



Mansion Hill

*Glimpses of Madison's
Silk Stocking District*

Saving the Mansion Hill Historic District:
Why the Common Council should uphold the
Landmark Commission's decision on the Steve
Brown Apartment proposal

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Summary of decisions alders must make for SBA project

03-31-14

A. The appeal to the CC of the LC's denial of a certificate of appropriateness (COA) for a new project at 121-123-127 West Gilman

1. Determine whether a denial of a COA by the LC will preclude any and all reasonable use of the property.

2. Determine whether a denial of a COA by the LC will cause a serious hardship for the owner that was not self-caused.

3. Determine whether in reaching its decision to not issue a COA for the new project, the LC followed the correct criteria noted in 33.19(10)(e) and reached a valid conclusion.

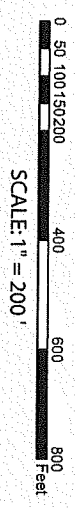
B. The appeal to the CC of the LC's decision to not act on a COA for the demolition of 123 and 127 West Gilman.

1. Determine whether a demolition permit for 123 and 127 W. Gilman should be issued using standards found in 33.19(5)(c)3.

Mansion Hill

Local Historic District

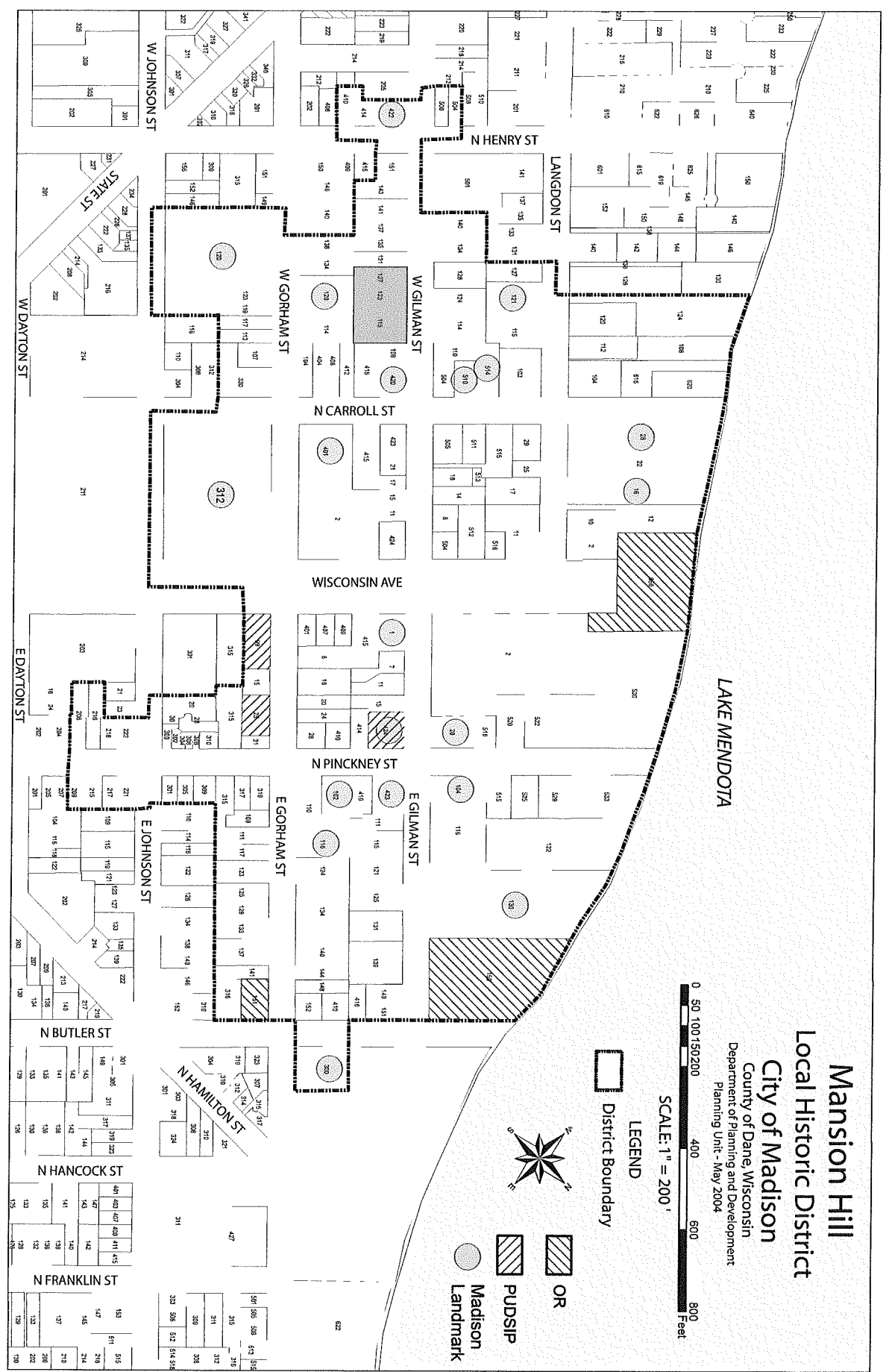
City of Madison
 County of Dane, Wisconsin
 Department of Planning and Development
 Planning Unit - May 2004



LEGEND

- District Boundary

OR
 PUDSIP
 Madison
 Landmark







The developer and the proposed project

03-29-14

A. About Steve Brown Apartments (SBA)

SBA is one of Madison's largest and most sophisticated property owners and managers.

SBA owns buildings at 56 locations with 1,641 apartments.

SBA has a major concentration of properties in the Mansion Hill Historic District

It has owned properties there for 31 years

Today, SBA owns 20 buildings in Mansion Hill, 12% of all properties in the district.

Because of its extensive ownership in Mansion Hill, SBA is intimately familiar with:

Madison Landmarks Ordinance (33.19 MGO)

1970 with amendments

Mansion Hill Historic District Preservation Plan and Development Handbook

City Planning Department, 1975

Mansion Hill Neighborhood Plan (Draft)

Department of Planning and Community Development, Schreiber

Anderson, and the Mansion Hill Neighborhood Association, 2009

Mansion Hill Design Criteria (Draft)

Mansion Hill District, Capitol Neighborhoods, Inc., 2009

SBA also owns The Lucky, The Regent, and several other large properties outside of Mansion Hill.

B. The proposed project

SBA owns three contiguous parcels at 121-123-127 West Gilman.

On this 184 x 132 foot parcel SBA wants to

raze a non-contributing** building (121, The Highlander)

move a contributing* structure (123) to another location

raze a contributing* building (127)

On these three lots, SBA proposes to construct a 60-unit apartment building.

*A contributing building is one that was constructed during the historic district's period of significance, 1850 to 1946.

**A non-contributing building is one that was built after this period of significance

Key facts about the Mansion Hill Historic District

03-31-14

A. Mansion Hill Historic District was formed in 1976 and was the first historic district in Wisconsin and Madison.

The district includes 168 buildings on 54 acres of land. A pamphlet, located in the front flap of the ring binder, describes the neighborhood's rich in local, state, and national history.

● *Mansion Hill: Glimpses of Madison's Silk Stocking District*

B. The Common Council has established five historic districts. They are shown on the attached map.

● Map showing City of Madison Local Historic Districts

C. All five of Madison's historic districts constitute .71% of the city's total area. That's less than 1%!

In our rush to densify the city, we must remember that we set aside this tiny area to allow citizens to appreciate Madison's rich cultural and architectural history. *We cannot achieve this goal by razing Mansion Hill's historic buildings and replacing them with massively out-of-scale new buildings.*

D. Rehabilitation of old buildings in Madison's Isthmus could easily top \$100 million of NEW ECONOMIC DEVELOPMENT during the next few years.

This is because effective on December 11, 2013 Isthmus property owners can get a 20% tax credit for qualified improvements. This game-changing tax incentive—a combination of 10% from Wisconsin and 10% from the federal government—will cause the number of Isthmus projects to TRIPLE, says, Jim Draeger, Wisconsin's Preservation Officer. The attached map shows that between 2004 and 2013 the tax credit program generated \$42.3 million *just in the Isthmus* with a lower tax incentive.

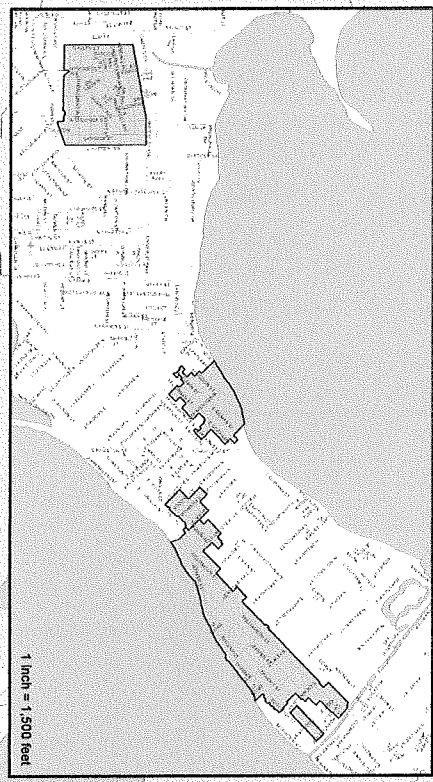
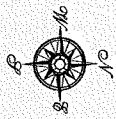
● Map showing Isthmus tax credit investments

It is through this type of *rehabilitation and restoration* that Mansion Hill buildings will generate very substantial *economic development and new taxes* for the City of Madison.

