



Department of Planning & Community & Economic Development

**Planning Division**

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**TO:** Plan Commission  
**FROM:** Planning Division Staff  
**DATE:** December 16, 2020  
**SUBJECT:** Plan Commission Work Session: Coordinating Zoning and Historic Preservation Policy  
(*Legislative File ID #63354*)

## Background

Materials prepared by staff for the Plan Commission meeting of December 16, 2020 focus on recommendations in adopted plans to better coordinate plan recommendations and regulatory policies related to development and redevelopment in historic districts, as follows:

**Downtown Plan** (2012)

Recommendation 99: Prepare a plan for the Mansion Hill Neighborhood, including recommendations to preserve the character of the Mansion Hill Historic District and ensure that new development is compatible with the historic context in scale and design.

Recommendation 108: Preserve the character of the First Settlement Historic District and ensure that new development is compatible with the historic context in scale and design.

**Comprehensive Plan** (2018)

Culture and Character Recommendation 2d: Update the zoning code and height maps to better link the code with the City's historic preservation plan and ordinance.

**Historic Preservation Plan** (2020)

Objective 4a: Coordinate efforts and regulations among City plans, policies, ordinances, and departments.

Recommendation 4a-i.: Coordinate historic preservation recommendations and policies among departments and agencies.

This memo is written to complement and provide more specific ordinance references associated with visuals presented to the Plan Commission, should Commissioners or others wish to explore the existing regulatory framework in detail.

## **Zoning Ordinance: Building Heights**

This section contains selected citations from the Zoning Ordinance (MGO Chapter 28) related to building heights.

### **28.134 Height and Bulk Regulations**

#### **(1) Height Measurements.**

- (a) For accessory buildings and structures, height is measured from the average elevation of the approved grade at the front of the building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, and to the midpoint of the ridge of a gable, hip, or gambrel roof. The average height shall be calculated by using the highest ridge and its attendant eave. The eave point used shall be where the roof line crosses the side wall.
- (b) For principal buildings and structures, height is the average of the height of all building facades. For each facade, height is measured from the midpoint of the existing grade to the highest point on the roof of the building or structure. No individual facade shall be more than fifteen percent (15%) higher than the maximum height of the zoning district.
- (c) For new buildings, alterations, additions, or replacement of existing buildings, height shall be measured from the natural grade prior to redevelopment. Natural grade shall be determined by reference to a survey or other information as determined by the Zoning Administrator.
- (d) Height in the DC, UOR, UMX, DR1 and DR2 districts shall be measured from the highest point along a building setback line paralleling any street adjacent to the site. In these districts accessible roofs, including the minimum structure necessary to provide access, shall not be counted as a story. However, this provision shall not be applied in violation of the Capitol View Preservation Section 28.134(3).

#### **(2) Height Limit Exceptions.**

The following structures are permitted to exceed the maximum height regulations within any district where the use is allowed: church spires, belfries, cupolas and domes, water towers, flagpoles, chimneys, communication towers and elevator penthouses. All structures shall comply with the provisions of sub. (3) below.

#### **(3) Capitol View Preservation.**

No portion of any building or structure located within one (1) mile of the center of the State Capitol Building shall exceed the elevation of the base of the columns of said Capitol Building or one hundred eighty-seven and two-tenths (187.2) feet, City datum. Provided, however, this prohibition shall not apply to any church spires, flagpoles, communication towers, elevator penthouses, screened air conditioning equipment and chimneys exceeding such elevation, when approved as conditional uses. For the purpose of this subsection, City datum zero (0.00) feet shall be established as eight hundred forty-five and six-tenths (845.6) feet above sea level as established by the United States Coast and Geodetic Survey.

#### **(4) Airport Height Restrictions.**

The regulations contained in the Dane County Code of Ordinances regulating the height and bulk of obstructions to aerial navigation apply to buildings and structures in and around the Dane County Regional Airport. The City of Madison does not enforce these regulations.

