MARYLAND HISTORIC PRESERVATION COMMISSION TRAINING MANUAL

Prepared by
Winter & Company with
Maryland Association of Historic District Commissions
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INTRODUCTION

Welcome!

This manual is a companion piece to the on-line tutorial for historic preservation commissioners. It is designed to be informative and entertaining, while covering a wide range of material that is useful to those engaged in promoting preservation of historic resources in Maryland.

Preservation commissioners, serving as part of local governments across the state, play invaluable roles in promoting the active, respectful use of historic buildings and districts.

This manual provides a foundation of basic principles, operating procedures and practical advice that will help new commissioners better understand the realm in which they will operate and also help existing commissioners refine their skills. It also provides others interested in how commissions operate an insight into the framework of local preservation systems.

USER NOTES

Some important notes when using this guide:

The terms “Historic Preservation Commission” and “Historic District Commission” are used interchangeably- understanding the title for each body will vary depending on the local ordinances in each jurisdiction.

Although this tutorial provides legal explanations and cites legal authorities, it should not be relied on as a source of legal advice. Members and staff of historic preservation commissions are advised to obtain legal opinions from their county or municipal attorneys should questions arise.

In addition to this training tutorial, MAHDC provides a full range of materials to assist local commissions in doing their jobs. Refer to www.mahdc.org for a list of publications and video materials.

About this course

The Maryland Association of Historic District Commissions (MAHDC) was founded in 1980 to provide advocacy, training, and program support for Maryland's Historic Preservation Commissions (HPCs) and local governments. MAHDC works with commissions to develop and implement effective preservation programs – programs that protect historic resources within their jurisdictions and positively influence their communities and local governments.

Over the past several years, MAHDC has worked with our preservation partners-- the Maryland Historical Trust, Preservation Maryland, and the National Trust for Historic Preservation-- to assess the training needs of commissioners. Through this collaborative effort, we have identified several key components of a statewide comprehensive commission training and educational program, foremost amongst them being a "Commission 101" course. This training manual and accompanying online tutorial is that course.

We solicited input from a number of commissioners and staff with "on the ground" insights as to the primary topics that should be included in the training. Critical concepts, legal terminology, and preservation principles that commissioners must know were identified and incorporated into the curriculum. The tutorial was designed in a modular format that can be built upon over time as further topics are introduced.

All new commissioners are strongly encouraged to complete the course upon appointment, while more experienced commissioners may use the tutorial as a reference or a refresher on specific topics.

Why training is important

Education is the foundation of a strong historic preservation commission. Not only must commissioners be equipped to fulfill their statutory roles in a responsive and sensitive way, they must also provide leadership for the historic preservation movement at the local level – as they have done over the last fifty years.

This requires that commissioners possess a depth of knowledge that enables them to explain to others the importance of heritage preservation. Moreover, as the field of historic preservation is always evolving, commission members must constantly pursue educational opportunities that enable them to continue to fulfill their duties faithfully and capably.

Currently, there is no training standard for members of historic preservation commissions. Commissioners, both new and old, can benefit from training on a variety of topics, from preservation basics to more advanced technical issues, to carry out their legislative functions and to serve as effective preservation advocates.

Educated commissioners render more impartial and consistent decisions. They also serve as stronger advocates for local heritage and ultimately bring credit to their commission and to the preservation movement in general.

This manual aims to provide the practical training and education that commissioners and staff require to be effective. It provides them with practical information: basic concepts, common terminology, and core principles of preservation practice. While the tutorial is targeted primarily towards commission members and staff, others such as code officers, elected officials, and Main Street managers may also benefit from the training.

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Finally, we would like to thank all those members of historic preservation commissions who dedicate countless hours of service to their community. Grassroots preservation efforts rely heavily on the dedication of local preservationists who are actively involved in local government activities. Those qualified individuals who serve on local HPCs play a critical role in the protec- tion and enhancement of the state's historic resources, and without their service, much of our heritage would be lost.

Funding for this project

Funding for this project was provided by the following organizations and programs: The Bartus Trew Providence Preservation Fund of the National Trust for Historic Preservation; The Non-Capital Grant Program and Certified Local Government Program of the Maryland Historical Trust; The Heritage Fund Program of Preservation Maryland, and The National Park Service.

The activity that is the subject of this study has been financed in part with Federal funds from the National Park Service, U.S. Department of the Interior, made available through the Maryland Historical Trust, an entity within the Maryland Department of Planning. However, the contents and opinions do not necessarily reflect the views or policies of these agencies nor does the mention of trade names or commercial products constitute endorsement or recommendation by these agencies.

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office of Equal Opportunity, National Park Service, 1849 C Street, N.W. Washington, D.C. 20240-0001.

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CHAPTER 1. WHY ARE WE HERE?

A Starting Question

Let's say you've just been invited to apply for a seat on the Historic Preservation Commission in your community. You are certainly interested, but you need more information:

- What is this all about?
- What does "preservation" mean?
- And what is the role of a preservation commissioner?

This chapter answers those questions, provides an overview of some basic terms related to the movement and outlines the reasons that communities operate preservation programs.

In this chapter:

A. Introduction
B. Why Do We Preserve Historic Resources?
C. What Does Historic Preservation Mean?
D. What is a "Historic Property?"
E. What Are Our Goals for Preservation?
F. How Did We Get Here?
G. Role of the Commission
H. Preservation Incentives and Benefits

WELCOME!

Welcome to the Maryland Preservation Commission Training Program!

Preservation commissioners serve an essential role in promoting preservation and use of historic resources throughout Maryland.

A. INTRODUCTION

With Heritage So Rich

In 1966, a Special Committee on Historic Preservation for the U.S. Conference of Mayors explored the issue of heritage conservation in America. Their report, titled *With Heritage So Rich*, sparked adoption of the National Historic Preservation Act that year. In its introduction, author Sidney Hyman set forth fundamental reasons for preservation that remain just as valid today:

> *"What we want to conserve, therefore, is the evidence of individual talent and tradition, of liberty and union among successive generations of Americans. We want the signs of where we came from and how we got to where we are, the thoughts we had along the way, and what we did to express the thoughts in action. We want to know the trails that were walked, the battles that were fought, the tools that were made. We want to know the beautiful or useful things that were built and the originality that was shown, the adaptations that were made and the grace-notes to life that were sounded. We want to know the experiments in community living that were tried and the lessons that were taught by a brave failure as well as by a brave success."*

B. WHY DO WE PRESERVE HISTORIC RESOURCES?

We preserve historic resources for these reasons:

- Preservation honors our diverse heritage.
- Preservation supports sound community planning and development.
- Preservation maintains community character and supports livability.
- Preservation supports sustainability in our communities.

C. WHAT DOES HISTORIC PRESERVATION MEAN?

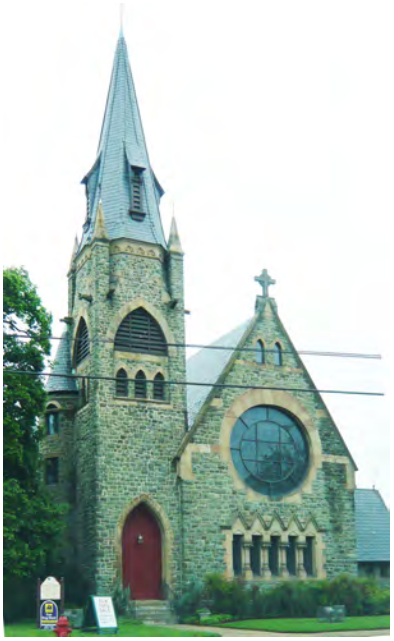
Preservation means keeping historic properties and places in active use while accommodating appropriate improvements to sustain their viability and character. It also means keeping historic resources for the benefit of future generations. That is, while maintaining properties in active use is the immediate objective, this is in part a means of assuring that these resources will be available for others to enjoy in the future.

Preservation also is about managing change, not freezing properties or districts in time. It also is not simply about maintaining a historic appearance; it is also about authenticity, which involves - where possible - keeping the original materials and craftsmanship of historic properties intact.

Preservation also is about being “green." For a more detailed description about preservation and green building, see chapter 8.

D. WHAT IS A "HISTORIC PROPERTY?"

In preservation terms, a "property" may be a prehistoric or historic district, site, building, structure or object that has been determined to have historic significance, by applying criteria that are adopted by the governing body. Generally a historic property is one that is associated with an activity or person of importance in the community’s history, or that represents a noteworthy designer, or a type of building construction that is important in the area's history. More information about historic properties, significance and integrity can be found in chapter 2.



E. WHAT ARE OUR GOALS FOR PRESERVATION?

National Historic Preservation Act of 1966

Goals for preservation are outlined in the National Historic Preservation Act of 1966. While crafted for federal agencies, they also reflect objectives for local governments in Maryland. As stated in the preamble of the NHPA:

"The Congress finds and declares that —

(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development..."

F. HOW DID WE GET HERE?

Historic preservation activities are undertaken by a broad and interconnected web of federal, state, and local agencies both in the governmental and private sectors. This network evolved from a small group of private organizations dedicated to the preservation of individual properties and expanded into a larger system of government protectors and local advocates. Active preservation of historic resources has a longstanding heritage in America. It is a time-proven tool.

1. Private preservation organizations

Early preservation activities focused on individual properties within a city or region. Such efforts include:

1853: Mount Vernon Ladies' Association

Created by Ann Pamela Cunningham to save the home of George Washington, the Mount Vernon Ladies' Association of the Union served as a model for other preservation projects and organizations that have followed.

1910: Society for Preservation of New England Antiquities

Established to preserve individual properties of noteworthy significance, focusing on Boston and other cities in New England.

1912-1932: Fort Frederick, MD

An early example of preservation activities at the local level in Maryland is in Washington County. The County moved to preserve a stone fort of the French and Indian Wars, built in 1756. Its preservation was the first project of the Washington County Historical Society which lobbied for the state of Maryland to take over the grounds.

2. Early local preservation ordinances in the United States and in Maryland

While private associations were forming to preserve individual properties of historic value, no local government had passed a regulation requiring preservation of local landmarks, and indeed districts, until Charleston, SC enacted its first ordinance in 1931. These local designations came about from a long-term growing concern that we were losing historic properties that are of importance to us. In the 1950s, several governments in Maryland adopted ordinances that established local preservation commissions and provided for designating and protecting historic properties.

1931: Charleston, SC

The first local preservation ordinance in America.

1936: Vieux Carré, New Orleans

Established by the state legislature to protect the French Quarter.

1936: Boston, MA

Also established by the state legislature, becoming the 15th local preservation act.

1953: Annapolis, MD

Local ordinance adopted.

1954: Frederick, MD

Local ordinance adopted.

3. State level activity

Officials soon recognized the need for a state- chartered office to promote preservation. Early preservation efforts by the state were actions on a case-by-case basis as a result of citizen advocacy to save specific resources.

1961: Maryland Historical Trust

In 1961, the Maryland Historical Trust (MHT) was established as a quasi-state agency dedicated to preserving and interpreting the legacy of Maryland's past. Today, MHT is an agency of the Maryland Department of Planning and serves as Maryland's State Historic Preservation Office (SHPO).

Over time, the Trust's mission has grown to include the review of state undertakings on historic properties, provide assistance to non-state historical and cultural museums, cultural conservation efforts, underwater archeology and heritage tourism activities.

There are currently (as of 2011) 71 National Historic Landmarks in Maryland. Among these are the USS Constellation in Baltimore, and the Wye House in Easton. The Wye House is documented on the Historic American Buildings Survey.

State law enabling local ordinances

Historic preservation regulations for local governments in Maryland are an extension of land use regulations, as defined in the state legislation. Most governments are empowered by Article 66B of the Annotated Code of Maryland, and some others by Article 25A or Article 28.

1957: Article 66B of the Maryland Code

While some local communities in Maryland had already established local ordinances, the legal basis for doing so was formalized in 1957 and amended in 1968 and 1995. This established rules for designating properties, design review and for operating preservation commissions.

For more information on Article 66B, see chapter 2.

1967: State Historic Preservation Office

In response to Congress enacting the National Historic Preservation Act, then Governor Spiro Agnew appointed MHT's Director as the State Liaison Officer in 1967 and MHT became the SHPO.

4. Federal preservation activity

Over the years, many federal actions have contributed to the preservation movement, while others sometimes created threats to older and historic properties. Some key dates are:

1935: National Historic Sites Act

The National Historic Sites Act of 1935 established the National Historic Landmarks (NHL) program and authorized the Secretary of the Interior to administer it. The program recognizes nationally significant buildings, sites, and objects that represent the prehistory and history of the United States and to encourage their long-range preservation.

1949: Housing Act of 1949 and the 1954 Housing Act

Title One of the Housing Act of 1949 kick-started the "urban renewal" program that would reshape American cities. The Act provided federal funding to cities to cover the cost of acquiring areas of cities perceived to be "slums. This increased pressure to demolish older properties, including those of historic significance. The Housing Act of 1954 established urban renewal, which encouraged demolition of older neighborhoods to construct new housing by among other things, providing FHA-backed mortgages.

1956: Federal Aid Highway Act

Popularly known as the National Interstate and Defense Highways Act, the legislation empowered state and federal governments to acquire rights-of way for highways throughout America, often impacting older neighborhoods.

1966: National Historic Preservation Act

In 1966, Congress passed the National Historic Preservation Act which created the National Register of Historic Places, established grant programs for restoration projects and survey activity, and required review of federally funded, licensed, and permitted projects for impacts on historic properties. The act also provided that each state, tribe and territory should establish a historic Preservation Officer to help administer the law in their individual jurisdictions, and the Advisory Council on Historic Preservation to serve as a presidential and congressional advisor on historic preservation matters.

1969: National Environmental Policy Act

While this legislation focused on ecology and biological resources, it came to influence procedures used to identify, designate and protect historic resources as well, and when some states adopted their own state level equivalents, they sometimes included cultural resources.

1976: American Revolution Bicentennial

The Bicentennial spurred new interest in history and historic properties. This period saw a surge in local governments establishing preservation commissions.

1980: Certified Local Government Program

The Certified Local Government Program (CLG) is a preservation partnership between local, state and national governments focused on promoting historic preservation at the grass roots level. Established as an amendment to the National Historic Preservation Act, the program is jointly administered by the National Park Service (NPS) and the SHPOs in each state, with each local community working through a certification process to become recognized as a CLG. CLGs then become an active partner in the Federal Historic Preservation Program and the opportunities it provides.

Key Preservation Players in Maryland

	Governmental	Private Sector
National Level	National Park Service (NPS) - National Register of Historic Places	National Trust for Historic Preservation
	Advisory Council on Historic Preservation - Section 106 compliance	National Alliance for Preservation Commissions
State Level	Maryland Historic Trust - Maintains inventories - Administers grants and loans - Easements - Local government assistance	Maryland Association of Historic District Commissions
	Maryland Department of Housing and Community Development - Main Street Maryland	Preservation Maryland
Local Level	Local Historic Preservation Commissions	Historical Societies
		Local Advocacy Organizations

G. ROLE OF THE COMMISSION

How do local commissions fit into the historic preservation system? Clearly, local governments were pivotal in creating the preservation movement, and thus commissioners play a crucial role in promoting good stewardship and the active use of historic properties. They do so in these ways:

1) Stewardship

Commissions promote proper use and care of historic properties. They do so by reviewing proposed improvements, discouraging demolition and encouraging use of incentives to facilitate preservation.

2) Identification

Commissions sponsor surveys that catalogue properties and serve as a basis for identifying resources with historic significance.

3) Evaluation

Commissions also work to evaluate the potential significance of properties identified in surveys, using adopted procedures and criteria.

4) Nomination

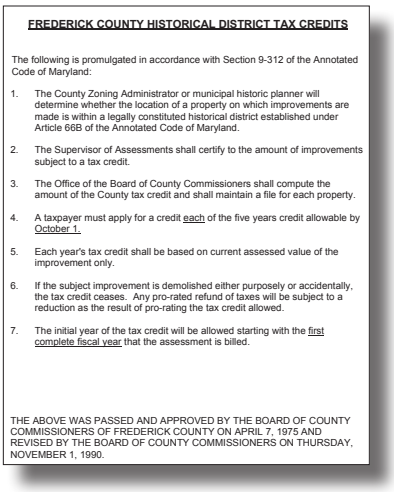
Commissions may then work to officially designate properties that meet eligibility requirements. They do so by nominating those properties to the SHPO for formal listing.

5) Education

Commissions promote awareness and appreciation of historic resources, and encourage appropriate treatment of them through educational programs.

6) Planning

Commissions may engage in long-range planning activities in their communities to assure that historic preservation is an integral part of public policy, and they also sponsor planning for treatment strategies of individual historic properties.



FREDERICK COUNTY HISTORICAL DISTRICT TAX CREDITS

The following is promulgated in accordance with Section 9-312 of the Annotated Code of Maryland:

1. The County Zoning Administrator or municipal historic planner will determine whether the location of a property on which improvements are made is within a legally constituted historical district established under Article 66B of the Annotated Code of Maryland.
2. The Supervisor of Assessments shall certify to the amount of improvements subject to a tax credit.
3. The Office of the Board of County Commissioners shall compute the amount of the County tax credit and shall maintain a file for each property.
4. A taxpayer must apply for a credit each of the five years credit allowable by October 1.
5. Each year's tax credit shall be based on current assessed value of the improvement only.
6. If the subject improvement is demolished either purposely or accidentally, the tax credit ceases. Any pro-rated refund of taxes will be subject to a reduction as the result of pro-rating the tax credit allowed.
7. The initial year of the tax credit will be allowed starting with the first complete fiscal year that the assessment is billed.

THE ABOVE WAS PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY ON APRIL 7, 1975 AND REVISED BY THE BOARD OF COUNTY COMMISSIONERS ON THURSDAY, NOVEMBER 1, 1990.

H. PRESERVATION INCENTIVES AND BENEFITS

Local incentives:

Local property tax credits

All local governments in Maryland, both municipalities and counties, have the authority to offer property tax incentives to the owners of historic buildings in their communities. The enabling legislation for local tax incentive programs is Real Property Taxes Article, Title 9, Section 204 and 204.1, Annotated Code of Maryland. There are two basic types of incentives:

Tax credit property owners who complete a rehabilitation project on the exterior of their building can receive a credit that is deducted from the amount of property taxes they pay in the year they finish the project. The amount of the credit is usually 10% of the total project cost. Tax credits are most useful in offsetting the cost of maintaining historic buildings.

Tax abatement property owners who complete a rehabilitation project on the exterior of their historic building have the assessed value of the property “frozen” at the pre-rehabilitation amount for a period of up to ten years. Abatement programs are most useful when communities are trying to attract investment in deteriorated or blighted properties.

Examples of two Maryland communities who provide local tax incentives are:

Bel Air, Maryland
Bel Air offers a 10% property tax credit toward the cost of exterior renovations approved by the Historic Preservation Commission. A five percent property tax credit is available for compatible new construction.

Frederick County, Maryland
Frederick County also offers a property tax incentive for a five-year period. The first year, the credit is 100% of the increased value, and it then diminishes by twenty percent until the last year.