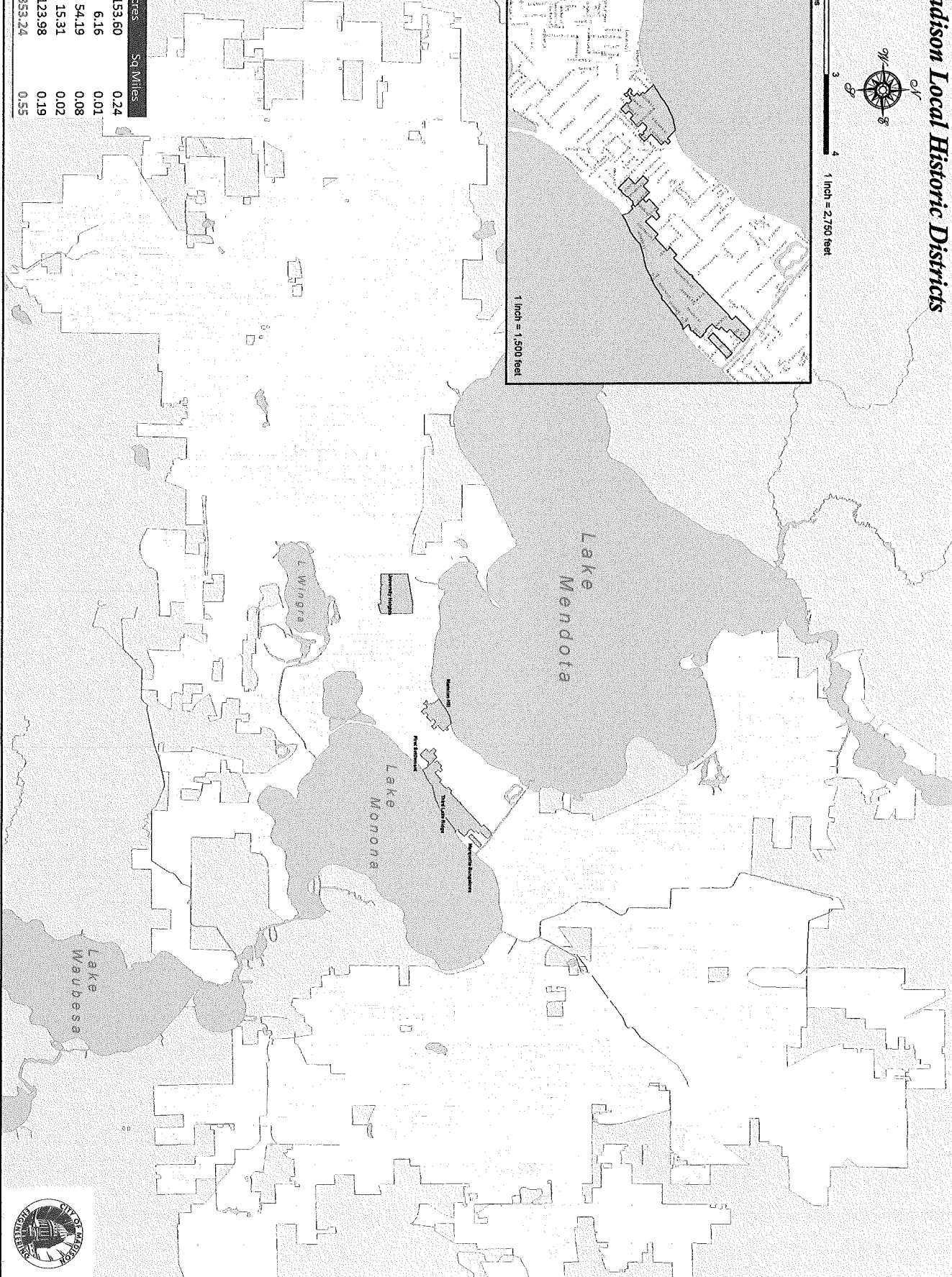
E. The rationale for creating historic districts is outlined in the attached summary

● "Why Preserve Historic Resources"

City of Madison Local Historic Districts

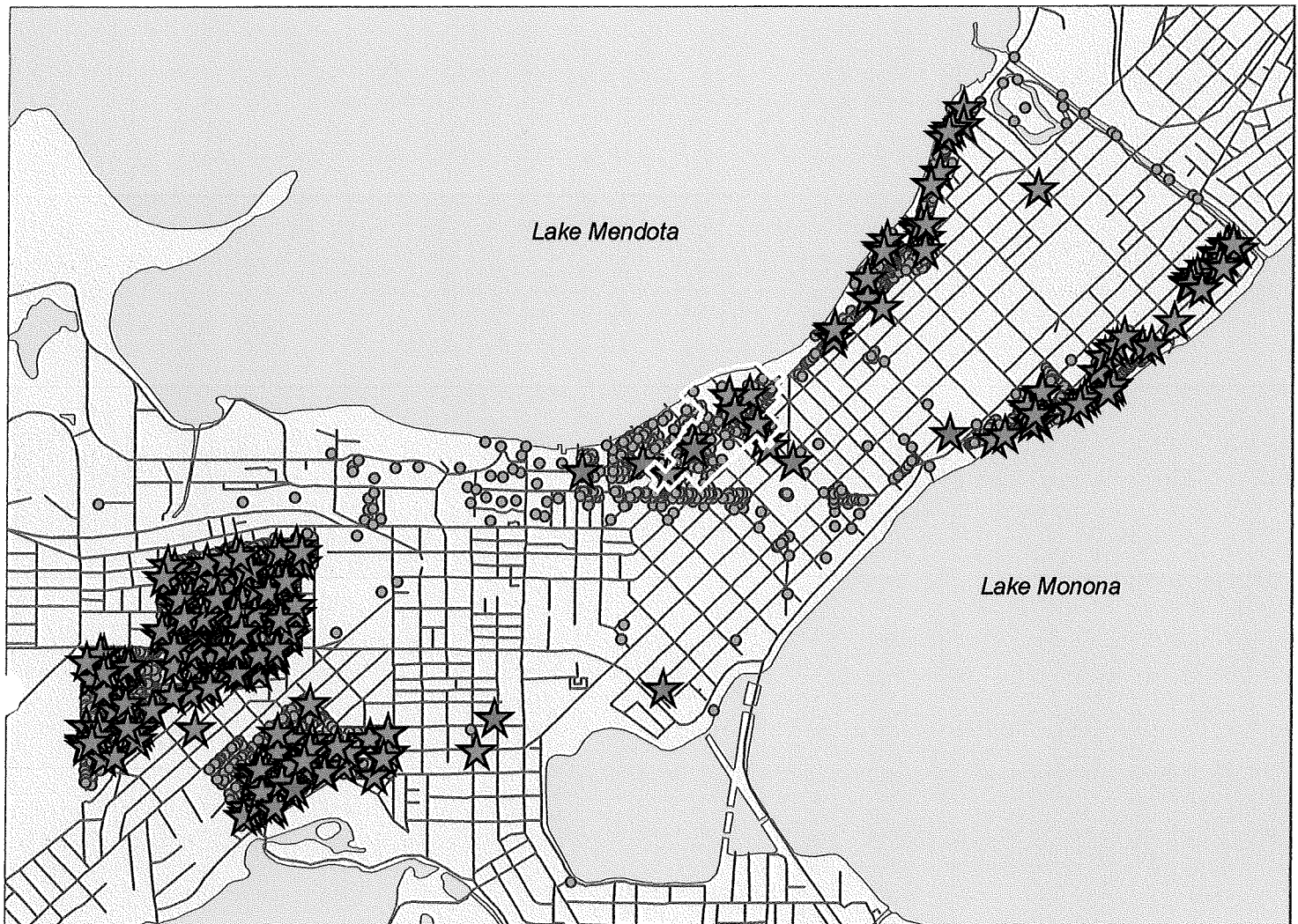


District	Acres	Sq Miles
Third Lake Ridge	153.60	0.24
Marquette Bungalows	6.16	0.01
Mansion Hill	54.19	0.08
First Settlement	15.31	0.02
University Heights	123.98	0.19
TOTAL	353.24	0.55

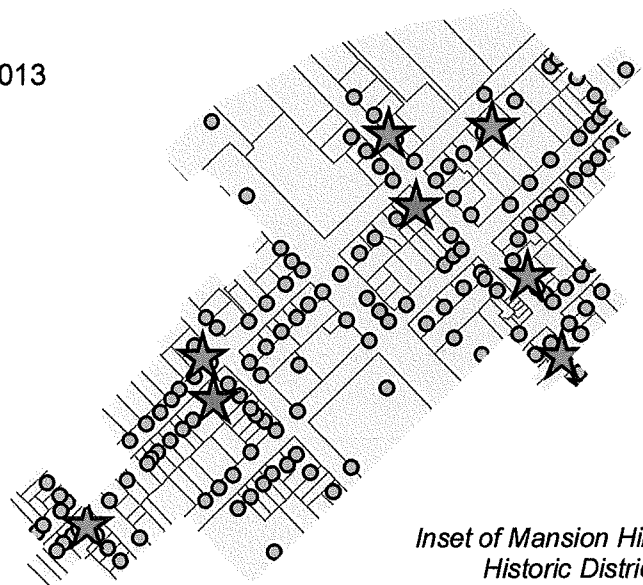


Historic Preservation on the Isthmus City of Madison

▪ \$42.3 million of economic activity 2004 - 2013



- ★ Income Producing Federal & State Tax Credit 2004-2013
 - ★ State Tax Credit 2004-2013
 - Historic Property
- Mansion Hill Historic District Boundary



*Inset of Mansion Hill
Historic District*



WISCONSIN
HISTORICAL
SOCIETY

Source:
Wisconsin Historic Preservation Database
Wisconsin Federal Tax Credit Database
Wisconsin State Tax Credit Database
March, 2014



Why Preserve Historic Resources?

From the *Mansion Hill Design Criteria* (Draft, 2009)

Across the nation, thousands of communities promote historic preservation because doing so contributes to neighborhood livability, variety, and quality of life, minimizes negative impacts on the environment and yields economic rewards. These same reasons apply in Madison and to the Mansion Hill neighborhood. Preservation of the built environment in Mansion Hill provides a fundamental link to the past. Many of the buildings tell the story of Madison's unique historical development. Preserving these resources creates a sense of place for those who live here and provides visitors a connection with this unique heritage.

Construction quality

Many of the historic structures in the City were of high quality construction. Other buildings were more modest, but even so may have used lumber from mature trees that were properly seasoned and typically milled to full dimension, which often yields stronger framing. Masonry walls were carefully laid, resulting in buildings with considerable stability. Also, these structures were thoughtfully detailed and the finishes of materials, including fixtures, wood floors and trim, were generally of high quality—all features that owners today appreciate and value.

Adaptability

Owners frequently find that the floor plans of historic buildings easily accommodate modern lifestyles and support a diversity of populations. Many rooms are large, permitting a variety of uses while retaining the overall historic character of the structure. Even historic buildings that are smaller in scale often have lots that can and in many cases have accommodated additions.

Livability and quality of life

When groups of older buildings occur as a historic district, such as the Mansion Hill neighborhood and Mansion Hill Historic District, they create a street scene that is "pedestrian friendly," and encourages walking and neighborly interaction. Mature trees and decorative architectural features also contribute to a sense of identity that is unique for each historic neighborhood—an attribute that is rare and difficult to achieve in newer areas of a city. These therefore are desirable places to live and work.

Environmental benefits

Preserving a historic structure is also sound environmental conservation policy because "recycling" saves energy and reduces the need for producing new construction materials. Three types of energy savings occur:

- First, energy is not consumed to demolish the existing building and dispose of the resulting debris.
- Second, energy is not used to create new building materials, transport them and assemble them on site.
- Finally, the "embodied" energy which was used to create the original building and its components, is preserved.

By "reusing" older buildings, pressure is also reduced to harvest new lumber and other materials that may have negative effects on the environment of other locales where these materials are produced.

Economic benefits

Historic resources are finite and cannot be replaced, making them precious commodities that many buyers seek. Therefore, preservation adds value to private property. Many studies across the nation document that, where local historic districts are established, property values typically rise, or at least are stabilized. Nationwide studies prove that preservation projects also contribute more to the local economy than do new building programs because each dollar spent on a reservation project has a higher percentage devoted to labor and to the purchase of materials available locally. By contrast, new construction typically has a

higher percentage of each dollar spent devoted to materials that are produced outside of the local economy and to special construction skills that may be imported. Therefore, when money is spent on rehabilitating a building, it has a higher "multiplier effect," keeping more money circulating in the community. Rehabilitation therefore, provides more jobs for Madison area residents.

Incentives for preservation

While the economic benefits are substantial, special incentives also exist to help offset potential added costs of appropriate rehabilitation procedures. Income tax credits are offered at the state and federal levels for appropriate rehabilitation of properties which are within qualifying historic districts or individually designated as historic.

