

Bailey, Heather

From: BERT STITT2 <[REDACTED]>
Sent: Friday, January 25, 2019 3:14 PM
To: Fruhling, William
Cc: Scanlon, Amy; Bailey, Heather
Subject: Re: Height/Scale in historic district

Thank you Bill. I appreciate your further exploration/explanation of this subject. It's important information to have with as much clarity as possible.

I'd like to think we might get a 'clarifying' document that spells out all of the if's, and's, & but's.

Regards

bert

On Jan 25, 2019, at 3:07 PM, Fruhling, William <WFruhling@cityofmadison.com> wrote:

Thank you Bert and Amy. I agree with Amy's interpretation of Jennifer's recommendation, as well as the need for more discussion on that topic (and others). Part of that discussion will need to be how that recommendation in particular would work with other ordinances (the Zoning Ordinance specifically) and plans (such as the Downtown or neighborhood plans). I just wanted to chime in with that so everyone understands that it will be more of a multi-faceted discussion and not looking at that recommendation in isolation. Consistency among the Historic Preservation Ordinance and other City plans/policies/ordinances has been a consistent theme with the Historic Preservation Plan and this is just one example of that. Thanks again and stay warm this weekend.

-Bill

<image001.jpg>

William A. Fruhling, AICP
Principal Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development
Planning Division
215 Martin Luther King, Jr. Blvd.; Suite 017
PO Box 2985
Madison WI 53701-2985
Email: bfruhling@cityofmadison.com Phone: 608.267.8736

From: BERT STITT2 <[REDACTED]>
Sent: Friday, January 25, 2019 2:07 PM
To: Scanlon, Amy <AScanlon@cityofmadison.com>

Cc: Bailey, Heather <HBailey@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>

Subject: Re: Height/Scale in historic district

Thank you Amy.

I appreciate your thorough response. And, yes, it does answer my immediate question.

Regards

bert

On Jan 25, 2019, at 1:50 PM, Scanlon, Amy <AScanlon@cityofmadison.com> wrote:

Hi Bert,

Thanks for coming to the LORC meeting last night.

The recommendations suggest that new construction should relate to the height/scale of the historic resources in the historic district. The language, while not yet vetted by the LORC, explains that new construction should be related to the historic resources within 200' and could be one floor unit (story) taller than the adjacent historic resources. Not certain how gabled attic spaces factor into height calculations this since the LORC has not had a conversation about this language yet, but my interpretation of the recommendations would mean a 3-4 story building could work on the site. This building would have to be designed so that the elevations visible from the street would have building features and materials that are similar in design, color, scale, architectural appearance, and other visual qualities prevalent within the historic district, but differentiated enough so that it is not confused as a historic building. In addition, the front elevation would be broken into smaller visual elements so the new building is compatible with the visual scale of the historic context.

These recommendations need discussion by the LORC so that we can have more clarity. I am just giving you my interpretation of the recommendations.

I hope this answers your question.

Best,
Amy

-----Original Message-----

From: Bert Stitt < >

Sent: Thursday, January 24, 2019 6:39 PM

To: Scanlon, Amy <AScanlon@cityofmadison.com>

Subject: Height/Scale in historic district

Hi Amy ... As I listened to the discussion at the Landmarks meeting this evening I became curious as to how the height/scale conversation informs the potential development of the 'Essenhaus' parking lot property in the First Settlement District.

I'd like to hear your thoughts about this.

Thanks

bert stitt

Sent from my iPhone
<118 South Blair Street.pdf>



110-120 South Blair Street
Visually Compatible Study Area
Landmarks Commission

Subject Site

Historic District Boundary

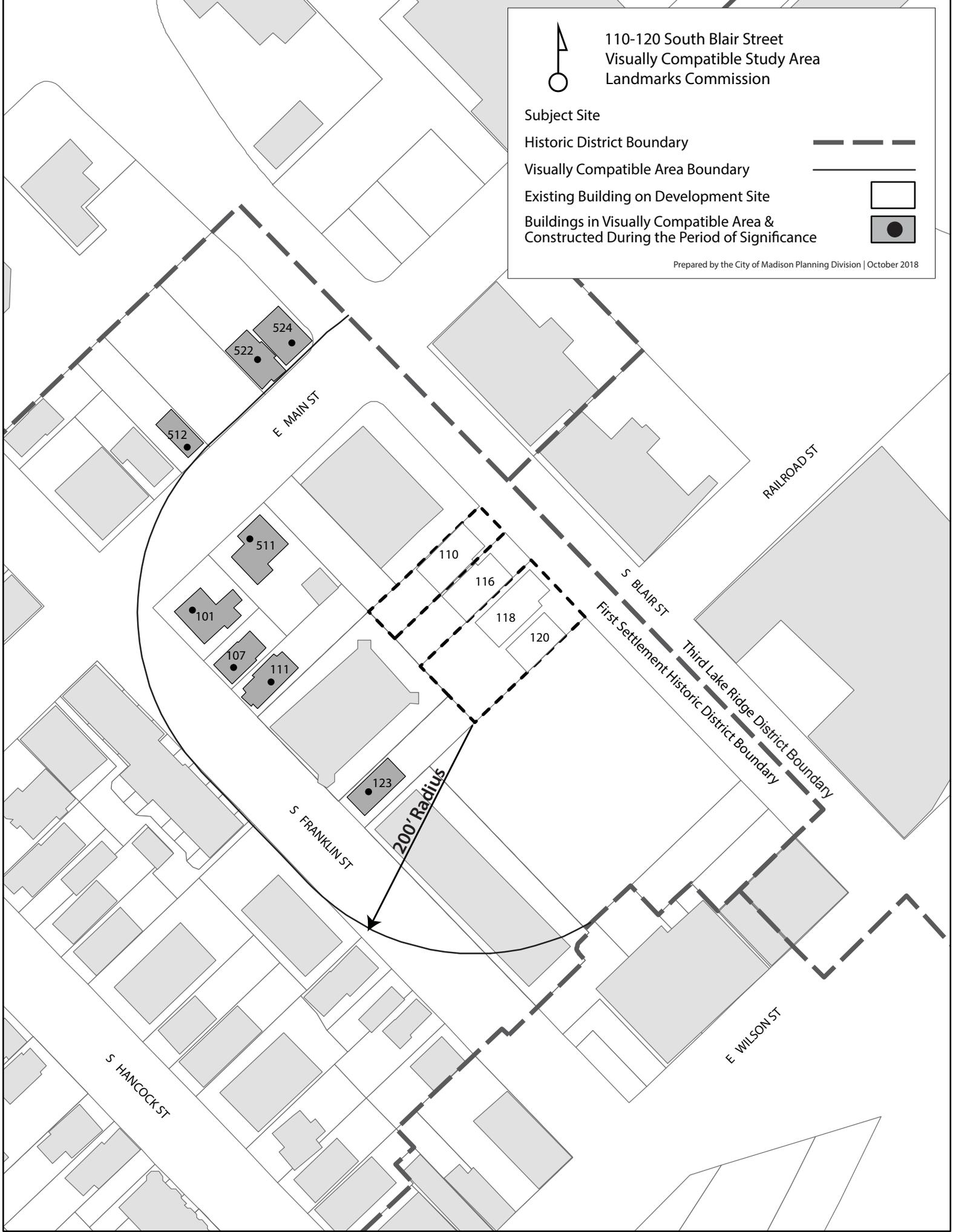
Visually Compatible Area Boundary

Existing Building on Development Site

Buildings in Visually Compatible Area &
Constructed During the Period of Significance



