

Errata: "An informal history of Landmarks in Clifton"

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Below are corrections to the most significant factual errors in the document entitled "*An informal history of Landmarks in Clifton*," authored by John Beckman and distributed to a general Clifton audience in August 2010.

Many readers will recognize that "*An informal history...*" is written from a distinct point of view and is as much a polemic as an objective history. Likewise, many readers will discern its most obvious opinions and less-than-impartial characterizations. Most readers, however, may not recognize when false claims are represented as facts, or important facts are distorted or absent entirely. This document, based on public records, documentation, interviews, and fact-checking, corrects several of these more significant errors. The sequence of the corrections follows the order in which the errors appear in the original document; in each case, the erroneous text is quoted before the correction.

1)

"This board action [pursuing Preservation District Status] was in reaction to a recently successful case that involved demolishing three structures ... to make way for ...[the] Clifton Lofts. The petition was presented with the idea of a preservation district being the only government option to protect our neighborhood from future demolition and development of this sort. The ... legislation was passed with regulations to enforce only this concept."

Especially with the last sentence, these remarks incorrectly imply that the Clifton Community Council ("CCC") acted only to curtail future demolitions and Clifton-Loft-like developments, and intended or anticipated that the new protections would extend no further. In reality, Clifton Lofts was the watershed event, but not the sole objective. Preservation supporters with whom I worked at that time – board members and other volunteers – all desired:

- a) an expansive shield to protect the broadest aspects of Clifton's historic *and* neighborhood character, including
- b) potent leverage for negotiating with powerful development interests looming in Clifton's future – interests that could erode Clifton's neighborhood character and historic integrity in many ways apart from leveling buildings.

We saw that Landmarks law provided that shield with that leverage. We were seeking much more for Clifton than just halting demolitions.

2)

"Later, regulations that addressed the details of rehabbing any listed historically designated property in Clifton were recommended by the Community Council, and incorporated into the existing Landmarks legislation at Metro Council level, again, initiated by the Council's Board of Directors."

The overarching error here is one of omission, aggravated by unfamiliarity with the Landmarks ordinance, the process, and the real timeline. In citing those "regulations that addressed the details" (aka the "Clifton Preservation Guidelines"), entirely overlooked is this actual chronology of significant facts:

- After Metro Council approved the District in September 2003, the ordinance required the Landmarks Commission to seek volunteers for a "guidelines revision task force" to

examine the preexisting "generic" Preservation Guidelines and adapt them to the unique character of Clifton.

- In early 2004, six to ten neighborhood volunteers came forward. Most were new to Landmarks and its processes, and were unfamiliar with the "generic" Guidelines and how they had been previously interpreted and applied. Even so, at weekly two-hour meetings, they scrutinized, discussed, and debated each Guideline in a good-faith effort to modify the rules for Clifton.
- Their product, the "Clifton Preservation Guidelines," contained thirty (30) revisions tailored specifically for Clifton. Twelve (12) of these revisions EXEMPTED Clifton from Guidelines used in other Districts^[1]. Sixteen (16) revisions RELAXED Guidelines used elsewhere^[2]. Only two (2) revisions added items unique to Clifton – neither added new regulations for a typical property owner's common alterations^[3].
- The Landmarks Commission approved these revised, Clifton-specific Guidelines in May 2004.
- For reasons beyond the CCC's control, the Clifton-specific Guidelines then became mired in administrative and procedural snares within Metro government, itself^[4] (during this delay, the more restrictive "generic" guidelines applied). Because of this postponement, the Clifton-specific Guidelines – with those 28 exemptions and relaxed rules – were not formally adopted by Metro Council until July 2007.

3), 4), 5)

"In 2007, at the initiation of the Landmarks staff, regulations were made more restrictive, including extending the Landmarks approval process to any structure in Clifton."

This one sentence carries three fallacies:

- In 2007, Metro Council finally adopted the LESS restrictive rules: that same set of revised Guidelines (with those 28 exemptions and relaxed rules) delayed since May 2004.
- Landmarks jurisdiction was NOT extended to "any" Clifton structure in 2007. The district boundaries and contributing properties have never been altered from their status when the district was approved in 2003.
- The 2007 action was NOT "at the initiation of Landmarks staff" – again, it was the conclusion of the single, protracted Landmarks Designation process originating in 2003 and mired since 2004.

6)

"Existing Landmarks legislation is often referred to by legislators and property attorneys alike as 'irreversible law'. That means what it says: Law changed only by a court of law."

The phrase "irreversible law" is presented as if it were a term of art – part of the jargon or shoptalk of "legislators and property attorneys...." In fact, "irreversible law" is not a recognized term of art used in either preservation law or general property law^[5]. Furthermore, changes to that "irreversible" Landmarks law are now being drafted under the normal legislative process. Finally, in the U.S., all laws created by a legislature can be altered or repealed a legislature.

7)

"The group attending the LUPC meetings was not allowed to recommend by majority vote their efforts to the CCC board of directors."

Many of those involved in these LUPC proceedings of November 2009 remember circumstances differently, and see this statement as misrepresenting a tiny facet of a larger set of events. According to their recollections and documented records:

- Revised Windows Guidelines were presented by members of the "Front Porch Group."
- Agreement was reached on 18 of the 22 revised guidelines paragraphs drafted in LUPC meetings that included participation of the Front Porch Group.
- A 2-hr LUPC meeting was held with the Clifton ARC on Nov. 11, 2009 on the LUPC working group's proposed Windows revisions. Seven members of the LUPC attended, but none of the Front Porch Group, even though the ARC meeting was discussed and announced at the Nov. 5, 2009 LUPC meeting.
- The CCC Board, at its Nov. 12, 2009 regular meeting, directed the LUPC chair to research and address the initial concerns raised by the ARC regarding the W-1 revised guideline and to advance the LUPC working group guidelines as they existed (including the 4 unresolved paragraphs) to the Landmarks staff.
- The LUPC chair had a family emergency two days later which was not resolved until February 2010. Shortly after the emergency, she notified the Front Porch Group leaders by email that she would not be able to follow through on advancing the LUPC working group guidelines until the situation was resolved.

[End Notes]

[¹] Guidelines designated as M4, M25, P4, PO1, PO15, R20, SD7, SD8, ST16, SF27, W6, W8.

[²] Guidelines designated as A14, A19, D5, SG20, SS6; (Commercial:) NC13, NC14, NC15, NC16, NC17, NC29; (Residential:) NC11, NC12, NC13, NC14; one design element of Garage.

[³] One addition, SS12, incorporated by reference the 2003 "Frankfort Avenue Street Scape Study" funded by Metro government and conducted with FABA participation. The other addition, "Cultural Landscapes," expressed a broad set of principles and guidelines meant to define and protect Clifton's historic "look and feel" at a "neighborhood-wide" scale (its eclectic mix of cliffs, woods, view-scapes, lot configurations, transportation arteries, etc.).

[⁴] An observation from Metro employee Dave Marchal on this: "Actually the Landmarks Commission approved the Guidelines in May 2004 but the guidelines got hung up at Metro Council until July 30, 2007 in which they approved as Resolution 117-2007. In discussing this with Tina [Ward-Pugh] her recollection was that the Metro Council activity regarding approving the full schedule of all Ordinances in Louisville following merger pushed the guidelines to the back burner." Furthermore, and as a personal recollection, software incompatibility impeded the merging of the original Guidelines documents (created in the 1980s) with the modern "Clifton" revisions.

[⁵] "Irreversible law" is, however, a term used occasionally in physics, theology, moral philosophy, etc. (as well as a number of blogs debating or promoting absolutist concepts).