Responsibility of ownership

Ownership of a historic property carries both the benefits described above and a responsibility to respect the historic character of the resource and its setting. While this responsibility does exist, it does not automatically translate into higher construction or maintenance costs. Ultimately, residents and property owners should recognize that historic preservation is a long-range community policy that promotes economic wellbeing and overall viability of the City at large and that they play a vital role in helping to implement that policy through careful stewardship of the area's historic resources.

HISTORIC DISTRICTS 101

(For those folks that are not so sure what historic districts are, who may not have served on the Landmarks Commission, or who do not have Historic Districts in their aldermanic districts, or anyone who just wants more general information)

Historic Districts are defined as a group of buildings, properties, or sites that are historically, architecturally, and or culturally significant. Properties are divided into two categories, contributing and non-contributing.

The first U.S. Historic District was established in Charleston, S.C. in 1931. New Orleans followed in 1937 in establishing the Vieux Carre' to maintain the character of city's French Quarter. Philadelphia enacted its historic preservation ordinance in 1955.

The regulatory authority of local commissions and historic districts has been consistently upheld as a legitimate use of governmental police power in the Penn Central Transportation Co. v City of New York (1978), The Supreme Court case validated the protection of historic resources as "an entirely permissible governmental goal.

In 1966 the U.S. federal government created the NATIONAL REGISTER OF HISTORIC PLACES soon after a report from the U.S. Conference of Mayors had stated that Americans suffered from "rootlessness."

A listing on the National Register of Historic Places is a governmental acknowledgement of a historic district and comes with honorary status and federal financial incentives.

Local historic districts enjoy the greatest level of protection, under law, from threats that may compromise their historic integrity. Local laws cause residents and owners to comply with local historic district ordinances.

More than 2300 local historic districts are officially designated in the U.S. Most local historic districts are regulated by maintenance standards and design guidelines controlling changes to the properties in the district. Major changes require property owners to apply for a Certificate of Appropriateness "COA" and these changes are decided by historic commissions or an architectural review board. The COA process is carried out with due process, formal notification, hearings, and fair and informed decision making. According to the National Park Service, historic districts are one of the oldest forms of protection for historic properties.

Madison has 5 historic districts, constituting .7% (less than 1% !) or about 353 acres in total. Mansion Hill is the 3rd largest with only 54 acres and was the first designated historic district in Madison in 1976 during the Nation's Bicentennial. It has about 170 contributing buildings and

about 20 that are non-contributing buildings—mainly large apartment buildings built in late 1950s, and 1960s.

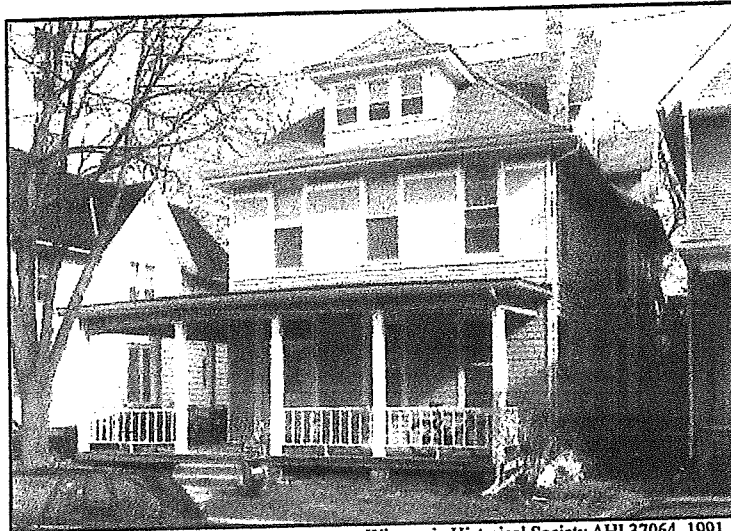
The Madison Landmarks Commission was implemented in 1970 under Ordinance 39.01 (33.19). Its members include an architect, a historian, a realtor, an alder, and several citizen members. Through the City of Madison Planning Department, they are staffed by Preservation specialist.

Historic districts enhance property values. In studies conducted in more than a dozen states, the results are consistent, property values in local historic districts appreciate significantly faster than the market as a whole in the majority of cases. (1)

(1) Rypkema, Donovan D. and Caroline Cheong. *Measuring Economic Impacts of Historic Preservation*. Rep. Washington D.C.:PlaceEconomic s, 2011

What SBA has done to its property at 127 West Gilman is a textbook case of demolition by neglect

127 West Gilman History - The Edgerton - Smith House



Wisconsin Historical Society AHI 37064, 1991.

Fact #1: The landmarks ordinance *requires* all owners to keep their property in good repair inside and out. Here is the excerpt:

33.19(8)(a) Maintenance of Landmarks, Landmark Sites and Historic Districts.

Every person in charge of an improvement on a landmark site or in an Historic District shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.

Fact #2: SBA *knew* this. Steve Brown, the owner, is a lawyer. He began buying properties in Mansion Hill in 1983 and has now owned some properties there for 31 years. SBA is now one of the largest single property owners in Mansion Hill with 20 Mansion Hill properties. SBA also runs one of the largest property management companies in Madison. To argue that Steve Brown and his senior executives did NOT know about their legal obligation to maintain their properties in Mansion Hill, is absurd.

Fact #3 On July 1, 2013, after SBA had refused to make required repairs on this property for 26 months, the City of Madison Building Inspection Division turned the matter over to the City Attorney with the request to prosecute SBA for demolition by neglect.

●A copy of the Penalty Action Review form is attached.

Fact #4: To willfully neglect a property, as SBA has done, has great implications for how the Common Council must resolve the issue. This will be explained in another document in this tab: "Demolition by neglect: a terrible precedent and not a basis for reversal of LC denial of a COA."

**BUILDING INSPECTION DIVISION
PENALTY ACTION REVIEW**

Case No. CB2011-146-03893

Inspector: DAV

Date: 7/1/2013

Supervisor: KYLE BUNNOW

City Attorney Referral ☒ Citation ☐

Property located at: 127 W. GILMAN ST

Preferred Party GILMAN LODGE LLC
For Action: C/O STEPHEN D BROWN

Tenant: ☐

Owner: ☐ Operator: ☐

Address: 120 W GORHAM ST
MADISON, WI 53703

Telephone: 255-7100

Telephone:

Photos Taken: Yes ☒ No ☐

Total No. of Units in Building

Check if Exterior Only ☒

Building Owner Occupied ☐ Rental ☐ Commercial ☐ Vacant ☒

Comments: Hazards, Unusual or Significant Conditions: Foundation deteriorated under the rear addition, holes in soffits/fascia, badly peeling paint entire building

Initial Inspection: 5/25/11 Original Due Date: 10/9/11 Extension(s): 6/17/12
7/1/13

Reinspections: 10/12/11 6/20/12 7/9/12 7/1/13

Activities: Several reinspections and extensions, the owner wants to demo this building and several others to redevelop the block. Extensions were given to allow time for the planning process. As of 7/1/13 no additional work done on the building and the planning process has also stopped.

No work has been done and the case is no longer eligible for extension. The building has been vacant for some time and the exterior continues to erode and is need of repair. The owner has indicated several times that they desire to raze the building however they are not taking the necessary steps to get approval for demolition. Extensions have been granted to allow the owner time to properly apply for demolition permit and get approval however the owner has not followed through on this process. The building is located in a historic district so demolition may not be possible and it appears that the owner attempting to allow the building erode through neglect and plans on using deteriorated conditions as justification and support for demolition at future date. Exterior repairs need to be made to stop the building from further degrading until a time when owner can properly apply for a demolition permit based on the merits of the application and not the deteriorated conditions through neglect. Please prosecute to compel compliance.

(Please sign as you pass this file)

Supervisor

Date

Clerk Typist

Date

What's wrong with 127 West Gilman and how and when did it get this way?

03-29-14

A. The primary problem with this house is the stone foundation. It is in terrible condition.

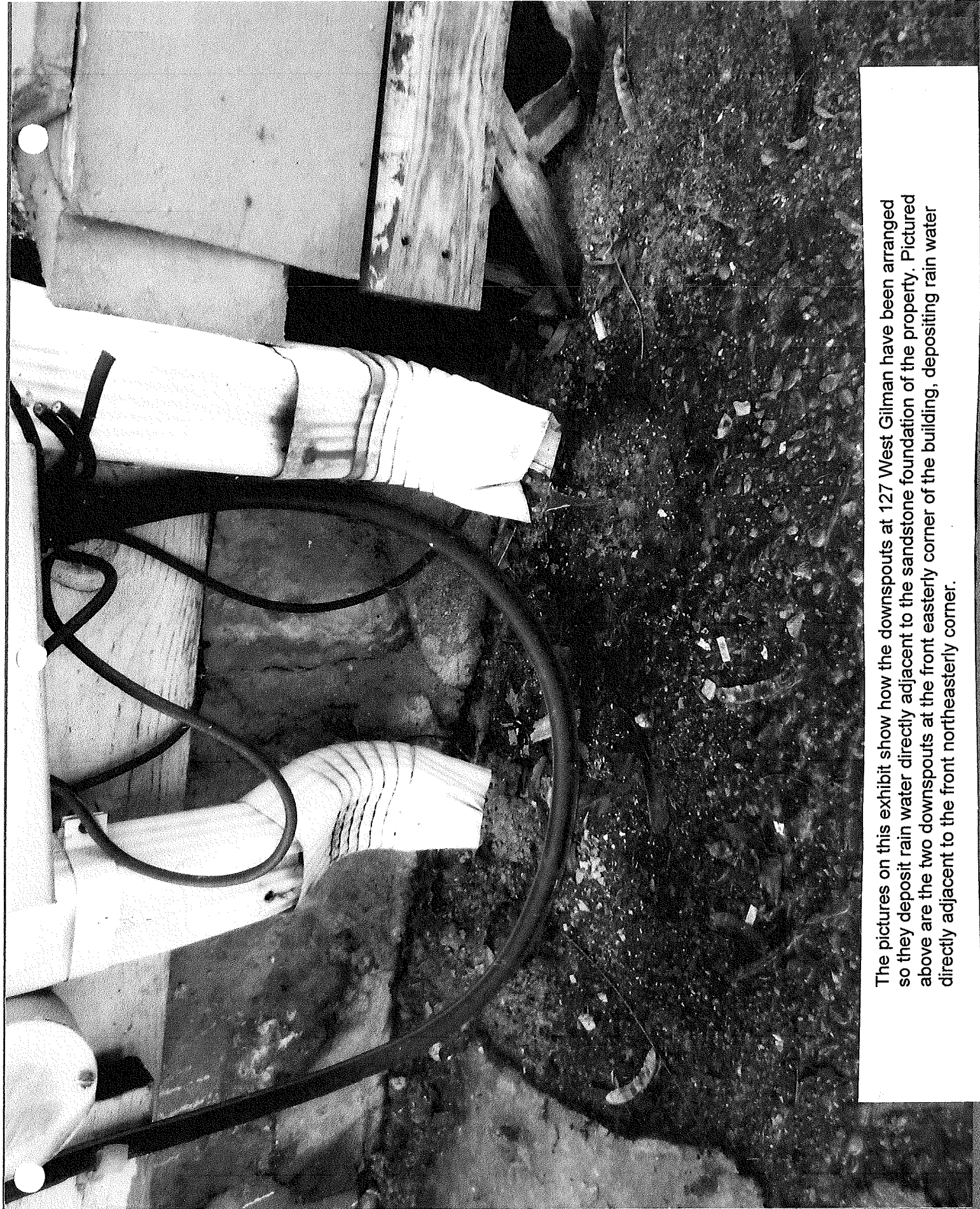
B. When and how did it get that way?

