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Attachments: [Vercauteren Landmarks Designation Revisions 10-19-2014.pdf](#)
[CLG Overview.pdf](#)
[CLG Map.pdf](#)

Hello all,

Please find attached the materials I will present at the next LORC meeting on Wednesday. The comments on Sections (7) and (8) of the ordinance related to landmarks designation and rescission are similar to those presented at the last meeting, except I have replaced the concept of owner consent to designation with two provisions based on the Milwaukee ordinance.

I have also attached some additional information on the Certified Local Government (CLG) program that was mentioned at the last meeting. The new proposed language based on the Milwaukee ordinance complies with the NPS and Wisconsin SHPO requirements for CLG designation.

I look forward to discussing these materials with you on Wednesday.

Thanks,

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PROPOSED REVISIONS TO DESIGNATION AND RESCISSION SECTIONS OF LANDMARKS ORDINANCE

This document provides proposed revisions to the Designation and Rescission sections of the Landmarks Ordinance included in the draft referred to the Ad Hoc Landmarks Ordinance Review Committee on July 1, 2014. These sections should reflect the following principles that are not currently reflected in the revised draft:

- 1. Proposed landmarks should be of special significance based on historical or cultural events or individuals, or based on significant architectural design or materials.** (See *Section 7(c) below*). The following provisions reflect this:
 - a. The property must “be of special significance in terms of its historical, prehistorical, architectural, archaeological, and/or cultural importance, and possess integrity of design, setting, workmanship, materials, feeling and/or association.” *Raleigh Ord. 10-1053(a)*.

- 2. The Commission and the Common Council should consider the interests of the property owner in determining whether to designate a property as a landmark.** (See *Sections 7(d) and (e) below*). The following provisions reflect this:
 - a. “[T]he commission staff shall notify, by first-class mail, the owner of record of each real estate parcel or structure that is the subject of the nomination to inform the owner of the nomination, the reason for and effects of designation, that staff is available to discuss the nomination process, and that the owner may submit a written statement indicating his or her position on the proposed designation.” *Milwaukee Ord. 320-21.9.a*.
 - b. “The common council shall balance the public interest in the preservation of the structure, site or district that is the subject of the recommendation and the interest of the owner or owners in using the property for his, her or their purposes.” *Milwaukee Ord. 320-21.9.e*.

- 3. The requirements for rescission should recognize that an owner of record may acquire a landmark other than by inheritance.** (See *Section 8(a)(1) below*).

- 4. The requirements for rescission should recognize that not all real estate transactions are conducted through agent showings and listings.** (See *Section 8(a)(4) below*).

- 5. The standards for proposals in historic districts should focus on compatibility with the character of the district.** (See *Section 9(b) below*). The following provisions reflect this:
 - a. “Compatibility” means a positive relationship to existing buildings and their environs based on the individual visual character of area. *Savannah Ord. 8-3030*.
 - b. A proposal is not “compatible” where it is “not in harmony with the prevailing character” of the district or is “obviously incongruous with this character.” *Charleston Ord. 54-240*.

The following revisions to these sections reflect these principles:

(7) Designation of Landmarks.

(a) Nomination. The Landmarks Commission and the Common Council may consider nominations for landmark designation. Any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological, anthropological, or cultural significance to the City of Madison may be nominated as a Landmark. An individual or group may nominate a property for consideration by submitting an application and a nomination on a form provided by the Commission.

(b) Public Hearing. If a complete, accurate application is submitted to the Commission, a public hearing shall be scheduled. Notice shall be given according to Subsection (6). In addition to the notified persons, the Commission may hear witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation.

(c) Standards. The Commission may recommend designation as a landmark if it determines that the nominated area or structure:

1. Is associated with broad, significant patterns of cultural, political, economic or social history of the nation, state or community; or
2. ~~Is associated with~~ Was a significant part of the lives of important persons, ~~or of with~~ important event(s) in national, state or local history; or
3. Is ~~associated with~~ in part of 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 significant work of a master builder, designer or architect.

(d) Notification of Property Owner. Within ten (10) days after the receipt of a complete, accurate application, the Commission shall notify, by first-class mail, the owner of record of the property that is the subject of the nomination to inform the owner of the nomination, the reason for and effects of designation, that City staff is available to discuss the nomination process, and that the owner may submit a written statement indicating his or her position on the proposed designation. The Commission shall send notification to the owner of record of its recommendation for or against designation. Notification of the Commission's recommendation shall be sent to the property owner within ten (10) days of the Commission's decision and at least ten (10) days before any meeting at which the Common Council may act on the Commission's recommendation.