State incentives:

Maryland Sustainable Communities Tax Credit Program

http://mht.maryland.gov/taxcredits.html

Maryland Sustainable Communities Rehabilitation Tax Credit Program provides Maryland income tax credits based on a percentage of the qualified capital costs expended in the rehabilitation of a structure for the following types of projects:

- 20% credit for “certified historic structures” that are owner-occupied, single-family residences
- 20% credit for “certified historic structures” that are commercial buildings
- 25% credit for “certified historic structures” that are high-performance commercial buildings
- 10% credit for non-historic, “qualified rehabilitated structures”

State grant programs

MHT administers six separate grant programs that assist in a wide variety of historic preservation-related activities, including:

- Acquisition and rehabilitation of historic properties
- Historic property documentation
- Archeological investigation
- Documentation of folkways and cultural history through oral histories
- Heritage tourism development
- Museum activities

Loans for historic preservation and heritage tourism projects

MHT administers loan programs that assist both bricks and mortar activities such as acquisition and rehabilitation of historic properties and the development of heritage tourism-related businesses.

Heritage area loans

Nonprofit organizations, local jurisdictions, individuals, and business entities within Certified Heritage Area Target Investment Zones may apply for loans to assist in the enhancement of heritage attractions and visitor services.

Federal incentive programs:

Federal income tax credit

The Federal Historic Preservation Tax Incentives Program offers a 20% tax credit for the rehabilitation of income-producing historic structures. This program is administered by the National Park Service in partnership with the Internal Revenue Service and SHPOs.

For more information, see http://www.nps.gov/tps/tax-incentives.htm

Other economic benefits:

In addition to financial incentives that benefit property owners directly, many benefits of preservation extend to the community as a whole. These include:

Rehabilitation jobs and construction sales

Direct benefits to the local economy result from the actual purchases of labor and materials. Preservation projects are generally more labor intensive, with up to 70% of the total project budget being spent on labor, as opposed to 50% when compared to new construction. This usually means that a higher percentage of the construction budget remains in the community.

Real estate values

Numerous studies across the country, including one administered by the MAHDC, document the positive effects on real estate values in locally designated historic districts. Statistics consistently show that properties within historic districts match or exceed values in comparable, undesignated areas.

Heritage tourism

Heritage tourism engages visitors in places, artifacts and activities that authentically represent the stories and people of the community. Heritage tourists spend more on travel than other tourists, and this in turn generates jobs in hotels, bed and breakfasts, motels, retail stores, restaurants, and other service businesses.

Sustainable communities

Preservation also helps stabilize neighborhoods, and attract investment. Historic neighborhoods also convey a sense of community that contributes to the social fabric. Historic districts are often more walkable, which supports healthy living initiatives.

Health care providers in Providence, RI, partnered with the City's preservation program to develop a history walk in the downtown to encourage exercise. Historic districts provide ideal attractions to promote healthy living, which contributes to Sustainable Communities.

Smart growth

Preserving older neighborhoods helps reduce sprawl, reduces landfill impacts, and minimize automobile trips. It makes use of land already served by utilities and infrastructure. Many older neighborhoods also can support moderate increases in density while retaining their integrity as historic resources. This contributes to the economic viability of the community at large.

CHAPTER 2. LEGAL FOUNDATIONS

A Starting Question

You are a member of your local preservation commission, which is considering the designation of the city's oldest house as a historic landmark. The owner, who objects to the designation, has asked if the city has a right to do so. How do you answer? What is the legal basis for regulations related to preservation?

This chapter answers those questions and also provides an overview of some basic procedural requirements that local commissioners must know in order to operate appropriately.

In this chapter:

A. How Do We Find What Is Historically Significant?
B. How Do We Officially Recognize Properties of Historic Significance?
C. How Does Local Designation Work?
D. What Legal Issues May Be Raised?

A QUICK ANSWER:

"Fundamentally, communities do have the right to protect historic properties. However, they must do so within the parameters of laws that affect regulation of property and they must employ accepted operating procedures."
Tom Mayes, Legal Counsel, National Trust for Historic Preservation

LEGAL REFERENCES

The National Trust for Historic Preservation maintains a glossary of legal terms related to preservation, which is a valuable reference for local commissioners:

http://www.preservationnation.org/resources/legal-resources/understanding-preservation-law/glossary/

http://www.preservationnation.org/resources/legal-resources/understanding-preservation-law/federal-law/

Federal laws chart:
http://www.preservationnation.org/resources/legal-resources/understanding-preservation-law/federal-law/federal-laws.html

Other references:
Layperson's Guide to Preservation Law: Federal, State, and Local Laws Governing Historic Resources (Preservation Books)

Local preservation commissioners often review survey documents to confirm evaluations of significance for individual properties.

OBJECTIVE CRITERIA

It is important that surveys be conducted in an objective manner, using criteria that have been adopted by the commission. These should be consistent with those employed by the Secretary of the Interior, but may include other criteria as well.

A. HOW DO WE FIND WHAT IS HISTORICALLY SIGNIFICANT?

Identifying which properties have historic significance is an initial, and important, step in a local preservation program.

Professionals, historians, preservationists, and architects work with staff, commission members, and advocates to evaluate properties, using adopted standards that are recognized nationally. They employ a variety of research tools to assist them in making those determinations. These nationally-recognized standards are created and maintained by the Secretary of the Interior through the National Park Service.

1. Tools used to identify historic properties:

Surveys

In a historic resource survey, information is collected about the history and condition of properties in a targeted area.

The survey process includes a field inspection, collecting historic information about the physical and cultural history of the property and documenting it in photographs, drawings and maps. Additionally, the survey will include a description of the key characteristics of individual properties as well as the defining characteristics of groups of buildings.

MHT has prepared Standards and Guidelines for Historical and Architectural Investigations in Maryland to guide survey projects and ensure that the information gathered is consistent and reliable.

See: http://mht.maryland.gov/documents/PDF/Survey_standards_architecture_web.pdf

Inventories

An inventory is a catalog of survey information, organized by individual property addresses, that is maintained by a community. It includes those properties identified as having significance, as well as others that have yet to be evaluated, and those that have been evaluated and found to lack historical significance.

Note that an INVENTORY is distinct from official designation as a historic resource in a historic REGISTER, in that being on the inventory usually does not involve regulation of property, whereas official designation as a landmark does. In Maryland, information about properties gathered through surveys and other research efforts is recorded in the Maryland Inventory of Historic Properties (MIHP), maintained by MHT. MIHP entries may be for individual buildings, bridges, or monuments, or entire districts and communities. Inventoried resources are assigned unique numbers organized by county (i.e., properties in Talbot County begin with T followed by a series of numbers – T-410 is the MIHP number for the Easton Historic District).

For more information about the MIHP and how it is different from local, Maryland, and National Registers, see: http://mht.maryland.gov/documents/PDF/Survey_PresBulletin1_MIHP.pdf

2. Establishing historical significance

Commissions apply a set of formally adopted criteria when evaluating survey information about properties. These are generally consistent with those established by the Secretary of the Interior for evaluating eligibility for the National Register of Historic Places.

Typically, in order to be eligible for listing as a property of historic significance, it must first meet a set of threshold criteria related to age and integrity, and then must meet criteria related to significance.

Threshold criteria are:

Age

Generally, a property must be 50 years old or older at the time of nomination. There are exceptions to this rule, however, to accommodate significant modern buildings.

Significance criteria

A property must then have significance in one or more categories. Typical categories are:

- Association with historic events or trends
- Association with individuals who made a demonstrable and lasting contribution
- Architectural merit
- Potential to yield information that will contribute to a better understanding of our past

Historic contexts and themes

Historic contexts discuss the patterns and trends that produced individual properties in the community. The core premise is that properties represent interweaving factors in history and did not occur in isolation. These are used in understanding potential significance. Themes group information related to historic resources based on a subject, specific time period or geographic area. The relative importance of individual historic resources is better understood by determining how they fit into a theme. Individual historic resources may relate to more than one theme.

Integrity

A property must retain integrity of:

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association

It must retain sufficient integrity in many of these aspects to convey its historical, cultural, or architectural significance.

INTEGRITY

In addition to demonstrating significance, a property must retain physical integrity to reflect that significance; it must not have been substantially altered since the period when the event occurred, or the person lived there. That is, it must retain its "integrity."

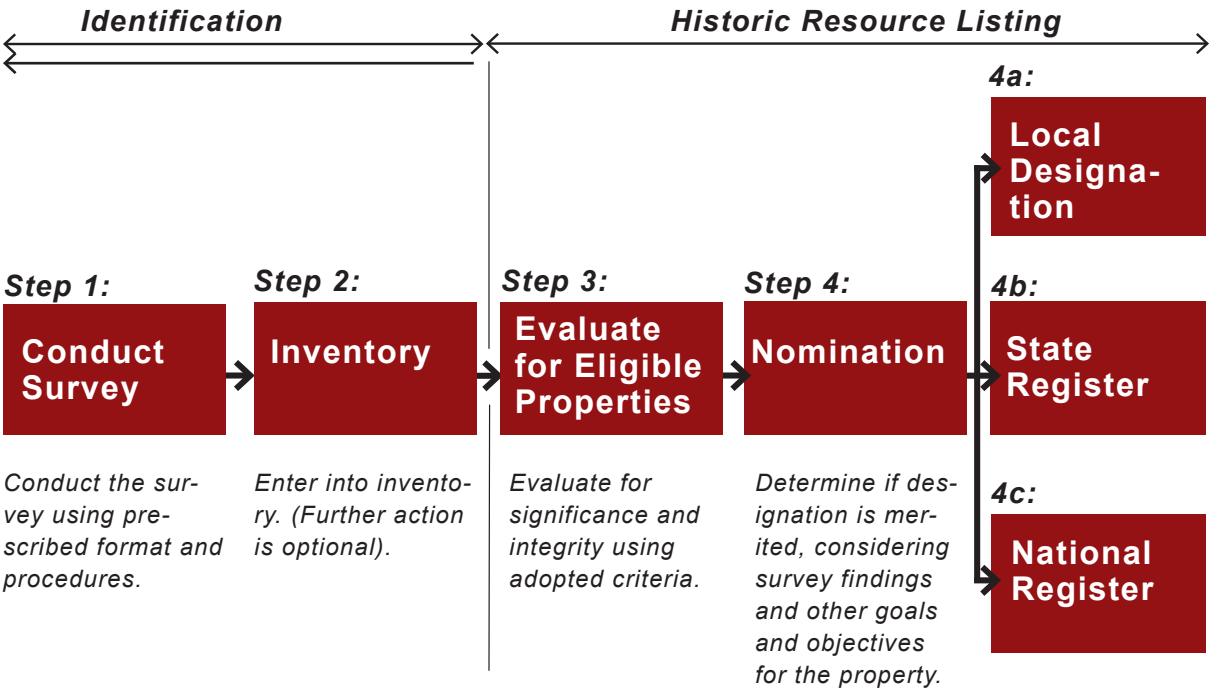
Building Integrity

"Contributing" Property	"Contributing" Property with Some Alterations	"Non-Contributing" Property with Major Alterations
This building retains its integrity.	***This building retains its integrity.***	***This building does not retain its integrity.***

A building must retain significant integrity to convey its historic or architectural significance.

The Identification and Designation Sequence

Commissions use an orderly process for conducting surveys and entering the data into an inventory. They then evaluate the significance of properties, and next decide how to respond to those findings. This may lead to nomination to one or more historic registers. This chart displays the identification process, in combination with the subsequent, optional, designation process.



B. HOW DO WE OFFICIALLY RECOGNIZE PROPERTIES OF HISTORIC SIGNIFICANCE?

Once determined to have significance, properties may be designated as "landmarks" or as part of a “historic district” in a process that follows legal requirements. "Historic Register" is a term that refers to a listing of properties that are officially designated as historic and appear in either the National Register of Historic Places, the State Register and/or a local register. Properties on a historic register may be eligible for special benefits and subject to specific requirements.

Types of designation

Historic properties may be designated at one or more of these levels:

- Federal (The National Register of Historic Places)
- State (The Maryland Register)
- Local government level

Since properties may be designated at more than one level, this may be confusing to the public, and it is important that commissioners be clear which they are referring to when they are discussing designation.

1. National Register of Historic Places

The National Register of Historic Places (National Register) recognizes districts, buildings, structures, objects and sites for their significance in American history, archeology, architecture, engineering, or culture, and identifies them as worthy of preservation.

The National Register was enacted by Congress in the National Historic Preservation Act of 1966. This established a process for nominating properties to the register and provided for a system of criteria to use in determining significance.

National Register properties may be recognized by markers and other media.

SURVEY VS. DESIGNATION

It is important to distinguish surveys from the separate process of historic designation and protection. Surveys gather information about the history and characteristics of properties, while designation lists a property as having legal historic status. A survey may determine that a property is eligible for designation, but it does not initiate designation proceedings. Often, eligible properties remain undesignated.

Although historic surveys do not officially designate properties as historic, the information gathered is useful to build awareness of historic buildings and sites and inform property owners of potential benefits and incentives that may be available.

NATIONAL REGISTER LISTING IN MARYLAND

The National Register currently (as of 2011) comprises over 1500 listings in Maryland, including some 200 historic districts. Listed properties span a wide variety of types and periods, ranging from prehistoric archeological sites to buildings of the recent past, and include rural landscapes, urban and suburban neighborhoods, bridges, sailing vessels and more.

The National Register is a program of the U. S. Department of the Interior, National Park Service, and is administered at the State level by the Maryland Historical Trust. Note that while it is named the "National Register," properties may only be significant at a state or even a local level. They must, however, meet the National Register criteria.

National Register listing process

National Register nominations are submitted to the Maryland Historical Trust, where staff performs an initial review. Nominations are then scheduled for presentation to the Governor's Consulting Committee on the National Register (GCC). If their recommendation is favorable, and the State Historic Preservation Officer concurs, the nomination is forwarded to the National Register office of the National Park Service for final action.

Certain Local Governments in Maryland have been certified by the National Park Service to participate in the National Register review process. In these jurisdictions, the local Historic Preservation Commission and chief elected official are also charged with reviewing nominations and making recommendations concerning their eligibility for the National Register.

Effect on property owners

Listing in the National Register honors the property by recognizing its importance to the community, state or to the nation, and confers a measure of protection from harm by federal or state activities. It does not, however, place any restrictions on the actions of private property owners.

Listing in the National Register also is the effective threshold for eligibility for a variety of programs designed to assist in the preservation of significant properties, including federal and state tax credits for certain types of rehabilitation work. Other financial incentives for preservation include grants and loans.

Donations of preservation easements on Register-listed properties also may qualify for charitable tax deductions.

Note that listing in the National Register does not restrict private property owners in disposition of their property, as distinguished from LOCAL listing, which is described below. A property listed only in the National Register may be altered or demolished, following general building and demolition codes of local communities.

2. Maryland Register of Historic Properties

The Maryland Historical Trust maintains the Maryland Register of Historic Properties, which generally includes all those properties identified as eligible for listing in the National Register.

3. Local level designation

Thirdly, a property may be designated as a historic resource under local zoning laws. This, of course, is the type of designation that local preservation commissions deal with most of the time. This type of designation is discussed in more detail in the following section.

CERTIFIED LOCAL GOVERNMENT STATUS

The State Historic Preservation Officer (SHPO), and the National Park Service, certify local governments to participate in state and federal preservation programs. As a Certified Local Government (CLG), a community is eligible for special grants and tax incentive programs. Maintenance of CLG status, however, includes specific responsibilities. This includes maintaining a system for survey and inventory of historic properties.

C. HOW DOES LOCAL DESIGNATION WORK?

A community may adopt regulations related to preservation of historic properties, which can include a process for officially designating resources to a register. Adopted by ordinance, this may provide for review of alterations and demolition as well as make certain incentives available to eligible properties. It is this designation that preservation commissions use in their review and permitting roles.

1. The legal basis for local designation

At the local level, historic properties are designated under the community's "police power." The parameters for establishing local preservation regulations is set forth in the Maryland Code, in different sections related to non-charter counties and municipalities and charter counties. These sections are considered "enabling legislation," because they set forth the range of powers that local governments may use in promoting historic preservation. Any local ordinance must be in agreement with the applicable state enabling legislation as county and municipal governments can only exercise those powers specifically delegated to them by the state.

Article 66B of the Maryland Code

The legal foundation for preservation programs in most local governments in Maryland is established in Article 66B of the Maryland Code which deals with a host of matters related to planning and zoning, including historic preservation. (Article 66B, §8.01-8.17, Annotated Code of Maryland). Title 8 gives municipalities and non-charter counties the authority to enact regulations to preserve sites, structures and districts of historical, archaeological or architectural significance, as a public purpose and that they may address these actions:

- Construction
- Alteration
- Reconstruction
- Moving
- Demolition

Article 66B also provides for:

- Organization and membership of the historic preservation commission
- Qualification requirements for commissioners
- Acquisition of easements
- Requirement to file an application for alteration or improvements
- Provision to adopt design guidelines to use in commission reviews, including basic criteria to be included

CHARTER VS. NON-CHARTER COUNTIES

For a chart that summarizes the differences in charter and non-charter counties in Maryland, follow this link:

http://www.mdcounties.org/e_files/Counties/Code%20Home%20Rule%20vs.%20Commissioner%20vs.%20Charter.pdf

Limits of review

Local commissions are not permitted to review interior arrangements under 66B.

Articles 25A, 28 and 66B

Charter Counties are enabled to enact planning and zoning laws and regulations by Article 25A of the Maryland Code. Historic Preservation programs are specifically enabled by Article 25A, Title 5 (BB).

Montgomery and Prince George's Counties, which receive their authorization under Article 28, §8-101(c). Article 66B, §2.12 grants Baltimore City its authority to create a local historic preservation ordinance.

Designation is a form of zoning overlay.

Because historic designation is a land use activity, it is considered a zoning overlay. In land use, an "overlay" adds other provisions to the underlying, base zoning. In the case of preservation, this adds the requirements for review by the preservation commission, and also any special benefits that may be offered. Historic area overlays do not alter the underlying base zoning, and commissions do not have the authority to deny or approve applications based on use. However, some governments allow uses and "special exceptions" for designated properties that are different than what would normally be allowed by the underlying zoning. This is one example of a special benefit that might be offered to property owners. For a more detailed discussion on designation, see chapter 3.

A RECAP OF STATE ENABLING LEGISLATION

The State of Maryland has granted local jurisdictions the authority to enact local historic area zoning ordinances for the purpose of safeguarding the heritage of the jurisdiction through the preservation of significant sites, structures, or districts; stabilizing and improving property values; fostering civic beauty; improving local economies; and promoting the preservation and appreciation of historic resources for the public good.

Local jurisdictions [have] the authority to enact local historic area zoning ordinances for the purpose of safeguarding ... significant sites, structures, or districts.

Article 66B, §§8.01-8.17 authorizes non-charter counties and all municipalities except Baltimore City to promulgate historic preservation ordinances. Article 25A, §5(BB) gives similar authority to all charter counties except Montgomery and Prince Georges counties, which receive their authorization under Article 28, §8-101(c). Article 66B, §2.12 grants Baltimore City its authority to create a local historic preservation ordinance.

