

23 June, 2014

Comments on proposed revisions to Landmarks Ordinance.

33.19 (2) Definitions

(b) Demolition by Neglect

- This definition should be clarified, and perhaps another term is needed. What this term means is “allowing a building to fall into such a state of disrepair **that it becomes necessary or desirable to demolish it.**” This is a different situation than neglect that is intentional, reckless, and destructive, but doesn’t go all the way to necessitating demolition. Consider adding another term that recognizes intentional neglect that must be remedied in order to prevent “demolition by neglect”

33.19(3) Landmarks Commission Composition and Terms

- This is a matter of syntax, but this language will be with us for a long time. Consider editing the following language the following language: “*Each member shall have, to the highest extent practicable, a known interest in historic preservation.*” To something like “...*a demonstrated appreciation for the value of historic places to our urban landscape.*”

The current language presumes historic preservation (however this is defined) to be an end in itself when the goal should be to integrate a historic conservation ethic into planning more broadly.

33.19(4) Powers and Duties

- The duties assigned to the Landmarks Commission here are extensive. The workload this presumes for the Preservation Planner is also extensive. Is there a way to prepare for, or add a placeholder for, an additional staff to assist the Preservation Planner in carrying out the duties implied in this section?

33.19(7)(a) Nomination

- Concur with simplified language substituting “*anthropological*” for our previously suggested language.

33.19(11)(d) Administrative Approval

- Grammar – change “what” to “which” in the following: “...*Commission shall first adopt written policies establishing which projects can be administratively approved.*”

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33.19(15) Appeal

- This section should offer more explicit guidance for review of appealed decisions.
- (15)(d)(1) We suggest the following alternative language:
(d)(1) *In making its determination under (c), the Council shall:*
 1. *Determine whether the Landmarks Commission properly/accurately/appropriately applied the standards in 33(19)(11); and,...*
- (15)(d)(2) requires that the Council “*balance the public interest in preserving the subject property with the public interest in approving or denying the Certificate of Appropriateness.*” Consider including clearer guidance on weighing the “public interest.”

This consideration has led, and would continue to lead, to disagreement over proposed new construction in historic districts, because of widely varying opinions on what is in the *public interest*. *Public interest* can include objective considerations like tax base, density, and use, as well as subjective considerations like cultural value, civic identity, tourism cultivation, and the subjective values in the *Purpose and Intent* section of this ordinance. This very ordinance represents a codification of the principle that conservation of cultural resources is in the public interest.

- Also, we suggest the following alternative language in this section:
*“In balancing the public interests, the Council shall **determine** whether the owner or applicant has failed to meet...”*

33.19(17) Waivers

- This section appears to be included to address the complex situations that arise on claims of economic hardship. The intent of the section appears to be to provide a pressure-release for property owners for whom the financial burden of complying with the standards in the Landmarks Ordinance would create a financial burden under current circumstances. Could this section be rolled into section (15), and section (15) edited to include language that explicitly excludes hardship arguments based on opportunity cost (the unrealized potential benefits of pursuing an alternative precluded by the Landmarks Commission’s decision).