

**NOTE TO LANDMARKS COMMISSION**  
**July 19, 2010**

**Legistar ID # 17835**  
**Landmarks Ordinance Revisions**  
**Proposed Revisions Summary and Legislative History**

During the last several meetings, the Landmarks Commission has been reviewing the Landmarks Ordinance and discussing potential revisions. Below is a summary of changes recommended during the May 24, June 14, and July 12, 2010 Landmarks Commission Meetings:

**1. Purpose and Intent:**

33.19(1)(f) “Strengthen the economy of the City through appropriate preservation of irreplaceable historic and cultural resources.”

**2. Appeals**

At the May 24, 2010 meeting, Mr. Stephans stated that as Chair, for the record, he believes that after hearing the Commissioners views that it is the sense of the Landmarks Commission that the 2/3 supermajority requirement in the appeals language is consistent with how other City Ordinances operate, and that it doesn't seem to be an in-ordinate obstacle.

**3. Appeals**

33.19(5)(f) Appeal. An appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness under Subsection (5)(b) and (c) may be taken to the Common Council by the applicant for the permit, ~~In addition, an appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness for any building or demolition project requiring a public hearing, whether this determination is made upon receipt of the application for a demolition permit or at the end of the one year period in a case where action on the application has been suspended, or to suspend the action on a demolition application, may also be taken to the Common Council~~ by the Alderperson of the district in which the subject property is located, or by 20% of the property owners within 200 feet of the subject property.

*Staff note: The language above was reviewed by the City Attorney, who noted no issues with the proposed language.*

**4. University Heights Public Hearing requirement for new primary buildings and additions over 100 square feet**

The Commission agreed to ask the City Attorney's office to move the section 33.19(5)(b)(3) to the University Heights Historic District, with the Attorney's recommendation as to appropriate placement with Section 33.19(12).

**5. Rescinding of Landmarks Designation**

33.19(5)(h) 2. If at the end of a period not exceeding six (6) months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the Common Council may shall rescind its designation of the subject property.”

*Staff note: The Commission asked staff to look into the legislative history of this language. The rescission language and six month waiting period was original to the 1969*

*Ordinance, however rescission was only granted by the Landmarks Commission. However, in 1997, the Common Council made the Landmarks Commission advisory to the Common Council on provisions of the ordinance relating to the Landmark and Designations and Creation of Historic Districts. In addition, the Common Council was given the sole responsibility for ruling on rescissions of Landmark Designations. The legislative history from 1997 is attached.*

*In addition, the Commission asked to have staff look into other cities' language regarding landmark designation rescissions. Preliminary staff review of other Landmarks Ordinances from numerous municipalities found the intent of the following clause to be typical:*

***“Any designation of a building, structure, site, object or district as historic may be amended or rescinded in the same manner as is specified for designation.”** Historic Preservation Ordinance 14-2007 of Philadelphia Code*

**6. Re-title Section 33.19(15)(d) Authorized variances for Clarification purposes to alert readers that this section is designed specifically for the Marquette Bungalows District**

33.19(15) d. Authorized Variances in the Marquette Bungalows Historic District

**7. Variance Authority amended language proposal** (*second paragraph*)

33.19(15)(a) “...District only in the specific instances hereinafter set forth and only if the proposed project will be visually compatible with the historic character of all buildings directly affected by the project.—and of all buildings within the visually related area...”

**8. Variance Standards amended language proposal**

33.19(15)(c) 3. In the case of additions and/or new construction, the proposed design incorporates materials, details, setbacks, massing or other elements that are not permitted by the ordinance but which would enhance the quality of the design of the addition and/or new construction ~~for the new building or structure~~, provided that said addition and/or new construction ~~new building or structure~~ otherwise complies with the criteria for additions and/or new construction in the Historic District in which the addition and/or new construction ~~building or structure~~ is proposed to be located and provided further that it would also have a beneficial effect on the historic character of the visually related area.

Rebecca Cnare and Amy Scanlon  
7/21/10

Agenda Item No. \_\_\_\_\_  
Copy Mailed to Alderpersons \_\_\_\_\_

City of Madison, Wisconsin

AN ORDINANCE \_\_\_\_\_  
amending Subdivision (a) of Subsection (5) of  
Section 33.01 of the Madison General Ordinances  
and creating new Subdivision (b) and renumbering  
current Subdivisions (b) and (c) to (c) and (d) of  
Subsection (6) of Section 33.01 to make the  
Landmarks Commission advisory to the Common  
Council.

Presented July 1, 1997  
Referred CCOC, PC, Landmarks Comm.

Rereferred 9/2 cc (8-19) Landmarks, Econ. Dev. (10/21)

Reported Back 8/19; 9/2; 10/21; DEC 2 1997

Adopted  POF \_\_\_\_\_  
Rules Susp. \_\_\_\_\_ Tabled \_\_\_\_\_  
Public Hrg. \_\_\_\_\_

Mayor Signed 12-9-97  
Published 12-12-97

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APPROVAL OF FISCAL NOTE BY THE  
COMPTROLLER'S OFFICE IS NEEDED

Approved by:

Comptroller's Office

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ORDINANCE NO. 11,983  
ID NO. 21835

Drafted by: Eunice Gibson  
City Attorney  
Date: June 25, 1997  
Fiscal Note: No fiscal impact.

