

30 October, 2014

Ad Hoc Landmarks Ordinance Review Committee

Comments from Madison Trust for Historic Preservation

RE: draft ordinance dated 06-24-2014 (Sections 9, 10)

(9) Creation and Amendment of Historic Districts

- (a) The Landmarks Commission may select geographically defined areas to be designated as historic districts. To be designated as a historic district, the defined area shall be of particular historic, architectural, or cultural significance to the City of Madison, which:
1. Is associated with broad patterns of cultural, political, economic or social history of the nation, state or community; or
 2. Is associated with the lives of important persons, with important event(s) in national, state or local history; or
 3. Is associated within an area of particular archaeological or anthropological significance;
 4. Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
 5. Is representative of the work of a master builder, designer or architect.

[Comment on definition:

Augment the definition of "historic district" to read:

A historic district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district derives its importance from being a unified entity, though it can be composed of a wide variety of resources. The character of a historic district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties.]

- (b) Each ordinance creating or amending an historic district shall indicate the ~~basis for designation~~ **eligibility criteria** in (a) above **under which the historic district has been determined to be eligible**, and shall include specific Standards for development ~~that shall apply to every instance of exterior alteration, relocation, demolition and new construction~~ in historic districts, and specific Guidelines for reviewing development in the historic district. Standards and Guidelines for in an historic district should ensure that **new** construction and exterior alterations will be done in a manner sensitive to **that complements and does not compete aesthetically with the historic** character of **that defines** the historic district. ~~Adopted Standards shall apply to every instance of development and in an historic district.~~ Additionally, ~~Adopted~~ a set of **Design Guidelines shall be adopted for each historic district designated under this ordinance. Design Guidelines shall** serve as a collective set of principles to promote architectural compatibility of construction and exterior alterations **exterior alterations**,

relocation, demolition and new construction an historic district. In adopting both Standards and Design Guidelines for each historic district, the Landmarks Commission should consider adopting the following:

1. Architectural elements and design features shall be visually compatible with those of the buildings, structures, and environment with which they are visually related (visually related area) in with regards to:
 - i. Height.
 - ii. Massing
 - iii. Gross volume.
 - iv. In the street-facing elevation(s) of a structure building, the proportion between the width and height in the facade(s).
 - v. The proportions and relationships between doors and windows in the street facade(s).
 - vi. The rhythm of solids to voids, created by openings in the facade.
 - vii. Colors Materials and patterns used on the facade.
 - viii. The form design of the roof.
 - ix. The landscape treatment
 - x. The texture and materials used in the facade(s)
2. The existing rhythm created by existing buildings, and structures masses and spaces between them shall be preserved.
3. The amount, shape, and pattern of open spaces shall be sensitive to the character of the district.
4. The landscape plan shall be sensitive to the individual structure-building, its occupants and their needs.
5. All street facade(s) shall blend with other structures buildings via directional expression. When adjacent structures buildings have a dominant horizontal or vertical expression, this expression shall be carried over and reflected.
6. ~~Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.~~ *[This provision is too prescriptive and could result in historicist architectural treatment. The ordinance should not prescribe the influences of decorative details of new construction. New construction should be influenced by existing buildings, but also reflect its own time, and not take specific decorative cues from historic neighbors.]*

(c) Review and Adoption Procedure.

1. Landmarks Commission. The Landmarks Commission shall hold a public hearing when considering an ordinance creating or amending an historic district. Notice shall be given according to Subsection (6) of this ordinance. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the ordinance. This recommendation shall be forwarded to the City Plan Commission and the Common Council.
2. The City Plan Commission. The Plan Commission shall review the ordinance creating or amending the historic district ordinance and make a recommendation to the Common Council within thirty (30) days of the public hearing. The Plan Commission may extend this time by referral.

3. The Common Council. The Common Council, upon receipt of the recommendations from the Landmarks Commission and Plan Commission, shall hold a public hearing, notice to be according to Subsection (6) of this ordinance and shall either designate, amend or reject the historic district ordinance.

(d) Recognition of Historic Districts. The Commission shall assist other City planning efforts to visually define and highlight historic districts.

(10) Obligation to Maintain Landmarks, Landmark Sites and Historic Districts, Compliance with Regulations, Penalties for Violations, Demolition by Deliberate Neglect.

(a) Public Interest in Preservation and Maintenance. The Common Council finds it is in the public interest to preserve and maintain landmarks, landmark sites, and improvements in an historic districts, and to vigorously enforce the provisions of this and other ordinances against those who allow such sites and structures to decay, deteriorate, become structurally defective or otherwise fall into disrepair.

(b) Obligation to Maintain. Every owner or such other person who may have legal possession, custody, and control of an improvement on a landmark site or in an historic district shall protect against exterior decay and deterioration, keep any **building or** structure free from structural defects, and maintain all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of this ordinance and other ordinances, laws, or regulations requiring the maintenance of such improvements.

(c) Enforcement. The Director of the Building Inspection Division of the Department of Planning & Community & Economic Development or designee is authorized to enforce the provisions of this ordinance. Upon written official notice of the Director of the Building Inspection Division or designee, the owner or such other person who may have legal possession, custody, and control of an improvement, shall repair such decay, deterioration, or structural defects to bring the improvement into compliance with this ordinance. Insofar as they are applicable to a landmark, landmark site or improvement in an historic district, designated under this section, any provision of Chapters 18 (Plumbing Code), 27 (Minimum Housing and Property Maintenance Code), 29 (Building Code), 30 (Heating, Ventilating and Air Conditioning Code) and 31 (Sign Control Ordinance) of the Madison General Ordinances may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the Director of the Building Inspection Division, provided such variance or waiver does not endanger public health or safety. However, the Building Inspector or designee may not waive the provisions of this Ordinance.

(d) Penalties for Violations. Violations of the provisions in this ordinance shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate

violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500). A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1000). Each and every day during which a violation continues shall be deemed to be a separate offense.

- (e) ~~Demolition by~~ **Deliberate Neglect**. In addition to the penalties imposed in (d) above, if the owner or such other person who may have legal possession, custody, and control of an improvement, fails to repair the improvement upon written official notice of the Building Inspector or designee, the Building Inspector or designee shall report to the Landmarks Commission whether he or she believes that the structure is undergoing ~~demolition by~~ **deliberate** neglect.
1. Upon receiving a report from the Building Inspector or designee stating that a structure is undergoing ~~demolition by~~ **deliberate** neglect, the Landmarks Commission shall, within ten (10) days of receiving such a report, issue and serve upon the owner or such other person a complaint stating the charge of ~~demolition by~~ **deliberate** neglect and setting a time, date, and place for a public hearing. Notice shall be given according to Subsection (6) of this ordinance. The public hearing shall take place not less than thirty (30) nor more than sixty (60) days after the serving of such a complaint. The purpose of the hearing is to receive evidence concerning the charge of ongoing ~~demolition by~~ **deliberate** neglect and to ascertain whether the owner or other such person wishes to petition the Landmarks Commission for a ~~waiver~~ **variance** under Subsection (15) of this ordinance.
 2. If after notice and hearing, the Landmarks Commission determines that the structure is undergoing ~~demolition by~~ **deliberate** neglect, the Landmarks Commission shall state in writing the findings of fact in support of such a determination, serve a copy of its decision to the owner or other such person, and provide a copy of its decision to the Common Council. In the event that the owner or other such person states an interest to pursue a waiver, the Landmarks Commission decision shall be stayed until after the Landmarks Commission's determination in accordance with Subsection (15) of this ordinance.