#### **(5) Public Utility Exemptions.**

- (a) The following public utility uses, which are essential in most districts, shall be permitted in any zoning district: poles, wires, cables, conduits, vaults, pipelines, laterals or any other similar distributing equipment for a public utility. However, where such public utility uses are proposed to be located across unplatted lands, conditional use approval is required.
- (b) The regulations in this ordinance governing lot size, bulk requirements, and access to improved public streets shall not apply to any lot designed or intended for a public utility and public service use when approved by the Plan Commission.

**28.211 Definitions**

Story. A story is that portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- (a) For the purposes of this ordinance, there shall be only one basement which shall be counted as a story when the front exterior wall of the basement level is exposed more than fifty percent (50%).
- (b) Any part of a building that is above the second story and between the eaves and the ridge line of pitched roofs is not a story, but may be occupied as long as the requirements for human occupancy are met.

Basement. That portion of a building which is included between the surface of a floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it and the floor of which is wholly or partly below ground level. For the purposes of floodplain regulations, a basement is any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

Stepback. A step-like recession in an exterior wall located at a level above the ground floor.

Dormer. A structure projecting through a sloping roof that contains a window or opening.

**28.071 General Provisions for Downtown and Urban Districts**

**(3) Design Standards.**

The following standards are applicable to all new buildings and additions, within any ten- (10) year period, exceeding fifty percent (50%) of existing building's floor area for non-residential buildings, mixed-use buildings, lodging houses, and residential buildings with 8 or more dwelling units.

(d): Story Heights and Treatment.

1. For all buildings, the maximum ground story height is eighteen (18) feet, measured from the sidewalk to the second story floor. An atrium that exceeds eighteen (18) feet will be considered more than one (1) story.
2. Upper stories shall not exceed fourteen (14) feet floor to floor.
3. For all buildings, the minimum ground story height is twelve (12) feet, measured from the sidewalk to the second story floor.
4. For non-residential uses, the average ground story floor elevation shall not be lower than the front sidewalk elevation nor higher than eighteen (18) inches above the sidewalk elevation.
5. For ground-story residential uses, landscaping, steps, porches, grade changes, and low ornamental fences or walls or similar treatments shall be located between the sidewalk and the front door to create a private yard area.

## **Downtown Maximum Building Height Maps**

The Downtown Plan (2012) includes a Maximum Building Heights Map that served as the basis for the Downtown Height Map in the Zoning Ordinance. The Plan includes some narrative that further described the Map, including the following passage:

*The Maximum Building Heights Map illustrates the maximum height of the tallest building within each colored area, and does not illustrate more subtle height limits that may result from building street setbacks, upper story building setbacks, desired variety in building heights, or landmark or historic district designations. (p.36)*

## **Local Historic Districts**

There are five local historic districts that are subject to the provisions of the Historic Preservation Ordinance (MGO Chapter 41). In total, these districts comprise less than 2% of the total number of parcels in the city. To better describe the correlation between these districts and the Zoning Ordinance, this memorandum lists those in the Downtown (therefore subject to the Downtown Height Map in the Zoning Ordinance) first. Those are the Mansion Hill and First Settlement districts. The districts outside of the Downtown include the Third Lake Ridge, Marquette Bungalows, and University Heights districts.

## **Historic Preservation Ordinance: Building Heights**

This section contains selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to the definition of building height.

### **41.02 Definitions**

Height (of a Building) means the vertical distance in feet measured from the arithmetic mean ground level adjoining the structure to the highest point of the roof or parapet of a building, whichever is higher, or to the top of a structure.

## Conflicting Regulations

Both the Zoning Ordinance and Historic Preservation Ordinance contain language regarding interpretation of conflicting regulations.

### Zoning Ordinance

28.004 Interpretation.

- (3) Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail, unless an exception to this provision is specifically noted.

### Historic Preservation Ordinance

41.03 General Administrative Provisions.

- (2) Conflicting Regulations. Where the regulations imposed by this ordinance are either more or less restrictive than regulations in other ordinances or laws, including [Chapter 28](#), MGO, the regulations which are more restrictive or which impose higher standards or requirements shall prevail, unless an exception to this provision is specifically noted.

## Mansion Hill Historic District

[This section](#) contains a summary of selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to building heights in the Mansion Hill local Historic District. The Mansion Hill Historic District is located within the boundaries of the Downtown Height Map in the Zoning Ordinance.