Prepared by the City of Madison Planning Division | October 2018



Bailey, Heather

From: Scanlon, Amy
Sent: Monday, January 28, 2019 9:37 AM
To: Bailey, Heather; Fruhling, William; Jonely, Ryan
Subject: FW: Comments from Ken Baun on solar panel installation in historic districts

From: Jim Murphy <[REDACTED]>
Sent: Sunday, January 27, 2019 11:56 AM
To: Zellers, Ledell <district2@cityofmadison.com>; Hall, Amanda <district3@cityofmadison.com>; Bidar-Sielaff, Shiva <district5@cityofmadison.com>; Rummel, Marsha <district6@cityofmadison.com>; King, J Steven <district7@cityofmadison.com>; Scanlon, Amy <AScanlon@cityofmadison.com>; info@legacy-architecture.com
Cc: Jim Murphy - Retired <[REDACTED]>
Subject: Comments from Ken Baun on solar panel installation in historic districts

All

This note is being sent on behalf of Ken Baun of 1512 Rutledge in the Marquette Bungalows Historic District - with my slight editing with his approval to make it more readable. He is on the road and asked that I forward this to the LORC and the consultant. If you wish to contact him, you can do so at [REDACTED]

Jim Murphy
1500 Rutledge St

Greetings,

The section on page 13 of the January 13, 2019 Track Change document on solar panels reads "shall be installed so that they are as unobtrusive as possible and do not damage or obscure character-defining historic features".

Depending on the orientation and configuration of the house, in order to have an effective solar system, it is sometimes necessary to put solar panels where they are readily visible, especially on south facing homes. I believe it has been established in Wisconsin court that historic restrictions cannot prohibit solar panels, and that solar panels must be permitted on buildings in an otherwise historic district. That said, I don't think solar panels can be banned from obtrusive locations on a house if those are the locations that work best, and there are no unobtrusive locations that effectively work.

I also think "character-defining historic features" is very ambiguous and that whole phrase should either be dropped or made unambiguous.

I would prefer that the language say something like "**shall be installed so that they are as unobtrusive as possible given the need and desire to maximize the efficiency of the solar collector**".

Thank you,

Ken Baun
1512 Rutledge St
Madison, WI 53703



DATE: February 5, 2019

TO: Landmarks Ordinance Review Committee

FROM: James Matson, Member
Madison Alliance for Historic Preservation

SUBJECT: Historic Preservation Districts

I am a member of the Madison Alliance for Historic Preservation (“Alliance”). In that capacity, I participated extensively in the design, development and drafting of the current Madison Historic Preservation Ordinance. The Madison Common Council unanimously adopted the current ordinance in 2015, after extensive study and compromise, with support from the Alliance.

Among other things, the current ordinance provides for the creation and maintenance of historic preservation districts within the city. The ordinance clearly contemplates that development standards within and between historic preservation districts may vary, depending on district-specific goals and preservation needs. Current historic districts were developed over a number of years, and vary widely in their goals and preservation needs. For example, what is appropriate for the Mansion Hill district may not be entirely appropriate for the Marquette Bungalows district, and vice-versa.

Your committee is charged with reviewing the current historic preservation districts, including the development standards that apply in each of the various districts. A consultant’s report has suggested a possible consolidation of district-specific standards, effectively eliminating those standards in favor of a generic set of standards that would apply to all districts. The proposed generic standards would be based, in large part, on the U.S. Secretary of Interior’s *Standards for Rehabilitation* and the Secretary of Interior’s *Guidelines for the Rehabilitation of Historic Districts*.

The Alliance believes that development standards for historic districts should be clear, effective and workable. It may be possible, and indeed desirable, to provide some over-arching standards that apply to all historic districts. But we do not wish to “throw out the baby with the bath water.” The current ordinance contemplates district-specific standards for a reason.

The current district-specific standards were developed, with extensive community input, to address key localized issues and concerns. Those standards are currently the law, and they should not be lightly swept away. We must be sure that any substituted standards provide at least an equivalent level of protection, and that they are clear and enforceable. We have the following concerns, among others:

- The Secretary of Interior’s standards and guidelines focus heavily on the rehabilitation of existing properties, and touch only lightly on new construction. Yet that is precisely the area in which we have the greatest concerns. We are less concerned with the subtle nuances of replacement window materials than we are with major new construction projects that could alter the overall character and scale of a historic district, and undermine the legitimate expectations of district residents. We are concerned about overall land development patterns within a district, not just rehabilitation of existing buildings. We believe that there should be definite standards for things like building height, gross volume, bulk, massing, proportions, orientation, rhythm, directional expression, open spaces, etc., and that those standards should be as clear as reasonably possible (current section 41.11(2) could be used as a starting point for a more comprehensive set of general standards). Broad generic standards may be useful, but district-specific standards will also be important for addressing key local issues in a clear, transparent, effective and workable way.
- We need enforceable “standards,” not just suggested “guidelines.” But that does not necessarily mean that we should transform an extensive body of highly detailed federal “guidelines” into mandatory, one-size-fits-all ordinance “standards” that are applied to all residential, commercial and institutional properties in all historic districts. That simply will not work. A workable approach to historic districts will require an intelligent mix: Basic, enforceable general standards should be established for all districts. Those standards should be judiciously supplemented by enforceable district-specific standards that address key local issues in a clear and locally appropriate way. Some guidelines could be incorporated as standards, while others could be incorporated by reference *as guidelines* to aid the Landmarks Commission in the interpretation and application of enforceable standards (subject to Commission discretion).
- Your actions will shape the entire future of historic districts in Madison, and will affect thousands of current and future property owners. We think that a sound and workable approach is possible, and we pledge to work with you as we did on the successful general ordinance. But the committee must proceed with care, and should avoid a hasty process or pre-conceived approach that could undermine historic preservation, create confusion and conflict, and unfairly affect property owners. The current proposed committee schedule is unrealistic, given the size and importance of the task. We urge you to take the time to do this right.

Cc: Bill Fruhling, Acting Preservation Planner
Jennifer Lehrke, Legacy Architecture

From: [Linda](#)
To: [Bailey, Heather](#)
Cc: [Heiser-Ertel, Lauren](#); [Fruhling, William](#); [Scanlon, Amy](#)
Subject: RE: LORC documents
Date: Wednesday, February 06, 2019 10:40:55 AM

Heather,

Thank you for your email. However, I do not "feel" that my comments were misconstrued. Rather, I know that many of my comments were misconstrued.