For a copy of Article 66B, see: http://mht.maryland.gov/documents/PDF/Article_66b.pdf

D. WHAT LEGAL ISSUES MAY BE RAISED?

The preservation commission recommends designating a property to the local historic register. The City Council or Board of Commissioners makes the formal decision.

Even though local governments have the right to designate and regulate properties, historic preservation ordinances and commissions may face legal challenges. Often these are raised as concerns during the designation and design review processes, and sometimes they may even lead to formal consideration in the courts. This section discusses some of the most common legal issues a commission may face and some best practices that commissions should follow to protect themselves from legal vulnerability.

1. Takings

One of the most frequently challenged issues is whether designating private property as "historic" and thus subjecting it to government regulation constitutes a "taking" for which the government unit must pay. The term "taking" derives from a provision in the Fifth Amendment to the U.S. Constitution that states that private property shall not "be taken for public use, without just compensation."

In general, the courts have interpreted a "taking" to occur only when no viable use of the property remains from the governmental action. That is, limiting use, or in some cases, prohibiting certain alterations or even demolition, is not considered a taking.

The courts have upheld local governments' ability to regulate for preservation, finding that the restrictions that may be applied do not constitute a taking. That said, the courts do consider closely if a property owner's rights for due process have been followed.

2. Procedural due process

While local governments do have the right to regulate properties for preservation, they must do so following procedural due process. That is, the property owner must be given proper notification of pending governmental action, and the appropriate hearing of their concerns.

Procedural due process is essentially based on the concept of "fundamental fairness." Procedural due process refers to the manner in which government actions are carried out, that is, the actual process of decision-making.

Procedural due process requires:

- Advance notice of the proceedings
- Final notice of the decision reached
- Opportunity for individuals directly affected by the proposed governmental action to be heard

Commissioners should take care in their actions to assure that procedural due process is provided, such as notifying applicants of hearing dates and providing time for public comment during a hearing. Local governments, including all boards and commissions, must also adhere to the Open Meetings Act and ensure that all decisions are made in a public forum for which adequate notice was provided.

3. Substantive due process

Substantive Due Process is a related concept. It addresses the rationality or reasonableness of the substance of the decision itself. It requires that the decision be based on the evidence on the record as applied to the standards and criteria in the ordinance. It also protects individuals from bias, conflicts of interest, and other factors bearing on the impartiality of the decision-makers. Commissions should take care to make findings of fact and reference all applicable standards and criteria when taking action on a property. Commissioners must also recuse themselves from discussions about applications, properties, or issues if there is a real or perceived conflict of interest. Failing to do so could create legal vulnerabilities for the individual, the commission, and the local government if the decision is challenged in the future.

CHAPTER 3. DESIGNATING PROPERTIES

A Starting Question

A property owner wants to designate their property as a historic landmark under the community's preservation ordinance, and they wish to know what the process will be. How will you answer them?

Designating a property means formally listing it under local law as a historic resource or as part of a district. This is a land use zoning action, and therefore requires formal hearings. It also requires an appropriate level of documentation that substantiates the historic significance of the property. This includes information from a survey, using specific categories for classifying properties, information that places the property into historical context, and application of criteria for determining significance and integrity. This chapter provides an overview of those informational tools used in the designation process.

In this chapter:

A. Designating Historic Properties
B. Inventories
C. Types of Historic Properties
D. Significance and Integrity
E. Defining Districts and Using Boundaries

Local preservation commissioners often review survey documents to confirm evaluations of individual properties.

A. DESIGNATING HISTORIC PROPERTIES

The designation of individual properties and districts as historic is fundamentally a zoning power and may only be made by a local governing body (i.e. Mayor/Council) through adoption of an ordinance. The designation ordinance should include findings that describe the historic, architectural, or archeological significance of the property, the boundaries of the property, and reference the applicable ordinance or section of the local code that allows the Council to make the designation and review alterations to those properties.

Designating a property or a district can sometimes be a long and occasionally contentious process. The Commission should consider holding special information meetings or forums with community groups and property owners to answer questions, dispel myths, and discuss the community's concerns prior to holding a formal vote on whether to recommend designation of the property. Such outreach can be very important when it comes time to present the designation request to the City Council.

The steps in the designation process:

1. Prepare the nomination.

Include description of significance, key features and other data as specified in the ordinance and rules and procedures. The nomination should include a statement that describes why the property/district is significant and relates it to the criteria published in the ordinance.

2. File the nomination with the HPC.

Check for completeness of documentation before continuing.

3. Schedule a HPC hearing.

Provide public notice, as required in the ordinance.

4. Preservation commission decision

The commission's action is a recommendation to the governing body.

5. Council/county commissioners hearing

Also conducted according to due process requirements, including appropriate public notice.

6. Appeal

Follow process specified in the ordinance. Because designations are legislative actions, appeals by property owners or other eligible parties are heard by the Circuit Court in each county.

What is the commission's role?

The local preservation commission reviews designation applications/nominations and makes a recommendation to the elected body. In some communities the Planning Commission also reviews designation materials. Because designation is a zoning action only the governing body (Council/Commissioners) has the legal authority to designate properties as historic.

B. INVENTORIES

What is an inventory?

An inventory is a collection of data about the potential historic significance of properties in the community. It includes any surveys of historic resources, as well as individual evaluations of properties that may be conducted for a variety of research purposes. It is maintained as an informational source. The inventory usually includes the evaluation of resources for potential eligibility for listing in a formal register of historic resources, but the inventory itself does not bring with it any regulatory requirements.

How is an inventory used?

At the local level, a preservation commission uses the inventory as a reference point in determining if any properties would merit consideration for designation. They also use the inventory as a means of developing educational materials about the historic resources of the community or for background information during project review.

Planning departments may also use this information when developing neighborhood plans, or when evaluating development proposals that may require special review under development permitting regulations other than the preservation ordinance.

Why is it important to keep a local inventory up to date?

Since the historic resource inventory is the starting point for research, education programs, and nominations, its value is greatest when the information is up to date.
The status of a property as having potential historic significance can change due to a loss of integrity, or new interpretations of historic significance in the community, and thus regular updates of surveys is important. Increasingly, local governments are integrating survey information into Geographic Information Systems, which means that this information can now be updated more efficiently.

C. TYPES OF HISTORIC PROPERTIES

Historic properties come in a variety of forms. These are the typical categories:

Building

A structure intended to shelter some sort of human activity. Examples include a house, barn, hotel, or church.

Historic district

A geographically definable area, possessing a significant concentration of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.

Object

Usually artistic in nature, or small in scale when compared to structures and buildings, and generally associated with a specific setting or environment. Examples of objects are monuments, sculptures and fountains.

Site

A discrete area significant solely for activities in that location in the past, such as a battlefield or designed landscape (parks and gardens)

Structure

A functional construction meant to be used for purposes other than sheltering human activity. Examples include, an aircraft, a ship, a grain elevator, and a bridge.

Other categories also are used. These include:

- Cultural landscape
- Traditional cultural property
- Maritime sites
- Archaeological resources

A fountain is categorized as an "object" property type.

An archaeological resource is a property type.

NATIONAL REGISTER CRITERIA

To be eligible for the National Register, a property must demonstrate significance in terms of one or more of four broad criteria:

- Events or trends;
- Association with individuals who made a demonstrable and lasting contribution;
- Architectural merit;
- Potential to yield information that will contribute to a better understanding of our past.

Significance is evaluated in a national, state, or local context.

Individual landmarks and districts

Properties identified as having historic significance and formally designated to a local historic register may be listed individually (usually termed a "landmark"), or as a contributing resource in a historic district.

Contributing vs. non-contributing properties

When a boundary is defined for a historic district, it will be drawn around all of the properties in the area. Each of these is then classified as a "contributing" or "non-contributing" to the district's historic significance. They are first identified as such in a historic resource survey, and then formally adopted when the district is designated.

Contributing property

A contributing property is any building, structure, object or site within the boundaries of the district which reflects the significance of the district as a whole, either because of historic associations, historic architectural qualities, or archaeological features. Another key aspect of the contributing property is historic integrity (discussed later in this chapter).

Non-contributing property

In a historic district, those properties that do not have historic significance are termed "non-contributing." This does not indicate that the property is incompatible in its character with the district; that is a different consideration.

A property may be rated as non-contributing for these reasons:

- It is of more recent construction, and therefore does not have historic significance at this time
- It is an older property, but is substantially altered and therefore has lost its integrity
- There is insufficient information to determine that the property has historic significance

D. SIGNIFICANCE AND INTEGRITY

Age of historic resources

In general, properties must be at least 50 years old before they can be evaluated for potential historic significance, although exceptions do exist when a more recent property clearly has historic value.

Significance

To be eligible for designation as a historic resource, a property must demonstrate significance in terms of criteria that are adopted. Most local governments apply criteria adapted from those established by the Secretary of the Interior:

- Association with events or trends important in the history of the community
- Association with individuals who made a demonstrable and lasting contribution
- Architectural merit
- The potential to yield information that will contribute to a better understanding of our past

Integrity

In addition to demonstrating significance, a property must retain physical integrity to reflect that significance; it must not have been substantially altered since the period of historical association.

Integrity includes location, design, setting, materials, workmanship, feeling, and association. A majority of the resource's structural system and materials and its character-defining features should remain intact.

What are character-defining features?

Every old building is unique, with its own identity and its own distinctive character. Character refers to all those visual aspects and physical features that comprise the appearance of a historic building.

The presence of character-defining features helps determine a property's integrity. Character-defining elements include the overall shape of the building, its materials, craftsmanship, and decorative details, as well as the various aspects of its site and environment. Some basic character-defining feature categories:

Shape of the building overall (simple rectangle, complex composition)

- Roof shape (sloping, flat)
- Roof details (eaves, rafters)
- Openings (windows and doors)
- Projections (porches, turrets, bay windows)
- Trim and other components (decorative elements, railings, shutters)
- Materials

The following illustrations identify character-defining features on different property types.

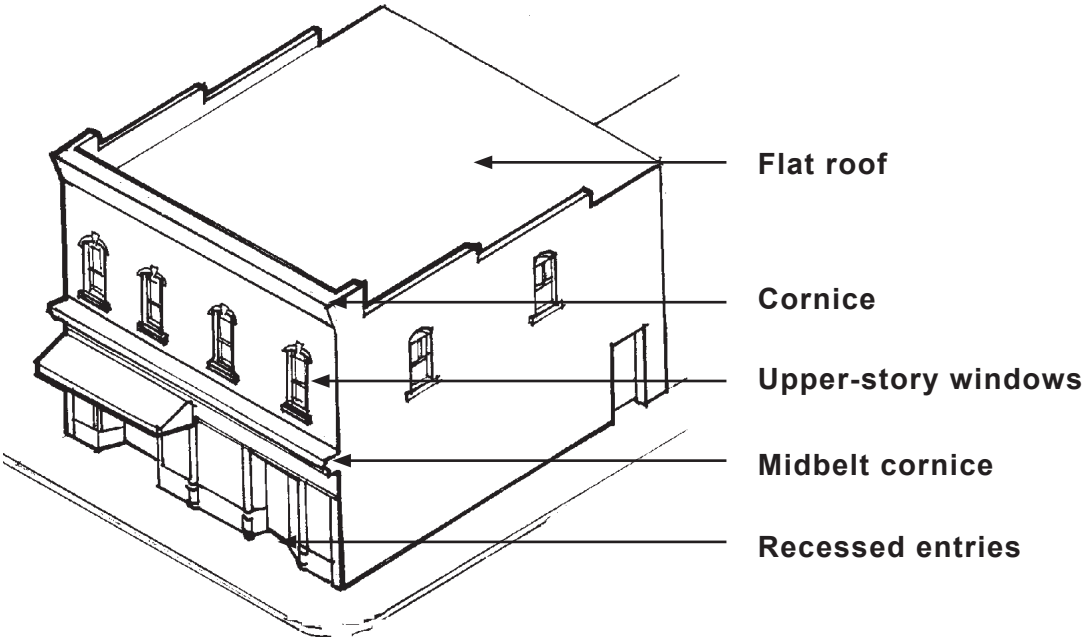
Italianate/Second Empire 1855 - 1885

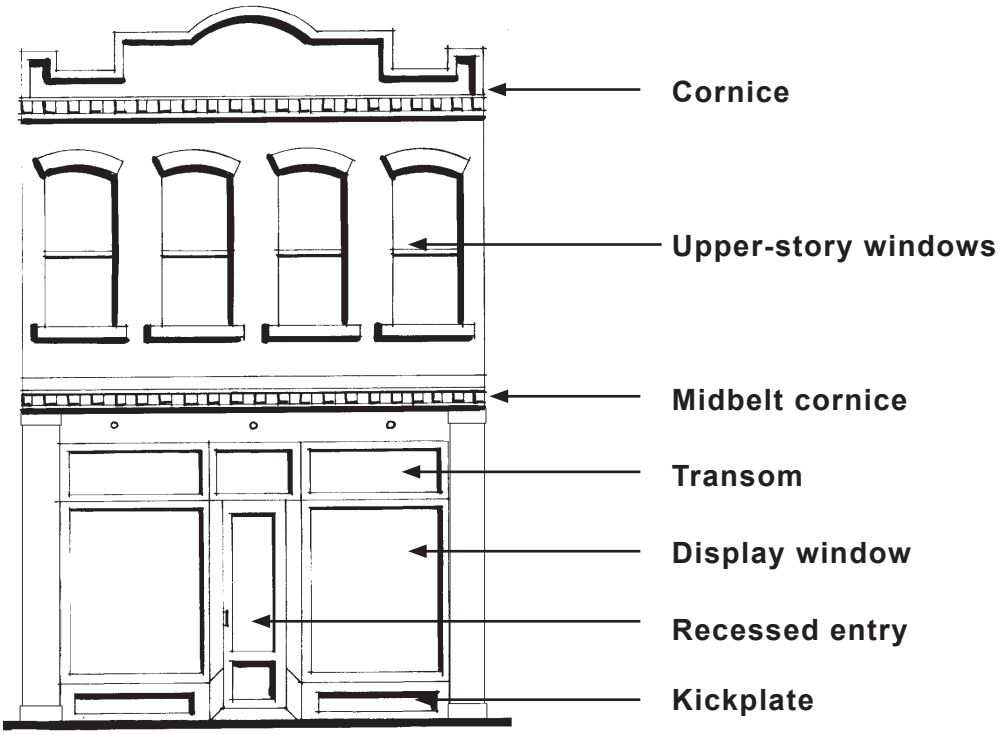
above: The John J. Collins house, built in 1885 is an example of the Second Empire style, which has many elements in common with the Italianate style, the difference being, primarily, the Mansard roof, inspired by buildings in Paris during the 19th century. Another example of the style, the John R.P. Moore house bordered by East Market, Collins, and Bay Streets, was demolished and is currently the site of several new houses.

Interesting fact: The French architect François Mansart (1598-1666) used double-sloped roofs so extensively that they were coined "mansard" roofs.

Identifying Character-defining Features in Individual Buildings

Character-defining features may be illustrated in surveys, historic guidebooks and commission design review guidelines. These documents help property owners identify those elements that should be respected when making improvements. Typical storefront components are shown below.





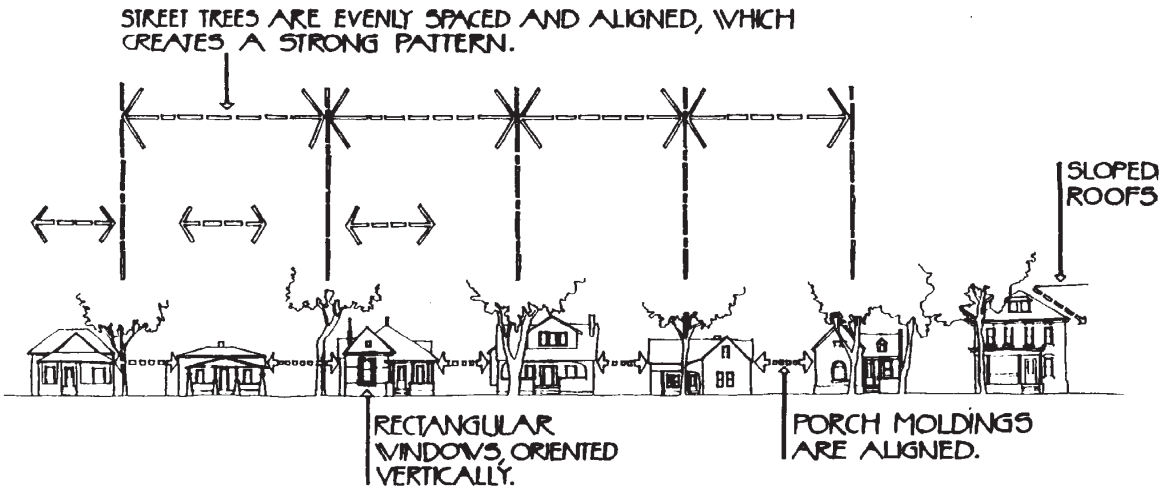
Character-defining Features in a Historic District

In a historic district, many buildings may share similar design features, even when the structures span several decades or represent different architectural styles. When these features are repeated along the street, they contribute to a sense of visual continuity, which in itself can be a key character-defining feature.

These three commercial buildings in a historic district, although of different heights and periods of design, share these elements:
1. Base, 2. Middle, and 3. Cap.

In many commercial districts, similarity of floor heights at the street level, and horizontal moldings combine to create a horizontal alignment that establishes a distinctive scale for a block, which is character-defining.

Character-defining Features in a Historic District



The uniform spacing of buildings and side yards creates a rhythm of house fronts in many residential districts, which is character-defining.

The arrangement of city blocks, the width of streets, and the presences of alleys are often key features of many single family residential districts. Aerial photographs and "figure-ground" maps also illustrate the uniform setback of building fronts and consistent orientation to the street.

FACTORS TO CONSIDER IN ESTABLISHING DISTRICT BOUNDARIES

Historical Factors
- Original settlement boundaries
- Early concentration of buildings

Visual Factors
- Views
- Gateways
- Topography

Physical Factors
- Railroads, highways
- Major urban spaces
- Rivers, natural features
- Changes in land use
- Walls, fences
- Limits of settled areas

Surveyed lines and lines of convenience
- Legal boundaries
- Streets and right-of-way
- Property lines
- Uniform setbacks

E. DEFINING DISTRICTS AND USING BOUNDARIES

What does a district boundary include?

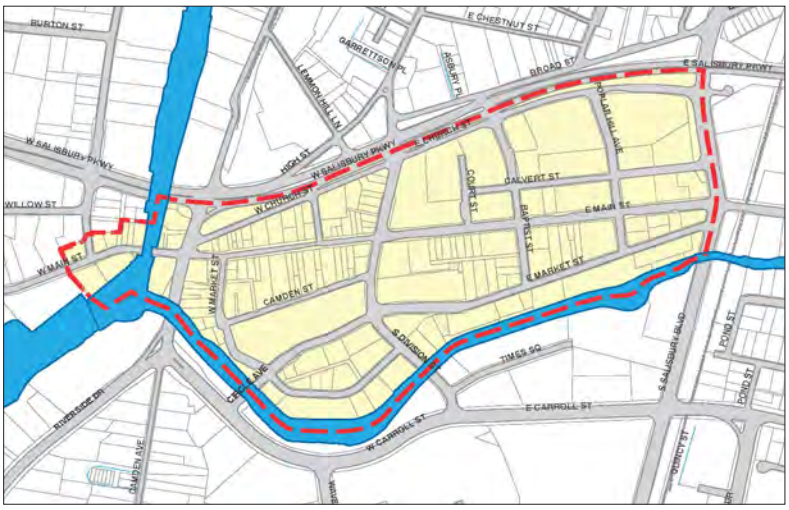
Local boundaries are drawn to contain all of the contributing resources that are identified. They also may be influenced by land use planning policies as well. New construction in the immediate context can affect one's perception of the historic character of the district and for this reason, the boundary may include vacant land and blocks that face historic properties.

