Landmarks Commission
Ad Hoc Landmarks Ordinance Review Committee
December 1, 2018

The historic districts standards have an ambitious schedule for the rewrite. Thus, I thought it best to voice my concerns at this time. This comment letter is organized into policy issues and specific details.

POLICY ISSUES

Process

It appears the ordinance rewrite for historic districts has suddenly become a priority. A year and a half after the consultant was hired, the ordinance recommendations were issued (November 20th) and the first district meeting was held not even a week later (November 26th). All district meetings are being held between Thanksgiving and Christmas, not a time period when residents are focused on preparing for and attending meetings. (A year ago, the draft recommendations were scheduled to be to the Landmarks Commission in the summer of 2018, and to LORC in late summer/early fall of 2018.)

Six LORC meetings are scheduled between1/24 and 2/28/2019 during which, per the consultant, LORC "will delve deeper into the actual ordinance language." Contrast that with the Chapter 41 rewrite, which had 21 meetings between May 2014 and July 2015. Perhaps the thought was that the consultant would resolve a lot of policy issues, thus making LORC's job easier and quicker. If so, I question whether that will be the result.

Legistar contains a summaries of Round 1 and Round 2 meetings (about 1 ½ pages of attendee comments for each meeting). 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.

Changes to 2015 ordinance revisions

Pages 2-5 of the consultant's report propose changes to Chapter 41, Subchapters A through F, which were enacted in 2015. To the extent that recommendations affect these subchapters, the consultant should explain why the change is required since these sections were thoroughly vetted just 3 years ago.

Lack of differentiation among districts

The consultant was hired to propose revisions to "each of the five local historic district sections." Instead, there is one mass of recommendations.

There is no explanation for the lack of differentiation between the districts. The consultant's presentation to LORC on 10/29/18 suggests, on pages 10 and 12, that uniform standards will fix the problem of the ordinance being "not easy to understand" and also provide clarity. Round 1 and Round 2 comments have no comments about the ordinance being hard to understand because the districts have different standards. There was a comment about the ordinance being hard to understand because of jargon and use of subjective language (which these recommendations do not fix).

There are matters that should vary by district, perhaps not a lot, but at least some. For example, Marquette Bungalows currently require that accessory structures not exceed 15 feet in height. This is incorporated in the recommendations on page 13. Buildings in the Marquette Bungalow district are relatively short and 15 feet makes sense. But in other districts that include many 3 story structures, is 15 feet reasonable? Landmarks recently approved a Jenifer Street garage that was about 20 feet at the roof peak. (Legistar 52526.)

If there is a single set of standards for all historic districts, then MGO 41.11(2), development standards and guidelines, probably would no longer be needed.

Lack of differentiation between residential/commercial

The needs of commercial (in particular, commercial districts such as Williamson) differ from residential, particularly when looking at new construction. There needs to be different standards for commercial areas.

Willy Street BUILD II has height and other standards for Williamson Street. These standards, adopted by the Common Council as a supplement to the Marquette-Schenk-Atwood Neighborhood Plan in 2004, were developed using Better Urban Infill Development funds. The recommendations do not even mention BUILD II, nor are BUILD II's design criteria included. Also of interest, the resolution passed by the Council directed the Planning Unit to prepare the necessary ordinance amendments to update the Third Lake Ridge Historic District Ordinance.

Some of the commercial differences include the following:

- The recommendations state the "main entrance to the structure shall be on the front facade." Commercial often had corner entrances.
- The recommendations state the "entrance shall either be inset or projecting from the plane of the main facade." Commercial did not have projecting entrances.
- The recommendations for new structures include a section on porches. Commercial did not have porches.
- Nothing is recommended regarding commercial mechanicals, other than roof mechanicals. For example, 906 Williamson has an underground garage vent that is prominently visible from two streets. Shouldn't this, at a minimum, be screened? 906 Williamson also has white vents protruding from the sides of the building. These may be necessary for plumbing vents, or dryer exhausts, but

shouldn't they be less visible by purchasing an appropriately colored vent or by painting the vents? There are various cameras attached to the siding of 906 Williamson. Clearly, cameras are not historic, so how should they be addressed?

- The "roofs" section states mechanical and service equipment must be inconspicuous. How does that apply to commercial, such as 706 Williamson? 706 Williamson has a large elevator access on top of the roof, along with a storage/lobby structure and along with a stairway – all about 9 feet in height and all are clearly visible from many perspectives, particularly when entering the historic district from downtown.
- What about massive vents that are required just due to one particular use (e.g., meat smoking) – should that be allowed, or should the property not be able to accommodate that one use?
- "Building materials" does not mention metal panels, which seem to be a necessary finish on commercial buildings these days.
- Balconies on mixed-use or multi-residential buildings are not addressed. Are hanging balconies historically appropriate? What of inset balconies?
- "New additions in densely-built locations (such as a downtown commercial district) may appear as a separate building or infill, rather than as an addition. In such a setting, the addition or the infill structure must be compatible with the size and scale of the historic building and surrounding buildings—usually the front elevation of the new building should be in the same plane (i.e., not set back from the historic building). This approach may also provide the opportunity for a larger addition or infill when the façade can be broken up into smaller elements that are consistent with the scale of the historic building and surrounding buildings."
    - What does compatibility mean in terms of size/scale in commercial areas? If the historic resources on abutting lots have a height of 54 feet and 41 feet, is an 80 foot new structure compatible? At some point compatibility no longer exists. That maximum should be specified. For example, a new structure more than 25% greater in height is not visually compatible with a historic resource. Then, if an applicant has an issue, the applicant could seek a variance.
    - What about compatibility of the proportion and rhythm of solids to voids in the street facade(s) and the rhythm of buildings masses and spaces?
    - Should a standard be created as to what counts as "broken up into smaller elements?" Is 706 Williamson a good example of breaking into smaller elements for commercial?