As to how to go forward, I believe you should do whatever you feel to be your duty as staff to LORC. But you should be aware, based on your email, that I anticipate I would continue to have problems with any further summaries of my comments.

For example, you ask whether "Ensure a consistency of terminology to avoid confusion" is a better summarization of my point. No, it is not. The point of my comment on page 4 of my document had a heading: "What is being regulated on a contributing property and to what extent?" That was the point of that section, not that consistent terminology needs to be used or redundancies removed.

As a side issue, the document that adds comments to the recommendations identifies almost every commentator's interest in the process by identifying the district. The exception is Mr. Vercauteren's comments -- his comments appear to be merely from an interested resident. Since the rest of us are identified, presumably so LORC can know the genesis of our interest, Attorney Vercauteren's comments should also be identified: "Registered Lobbyist."

Linda

From: Bailey, Heather [mailto:HBailey@cityofmadison.com]
Sent: Tuesday, February 5, 2019 4:18 PM
To: [REDACTED] <[REDACTED]>
Cc: Heiser-Ertel, Lauren <LHeiser-Ertel@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Scanlon, Amy <AScanlon@cityofmadison.com>
Subject: RE: LORC documents

Linda,

I apologize that you feel that I have misconstrued your comments. Your feedback was insightful and incredibly helpful. We want to include that feedback directly as part of LORC's review process and make it as accessible and digestible as possible. However, I was cognizant that any summary would not incorporate all of your nuance. As such, I emphasized that we keep the uncurated comments for the committee members to be able to read independently.

I see at least two approaches to move forward. One is that we remove your summary comments from the annotated consultant recommendations and instruct the committee that you wish your comments to stand in their entirety. The second would be to more accurately convey the points you make in your full document. I am also open to other suggestions. These are your comments and you

need to be comfortable with how the committee receives them.

To address some of the specific concerns you have of summarized comments, I offer the following suggestions:

The first comment I supposedly made was to ask: “Will the City standards be more restrictive than the State or Federal standards?” No, I was not asking this question. I was making a statement that if this recommendation is adopted, City requirements will be more restrictive than state or federal standards.

Would you prefer this be made a statement or is the wording itself problematic?

The third comment I supposedly made was: “Recommend removing all references to zoning code. Trying to regulate building height will create a conflict with zoning code.”

I was actually trying to incorporate a couple of items in this summarized comment. On page 6 of your comments you have a subheading entitled: “References to the Zoning Code should be eliminated.” You raise several points, and I wanted to provide an illustrative example of one of the ways in which you point out that there are potential conflicts between the recommended ordinance change and zoning code.

Moving on to my supposed 9th comment, I purportedly said: “Remove redundancies in the definitions.”

There are several places in your comments where you call out a variety of phrases in the recommendations that are intended to mean the same thing, but don’t necessarily do so and instead create confusion. Such as on page 4 (There needs to be a clear definition of what side of a building is being regulated Below are all the different phrases that are used in the recommendations. Followed by a list of 14 terms). In order to capture that intent, perhaps a better way to phrase it is “Ensure a consistency of terminology to avoid confusion.”

Again, I apologize if I misrepresented your comments, but am happy to take necessary action to ensure they are accurately conveyed. As you requested, we have included your most recent correspondence in the public comments for the upcoming meeting. Please let me know how would you like to proceed?

Thank you,

Heather



Heather L. Bailey, Ph.D.

Preservation Planner
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development
Planning Division
215 Martin Luther King, Jr. Blvd.; Suite 017
PO Box 2985
Madison WI 53701-2985

From: Linda [mailto:]

Sent: Monday, February 4, 2019 3:01 PM

To: Zellers, Ledell <district2@cityofmadison.com>; Rummel, Marsha <district6@cityofmadison.com>; Bidar-Sielaff, Shiva <district5@cityofmadison.com>; King, J Steven <district7@cityofmadison.com>; Hall, Amanda <district3@cityofmadison.com>

Cc: Fruhling, William <WFruhling@cityofmadison.com>; Scanlon, Amy <AScanlon@cityofmadison.com>

Subject: LORC documents

Members of the Ad Hoc Landmarks Ordinance Review Committee,

Document #5 of Legistar 54447 supposedly incorporates comments received on the initial draft recommendations. Since I wrote a letter on the initial recommendations, I have my own identification number, TLR3.

I am writing to beg you to NOT to ascribe to me any of the opinions purported to be mine. Some are mine, some are not, others are so muddled that what I said has been entirely misconstrued.

The first comment I supposedly made was to ask: "Will the City standards be more restrictive than the State or Federal standards?" No, I was not asking this question. I was making a statement that if this recommendation is adopted, City requirements will be more restrictive than state or federal standards.

The third comment I supposedly made was: "Recommend removing all references to zoning code. Trying to regulate building height will create a conflict with zoning code." Yes, I believe that the Zoning Code should not be referenced and provided almost 2 pages of reasons. I NEVER recommended that the ordinance rewrite not address height. The initial recommendations said: "If the existing principal structure is already nonconforming, any additions or enlargements shall conform to the provisions of this ordinance for new structures, the height restrictions for the zoning district in which the principal structure is located, and Section 28.192." By linking nonconforming to MGO 28.192 (nonconforming buildings or structures), the consultant is saying that any building that does not meet zoning requirements would need to meet "the height restrictions for the zoning district in which the principal structure is located ..." I pointed out how many/most buildings in TLR are nonconforming under the Zoning Code. Thus, those buildings would be subject to the Zoning Code's height limitations – limitations that commercial can avoid through conditional use approval (and residential through variances). I may not have been explicit enough: (1) I believe the ordinance should regulate height; and, (2) the ordinance should directly regulate height rather than attempting to do so indirectly through the Zoning Code.

Moving on to my supposed 9th comment, I purportedly said: "Remove redundancies in the definitions." No, I was listing the consultant's recommendations, and then in the bullet point under that recommendation, I provided my opinion. For this one, where the consultant recommended removal of redundancies, I thought that was a rather limited recommendation and that the actual redundancies (if any) should be identified.

I could go on and on, but it seems pointless since you have my original document. However, I certainly do not want my name attached to many of the comments I supposedly made. Thus, I would appreciate this email (redacted for my address), be made part of the Legistar record.

Linda Lehnertz

From: [John Martens](#)
To: [Heiser-Ertel, Lauren](#)
Cc: "[Frances Ingebritson](#)"; "[Linda Lehnertz](#)"; "[Sam Breidenbach](#)"; "[Michael Bridgeman](#)"; "[Katherine Rankin](#)"; "[Jim Skrentny](#)"; "[Jim Matson](#)"; "[Fred Mohs](#)"; "[Leigh Mollenhoff](#)"; "[Peter Ostlind](#)"; "[Kurt Stege](#)";
[REDACTED]
Subject: RE: Landmarks Ordinance Review Committee - 2/7 Agenda
Date: Thursday, February 07, 2019 10:08:12 AM
Attachments: [41D Matrix.pdf](#)

Hi Lauren,

I would like to submit this chart for the LORC meeting tonight. Hopefully it can be distributed to the appropriate parties. I plan on attending the meeting and will make a statement explaining it further.