(e) Report to Common Council. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standards contained in this ordinance, the Common Council may designate the property as a landmark. The Common Council shall balance the public interest in the preservation of the property that is the subject of the recommendation and the interest of the owner or owners in using the property for his, her or their purposes. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor of all designations. The

City Clerk shall cause such designation to be recorded, at City expense, in the Dane County Register of Deeds office.

(f) Voluntary Designation of Additional Preservation Restriction(s).

1. At the time of designation, or at any time thereafter, the owner of record of any landmark may request that the Commission recommend the placement of additional restriction(s) on the landmark identifying elements or features of the landmark that shall not be altered without a Certificate of Appropriateness from the Commission.
2. The Commission shall identify specific standards for approval of such a Certificate.
3. The Commission shall submit recommendations for Additional Preservation Restrictions along with the standards for approval of a Certificate of Appropriateness to the Common Council. The Council shall approve, approve with modifications, or deny such restrictions or standards.

(g) Recognition of Landmarks. After a landmark has been properly designated in accordance with this subsection, the Commission shall cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a landmark. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark structure, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the Commission. In the case of a landmark which is not a structure, such plaque shall state the common name of the landmark and such other information deemed appropriate by the Commission. However, if the landmark is ecologically or culturally sensitive such that the Commission determines placement of a plaque is inappropriate, no plaque is required. No person shall remove or alter a plaque without approval of the Preservation Planner.

(8) Rescission.

(a) By Owner of Record at Time of Designation.

1. Any person who is listed as the owner of record of a landmark at the time of its designation who has held continuous ownership since designation, and any person who has inherited the landmark from such person or otherwise acquired the landmark in the chain of title, may petition for rescission of the designation under this subdivision by submitting an application to the Landmarks Commission.
2. Upon receipt of a complete application the Commission shall schedule a public hearing. Notice shall be given according to Subsection (6).
3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.
4. A landmark designation may be rescinded under this subdivision (a) only if the owner demonstrates that he or she is unable to find a buyer willing to preserve-acquire such landmark at fair market value, even though he or she has made reasonable attempts in good faith to find and attract such a buyer. Such attempts must be supported by evidence ~~including but not limited to~~ that may include the following:
 - a. Comparable real estate listings showing current market values;
 - b. Current real estate listing including disclosure statement;

- ~~c. Dates of real estate agent showings;~~
- ~~d. Original listing date;~~
- ~~e. Original listing amount and dates of subsequent changes;~~
- ~~f. Value of improvements made to the property during ownership;~~
- ~~g. Current assessed value; and~~
- ~~h. Whether the owner has received a fair and reasonable offer to purchase the structure; and.~~
- ~~i. List of routine maintenance and associated costs during ownership.~~

5. The Commission may recommend for or against the rescission of the designation of the property as a landmark based on the standard(s) in subparagraph (8)(a)4. of this ordinance. The Commission shall send notification to the owner of record of its recommendation for or against rescission within ten (10) days from the first regularly scheduled Commission meeting following the public hearing.

6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for rescission contained in this ordinance, the Common Council may rescind the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.

7. Following any rescission under this subdivision, the Common Council may not re-designate the subject property a landmark for a period of not less than five (5) years following the date of rescission, unless requested by the owner of record.

(b) Due to Substantially Changed Physical Appearance.

1. The owner of record or the City Preservation Planner may petition the Commission for rescission of a landmark designation under this subdivision by submitting a letter of intent to the Landmarks Commission.

2. Upon receipt of the letter of intent, the Commission shall schedule a public hearing. Notice shall be given according to Subsection (6) of this ordinance.

3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.

4. A landmark designation may be rescinded under this subdivision (8)(b) of this ordinance only when the physical appearance of the site has changed substantially such that the site no longer meets the standards set forth for designation in subdivision (7)(c) of this ordinance, provided that such change was not due to the owner of record's failure to maintain the property in good repair.

5. The Commission may recommend for or against the rescission of the designation of the property as a landmark, based on the standard(s) in subparagraph (8)(b)4. of this ordinance. The Commission shall send notification to the owner of record of its recommendation for or against rescission. Notification shall be sent within ten (10) days of Commission's decision and at least ten (10) days before any meeting at which the Common Council may act on the Commission's recommendation.

6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for designation and rescission contained in this ordinance, the Common Council may rescind

the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.