Standards for Landmarks

MGO 41.09 provides that no person may, without a certificate of appropriateness, (1) add a new structure to a landmark or landmark site or (2) materially alter a landmark or the exterior of a landmark. MGO 41.18(1)(a) provides that any proposed exterior alteration to a landmark needs to meet the Secretary of the Interior's Standards for Rehabilitation. (Those standards are on page 5 of the consultant's recommendations.)

But the ordinance does not require a landmark to comply with the Secretary's Guidelines, and those guidelines were the primary basis for the standards recommended by the consultant (last sentence on page 5 of the recommendations).

If there will be a single standard for review in historic districts, should that standard also apply to landmarks? Should a single contributing building in a historic district be subject to more restrictions than a landmarked building?

Interaction of tax credit approval and need for Landmarks Commission approval

Currently, at least for residential properties, if the property owner receives Wisconsin Historic Preservation Tax Credit approval, those projects do not need to go through approval. (Or, at least mine did not, which included a new roof.) If these standards are adopted, that could no longer occur. The tax credit approval process uses the Secretary's guidelines as guidelines – discretion can be exercised. In contrast, the recommended standards often use "shall" (e.g., "Historically-painted wood features shall be repainted with colors that are appropriate to the building and district."). The tax credit approval process may exercise discretion on an issue in a manner that would not comply with the ordinance requirements.

What is being regulated on a contributing property and to what extent?

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.

- façade
- primary, front, or street-facing facades
- primary and other highly-visible elevations
- street façade
- front façade
- side or rear facades
- main facade
- visible from the street (proposed definition)
- secondary or side façade
- secondary, less-visible elevations
- secondary elevation
- secondary or less-visible elevations
- secondary or non-character-defining elevation
- secondary or minimally-visible elevation

Clearly, the ordinance will regulate the "street-facing façade." Any definition of street-facing façade, or primary façade, or some other alternative, should refer to more than streets – it should refer to something like "facing the public-right-of-way."

- For example, 303 S Paterson, the tobacco warehouse, is within the Third Lake Ridge district -- the long side of the building faces the bike path.

- Or see Legistar 34516, in which an issue arose whether a home facing a court (essentially used just a driveway for residents) had a street façade.
- Or what of lakefront homes – should the ordinance regulate what can be done to the lake side the same as the street side?
- The staff report for 722 Williamson said that the new building partially set back behind the Olds Building "does not technically have a "street façade" along Williamson Street." The new building is L-shaped and about half of the L is not hidden by the Olds Building – it directly faces Williamson. Shouldn't this portion of the new building, directly facing Williamson, but substantially set back from Williamson, come within any definition of street-facing? If not, how much set-back is enough before a structure facing the street will not be considered street-facing?

It appears the recommendation is to treat the first 10 feet of the side façade the same as a street facing façade, or at least the recommendations often use 10 feet. Then, though not at all clear, it seems the consultant may be recommending more than 10 feet if the side façade is highly visible:

> "Differentiation should be given to blocks where houses are widely spaced apart and the secondary or side façade is clearly visible from the street, versus blocks were houses are closely spaced and the secondary or side façade is not easily visible from the street."

The consultant should have looked at various gaps and made recommendations. For example, a six-foot gap between buildings may only require the first 10 feet to be treated as a street façade. But if the gap is 30 feet, then the first (unknown but over 10) feet is treated the same as the street façade. The consultant should also have specified where the 10 feet begins -- if there is a front porch, does the 10 feet of the side façade run from the front of the porch or does the 10 feet run back from the main body of the building? Also, this cannot be done on a block-by-block basis as there is substantial variation within many blocks.

The consultant recommends that review "for primary, front, or street-facing facades shall be more stringent than secondary, side, rear, or non-street-facing facades." Currently, this is done but there are no specific guidelines as what constitutes less stringent treatment. Should there be standards for primary facades and for secondary facades, or is the current discretionary process working?

Rear facades are often clumped with "secondary, less-visible elevations." Should rear facades be treated the same as secondary, less visible elevations? Do corner properties have a rear façade?

Links to two NPS publications that illustrate "secondary elevations."
https://www.nps.gov/tps/standards/applying-rehabilitation/its-bulletins/ITS14-Adding-NewOpenings.pdf

https://www.nps.gov/tps/standards/applying-rehabilitation/its-bulletins/ITS33-RearElevation-Alterations.pdf

How to treat structures outside of the period of significance

The consultant recommends that "… 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."

- How shall properties outside the period of significance be treated? Saying "less stringent" has no meaning. Guidelines/standards need to be provided.
- What of new additions, or new structures that Landmarks has approved as part of a demolition/new construction project? Should the standards be laxer for those projects? A number of standards are recommended for additions/new structures. Shouldn't those standards continue to apply to an addition/ new structure even after it become an older addition/structure?
- Third Lake's period of significance is 1850-1929. Should a house built in 1930 be subject to laxer standards? At what point would a laxer standard kick in?

References to the Zoning Code should be eliminated

The consultant proposes that "visible from the street" be coordinated with zoning setbacks. This will not work. Zoning setbacks are essentially irrelevant in historic neighborhoods. For example, TR-V1 and TR-V2 have a 20-foot front yard setback (hardly ever happens) and generally have a 6-foot side yard setback. If it is presumed properties have a 6-foot side yard setback, little of the side of a building would be deemed "visible from the street" when, in reality, all of the side might be highly visible. For example, when a driveway or large side yard abuts a building, much more of the side is visible.

