



## FREDERICK COUNTY GOVERNMENT

### DIVISION OF PLANNING & PERMITTING

Livable Frederick Planning & Design Office

Jan H. Gardner  
County Executive

Steven C. Horn, Division Director  
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### MEMORANDUM

**TO:** Historic Preservation Commission  
**FROM:** Amanda Whitmore, Historic Preservation Planner  
**DATE:** July 15, 2022  
**RE:** Ordinance Subcommittee Update & Recommendations

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#### **Issue:**

Does the Commission agree to the proposed recommendations of the Ordinance subcommittee?

#### **Background and Discussion:**

A subcommittee comprised of two Commission members, two additional preservation professionals, and County staff were tasked with reviewing the current County Historic Preservation Ordinance and other jurisdiction's ordinances to create a list of recommendations to updating the existing County preservation ordinance. The County is in the process of issuing an RFP to hire a consultant with preservation law experience to facilitate the ordinance update. The subcommittee convened a group of Maryland preservation planners and asked a series of targeted ordinance questions to assist in making recommendations ([Attachments 1 and 2](#)).

Following the roundtable discussion, the subcommittee met again to create a list of recommendations to be considered by the Commission of topics and areas to be reviewed by the consultant ([Attachment 3](#)). If the Commission is in favor of the recommendations, the list will be provided to the consultant and will be discussed further with the subcommittee and Commission as the updated ordinance is drafted.

#### **Staff Recommendation:**

Staff recommends that the Commission review the attached recommendation list and provide feedback.

#### Attachment(s)

Attachment 1: Questions for Historic Preservation Ordinance Roundtable

Attachment 2: Notes from Preservation Roundtable

Attachment 3: Ordinance Subcommittee Recommendations

## **ATTACHMENT 1**

### **Questions for Historic Preservation Ordinance Roundtable**

**June 23, 2022**

1. In addition to historic structures and sites, does your ordinance/program allow for the designation and protection of: (SHOW OF HANDS)
  - Archaeological resources
  - Cemeteries
  - Designed and historic landscapes
  - Historic roads
  - Rural and scenic roads
  - Viewsheds
  - Other (please specify)
2. Is there any aspect of your ordinance/program that you feel is a model for other jurisdictions?
3. If you had the authority to add to/delete from/revise your ordinance/program today, what would you do?
4. Was the development industry involved in the development of any aspect of your ordinance/program?
5. Does your ordinance allow for demolition review of non-designated properties on private property? On public land?

#### **Other questions for consideration:**

How are viewsheds protected in your jurisdiction?

How do you address equity and inclusion in your ordinance/program?

What triggers a Phase I archaeological survey, outside of Section 106?

Is your jurisdiction required to evaluate whether properties it owns are eligible for local designation? Are they compelled to follow through with designation?

How do you review changes to historic properties that your jurisdiction owns?

What is your staff size and capacity?

What does staff have the authority to review and approve in your jurisdiction?

What triggers a survey for a specific non-protected historic structure?

If your jurisdiction employs an archaeological predictive model, how was it created and how is it used?

How current is your survey and how often is it updated?

To what extent has your jurisdiction completed context statements for various aspects of its history? Overview? Selective themes?

Does your ordinance allow for the nomination and designation of properties without owner consent?

Do you offer any incentives for local designation, such as property tax abatements, grants, plaques, etc.?

Have any partnerships been formed between county and town governments for carrying out surveys or developing nominations? With an adjacent county?

## ATTACHMENT 2

### Ordinance Meeting Notes with Other Jurisdictions

June 23, 2022

Attendees: Nell Ziehl (MHT), Adam Snyder (Attorney General), Leslie Gottert (MAHDC), Laura Bianca-Pruett (Bel Air), Carlene Shaw (Cambridge), Ruth Davis Rogers + Mayor and Council Members (Cumberland), Lisa Mroszczyk Murphy (Frederick City), Christina Martinkosky (Frederick City), Stephen Bockmiller (Hagerstown), Dianne K (Havre de Grace), Cathy Thompson (Charles Co.), Jacob Bensen (Harford Co.), Ben Cohen (St. Mary's Co.), Meghan Jenkins (Washington Co.), Chris Sperling (Calvert Co.), Dan Bruechert (Montgomery Co.), Gary Baker (Frederick Co.), Jack Lynch (Frederick Co.), Janet Davis (Frederick Co.), Barbara Wyatt (Frederick Co.), Beau Lockard (Frederick Co.), and Amanda Whitmore (Frederick Co.)

1. Archeology – 5 City of Frederick and Harford includes archaeology in definition of sites  
Cemeteries – City of Frederick identified as part of sites protection  
Designed and historic landscapes - 2 Ben and ?  
Historic roads -  
Rural and scenic roads – 3 Dan, Cathy, and Ben  
Viewsheds – City of Frederick – comp plan addresses it; Wash Co Viewsheds around Antietam Battlefield; Harford has a buffer zone when new construction is planned next to designated structures; Laura: If a building is built next to a historic structure it must match scale and design  
Other -  
Harford includes archeology in sites definition in ordinance and has district designated because of archeology in district.
2. City of Frederick – demolition review ordinance separate from preservation ordinance.  
Any time demolition proposed and over 50 years get referred to HPC, HPC can decide to designate, and then if so, go through the designation process....