41.22(4)(a) Any new structure located within two hundred (200) feet of other historic resources shall be visually compatible with those historic resources in the following ways:

1. Height.
2. Gross Volume.
3. In the street elevation(s) of a structure, the proportion of width to height in the facade(s).
4. The proportions and relationships of width to height of the doors and windows in street facade(s).
5. The proportion and rhythm of solids to voids created by openings in the facade.

- (b) All street facades shall blend with other structures via directional expression. When adjacent structures have a dominant vertical or horizontal expression, this expression should be carried over and reflected.

## First Settlement Historic District

[This section](#) contains a summary of selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to building heights in the First Settlement local Historic District. The First Settlement Historic District is located within the boundaries of the Downtown Height Map in the Zoning Ordinance.

41.26

(4) New Structures

- (a) Structure Height, Scale, Proportion and Rhythm. New principal structures shall be similar in height to the structures directly adjacent to each side. If the structures directly adjacent to each side are different in height, the new structure shall be of a height compatible with the structures within two hundred (200) feet of the proposed structure. New principal structures shall be compatible with the scale, proportion,

and rhythm of masses and spaces of structures within two hundred (200) feet of the proposed structure.

- (e) Façade Design. Street facades shall be modulated with setbacks incorporated into the design at the first floor level. The entrance shall either be inset or projecting from the plane of the main facade. Porches on main entrances are encouraged. Street facades shall reflect the rhythm and directional expression of pre-1930 structures within two hundred (200) feet of the subject property.

(5) Alterations

- (j) Dormers and Other Roof Alterations. ...Other roof alterations shall be compatible with the roof shape and other historic features of the structure, such as siding and trim details, and shall not extend above the ridge line of the structure unless such extension is not visible from the ground.

- (n) Additions. Additions on the front of the structure are prohibited, except for open porches. Additions on the sides or rear shall be permitted if they are compatible with the structure in architectural design, scale, color, texture, proportion and rhythm of solids to voids, and proportion of widths to heights of doors and windows...

(6) Standards for the Review of Accessory Structures, Fences and Retaining Walls.

- (a) Accessory Structures. Accessory structures shall be compatible with the design of the existing structure on the zoning lot, shall not exceed fifteen (15) feet in height and shall be as unobtrusive as possible.

### Third Lake Ridge Historic District

[This section](#) contains a summary of selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to building heights in the Third Lake Ridge local Historic District.

41.23 All need to be visually compatible with historic resources within 200 feet in the following ways

(4) New Structures Zoned for Employment Use.

- (a) Gross volume.  
(b) Height.

(5) Alterations Zoned for Employment Use.

- (a) Height.

(6) New Structures Zoned for Mixed-Use and Commercial Use.

- (a) Gross Volume.  
(b) Height.  
(c) The proportion and rhythm of solids to voids in the street facade(s).  
(e) The design of the roof.  
(f) The rhythm of buildings masses and spaces.

(7) Alterations for Mixed-Use and Commercial Use.

- (a) 1. Height  
(d) Alterations of roof shall retain its existing historical appearance.

(8) New Structures Zoned for Residential Use.

- (a) Gross Volume.  
(b) Height.  
(c) The proportion and rhythm of solids to voids in the street facades.  
(e) The design of the roof.  
(f) The rhythm of buildings and masses.  
(g) Directional expression.

(9) Standards for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Residential Use.

- (a) 1. Height.

## Marquette Bungalows Historic District

[This section](#) contains a summary of selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to building heights in the Marquette Bungalows local Historic District.

41.25

### (4) New Structures

- (a) Accessory Structures. Accessory structures shall be compatible with the design of the existing structure on the zoning lot, shall not exceed fifteen (15) feet in height and shall be as unobtrusive as possible...
- (b) New Principal Structures. New principal structures shall match the design of other structures in the district in materials, roof shape, architectural details, the proportion and rhythm of solids to voids, the proportion of widths to heights of doors and windows, the scale, height, setbacks, side yards and other visual features. The intention is to have new structures virtually duplicate the design of other structures in the neighborhood, since all parcels in the district are currently developed and any new construction would be replacing an existing structure.