Thank you,
John Martens
Madison Alliance for Historic Preservation

The following chart is an attempt to break out the current design requirements for each Landmarks district. The requirements are in the left column, the districts and their zoning sub-districts are in the lines across the top. New development is shown in pink.

Wherever the current code requires a certain compatibility in a particular district, a mark is placed at that intersection:

- X** standard requirement
- X1** standard requirement, slight difference
- SP** specialized requirement
- VR** requirement referenced to Visually Related Area
- D** duplication requirement
- E** encouragement

To help simplify this complexity, an attempt has been made to separate the existing requirements into "Lot", "Features", and "Materials"

Without getting lost in details, this chart visually demonstrates the vast differences in existing requirements between and within our historic districts, presumably crafted over the last decades to reflect the inherent differences of historic character of those districts.

| REQUIRED COMPATIBILITIES | | Mansion Hill development | new alteration | | new alteration | | new alterations | | new alterations | | new alterations | | new alteration | | new alterations | | alterations to post-1930 |
|----------------------------------------|---------------------------------------------------------------------------------------|--------------------------|----------------|---------------|----------------|----------|--------------------|------------|-----------------|--------|-----------------|------------|----------------|-------------|-----------------|----|--------------------------|
| | | | zoned employ | zoned mix/com | zoned res | all zone | zone 1 | z1 visible | z1 not viz | zone 2 | new | alteration | new | alterations | | | |
| | | Third Lake Ridge | | | | | University Heights | | | | | Bungl'w | | 1st Settle | | | |
| Lot | height | VR | VR | VR | VR | VR | VR | VR | SP | SP | | | SP | | | SP | |
| | gross volume | VR | VR | | VR | | VR | | | | | | | | | | |
| | rhythm of building masses to spaces | | | | VR | X | VR | X | | | | | | | | VR | |
| | street façade directional expression blend w/others | X | | | | | VR | | | | | | | | | VR | |
| | façade setback, entrance, rhythm, directional expression | | | | | | | | | | | | | | | X | |
| | visual size | | | | | | | | SP | | | | | | | | |
| | additions | | | | | | | | | | | | | D | | | |
| | accessory structures | | | | | | | | SP | | | | | SP | | | |
| parking lots | | | | | | | | X1 | X | | | X | | | | E | |
| Features | façade architectural design, scale, color, texture | | | | | | | | | X | | | | | | | |
| | façade doors & windows - proportion w:h | VR | | | | | | X1 | | X | | | | | SP | X | |
| | façade openings - proportion & rhythm of solids : voids | VR | | | | | | | | | | | | | | E | |
| | facade proportion & rhythm of solids : voids | | | | VR | X | X | X | | X | | | | | SP | | |
| | structure facade proportion w:h | VR | | | | | | | | | | | | | | | |
| | roof - design | | | | VR | X1 | X | X1 | X1 | | | X1 | X | | SP | | |
| | windows and doors | | | | | | | | | | | | | D | | SP | |
| | window trim, location of front entrance, garage doors | | | | | | | | | | | | | | X | | |
| | skylights, dormers, chimneys, porches, foundations, storm windows/doors, second exits | | | | | | | | | | | | X | | | X | X |
| | architectural details, fences, etc | | | | | | | | | | | | X | | | | |
| | landscape treatment | | | | | X | X | X | | | | | | | | | |
| | decks, ramps, light fixtures, permanent A/C, shutters | | | | | | | | | | | | | | | X | |
| decks, foundations, porches | | | | | | | | | | | | | | | | SP | |
| front yard fences and retaining walls | | | | | | | | | | | | | | | | | |
| second exit platforms and fire escapes | | | | | | | | | X | | | | | | | X | |
| Materials | materials | | | | | | | SP | X1 | | | | X | | | | |
| | scale, materials, texture | | | | | | | | | | X | X | | | | | |
| | façade materials | | | | VR | X | X | X | | D | | | | | | | |
| | materials, patterns, textures | | | | | X | X | | | | | | | | | | |
| | texture, color, architectural detail | | | | | | | | | | | | X | | | | |
| | roof - materials | | | | | | | | SP | SP | | | X1 | SP | SP | | |
| | (re)siding | | | | | | | | | SP | | | SP | SP | SP | X | E |
| tuckpointing | | | | | | | | | | | | | X | | | | |

Ad Hoc Landmarks Ordinance Review Committee
Meeting of February 12, 2019
Legistar #54447

I would like to provide the following comments on the recommendations for the proposed historic ordinance.

Do the recommendations “streamline” the ordinance and provide clarity?

Summary: The recommendations do not streamline the ordinance and do not provide clarity.

Streamlining

The draft initial ordinance revisions are approximately 15 pages in length. That replaces the approximate 1 page for Mansion Hill, approximate 1.5 pages for Third Lake, approximate 3 pages for University Heights, approximate 3 pages for Marquette Bungalows, and approximate 4 pages for First Settlement.

Clarity

Whether there is additional clarity is best illustrated through a few examples.

One example is shutters. Shutters that are important to the overall character of the building shall be identified, retained, and preserved. Repairs to shutters can include limited replacement in kind or with a compatible substitute material.

- How is it determined whether shutters on any particular building are “important to the overall character of the building?”
- If the shutters are important, they must be retained. Yet the Landmarks Commission, Legistar 51825, permitted a landmarked building to remove the non-original shutters even though the building would originally have had shutters. Are non-original shutters important to the overall character?
- What if a homeowner wants to add shutters? The recommendations do not address adding new features.
- Currently, only First Settlement addresses the addition of shutters and repairs to existing shutters. It is clear that homeowners can add or remove or repair shutters in the other districts without a Certificate of Appropriateness.

Does limited replacement of one siding board require a Certificate of Approval? (“Repair may include the limited replacement in kind or with a compatible substitute material of those extensively deteriorated or missing components of wood features when there are surviving prototypes, such as brackets, molding, or sections of siding.”)

What are “character-defining features?”

- Mechanical and service equipment on the roof cannot damage or obscure character-defining historic features.

- New additions should not obscure, damage or destroy character-defining features.
- Wood features, metal features, and roofs (including the roof's functional and decorative features) that are important in defining the overall historic character of the building need to be identified, retained, and preserved.

Elevators/stairs can be placed in non-character-defining interior spaces. Is it the intent to start regulating interior spaces?

Public Comments

Summary: Materials provided to LORC regarding public input were not comprehensive.