The consultant recommends that a definition be added for "area of visual compatibility" and that this only parcels zoned for the same use be considered. This will not work.

- The consultant raises the Elk's Club as an example, but proposes no solution. The Elk's Club has historic residences within 200 feet, and a historic commercial property, the Olds Building, within 200 feet. But the Old Building is zoned PD, so there is not any comparison under the consultant's proposal.
- As another example, 133, 141 and 147 S Butler are zoned UMX and, respectively, are a 3-story newer office building, a modified historic home, and a historic commercial building. 141 and 147 S Butler have common ownership. If the 141/147 owner requests a CoA for demolition and new construction, what would be the historic comparison? There is not any other historic building zoned UMX within 200 feet.
- Residential property should not be excluded. If a commercial building will be constructed, it should also be compatible with historic residences within 200 feet. The commercial property influences the character of the district as a whole.

The consultant proposes under the additions section to require Landmarks to determine whether the addition complies with the Zoning Code: "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." This will not work, nor is it appropriate.

- A great many homes are non-conforming. Using my house as an example, my lot is not large enough, the front setback is inadequate, it is too high, and the back yard may not be deep enough.
- Whether a home is nonconforming or not, any addition/enlargement needs to comply with the Zoning Code (or a variance needs to be sought). So any discussion of nonconforming has no meaning.
- There is not any reason for the Preservation Planner or the Landmarks Commission to determine whether an addition complies with the Zoning Code. Applicants often need both Landmarks and Planning approval.

The consultant proposes height restriction based on the Zoning Code maximum height: "New principal structures shall be similar in height and compatible with the principal structures within two hundred (200) feet of the subject property. The maximum height of principal structures [list of zoning districts and maximum heights]." This will not work.

- The consultant only addresses height in feet, not stories, but the Zoning Code addresses both. For example, TR-C2 has a maximum height of 2 stories/35 feet for single family, as does TR-V1 for single and two family. TSS is 3 stories/40 feet.
- What if the Zoning Code changes and, for example, the maximum TSS height goes to 45 feet? Should the historic district standards automatically change without any oversight from the Landmarks Commission?
- Under the Zoning Code, anyone can seek conditional use approval for increased height. For example, the TSS 3 stories/40 feet is footnoted with "See (c) below." (c) provides: "Building height exceeding the maximum may be allowed with conditional use approval." Thus, if the historic height restrictions are tied to the Zoning Code and the Zoning code allows for additional height under the same section in which height is established, there is not any maximum height – height would be at the discretion of the Plan Commission, not the Landmarks Commission.

The consultant proposes: "The maximum height of accessory structures, as defined in Section 28.211, shall be fifteen (15) feet." Again, this reference to the Zoning Code not work.

- The 28.211 definition: "Accessory Building or Structure. A subordinate building or structure, the use of which is clearly incidental to that of the main building and which is located on the same lot as the principal building, and is subordinate to the principal building in height and floor area."

- Not all potential structures are covered as accessory structures. For example, in the past garden sheds have been regulated under the historic ordinance.
- An "Accessory Building or Structure" does not include an accessory dwelling unit, or a garage that includes a dwelling unit.
- Any definitions of accessory structures, additions, or new structures should be part of the ordinance. A goal of the rewrite is to reduce confusion, and referring to the Zoning Code, particularly when it is not needed, only creates confusion.

Addition versus New Structure

The difference between an addition and new construction is not clear. One could see "new additions" as a connected addition to an existing historic structure. But then on page 18 "separate building or infill" is discussed and on page 22 there is mention of "adjacent new construction."

Does the addition to the Mautz building/Kleuter Grocery count as an addition or as a new structure? Does the addition to 722 Williamson count as an addition or new structure? What about a garage? A garden shed?

Bypassing the Landmarks Commission

The consultant recommends (page 27) that staff by ordinance, be granted the right to approve applications for "identifying, retaining, and preserving; protecting and maintaining; or repairing." Only if staff sees fit would an application be forwarded to the Landmarks Commission.

This contravenes the 2015 ordinance rewrite and provides too much authority to staff. MGO 41.05 provides that the Preservation Planner shall "carry out the duties that the Landmarks Commission properly delegates to the Preservation Planner …" Those duties were last described in 2010: 11 types of proposals could be decided by the Preservation Planner. Other staff could only approve 2 of the 11 types. In the event the Preservation Planner was out for several days, the Preservation Planner could delegate all 11 types to two specified persons. For the delegation of authority see the last 3 pages of:
http://legistar.cityofmadison.com/attachments/1c82bf82-62f2-4f05-a290-e1c3daf92886.pdf

The existing project approval method removed low-impact changes from Landmarks approval process. But unlike an ordinance delegating authority, Landmarks can make changes to the delegation duties/process as it sees fit. For example, Landmarks could opt to review all projects if there is an extended absence of the Preservation Planner. Further, Landmarks has retained tight control on what specific staff members may approve what kinds of projects. If the ordinance delegated to staff, Landmarks could lose any say in what staff member could approve what project. Nor would Landmarks have the ability to quickly react should issues arise, rather an ordinance change process would need to be undertaken. Further, a property owner can appeal a CoA denial to

the Common Council. But under the recommendations, an owner could not appeal a staff denial to landmarks.

Landmarks has specifically retained direct jurisdiction of some projects, such as window alterations, that would, under the recommendations, be decided by staff.

DETAILS

Pages 2-3, 41.02 Defintions:

"Adopt and include National Park Service definitions where possible."

- These should be defined. Which definitions should be used?

"Consider improving 41.02 Definitions to remove many of the redundancies currently contained in Subchapter 41G and make the standards more succinct."

- Identify those redundancies.

"Refine definition of "alteration" to remove the word "addition.""