SPONSOR(S): Ald. Reif, Holtzman, Smith,  
Borchardt, Rosas, Bruer,  
Schneider, Amato,  
Belman

The Common Council of the City of Madison do ordain as follows:

1. Subdivision (a) entitled "Designation" of Subsection (5) entitled "Powers and Duties" of Section 33.01 entitled "Landmarks Commission" of the Madison General Ordinances is amended to read as follows:

"(a) Designation. The commission shall have the power subject to subsection (6) hereunder, to designate recommend to the Common Council the designation of landmarks, landmark sites and historic districts within the City limits of Madison. Such designations shall be made by the Common Council based upon subsection (4) hereof. Once designated by the commission Common Council, such landmarks, landmark sites and historic districts shall be subject to all the provisions of this ordinance."

APPROVED AS TO FORM:

Eunice Gibson, City Attorney

2. Subdivision (d) entitled "Appeal" of Subsection (5) entitled "Powers and Duties" of Section 33.01 entitled "Landmarks Commission" of the Madison General Ordinances is amended to read as follows:

"(d) Appeal. An appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness under Subsection (5)(b) and (c) may be taken to the Common Council by the applicant for the permit. In addition, an appeal from the decision of the Landmarks Commission to grant or deny a Certificate of Appropriateness for any building or demolition project requiring a public hearing, whether this determination is made upon receipt of the application for a demolition permit or at the end of the one-year period in a case where action on the application has been suspended, or to suspend action on a demolition application, may also be taken to the Common Council by the Alderperson of the district in which the subject property is located, or by 20% of the property owners within 200 feet of the subject property.

Such appeal shall be initiated by filing a petition to appeal, specifying the grounds therefor, with the City Clerk within ten (10) days of the date the final decision of the Landmarks Commission is made. The City Clerk shall file the petition to appeal with the Common Council. After a public hearing, the Council may, by favorable vote of two-thirds (2/3) of its members, based on the standards contained in this ordinance, reverse or modify the decision of the Landmarks Commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the Council finds that, owing to special conditions pertaining to the specific piece of property, failure to grant the Certificate of Appropriateness will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the Landmark Commission's decision."

3. Subdivision (f) entitled "Sale Of Landmarks And Landmark Sites" of Subsection (5) entitled "Powers and Duties" of Section 33.01 entitled "Landmarks Commission" of the Madison General Ordinances is amended to read as follows:

"(f) Sale Of Landmarks And Landmark Sites. Any party who is listed as the owner of record of a landmark site at the time of its designation, who can demonstrate to the ~~commission~~ Common Council that by virtue of such designation he is unable to find a buyer willing to preserve such landmark or landmark site, even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the ~~commission~~ for a rescission of its designation. Following the filing of such petition with the secretary of the ~~commission~~:

1. The owner and the ~~commission~~ shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
2. If, at the end of a period not exceeding six (6) months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the ~~commission~~ Common Council shall rescind its designation of the subject property.
3. In the event of such rescission, the ~~commission shall notify~~ the City Clerk shall notify the Director of the Inspection Unit and the City Assessor of same, and shall cause the same to be recorded, at its own expense, in the office of the Dane County Register of

Deeds.

4. Following any such rescission, the ~~commission~~ Common Council may not redesignate the subject property a landmark or landmark site for a period of not less than five (5) years following the date of rescission.

4. Subdivision (a) entitled "Designation Of Landmarks and Landmark Sites" of Subsection (6) entitled "Procedures" of Section 33.01 entitled "Landmarks Commission" of the Madison General Ordinances is amended to read as follows:

"(a) Designation Of Landmarks and Landmark Sites. The commission may, after notice and public hearing, ~~establish~~ recommend the establishment of landmarks and landmark sites, or ~~rescind~~ recommend the rescission of such designation, after application of the criteria in subsection (4) above. At least ten (10) days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected. Notice of such hearing shall also be published as a Class 1 Notice, under the Wisconsin Statutes. The commission shall also notify the following: Department of Public Works, Parks Division, Fire and Police Departments, Health Division, Department of Planning and Development and Plan Commission. Each such department shall respond to the commission within thirty (30) days of notification with its comments on the proposed designation or rescission. The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the commission may ~~designate~~ recommend the designation of the property as either a landmark or a landmark site or ~~rescind~~ recommend the rescission of such designation. After such designation or rescission recommendation has been made, notification shall be sent to the property owner or owners, and to such other persons as appeared at the public hearing. The commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the commission's report, and considering the standards contained in this ordinance, the Common Council may designate the property as either a landmark or a landmark site or rescind such designation. ~~Notification shall also be given to~~ The City Clerk shall notify the Director of the Inspection Unit and the City Assessor. The ~~commission~~ City Clerk shall cause such designation or rescission to be recorded, at City expense, in the Dane County Register of Deeds office."