Environmental setting and landscape features

Districts often include a combination of buildings, structures, landscapes, and site features, such as fences and walls.

Relationship to zoning, other boundaries

In addition to considering context for purposes of design review, boundaries may also be drawn to align with underlying zoning boundaries, special planned development areas, or other local demarcations.



City of Salisbury Downtown Historic District map.

Historic District Boundaries

A map of a potential historic district in Mackinac Island, Michigan, shows all buildings within the boundary. Contributors are identified in red; non-contributors in brown. Other structures, including two wharves, a stone retaining wall and a breakwater, are also identified as contributing resources.

Commissions use this information when designating historic districts and also in the design review process to consider the context of a project and the significance of the resource at hand.

Historic District Boundaries

Chestertown Historic District showing contributing and non-contributing properties. Orange parcels identify contributing properties, green parcels identify non-contributing properties, and the white parcels are vacant lots.

CHAPTER 4. TREATMENT OF HISTORIC PROPERTIES

A Starting Question

As a commissioner, you are preparing to review a proposal to alter a historic commercial building. The project would include repairs to existing features, some alterations and an addition. How will you determine if this work is appropriate?

Answering this question requires understanding the effect this work would have on the significance of the property and of alternative and perhaps more appropriate treatments that may be applied. These concepts are addressed in this chapter.

In this chapter:

A. Determining What's Important to Preserve
B. Basic Preservation Principles
C. Alternative Treatments for a Historic Property
D. Applying These Principles

ARTICLE 66B - APPLICATION OF CRITERIA

Stipulates that a commission shall

"strictly judge plans for ...[properties] of significance..."

and shall NOT strictly judge [properties] of little significance, or new construction.

A. DETERMINING WHAT'S IMPORTANT TO PRESERVE

Before reviewing a proposal, it is important to identify the key features that contribute to the significance of a historic resource. This may in part depend upon the type of resource and whether it is individually listed or is contributing to a district. Note that Maryland law still requires review of all sides, regardless whether the building is individually listed or a contributing resource to a district.

(See the discussion in Chapter 3 about the process of identifying key features.)

Individual landmarks

For individually listed landmarks, great care should be taken to identify all the key features that should be preserved. For properties that are highly significant, this may include features on all sides of the building. This is especially true for buildings that are visible from multiple public ways.

Significance and integrity of a contributor

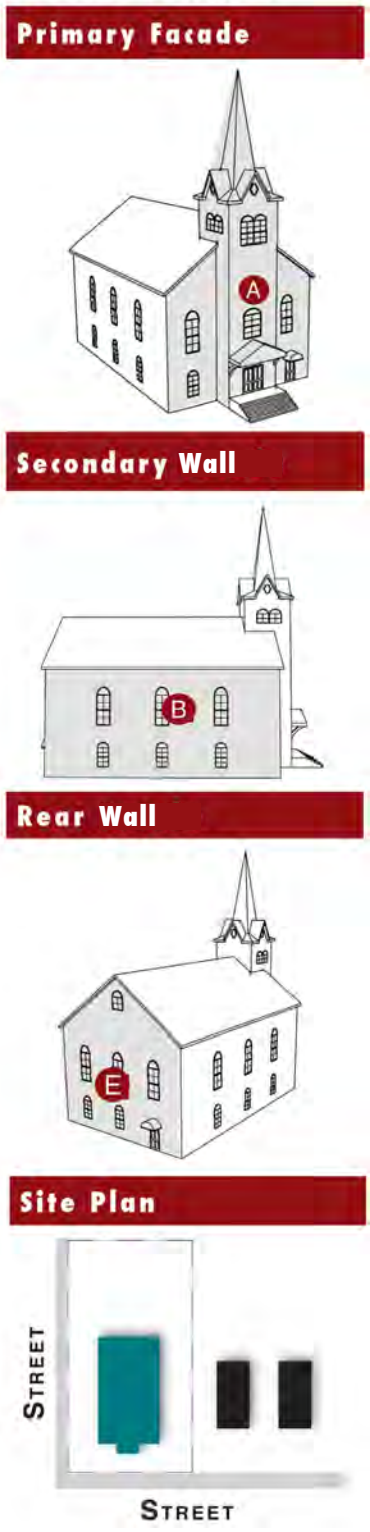
In a historic district where many contributors are perceived in a grouping, and sides and rear walls are less visible, features in remote locations may be less critical to the significance of the property, and more flexibility in their treatment may be an option. This will depend, however, upon careful consideration of the context and the reasons for significance.

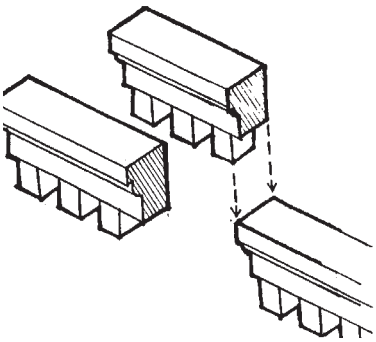
Setting priorities for key features

Some features may be more important in conveying the historic significance of a property. For many buildings, facades seen from the public way often contain more character-defining features then other facades. This series of sketches (to the right) illustrate a method of evaluating the priorities for preserving key features.

- Primary facade: Highly valued character-defining features
- Secondary wall: Moderately high value, with fewer character-defining features
- Rear wall: Few character-defining features

This analysis is more relevant in historic districts, where collections of buildings are contributors. Many individual landmarks may have highly valued features on all building faces.





When replacement is required, replace only those portions deteriorated beyond repair. Retain as much of the original fabric as possible.

REFERENCE

The Secretary of the Interior's Standards for the Treatment of Historic Properties can be found at: www.nps.gov/hps/tps/standguide/

B. BASIC PRESERVATION PRINCIPLES

With an understanding of the basic concepts of historic significance and integrity, it is important to comply with some overarching principles that underlie any appropriate treatment of a historic resource. The following principles should apply to all cases:

Principle 1: Preserve key features.

- A fundamental concept is that those character-defining elements that convey a property's significance should be preserved. This may include features from different time periods that demonstrate the evolution of the property over time.

Principle 2. Retain integrity.

- Preservation theory places value on retaining historic fabric wherever possible.

Principle 3. Respect the historic character of a resource.

- Don't try to change the style of a historic resource or make it look older than its actual age.
- Confusing the character by mixing elements of different styles or periods can adversely affect the historic significance of the property.

Principle 4. Seek uses that are compatible with the historic character of the resource.

- Converting a building to a new use different from the original use is considered to be an "adaptive reuse." For example, converting a residential structure to a bed and breakfast is an adaptive use.
- While commissions do not have jurisdiction over how a property is used, only how it is altered, changes in use requiring the least alteration to significant elements are preferred. In most cases designs can be developed that respect the historic integrity of the resource while also accommodating new functions.

C. ALTERNATIVE TREATMENTS FOR A HISTORIC PROPERTY

While most of the work that a commission will review is considered to be "rehabilitation," there are four categories of treatment that are recognized. These are based on definitions established by the Secretary of the Interior. These treatments are:

Rehabilitation

"Rehabilitation" is the process of returning a property to a state that makes a contemporary use possible while still preserving those portions or features of the property which are significant to its historical, architectural and cultural values. Rehabilitation may include a change in use of the building or additions. This term is the broadest of the appropriate treatments and is often used in local design review guidelines.

Preservation

"Preservation" is the act or process of applying measures to sustain the existing form, integrity and material of a building. Some work focuses on keeping a property in good working condition by repairing features as soon as deterioration becomes apparent, using procedures that retain the original character and finish of the features.

Restoration

"Restoration" is the act or process of accurately depicting, the form, features and character of a property as it appeared in a particular time period. It may require the removal of features from outside the restoration period.

Reconstruction

"Reconstruction" is the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific time and in its historic location.

Treatment of an Altered Cornice

Existing Building

Existing building with missing cornice.

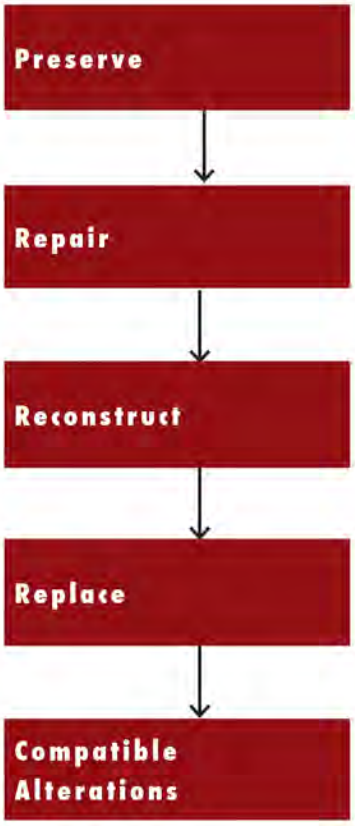
Reconstructed Cornice

Reconstruct a missing cornice when historic evidence is available.

Replaced Cornice

A simplified interpretation is appropriate if evidence of the original is missing.

Rehab in Plain English:



The fundamental concept for rehabilitation is that improvements should take the "path of least interference" with key features of the property.

Note that guidelines for treatment of historic properties must be consistent with those generally recognized by the Maryland Historical Trust.

The basics of a rehabilitation approach

The following steps show the preferred sequence for the treatments in combination with other work that may occur. When making a selection, follow this sequence:

Step 1: Preserve

If a feature is intact and in good condition, maintain it as such.

Step 2: Repair

If the feature is deteriorated or damaged, repair it to its original appearance.

Step 3: Reconstruct

If the feature is missing entirely, reconstruct it from appropriate evidence. Also, if a portion of a feature is missing, it can also be reconstructed.

Step 4: Replace

If it is not feasible to repair the feature, then replace it with one to match the original (i.e., similar in design, materials, detail, finish). Replace only that portion which is beyond repair.

Step 5: Install compatible alterations

Once the key character-defining features have been appropriately treated, identify the necessary alterations that may be needed to extend the viability of the property. If a new feature or addition is necessary, the design should minimize the impact to original features. It is also important to distinguish new features from original historic elements.

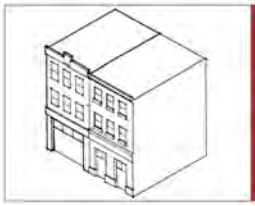
Steps for Planning a Preservation Project

Why is the Building Significant?

Step 1. Determine Building Significance
- How old is the building
- Where is the building/site located?
- I the building associated with a person/s?
- Is the building associated with an architectural style unique to he community?

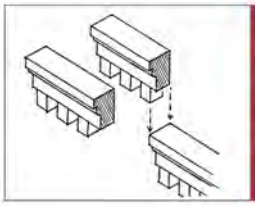
What Condition are the Building and its Key Features in?

Step 2. Determine Building Integrity
A building with historic integrity has a sufficient percentage of key character-defining features and characteristics from its period of significance which remain intact.



What is the Desired Project?

Step 3. Define Program Requirements
Are functional improvements needed? Or is the preservation of key features the objective?



Determine the Treatment Strategy

Step 4. Treatment Strategy
With the assessment of significance, building conditions and program requirements, now select the appropriate approach.

The Project Scope

The Project Scope
Steps 1-4 lead to a better understanding of what is important and appropriate to include in the scope of a preservation project.

D. APPLYING THESE PRINCIPLES

These next few pages illustrate ways in which these basic principles for preservation can be applied.

Some Basic Rehabilitation Principles Illustrated:

Before:

- Original materials are covered

After:

- Original materials restored.
- Key features (windows, doors, quoins and trims) are preserved.

Original character:
- Offset tower
- Bracketed cornices
- Stone window sill and arches
- Double hung windows
- Fire door
- Storefront
- Brick facade

Interim condition:
- Tower missing
- Cornices missing
- Stone trim damaged
- Upper windows altered
- Fire door altered
- Storefront missing
- Brick damaged

After rehabilitation:
- Tower reconstructed
- Cornices reconstructed
- Stone trim repaired in place
- Upper windows replaced
- Fire door shape restored, with contemporary storefront
- Storefront reconstructed

Applying Preservation Principles to the Treatment of an Altered Historic Porch

In this case study, two alternative design approaches are considered for a porch that has been substantially altered.

Treatment of an Altered Historic Porch

Existing Altered Porch

Treatment 1: Reconstruction

When should I use this approach?

- The building is highly significant
- There is good historical information about the design
- The needed materials and craftsmen are available
- The project budget permits
- The context has many intact historic buildings

Treatment 2: Replace

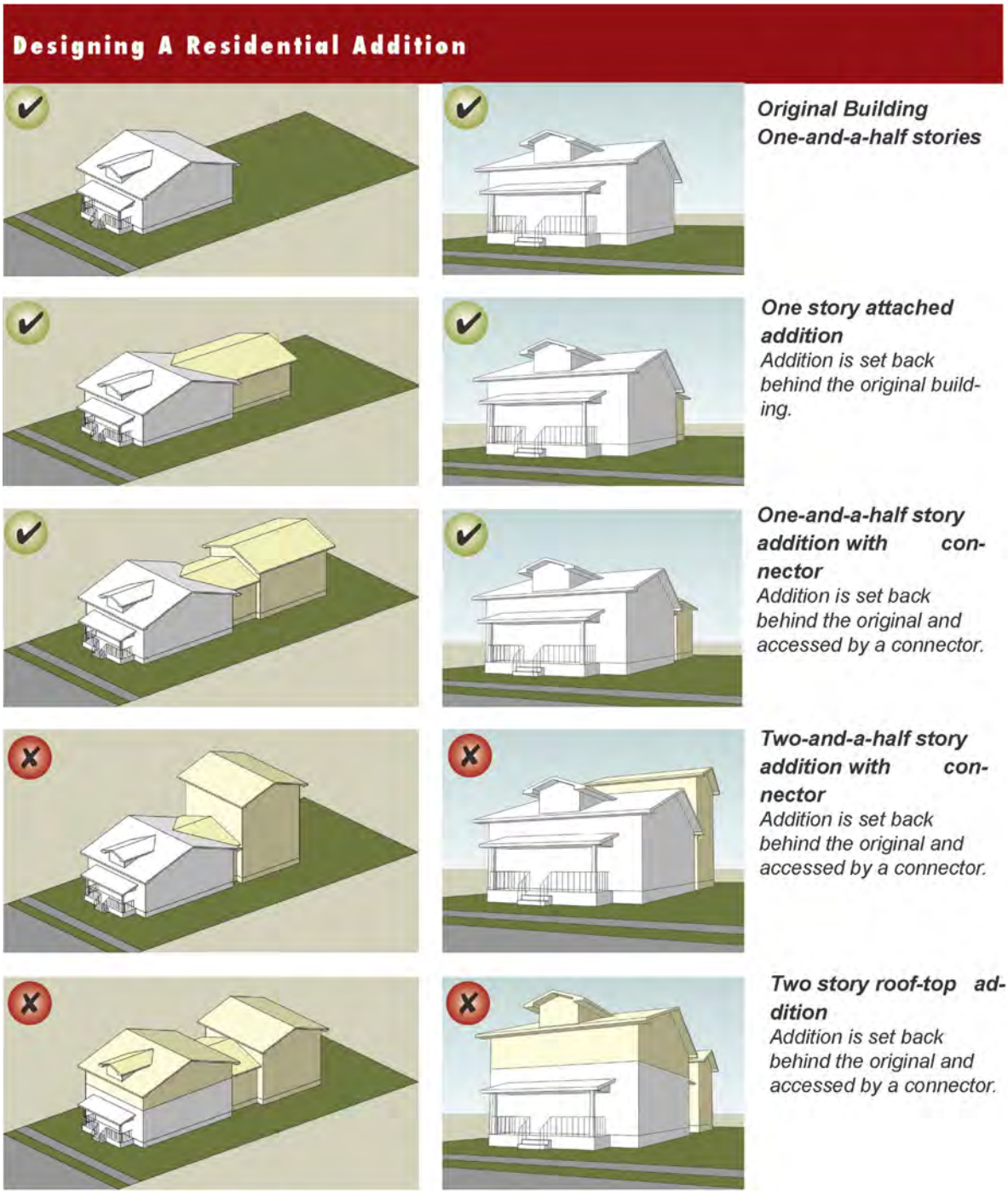
Simplified Interpretation

When should I use this approach?

- The building is a contributor to a district
- There is less historical information available about the original design
- The budget is more limited
- The work will be phased

Applying Preservation Principles to the Design of an Addition

In this case study, a series of alternative massing studies illustrates the potential effect upon one's perception of the character of the historic resource. A large scale addition overwhelms the character of this property. In this case, a single family house is the subject. A small scale addition, set to the rear, is the best solution, because it will have less of an effect upon the integrity of the original building.



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CHAPTER 5. NUTS AND BOLTS FOR COMMISSIONS

A Starting Question

You are now a new member of your local preservation commission, and will be participating in your first public hearing. A proposal to rehabilitate a historic building is on the agenda. How will you and your colleagues operate as a commission? And how will you make your decisions?

The manner in which decisions will be made is influenced by the roles of the staff and commissioners, is founded on broader policies and regulations and finally based on adopted design guidelines. These elements of the nuts and bolts of commission operations are addressed in this chapter.

In this chapter:

A. The HPC and Its Staff
B. The Basic Legal Tools
C. Design Guidelines
D. Defensible Decision-Making

NATIONAL ALLIANCE OF PRESERVATION COMMISSIONS CODE OF ETHICS FOR COMMISSIONERS AND STAFF

For more discussion about appropriate behavior for commissions and staff, see: http://www.uga.edu/napc/programs/napc/pdfs/Code%20of%20Ethics.pdf

A. THE HPC AND ITS STAFF

1. The role of the HPC

Citizens provide a public service to their communities by serving on preservation commissions. As such they help to promote implementation of the community's adopted policies and regulations related to historic preservation. They should do so objectively, without introducing their personal biases.

This is because commissions serve as an arm of local government. This role is to be distinguished from a local, non-profit organization, such as a historical society of preservation advocacy group. These other organizations are private entities, and may engage in advocacy or in promoting new policies.

The basic commission roles

The primary responsibility of a commissioner is to serve the public interest by protecting historic resources that have been determined to be important to the historical or architectural character of the community. Most ordinances further define a range of powers and responsibilities for the commission. These are typical:

Reviewing projects and advising

Reviewing proposed changes to the exteriors of properties within designated historic districts, and assisting property owners in devising appropriate strategies for maintenance and improvements. (Note that this assistance is provided in the context of public meetings, not one-on-one consultations.)

Decision-making

Recommending designations to the local historic register. (Note that the Maryland Historical Trust may be designated by the commission to make an analysis and recommendation concerning designations.)