- SBA has owned the building for 20 years.
- It was in good condition when SBA bought it in 1994.
- Building inspectors conducted a thorough inside-and-out programmed inspection in 1995 and an outside-only inspection in 2002. During neither of these inspections were any structural problems found. All orders were corrected by SBA.
- SBA rented the home for 8 years (1994 to 2002) but in 2002 he company began using the home as a warehouse for maintenance equipment.
- SBA probably turned off the heat in 2002, twelve years ago when he stopped renting it.
- The foundation damage was caused by the two very destructive techniques:
 - allowing 12 years of the freeze- thaw cycle to wreak its damage; and
 - keeping the foundation wet by letting downspouts dump water at the base of the foundation.
- Attached are color photographs showing downspouts dumping water at the foundation.
- The foundation damage clearly occurred during SBA's ownership.
 - At the February 17 meeting of the LC, Kyle Bunnaw, the Supervisor of the Building Inspection Unit, said: "I would put the majority of the damage in the last 19 years."
- A review of building inspector's file for 127 shows that SBA did not apply for a single building permit since it bought the property in 1994.
- According to an unsigned and undated SBA paper that attempts to rebut the charge of demolition by neglect ("127 W. Gilman St. End of Useful Life vs. Demolition by Neglect"), the author said, "...SBA has spent more than \$11,000 on up-keep of the vacant building at 127 W. Gorham (sic) since it was closed." Assuming the paper was written in 2012, that's \$1,100 a year, since 2002.

C SBA *knew* that this form of willful neglect would cause this type of damage. To argue that SBA did not know this Maintenance 101 fact about foundation destruction is absurd.

D. SBA and some city staff claim that SBA should *not* be held entirely responsible for today's condition of the building because the building was in bad shape when SBA bought it 20 years ago. They say the seller was only responsible for *some* of today's condition and that SBA is therefore not responsible for *all* of today's condition. After 20 years of ownership, this concept is as silly as it is invalid.

E. Margaret Watson, SBA's CEO, stated on Channel 3's "For the Record" that aired on March 30 that Steve Brown was "forced" to buy 127 West Gilman. If Brown didn't want the building as Watson claimed, and if he did not want to maintain the building as he is required by law to do, then why didn't he sell it to someone who would properly maintain it?



The pictures on this exhibit show how the downspouts at 127 West Gilman have been arranged so they deposit rain water directly adjacent to the sandstone foundation of the property. Pictured above are the two downspouts at the front easterly corner of the building, depositing rain water directly adjacent to the front northeasterly corner.



All three of above downspouts deposit water directly next to the foundation of 127 West Gilman.

127 Gilman is at the far right of picture with the tree in the front. Not only are the neighboring properties more successfully maintained, but they also use downspout extenders to direct water away from their foundations. The property in the middle belongs to the Mullins Family



Demolition by neglect: a terrible precedent and not a basis for reversal of LC denial of a COA

03-31-14

A. To approve a COA for SBA's proposed apartment complex would mean that the City Attorney would drop its prosecution of SBA for demolition by neglect!

1. The PRECEDENT set by this approval is the worst possible public policy. Its toxic message is clear for all to see: DEMOLITION BY NEGLIGENCE IS ACCEPTABLE! Dozens of property owners all over the city will rejoice and say, "This is great. I will no longer have to maintain my properties. I can let them run down and then raze them. I want the Brown deal!"

2. Such a public policy is NOT ACCEPTABLE! The Common Council must say NO! Madison should NOT tolerate this willful neglect by anyone, and certainly not from one of the largest and most experienced MH property owners and managers! This is a high visibility test case to determine whether alders will allow *anyone* to get by with this scofflaw behavior.

B. Demolition by neglect has major implications for the CC appeal process. This is because the appeal process requires the CC to determine whether *any* aspect of this project was *self-caused*. Here is the sentence from 33.19(5)(f) that describes the CC appeal process:

After a public hearing, the Council may, by favorable vote of two-thirds (2/3) of its members, based on the standards contained in this ordinance, reverse or modify the decision of the Landmarks Commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the Council finds that, owing to special conditions pertaining to the specific piece of property, failure to grant the Certificate of Appropriateness will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, **provided that any self-created hardship shall not be a basis for reversal or modification of the Landmark Commission's decision (bold print added).**

Simply put, an owner's willful neglect of a property *prohibits* the Common Council from reversing the Landmark Commission's denial of a COA.

C. Some argue that not granting SBA a COA for the demolition of 127 West Gilman constitutes "punishment." Since when is requiring a building owner to abide by the law a punishment?

Demolition By Neglect Timeline~ 127 West Gilman

1968: Programmed city inspection: 7 basement items. **No mention of foundation problems.**

1981: Official Notice: 2 basement items. **No mention of foundation problems.**

1994: Steve Brown purchases 127 W. Gilman.

1995: Programmed Inspection: 8 basement items. **No mention of foundation problems.** All orders completed.

1994-2002: House is rented.

1994 - 2014: No City Building Permits issued for the house.

2000 SBA begins hiring contractor consultants to prove the home is structurally unsound, unsalvageable and uninhabitable. Several are eventually hired.

2003 Steve Brown invites Katherine Rankin, Madison's Preservation Officer, Mike Verveer, and several Landmarks Commissioners to tour the house. Brown requests approval to demolish. **Rankin and others assert that the building is structurally sound and they will not support demolition.**

2002 - 2012: Steve Brown Apartments (SBA) spends a total of \$11,000 on up-keep of 127 during this 10 year period. That's \$1100 a year. [This fact appeared in an unsigned and undated document prepared by someone at SBA in late 2013 after the Landmarks Commission learned that SBA had been charged with demolition by neglect by the City Building Inspection Division.]

2002 - 2014: For 12 years the house is **unheated** and used as a maintenance equipment warehouse. **No downspout extensions** to divert water from foundation.

May 2011 Programmed city inspection requires SBA to clean up terraces, yards, and open spaces, paint the exterior, and repair the front porch and foundation. **SBA refuses to correct the city orders for 26 months.**

Sept. 26, 2011 Buss Construction Inc., one of SBA's consultant-contractors, submits proposal to do exterior restoration for a total of \$49,040 (soffit and fascia--\$28,220; front porch--\$12,350; **foundation deterioration--\$8,470**) A copy of this proposal is attached.

July 1, 2013: City building inspector turns SBA case to City Attorney for prosecution. Penalty Action Review, #CB2011-146-03893. "The building is located in a historic district so demolition may not be possible and it appears that the owner (is) attempting to allow the building (to) erode through neglect and plans on using deteriorated conditions as justification and support for demolition at (a) future date.....**Please prosecute to compel compliance.**"

Nov. 2013 "Mr. Brown has **recently discovered** that one of his Mansion Hill properties, a dwelling built in 1893 at 127 West Gilman, is structurally unsound and almost definitely not salvageable." [From an SBA marketing brochure, "Historic Design for a New Living Space."]

Feb. 17, 2014: Landmarks Commission Meeting: Kyle Bunnow, City Housing Inspector Supervisor testifies (transcript, 3 hrs. 21 min.. into the meeting) as follows:

..... "There's a bedroom that has a hole, it's either the second or third floor, where you can literally stand in the room and look to the outside. That clearly wasn't there when the building was in livable condition because people aren't going to be living in a building that has a hole that you can look right to the outside.....It would be in a livable state. If you repaired whatever deficiencies were there in '94 and continued maintenance I feel very strongly that it would be in a livable state.....**I would put the majority of the damage in the last 19 years.**" _



PROPOSAL

Date

9/26/2011

Submitted To:

Steve Brown Apartments
120 West Gorham Street
Madison, WI 53703
Attention Jackie Skjervem

Project

127 W. Gilman Exterior Restoration

Project #

9001

SCOPE OF WORK

127 W. Gilman Exterior Restoration

AREA 1: Deteriorating soffit and fascia on entire building

- Provide Materials and labor to restore soffit, fascia and underlying rotted substrate, including framing and roof sheathing to a condition of new material using D Select cedar. All details shall be duplicated identically from original condition.

Materials: \$9,500

Labor: \$18,720

AREA 2: Front Porch

Furnish materials and labor to reconstruct existing support beam including the structural framing, all exterior cladding, columns and supports at grade. All materials to be D Select cedar. All details to be duplicated identically from original condition.

Materials: \$4,850

Labor: \$7,500

AREA 3: Building Foundation Deterioration

Furnish materials and labor to repair deteriorated foundation through excavation, removal of deteriorated debris, install new reinforced concrete block and/or epoxy as required to create a sound structure using identical details as original. Provide damp proofing of disturbed area and fill with granular material. Repair exterior grade to new like condition.

Cost: \$8,470

WE PROPOSE to hereby furnish materials and labor -complete in accordance with these specifications, for the total sum of:

\$49,040.00

As required by the Wisconsin Construction Lien Law, Builder hereby notified Owner that persons or companies furnishing labor or materials for the construction on Owner's land may have lien rights on Owner's land and buildings if not paid. Those entitled to lien rights, in addition to the undersigned builder, are those who contract directly with the Owner or who give the Owner notice within 60 days after they first furnish labor or materials for the construction, accordingly, Owner hereby will receive notice from those who furnish labor or materials for the construction, and should give a copy of each notice to his mortgage lender, if any. Builder agrees to cooperate with the Owner and his lender, if any, to see that all potential lien claimants are notified.

PAYMENT DUE IN FULL WITHIN 30 DAYS OF INVOICE DATE. BILLINGS TO BE EACH MONTH BASED ON PERCENTAGE OF COMPLETION. 1.5% SERVICE CHARGE PER MONTH THEREAFTER.

All materials are guaranteed to be as specified. All work to be completed in accordance with the Wisconsin Construction Lien Law. Any alteration or deviation from above specifications involving extra cost will be executed only upon order and will become an extra charge over and above the proposal. All agreements contingent upon strikes, accidents, or delays beyond

control. Owner to carry fire, theft, and other necessary insurance. Our workers are fully covered by Workmen's Compensation insurance.

Authorized
Signature: _____

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

ACCEPTANCE OF PROPOSAL. -The prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Owner Signature: _____

Date: _____

127 West Gilman can be economically rehabilitated as high quality Mansion Hill apartments

03-29-14

A. SBA *knew* that being charged with demolition by neglect would jeopardize its plan to build the project. So it hired a parade of consultants to “prove” that the home had reached the end of its “useful life,” that it was “unsalvageable,” and that the only viable alternative was the raze it.

