



23 July, 2014 – Landmarks Ordinance Review Committee

Comments on proposed revisions to Landmarks Ordinance.

We recognize/commend LC for their many hours of work on revising the ordinance. The current draft language is significantly better because of the work they've done on this over the past two years.

We recognize the great deal of time that David Mollenhoff has put into pulling together solid information on the range of ordinance provisions and best practices from cities across the country.

The most significant component of Mr. Mollenhoff's submission (and perhaps the most useful to this committee) is his outline of common components in preservation ordinances pulled from several municipal ordinances and state-sponsored model ordinances. We have done similar research on model ordinances and find his outline to be a thorough representation of common components of other cities' ordinances and state-endorsed model ordinances. Of course there is a wide range of specific provisions, and one could cherry pick a similar slate of the least effective provisions from other cities' ordinances, but in order to craft a reasonable ordinance that supports the spirit of a conservation ethic around historic cultural places, we recommend using Mr. Mollenhoff's outline as a checklist as you review each section of the ordinance.

...highlight a few components of that outline that would augment this ordinance.

33.19(1)(2) Definitions

Our draft ordinance has 11 definitions in this section. Given the technicality of preservation concepts we feel there is considerable room for more definition of terms. The model ordinance for the state of New York (currently undergoing revisions that will take it from being one of the thinnest state models to one of the most well-conceived) defines 62 terms in its equivalent section (of course it's the quality and not the quantity that matters). The point is that there is room for more clarity on terms used in our ordinance

- Addition
- Alteration
- Significance (architectural, historic)
- Character (architectural, historic)
- Change/changed (with regard to historic properties)
- Compatible
- Construction
- Features/elements (architectural)
- Historic fabric

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- Historic preservation (we use this term as if everyone agrees on what it means, but there are wildly different understandings of what it entails. Also, it is a very specific approach to the treatment of a historic property and stands in contrast to other approaches like rehabilitation and restoration. It's worth a conversation just to come to some agreement about what we mean when we talk about preservation).
- Integrity
- Repair/repairs
- Restoration (used in the district-specific sections of the ordinance)
- Rehabilitation (though not used in our ordinance, it is by far the most common approach to historic commercial buildings, and we prepare for an understanding of this approach)
- Retain
- Structure (vs. building. The National Register of Historic Places clearly differentiates these terms. Our ordinance should follow that standard. A building is designed to shelter human activity, where a structure is a construction whose primary function is not to shelter human activity – burial mound, grave marker, fence, silo, etc.)

We recommend erring on the side of clarity rather than vagueness.

Some other provisions in Mr. Mollenhoff's outline that we'd urge to take a closer look at:

- Special Merit Exception in lieu of Waiver for Alternative Design (33.19(15)(c): The Waivers provision (33.19(15)) is unusual, and may even be unique to this proposed ordinance. It is not common to other cities' ordinances or statewide model ordinances. A "Special Merit Exception" may address what this provision intends to address – in a supportive rather than a coercive way. It's also a rare provision - it's found in D.C.'s ordinance and in San Antonio, TX. It allows for an exception to the standards and guidelines of the landmarks ordinance for proposals *“having significant benefits to the [city] by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services.”* Of course, the interpretation of what is “exemplary” must be placed in the hands of some agency (in DC the Mayor decides what is exemplary, and guidance has accrued over 20 years of Mayoral decisions and from appellate court rulings). In our case it may work well to leave it in the hands of the Landmarks Commission, since the Waivers provision currently does that.

The revised section on the “Obligation to Maintain Landmarks...” 33.19(10) is a positive change. Maintenance standards for historic places (beyond the minimum housing standards) is something that has wide agreement.

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The section on “Management of historic properties” in Mr. Mollenhoff’s outline would complete the cycle of conservation.

- 1) Identify historic cultural resources
- 2) Designate historic cultural resources
- 3) Maintain (protect) “ ”
- 4) Celebrate/Promote historic cultural resources

Step 4 is where the real public benefit happens, and what the “Management” section intends to address. Promoting a city’s historic places makes residents and visitors aware of them. Awareness of a city’s culture, a city’s roots, values and aesthetics over generations promotes a stronger **sense of Place and a sense of identity, and a higher quality of life.** This is where we get the benefits of **heritage tourism** (studies show that they stay longer and spend more money than visitors who don’t seek out a city’s heritage places). Consider augmenting the requirements to “Manage” our historic places through:

- 1) Markers program
- 2) Promotion and recognition of historic districts (through signage, promotion through tourism portals)
- 3) regular surveys and inventories to identify historic resources as they age into significance
- 4) municipal incentives for maintenance of historic character
- 5) A program for informing property owners about historic districts, the Landmarks Ordinance, tax credit benefits and other incentives (especially new buyers of historic properties)
- 6) Technical assistance for owners of historic properties

We urge you to bear a few things in mind during this review process:

1. This ordinance affects stability and predictability in five local historic districts, not just Mansion Hill where the troublesome conflicts tend to be located. Avoid crafting an ordinance that is reactive to controversial issues. It will be outdated sooner than it would be otherwise.
2. Historic districts are not museums, but they are dependent on a cohesive character and the cumulative effect of a many properties that contribute to that character. Preservation ordinances are designed and enacted for the purpose of stabilizing, conserving, and promoting the historic character that defines the district and conveys its importance to the city’s history and heritage.

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