### (5) Alterations

- (i) Additions and Other Alterations. New additions on the front of the structure are prohibited. Additions on the sides or rear shall be permitted if they are compatible with the structure in architectural design, scale, color, texture, proportion and rhythm of solids to voids and proportion of widths to heights of doors and windows...

## University Heights Historic District

[This section](#) contains a summary of selected citations from the Historic Preservation Ordinance (MGO Chapter 41) related to building heights in the University Heights local Historic District.

41.24

### (4) New Structures

- (a) Principal Structures.
  1. Height. Max height in TR-C2, TR-C3, TR-C4, TR-V1, and TR-V2 = (35) feet and shall not exceed two and a half (2½) stories except as provided in the height regulations for the district.  
Max height in the TR-U1, NMX, TSS, and LMX = (40) feet.  
Max height in the TR-U2 Zoning District shall be fifty (50) feet.  
All new structures in all zoning districts within University Heights shall be no less than fifteen (15) feet high.
  3. Visual Size. The gross area of the front facade, i.e., all walls facing the street, of a single-family, two-unit or commercial structure shall be no greater than one hundred twenty-five percent (125%) of the average gross area of the front facades of structures within two hundred (200) feet of the subject property. The gross area of the front facade of a multiple family dwelling shall be no more than one hundred twenty-five percent (125%) of the average gross area of the front facades of all structures within two hundred (200) feet of the subject property or variations in the setback shall be designed in the front facade of the structure to repeat the rhythm and proportions of structures to space between them within two hundred (200) feet of the subject property.
  4. Roof Shape. The shapes and pitches of roofs shall be similar to the roof shapes and pitches on existing structures within two hundred (200) feet of the subject property.
- (b) Accessory Structures. Accessory structures, as defined in [Section 28.211](#), MGO, shall be compatible with the design of the existing structures on the zoning lot, shall not exceed fifteen (15) feet in height

and shall be as unobtrusive as possible. No accessory structure shall be erected in any yard except a rear yard. Exterior wall materials shall be the same as those for construction of new principal structures as set forth in [Sec. 41.24\(4\)\(a\)2](#).

(5) Alterations in TR-C2, TR-C3, and TR-C4

- (a) Height. No alterations shall be higher than the existing structure; however, if the existing structure is already a nonconforming one, alteration shall be made thereto except in accordance with [Section 28.192](#). Roof alterations resulting in an increased structure volume are prohibited unless they meet the requirements in [Sec. 41.24\(4\)\(a\)5](#). and are permitted under [Chapter 28](#), or approved as a variance pursuant to [Sec. 28.184](#) or approved as a conditional use or as part of a planned residential development.
- (f) Alterations Visible from the Street and Alterations to Street Facades. Alterations visible from the street, including alterations to the top of structures, and alterations to street facades shall be compatible with the existing structure in architectural design, scale, color, texture, proportion and rhythm of solids to voids and proportion of widths to heights of doors and windows.
- (g) Additions and Exterior Alterations Not Visible from the Street. Additions and exterior alterations that are not visible from any streets contiguous to the lot lines upon which the structure is located will be approved by the Landmarks Commission if their design is compatible with the scale of the existing structure...
- (h) Roof Shape. The roof shape of the front of a structure shall not be altered except to restore it to the original documentable appearance or to add a dormer or dormers in a location and shape compatible with the architectural design of the structure and similar in location and shape to original dormers on structures of the same vintage and style within the district. Alterations of the roof shape of the sides or back of a structure shall be visually compatible with the architectural design of the existing structure.

(6) Alterations in TR-VI, TR-V2, TR-U1, TR-U2, NMX, TSS and LMX

- (a) Height. No alterations shall be higher than the existing structure; however, if the existing structure is already nonconforming, no alteration shall be made thereto except in accordance with [Sec. 28.192](#), MGO. In addition, all alterations, including alterations to the top of a structure, shall conform to the height restrictions for the zoning district in which the structure is located.
- (b) Alterations. Alterations shall be compatible in scale, materials and texture with the existing structure.
- (e) Roof Shape. Roof alterations to provide additional windows, headroom or area are prohibited unless permitted under [Chapter 28](#), or otherwise approved pursuant thereto as a variance or as part of a conditional use. In addition, all roof alterations shall be visually compatible with the architectural design of the structure.