B. SBA’s paid consultants were wrong when they asserted that rehabbing the home into attractive Mansion Hill apartments was not economically feasible.

1. John Freiburger, the highly regarded principal of Freiburger Construction Consulting, Inc., has studied the SBA reports, the work orders issued by the city, and the city file on the building and concluded that the home can be structurally restored. He recommends that a widely known and routinely used technique be used to build an entirely new foundation under the home, and that this would allow a very attractive code-compliant rental unit to occupy this space. A copy of his report is attached.

●Freiburger Report to the Landmarks Commission, February 17, 2014

2. Arlan Kay, a well-known architect, analyzed restoration costs and concluded that with today’s low interest rates, competitive construction costs, and the new new 20% tax credit program, this old home could become attractive Mansion Hill apartments for a new owner.

Landmarks Commission
February 17, 2014

John Freiburger

My name is John Freiburger. I am a principle of FCC, Inc, a consulting firm that has been engaged in the review of the condition of buildings since 1972. Our firm and I are best known for the administration of historic restoration projects. These projects include the Spring House Tavern, The John and Mary Smith Homestead, F. L. Wright's Jacobs II House, F. L. Wright First Unitarian Meeting House, The Williamson and Geiger Blacksmith Shop and The Bob LaFollette house. I have attached a longer list as an appendix.

I would like to speak tonight to the consideration of a Certificate of Appropriateness for the requested demolition of 127 W. Gilman St. Specifically I will speak to condition 'f' of the ordinance standards you will be considering. This is the standard for considering whether a structure is in such deteriorated condition that it is not structurally or economically feasible to preserve or restore it.

I reviewed the three reports the applicant has provided the Commission. In addition, I reviewed the municipal file regarding the building, including the work orders issued to the owner from 1995 to the referral to the City attorney for non-compliance in July 2014. I also visited the site and viewed the house from the city sidewalk and reviewed photos provided of the rear and side of the house provided by Mr. Arlan Kay. I am relying on those items of information as the basis for my remarks.

The first part of standard 'f' is whether or not it is structurally feasible to restore the building. None of the three reports state that the structural deficiencies noted cannot be repaired. In fact I can testify, to a reasonable degree of professional certainty, that the house is structurally restorable and that the restoration would not be out of the ordinary in the construction industry.

In the past few years, we have lifted and entirely replaced the foundations under two lakeside homes that were in significantly deteriorated condition. The Blank House on Lake Ripley sat above a water filled crawl space and significant decay had developed in the first floor framing. Yet we were able to lift the house, repair the decayed framing and install a new foundation, despite working in marshy soils where dewatering was required and building to Department of Interior Standards for foundations placed in a flood plain.

On Lake Waubesa, working on sandy soil with a water table two feet below grade, we again raised a house and placed an entirely waterproof foundation under it, correcting decayed and crooked framing in the process. One of our best known projects is the lifting and moving of the 520,000 pound Mary Smith Homestead off the Highway 51 right-of-way. We moved the masonry house down a slope, across a stream, up a slope and placed it over a new foundation.

In comparison to these three projects, the lifting, repair and provision of a new foundation for 127 Gilman is the proverbial "piece of cake". Our estimate for the cost to raise and repair the framing while providing a water tight foundation in which rentable space can be developed, is between \$67,000 and \$100,000, depending upon design considerations, such as egress windows, added below grade access, etc. The investment in restoring the foundation could provide up to 1400 square feet of additional rental space, a valuable commodity in the Mansion Hill rental market, thus the repair would reap an increase in value and income, and not just be remediation of deferred maintenance.

Freiburger Construction Consulting, Inc.
5438 County Highway M
Fitchburg, WI 53575
608-835-0001
608-835-2156 fax
frei@chorus.net

Freiburger Construction Consulting, Inc. is a corporation incorporated under the provisions of the Wisconsin Statutes. Annual Wisconsin Domestic Corporation Reports are filed with the office of the Secretary of State each year as required by s 180.1622. The filing year is from July 1 through June 30 with locator number F022097.

Freiburger Construction Consulting, Inc. is engaged in the following business:

1. Inspection of single family residences and the preparation of condition reports.
2. Inspection of commercial buildings and the preparation of condition reports, estimation of costs to cure defects, and the compilation of maintenance and replacement schedules.
3. Inspection of multi family residential income property and condominiums, preparation of condition reports, compilation of maintenance and replacement schedules.
4. Construction management with special emphasis on historic restoration, including design and tax credit planning.
5. Construction management of multi family residential income and light commercial projects, both new construction and rehabilitation projects.
6. Litigation support regarding construction defects, structural failures and deficiencies, or cases of failure to perform to professional or industry standards by contractors or manufacturers.
7. Resolution of construction related disputes through mediation.

Historic Restoration Project Construction Management

June, 1980 to June, 1981	SUBURBIA BUILDING. Madison, WI. Rehabilitation and adaptive reuse for a residential and commercial building, project received Capital Community Citizens award.
May, 1982 to November, 1982	14 BROOM STREET. Madison, WI. Restoration and adaptive reuse of an Italianate landmark, received Capital Community Citizen award
June, 1982 to December, 1982	FRANK LLOYD WRIGHT JACOBS II HOUSE. Middleton, WI. Structural, interior, and exterior restoration of a National Historic Landmark home, project received several awards and citations
June, 1983 to December 1993	STEVENS HOUSE. Madison, WI. Restoration of interior and exterior of a landmark Prairie style stone home
June, 1986 to March, 1995	HOLDEN HOUSE. Madison, WI. Restoration, lead abatement, remodeling and addition to a home in University Heights Historic District
October, 1987 to March, 1988	HEBERLEIN HOUSE. Lodi, WI. Restoration and addition to a Queen Anne Style home
April, 1991 to July, 1991	PIEROTTI HOUSE. Madison, WI. Remodeling of a portion of a Tudor Revival home in the University Heights Historic District

April, 1999 to June 2003	PARKER HOUSE, Janesville, WI. Project management of the restoration of an 1845 Greek Revival house, the largest intact example in Wisconsin including mechanical systems, structural problem remediation and masonry restoration.
May, 1999 to present	SPRING HOUSE, Madison, WI. Project management of the restoration of and construction of a carriage barn for an 1854 Inn and stage coach stop, now a private residence on the National Register of Historic Places.
January, 2001 to April 2002	VAN SLYKE HOUSE Madison, WI. Project management and design work for restoration of a landmark home which had been made into apartments. Significant stonework involved as well as all new mechanical systems and general restoration of plaster and finishes.
January, 2001 to Dec 2001	STEINMANN HOUSE, Monticello, WI. Consulting regarding restoration of a Queen Anne Landmark and associated carriage shed and outbuildings.
February 2002 to August, 2006	WHITSON HOUSE, Madison WI. Consulting and construction management for the restoration of a 1905 Claude and Starck including all mechanical systems, all interior and exterior finishes. Project received Capital Citizens and Wisconsin Trust awards for historic restoration
March 2001 to March, 2007	SMITH HOUSE, Sun Prairie, WI. Design and construction management to move and restore an Italianate National Register house
September, 2003 to Dec, 2006	THE CANNERY, Sun Prairie, WI. National Historic registration and preliminary design and costing for the conversion of an historic cannery building to brew-pub and residential income property
June 2005 to present	THE FRITZ HOUSE, Belleville , WI. Restoration of interior and exterior of an Arts and Craft bungalow with attention to water, mold and air quality issues
February, 2005 to November 2006	THE PLOW INN, Madison, WI. Construction management and engineering to restore the rotating masonry walls of a 1852 stagecoach inn
June, 2006 to Sept, 2007	THE UNITARIAN MEETING HOUSE, Madison, WI. Restoration of Frank Lloyd Wright designed Meeting House including design and coordination of electrical, structural, air barriers, insulation and HVAC systems for the restoration of a national landmark
May 2010 to August, 2011	THE WILLAIMSON GEIGER SHOP, Madison, WI., Restoration of 1846 commercial/residential property, including structural, facade, mechanical systems and the award of a facade grant from the City of Madison
June 2010 to December 2011	NAKOMA WALL RESTORATION, Madison, WI, Restoration of a Frank Lloyd Wright designed and supervised wall system fronting Nakoma Road and protecting an historic neighborhood and national landmark site including engineering and supervision or rotation of collapsing wall and its masonry restoration
April 2012 to September, 2012	THE T. E. JONES HOUSE, Madison, WI., Restoration of a Law & Law designed Tudor Revival home with significant structural issues including structural design, specifications, project management and landmark tax credit management
June 2012 to present	THE PIERCE APARTMENTS, Madison, WI, restoration of a 1923 Arts and Crafts historic landmark masonry apartment building including mortar designs, project specifications and grant writing
June 2012 to present	The KNOWLTON HOUSE, Madison, WI, restoration of a an early Historic Heights home. including replacement of a non-historic attached garage



The structural masonry Smith House lifted and ready to be wrapped with steel cables prior to its move off the Highway 151 right-of-way. The 520,000 pound structure was moved several hundred meters without damage and placed on a new ten foot tall basement foundation.



Lake Ripley House resting on a shallow foundation over a wet crawl space in a flood plain. Much of the framing of the first floor had rotted away.



Lake side of that house. Clearance in the crawl space was only eighteen inches. House was raised five feet and placed on a new engineered flood resistant foundation. The work required a dewatering system as the water table was a foot below the yard and significant soil issues existed, requiring an engineered foundation based on a floating slab.



Front of 5908 Lake Edge, McFarland, a “pump and dump” project where the residential space was remodeled and the defective foundation left in place. The house was raised and placed on a new foundation.



What passed for a foundation at 5980 Lake Edge, a collection of concrete blocks resting on wet soil. Note limited working room. Due to the soil and water table issues, a floating slab system was used to support the foundations. The framing was significantly twisted, but was not difficult to restore.

SBA's decision to ignore the size limits in the landmarks ordinance caused the developer to propose a massively out-of-scale project. This is why they don't show you a 3-dimensional model.

03-29-14

A. There is no substitute for a 3-dimensional model! That's why we had this model made. It allows everyone to understand how massively out-of-scale the project is.

●●Model

▪It reads like *one* HUGE building 174 feet long, 96 feet deep, and 60 feet tall. That's because the three towers sit on a single foundation and are just 10 feet apart.

▪On average *each* of the three towers is larger (more volume) than the Highlander high-rise! So SBA wants to replace the Highlander with three even bigger buildings!

▪The 10 foot distance between the two buildings, is a veritable "air shaft," a feature once reserved for tenement buildings. And the distance to the two existing buildings on either side is about 8 feet.

▪75% of the windows in the new project look into somebody else's apartment just 8 to 10 feet away forcing tenants to keep their shades pulled almost all of the time.

▪Most of the windows will get little or no sun and have no view.

▪Until a few years ago when the fire code was changed to require sprinklers, it was illegal to put windows in buildings that were just 10 feet apart.