Mr. Tisch provided a summary of comments/questions from the TLR round 3 meeting on December 10. (Page 1 of the 99-page document, Legistar document #4.) The lasting take-aways I have from that meeting are as follows:

- A resident was upset about the restrictions on new windows. She had a new baby and was concerned about the lead paint. Public Health had told this resident that the only way to be entirely safe was to replace the windows. Ms. Lehrke disagreed with the resident and told her there were ways to handle lead paint. This discussion went on for several minutes and, in my opinion, was not resolved. Rather, what I heard was the resident's concerns being dismissed.
- There were a number of concerns expressed about not differentiating districts. One of my comments was that commercial (Williamson) needed to be differentiated. I asked Ms. Lehrke for her professional opinion of the new building at Williamson/Blount. She was unable to give an opinion. When asked, she said that she had not walked down Williamson. How can a consultant say that different standards are not needed for commercial when the consultant has not even taken the time to walk down the street and closely observe the existing conditions?
- I asked Ms. Lehrke about NPS standards versus guidelines. There was a bit of discussion, but when I asked what other municipalities, to her knowledge, have adopted the NPS guidelines as an ordinance, her answer was that she was not aware of any. (A number of municipalities have adopted NPS standards, or some variation of those standards, but Ms. Lehrke could not identify one that has adopted the guidelines. Yet this is what is being proposed for Madison's ordinance.)
- There was a discussion regarding additions and how additions needed to be differentiated from the original structure. (Point B.1. on page 20.) Some residents did not like this requirement. Ms. Lehrke explained how there can be subtle differences to differentiate the addition, like (as I recall) narrower mortar joints or thinner trim. Is the goal to have additions that only a professional can distinguish from the original, or is it the goal that anyone looking at the structure should be able to tell the new from the old?

I would also like to reiterate my comment from my December 1 comment letter: "In May 2018 there was an open house, which was part of the Historic Preservation Plan. This meeting allowed sticky notes to be added to various issues. Although this was under the Preservation Plan, many/most comments reflected attendee concerns with ordinance matters. Perhaps these comments should also be included in the records."

Standards versus Guidelines

Summary: Madison would apparently be the first municipality to adopt the Secretary's guidelines as its ordinance. Districts would be more regulated than landmarks. Enforcement problems could be created.

The recommendations rely heavily, almost exclusively, on the Secretary's guidelines. These guidelines are used to help determine whether the Secretary's standards are met. Guidelines allow for the exercise of discretion. By taking portions of the Secretary's guidelines and transforming them in ordinance requirements, that discretion is being removed.

Under Chapter 41, landmarked properties are subject to the Secretary's standards, not the guidelines. Thus, the recommendations would result in historical districts being subject to stiffer regulation than landmarks. Yet under state law, for districts it is the character of the district being preserved and for landmarks it is the historic or archaeological landmark and property is being preserved.

Using the guidelines as the basis for the new ordinance would also result in enforcement problems. For example, how will the City ensure that only "skilled masons" are using mechanical tools for repointing mortar? What is a "skilled mason?"

As I noted above, there is not any example of another municipality basing its ordinance on the Secretary's guidelines.

Further, public comments demonstrate substantial pushback to this proposal. Many properties are not even eligible for tax credits, yet those properties would be subject to stricter standards than landmarks (landmarks can receive tax credits).

An alternative is to have the ordinance address the standards and a design handbook to have the details/explanations. This is how TLR is currently constructed. The ordinance provides the standards in MGO 41.23. These standards are based on "a plan entitled "Third Lake Ridge Historic District," City Planning Department, January, 1978." MGO 41.23(10). That document contains approximately 17 pages of illustrated criteria in a section entitled "Development Handbook Design Criteria." For example, there is an illustration of what is meant by preserving the existing rhythm of buildings/masses and spaces.

Consolidated standards for all districts versus recognizing differences

Summary: As supported by LORC in 2017, some uniform general standards with district specific standards to reflect character is a better way to proceed.

The recommendations propose one set of standards: "Good preservation practice is good preservation practice, no matter what district one owns property in. The standards for masonry or a roof in Marquette Bungalows should be no different that the standards for masonry or a roof in Mansion Hill and so on and so forth for all the requirements." (Page 5) That is a true statement: all masonry should have lime mortar, and the range of appropriate roofing materials is probably the same in all districts.

What is ignored are existing differences and district preferences. Should Marquette Bungalows, a cohesive grouping of almost all structures being 1-1½ stories in height, permit a one-story rooftop addition? The First Settlement district opted to address the rear of the buildings (e.g., regulating decks in rear yards). Should that be taken away from this district when it was obviously important to them and was adopted by the Council?

Williamson Street BUILD II provided standards for the 600-1100 blocks. It addressed design guidelines and criteria for preservation, rehabilitation and restoration. As part of the adopting resolution, the Council resolved the standards should be incorporated into the ordinance:

BE IT FURTHER BE RESOLVED that Planning Unit staff is hereby directed to prepare the necessary ordinance amendments to update the Third Lake Ridge Historic District Ordinance.

For some unknown reason, BUILD II was never incorporated into the Landmarks ordinance. But at a minimum, BUILD II should be reviewed (I have found no evidence that this document was even considered for the recommendations) and incorporated into the new ordinance as appropriate. For example, the south side of Williamson was to have less height that the north side – that is not addressed in the recommendations. A review of BUILD II followed by a walk down Williamson could be useful for an understanding of why BUILD II is appropriate.

Allowable height varies by district. The historic ordinance should address current allowable heights to ensure such heights are not exceeded in the future.

In September 2017 LORC had a " ... overwhelming consensus to have some uniform general standards for all the districts and then some specific standards that get at the character of each district."

<https://madison.legistar.com/View.ashx?M=F&ID=5521401&GUID=35296C94-9630-4731-8040-6E8BD9D9ED28>

Design Guidelines

The recommendations state: "The Historic Preservation Plan will make a recommendation for illustrated design guidelines that highlight the unique characteristics of each district."

Although such guidelines may be quite informative, they will not protect the historic resources. Each district's unique characteristics deserve protection.

LORC may wish to consider how the current ordinance incorporates design guidelines.

- MGO 41.22(5): "The requirements in this section derive from a plan entitled "The Mansion Hill Historic Preservation Plan and Development Handbook", City Planning Department, 1975."
- MGO 41.23(10): "The public policy guidelines in this subsection derive from a plan entitled "Third Lake Ridge Historic District," City Planning Department, January, 1978."

Both of these documents provide guidance to help determine whether ordinance standards are met, though it is not clear whether they have been used as such by the Landmarks Commission. The TLR document provides illustrations of what is meant by terms such as "voids" which, in my opinion, works better than trying to put a definition into words.

To what extent should the ordinance rewrite strive to be consistent with the Zoning Code and adopted plans?

Summary: The Comprehensive Plan provides that the Zoning Code should conform to the historic preservation ordinance. Other plans should be modified as needed to support historic preservation.

Attachment #9 to Legistar 54447 includes a discussion of how the recommendations could influence the development of the Essen Haus parking lot. As part of that discussion, Bill Fruhling said (page 1):

"Part of that discussion will need to be how that recommendation in particular would work with other ordinances (the Zoning Ordinance specifically) and plans (such as the Downtown or neighborhood plans). I just wanted to chime in with that so everyone understands that it will be more of a multi-faceted discussion and not looking at that recommendation in isolation. Consistency among the Historic Preservation Ordinance and other City plans/policies/ordinances has been a consistent theme with the Historic Preservation Plan and this is just one example of that."