(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, significant patterns of cultural, political, economic or social history of the nation, state or community; or
2. ~~Is associated with~~ Was a significant part of the lives of important persons, ~~or of with~~ important event(s) in national, state or local history; or
3. Is ~~associated with~~ in part of 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 significant work of a master builder, designer or architect.

(b) Each ordinance creating or amending an historic district shall indicate the basis for designation in (a) above and shall include specific Standards and Guidelines for reviewing development in the historic district. Standards and Guidelines for development in an historic district should ensure that construction and exterior alterations will be done in a manner sensitive to the character of the historic district. Adopted Standards shall apply to every instance of development in an historic district. Adopted Guidelines shall serve as a collective set of principles to promote architectural compatibility of new construction and exterior alterations in an historic district. In adopting Standards and Guidelines for each historic district, the Landmarks Commission should consider adopting the following:

1. Architectural elements shall be visually compatible with the character of the historic district. “Compatibility” means a positive relationship to existing buildings and their environs based on the character of the historic district, in harmony with the prevailing character of the district and not obviously incongruous with such character. ~~structures and environment with which they are visually related (visually related area) in regards to:~~
 - a. ~~Height.~~
 - b. ~~Gross volume.~~
 - c. ~~In the street elevation(s) of a structure, the proportion between the width and height in the facade(s).~~
 - d. ~~The proportions and relationships between doors and windows in the street facade(s).~~
 - e. ~~The rhythm of solids to voids, created by openings in the facade.~~
 - f. ~~Colors and patterns used on the facade.~~
 - g. ~~The design of the roof.~~
 - h. ~~The landscape treatment.~~
 - i. ~~The texture and materials used in the facade(s).~~

2. The ~~existing~~ rhythm created by ~~existing~~ structure masses and spaces between them shall be ~~preserved~~ compatible with the character of the district.

3. The amount, shape, and pattern of open spaces shall be ~~sensitive to~~ compatible with the character of the district.

~~4. The landscape plan shall be sensitive to the individual structure, its occupants and their needs.~~

~~5. All street facade(s) shall blend with other structures via directional expression. When adjacent structures have a dominant horizontal or vertical expression, this expression shall be carried over and reflected.~~

~~64.~~ 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~~ district.

(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.

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GENERAL INFORMATION

Certified Local Government (CLG) Historic Preservation Program in Wisconsin

The Wisconsin State Historic Preservation Officer (SHPO) administers the Certified Local Government program for the National Park Service in Wisconsin. The federal law creating the Certified Local Government program can be found in 36 CFR Part 61, Section 61.5 "Approved Local Programs."

A Certified Local Government (CLG) is any city, village, county, or town that has been certified by the SHPO and the Department of the Interior to meet these basic criteria:

1. Establish by ordinance a qualified historic preservation commission
2. Enforce appropriate state or local legislation for the designation and protection of historic properties
3. Maintain a system for the survey and inventory of local historic resources
4. Provide for public participation in the local historic preservation program

Wisconsin Requirements for Certified Local Governments

Federal law allows the state to establish additional requirements for CLGs. The CLG must adhere to all of the federal and state requirements or the SHPO may revoke the CLG certification. The Wisconsin SHPO has established these additional requirements:

1. The CLG must enact and enforce a historic preservation ordinance that regulates historic property
2. A CLG must provide annual reporting to the SHPO on CLG activities
3. A CLG must send copies of meeting minutes and agendas to the SHPO following each meeting
4. The ordinance must not allow historic property owners to "opt-out" of local historic designation
5. Designation must not require owner consent
6. The commission must approve work on locally designated properties and recommendations may not be "advisory"

What are the Benefits of CLG Status?

- Eligibility to apply for [Wisconsin Historic Preservation Fund Subgrants](#) from the federal Historic Preservation Fund allocation to the state, to be used for eligible CLG activities.
- Ability to formally comment on National Register of Historic Places nominations within its municipal boundaries before they are sent to the State Historic Preservation Review Board.
- Eligibility to authorize the use of the Wisconsin Historic Building Code for locally designated historic buildings.

Is My Community Already a CLG?

A searchable database of CLGs nationwide can be found through the [National Park Service CLG search page](#). You can also view a [map](#) (217 KB, PDF) of all Wisconsin CLGs.

Learn More

[How does a Community Become a Certified Local Government?](#)



[How to Apply for Historic Preservation Fund Subgrants for Certified Local Governments](#)

[Certified Local Government \(CLG\) Subgrant Criteria](#)

Have Questions?

Contact Joe DeRose by phone at 608-264-6512 or by email below:

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CERTIFIED LOCAL GOVERNMENTS



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