▪This building is so bad, it should not be built *anywhere* in Madison

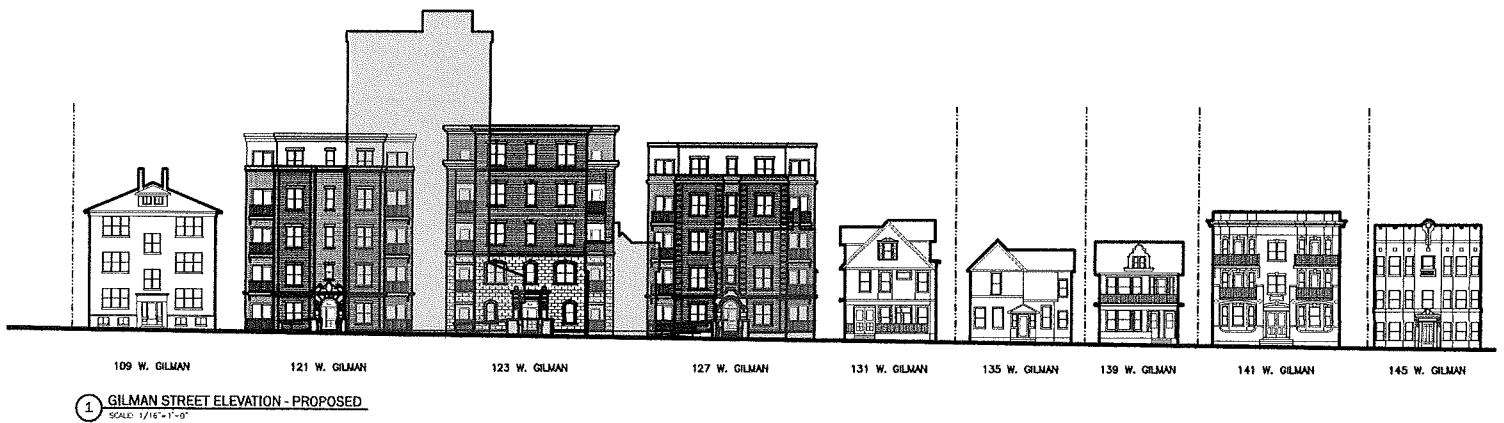
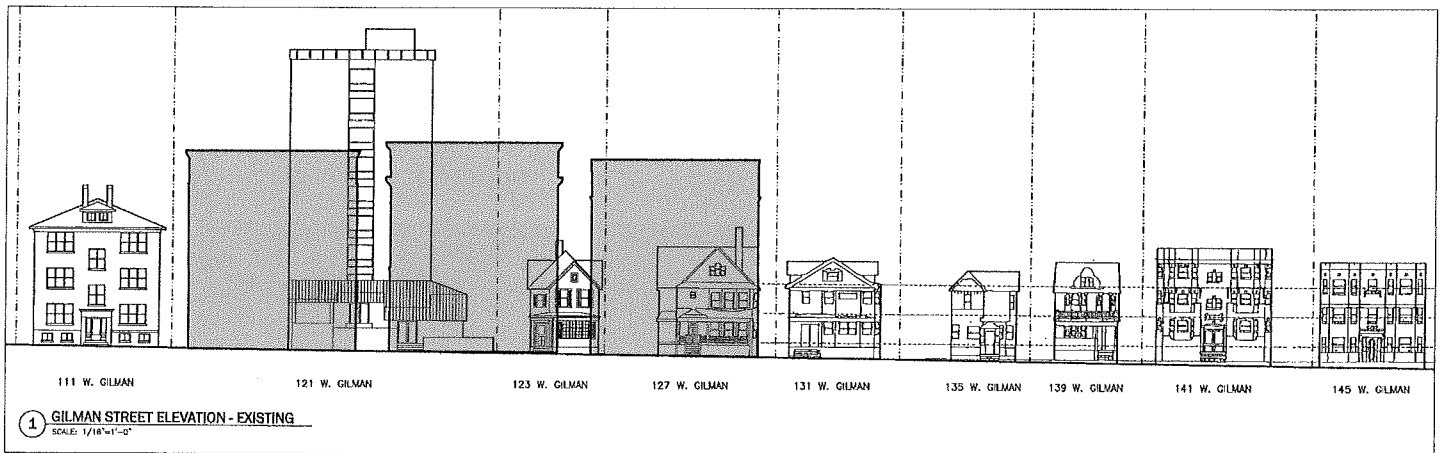
▪And yet SBA and some city staff members brag about it being "condo quality."

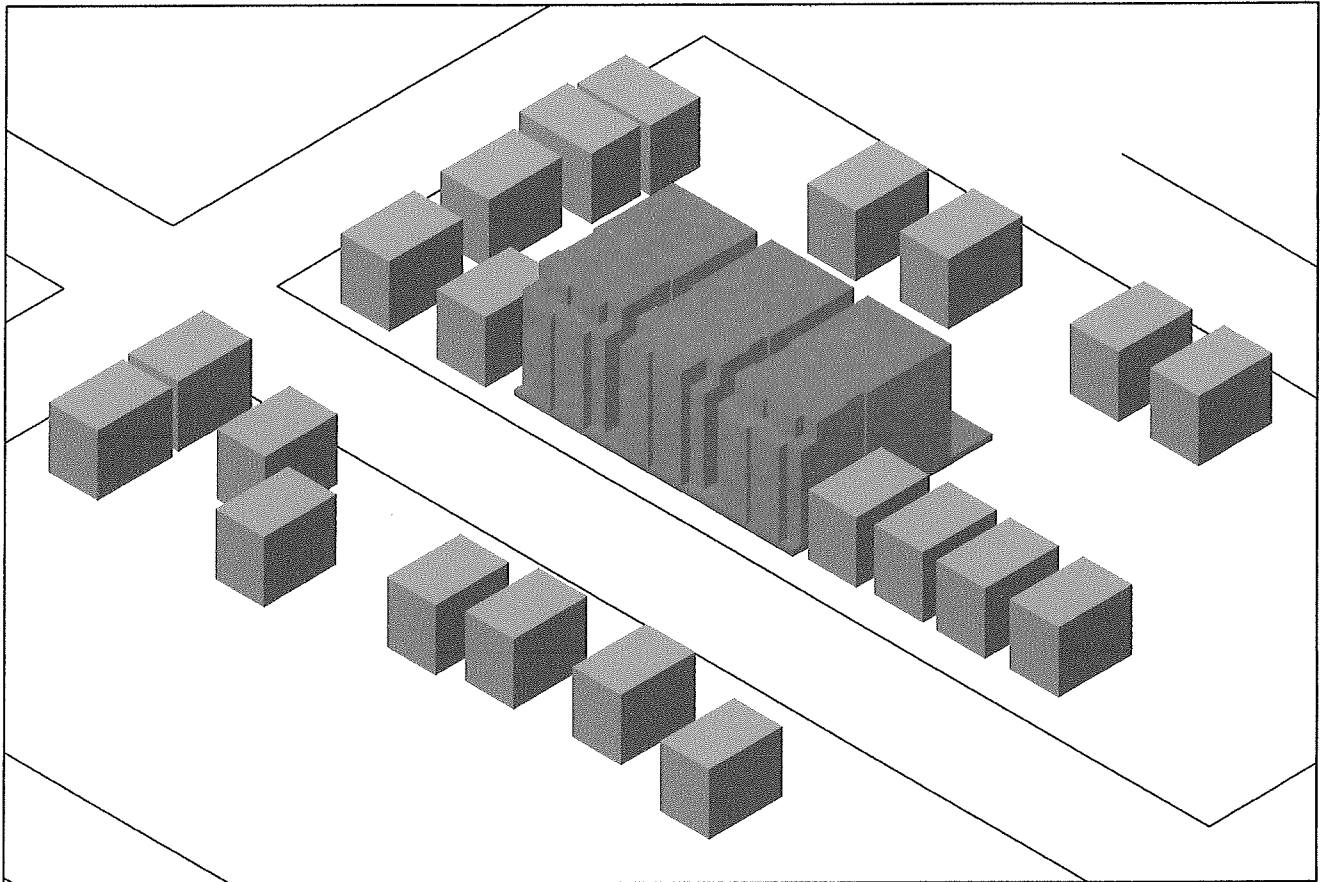
B. Elevations and a birdseye drawing

On the next two pages are two additional graphics that show how out-of-scale the SBA project is with other nearby buildings

●Elevations of the 100 block (Martens' color enhanced elevations.).

●Birdseye





Drawing based on applicant submittal Feb 17, 2014, compiled and drawn by John Martens

PROPOSED HIGHLANDER REDEVELOPMENT VISUAL IMPACT

The average volume of the 21 buildings in the Visually Related Area is 50,200 cubic feet.

Each small green block represents an existing building converted to the average volume of 50,200 cubic feet.

The large red block represents the actual proposed building of 867,700 cubic feet, 17 times the average of the surrounding buildings.

Is a volume 17 times bigger than its neighbors "visually compatible" with them?

Why and how Madison's landmark ordinance limits zoning

03-31-14

A. The SBA proposal is based upon a false premise advanced by SBA and its supporters: that the landmarks ordinance (Chapter 33.19 of the MGO) is, in effect, null and void because it has been superseded by the new zoning ordinance (Chapter 28 of the MGO) and the Downtown Plan. More specifically, SBA argues that the new Madison Zoning Code determines the height, side yard, and set-back requirements for this project. THIS IS FALSE! Here's why:

1. One of the goals of Madison's new zoning code is to: "promote and restore the conservation, protection, restoration and enhancement of historic resources" (28.002(j)).

2. Both the zoning code and the landmark ordinance are in effect and must be enforced, but if one of these ordinances requires more restrictive or higher standards than the other, then the ordinance with those greater limits governs. Here is the citation from the zoning code that *requires* this:

(28.004(2). "Where the conditions imposed by any provision of this ordinance are ... less restrictive than comparable conditions imposed by any other ... ordinance..., the regulations which are more restrictive or which impose higher standards or requirements shall prevail, unless an exception to this provision is specifically noted"

Overlay districts are commonly used in the Madison General Ordinances to add additional restrictions to underlying ordinances. For example, the zoning code is limited by ordinances that:

- preserve wetlands
- protect view corridors
- achieve building setbacks
- preserve historic districts

3. This subordination of zoning to the landmarks ordinance is also clearly acknowledged in the Downtown Plan in the section dealing with building height. More specifically, on page 36 of the plan are these words:

"The Maximum Building Heights Map illustrates the maximum height of the tallest building within each colored area, and does not illustrate more subtle height limits that may result from the protection of specific view corridors, buildings street setbacks, upper story building setbacks, desire variety in building heights, or *landmarks or historic district designations.*" (Italics added)

B. SBA boasts in all of its marketing literature that the project is 100% zoning compliant. That is true, but this is the wrong metric or Mansion Hill! *What matters is whether the project complies with landmarks ordinance criteria*! The limits imposed on the SBA proposal by the landmarks ordinance will be explained soon. It is these higher standards that control what can be done in Mansion Hill.

The landmarks ordinance imposes two types of restrictions and higher standards upon zoning for all new development in the Mansion Hill Historic District

1. All new development must satisfy the following guideline criteria for new development (33.19(10)(e):

(e) Guideline Criteria for new Development in the Mansion Hill Historic District.

1. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related (visually related area).

2. In the street elevation(s) of a new building, the proportion between the width and the height in the facade(s) shall be visually compatible with the buildings and the environment with which it is visually related (visually related area).

