

Landmarks Commission
Meeting of May 9, 2022
Agenda item #4, Legistar 70641

I have a number of issues with the proposed ordinance. However, I am writing to focus on just one – the standards for new construction.

LORC I recognized that it did not make sense to have an objective measure, such as height, within the context of a subjective measure (visual compatibility). LORC I spent time over the course of several meetings discussing the standards and guidelines for historic districts - not what those standards and guidelines should be, but what factors to consider in developing those standards and guidelines. (See MGO 41.11(2).) LORC I found this language appropriate for objective measures, and this language was approved by Landmarks and Council:

“Gross volume, height, and other quantitative measurements of the proposed structure shall be sensitive to similar quantitative measurements of historic resources within two hundred (200) feet of the proposed structure.”

This change was described in The Office of the City Attorney’s memorandum, prepared by ACA Strange (Drafter’s analysis for substitute ordinance creating Chapter 41, Historic Preservation, and repealing and recreating Sec. 33.19, Landmarks Commission):

“LORC recognized that a shortcoming of the current ordinance is that it suggests using gross volume (an objective measure) and height (also an objective measure) within the context of visual compatibility (a subjective measure). LORC believed this, and the lack of definitions for both gross volume and height, were a possible source of confusion surrounding the standard. Thus, LORC decided to remove gross volume and height from the visual compatibility standard. Instead of removing them from the ordinance altogether, LORC defined both terms using strict mathematical definitions and created a separate standard (found in Sec. 41.11(2)(g)) that allows those and other similar objective measurements to be compared to the same objective measurements of neighboring buildings. LORC believes this will allow a more apples to apples comparison (comparing two objective measurements) than did the previous standard. In doing so, however, LORC signaled that the Commission should not apply a strict cubic foot to cubic foot comparison when reviewing a proposed project. In other words, a building that is, for example, 10 cubic feet larger than its neighbors should not automatically be rejected just because it is mathematically larger. Instead, the Commission must make the decision whether the measurements being compared are sensitive to one another. This provides another tool for the Commission to exercise its judgment, discretion and expertise to determine whether a proposed building compliments its surroundings.”
(emphasis added)

Yet this proposed ordinance does not implement LORC I’s recommendation, a recommendation that makes sense.

This proposed ordinance makes “visual compatibility” an even fuzzier concept than the existing ordinance. Currently, only the first two districts (MH and TLR) make broad use of visual compatibility. The other districts have more precise standards for new construction. For example, one University Heights requirement is that the gross area of all walls facing the street, for a single-family, two-unit or commercial structure, cannot be more than 125% of the average

gross area of the front facades of structures within 200 feet. That precision that many districts have will be lost.

The Landmarks Commission will need to find that a new structure is visually compatible with respect to five categories. Within each category are factors that Landmarks "shall consider." None of these factors needs to be met, none is determinative. Take, for example, visual size. Landmarks must consider factors such as:

- Massing;
- building height in feet and stories;
- the gross area of the front elevation (i.e., all walls facing the street);
- street presence; and,
- the dominant proportion of width to height in the façade.

If two factors are met, is the visual size visually compatible? Can Landmarks completely ignore a factor(s) since the phrase "such as" is used? What does "massing" mean? What if the stories are compatible, but the height of each story is excessive? Is an 80' high building visually compatible with a 54' high building? Is the dominant proportion of width/height the same thing as the dominant vertical or horizontal expression (listed under "building form")? For an ordinance, a purpose of which was to add clarity, many interpretations will be needed.

In TLR, mixed use buildings need to be visually compatible in terms of gross volume, height, the proportion and rhythm of solids to voids in the street facade(s), the design of the roof, and the rhythm of buildings masses and spaces. The proposed ordinance does not mention gross volume. As to the other current requirements, each becomes merely a factor under a broader category and each may, or may not, be met.

It is worth noting that Marsha Rummel, former Alder for three historic districts, and former Landmarks Commissioner, did not vote to approve this proposed ordinance.

Respectfully Submitted,
Linda Lehnertz