

James Matson Comments to LORC (Nov. 19)

My name is James Matson. I am currently retired, but for 28 years I was chief legal counsel for the WI Dept. of Agriculture, Trade and Consumer Protection. I am a member of the Madison Alliance for Historic Preservation (“Alliance”), but am making these comments on my own behalf.

I was deeply involved in the LORC I process that created a new ordinance to strengthen Madison’s historic preservation program. When the Common Council unanimously approved that ordinance in 2015, everyone recognized the need to update, streamline and improve the city’s current historic district ordinances (planned for LORC II). But few imagined that the city would **completely throw out** all 5 of its current historic district ordinances, which have been in place for decades, in favor of an unproven “one-size-fits-none” set of standards that would be indiscriminately applied to all current and future historic districts. Yet that is exactly what LORC is now proposing.

The current LORC proposal would apply exactly the same construction, remodeling and maintenance standards to *every single property in every current and future historic district*, with no district-specific flexibility or nuance. The Williamson Street commercial corridor would be treated just like Mansion Hill, and University Heights would be treated just like the Marquette Bungalows district. Non-historic buildings and features would be treated just like historic buildings and features. Single-family residences would be treated just like large commercial developments. The same stylistic requirements would apply to radically different structures. If I were in your shoes, that would make me queasy.

Everyone knows that new construction is the central, existential challenge for our historic districts. Yet the LORC proposal treats it as a minor afterthought. Instead, it focuses lavish detail on routine maintenance topics that are largely outside the jurisdiction of the Landmarks Commission. (If I live in a historic district, do I need a certificate of appropriateness to paint my house? If I don’t paint my house for a few more years, what will the Commission do?)

If we want to promote new development and increased density in Madison, while *also* preserving the character of our historic districts, we will need a carefully nuanced approach. But the current LORC proposal rejects district-specific nuance in favor of vague general standards that will lead to more “train wrecks” and interpretation problems, not fewer.

If you try to add clarifying detail while keeping the “one-size-fits-all” format, you will run into the opposite problem. Details that make sense for a large commercial building on Williamson Street may be completely wrong for a Marquette bungalow, and vice-versa. As you are forced to create more and more exceptions to account for local differences, the standards will become unreadable.

The Alliance has offered a “win-win” approach that avoids these dilemmas. The Alliance proposal would update and streamline Madison’s 5 current historic district ordinances based on a clear standardized template, while maintaining needed district-specific flexibility:

- The Alliance proposal spells out clear, consistent, and workable “preservation principles” for all historic districts. These can easily be converted to district-specific standards.
- Each historic district would still have its own district ordinance, as contemplated by current law. District ordinances would implement the core “preservation principles,” but could include refinements needed to achieve a good “fit” for each district.
- District property owners could find everything they need, in one place, just by looking at their own district ordinance (without having to guess at the meaning of vague “one-size-fits-none” standards, and without having to plow through a lot of confusing exceptions).
- District ordinances would assist property owners, developers, and the Landmarks Commission, by providing locally appropriate interpretive detail consistent with core principles.
- Details can be spelled out in district standards *or guidelines* that are sensitive to the unique character of each district.

I used the Alliance framework to draft hypothetical district ordinances for all 5 of Madison’s current historic districts (see my Nov. 5 submission to LORC). These are just hypotheticals, and I’m sure they can be improved; but they show how core standards can be combined with district-specific detail to achieve a good fit for each district. I used the current district ordinances as sources of relevant district-specific detail, but those details can be modified as necessary. This isn’t rocket science, and it need not entail a huge time or resource commitment (it took me just over a week).

The Alliance has offered you a common sense approach to a complex challenge. I urge you to give it the serious attention that it deserves. If we get the framework right, I believe that the substantive details can be worked out without undue difficulty.

P.S. – Following the November 5 LORC meeting, I provided LORC members with a response to questions posed to me at the meeting. That response is also included in your materials for this November 19 meeting.