3. The proportions and relationships between width and height of the doors and windows in new street facade(s) shall be visually compatible with the buildings and environment with which it is visually related (visually related area).

4. The rhythm of solids to voids created by openings in the facade of the new structure should be visually compatible with the buildings and environment with which it is visually related (visually related area).

5. All new street facades should blend with other buildings via directional expression. When adjacent buildings have a dominant vertical or horizontal expression, this expression should be carried over and reflected.

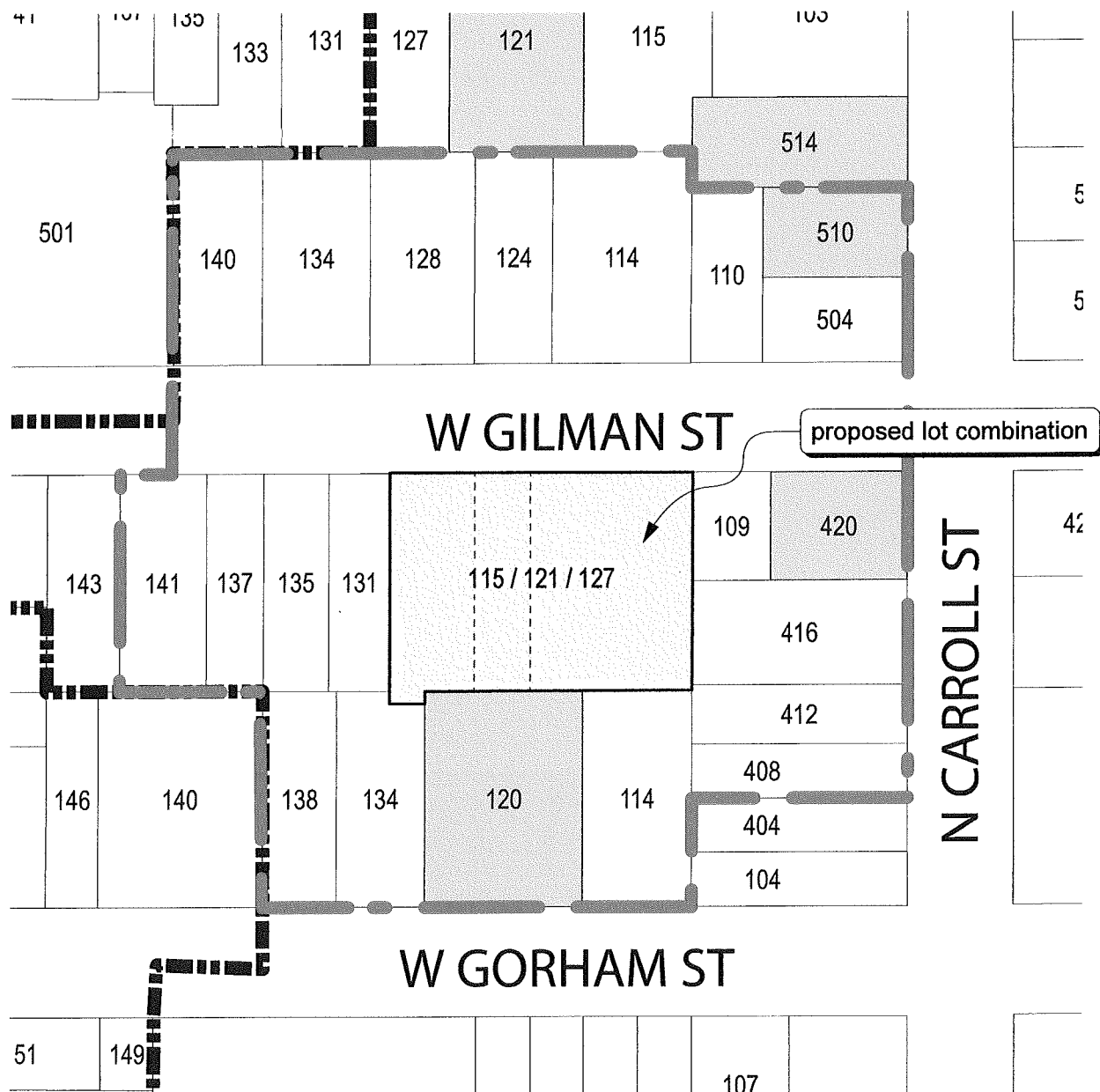
At their meeting on February 17, the Landmarks Commission concluded that the new SBA project met criteria 2, 3, 4, and 5, but that it did not come close to satisfying criteria 1, gross volume. Why and how the proposed project failed to meet the gross volume test is explained in Tab 8.

2. All new development must be “compatible with adjacent lot sizes and maintain the general lot size pattern of the Historic District (33.19(5)(5)10.

In her staff report dated January 6, 2014 Amy Scanlon, the city’s Historic Preservation Officer, stated: “...The creation of one large lot in this historic district is NOT compatible with adjacent lot sizes and does NOT maintain the general lot size pattern in the historic district.” (Capitalization added.)

The obvious incongruity of the new SBA large lot in the project’s VRA is shown on the attached graphic.

- Graphic showing contrast in the new lot size within the VRA



Lots within the Visually Related Area for 115-127 Gilman Street

Madison Landmark

The average lot size in the VRA is **6,660** square feet.

The new combined lot size is **24,330** square feet.

If you lived next to a lot nearly four times the size of your own, would you consider it compatible?

What happens when you apply the ordinance metrics and standards to the SBA project?

1. How did the Landmarks Commission conclude that the SBA project could NOT possibly meet the ordinance metrics and standards?

A. To make this determination, the Commission used the following sentence from 33.19(10)(e):

1. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related (visually related area).

Three terms in this sentence require definition:

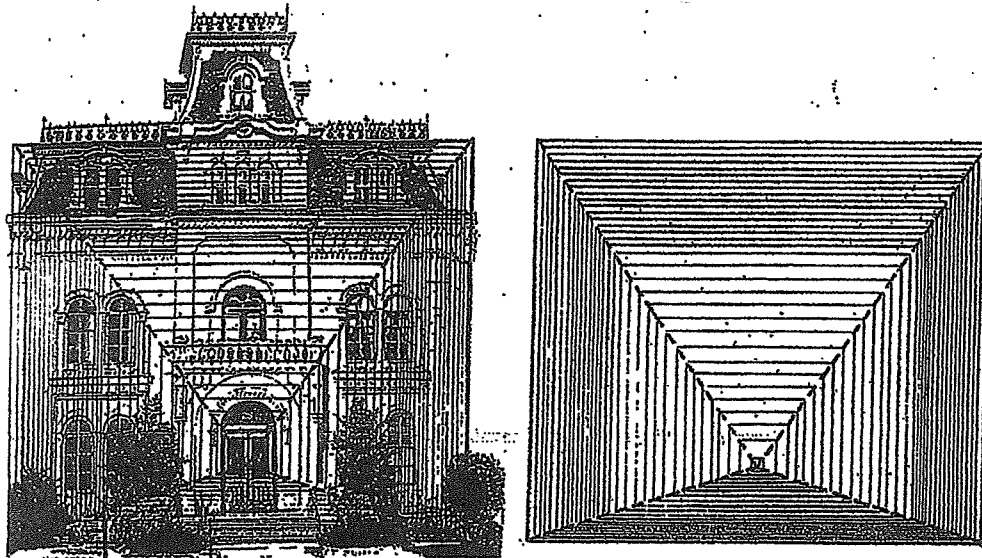
Gross volume is defined by usage as the *exterior* dimensions of a building. For a rectangular building, one multiplies width X depth X height. Realtors and assessors routinely use this measurement for calculating building size and volume. *The Mansion Hill Historic District Preservation Plan and Development Handbook* (City Plan Department, 1975) intended volume to relate to the "scale and bulk" of existing and proposed buildings. (We used *exterior* measurements for all of our calculations. However, the SBA architect used an AIA standard that was not based on exterior dimensions and thus not appropriate.)

Visually related area is clearly defined in the ordinance, 33.19(2), as a 200 foot radius around the project. City staff and the Landmarks Commission determined that this included 21 buildings shown below. The three existing buildings (121-123 West Gilman) that would be razed or removed from the site are *not* counted in this calculation.



Visually compatible

To understand the intention of the ordinance writers, we must consult the *Handbook* cited above. This document was prepared by City Plan Department staff in 1975 and was the source for the public policy guidelines in the Mansion Hill section of the ordinance. The *Handbook* is specifically referenced in the ordinance, 33.19(10)(g), so that the intent of ordinance language can be more fully discerned. There on page 19 the writers say the gross volume of a new development must be closely related in "scale and bulk" to the average of the other buildings in the visually related area. An illustration, also on page 19, of what the writers intended as "an appropriate envelope," is shown below.



B. Using these definitions John Martens,*carefully calculated the volume of all 21 buildings in the VRA using assessor records, aerial photographs and extensive site inspections. Calculations for the SBA project were made from information on Brownhouse documents, "121, 123, 127 West Gilman Submittal 112413."

C. Summary of Martens' calculations:

Average volume of all 21 existing buildings in the VRA	50,200 cubic feet
Total volume of new building	867,700 cubic feet
Average volume of just one the three towers	289,200 cubic feet

An additional summary of Martens' calculations is located on the next page, "By the numbers."

*John Martens received an architecture degree from the University of Southern California, *magna cum laude*, and is a respected Madison developer.

By the numbers:

The failure of SBA's triple towers to comply with Madison's Mansion Hill Historic District ordinance (33.19)

The landmarks ordinance says the gross volume of any new structure “shall be visually compatible” to nearby buildings. The SBA proposal egregiously fails this test. Here's why:

- | | |
|------|---|
| 21 | Number of buildings in the project's visually related area (VRA), i.e., within 200 feet of the project—the ordinance-required metric. |
| 17 | Number of times the <u>volume</u> of the SBA project exceeds the average of buildings in the VRA |
| 5.6 | Number of times the <u>volume</u> of an average tower exceeds the average of buildings in the VRA |
| 5 | Number of <u>stories</u> in the SBA project |
| 2.43 | Average number of <u>stories</u> of buildings within the VRA |

Under the appeal procedure, what process should the Common Council follow to affirm or reverse the Landmarks Commission decision on the new SBA project?

Section 33.19(5)(f) of the City's municipal code sets forth the findings the Council must make to reverse the decision of the Landmarks Commission:

After a public hearing, the Council may, by favorable vote of two-thirds (2/3) of its members, based on the standards contained in this ordinance, reverse or modify the decision of the Landmarks Commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the Council finds that, ***owing to special conditions pertaining to the specific piece of property***, failure to grant the Certificate of Appropriateness ***will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal*** or modification of the Landmark Commission's decision. (emphasis added)

The first part of the sentence requires the Council to keep in mind the standards of the Landmarks Ordinance and the balance of interests of the public and the property owner. Ultimately, it presents three questions to be answered in a two step analysis.

Step 1. Determine whether there are "special conditions pertaining to the specific piece of property."

Unless there is something unusual about this property, not common to other properties in the Mansion Hill neighborhood, the analysis can stop here, and the decision of the Landmarks Commission must be affirmed.

