

Draft Landmarks ordinance questions

1. Consider defining the following words.
 - a. Compatible/Visually compatible for new construction
 - i. Height -- perhaps a definition something like: Visually compatible height is a height no more than 2 times the average of the height of the buildings in the visually related area
 - ii. Gross Volume-- perhaps a definition something like: Visually compatible gross volume is a volume no more than 3 times the volume of the buildings in the visually related area.
 - iii. Width of front façades-- perhaps a definition something like: Visually compatible front facade is no more than 1.3 times the average width of those in the visually related area.
 - iv. Spacing between buildings -- perhaps a definition something like: Spacing between buildings is equal to no less than .75 times the average of that in the visually related area.
2. See 33.19 (2) definition for visually related area. Why are buildings constructed after the period of significance included in the VRA calculation?
3. See 33.19 (4) (f) related to adjacent lot sizes. Had the lot combination on Gilman Street been approved, how would this have impacted the adjacent lots?
4. See 33.19 (6). Should not the notification be sent to the owner of the building nominated under (7)?
5. See 33.19 (8)5. Should perhaps only go to the Council on appeal?
6. See 33.19 (8) (b). What about the situation when the owner fails to maintain and then sells? Unfortunately we have situations where this could occur and even be in the form of essentially swaps between absentee landlords, both having intentionally neglected their properties.
7. See 33.19 (8)(b) 6. Should perhaps only go to the Council on appeal?
8. See 33.19 (9) (c)4. I suggest that we look at defining what it visually compatible in terms of height and volume. I recommend something along the lines of no more than 2 times the average of the height of the buildings in the visually related area and no more than 3 times the volume of the buildings in the visually related area. (See definitions above.)
9. See 33.19 (9) (c) 8. I suggest more detail here. We have seen the kind of problems the goal of maximizing building envelopes (with the subsidiary goal of maximizing profit) can cause. Perhaps defining the width of front façades as equal to the average of those in the visually related area? And perhaps defining spaces between buildings is equal to the average of those in the visually related area? (See definitions above.)
10. See 33.19 (10) Under (c) talks about prohibiting sandblasting of any exterior surface. Should there not also be a prohibition against using concrete mortar in repair of historic structures? This seems to have been a common problem and a problem which still exists.
11. See 33.19 (11) Should not signs constructed or added to buildings in historic districts require a COA? I am, of course, thinking of the intrusive National Guardian Life sign constructed recently on Wisconsin Avenue. We need to be sure this kind of thing does not happen again.

12. See 33.19 (11) (f) Recommend under 3, 4 and 5 striking “in the University Heights Historic District”. While I understand that the current ordinance is limited to the University Heights Historic District for public hearings on these three changes, we are attempting to improve the ordinance and there’s no reason not to include all the historic districts in the public hearing requirement for changes of this significance.
13. See 33.19 (11) (g) Should not an option of referral, be included here?
14. See 33.19 (13) Recommend consideration be given to changing the introductory sentence as follows: “In determining whether to approve a certificate of appropriateness for any demolition or removal of any landmark or structure within an historic district, the Landmarks Commission shall consider and may give decisive weight to any or all of the following, except that if (f) applies, and is the result of any failure to maintain the property in good repair, by the current owner, a COA may not be issued.” Basically, a decision to demolish a landmark or a contributing building in and historic district should not be based on the condition of the building if the deteriorating condition is self-created. There should be a presumption of self-created if the building has been owned by the same owner for three or more a years. A shift in LLC or other attempt to circumvent this requirement should not be allowed.
15. See 33.19 (13) (g) Change as follows: “Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the structures and environment of the period of significance of the historic direct in which the subject property is located...”
16. See 33.19 (18) What does “consistent with the provisions of this section” mean?
17. A provision should be added to prohibit the combination of properties in historic districts for purposes of redevelopment.
18. Some municipalities have among the requirements for membership on the commission a provision that at least one or two members reside in a local historic district. Has that been considered?
19. Some municipalities have a provision that appeals shall be considered only on the record made before the landmarks/preservation commission and may only allege that the commission’s decision was arbitrary, capricious, or illegal. We should consider that approach.
20. If we have a provision for considering economic hardship in a demolition request (and it seems we probably should), we should look at the following language included in a Texas model ordinance:

No Certificate of Appropriateness for Demolition involving a claim of economic hardship may be approved, nor shall a demolition permit be issued by the city unless the owner proves compliance with the following standards for economic hardship:

 - (a) The property is incapable of earning a reasonable return in its current or rehabilitated state, regardless of whether that return represents the most profitable return possible.
 - (b) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
 - (c) Earnest and reasonable efforts to find a purchaser interested in acquiring the property and preserving it have failed.
21. Related to economic hardship claims, we may also want to consider language as is shown on Attachment 1 used also in the Texas model ordinance.

1. The city shall adopt by resolution separate criteria for review in considering claims of economic hardship for investment for income producing and non-income producing properties, as recommended by the HPC. Non-income properties shall consist of owner occupied single family dwellings and non-income producing institutional properties. All standards for review shall be made available to the owner prior to the hearing. The information to be considered by the city may include but not be limited to the following:
 - a. Purchase date price and financing arrangements
 - b. Current market value
 - c. Form of ownership
 - d. Type of occupancy
 - e. Cost estimates of demolition and post demolition plans for development
 - f. Maintenance and operating costs
 - g. Inspection report by licensed architect or structural engineer having experience working with historic properties
 - h. Costs and engineering feasibility for rehabilitation
 - i. Property tax information
 - j. Rental rates and gross income from the property
 - k. heard right Other additional information as deemed appropriate
2. Claims of economic hardship by the owner shall not be based on conditions resulting from:
 - a. Evidence of demolition by neglect or other willful and negligent acts by the owner
 - b. Purchasing the property for substantially more than market value at the time of purchase
 - c. Failure to perform normal maintenance and repairs
 - d. Failure to diligently solicit and retain tenants
 - e. Failure to provide normal tenant improvements
3. Throughout the process, the applicant shall consult in good faith with the HPO, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be demonstrated to the HPC at the hearing.