Planning
Developing preservation plans and participating in broader community planning work.

Administering incentives
Approving applications for local incentives, such as property tax credits.

Monitoring and site visits
Observing work in progress, and visiting sites prior to decision-making. Note that site visits may be subject to open meeting laws.

Education
Promoting general awareness programs as well as technical procedures and design.

2. The role of staff
Many commissions have staff assigned to assist in their operations. Some typical roles:

As technical advisors
For communities with professional preservation staff, they may provide technical assistance related to appropriate treatment of properties, design and planning considerations. This may occur in the form of staff reports, with recommendations to the commission, and may also include informal guidance to property owners.

As administrators
This includes general clerical responsibility, such as publishing notices of hearings and agendas, and record keeping.

As decision-makers
Some ordinances provide for Administrative decision-making, usually for specific types of work. These may be for minor alterations, and when locally adopted guidelines are clear.

3. Appointment to the commission

Commissioners are usually appointed by the elected body of the local government, such as a city council or board of county commissioners. Some jurisdictions may provide for appointment by the mayor. Article 66B stipulates that members shall have three year terms, and may be reappointed.

Qualification of members

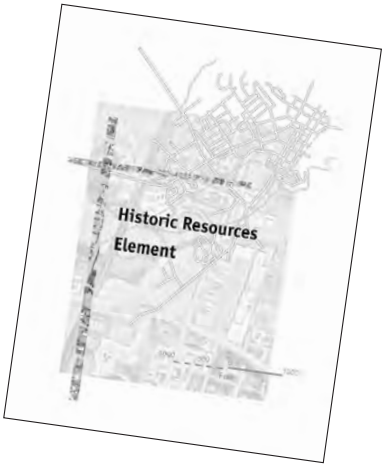
Those to be appointed to a preservation commission should have a demonstrated special interest in the field. In addition, the ordinance may specify requirements related to certain professional fields associated with design, history and other relevant topics. Article 66B lists these qualifications:

> *"Each member shall possess a demonstrated special interest, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, archaeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines."*

In addition, for those jurisdictions that are Certified Local Governments, at least two members must meet the Secretary of the Interior's Professional Qualification Guidelines, which provide guidelines for professional experience in a variety of categories similar to those in 66B.

B. THE BASIC LEGAL TOOLS

What are the foundation documents for a local preservation program? They begin with policies adopted by the elected officials in a comprehensive plan and often a preservation plan as well. Specific regulations are set forth in an ordinance and adopted rules and procedures.



The preservation element for Chestertown, MD addresses future historic district boundary changes.

1. Comprehensive plan

A comprehensive plan is the primary policy document for a local government. It includes policies related to land use, as well as a variety of other factors that address the well being of the community, including sustainability. Historic preservation is addressed in association with other land use and sustainability policies.

2. Preservation element

The comprehensive plan should contain policies and actions related to historic preservation. In some communities this may be a brief section that simply defines the role of preservation in the community, or it may be separated into its own chapter or element. The element is extensive in detail, providing more background for the preservation program and setting forth specific actions. In other cases, however, this level of detail is presented in a separate preservation plan.

3. Preservation plan

A preservation plan provides more detail about the community's historic resources, identifies key participants, and sets forth specific action items. It may set priorities for surveying, outreach, and incentives. It may also describe how other preservation partners can work with the commission to accomplish shared objectives.

4. Preservation ordinance

The preservation ordinance (Historic Area Zoning Ordinance) is the key legal tool that establishes the commission, assigns powers and establishes basic processes for designating properties, conducting design review and engaging in other activities to which it is assigned.

UNIFIED CODES

Note that in some communities that have adopted a unified development code the preservation ordinance will a sub-section. Some standard elements of a preservation ordinance may in fact be located in different parts of the code. Meeting procedures, enforcement and appeals, for example, may be the same as for other boards and commissions and therefore will be found in a different part of the community's regulations.

Historic area zoning ordinances are among the most powerful tools available to local governments to preserve historic places and to protect their community's character. As part of their planning and zoning authority, counties and municipalities may designate individual buildings and districts as historic. While these properties may also be listed in or eligible for the National Register of Historic Places, local designations are made solely by the local government.

Key principles for the ordinance

Local preservation ordinances vary widely, but the National Trust for Historic Preservation recommends that they comply with these five cardinal land-use principles:

1. An ordinance must promote a valid public purpose. That is, it must in some way advance the public health, safety, morals or general welfare.

2. An ordinance must not be so restrictive as to deprive a property owner of all reasonable economic use of his property.

3. An ordinance must honor a citizen's constitutional right to "due process." In other words, fair hearings must be provided and rational procedures must be followed in an ordinance's administration.

4. An ordinance must comply with relevant state laws.

BASIC ELEMENTS OF A PRESERVATION ORDINANCE

1. Statement of Purpose
Clearly state its public purpose. (Note that some purposes are established in Article 66B of the Maryland Code.)

2. Preservation Commission Established
Describe the qualifications of commission members as well as their terms of office.

3. Commission Powers and Duties
Typical duties: to conduct historic surveys, maintain inventories, undertake design review and keep adequate records of actions.

4. Criteria for Designating Historic Properties
Establish basic, objective criteria for evaluating significance.

5. Procedures for Designating Historic Landmarks and Districts
See "due process" requirements described in Chapter 2.

6. Reviewable Actions and Procedures
Describe what types of changes --e.g., demolitions, building/landscape alterations or new construction in historic districts-- are subject to review.

7. Standards for Review
These may be broad standards, which can then be elaborated in more detail in accompanying design guidelines. (Note that Article 66B establishes some basic criteria for review as well.)

8. Economic Hardship
Include a process and standards for evaluating economic hardship claims.

9. Interim Protection Provisions
Provide for interim protection for buildings nominated but not yet designated.

10. Minimum Maintenance (Demolition by Neglect)
Include "affirmative maintenance" provisions to prevent negligence in maintenance.

11. Enforcement and Penalties
Define penalties for violating the ordinance.

12. Appeals
Establish a method for appeals by aggrieved parties. State and local laws determine how appeals are made.

5. Rules of procedure

In addition to the ordinance, commissions should adopt rules of procedure. These describe in more detail the steps for conducting business.

Some typical provisions in rules of procedure are:

Meetings

- Schedule for (e.g., once a month)
- Attendance requirements (maximum of excused absences)

Filing an application

Schedule for filing an application in advance of a hearing. Submittal requirements, such as:

- Application form
- Building permit application
- Drawings and specifications of proposed work
- Photographs of property and it's setting

Public notification of a hearing

- A sign posted at the site
- A published announcement

Process for public comment

- At a public hearing
- Prior to a public hearing

Public hearing process

- Receiving applicant’s presentation
- Receiving staff comments
- Receiving comments from the public
- Questions by the commission

Decision-making

- Requirement of a quorum
- Rules for discussion among the commission
- Making a motion
- Voting
- Disposition of the agenda item (by vote)
  - Approval as submitted
  - Approval with modifications indicated at the meeting
  - Continuation to another meeting
  - Denial

Consent docket

In order to expedite decisions and manage meeting time effectively, commissions may assign projects to a "consent docket," in which all items are approved in a single motion in cases where there are no adverse comments by fellow commissioners, staff, or the public. Procedures permit removing an item from the consent docket if there are concerns to address.

Pre-application conference

A meeting before the formal hearing is a valuable way to assure that a proposal is headed in the right direction. Scheduled with staff, this provides an opportunity to advise applicants before they expend substantial time and money on a design proposal.

Recording decisions

The rules of procedure will also describe the requirements for recording decisions. Most hearings are tape or video recorded to retain a basic record of the proceedings. Written minutes, including decisions, are usually prepared. Some commissions only require detailed written decisions when the action is not by unanimous consent.

Administrative approval

The rules of procedure may also define a process for administrative approval and define project types that fall under this category. Generally, projects eligible for administrative review are limited to minor alterations and repairs that replace features in-kind.

Ex parte communication

A key consideration is how to handle communications about a pending application that occur outside the public hearing (*ex parte*). This may be a casual encounter with the applicant on the street, for example, in which they make a comment about their project. While such communication should be avoided, it is not always possible to do so. If an *ex parte* communication does occur, the rules of procedure usually require that fact to be announced at the hearing, and the commissioner involved may recuse him or herself from participating in a discussion about the property.

Location of rules of procedure

In many cases, the rules of procedure are adopted as a stand-alone document. This facilitates amending it without requiring changes to the preservation ordinance.

Note that some of these procedures may be included in the preservation ordinance. Furthermore, in communities that have adopted a unified development code, in which several "stand-alone" ordinances are consolidated, some procedural requirements that apply to all boards and commissions may be located in separated sections of the development code. Commissions adopt rules of procedure by a majority vote.

C. DESIGN GUIDELINES

An essential ingredient of the review process is an adopted set of guidelines. Commissioners should refer to their design guidelines for all project review.

What are design guidelines?

Design guidelines are criteria that guide commissions and property owners on historic resource treatment decisions. They are usually a separate document from the ordinance, but basic guidelines may be included in the code itself. In all cases, the guidelines should be associated with a set of criteria for appropriateness that are set forth in the ordinance. Guidelines are adopted by resolution of the governing body.

Guidelines enable local preservation commissions to make consistent and fair decisions when property owners seek to renovate or construct new buildings in a historic area.

Design guidelines typically address both rehabilitation and new construction in a historic district. Most guidelines also address signage, site design, demolition, relocating structures, streetscapes and treatment of individual landmarks. Locally adopted design guidelines should be consistent with best practices in the field of preservation, including the Secretary of the Interior's Standards for the Treatment of Historic Properties.

How are guidelines used?

These are three key uses of design guidelines:

1. As an educational tool

Guidelines are used to inform the general public and property owners of best practices in the treatment of historic resources.

2. In advance planning for a project

Property owners should turn to the design guidelines in the early stages of planning an improvement project.

3. In commission decision-making

And, of course, they are an essential tool in making informed and defensible decisions in the formal review process. To issue a certificate, the commission must find that the activity complies with all the relevant design guidelines.

How do local guidelines relate to the Secretary's Standards?

The Secretary of the Interior publishes the Standards and Guidelines for the Treatment of Historic Properties (36 CFR Part 68), which includes a specific set of guidelines for Rehabilitation. Article 66B, §8.06(a)(1) requires jurisdictions with preservation commissions to adopt guidelines that are consistent with those generally recognized by the Maryland Historical Trust, which in turn uses the Secretary's Standards. Therefore, local guidelines must be consistent with the Secretary's Standards for the Treatment of Historic Properties.

Key Design Guidelines Components - Sample Guideline

These are recommended components of locally-crafted preservation design guidelines.

A → **Architectural Details**

B → Historic features, including original materials, architectural details and window and door openings, contribute to the character of a structure. They should be preserved when feasible.

C → **1.1 Preserve significant stylistic and architectural features.**

D → • Storefronts, cornices, porches, turned columns, brackets, exposed rafter tails and jigsaw ornaments should be preserved.

E →

Protect and maintain significant stylistic features, such as these window features, cornice details and ornaments.

Key

A Design Topic
Describes the design topic addressed by the design guidelines that follow.

B Policy Statement
Explains the desired outcome for the design topic and provides a basis for the design guidelines that follow. If a guideline does not address a specific design issue, the policy statement will be used to determine appropriateness.

C Design Guideline
Describes a desired performance-oriented design outcome.

D Additional Information
Provides a bulleted list of suggestions on how to meet the intent of the design guideline.

E Images
Clarify the intent of the design guideline by illustrating appropriate and inappropriate design solutions.

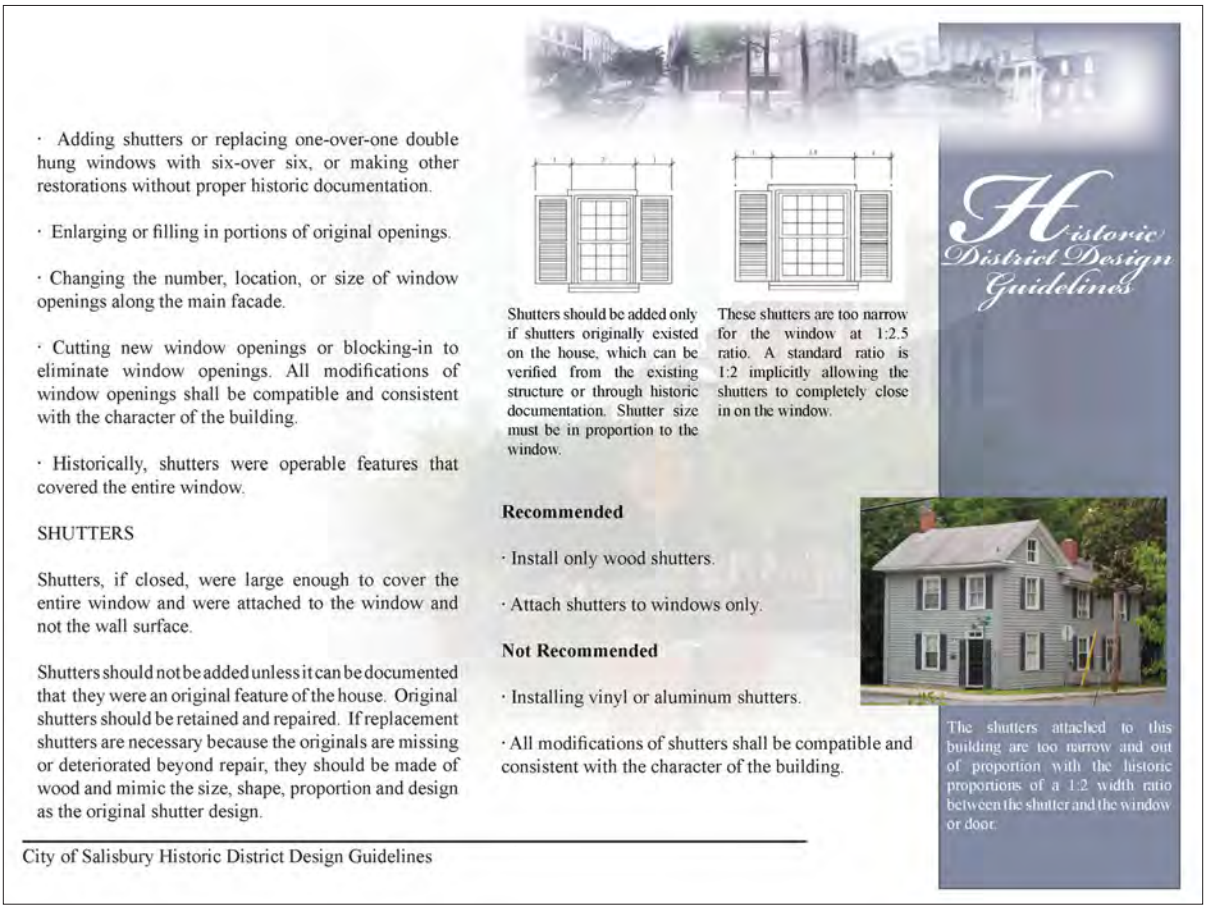
Are "guidelines" enforceable?

This is a semantic issue that many commissions face. Some people interpret the term “guideline” to mean that they are suggestions, not regulations. In fact, they are enforceable, especially when clearly linked to broader criteria in the ordinance. The guidelines in essence help to interpret those criteria.

Some communities, in order to make this enforceability clear, instead use the term “standards,” or the combined term “standards and guidelines.”

What if we don't have guidelines?

While locally-tailored guidelines are preferred, the *National Park Service’s Illustrated Guidelines for Rehabilitating Historic Buildings* can serve very well, and many communities adopt them. Because they are written to apply to contexts throughout the nation, they are broad in nature and require careful interpretation.



· Adding shutters or replacing one-over-one double hung windows with six-over six, or making other restorations without proper historic documentation.

· Enlarging or filling in portions of original openings.

· Changing the number, location, or size of window openings along the main facade.

· Cutting new window openings or blocking-in to eliminate window openings. All modifications of window openings shall be compatible and consistent with the character of the building.

· Historically, shutters were operable features that covered the entire window.

SHUTTERS

Shutters, if closed, were large enough to cover the entire window and were attached to the window and not the wall surface.

Shutters should not be added unless it can be documented that they were an original feature of the house. Original shutters should be retained and repaired. If replacement shutters are necessary because the originals are missing or deteriorated beyond repair, they should be made of wood and mimic the size, shape, proportion and design as the original shutter design.

Shutters should be added only if shutters originally existed on the house, which can be verified from the existing structure or through historic documentation. Shutter size must be in proportion to the window.

These shutters are too narrow for the window at 1:2.5 ratio. A standard ratio is 1:2 implicitly allowing the shutters to completely close in on the window.

Recommended

· Install only wood shutters.

· Attach shutters to windows only.

Not Recommended

· Installing vinyl or aluminum shutters.

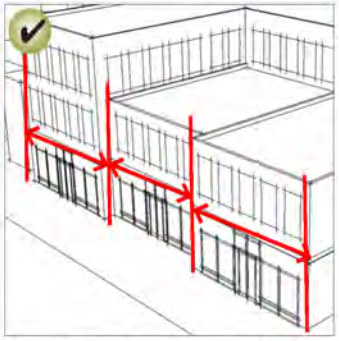
· All modifications of shutters shall be compatible and consistent with the character of the building.

The shutters attached to this building are too narrow and out of proportion with the historic proportions of a 1:2 width ratio between the shutter and the window or door.

City of Salisbury Historic District Design Guidelines

A page from the design guidelines for Salisbury, Maryland includes criteria for treatment of shutters on windows.

Facade heights of new buildings should fall within the established range of the block, and respect the traditional proportions of height to width.



New facade widths should reflect the established range of the building widths seen on the block.

Use architectural details that create visual interest and convey a three-dimensional facade to establish a sense of human scale.

B. Commercial Buildings

The following guidelines apply to the design of new commercial type buildings.

Mass and Scale

Traditionally commercial buildings had varied heights, articulated masses, visually interesting skylines and pedestrian-scaled street fronts. A new building should continue to provide a variety of pedestrian-friendly scales and visually appealing masses. Buildings should not be monolithic in scale or greatly contrast with the existing scale in the area.

A sense of human scale is achieved when one can reasonably interpret the size of a building by comparing features of its design to comparable elements in one's experience. Using building features and materials of a familiar dimension, such as traditional brick, storefronts and upper story windows, is an example.

4.13 Maintain the traditional size of buildings as perceived at the street level.

- The facade height of a new building should fall within the established range of the block, and respect the traditional proportions of height to width.
- Floor-to-floor heights should appear similar to those of traditional buildings in the area, especially the ground level.

4.14 Maintain traditional spacing patterns created by the repetition of uniform building widths along the street.

- A new facade width should reflect the established range of the building widths seen on the block.
- Where a building must exceed this width, use a change in design features to suggest the traditional building widths. Changes in materials, window design, facade height or decorative details are examples of techniques that may be used. These variations should be expressed consistently throughout the structure such that the composition appears to be a collection of smaller building modules.

Compatibility for new construction is addressed in many design guidelines. The focus is on respecting the traditional mass and scale, orientation to the street and alignment of key features that occur in the commercial district. Imitating historic styles is discouraged.