- In the abstract, this makes sense. But then a definition of "addition" should be provided.

"Add definition of "area of visual compatibility."

- There is an existing definition of "visually compatible." And "visually compatible" is often used in connection with 200 feet.
- The recommendation to only apply "visually compatible" to parcels zoned for the same use does not work, as discussed above.
- The recommendations also state that "parcels must be compatible with other historic resources, not non-historic, non-contributing, or properties constructed outside of the period of significance." This is already in the existing ordinances. See 41.11(2)(a): "Any new structure located on a lot that lies within two hundred (200) feet of a designated historic resource shall be visually compatible with that historic resource, particularly in regards to: …"

"Add definition of "demolition permit." See City of Evansville's ordinance." And: "Add definition of "stop work order." See City of Evansville's ordinance."

- The City of Evansville seems to have given their Historic Preservation Commission the authority to issue demolition permits and stop work orders. In Madison, this is done by Building Inspection, coordinating with the Preservation Planner. These definitions are not needed unless there will be a transfer of authority.

"Add definition of "directional expression."

- This phrase is used in the existing ordinance, and often is clear: "All street facades shall blend with other structures via directional expression. When

adjacent structures have a dominant horizontal or vertical expression, this expression shall be carried over and reflected."

Add definition of "openings."
Add definition of "proportion."
Add definition of "rhythm."
Add definition of "solids."
Add definition of "voids."

- What are the proposed definitions? Saying that definitions need to be added is not really a recommendation.
- The consultant cites the long history of NPS definitions and how those definitions have been used for decades. Similarly, the words above have also been interpreted by Landmarks for decades. For example, the ordinance uses: "The proportion and rhythm of solids to voids, created by openings in the facades" and "…proportion and rhythm of solids to voids." When used in context, these words seem relatively clear, though there is room for interpretation. Defining them would be difficult. The usual "openings" are windows and doors. But then one would need to think of every possible variation to include –such as the milk slots.

Refine definition of "historic district."

- The consultant provides the NPS definition, so it would appear that is the consultant's proposal. Madison has taken a more expansive view of historic districts.
- There is not any ordinance definition of "historic district" other than a list of what districts have already been approved:

  > "Historic District means an area designated by the Common Council pursuant to Subchapter G of this ordinance." MGO 41.02

  However, "historic district" is used in Subchapter D, creation of new districts. This is a technical inconsistency that should be corrected.
- What does the NPS definition have that Madison's definition does not? Why should Madison adopt the NPS definition rather than continue the criteria listed in MGO 41.10(2)? The consultant should explain the pros and cons of this recommendation.
- The NPS definition is often strictly enforced – too many noncontributing buildings and an area will not qualify as a district. Plus, if Madison uses the NPS definition, then any district that is NPS listed would, by definition, qualify as a Madison historic district. Is Madison going to add the existing NPS districts (e.g., Sherman Avenue, Wisconsin Memorial Hospital, East Dayton, University Hill Farms)?

Add definition of "visible from the street."

- This fits in with defining the types of facades/elevations discussed above. If there is not a specific length of side façade defined as being treated the same as the street façade, then "visible from the street" perhaps should be defined.
- The consultant cites Marquette Bungalow's ordinance. That portion of the ordinance says: "Windows and doors on the front or street facade of the structure and on side faces within ten (10) feet of the front facade ..." The ordinance does not go on to define gaps between buildings and how much of the side is visible.
- The consultant says that this could also be coordinated with zoning setbacks. As discussed above, this does not work.

Page 4, 41.03

The consultant recommends codifying a requirement to identify landmarks/districts on the City zoning map.

- The goal has merit, but an ordinance is not the place. This should be part of the Historic Preservation Plan. I believe the only maps referenced in the ordinances are the ones required under state law (e.g., zoning maps and street maps).

"Consider adding language to the ordinance to codify a requirement to identify landmarks and historic district boundaries on the city assessor's data."

- The assessor's page for each property does identify historic status, e.g., HIS-TL. The assessor's page does not contain maps, so I do not understand how this is proposed to work.

Page 4, General Notes

"Bold, italicize, or underline words that appear in 41.02 Definitions … include hyperlinks …"

- This is not the place – City ordinances do not do this.
- This could be a Historic Preservation Plan goal – that the historic website has a copy of the ordinance with these added enhancements.

"Consider omitting all background information such as Purpose and Intent, Criteria for Creation, Historic Resources, and Reference to Plan. They're redundant and repetitive and don't highlight the uniqueness of the district, nor do they need to be codified into the ordinance."

- These sections do not add anything. But the alternative would be to actually identify the uniqueness of each district.

Page 5, Secretary of the Interior's Standards for Rehabilitation

MGO 41.11(2) provides general historic district standards and guidelines that the Landmarks Commission should consider for a new ordinance. Not all of the criteria are adequately addressed in the recommendations. For example, the ordinance urges

consideration of the "proportions and relationships between doors and windows in the street and publicly visible façade" and the "proportion and rhythm of solids to voids, created by openings in the facades." Yet the recommendations only say that the "relationship of solids to voids, alignment, rhythm, and size of the window and door openings of adjacent historic buildings within two hundred (200) feet of the subject property *shall be considered*." (emphasis added)

The Secretary's standards, in some respects, complement or reinforce the standards in MGO 41.11(2). In other respects, such as how to maintain a property (e.g., no sandblasting), incorporating the Secretary's standards would be adding new requirements. Verbatim incorporation of the Secretary's standards needs to be carefully considered.

Page 5, Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings

The recommendation is to incorporate portions of the guidelines into the ordinance. The consultant states that the recommended standards for alterations, additions and new construction "rely heavily upon applicable portions of the Guidelines."

