



Whyte Hirschboeck Dudek S.C.

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## MEMORANDUM

TO: Ad Hoc Landmarks Ordinance Review Committee

FROM: Jeff Vercauteren

SUBJECT: Proposed Revisions to Draft Ordinance

DATE: March 9, 2015

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### 1. Primary Issues.

**a. Compatibility.** The determination of whether a proposal is compatible under the ordinance is more complex than drawing a 200-foot circle around the property. Compatibility should be based on the proposal's relationship with (1) adjacent properties, (2) properties on the same block or within view of the property, and (3) the character of the local historic district as a whole, taking into consideration variations in building size and design within the district, and the evolving cultural landscape of the district.

*Proposal: Change the definition of "Visually Related Area" to mean "the area encompassed by adjacent properties and properties on the same block or within view of the property. For property located within a historic district, the VRA shall also include the historic district as a whole, taking into consideration variations in building size and design within the district, and the evolving cultural landscape of the district."*

**b. Demolition by Neglect.** The additional penalty provisions included in the new draft are excessive and unnecessary to accomplish the purpose of this section to encourage the maintenance of historic structures. The provisions deprive property owners of a proper process related to a determination of demolition by neglect and a finding of the existence of a nuisance and resulting actions for non-summary abatement and condemnation. The additional fines for a finding of demolition by neglect provide a sufficient penalty. To assist property owners who cannot afford to maintain landmark properties, the committee should consider using funds collected from fines under this section to create a grant program for owners of historic properties.

*Proposal: Remove the last sentence of Section 10(d) related to the effect of a finding of demolition by neglect on any civil court proceedings. Remove Section 10(e)(3)-(5) related to a determination of nuisance, non-summary abatement, and condemnation. Make a finding of demolition by neglect subject to the appeal provisions under Section 14.*

**c. Conflict of Regulations.** To assure there is predictability in how the revised ordinance will be applied in each historic district while allowing for differences in design standards within each district, the ordinance should clarify that the procedural standards in the first half of the ordinance apply to all historic districts and prevail in any conflict with district standards. For example, an individual district could not have a different definition of Visually Related Area or provide separate standards for a Certificate of Appropriateness.

*Proposal: Add a sentence to Section 16 that states: "In the event of any inconsistency between the general standards under Sections 1 through 18 of this ordinance and the district standards under Section 19 through 25 of this ordinance, the general standards shall prevail."*

## **2. Secondary Issues.**

**a. Landmark Site.** The definition of "Landmark Site" should reflect the realities of urban property lines that do not necessarily rely on "lots" in the traditional sense. For example, the 4th Ward Lofts Condominiums are located on the same "lot" as the landmark Doris House, but on different tax parcels; the landmark site is encompassed by the tax parcel where the landmark building is located rather than the entire lot. *Proposal: Change the term "lot" to "parcel" in the definition of Landmark Site.*

**b. Person.** The definition of "Person" as drafted considers business entities with one common officer as the same "person." However, unrelated business entities could have one common officer and otherwise not share any management or operational structure. *Proposal: Remove the second sentence in the definition of Person.*

**c. Rescission.** The rescission provision only allows the owner of the property at the time of landmark designation or a person who has inherited the property to apply for rescission of the designation. This could create unintended consequences by preventing a subsequent owner who has acquired the property through an arm's-length transaction from seeking rescission. *Proposal: Modify Section 8(a) to allow any person who has inherited or acquired the property to apply for rescission.*