

Suggested changes for August 27 meeting of the Ad Hoc Committee

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A. Suggested changes to the purpose and intent section (33.19(1) of the Madison draft ordinance

1. Amend (1) (a) to read: “*Provide a regulatory framework for implementing public policies in this section.*”

A single verb, “implementing” is clear and sufficient without adding a second synonymous verb “accomplishing.” This suggestion is consistent with language used in the powers and duties section (1) which reads as follows: “Adopt policies and procedures to *implement* (Italics added) the provisions of this ordinance.”

To insert the verb “balance” is premature; the Ad Hoc Committee has not discussed whether this element should be a part of the new ordinance. The word should only be added *after* discussion of this very important point.

2. Add the following two purposes:

Create a confident investment climate for the preservation, rehabilitation, restoration, and reconstruction of historic resources.

One of the goals of a historic district is to encourage owners to fix up their properties. But this will not happen if owners do not believe that the city will consistently enforce its historic preservation rules. Conversely, if owners are confident that the city is serious about enforcing its preservation rules, they will invest. This fact is so important that it deserves to be explicitly included in the purpose and intent section.

Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

This language comes from the New York State model ordinance and is conspicuously missing from the draft ordinance. Such language should be added because it speaks to the strategic role that historic preservation can and should play in achieving a *sustainable* economy.

B. Suggested changes to the definitions section, (33.19) (2) of the Madison draft ordinance

The new draft ordinance uses 13 definitions whereas the New York model ordinance uses 62. The latter reflects the trend in preservation ordinances toward greater precision. Since one of the most common criticisms of Madison’s existing ordinance is that it is “vague,” “confusing,” and “unclear,” the addition of definitions should be welcomed. At the very least, the Committee should compare Madison draft ordinance with the New York ordinance to determine what additional definitions would be desirable.

C. Suggested changes to the powers and duties section (33.19)(4) of the Madison draft ordinance

1. Consider how section (4)(g) impacts open space. Here is the current language:

Review and act upon request for Certificate of Appropriateness for proposed land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts to determine whether the proposed lot sizes adversely impact the historic character or significance of a landmark and whether the proposed lot sizes are compatible with adjacent lot sizes and maintain the general lot size pattern of the historic district.

This is one of two places in the ordinance that affects open space patterns. The other is in (9)(b)(3), which requires open space to become a standard for creating or amending a historic district: “*The amount, shape, and pattern of open spaces shall be sensitive to the character of the district.*”

I call these sections to your attention because the amount, shape, and pattern of open spaces is one of the most important qualities of nearly all historic districts. We saw the importance of this with the SBA project, which drastically reduced the amount, shape and pattern of open space in the 100 block of West Gilman.

Therefore, the public policy issue is: How can open space can be most effectively preserved.

Section (4)(g) deals with open space maintenance *indirectly*. Section (9)(b)(3) only requires that in creating and amending districts, that commissioners be “sensitive... to the amount, shape, and pattern of open spaces.”

Neither section prescribes a direct means by which a historic district’s open space should be preserved.

My concern is that the combination of these two sections in the ordinance will not prove effective in maintaining open space patterns. Therefore, preservationists should work with the Ad Hoc Committee to find a solution to this problem.

2. Replace (4) (m) with a more detailed section noted below.

The draft ordinance reads as follows: (4)(m) *Adopt historic preservation plans.*

What “plans” this section denotes is not clear. Possibilities include: (1) city-wide comprehensive historic preservation plans; (2) city section plans such as the Downtown Plan; and (3) neighborhood plans. Here is a suggestion on how this section could be revised to provide more explicit direction to the commission:

Prepares and periodically updates comprehensive, consistent, and convergent historic preservation plans including: a city-wide preservation plan as a component of the city’s comprehensive plan; plans for key sections of the city such as the Downtown; and neighborhood plans.

3. Consider using the distinction between the two types of commission powers: “general and advisory powers” and “administrative reviews” made in the New York model ordinance (Section 9. Powers and Duties of the Historic Preservation Commission). Such a distinction could provide a better way of organizing and listing the commission’s powers.