Ordinance standards must be followed. The Secretary's guidelines are just guidelines. That distinction needs to be remembered when reviewing the proposed standards so that hard and fast rules are not made when there could be valid exceptions. (For example, the recommendations seem to say that look-alike slate shingles are prohibited. Yet the state approved my slate look-alike shingles for tax credit purposes.)

Standards, General Comments

There are instances where the recommendations are the same for alterations, additions and new construction, e.g., types of roofing materials, life safety. A section for general standards would make the recommendation mush clearer.

Recommendations for the Standards for Review for Alterations

There are new requirements that could be onerous to property owners and are not needed. Yes, some of these items might prettify the look of the historic districts. But there is a balance, particularly with residential, to be made for preserving the structure and making living accommodations.

- No A/C units on the street facades. Temporary things such as this, things that do not harm the structure, should not be prohibited. (The only place I can put my window A/C is in a front window because the other windows are way too large or too small.)
- No A/C compressors in front. Some properties are built to all lot lines except for the front. Currently, it seems the requirement is that compressors need to be screened if visible form the street.
- "Historically-painted wood features shall be repainted with colors that are appropriate to the building and district." So who decides this? Is the City going

to create a palette of acceptable colors and color combinations? Will it vary by district (no other recommendation varies by district)? As I was once told by Building Inspection: "Beauty is in the eye of the beholder." Residents should be able to create a home with colors that the resident likes. Again, color is a temporary matter, one that does not harm the historic structure.

- "Thermal devices (such as infrared heaters) may be used to carefully remove paint when it is so deteriorated that total removal is necessary prior to repainting." I am working on doing this – it allows for a paint job to last much longer, and allows for deteriorated wood to be found and replaced. It should not be limited to instances when paint is so deteriorated that it cannot be repainted.
- Rear decks must have wooden handrails. Decks are not historic, so if a non-historic addition on the rear will be allowed, why does the handrail need to be constructed of a historic material?
- "Wrought iron, simulated wrought iron, and wood fences are permitted. Chain link, metal mesh, vinyl, composite, bamboo, reed, and other rustic style fences, such as rough sawn wood or split-rails, are prohibited. Fences in the front yard shall not exceed three (3) feet in height." Again, fences are temporary and do not damage the historic resource. I have a section of metal mesh fence that is historic – the posts are set in the concrete retaining wall, so metal mesh can be historic. Also, some residents only have a yard in the front of the house. If they want to corral the kids or the dog, a 3-foot high fence is insufficient.

Enforcement of standards is another concern. Some of the recommendations are near to impossible to enforce, which could lead to selective enforcement.

- Will the City police A/C window units in the front windows?
- Will the City make an owner repaint?
- "Mechanical tools should be used only by skilled masons in limited circumstances and generally not on short, vertical joints in brick masonry." How can hand-raking of mortar joints be enforced? This is a laudable goal, but extremely hard to achieve. One only need look at the Mautz building renovation. The Mautz windows are outlined with the ends of bricks. These bricks are rectangular, but in areas where the mortar was removed the bricks now have a trapezoid shape. Plus, there are places where the horizontal joints have become wider due to grinding and these wider joints are clearly visible in some places.
- How will the City enforce the products used to clean masonry?
- How will the City enforce gutter cleaning?
- How will the City enforce the lubrication of window friction points?

"Repointing mortar shall duplicate the strength, composition, color, texture, width, and profile of the historic mortar joints." My neighbor's house has crushed oyster shell in the mortar – how does one duplicate that texture?

"Installation of insulation, artificial siding, cementitious materials over masonry is prohibited." Landmarks approved EIFS on 722 Williamson in 2016.

The "paints, finishes, and colors [of wood features] shall be identified, retained, and preserved." It is unlikely that any home retains its original paint surface. So do residents need to pay for an analysis of the original paint color? Do residents need to use that color? (This is not a requirement for historic tax credits.)

"Coatings that encapsulate lead paint shall be used where the paint is not required to be removed to meet environmental regulations." What environmental regulations apply?

"Re-siding with asbestos, wide clapboards over four (4) inches in exposure, composite clapboards with faux wood grain texture, diagonal boards, vertical boards, rough sawn wood, rough split shingles, shakes, aluminum, and vinyl siding are prohibited." My house siding has 6½ inches of exposure. Exposure should depend upon what is original to the house, not an artificial standard.

"The removal of [roof] decorative and functional features visible from the public right-of-way is prohibited." Weather vanes are listed as one of those elements. Is the City really going to require an owner to repair, or have a custom duplicate made, of a weather vane? Parapets are also listed as needed to be retained – does this apply only to the primary facades or to all facades?

A list is provided of prohibited roofing materials. In some cases, some of these prohibited materials may be historically appropriate. Some level of discretion should be provided.

"Continuous ridge vents shall be permitted provided that the vents extend to the front edge of the fascia and are covered with the same material as the main roof." The shingles over the roof vent can have a thickness double the roofing shingles. Does this count as the "same material?"

"Static vents, electric vents, wind turbines, and attic fans not visible from the public right of way shall be permitted." If the gable end of a house faces the street, any venting will be visible from the street. What are the owners to do?

"Skylights shall be permitted on side roof slopes provided the front edge of the skylight is at least ten (10) feet back from the front edge of the main roof." "… skylights visible from the public right-of-way [are prohibited]." Which is it? Skylights 10 feet back from the front edge of a roof are generally visible from the street.

"Mechanical and service equipment on the roof (such as heating and air-conditioning units or solar panels) when required for a new use shall be installed so that they are inconspicuous on the site and from the public right-of-way and do not damage or

obscure character-defining historic features." State law regarding solar panels should be reviewed, as this language appears to be too restrictive.