Nell – City of Baltimore may have demolition review but had some issue with landmarking the property so that may have changed. This is topic that MHT would like to work with others on

Dan – Staff level approval of categories of work. 15-17 types of work that can be admin approve.

Five jurisdictions besides Dan's have this provision too

Harford Co. bridge work is checked with HP planner and don't need COA. 5 outline what routine maintenance is.

Harford Co. inspections are mandatory and occur every two years. Utilize a form and try to find potential issues before they occur not finding violations. Significant issue will identify the violation.

Laura Bianca wants to emulate Harford County and Chris Sperling tried to do inspections but not in code so had to stop. Advice is to work with zoning inspectors. Nell wants to know inspection and enforcement approaches other jurisdictions are doing because this is an issue they get lots of questions on. Wants to be able to create statewide guidance.

3. Dan: No mechanism to delist landmark. Nell indicated de-designation could follow the same designation process just in reverse. Harford has the de-designation in ordinance that follows the reversal of how to designate meaning the applicant brings to staff why the should no longer be designated (what criteria(s) they no longer meet), HPC reviews and makes a recommendation, that then is forwarded to Council for final decision. City of Frederick does not allow for de-designation as determined by city attorney.

City of Frederick would like to have demolition by neglect stronger. Improve archeological ordinance it currently resides with another department and not historic and HP planners can't access the archeology layer since not archeologists.

Washington Co. HP ordinance currently in zoning ordinance and not stand alone.

4. No info

### **Phase I Archeology survey**

Chris Sperling only require survey if townhouses. Town center ordinances survey can be required but not in the county but updating county ordinance.

City of Frederick – any ground disturbance in historic overlay or on MIHP site or NR site gets archeology review and then contract archeologist decides if phase I needed. If not known to be historic property then any ground disturbance 5,000 sq ft or more gets archeology review. Also applies to subdivisions (specifically plat approval).

Harford it is another type of site to designate but no other requirement to survey. Make recommendations with new development or site plan review and recommendations are provided to do phase I but cannot require it.

Advice that if considering to include archeology that the archeology planner can determine level of archeology survey needed and not limit it to one survey type.

Nell: State wants to establish more archaeological review and have funding for jurisdiction to review or create their own policies and archaeologist on staff to ask for guidance.

### **Review jurisdiction-owned properties requirements**

Several that do not address this in their ordinances. City of Frederick will be subject to any regulations as any other property.

Chris believes that jurisdiction owned properties should be held to a higher standard as a model and proof of the area's commitment to preservation.

Harford Co has included staff in discussion of park owned properties and some are designated. Several commented that they should be doing more to preserve and protect their own properties as part of public good/purpose

### **Demolition by Neglect**

Demolition by neglect strengthening desired by City of Frederick. No others have examples to share.

Chris: Zoning enforcement will try to enforce maintenance if property owner is neglecting the building but nothing specifically protects historic structures

Washington Co. is incentive based so trying to use that route to avoid the demolition of neglect. When demolition permit comes to Washington CO., they reach out with information on how to save the building and funding options to try to dissuade demolition.

### **Incentives**

City of Frederick – Property tax credit 25% on rehabilitation cost. More incentive to comply and not for designation. More flexible uses for adaptive use of historic sites in City of Frederick.

10 and 5% available at Bel Air, Harford, and Washington. Bel Air and Harford want to try to increase the tax credit to 20%

Bel Air and Harford give plaques for designated structures

Harford to start African American heritage grant that includes some sort of preservation protection. Eligible for both capital and non-capital projects. Comes for a lump sum payment (1 million) by County Council

## ATTACHMENT 3

### Historic Preservation Commission Ordinance Subcommittee Recommendations

*Subcommittee Members:* Gary D. Baker, Janet Davis, Jack Lynch, Barbara Wyatt, Amanda Whitmore (Staff), and Beau Lockard (Staff)

*Recommendations, in no particular order:*

- Archeology review is included and outlined. When and where it occurs and how it is facilitated will need to be discussed.
- Consider including the ability to have dual review commissions or committees. With the work load of the Commission increasing, it may be advisable to have one committee review certificate of appropriateness and designations while another work on reviewing surveys, grant applications, etc. Loudoun County, VA, for example, has both a Heritage Commission and a Historic District Review Committee.
- Include demolition review process for non-designated properties.
- Consider outlining local review process for county-owned historic properties. Prior to the county purchasing a property with historic resources, can it be evaluated for eligibility of inclusion to the County Register.
- Examine the creation of specific cemetery protection, such as minimum buffer zones and survey requirements.
- Examine the creation of an easement program in the County and determine if it is worth pursuing.
- Address delisting from the County Register in the ordinance.
- Review demolition by neglect and how to balance it with low-income property owners.
- Review inspection and enforcement procedures and identify areas of improvement.
- Reduce the number of Commission members from 11 (plus 2 alternates) to 7.
- Update definitions in existing ordinance.