MORE HELP:

The Maryland Historical Trust sells a publication, "Defensible Decision Making: Preservation Commissions and the Law," which provide more detail on this topic.

See: http://mht.maryland.gov/mhtpress.html

Other guidance about defensible decision making is found in other parts of their web site.

D. DEFENSIBLE DECISION-MAKING

Defensible decision-making is simply the act of following all steps required to ensure due process. It is essential that the commission's decisions be seen as fair and objective, based on the facts and established criteria and guidelines. The commission's decision must be accurately documented such that, in the future, the process and the reasoning for the decision are clear.

Commissioners should NOT make decisions based on:

- Personal taste. Use the guidelines instead.
- Opinions of the applicant. Focus on the project, not the person.
- Information that is not in the public record.

Some key questions:

1. What are the elements of a defensible decision?

The decision should be based on the relevant ordinances, rules and procedures, including the formal survey and designation information and the adopted design review criteria and guidelines. It should be clearly stated, avoiding "double negatives" or unclear directives.

2. What should a motion say?

A motion to decide on a proposal should include:

- The stated action -- approve, deny, etc. (See Chapter 6.)
- The name and address of the property
- The "title" of the work proposed--alteration, addition, etc.
- Statement of compliance (or lack of). Be sure to reference to the criteria/guidelines on which the decision is to be made
- Reference to the significance of the property and its character defining features, as described in survey documents
- Reference the submittal documents

If the action is to approve a design proposal, an important consideration is that the motion and the conditions of approval are clear enough that, should it become necessary, non-compliance or a violation of the Certificate of Appropriateness can be proven. Many commissions have a "motion cheat sheet" to help commissioners remember to include all the elements above into a motion.

3. What should the minutes include?

Minutes should describe the items on the agenda as they occurred, with an indication of the actions taken, and references to the documents that were considered in the actions. Keep in mind that this may be the first point of reference that someone goes to for future research, and it should provide a "link" to other information that may be on file.

4. What should the administrative record contain?

Each project "case," should contain:

- Application form
- Supporting documentation describing the property and proposed action
- Hearing notice
- Minutes of the hearing
- Formal written letter of the decision and a copy of the Certificate of Appropriateness
- Any other documents submitted that were a part of the hearing (e.g., letters from interested parties, professional reports)

Remember, should a decision be appealed, the appellate body will only consider the information in the record, not new information.

5. What are the basic legal considerations to address?

The decision must be made with these considerations:

- Compliance with the Open Meetings Act
- Following Procedural and Substantive Due Process
- Disclosing any ex-parte communication
- Addressing any conflicts of interest
- Maintenance of a complete record

6. How are appeals handled?

Appeals are handled in the same manner as zoning appeals. The appellant may go to the Board of Appeals or to Circuit Court as provided by local law. While an appeal is more likely to come from an applicant, note that members of the public may appeal a commission decision also.

CHAPTER 6. PROJECT REVIEW

A Starting Question

A property owner has submitted a proposal to make improvements to their house, which is a contributor in the local historic district. What will you consider in the evaluation? What should you NOT consider in making your decision?

Reviewing a project for a Certificate of Appropriateness requires careful consideration of the facts presented, with an objective application of the design guidelines that are adopted by the commission.

In This Chapter:

A. What is the HPC's Scope of Authority?
B. When is a COA Required?
C. What Are the Steps in the Review?
D. What Are the Standards for Review?
E. Citing Design Guidelines
F. Potential Actions

NOTE:

Several of the requirements mentioned in this section come from Article 66B of the Maryland Code. While this does not apply to all jurisdictions, it does represent best practices that are applicable to all Maryland Commissions.

TIME LIMIT FOR ACTION

HPC's are required to act on a completed application within 45 days after the date the completed application was filed (Article 66B, §8.12(e)).

A. WHAT IS THE HPC'S SCOPE OF AUTHORITY?

According to state statute, a commission may only consider EXTERIOR alterations. Under Article 66B, commissions are required to review any alteration, even those not visible from the public way when any portion of the building is visible from the public way. That means, all sides of a building are "treated as a whole."

What if other repairs appear to be needed?

The commission is limited to considering the work described in the application for the COA. It cannot withhold approval of the COA because commissioners believe other improvements also should occur.

For example, if an original window has been replaced with an incompatible one, and replacing it with one to match the original would be desirable, the commission cannot require doing so, if work on that window is not in the application.

May the commission make design changes?

The commission should resist the temptation to redesign the project that is proposed. Instead, it should provide direction to the applicant that would guide them in making revisions that are more compatible with the design guidelines.

B. WHEN IS A COA REQUIRED?

The first step is to confirm that a project is within the review powers of the commission, and that a Certificate of Appropriateness (COA) or a Historic Area Work Permit is required.

Most commissions require approval for these actions:

- Construction
- Alteration
- Reconstruction
- Moving
- Demolition
- Any other exterior change

Note that this includes some work that would not require other permits from the local government. That is, the requirement for a building permit is NOT a test for requiring a COA.

Work not requiring a COA

Most commissions do NOT require a COA for routine maintenance that does not require replacing existing materials. (And, of course, interior work is not subject to review.)

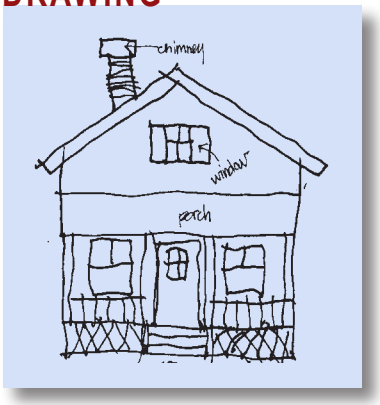
Routine maintenance

Repair that does not alter the character or finish of exterior materials does not require a COA. Examples include:

- Repainting, using the same color and type of paint
- Resecuring loose boards, shingles or other existing materials
- Such repairs that do not perpetuate an inappropriate condition

An analysis of key features of a historic district should be a part of submittal documents when context is a consideration.

UNACCEPTABLE DRAWING



1. Cannot be measured
2. Lacks sufficient detail

Compare with sketches on the next page.

C. WHAT ARE THE STEPS IN THE REVIEW?

These are best practices in project review each commissioner should follow:

Before the meeting

1. Confirm that submittal documents are complete.

Confirm that sufficient documentation is provided to adequately interpret the proposal and apply the guidelines. Staff may conduct this documentation review. Note that a checklist may be helpful to use as a reference.

2. Visit the site.

Commissioners should visit the site of the project in order to gain an understanding of the key features of the property and its context. Be sure to follow any open meetings laws that apply to site visits.

3. Review background information.

Review surveys, documents, historic photos and other information about the property.

4. Review the submittal documents.

Study them to determine the effects of the proposed work on character-defining features of the resource and its context.

At the meeting

These steps are recommended for hearing an application. Note that some specific procedural requirements may vary in your local ordinance:

1. Introduce the Commission and the review process.

Remember that some people attending the meeting don't know who you are! Explain the sequence of events. Be certain that the roles of the chairman, the commission members and their staff are understood.

2. Explain the purpose of the review.

The purpose is to assure that the proposal meets criteria for a COA.

3. Call each case according to the published agenda.

If deviations are required, announce this at the beginning of the meeting. Check for conflicts of interest.

4. Introduce the applicant and their project.

Identify the location of the project (preferably on a map visible to all).

5. Listen to the staff report.

If the Commission has staff, they should have reviewed the project in advance. Staff comments should identify the specific issues that this application raises and note how the project does/does not adhere to the guidelines.

6. Listen to the applicant's presentation.

Encourage the applicant to relate their project to appropriate sections in the design guidelines.

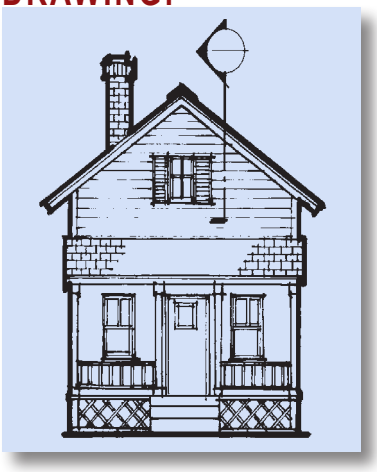
7. Ask for clarification.

Withhold criticisms at this stage. First determine that everyone understands what has been presented.

ACCEPTABLE DRAWING:

1. Free-hand, but to scale
2. Can be measured
3. Has sufficient detail

ACCEPTABLE DRAWING:



1. Mechanically drafted
2. Can be measured
3. Has sufficient detail

Compare with sketches on the previous page.

Commissioners should visit the site of any proposal that they will review.

8. Take public comments.

Ask that their discussion be limited to the project at hand, and its relationship to adopted standards and guidelines. Record the name and address of speakers.

9. Take statements from other public agencies or organizations.

In some cases, code and enforcement officers, representatives from local historical societies or advocacy organizations may provide testimony.

10. Critique the proposal.

Next, the Commission should evaluate the proposal, using the design guidelines.

11. Allow the applicant to respond.

If the commission raises concerns, allow the applicant to defend the design as proposed, provide further explanation, or discuss modifications they will consider.

12. Entertain a motion.

The motion should be clear and direct. It should include a reference to the guidelines, and a finding that the project is approved or disapproved because it meets or does not meet the guidelines adequately.

There are four options for a motion:

a. Approve as submitted
b. Approve with conditions for alterations to the submittal
c. Deny as submitted
d. Continue for additional information (being mindful of time limitations).

13. Vote on the proposal.

14. Summarize the results.

Be certain everyone understands the action just taken.

15. Record the decision.

Send the applicant a letter with the COA, and ask them to remove any signage posted.

Special review questions:

As you review an application, consider these questions to help focus the discussion:

1. What is the context?

What is the character of the setting and of adjacent buildings? Remember that you are reviewing the impact of a design upon its specific site, and its surroundings as well as the property itself.

2. What is the impact of the proposal?

Will character-defining features be altered/compromised?

3. Which are the critical design issues?

Certain guidelines will be more applicable than others. Decide which ones will be most significant in reviewing the proposal before you.

Remember, you are interpreting the guidelines. If you disagree with their stated policies, the review session is not the time to assert your opinions about the guidelines themselves—only about the design in relation to the guidelines.

4. Can the design issues be grouped?

Look for common themes. Often, discussion will ramble over many topics. Look for ways to simplify the debate by combining related issues.

5. Are non-design issues embedded?

Sometimes, the problem is not a design issue, but in fact a broader conflict over land use, density, or some other zoning policy that the guidelines cannot address or solve. Don't get sidetracked.

Routine maintenance usually is not subject to design review.

Use these techniques in your evaluation:

1. Use simple, clear language.

Be specific. Even if you approve the proposal, you want to give a clear message to future applicants and to future commission members about how you reached your decision, in the event that they, too, face similar issues.

2. Use the guidelines.

Use a checklist to confirm that you covered all the items, and then ask for discussion of any items that are in question. Allow open discussion, but monitor the content to avoid unnecessary repetition.

3. Keep the discussion moving.

When all the points have been made and people are repeating earlier comments, this is a good indication it is time to terminate the critique.

4. Keep the discussion on track.

Avoid "red herrings," those tangential issues that may be emotionally charged, but have no direct bearing on the specific proposal, are not addressed in the standards, and should not influence the decision. These can take up time, frustrate participants and confuse the decision-making record.

D. WHAT ARE THE STANDARDS FOR REVIEW?

Article 66B defines four criteria to use in reviewing applications. These constitute the “measuring stick” to use in determining appropriateness.

The criteria are:

1. The historic, archaeological, or architectural significance of the site or structure and its relationship to the historic, archaeological, or architectural significance of the area, and whether the site or structure is contributing or non-contributing

2. The relationship of the exterior architectural features of a structure to the remainder of the structure and to the surrounding area

3. The general compatibility of exterior design, scale, proportion, arrangement, texture and materials

4. Any other factor including aesthetic factors that the commission deems pertinent

Strictness of applying the criteria

According to Article 66B, strictness or leniency is related to the degree of significance of a property. Local governments not subject to Article 66B may take a similar approach.

The instruction in the code is to treat contributing properties strictly, but non-contributing should be treated with less stringency in terms of applying design review criteria.

New construction also is to be treated with less strictness, although some communities include an exception if the work would have a major effect upon the district.

(Note that other criteria may be included in your local ordinance, and should be referenced.)

INFILL IN PLAIN ENGLISH

New "infill" construction may occur as an addition to an existing building, or as a separate structure on a historic site or a parcel in a historic district.

Design guidelines for new construction focus on compatibility with the historic setting, not imitating it. In fact, new designs that pretend to look old are discouraged, because they confuse the record of history.

At the same time it is important that new development contribute to an overall sense of continuity while also conveying the evolution of the area. It can do so by reflecting more basic patterns of development in the district. Using similar building forms and materials, placing buildings in alignment with others in the block, and respecting the mass and scale of the context are examples.

Therefore, new buildings and additions should be distinguishable as such and not confuse one's interpretation of the development of the property or of the district. That is, each building should appear as a product of its own time.

E. CITING DESIGN GUIDELINES

As a means of interpreting those broad criteria to specific COA proposals, the commission should then apply its design guidelines. These may be the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, or they may be locally tailored design guidelines. Many communities adopt the Secretary's Standards initially, and then augment them with locally crafted guidelines as time and budgets permit.

When reviewing a proposal, be certain to cite the guidelines. This makes it clear that the commission has made its decision objectively, using the tools that are officially adopted, not through personal taste or arbitrarily.

F. POTENTIAL ACTIONS

Once it is time for the commission to make a decision, these are the options:

New construction in a historic district is reviewed considering its context.

Approve as submitted

No amendments are made to the submittal documents and no other conditions are attached.

Approve with conditions or modifications

An amendment may be made as a part of the motion to approve. This may be a change in what is proposed, as the applicant may elect to amend the application to better conform to the design guidelines, or an added stipulation. In some cases, the commission may approve with a requirement that a detail of the design be returned for approval later, either by the commission or staff.

Continue the agenda item

If the applicant and the commission agree, a decision may be delayed in order for more information to be provided, or to allow the applicant to modify the proposal based on discussion at the hearing. Since Article 66B requires that a decision be made within 45 days of submittal, a continuance requires agreement, and it should be so noted in the meeting minutes.

Deny

If an application is denied, it may not be resubmitted for a year's time.

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CHAPTER 7. SPECIAL LEGAL ISSUES

A Starting Question

The owner of a historic house has applied to demolish the building, because otherwise keeping it would be an "economic hardship." The building is badly deteriorated as well. How should you respond?

This chapter addresses two of the knottier issues that commissions may encounter: That of economic hardship claims, and "demolition by neglect."

In this chapter:

A. Economic Hardship
B. Demolition by Neglect
C. Enforcement

PENN CENTRAL DECISION

The Supreme Court ruled in its decision regarding a takings claim by Penn Central in New York City that a taking had not been demonstrated, and that a local preservation commission had the right to regulate a property.

This case is the basis for hardship tests.

For more information, see: http://preservapedia.org/Penn_Central_Transportation_Company_v._City_of_New_York,_438_U.S._104_(1978)

A. ECONOMIC HARDSHIP

"Economic Hardship" is a specific condition that can only be determined using adopted criteria and carefully following procedures outlined in the ordinance. It is not something that commissioners should use their personal feelings about.

This is often an emotional issue, but commissioners should not feel that the question should be avoided. Sound legal precedent indicates that the government, including the preservation commission, can engage in regulations that may raise this question.

What is it?

Economic hardship exists only when NO reasonable use of a property is available to the owner, due to the regulations in the preservation ordinance. It is based on language in the Fifth Amendment of the United States Constitution.

The term "reasonable use" is key. If a property is limited in its use due to the regulation, such that the owner cannot maximize the economic benefits, but there is still a reasonable return, then no takings is found to exist.

Also note that the "hardship" is with the PROPERTY itself, not with the owner. That is, one's personal finances are not a part of the consideration.

The preservation ordinance should provide a specific process and criteria for determining if an economic hardship exists, and commissioners should follow them carefully.

How should a hardship claim factor into project review?

The commission should consider an economic hardship claim separately from an application to demolish the building. The first step is to decide if demolition is permitted, regardless of economic circumstances.

The permit to demolish

An application to demolish requires a COA or a similar permit.

A demolition permit might be issued if:

- The property is a non-contributor in a historic district.
- The property, although presently listed as contributing, is found to have lost its integrity and thereby merits reclassification as non-contributing (e.g., through damage from a fire or a natural disaster).

The hearing for the demolition permit should be based on the facts related to the significance of the property. If it retains its integrity, then demolition should be denied.

Finding economic hardship

While the claim for hardship may be made as a part of an application to demolish a building, it should be handled as a separate agenda item, and the specific test for hardship should be applied.

That is, the commission in the first hearing would find that demolition is inappropriate, but then in the second hearing find there is an economic hardship (if that is the case), which would then justify issuance of a demolition permit.

Usually, if no economic hardship claim is made, a commission will deny an application to demolish a historic building since its primary objective is preservation of such resources.

Demolition delay

Some ordinances do not give the commission the power to deny demolition, and only provide for a delay in issuing a demolition permit. The intent is to provide some time to find an alternative, such as selling the property to a buyer who will maintain it.

These provisions usually delay only for a defined period of time (e.g., 90 days as defined in Article 66B). The claim of economic hardship is less likely to occur in this situation.

Economic assistance

A special case of concern is the situation with an owner-occupied home, in which the owner lacks the financial means to maintain their property adequately. They may consider a requirement to use proper rehabilitation procedures an "economic hardship."

Technically, this is not the same as the hardship related to the Fifth Amendment, but the public may confuse the two. Ideally, the local government will have assistance and incentives programs to help owners make appropriate improvements for these situations. Incentives may include state and local tax credits for rehabilitating historic structures. For more information about incentives, refer to chapter 1.

EVIDENTIARY CHECKLIST FOR ECONOMIC HARDSHIP

The National Trust for Historic Preservation, in its publication *Assessing Economic Hardship Claims Under Historic Preservation Ordinance,* provides this checklist of information that is a useful tool for local commissions and other regulatory agencies considering economic hardship claims:

1. Current level of economic return

2. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents

3. Feasibility of alternative uses for the property that could earn a reasonable economic return

4. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property

5. Knowledge of landmark designation or potential designation at time of acquisition

6. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs

This paper is available at: http://www.preservationnation.org/resources/legal-resources/understanding-preservation-law/resources/Economic-Hardship-Assessment.pdf

B. DEMOLITION BY NEGLECT

Simply put, intentionally allowing a property to deteriorate to the point that it cannot be saved is "demolition by neglect." The assumption is that the owner is capable of maintaining the building, but chooses not to do so.

Article 66B provides a legal definition of demolition-by-neglect as:

> *"...any wilful neglect in maintenance and repair of a structure, not including any appurtenances and environmental settings, that does not result from financial inability to maintain and repair the structure and that threatens to result in any substantial deterioration of the exterior features of the structure."*

What is the issue?

The concern about demolition-by-neglect is that a building can lose so many of its key features that it will no longer retain sufficient integrity. If that happens, then the building would no longer have historic significance, at which point outright demolition may be permitted under other governmental regulations.