"Historic windows visible from the public right of way and less than ten (10) feet from the front façade shall be retained and preserved." Again, 10 feet may or not be appropriate depending upon the gap between buildings and what is visible from the public right-of-way.

"The historic operability of windows shall be sustained by … replacing deteriorated gaskets or insulating units." I don't know what this means since I am unware of historic windows that have gaskets or insulating units.

"Window frames and sashes shall be repaired by patching, splicing, consolidating, or otherwise reinforcing them using recognized preservation methods." And what are those methods? If the purpose of the rewrite is, in part, to clarify and simplify, the ordinance needs to provide more than vague references.

Clear glass or low-e glass that meets certain specification is all that is allowed. My house has a historic etched glass window. These should also be allowed so that privacy (e.g., bathrooms) can be ensured. Landmarks recently approved a window filled in with glass block. Is that something that is allowed? A window on a Spaight home has been boarded over with the window frame remaining. Is that allowed? What of leaded glass windows?

"The sills of original window openings on rear or other secondary, less-visible elevations more than ten (10) feet from the front facade, may be raised to serve bathrooms and kitchens" Again, this should depend upon the gap between structures and visibility. Privacy concerns can be addressed by allowing heavily etched glass rather than raising of window sills.

"New window openings where none previously existed on rear or other secondary, less-visible elevations more than ten (10) feet from the front facade, may be added if required by a new use." Again, this should depend upon the gap between structures and visibility.

No mention is made of replacement window materials. For example, are vinyl windows permitted?

"An entire entrance or porch that is too deteriorated to repair (if the overall form and detailing are still evident) shall be replaced …" What if the porch is in the rear of the building?

"Storm doors shall be compatible with the entrance door and the overall design of the building." What does this mean? Is the Larson screen/storm combo door allowed?

What of full-light storms, or security storms that have the intricate pattern over the glass?

"All doors shall be varnished or painted or finished with a material that resembles a painted finish. I use shellac – does that count? Or what about polyurethane?

"Porch pilasters, columns, or posts shall be trimmed with decorative molding at the top and bottom of the posts." What if decorative molding did not originally exist?

"Solid wall porch balustrades and stair wing walls shall be covered in siding to match the structure." Though this may be the standard, there are some existing variations that appear to be original. What of stone wing walls?

"Porches on secondary, less-visible elevations more than ten (10) feet from the front facade may be enclosed with wood-framed screens or storm windows similar in proportion to windows on the structure, on the condition that the balustrade be retained and preserved, repaired, or replaced in a design compatible with the historic character of the structure. The wood-framed screens or storm windows shall match the color of the porch and be placed behind pilasters, columns, or posts and balustrades so they do not obscure those features. Screening porches visible from the public right-of-way is allowed, but enclosing porches visible from the public right-of-way is prohibited."

- First and last sentences are somewhat contradictory (10 feet versus visible).
- Wood-framed screens are not always needed. My neighbors have metal frames on their screened-in porch. The work is so well done that it is basically hidden by the wrought-iron supports (and the wrought-iron is, I believe, historical).
- What does "enclosing porches" mean? This paragraph addresses screen/storms. Is it now also addressing full enclosure in order to turn the porch into living space? If so, shouldn't that be addressed under additions?

Many of the above comments also apply to storefronts. Storefronts should not have an entire separate set of standards. Rather, the unique aspects of storefronts should be addressed.

"Missing awnings or canopies that can be historically documented to the building may be replaced, or new signage, awnings, or canopies that are compatible with the historic character of the building may be added."

- What of lighting (e.g., exterior florescent bulbs)?
- Is this suggesting that signage requires Landmarks approval? If so, that would be a good recommendation.

"Split system mechanical units on primary and other highly-visible elevations are prohibited." "Window units on primary and other highly-visible elevations are prohibited." "Air conditioning compressors on primary and other highly-visible elevations are prohibited."

- This contradicts current practice. Window A/Cs are temporary. Here "highly visible is used, other times 10-feet of the side elevation is used – there needs to be consistency.

"Mechanical equipment on the roof may be installed, when necessary, so that it is minimally visible to preserve the building's historic character and setting."

- If equipment is highly visible, if that still okay? Or would the mechanical equipment be prohibited?

"The historic relationship between buildings and the landscape shall be retained." This includes "vegetation, such as trees, shrubs, grass, orchards, hedges, windbreaks, or gardens."

- It is unlikely much original vegetation remains. Of what may be original, vegetation dies. Do owners need to recreate historic landscape, e.g., hedgerows? What if one wants to add a driveway?

Building site features to be retained include "water features, including fountains, streams, pools, lakes, or irrigation ditches; and subsurface archeological resources ..."

- Does this mean that permanent dewatering is not allowed?

Site features also include "or burial grounds which are also important to the site."

- No historic district, to my knowledge, has burial grounds. There are burial grounds listed as landmarks. If this ordinance is changed to apply to landmarks as well as historic districts, burial grounds have their own set of needs/concerns that should be separately addressed.

"Poured concrete retaining walls with a smooth rubbed finish and under twenty-four (24) inches in height, flagstone, and stone ashlar retaining walls are permitted. Proposals to construct front yard retaining walls of other materials must be submitted to Landmarks Commission for approval prior to installation."

- A number of retaining walls are on the City right-of-way. Will the City be required to go through Landmarks approval?

There is not any limitation to the building site. Building features are only highly regulated if street-facing/visible from the public right-of way. The building site section would regulate back yard features the dame as front yard features.

Instead of these vague standards, perhaps the City should survey and identify historic features that need to be retained (e.g., the carriage stepping stone at the Curtis house). Then it will be clear what needs to be kept.