Zoning Code

The final Comprehensive Plan, page 77, specifically added a section that the Zoning Code should comply with the historic ordinance:

The City was drafting a Historic Preservation Plan (HPP) and modifying its historic preservation ordinance as this Plan was written. Both the HPP and the ordinance have elements that relate to the City's zoning code. The zoning code should be reviewed with respect to the new HPP and the revised historic preservation ordinance and modified as needed to ensure that the provisions of the code are consistent with the HPP and the historic preservation ordinance.

And this snippet from the Comprehensive Plan, page 50, is, in a way, a side issue, but useful to keep in mind when thinking about building heights (recognizing that development in the isthmus needs to slow down):

Much of the infill over the last decade has occurred in the downtown and isthmus areas, and this will continue to some extent. Directing redevelopment and infill to existing auto-oriented commercial centers and other areas as identified in the Growth Priority Areas Map, Generalized Future Land Use Map and sub-area plans will help accommodate needed growth while protecting the historic character of older neighborhoods.

Could the current Zoning Code be modified to fit with the historic ordinance, such as a maximum 3 stories in height? The answer probably depends, in part, whether the Zoning Code grants property rights.

For purposes of this comment letter, I will assume that the Zoning Code grants property rights that cannot be taken away. Assuming so, a new historic ordinance should probably avoid conflicting with the current Zoning Code requirements. However, the historic ordinance should not be tied to future Zoning Code changes, such as increased maximum heights. If needed, a new zoning classification could be created for historic resources. This, in fact, was discussed by LORC in 2018: "Perhaps a new zoning chapter needs to be written for historic districts."

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Third Lake Ridge zoning classifications allow for 3 stories/40 feet for commercial uses (TSS and NMX). Residential uses are TR-V2 (2 stories/35 feet, or 3 stories/40 feet for 3-4 unit properties), TR-V1 (35 feet), and TR-C4 (2 stories/35 feet, except nonresidential can be 35 feet). New structures and additions built to the Zoning Code maximums would likely be "compatible" in height with the historic resources. However, allowing an additional story in height (as is being recommended) would create a conflict with the Zoning Code. That additional story would be subject to the conditional use approval process or the variance process. Should the historic ordinance allow height that (1) requires special approvals; and, (2) exceeds the zoning maximums deemed generally acceptable in a particular district?

First Settlement has different maximum heights. The Downtown Height Map, MGO 28.071(2)(a) provides that most of First Settlement is 3 stories (46 feet in height if each story was at the maximum under the ordinance). Part of the Essen Haus parking lot, and other properties along S. Blair (110-120) can be 6 stories (88 feet in height if each story was at the maximum under the ordinance). Certainly 88 feet is more than one story higher than other historic resources within 200 feet. Thus, part of First Settlement would be more than one additional story in height. Also of note is that the recommendations might create a conflict with the existing downtown zoning ordinance. For example, Table 28-E1 specifies allowable materials (includes EIFS as trim or on the top of the building).

Plans

There is a difference between (1) having the revised historic ordinance conform to existing plans, no matter the support in those plans for historic preservation; and (2) having City plans support historic preservation. The Historic Preservation Plan had a goal that to coordinate municipal policies to protect historic resources. One objective was to: "Coordinate efforts and regulations among city plans, policies, ordinances, and departments." A strategy was: "Adopted City plans and special area plans *support historic preservation.*" Goal 4, Objective 4a, Strategy 58 (emphasis added) of:

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I commented to the Landmarks Commission that not all plans listed as part of Strategy 58 supported historic preservation. None were against historic preservation, but some did not address the issue, and some others did so tangentially.

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The Landmarks Commission proposed the language be changed to "...plans should support historic preservation."

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Strategy 58 then morphed into: "Historic Preservation recommendations and policies should be coordinated between departments and agencies." Of particular note is the absence of "*support historic preservation.*" Up until 12/18/2018, supporting historic preservation was the goal of coordinating various city plans, policies, ordinances, and departments.

The existing plans, adopted by the City as supplements to the Comprehensive Plan, could certainly provide good background information to LORC. But I do not believe that LORC should strive to comply with these plans at the expense of historic preservation: these plans are mere "guidance" (as said by a Planning staff member to the Plan

Commission when asked about Willy Street BUILD II) and per state law, Wis. Stats. 66.1001(1)(a) and (2m)-- a comprehensive plan is a "guide" and a comprehensive plan is not a regulation.

As examples of the good information contained in some of these plans:

- The Downtown Plan, adopted in 2012, had 12 specific recommendations to preserve historic buildings.
- The Design Guidelines & Criteria for Preservation, Williamson Street, 600-1100 Blocks, adopted in 2004, was entirely devoted to development on those blocks of Willy, including heights and design guidelines. And the Council support was such that Planning was instructed to use the document to develop an amendment to the TLR historic ordinance.

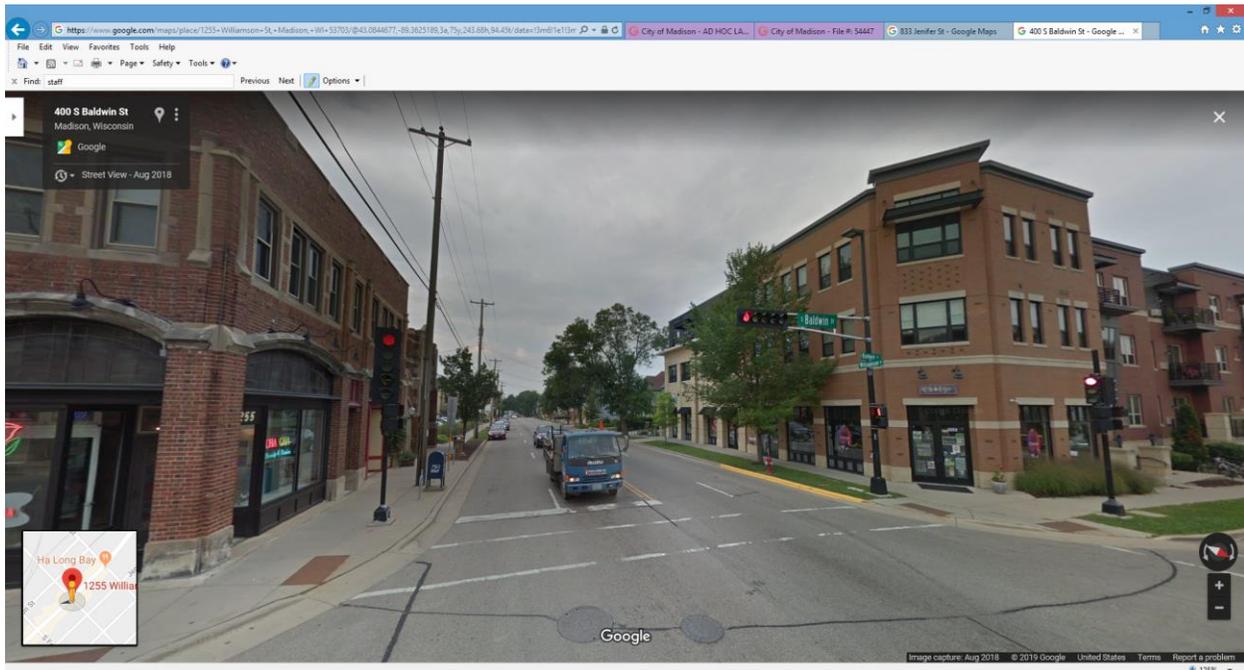
Additional one-story of height

Summary: An additional story in height is not appropriate: height should depend upon the district, or even the area in the district.