## Other Plan Considerations: Downtown

### [Report of the Lamp House Block Ad Hoc Plan Committee \(Lamp House Plan\)](#) (2014)

The Lamp House Plan included a number of recommendations to preserve the context while allowing for appropriately-scaled new development in the area. Among the recommendations, was one to change the Downtown Height Map in the Zoning Ordinance. To date, this has not occurred and although not located in a local historic district, staff believe this is an appropriate time to advance this recommendation.

The following excerpts from the plan provide further explanation to the maps in the plan and included in the presentation:

#### *Lamp House Block*

*While protection of views could be addressed by a local historic district, any new development on the portion of the Lamp House block indicated with a 3\* should be limited to a maximum of 3 stories not to exceed the height (in feet) of the peak of the existing structures. Capitol North Parking Garage Block Redevelopment on the block located directly to the north of the Lamp House block has the potential for some of the greatest impacts on existing Lake Mendota views. Three changes have been proposed; the 8-story maximum has been limited to the western half of the block, the area indicated with a 3\* should be limited to a maximum of 3 stories not to exceed the height (in feet) of the existing structure, and the northern portion has been reduced to 4\*\* stories to match the rest of the James Madison Park Neighborhood.*

#### *James Madison Park Neighborhood (4\*\*)*

*Any proposals for buildings above 4 stories in the James Madison Park Neighborhood that lie within the Lamp House's Lake Mendota viewshed should be studied for their impact on the lake views from the house.*

### [Downtown Plan](#) (2012)

The Downtown Plan contained a number of recommendations that are relevant to this discussion and staff believe this is an appropriate time to advance those recommendations.

Recommendation 50: Establish building setback and/or build-to line requirements in the Zoning Ordinance that reflect the character of the areas in which the property is located. As a general rule, buildings in residential areas should be set back between 8 and 18 feet from the front property line, and buildings in mixed-use or non-residential areas should be set back between 0 and 10 feet from the front property line. (p. 36)

Recommendation 51: Establish building setback requirements in the Zoning Ordinance that reflect the character of the areas in which the property is located. As a general rule, a setback should be considered for street facades after the third or fourth story for buildings taller than five stories. (p. 36)

## Other Plan Considerations: Outside of Downtown

### [Design Guidelines and Criteria for Preservation: Williamson Street 600-1100 Blocks Plan \(Willy Street BUILD Plan\)](#) (2004)

This plan focused on physical development standards (including recommendations for building heights) for a segment of Williamson Street. These standards included bonus stories for the provision of affordable housing and structured parking. The adopting resolution directed staff to prepare the necessary ordinance amendments to update the Third Lake Ridge Historic District Ordinance to incorporate the plan's recommendation.

### [University Avenue Corridor Plan](#) (2014)

This plan focused on physical development standards (including recommendations for building heights) along a segment of University Avenue and overlaps a small portion of the University Heights Historic District along the south side of University Avenue. In this area, the plan recommends a maximum building height of 3 stories or 40 feet, which is consistent with what is allowed by the Zoning Ordinance, so no change is necessary.

## Recommendations

Based on the specific direction in existing adopted plans, which were developed through a public process and adopted by the Common Council, staff recommends the following actions:

- 1) Change the Downtown Height Map in the Zoning Ordinance to reflect the changes recommended in the Lamp House Plan.
- 2) Map the building heights proposed in the Williamson Street BUILD Plan in either the Zoning Ordinance or Historic Preservation Ordinance.
- 3) Explore mapping setbacks and/or stepbacks in Mansion Hill as suggested in the Downtown Plan.

In addition, staff recommends the following ordinance changes to make the Zoning Ordinance and Historic Preservation Ordinance more consistent:

- 4) Delete the definition of "Height (of a Building)" in Section 41.02 of the Historic Preservation Ordinance and rely on the Zoning Ordinance definitions.