"A gradual slope or grade to the sidewalk shall be added to access the entrance rather than installing a [accessibility] ramp that would be more intrusive to the historic character of the building and the district."

- This is highly unlikely considering how close most homes are to the sidewalk. It should be a consideration, not a requirement.

The life-safety section seems a bit odd. NPS publications address items such as impact resistant windows (for hurricane and terrorism mitigation), lead based paint, and seismic retrofits. Rather than having an unexplained life safety section, specific life-safety measures should be addressed as applicable. For example, second egress stairs are specifically addressed. But the recommendations are inconsistent: a new exterior stair should preserve character-defining features and spaces versus the stairway must be placed in a new addition on a secondary elevation.

Recommendations for the Standards for Review for New Additions

"New additions on the front of the principal structure are prohibited."
- What if an owner wants to add on a porch that has been removed?

"No addition shall be higher than the existing principal structure."
- Even reaching the height of the historic structure may detract from historic significance.
- Also, new accessory structures have a recommended maximum of 15 feet. Is there a reason to treat additions and new structures differently?

"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."
- See discussion above about incorporating the Zoning Code.
- MGO 28.192 includes height so a separate mention of height is unnecessary.
- The recommendation says additions and enlargements on nonconforming properties need to "conform to the provisions of this ordinance for new structures." A new structure has a separate set of recommendations that an addition. So enlargement/addition standards are based on whether the existing structure is nonconforming (new structure standard) or conforming (addition standard)?

"The same forms, materials, and color range of the historic building shall be used in a manner that does not duplicate it, but distinguishes the addition from the original building."
- The addition cannot be painted the same as the house colors?

"The addition shall be stylistically appropriate for the historic building type (e.g., whether it is residential or institutional)."
- "Institutional" includes schools, libraries, etc. It does not include commercial.

"New additions in densely-built locations (such as a downtown commercial district) may appear as a separate building or infill, rather than as an addition. In such a setting, the addition or the infill structure must be compatible with the size and scale of the historic building and surrounding buildings—usually the front elevation of the new building should be in the same plane (i.e., not set back from the historic building). This approach may also provide the opportunity for a larger addition or infill when the façade can be broken up into smaller elements that are consistent with the scale of the historic building and surrounding buildings."

- All existing historic districts are in densely built locations. Additions need to be distinguished from new structures.
- For comments on the proposed standards, please see the section under standards for new structures, below pages 20-22.

"A compatible rooftop addition for a multi-story building, when required for a new use, shall be designed that is set back at least one full bay from the primary and other highly-visible elevations and that is inconspicuous when viewed from surrounding streets."

- What is a "rooftop addition?" Does a new patio count? Does added mechanical ventilation count? Does a 12 foot elevator shaft count? Or is it just an additional story?
- "… when required for a new use …" Just because an owner wants to create a new use does not mean that new use is compatible with a historic structure. This language implies entitlement.
- What is the meaning of "one full bay?"
- "One full bay" and "inconspicuous when viewed from surrounding streets" could be two different standards. Does "inconspicuous" mean "unobtrusive" or does it mean "not seen?"
- A different standard is provided is provided under "roofs" on page 19 – see the second bullet point: "Rooftop additions, decks or terraces, dormers, or skylights when required by a new or continuing use shall be designed so that they are inconspicuous and minimally visible on the site and from the public right-of-way and do not damage or obscure character-defining historic features."

Comments above under recommended standards for alterations regarding building materials, roofs, windows, entrances and porches, building site, and life safety also generally apply to standards for additions.

"New dormers shall be no less than twelve (12) feet from the front edge of the roof."

- This precludes new dormers on properties where the roof (not the gable end) faces the street.

The section on additions arguably does not address new separate structures, such as a garage or shed.

- Do those structures come under the standards for additions or under the standards for new structures?

Recommendations for the Standards for Review for New Structures, pages 23-27

"A new building may be added to a historic site or property only if the requirements for a new or continuing use cannot be accommodated within the existing structure or structures."

- This language can be read to mean that an applicant is entitled to an addition if any desired use cannot be accommodated within the existing structure. Want an additional bedroom? Want to build a 100-unit apartment building? A property owner's wants is not relevant under the current ordinance. The ordinance currently promotes "architectural compatibility of new construction and exterior alterations in a historic district." MGO 41.02.

"New construction shall be located far enough away from the historic building, when possible, where it will be minimally visible and will not negatively affect the building's character, the site, or setting."

- If there is not enough lot space to locate new construction far enough away from a historic building, then the negative impact is allowed?

There are four recommendations addressing various aspects of compatibility. These need to be clarified/consolidated since the language conflicts to varying degrees.

(1) "The massing, scale, relationship of solids to voids, alignment, rhythm, and size of the window and door openings of adjacent historic buildings within two hundred (200) feet of the subject property shall be considered."