Step 2. If there are special conditions, then two additional questions need to be asked.

A. Do those special conditions preclude any and all reasonable use of the property under the ordinance?

Clearly, a denial will NOT preclude any and all reasonable use of the property because:

- The owner could restore, rehabilitate, and repurpose these properties.
- The owner could sell some or all of these properties to someone who would restore, rehabilitate, and repurpose them.

B. Do those special conditions cause serious hardship for the owner, which was not self created?

We believe the evidence we have provided in Tab 4 clearly shows that the condition of 127 West Gilman was self-caused—demolition by neglect. This fact prevents the Common Council from reversing the Landmarks Commission.

Step. 3. Other Considerations:

The ordinance also asks alders to consider two other factors in making their decision; the balance test and standards test. Both are factors that alders should take into account when they make their decisions, but they are not decisions noted in Steps 1 and 2.

A. The balance test

To conduct the balance test, alders must weigh “the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes.”

We believe the balance test clearly favors the public interest and preservation. Here’s why:

1. The City must enforce the law that requires *all* property owners—even SBA—to maintain the inside and outside of their buildings in historic districts.
2. The City must enforce its law prohibiting demolition by neglect. To allow SBA to profit from demolition by neglect is unconscionable.
3. To reverse the Landmarks Commission send a clear signal to all developers and property owners: The City of Madison will tolerate and even reward demolition by neglect. What a toxic precedent this would set!
- 4 The City is obligated by law to enforce the higher standards of the landmark ordinance in historic districts. It is time for SBA to end its specious claim that only zoning controls what is built in Mansion Hill. That is false! The truth is that BOTH zoning and the landmarks ordinance are laws and must be enforced. The legal rule here is simple: where one ordinance is more restrictive or has higher standards, the ordinance with the more restrictive or higher standards prevails.
5. All five of the city’s historic districts contain less than 1% of the city’s land. There’s plenty of city land where density can be achieved without destroying a historic district.
6. Rehabilitation and restoration are the best and most appropriate methods for increasing the tax base in historic districts. The availability of the new 20% tax credit program in Wisconsin will generate tens of millions of dollars in new development and millions of dollars in new real estate tax revenue for the Isthmus, including Mansion Hill.

B. “Based on the standards contained in this ordinance”

This refers to the following “guideline criteria for new development in the Mansion Hill District” in 33.19(10)(e).

1. The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related (visually related area).
2. In the street elevation(s) of a new building, the proportion between the width and the height in the facade(s) shall be visually compatible with the buildings and the environment with which it is visually related (visually related area).

3. The proportions and relationships between width and height of the doors and windows in new street facade(s) shall be visually compatible with the buildings and environment with which it is visually related (visually related area).
4. The rhythm of solids to voids created by openings in the facade of the new structure should be visually compatible with the buildings and environment with which it is visually related (visually related area).
5. All new street facades should blend with other buildings via directional expression. When adjacent buildings have a dominant vertical or horizontal expression, this expression should be carried over and reflected.

As noted earlier, the Landmarks Commission on February 17, 2014 voted to deny a COA because the SBA egregiously exceeded the *gross volume* criterion.

In summary,

1. There are NO special conditions pertaining to this piece of property, including:
 - a. anything that would preclude any and all reasonable use of the property; and
 - b. anything that could cause a serious hardship for the owner that was not self-caused.
2. The Landmarks Commission:
 - a. correctly denied a COA on the grounds that the gross volume was egregiously larger than what is allowed in the VRA.
 - b. validly concluded that the denial of a COA based on gross volume was sufficient to warrant the LC decision.
3. The balance test clearly favors “the interest of the public in preserving the subject property”

Therefore, the Common Council must affirm the decision of the Landmarks Commission.

Under appeal, what standards must the Common Council use to issue or deny COA to demolish 123 and 127 West Gilman, and how should those standards be applied?

At their meeting on February 17, the Landmarks Commission chose not to act on a COA for the demolition of the 123 and 127 West Gilman. However, if 30 days pass without acting on that COA, the developer can refer the question to the Common Council for a decision. On March 17, the developer's attorney made this request, and so that matter will be on the Council agenda on April 8.

SBA has proposed to follow two different courses of action for these two homes. For 127, SBA proposes to raze the home, which requires a COA for demolition. For 123, the developer proposes to move the home to 113 West Gorham. However, in a historic district even the removal and relocation of a home is considered a demolition. This is why 123 also requires a COA for the move.

Thus, both the proposed removal and relocation of 123 and the proposed razing of 127 must be judged by specific standards in the ordinance.

A. The ordinance standards the Common Council must use (33.19(5)(c) are as follows:

3. Standards for determining to issue a COA for demolition. In determining whether to issue a Certificate of Appropriateness for any demolition, the Landmarks Commission shall consider and may give decisive weight to any or all of the following:

- a. Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State;
- b. Whether the building or structure, although not itself a landmark building, contributes to the distinctive architectural or historic character of the District as a whole and therefore should be preserved for the benefit of the people of the City and the State;
- c. Whether demolition of the subject property would be contrary to the purpose and intent of this chapter as set forth in Sec. 33.19 and to the objectives of the historic preservation plan for the applicable district as duly adopted by the Common Council;
- d. Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
- e. Whether retention of the building or structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage;
- f. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness;
- g. Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the buildings and environment of the district in which the subject property is located.

B. How to interpret the standards

1. 123 West Gilman

Out of 90,000 listings on the National Register of Historic Places, only three are associated with gay, lesbian, bisexual, and transgender history. We believe that the home at 127 West Gilman should be added to the Register because of its association with Jimmy Yeadon and David Clarenbach. Yeadon was probably the third or fourth openly gay person to be elected to public office in the United States and was

instrumental in passing Madison's Gay Rights Ordinance in 1975. David Clarenbach was key to the passage of the 1982 Wisconsin Gay Rights Bill, the first law in the country prohibiting discrimination in employment, housing, and public accommodations based on sexual orientation. The achievements of Yeadon, Clarenbach, and several others who lived there are sufficient to make the home significant at the local, state, and national level. A more detailed statement of their work and significance is attached.

Madison's GLBT community is adamantly opposed to moving the home to any other location.

A letter from David Clarenbach expressing his strong opposition to the construction of the SBA project is also attached.

2. 127 West Gilman

We believe that this contributing home should be rehabilitated and remodeled into attractive apartments. In Tab 4, we have demonstrated that SBA willfully neglected the home to the point where the City Building Inspector turned SBA over to the City Attorney for prosecution for demolition by neglect. In Tab 5 we have demonstrated that the home can be *economically* rehabilitated.

3. Summary of standards that prevent the demolition of 123 and 127 West Gilman.

3. Standards for determining to issue a COA for demolition. In determining whether to issue a Certificate of Appropriateness for any demolition, the Landmarks Commission shall consider and may give decisive weight to any or all of the following:	123 Factors requiring a denial of a COA for demolition (removal and relocation)	127 Standards requiring denial of a COA for demolition (razing)
a. Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State;	X	
b. Whether the building or structure, although not itself a landmark building, contributes to the distinctive architectural or historic character of the District as a whole and therefore should be preserved for the benefit of the people of the City and the State;	X	X
c. Whether demolition of the subject property would be contrary to the purpose and intent of this chapter as set forth in Sec. 33.19 and to the objectives of the historic preservation plan for the applicable district as duly adopted by the Common Council;	X	X
d. Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;		
e. Whether retention of the building or structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage;	X	X
f. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness;		X (self-created hardship and failure to maintain)
g. Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the buildings and environment of the district in which the subject property is located.	X	X



Photo: Ed Kuharski, 2012.

123 West Gilman History, The Yeadon – Clarenbach House

Prepared by Gary Tipler 2/17/2014. Footnoted 2/19/2014.

Benajah Warnes, a carpentry contractor built the house in 1886 at a cost of \$2000 as a rental house.¹ He was associated with building Turner Hall, the Gates of Heaven Synagogue, Unitarian Church, the Judge Bunn residence on Langdon and many others.² Warnes was a consultant in the collapse of the south wing of the State Capitol building in 1883.

Other residents over the years included Assistant Secretary of State Mortimer T. Park, Assistant U.S. Attorney Henry T. Sheldon, University of Wisconsin Engineering Professor John Mack, and Anna Burr Moseley a Latin instructor.

A Landmark in Gay and Civil Rights History

The house at 123 West Gilman Street in Madison is significant in Madison, in Wisconsin, and in the nation for the advancement of civil liberties, particularly Gay rights.

In 1976-77 it was the home to the first openly Gay elected official in Wisconsin, Jim Yeadon during his campaign for alder in early 1977.³

After Yeadon left the house, it became the home (1977-1982) of State Representative David Clarenbach. He was key to the passage of the first law in the country prohibiting discrimination in employment, housing and public accommodations on the basis of sexual orientation. Clarenbach lived in the house from the time that he worked on the legislation and community work related to it and until after it was signed into law in February, 1982.⁴

Following Clarenbach's tenure, 123 West Gilman was home to Dane County Supervisor Lynn Haanen and was the location of Tammy Baldwin's first campaign event when she ran for Lynn's seat on the County Board in 1986.⁵ It was also the home of Earl Bricker who staffed Gov. Tony Earl's (1983-1987) Council on Lesbian and Gay Issues, chaired by Dick Wagner and Kathleen Nichols.

¹ Dane County Tax Rolls.

² Benaja Warnes obituary. *Madison Democrat*. April 3, 1920.

³ Jim Yeadon. *History of Gay and Lesbian Life in Milwaukee, Wisconsin*. http://www.mkelgbthist.org/people/people-y/yeadon_jim.htm

⁴ David Clarenbach. *History of Gay and Lesbian Life in Milwaukee, Wisconsin*. http://www.mkelgbthist.org/people/people-c/clarenbach_david.htm

⁵ Correspondences with Jim Yeadon, David Clarenbach, Lynn Haanen, Tammy Baldwin, and Earl Bricker, and an interview with R. Richard Wagner. February, 2014.

David Clarenbach

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November 25, 2013

Madison Landmarks Commission
Department of Planning and Development
215 Martin Luther King, Jr. Blvd.
PO Box 2985

Madison WI 53701 Re: Mansion Hill Construction on 100 Block of W Gilman St

Members of the Landmarks Commission:

It is with great regret that I will be unable to personally attend today's meeting to voice my strong opposition to the proposed construction of new apartment buildings on the 100 block of W. Gilman St.

The plans would dramatically change the character of this block and severely undermine the integrity of the Mansion Hill Historic District. I ask that the Commission take whatever action necessary to halt this entirely inappropriate construction.

I represented this area as an elected official for more than two decades -- on the County Board, City Council and for 18 years as a member of the Wisconsin State Assembly. I lived in and owned the single family home at 123 W. Gilman; it was purchased from then-Alderperson Carol Wuennenberg in the mid-1970s with the understanding it would be maintained as a single family unit, and when I sold it some years later (at a sale price significantly below market value) it was with that same ethical commitment as a condition of its sale.

The issue before you concerning the construction of these massive new apartments would do great damage to our long term efforts to maintain the spirit of the Mansion Hill Historic District. Please disapprove this project.

Thank you.

Sincerely,

David Clarenbach