It is especially an issue when an owner may have been denied a permit to demolish a building and, in response, they simply let it decay, perhaps even opening it to the elements to accelerate damage.

How should it be handled?

Address this issue with care. Many local ordinances around Maryland have provisions for dealing with cases of demolition-by-neglect, most allowing for:

- Issuing a civil (and sometimes criminal) citation
- Ability of the government to undertake necessary corrective work
- Putting a lien on the property

Citing for demolition-by-neglect requires discretion. Ideally, the commission will adopt specific criteria for identifying demolition-by-neglect.

The ordinance also may limit the use of this provision to specific classes of property, such as:

- Unoccupied structures
- Structures open to the elements
- Major landmarks
- Properties in designated revitalization areas

Enforcement of demolition by neglect

The practical reality is that it is rare for a local government to step in and renovate or stabilize a deteriorated historic building and then bill the owner. Few local budgets have funds earmarked for such activities and it would be unpopular. At most, the local government may board up a building or cover a leaking roof with a tarp - a short-term solution.

Use it with care

For this reason, it is important to employ this provision with care. It is useful, however, to have such a provision in the ordinance. It serves as a potential deterrent and is then available for really critical conditions or highly valued buildings.

Communicate first

Talk to owners first if substantial deterioration is identified, and document all efforts to communicate with them. Citing for demolition-by-neglect should only occur after demonstrating that the government has done everything possible to resolve the situation.

C. ENFORCEMENT

Preservation ordinances should establish a procedure for enforcing its terms. Ordinances are usually enforced through stop-work orders and the assessment of fines and other penalties for individual violations.

The HPC may request that enforcement action be taken for a violation, if the situation is brought to their attention. Note that the HPC does not actually cite the property owner in violation, as it is not the HPC's role or responsibility to police violations.

What is the HPC's role in enforcement?

The commission plays an advisory role. City or county staff is responsible for issuing citations and any related penalties, since this is a part of the zoning code. This may be a code enforcement official.

The HPC may request that enforcement action be taken for a violation, if the situation is brought to their attention, but it is not their responsibility to police violations.

What is the nature of certificate of approval violations?

As authorized in the state enabling legislation (66B), the HPC can request that the enforcing authority can institute any of the remedies and penalties provided by law. Violations of a COA/HAWP are municipal violations, just like any other violations in the City Code.

Article 23A, Section 3(b) of the Annotated Code of Maryland specifies that municipalities and non-charter counties can levy fines up to $1000 day for violations. Cities and counties may elect to impose lesser limits, while charter counties may impose steeper penalties.

CHAPTER 8. SPECIAL DESIGN ISSUES

A Starting Question

The owner of a historic house in the local district has applied to remove all of the original windows and replace them with new ones in order to save energy. They also wish to cover the wood siding with a cementious composite board material, in order to save on repainting over time. How will you respond?

These are questions that commissions frequently face. They bundle several issues: When is replacement or covering of original material merited? How does any energy saving action fit into an overall conservation strategy for a property? To what extent must commissions remain up-to-date on changing trends in materials and technology?

Responding to these questions requires delving into the current information about these issues. Extensive information exists about them, and more continues to be published, so it is important that commissioners be open to new information as it becomes available.

In this chapter:

A. Substitute Materials
B. Sustainability and "Green" Issues

INFO ON SUBSTITUTE MATERIALS

An excellent start for understanding the specifics of alternative materials is published by the National Park Service:

Preservation Brief 16, The Use of Substitute Materials on Historic Building Exteriors

See: http://www.nps.gov/history/hps/tps/briefs/brief16.htm

Note that, for projects seeking state or federal tax credits or other approvals, the SHPO or the National Park Service may apply a stricter standard for replacement materials. Local commissions should be aware of this when also reviewing those projects.

A. SUBSTITUTE MATERIALS

1. What are substitute materials?

In historic preservation, a substitute material is one that is used to appear similar to one used originally. Today, this may mean using a cast concrete product to imitate a stone window sill.

Historians will point out, however, that the tradition of using substitutes goes back for centuries and that many of the materials we now consider historic were in fact alternatives to other materials that may have been more expensive or difficult to acquire.

A stamped metal cornice, at the top of an Italianate commercial building, for example, evolved from stone versions employed during the Renaissance in Europe. But, while there is precedent for their use, what is their application in rehabilitation projects?

Are substitutes appropriate at all?

In its publication, ***Preservation Brief 16, The Use of Substitute Materials on Historic Building Exteriors***, the National Park Service acknowledges that substitute materials may be appropriate in some situations:

> *"Some preservationists advocate that substitute materials should be avoided in all but the most limited cases. The fact is, however, that substitute materials are being used more frequently than ever in preservation projects, and in many cases with positive results. They can be cost-effective, can permit the accurate visual duplication of historic materials, and last a reasonable time. Growing evidence indicates that with proper planning, careful specifications and supervision, substitute materials can be used successfully in the process of restoring the visual appearance of historic resources."*

Are substitutes always best?

Not necessarily. While claims for durability and accuracy of appearance may be made, the results don't always measure up. It is reasonable for commissions to ask to see examples of how the material has fared in similar conditions of environment and location on a property.

2. Covering vs. replacing

Remember to confine the discussion about alternative materials to situations in which a replacement is indeed needed. That is to say, COVERING original material is not appropriate, regardless of what the new material would be. Removing original material that is in good condition and continues to serve its function is also inappropriate.

3. Reasons for considering alternatives

If replacement is merited because of the severe deterioration of the original fabric, then doing so with the same material as the original is certainly preferred, but when might it be reasonable to consider an alternative? These are some conditions:

- ### Inherent flaws in the original

In some cases, while the original material has historic value, it has not performed well and replacing in kind may perpetuate a problem. This is becoming more of an issue with some "Recent Past" resources from the mid-Twentieth Century, in which experiments with new materials and assembly methods sometimes led to disappointing results.

- ### Availability of the original as replacement

If it is difficult to obtain the original material, then an alternative may be more acceptable.

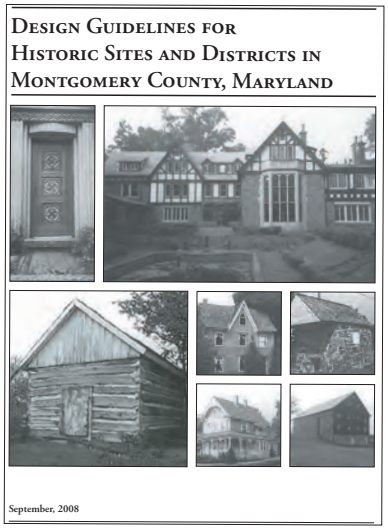
- ### Availability of craftsmen

Even if the original material may be available, are craftsmen on hand who can appropriately finish and install it? This may be an opportunity to sponsor a training program to build the local capability for such skills.

MORE ON SUBSTITUTE MATERIALS

The National Alliance of Preservation Commissions has published a helpful paper on alternative materials.

See: http://www.uga.edu/napc/programs/napc/publications.htm



Design guidelines for Montgomery County include policies related to alternative materials and energy conservation with windows.

See: http://www.montgomeryplanning.org/historic/designguidelines.shtm

- **Code requirements**

Contemporary building codes and related regulations may prohibit use of the original material. While this issue may apply more frequently to interiors (which are not under the purview of Maryland commissions), it may also be an issue for exterior features as well.

4. Criteria for alternative materials

If it is determined that using the original material may not be the best solution, what would be the criteria for considering an alternative replacement material? These are some conditions to consider:

- **Accuracy**

Will the alternative material successfully convey an appearance that matches the original? They should be similar in:

- Detail
- Profile
- Texture
- Finish

- **Durability**

Does the material have a satisfactory record of performance in a similar condition, including climate and location on the building? Experimenting on historic buildings is not the place to test new materials in the community.

- **Location on the property**

Does the location on the property affect one's perception of the material? For example, a synthetic, resin-cast material may work well for a cornice molding that is located high on a building where it cannot be touched. By contrast, using this material for a replacement column on an entry porch where people will frequently touch it may not be suitable.

Using alternatives on secondary walls, especially those not visible from the public way, may also be an option.

- **Impact on existing materials**

Some new materials may interact negatively with other historic materials and accelerate deterioration. Combining some different metals, for example, can create a corrosive condition.

- **Extent of the replacement**

A somewhat separate consideration is how extensive the need is to replace original materials, in terms of maintaining the integrity of the historic property. Replacing a single cornice with a substitute may have little effect. Wholesale replacement of all stone sills, window arches, moldings and foundations with cast concrete could threaten the historical significance of the property.

SOLAR PANEL DESIGN OPTIONS

For a quick summary of solar panel design options, see the NAPC publication: http://www.uga.edu/napc/programs/napc/pdfs/Green%20Building_TAR_marapr08_Going%20Green_Solar%20Panels_Kooles.pdf

5. Addressing alternative materials in the design guidelines

Design guidelines should be as clear as possible about the use of alternative materials. If alternative materials are permitted, a discussion about appropriate locations should be integrated into the document; otherwise, creating a supplemental chapter or policy paper is an option.

Design Objective
Replace original building materials in-kind when repair is not an option.

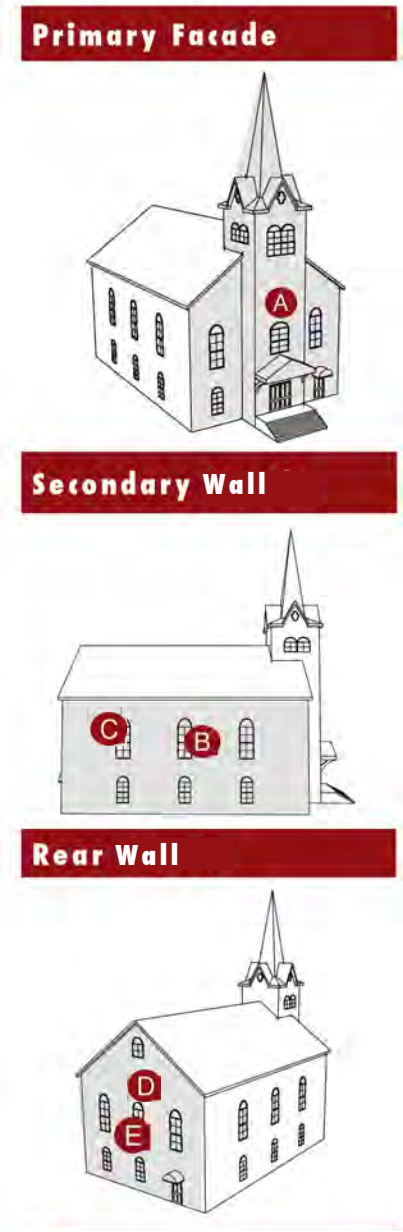
2.10 When replacement is needed, use materials similar to those employed historically.

- Match the original in composition, scale and finish when replacing exterior siding. If the original material is wood clapboard, for example, then the replacement should be wood as well. It should match the original in size, the amount of exposed lap and surface finish.
- If original material is painted, replacement material should be painted.
- Do not use synthetic materials, such as aluminum, vinyl siding, fiber-cement board, or other synthetic materials, as replacements for primary building materials.

Guideline 2.9: *Repair deteriorated primary building materials by patching in pieces of wood rather than replacing entire wood members. (Norbeck, MD)*

Design guidelines for Montgomery County restrict the use of alternatives for primary building materials to subordinate locations.

Civic Facades



Priorities for preserving original materials

For many historic resources in historic districts, the front wall is the most important to preserve intact, in terms of its character-defining features. Alterations are rarely appropriate on primary facades. Many side walls are also important to preserve where they are highly visible from the street.

By contrast, portions of a side wall that are not as visible may be less sensitive to change. The rear wall usually contains fewer character-defining features and alterations can occur more easily without causing substantial negative effects to the historic significance of the property.

This concept of evaluating the different faces of a building to locate the appropriate places for alterations is illustrated in these sketches of a civic building.

Location A: Primary Facade
- Preservation and repair of features in place is the priority.
- This is especially important at the street level and in locations where the feature is highly visible.

Location B: Highly Visible Secondary Wall
- Preservation and repair in place is the priority.

Location C: Not Highly Visible Secondary Wall
Preservation is still preferred.
- A compatible replacement or alteration may be acceptable.
- More flexibility in treatment may be considered.

Location D: Not Highly Visible Rear Wall
- A compatible replacement or alteration may be acceptable when it is not visible to the public.
- More flexibility in treatment may be considered.

B. SUSTAINABILITY AND "GREEN" ISSUES

Achieving energy efficiency and promoting sustainability and green building are major issues that commissions are now addressing. These issues are not new, but perhaps the level of activity and interest is.

Does energy conservation "trump" preservation, or are the two mutually achievable? Design guidelines lack clear direction about how to balance green building objectives with the charge of protecting cultural resources. The basic principles of most guidelines call for preserving original materials and other character-defining features as well as respecting the inherent energy-saving properties of historic resources, but they usually address sustainability indirectly, particularly with respect to the way in which "building green" is seen today.

A traditional porch is an integral part of climate moderation for many historic buildings.

1. What is sustainability?

Sustainability is widely recognized as having three components:
(1) cultural/social,
(2) economic, and
(3) environmental.

Historic preservation contributes to all of these, and to some extent all three may be addressed in design guidelines. This is because sustainability is a more global value underlying historic preservation, although it may not be so clearly articulated in some preservation ordinances and design guidelines.

UNITED NATIONS DEFINITION OF SUSTAINABILITY

"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

INFO ON WINDOWS

The National Alliance of Preservation Commissions has published several helpful papers on windows and energy savings.

Publications include:
http://www.uga.edu/napc/programs/napc/pdfs/Popular%20Window%20Replacement%20Myths.pdf

Replacement window manufacturers will often compare their product to a historic wood window that has not been restored or maintained – a window that fits this description will undoubtedly be drafty and inefficient. In most cases, however, a fully-restored, tight-fitting, properly functioning, weather-stripped wood window combined with a quality storm window will have the same insulating properties as a double-glazed replacement window. Other steps can be taken to reduce heating bills, such as insulating attics and floors; the U.S. Department of Energy notes that 31% of air infiltration is at floors, walls, and ceilings, and only 10% at windows.

2. Key concepts

As with the issue of substitute materials, the theory of sustainability and its related technologies continues to evolve.

a. Keep the big picture

First, it is important to keep the big picture in mind. Don't become absorbed with evaluating the merits of a specific energy-saving device and its impacts on a historic property without first understanding how it fits into an overall strategy for the property.

b. Resource conservation

Preserving historic buildings and their materials avoids negative impacts from new construction. New building construction requires a tremendous amount of fossil fuels and other natural resources, which release greenhouse gases into the atmosphere and cause other negative effects.

c. Landfill reduction

Preserving a building reduces the amount of discarded building material that ends up in landfills.

d. Life cycle analysis

When considering the life cycle of building materials, one must consider the energy consumed to create the materials, but also environmental costs, such as resource depletion and pollution. These ideas may be difficult to convey, but it is important to set out these concepts as a foundation for the guidelines. Comparing these "costs" to the longevity of the material is key to life cycle analysis. Often more traditional materials will score the highest, because they will last longer and have less pollution associated with their manufacture, in contrast to some newer materials that may appear cost-effective early on, but are not as durable over time. Some synthetic materials used in windows are often cited as examples.

Typically a commission will not directly evaluate the life cycle performance of materials that are proposed for alterations, but the technical information related to this topic can assist property owners in developing a strategy for sustainability. It also will underpin reasoning to retain older, significant materials that do have longer life cycles than some replacements would.

e. Energy conservation

Reducing energy consumption for a property is a key objective for many property owners, and should be addressed in the design guidelines. Often, sealing leaks and adding insulation to ceilings and floors will be the most effective.

f. Energy generation

The companion piece to energy conservation is energy generation, in the interest of reducing demand on public utilities and minimizing operating costs. Examples of energy generation methods include solar panels and wind turbines. Since property owners may be immediately attracted to these two approaches, they should be placed in context with other elements of sustainability in the introductory materials.

3. Developing a strategy for a property

A property owner should outline an overall strategy for energy conservation and generation as it relates to their property. This strategy should include an energy audit, an evaluation of existing systems, and a list of established goals for achieving savings. Several good publications exist that describe how to prepare a strategy for older buildings.

Here are some basic steps to suggest to property owners in preparing a strategy:

a. Conduct an energy audit.

An energy audit often reveals a number of opportunities to reduce energy consumption.

GUIDELINES FOR COMMISSIONS

The National Trust for Historic Preservation has published a booklet of advice for commissions considering writing guidelines for sustainability called ***Developing Sustainability Guidelines for Historic Districts***.

See: http://www.preservationbooks.org/Bookstore.asp?Item=1399

THE NATIONAL TRUST'S SUSTAINABILITY PROGRAM

The National Trust for Historic Preservation's sustainability work is focused on finding federal, state and local policy solutions that level the playing field for older buildings and enable people to save and improve the energy performance of the places they care about. The National Trust is working through the Seattle-based Preservation Green Lab with national partners to pioneer new policy solutions that will ensure historic buildings can remain vital parts of sustainable communities across the country.

The National Trust's sustainability website, preservationnation.org/issues/sustainability offers information that is useful to commissions on everything from the retrofitting your wood windows to the latest information from the Preservation Green Lab and Capitol Hill.

b. Set project goals for sustainability.

Setting goals will help place individual actions into context, and may, for example, demonstrate that priorities for energy conservation should be to increase insulation in walls, ceilings, and foundations rather than replacing windows.

c. Identify management opportunities.

Management strategies for energy conservation (such as raising and lowering awnings to adjust temperatures, or using a ceiling fan to de-stratify air) should also be used.

d. Develop an overall strategy for the property.

When a property owner can present a strategy as a part of their application for a Certificate of Appropriateness, it also can help the commission consider the potential benefits of the actions proposed. If the strategy contains audit findings, this information may help place a specific request, such as window replacement, into context in terms of payback of investment.

4. Basic Principles for Sustainability and Preservation

The following principles should apply to all projects:

a. Think big, act small.

When planning any project, first determine the overall goal, and then consider which method of achieving that goal will use the fewest resources and have the least impact to the historic structure.

For example, a comprehensive approach will usually demonstrate that replacing windows is not an effective conservation strategy.

b. Make best use of inherent conservation features.

Make best use of a building's inherent sustainability features as a first step.

For example, use awnings to moderate temperatures.

c. Minimize negative impacts on the historic resource when installing a new component.

It is important that new components should leave no permanent negative impacts to the structure. Locate a new component where it will not damage, obscure, or remove significant features or materials. Maintain the ability to interpret the historic character of a building when retrofitting for energy conservation or generation.

For example, locate a solar collector to be visually unobtrusive.

d. Use materials that minimize environmental impacts in their manufacture and maintenance.

Such materials include those that are produced locally, are manufactured without use of harsh chemicals, have long life cycles, are durable in the local climate and are designed to be repairable and recyclable.

For example, some vinyl windows may use harsh chemicals and have short life cycles.

5. Use construction methods that minimize impacts on landfill and reduce waste.

Preserving as many existing building features as possible reduces demolition waste, and reduces construction waste generated by replacement building materials. Remove only what is necessary and reuse as much material as feasible on-site. Repurpose as much of the remaining building materials and components as possible to minimize waste and demand for landfill space.