- Considered? This would be an extreme downgrade for standards for new construction. Currently, all districts (except the 2-block Marquette Bungalow district) require compatibility. There may be different opinions of what is compatible, differences that can cause vigorous debate, but the standards exist. "Shall be considered" merely means that the Landmarks Commission needs to think about compatibility, but they can opt to ignore compatibility (or the Council can ignore).
  - Third Lake requires visual compatibility with respect to height and volume for employment zones. Mixed use, commercial use, and residential use requires visual compatibility with respect to (a) gross volume; (b) height; (c) the proportion and rhythm of solids to voids in the street facade(s); (d) the materials used in the street facade(s); (e) the design of the roof; and, (f) the rhythm of buildings masses and spaces.
  - Mansion Hill requires visual compatibility with respect to (a) height; (b) gross volume; (c) in the street elevation(s) of a structure, the proportion of width to height in the facade(s); (d) the proportions and relationships

of width to height of the doors and windows in street facade(s); and, (e) the proportion and rhythm of solids to voids created by openings in the façade.
    - University Heights requires that the gross area of the front facade, i.e., all walls facing the street, of a single-family, two-unit or commercial structure shall be no greater than one hundred twenty-five percent (125%) of the average gross area of the front facades of structures within two hundred (200) feet of the subject property.
    - First Settlement requires that new principal structures be similar in height to the structures directly adjacent to each side. If the structures directly adjacent to each side are different in height, the new structure shall be of a height compatible with the structures within two hundred (200) feet of the proposed structure. New principal structures shall be compatible with the scale, proportion, and rhythm of masses and spaces of structures within two hundred (200) feet of the proposed structure.
- Rather than downgrading existing standards, those standards should be better defined.
    - If the historic resources on abutting lots have a height of 54 feet and 41 feet, is an 80 foot new structure compatible?
    - At some point compatibility no longer exists. That maximum should be specified. For example, a new structure more than 25% greater in height is not visually compatible with a historic resource. Then, if an applicant has an issue, the applicant could seek a variance.

(2) "Infill structures in a densely-built location (such as a downtown commercial district) must be compatible with the size and scale of the surrounding historic buildings—usually the front elevation of the new building should be in the same plane (i.e., not set back from the historic building) and the façade can be broken up into smaller elements that are consistent with the scale of the historic building and surrounding buildings."

- This recommendation requires size/scale compatibility, unlike the above point. How are these recommendations reconciled?
- What about compatibility of the proportion and rhythm of solids to voids in the street facade(s) and the rhythm of buildings masses and spaces?
- Should a standard be created as to what counts as "broken up into smaller elements?" Is 1037 Williamson a good example of this breaking into smaller elements for residential? Is 706 Williamson a good example of breaking into smaller elements for commercial?

(3) "New principal structures shall be similar in height and compatible with the principal structures within two hundred (200) feet of the subject property. The maximum height of principal structures [list of zoning districts and maximum heights]."

- Height is only provided in feet, not stories. For example, under the zoning code, TR-C2 has a maximum height of 2 stories/35 feet for single family, as does TR-V1 for single and two family. TSS is 3 stories/40 feet.

- Is this intended to preclude Plan Commission conditional use approval of greater heights? Please see discussion above, on page 7, as to whether this language would preclude additional height through the conditional use process (unlikely).

(4) "The gross area of the front facade, i.e., all walls facing the street, shall be no greater than one hundred twenty-five percent (125%) of the average gross area of the front facades of structures within two hundred (200) feet of the subject property, or the front façade shall be modulated with variations in setbacks that reflect or repeat the rhythm of adjacent historic buildings constructed during the period of significance within two hundred (200) feet of the subject property."

- This adds a limit, unlike #2 above.
- How can a rhythm be repeated in one large building if the historic resources have space between the buildings?

"Site features or land formations, such as trees or sloping terrain, shall be used to help minimize the new construction and its impact on the historic building and property."

- This does not give Landmarks any authority to require site features.

"The maximum height of accessory structures, as defined in Section 28.211, shall be fifteen (15) feet. Accessory structure shall only be erected in the rear yard."

- Landmarks recently approved a garage that was about 20 feet at the roof peak. Legistar 52526.
- Where would a corner property locate an accessory structure?

"Garage doors shall be located on the side or rear facades whenever feasible and shall be similar in design, color, scale, architectural appearance, and other visual qualities prevalent within the historic district. Horizontally paneled doors and flat paneled doors are prohibited."

- Garage doors are only proposed to be regulated for new structures – existing structures do not have any limitation.
- "Side or rear façades" would often require a driveway along the side of a house that the owner would need to make a sharp turn to access the garage. This is generally not feasible on these smaller lots.

"Building materials" does not mention metal panels, which seem to be a necessary finish on commercial buildings. "Exterior insulation and finish systems" should be followed by "(EIFS)." It is also worth noting that alterations to existing buildings can use EIFS – or at least it is not prohibited, and if one calls contractors for stucco repair, EIFS is often proposed.

The "roofs" section:

- Solar panels, under state law, can be installed even if conspicuous.
- Mechanical and service equipment must be inconspicuous. How does that apply to commercial, such as 706 Williamson? 706 Williamson has a large elevator

access plopped on top of the roof, along with a storage structure and along with a stairway of about 10+ feet in height – all are clearly visible from many/all perspectives. One can drive along John Nolen and see these structures over the top of Machinery Row, or along Wilson to Willy, or along Willy heading west, or from Jenifer Street.
- What about massive vents that are required just due to one particular use (e.g., meat smoking) – should that be allowed, or should the property not be able to accommodate that one use?

"Windows" requires clear or low-e glass.
- Unlike alterations and additions, the visible light transmission and reflectance details are not specified. Is this intentional?

"The main entrance to the structure shall be on the front facade."
- Commercial often had corner entrances.

"The entrance shall either be inset or projecting from the plane of the main facade."
- Commercial did not have projecting entrances.

Commercial did not have porches.

Nothing is recommended regarding commercial mechanicals, other than a general comment on roof mechanicals.
- For example, 906 Williamson has an underground garage vent that is prominently visible from two streets. Shouldn't this, at a minimum, be screened?
- 906 Williamson also has white vents protruding from the sides of the building. These may be necessary for plumbing vents, or dryer exhausts, but shouldn't they be less visible by purchasing an appropriately colored vent or by painting the vents?
- There are various cameras attached to the siding. Clearly, cameras are not historic, so how should they be addressed?

Respectfully Submitted,
Linda Lehnertz