

30 May, 2014

Comments on proposed revisions to Landmarks Ordinance.

33.19 (1) Purpose and Intent

- Amend *Purpose and Intent* statement to read "...improvements of special character, historical interest, or cultural value..."
- Referring to historic places in terms of our city's "culture" would bring the ordinance more in line with broad institutional conception of historic places as "cultural resources."

33.19 (2) Definitions

Visually Related Area (VRA)

- The definition of VRA, relative to new construction, should include only those properties that are considered to contribute to the historic character of the district. In other words, relation to the character-defining fabric of the district that was present during the district's period of significance should be the measure by which new construction in the district is judged to be appropriate.

In light of this, we support the language later in the draft ordinance [33.19(9)(b)1] that explicitly allows for consideration of "contemporary architectural expression" in historic districts. It is often height, massing, and scale that incite disagreement on proposed new construction in historic districts.

- Also, add definitions of concepts that have proved troublesome on past issues and have been criticized as arbitrary. Consider clarifying "visually compatible" in terms of massing, gross volume, façade area, height, setback, etc. We endorse Alder Zellers' recommendations to add definitive language on what is "visually compatible" height, gross volume, façade area, etc.

The Zoning Code limitations for these aspects covers historic districts, but more restrictive standards may sometimes be necessary in historic districts to guard against "VRA creep" and incompatible new construction otherwise allowed by zoning standards.

33.19(3) Landmarks Commission Composition and Terms

- The requirement for some members to meet SOI professional standards is a positive step. Two should be the required minimum,

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Daniel Einstein  
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Donna Hellenbrand  
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because a requirement for more than that may be difficult to meet given the limited pool of such professionals in Madison.

- The requirement for “citizen members” (whatever the number in the final version) should specify “...citizen members who have a demonstrated interest in history, historic preservation, historic architecture, or cultural resources.
- There should be a requirement for a licensed architect on the Commission.

33.19(4)(f) Powers and Duties

- (f) Lot divisions and combinations should be subject to a Certificate of Appropriateness from the Landmarks Commission, and should be added to the list of actions requiring a COA at 33.19(11)(a).

As drafted, this provision places decisions on lot size with the Plan Commission, Urban Design Commission, and Common Council. Lot sizes are as much a character-defining feature in historic districts as architectural style, materials, and landscape features. Lot sizes directly affect aspects of integrity in historic districts, including *setting, feeling* and *association*. Significant changes to lot sizes can have significant impacts on the integrity and character of a historic district.

33.19(7)(a) Nomination

- Amend the 2<sup>nd</sup> sentence to specifically include archaeological sites: We suggest language such as: “Any site, natural or improved, including any building, improvement, or structure located thereon, or any area of particular historic, architectural, **archaeological**, or cultural significance to the City of Madison, **or any communities who have occupied the Four Lakes region prior to the establishment of the City of Madison**, may be nominated.”

The term “cultural” may be intended to include these cultural remnants, but we recommend the explicit inclusion of structures and sites associated with pre-European native American communities who occupied this region and left a relatively dense concentrations of effigy mounds.

33.19(7)(c) Standards

- Change “Standards” to “Criteria”
- The language of the four criteria should be more closely aligned with the succinct language of the criteria for eligibility for the National Register of Historic Places. We recommend the following wording:

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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 historic persons**, or with important events **that made significant contributions to broad patterns of** local, state, or national history; or
3. Embodies the distinguishing characteristics of an architectural type *specimen*, inherently valuable for **the** study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
4. Is representative of the *notable* work of a master builder, designer or architect.

33.19(8) Rescission

- A process for rescission of Landmark designation is a positive addition to the ordinance. However, this draft articulates two distinct processes for rescission. We suggest that this is unnecessarily complicated, and recommend that they be combined into one process that treats all owners equally.

The first one, (8)(a), would act as an opt-out in cases where Landmark designation is sought and granted over the objection of the property owner. While this is an unintended use of Landmark designation and should be done only in the most exceptional cases, it is an allowable application of the ordinance. This provision of local preservation ordinances is endorsed and recommended by the Wisconsin State Historic Preservation Office, and by such offices around the country. Making an exceptional process for rescission under such circumstances would weaken the ordinance in those exceptional cases. The designation of the Woman's Building in 2005, and the Schubert Building were such cases. Under the draft provisions of (8)(a) these designations would be relatively easy to rescind by the "Owners of Record at time of Designation," and in those cases we would not have those two unique historic buildings rehabilitated and enriching the experience of our downtown landscape.

Also, the obstructive use of Landmark designation would be addressed by section 7(f) if the Commission adopts the recommendation of Mr. Cover to strike language from that section that limits that provision to only pages 50 and 51 of the *Downtown Historic Preservation Plan* and expands it to all properties in the city.

We recommend creating one process for rescission of Landmark designation that could be used by ANY owner of a Landmark property, regardless of when that owner acquired the property. That

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process should be based on the condition of the property and its ability to convey its historic significance.

33.19(9)(a)

- This section reiterates the eligibility criteria in section (7)(c). If the criteria in (7) (c) are revised, those revisions should be reflected in (9)(a).

33.19(9)(b)

- Reiterating our comments on 33.19(2) Definitions, we recommend more clarity on what it means to be “visually compatible” as this language is a consistent point of disagreement in cases of newly proposed construction in historic districts. We endorse Planning staff’s recommendation to include (eventually) drawings and diagrams depicting examples of what is intended by “visual compatibility.”

We also endorse Planning staff’s recommendation to combine all enumerated guidelines in (9)(b) that contain the phrase “should be visually compatible with...” into a single paragraph.

- Since this section consists of “Guidelines to consider when adopting standards in historic districts..” we ask the Commission to consider whether it is appropriate to use “should” or “shall” in this section. The current draft uses both.

33.19(11)(a)

- To the list of actions requiring a COA from the Landmarks Commission, add: “Proposed land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts”

33.19(13)(f)

- This consideration should include a clearer caveat that the condition of the property may not be considered if the condition is a result of inadequate maintenance in violation of 33.19(10)(a), or inappropriate (uncertified) alterations.
- “Self-created” is a poor adjective to use here. Consider using more descriptive language, e.g. ...provided that any deterioration of the property which has resulted from inadequate maintenance, or inappropriate or uncertified alterations...