For example, avoid sending original windows to the landfill.

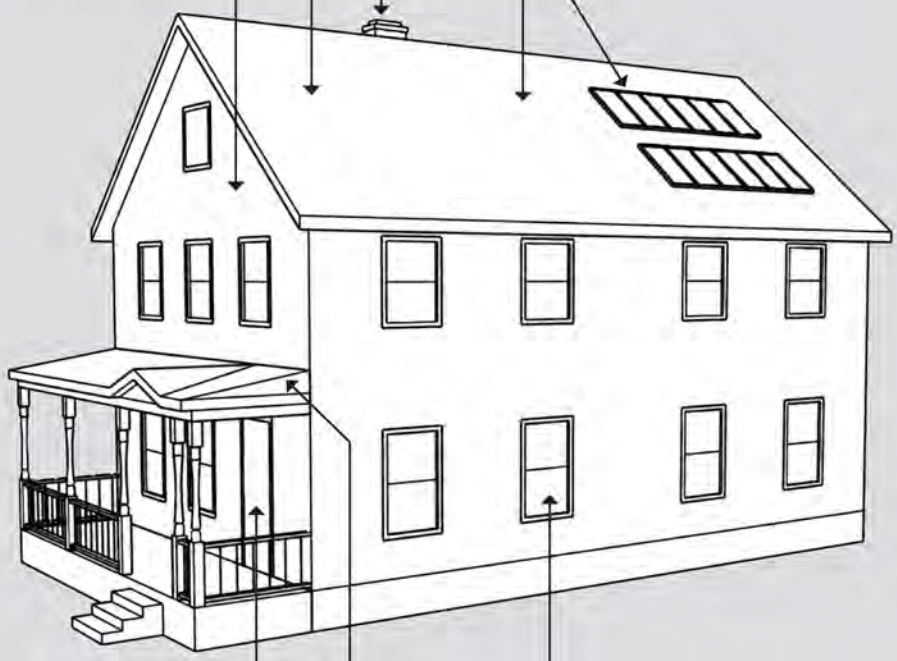
THE SECRETARY OF THE INTERIOR'S STANDARDS AND GUIDELINES FOR SUSTAINABILITY

Published in 2011, these supplement the SOI's Rehabilitation Standards, addressing energy conservation techniques in detail.

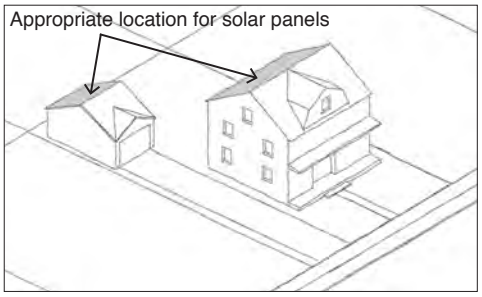
See: home.nps.gov/applications/digest/headline.cfm?type=Announcements&id=10359

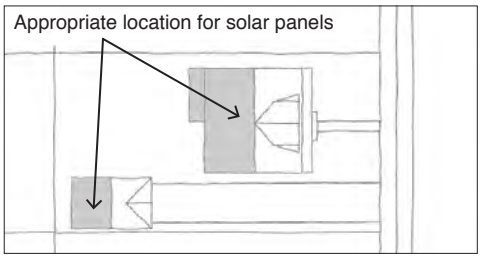
Residential Building Energy Efficiency Diagram

This diagram summarizes the principal guidelines for energy efficiency and energy collection that appear in this document. These measures will enhance energy efficiency while retaining the integrity of the historic structure.

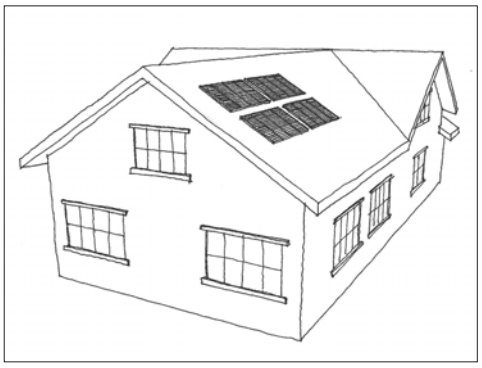


While commissioners should not be expected to evaluate energy efficiency calculations, it is reasonable to ask a property owner to demonstrate that they have conducted an energy audit and developed an overall strategy before undertaking specific projects such as window improvements. This diagram summarizes some of the basic actions related to the exterior of a house. Other, often highly beneficial, work will be internal.





Guideline 9.1: *Solar panels should be located to the side or rear roof planes or on a secondary structure (all gray surfaces).*



Guideline 9.1: *Solar panels should be mounted flush with the roof.*

9.0 Solar Panels

Solar panels should be located in unobtrusive places. If it is necessary to mount solar panels on a historic building, rather than elsewhere on the site, it is essential that the panels are installed such that they do not change the character of the building. If solar panels are placed on a roof they should be designed and positioned to have a minimal effect on the character of the structure. Placement on rear facing roof planes of the primary structure should be considered first.

Design Objective

Solar panels should not adversely affect the historic character of the structure to which they are being added.

9.1 Reduce the visual impacts of solar panels as seen from the public right-of-way.

- Locate the solar panels away from public view when feasible.
- Solar panels should be mounted apart from the building or on secondary structures, such as a shed or garage, when feasible.
- Solar panels should be located on new construction, such as a new wing, where possible.
- Locate an attached solar panel in a manner such that it does not affect the primary roof facade elevations.
- Location on a primary or street facing roof plane is generally inappropriate.
- Where roof mounted, solar panels should be flush to the extent feasible.
- If not attached to the building, collectors should be located in side or rear yards. Exposed hardware, frames and piping should have a matte finish, and be consistent with the color scheme of the primary structure.
- Panels not attached to the building should be screened by landscaping to reduce their visibility. However, screening may diminish the effectiveness of the collectors to receive sunlight.
- Alternative technologies, such as photovoltaic shingles, may be appropriate in certain circumstances.

Preservation guidelines for Montgomery County recommend that solar panels be located on secondary structures or subordinate portions of the primary buildings, when feasible. Some other communities are more flexible, providing guidance about design details of the panels on a primary elevation. Still other commissions take a stricter position, prohibiting them when visible from the public way.

Resource Category	Historic Resource with Historic Window	Historic Resource with Non-Historic Windows	New Additions	Accessory Structures/Out Buildings: Historic	Accessory Structures: Non Historic or New Construction
Master Plan Site	Primary Elevation: Repair historic windows; if beyond repair, wood TDL	Primary Elevation: Wood TDL appropriate for resource type/style	Visible from Public Right of Way (PRW): Wood TDL appropriate for resource type/style	With historic windows: Repair historic windows; if beyond repair, wood TDL	Wood SDL appropriate for resource type/style
	Secondary Elevation: Repair historic windows; if beyond repair, wood TDL	Secondary Elevation: Wood TDL appropriate for resource type/style	Not visible from PRW: Wood SDL appropriate for resource type/style	Nonhistoric Windows: Wood SDL appropriate for resource type/style	
Outstanding	Primary Elevation: Repair historic windows; if beyond repair, wood TDL	Primary Elevation: Wood TDL appropriate for resource type/style	Visible from Public Right of Way (PRW): Wood TDL appropriate for resource type/style	With historic windows: Repair historic windows; if beyond repair, wood TDL	Wood SDL appropriate for resource type/style
	Secondary Elevation: Repair historic windows; if beyond repair, wood TDL	Secondary Elevation: Wood TDL appropriate for resource type/style	Not visible from PRW: Wood SDL appropriate for resource type/style	Nonhistoric Windows: Wood SDL appropriate for resource type/style	
Contributing	Primary Elevation: Repair historic windows; if beyond repair, wood TDL	Primary Elevation: Wood SDL appropriate for resource type/style	Visible from Public Right of Way (PRW): Wood SDL appropriate for resource type/style	With historic windows: Wood SDL appropriate for resource type/style	Wood SDL appropriate for resource type/style
	Secondary Elevation: Repair historic windows; if beyond repair, wood TDL	Secondary Elevation: Wood SDL appropriate for resource type/style	Not visible from PRW: Wood SDL appropriate for resource type/style	Nonhistoric Windows: Wood SDL appropriate for resource type/style	
Non Contributing	No restrictions for primary or secondary elevations			No restrictions on existing nonhistoric or new accessory structures, whether they are visible or not visible from PRW	
Infill/New Construction on Master Plan Site or District	Primary structure: Wood SDL appropriate for resource type/style			Accessory Structures: Wood SDL appropriate for type/style	

Design guidelines for Montgomery County provide more detailed guidance about replacement windows in general, which can also apply to energy efficiency retrofit questions. The guidelines remain more strict about replacements on primary walls and on contributing structures.

GLOSSARY

Approve
To pass a motion by the process of voting, usually by majority or a predetermined percentage “for” vs. “against” votes

Board of Appeals
Most preservation ordinances in Maryland require appeals of historic district commissions to be heard by the Circuit Court. Others, however, appeal to the local board of zoning appeals.

Character-defining features
(Related to descriptions of property types and styles)
Character refers to all those visual aspects and physical features that comprise the appearance of an historic building. Character-defining elements include the overall shape of the building, its materials, craftsmanship, and decorative details, as well as the various aspects of its site and environment.

Certificate of Appropriateness
(Same as Certificate of Approval)
When a historic preservation commission or design review board reviews and approves proposed changes to a historic building, they issue a Certificate of Appropriateness, a document stating that the proposed work is appropriate for the historic district and meets local code criteria.

Certificate of Approval
(Same as Certificate of Appropriateness)

Charter county
The Maryland Constitution was amended in 1915 allowing counties to operate under the charter form of government, which when approved by the county voters, gives the county control over most local matters. Charter counties have a County Council for legislation and may also have a County Executive for the executive function. The eight charter counties are: Anne Arundel, Baltimore, Harford, Howard, Montgomery, Prince George's, Talbot, and Wicomico Counties along with Baltimore City.

Circuit Court
(Related to appeals)
A court that sits at two or more places within one judicial district

Compatibility
(Related to application of design guidelines/criteria, for alterations and new construction)
Designing new buildings or alterations that fit in the context of the historic neighborhood. Some elements of compatible design are: keeping a sense of human scale, using building features and materials of a familiar dimension, such as traditional brick, to maintain the visual continuity in the neighborhood.

Conflict of interest
(Related to hearing procedures, and Due Process)
Occurs when an individual or organization is involved in multiple interests, one of which could possibly corrupt the motivation for an act in the other.

Conjectural
(Related to replacement or reconstruction of missing details)
The replacement or reconstruction of building parts and details must be based on physical evidence, historic photographs or writing and not upon conjecture.

Continue
The postponement of a case to a later date, usually the next commission meeting.

Contributing property
(Related to Historic Survey)
A contributing property is any building, structure, object or site within the boundaries of a historic district which reflects the significance of the district as a whole, either because of historic associations, historic architectural qualities, or archaeological features. Another key aspect of the contributing property is historic integrity.

Criteria for designation
(Same as Criteria for Significance)
Established criteria for evaluating the eligibility of properties for inclusion in a formal listing of historic resources.

Criteria for significance
(Same as criteria for designation)

Demolition
The tearing down of a portion of, or an entire building or other structure

Demolition by neglect
Any willful neglect in maintenance and repair of a structure, not including appurtenances and environmental settings, that does not result from financial inability to maintain and repair the structure and that threatens to result in any substantial deterioration of the exterior features of the structure.

Demonstrated special interest
Historic preservation commissions typically include residents who have shown special interest or experience, or education in history, architecture, archaeology, or other preservation-related fields.

Deny
(Option for a motion action; related to approve, approve with conditions and continue)
A decision which prevents the application for an action from being executed; when a local preservation commission denies an application for a Certificate of Appropriateness, then the work proposed is not authorized.

Design guidelines
(Related to Secretary of the Interior's Standards and Guidelines, and Criteria for Appropriateness in a local preservation ordinance)
Design guidelines are criteria that assist commissions in determining the appropriateness of actions proposed that are subject to their approval. They are usually a separate document from the preservation ordinance, but basic guidelines may be included in the code itself. In all cases, the guidelines should be associated with a set of criteria for appropriateness that are set forth in the ordinance.

Deteriorated beyond repair
(See Demolition by Neglect)
Intentionally allowing a property to deteriorate to the point that it cannot be saved is "demolition by neglect."

Economic hardship
(Related to Takings)
The juncture at which the diminishment in value allegedly resulting from the governmental restriction on the use of the property constitutes an “unreasonable economic hardship” to the owner, which is synonymous with an unconstitutional “taking.”

Enabling legislation
Statements and references found in the Annotated Code of Maryland or a specific county code allowing a specific course of action with regard to historic properties and environmental settings

Energy efficiency
One aspect of sustainable development and the conservation of resources is conserving energy. This relates to energy consumed to moderate climatic conditions in a building, but also to the manufacture and maintenance of building materials. Sensitive stewardship of the existing building stock reduces our environmental impact.

Ex parte communication
(Related to Due Process; Conflict of Interest)
Communications made to influence a decision-making official off the record and out of the presence of other parties. Ex parte communications are restricted by state and local law.

False sense of historical development
When a newly constructed building or feature imitates or replicates the style and details of an historic building, thus implying a building date that is inaccurate.

Green building
A building designed to make efficient use of physical resources and energy while minimizing its negative impacts to the environment

Historic Area Work Permit
(Related to Certificate of Appropriateness)
The purpose of a HAWP is to assure that applicable criteria are met for work performed in a historic district or on a historic site.

Historic fabric
Original or old building materials (e.g. masonry, wood, metals, marble) or construction the make up a structure of historic significance

Historic property
A prehistoric or historic district, site, building, structure, or object significant in history, architecture, engineering, archeology or culture at the national, state, or local level

Historic significance
Importance for which a property has been evaluated and found to meet National Register or local criteria

Individual landmark
Properties identified as having historic significance and formally designated to a local historic register may be listed individually (usually termed a “landmark”), or as a contributing resource in an historic district.

In-kind
(Related to Replacement and Repair)
A process of rehabilitation utilized only where materials are extensively deteriorated or damaged and cannot be repaired. Deteriorated materials or features are repaired with the same materials. This process is based on physical evidence of essential form and detailing of historic materials or features.

Integrity
(Related to Significance)
The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance. A majority of the resource's structural system and materials and its character defining features should remain intact.

Lenient
(Applies to state statute, related to properties of less significance and new construction)
Refers to the judgment level the commission will maintain in its analysis of plans for structures determined by research not to be historic, archaeological or architecturally significant. The local government's adopted design guidelines may be applied with more flexibility when stated in the ordinance and in compliance with state statute.

Local designation
(Contrast with National Register of Historic Places)
A local government designates a local historic district or individual local landmark using a formal process defined in its preservation ordinance. This occurs as a part of the community's police powers, and is a zoning action.

Motion
In a commission hearing, a statement entered into the record to approve, continue or deny an application (e.g., to designate a property "historic"). The statement must be seconded and voted upon by the commission. Motions must relate to a relevant provision of the law.

Municipal infraction
Violation of a City's code subject to a civil penalty, usually a fine. Each day of a violation can be viewed as a separate violation.

National Historic Preservation Act
National legislation (Senate Bill 3035) intended to preserve historical and archaeological sites in the United States. The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices.

National Register of Historic Places
(Contrast with Local Designation)
An Individually Listed Building or those contributing to a National Register Historic District are listed in the National Register of Historic Places, the country's official list of historic properties and resources worthy of preservation. These individual buildings, structures, sites and objects are significant in American history, architecture, engineering, archaeology and culture.

Non-charter county
Non charter counties possess no constitutional powers of their own. Maryland non-charter counties: Allegany, Calvert, Caroline, Carroll, Cecil, Charles, Frederick, Garrett, Kent , Queen Anne's, St. Mary's, Somerset, Washington, Worchester

Non-contributing resource in an historic district
Those properties that do not have historic significance are termed "non-contributing." The reasons for this designation could be that it is of more recent construction; it is an older property that has lost its integrity, or there is insufficient information to determine that the property has historic significance.

Open Meetings Act
(State Government Article, Title 10, Subtitle 5, Annotated Code of Maryland)
Based on the General Assembly's policy that public business be performed in an open and public manner, and that citizens be allowed to observe the performance of public officials and the deliberations and decisions that the making of public policy involves.

Ordinance
(May also be part of unified code)
Legislation adopted by the local governing body; a Preservation Ordinance is a part of the code specifically written to establish a preservation program, including a local commission, its powers and duties, as well as processes for designating historic resources and for reviewing proposals for work affecting them.

Preservation
(One of four recognized appropriate treatments for historic resources)
The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

Also, in informal usage, members of the public may use this terms in a broader sense, to mean any method of careful stewardship of historic resources.

Procedural due process
While local governments do have the right to regulate properties for preservation, they must do so following procedural due process. Procedural due process is based on the concept of "fundamental fairness." Procedural due process refers to the manner in which government actions are carried out, that is, the actual process of decision-making. It requires advance notice of the proceedings, final notice of the decision reached and opportunity for individuals directly affected by the proposed governmental action to be heard.

Reconstruction
(One of four recognized appropriate treatments for historic resources)
The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location

Rehabilitation
(One of four recognized appropriate treatments for historic resources)
Rehabilitation is the process of returning a property to a state that makes a contemporary use possible while still preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

Restoration
(One of four recognized appropriate treatments for historic resources)
The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

Routine maintenance
Work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historic, archeological or architectural significance of the historical site or structure.

Rules of Procedure
(Related to decision making; due process)
A specific order of action which must be followed before an event (e.g.,decision making). Historic Preservation Commissions establish Rules of Procedure for the disposition of applications regarding construction, alteration, reconstruction, rehabilitation, restoration, moving or demolition of a designated historic landmark, site, structure or structure within a historic district.

Significance
(See Historic Significance)

Secretary of the Interior's Standards
Specifications set by the Secretary of the Interior for the treatment of historic properties. Includes separate standards for the preservation, restoration, rehabilitation and reconstruction of historic properties.

Strict
(Related to state ordinance)
Refers to the judgment level the commission will maintain in its analysis of plans for structures determined by research to be historic, archaeological or architecturally significant. When guidelines must be applied strictly, a commission should consider how they apply to all key character-defining features of a property.

Substantive due process
Substantive due process addresses the rationality or reasonableness of the content of a decision itself, requiring that the decision be based on the evidence on the record as applied to the standards and criteria in the ordinance. It also protects individuals from bias, conflicts of interest, and other factors bearing on the impartiality of the decision-makers.

Substitute material
A material that is used in the place of an original, or existing material. In common usage, a substitute material is a newer product, usually designed to imitate the appearance of an earlier material.

Sustainability
(Related to energy efficiency and green building)
Sustainability is the managed use of resources in order to maintain the quality of life for current and future generations. It includes social, environmental and economic components. Energy conservation, which is often a topic related to preservation of historic buildings, is a component of the broader concept of sustainability and should be considered in that context.

Takings
Derives from a provision in the Fifth Amendment that states that private property shall not "be taken for public use, without just compensation." Some courts have suggested that, in exceptional cases, the effect of the historic designations could be so economically severe as to amount to a taking.