreement;
2. Questions the use of the term "relative importance in history of the individual structure", specifying that a structure is either contributing or non-contributing;
3. Questions the term "appropriateness of available locations";
4. Challenges the term "sufficient significance/sufficient historic significance";
5. Encourages use of the term "rehabilitation" rather than "adaptive reuse"; and
6. Recommends replacing "may" with "shall", presumably in item 2.

Briefly, by item, our response is as follows:

1. Reference to the Secretary of the Interior's Standards for Treatment of Historic Properties would be acceptable if used as a resource upon which to inform discussion. Standards would be used for reference only, and not as a set of mandatory rules that must be followed.
2. We agree that a structure is either contributing or non-contributing. The vast majority of structures within the proposed Overlay District are contributing structure. The term and concept of the "relative importance in history of the individual structure" was introduced to the Subcommittee by the State Historic Preservation Office representative as a means of identifying relative value of structures, which are contributing.
3. The concept of "appropriateness of available locations" is a determination to be made by the hospital with input from the Advisory Committee. Appropriateness includes fit with the "new" neighborhood, with a preference for moving a historic structure within the bounds of the NHLD. However, since the hospital may not own any property within the NHLD when a structure needs to be relocated, or may not own property in an appropriate neighborhood, this item is best left open for the committee to address at the appropriate time.
4. We recognize that the term "sufficient significance/significant historical significance" is not a term used in standard historic preservation parlance, and that a structure is either contributing or non-contributing. This term was incorporated based on the recognition that the Advisory Committee may conclude that certain structures don't, in their opinions, warrant the cost of relocation. We would be willing to rephrase item 2.b.ii.1 to say, "Whether or not the structures warrant relocation."
5. We would be agreeable to substituting the word "rehabilitation" for the term "adaptive reuse", with the recognition that this substitution encourages consideration of rehabilitating a historic structure, but does not obligate the hospital to the specifics of the Secretary's Standards for rehabilitation.
6. We believe Ms. Sandford is recommending that the word "may" be replaced with "shall" in the following sentence: "The NHAC may consider the following, as appropriate, in making its recommendation to the Hospital". If that is an accurate interpretation of the NPS' intent, we would agree with that substitution for the currently drafted 2.a. If 2.a. is changed to incorporate the entirety of the Secretary's Standards, then "may" is the most appropriate term for reasons previously mentioned.

City/Parking

We note that the NPS encourages the City to build a parking ramp in order to lessen the need for surface parking. It is our understanding that the City is neither inclined nor has the resources to do this, and we believe it is our responsibility to our patients, customers and community to address parking needs created by our business. Should the City at some point be inclined to build a parking ramp with appropriate, convenient access for our patients and customers, we would certainly work side by side with the City in that effort.

Other

In the second to final paragraph of the NPS letter, Ms. Sanford comments that the NPS “may consider changing the status [of Marshall’s NHLD] to ‘watch’, if the city cannot establish a process and plan that provides for the adequate review and consideration of actions that would impact the integrity of the NHL district.”

In our attempts over the years to be considerate of the status of the NHLD we have made inquiries to the NPS, SHPO and others asking if a specific action or set of actions would negatively impact the NHLD. The responses we have received, from the NPS and others, have often been vague, confusing, and sometimes contradictory. We have learned that no district has ever had its status revoked, that structures moved within the district may be able to retain their status as contributing (with no clarity as to how one can ascertain ahead of time if the structure will still be contributing after it is moved), and that having a plan for addressing structures around the hospital should be protective of the NHLD status, at least as regards the small area of the NHLD immediately surrounding the hospital. However, we have never been able to receive clear, systematic answers to the questions mentioned above.

We would encourage the NPS to provide the citizens of Marshall with a clear and unambiguous answer when asked if a given activity will negatively impact the NHLD. With clear information from the agency that holds the fate of the NHLD in its hands, we will be able to make such decisions knowledgeably, and without the fear that has accompanied such discussions since the inception of the NHLD.

Ken, thank you for your leadership throughout this process. While we have often disagreed, your integrity and perseverance are much appreciated. We look forward to a workable compromise solution that meets the goal of the HNC to create a “plan for hospital expansion that is acceptable to the community and the hospital.”

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