A rooftop addition, under the recommendations, could be an additional one story in height as could new principal structures. The LORC meeting minutes for the 1/24 meeting state: "...Lehrke said that her thoughts on this changed after the Round 3 meetings, and she thinks that heights can be one story higher than adjacent historic buildings, but also need to be pushed back so that they don't overpower the historic buildings."

This should be reviewed in a specific context. Marquette Bungalows consists of a block of almost all structures being 1-1½ stories in height (though additions of dormers may qualify the homes as 2 stories). If a resident is allowed to add a story, the symmetry of this district could be lost.

The Baldwin Corners building was offered by a lobbyist as an example of what works even though the building is noticeably taller than its adjacent historic neighbors. Baldwin Corners is 39-43 feet in height and, per the applicable Staff Report, complied with neighborhood plans. Baldwin Corners is higher than its immediate neighbor. However the full context is missing – it is, at most, 1/2 story higher than the corner building across the street.



And, should LORC care to see a building where dissimilar heights do not work, I suggest 704/706 Williamson.

What structures are being regulated?

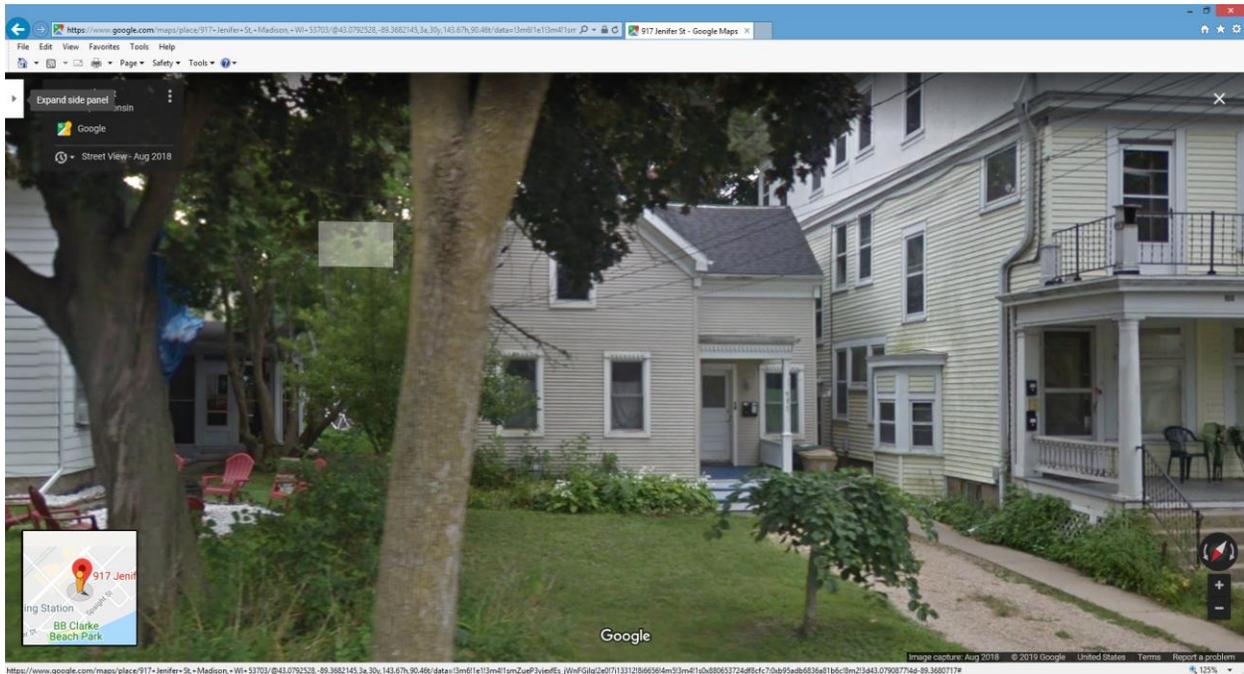
Summary: Buildings in historic districts need to be consistently classified and defined, whether that is contributing/non-contributing or within/without the period of significance or something else. The period of significance for each district should be reviewed and, perhaps, expanded. The ordinance should address regulation of non-building historical items.

In addition to which sides of a historic resource are being regulated, there is also the question of which particular buildings are being regulated. Under the consultant's proposal to define "area of visual compatibility" there is mention of non-historic, non-contributing, and properties constructed outside the period of significance.

What is a non-contributing property? That is not explained in the recommendations, nor is non-contributing used again in the recommendations. For the Jenifer-Spaight Historic District NPS application, non-contributing buildings were those that (1) had lost

too much of their original design characteristics or (2) were of too recent construction. (The application listed a total of 132 resources, 16 of which were listed as non-contributing.)

Some of the non-contributing structures have had so many odd additions over the years that it would be difficult to restore the building to its approximate original appearance. Others seem to have just been covered up with siding.



Though not clear from the screen copy, this house has dentil molding along some windows and the porch. Should a house like this be tightly regulated, not regulated at all, or somewhere in between?

The recommendations close, in part, with: "The above recommendations for the Standards for Review shall be studied further, within the framework of a hierarchy of standards in which properties constructed during the period of significance shall be more stringent than properties constructed outside of the period of significance, new additions, or new structures." The recommendations provide the following for structures outside the period of significance:

- The impact of accessibility ramps does not need to be minimized.
- Hand raking of mortar joints is not required.
- Smooth composite clapboards and trim can be used on any side.
- "Dutch lap, French method, and interlocking asphalt shingles are allowed on structures constructed after 1920 and within the period of significance."
- The range of glass used in window repair is not limited.
- Vinyl, fiberglass, vinyl or fiberglass clad wood, aluminum, glass block, picture, bay, and bow windows are permitted.

- Unpaneled, modern-style doors and doors with a fake wood grain, mill finish or clear anodized aluminum, and other metallic finishes are allowed.
- Decorative wrought iron, aluminum or other metal, composite, and vinyl balustrades and railings are allowed.
- Porch ceilings do not need to have the appearance of narrow beaded boards.
- "Except on structures constructed outside of the period of significance, rear yard decks may have solid wall balustrades and stair wing walls with masonry or siding to match the structure or open balustrades and stair railings with top and bottom rails with the bottom rails raised no higher than four (4) inches above the floor."

Some of this makes no sense. For example, an accessibility ramp can detract from the historic appearance of neighboring historic properties. Wouldn't it make sense to minimize the impact of such ramp to the extent reasonably possible? Or, look at windows. For new structures, "[a]luminum, glass block, picture windows, bay windows with angled sides, and bow windows are prohibited." Yet alterations to a structure constructed outside the period of significance can have bow windows and bay windows.

Period of Significance

Third Lake Ridge has a period of significance of 1850-1929. The Jenifer-Spaight Historic District's period of significance is 1854-1944.

I counted 77 structures in TLR outside the period of significance. If TLR's period of significance was changed to match that used in the NPS application, that number would drop to 36.

Reasons to change TLR's period are reflected in the NPS application.

- "In general, the district as a whole retains the overall appearance it had during the latter portion of its period of significance. Its historic integrity is strengthened by the fact that only two of the district's non-contributing buildings are modern buildings that date from after World War II."
- "But even though more buildings were built in the district in the years between 1920 and the beginning of World War II, these new buildings really represented the end of the trend that had started almost 90 years before. By the start of World War II the Jenifer-Spaight district had assumed its present appearance."
- "Thus, it is not surprising that the district is more notable now for the diversity of its designs and for the variety of materials it displays than it is for its stylistic consistency. This diversity, though, is the end product of the historic progression of the neighborhood and reflects the fact that many of the houses that now grace its lots are in fact the successors to earlier, smaller ones."

Regulation of non-buildings in historic districts

Should the old carriage stones be protected? (This question did arise during one of the street reconstructions.) Or what of the boulder placed in 1908 at the Breatly/Spaight corner that commemorates the former Leonard J. Farwell Octagon House?

Or what of regulating Orton park? Or burial mounds? Currently, there are burial mounds designated as federal historic districts, but none on Madison's list. Should the ordinance be prepared to protect burial mounds?

Definitions section

Summary: At least some of the definitions do not increase understanding. New terms are added in the recommendations that do not have a clear meaning.

There is a general recommendation to use NPS definitions if new definitions are needed. The reason is two-fold: (1) NPS has had decades to perfect the definitions; and, (2) the definitions are understood throughout the country. Yet Madison also has decades of perfecting application of the ordinance, and it does not really matter if someone from Maine understands the ordinance.

There is a recommendation to "refine" the definition of a historic district. The recommendation is not a refinement, it is a replacement. What is missing in Madison's decades-old definition? Why is a new definition needed? Such a recommendation could also be used as a back-door way to shrink the historic districts. If parts of the existing historic district do not qualify under the NPS definition, they would not qualify should Madison adopt the proposed replacement language.

"Inconspicuous" has a proposed definition. Words of common meaning are ordinarily not defined in ordinances/regulations/statutes. The proposed definition is "[n]ot visible or attracting attention." It is used, for example in the additions section: "A compatible rooftop addition for a multi-story building, when required for a new use, shall be designed that is set back from elevations visible from the street and that is inconspicuous when viewed from a standing position from across the street." If someone is standing across the street, does it mean that the addition cannot be seen at all? Or does it mean that the addition does not attract attention?

The consultant proposes to distinguish "additions" and "new structures" by whether the new building is connected to the old building. Thus, the new hotel on the 900 block of East Washington (former Mautz building and a new addition) would come under the "addition" standards rather than the "new construction" standards – all because the two structures are linked, and despite the fact that the new addition is at least 2/3 the size of the historic building and the new addition has about double the E. Washington frontage as compared to the historic building

The consultant proposes to define "compatible" as: "Capable of existing or performing in harmonious or agreeable combination in "design, color, scale, architectural appearance, and other visual qualities" [directly from state statute] including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc."

- An "etc." is part of a definition?
- How does this apply when "compatible" is used elsewhere in the recommendations? For example: under I.A.1.e) which addresses repairing masonry, repair can "include the limited replacement in kind or with a compatible substitute material ..." The proposed definition of "compatible" makes no sense in this context.

The consultant proposes to add definitions for words that have been used for years, including: directional expression; openings; proportion; rhythm; scale; solids; voids; and, volume. These are terms hard to define in words. The Third Lake Ridge illustrated guidelines provide a much better explanation. Plus, defining these terms can result in circular definitions.

For example, "opening" is proposed to be defined as*:

"A void [gap, negative space, or empty volume {enclosure of space or the amount of space occupied by a three-dimensional object as measured in cubic units} or an opening in a solid] in a solid [wall, face, or flat plane that usually encloses a volume {enclosure of space or the amount of space occupied by a three-dimensional object as measured in cubic units} such as a space or gap in the wall of a building that allows for the admission of light and air, i.e.-windows, doors, etc."

*The [] enclose the definition of the word that is being used in the definition of "opening." When a word is used in the bracketed definition that is also a defined word, that is enclosed by { }.

There are many new terms introduced for which not any definition is proposed.

Examples include:

- What does "too deteriorated mean?" This is used many times. For example, in connection with windows, is a window "too deteriorated" if repair costs \$1500 and a new window costs \$1000? What if half the sill needs to be filled in with wood fill? What if the window is solid but extremely energy inefficient?
- What is an "architectural feature?" Or "architectural appearance?" How do "architectural features" differ from "character-defining features?"
- What does "differentiated enough" mean?

Documentation

LORC essentially reconvened in 2017. The applicable Legistar # was 47745. This contained a number of useful documents, including charts of the differences between historic districts and summaries of the round 1 and round 2 meetings. These materials were readily available to LORC at the October 2018 meeting. Yet beginning in 2019, a new Legistar number, 54447, was assigned to discuss the constant's recommendations. I do not believe the recommendations can be evaluated in vacuum and that the materials from Legistar #47745 should also be part of the review process.

Other documentation that could be useful to LORC include:

- The Mansion Hill Historic Preservation Plan and Development Handbook
- Third Lake Ridge Historic District
- Downtown Historic Preservation Plan
- The Historic Resources of Downtown Madison (a supplement to the Downtown Historic Preservation Plan)
- The Design Guidelines & Criteria for Preservation, Williamson Street, 600-1100 Blocks (which was to have been incorporated into the historic ordinance)
- Plans adopted as supplements to the Comprehensive Plan, such as The First Settlement Neighborhood Master Plan, or extracts of what those plans have to say about historic preservation. (For example, a goal of the First Settlement master Plan was to “[p]reserve the historic character of the First Settlement Neighborhood as the oldest commercial and residential district in Madison.”)

Process

When the Plan Commission held working sessions on the Comprehensive Plan, the Commission decided to hold informal meetings: the public was given three minutes of testimony, but was also allowed to chime in (when called upon) during the Commissioners' discussions. A similar process might work well for LORC – the public has perspectives and information that could be useful to LORC during its discussion.

Respectfully Submitted,
Linda Lehnertz