Chapter 5

HISTORIC PRESERVATION REGULATIONS

Background
Linking the past to the present through the preservation of older structures and neighborhoods is a primary goal of historic preservation. It is an attempt to enhance the public welfare, which is a justified governmental concern. Historic preservation encompasses a range of federal, state, and county regulatory requirements and financial incentives that can be implemented individually or in combination with one another. Since the beginning of the modern preservation movement in the 1930s, and especially since 1966, the year of the enactment of the National Historic Preservation Act, an increasing number of useful regulations, strategies, and programs have been implemented to assist in the preservation of historic resources. Furthermore, both federal and state courts have held that governments may legislate to protect community aesthetics, a concept basic to many historic preservation ordinances.

Issues
Since the enactment of the county’s Historic Preservation Ordinance (Subtitle 29 of the Prince George’s County Code) in 1981, the county’s preservation program and the field of preservation have benefitted from significant regulatory and technical advances. In order to reflect these advances, the ordinance requires periodic revisions to reflect the current regulatory environment and local preservation issues and concerns. Revisions to the ordinance may address, among other things, the adequacy of definitions, provisions for adequate enforcement, demolition-by-neglect, procedures for proposed reductions to environmental settings, and revisions to historic area work permit (HAWP) criteria and procedures. Program regulations should make certain that the county is sending a clear and consistent message in support of historic preservation and adherence to applicable regulations and review processes.

Over the years, the Historic Preservation Commission has had to address unapproved work at historic sites and resources ostensibly because property owners were unaware of the requirements of the HAWP process. Although some of the work was suitable for retroactive approval, some of it was not compliant with HPC-approved policies, guidelines, and regulations. Unapproved work at historic sites is a continuing problem. Therefore, the need for ongoing public information and communication with property owners cannot be overstated. In addition to necessary public information and communication, the proper enforcement of building permit and HAWP regulations is required. Additional resources focused on property inspection would address this problem.

Demolition-by-neglect is difficult to enforce, partly because the definition allows a property to deteriorate to a condition where the structure becomes unsafe, and partly because the county building inspectors’ case load is not focused on historic preservation. As a result, the provision has not been effectively enforced. Revisions to the ordinance definition would strengthen this provision.

The establishment and revision of environmental settings for historic sites in the context of a development proposal have frequently resulted in the protection of only a minimal amount of land associated with a property’s underlying zoning. This practice has sometimes resulted in the diminution of cultural landscapes and exposed historic sites to incompatible new development. There is a need for revisions to ordinance provisions to better protect environmental settings.

The definitions section of the preservation ordinance may need to be revised for consistency, accuracy, and to reflect legislative intent. The definitions section should explain terms used throughout the ordinance (e.g., alteration). With the use of consistent and understandable terms and definitions, better decision-making will result.
A property owner’s initial contact with information about historic properties is typically a real estate agent. Although the preservation ordinance requires disclosure of historic site, historic resource and/or historic district status of a property pending transfer, many owners remain unaware of their responsibilities. As a result the need for public information on the county's preservation program should begin before transfer and continue regularly throughout the course of property ownership. Real estate brokers should be informed regularly about the regulations, incentives, and requirements associated with historic property designations and historic property ownership.

There have been instances when a property that appeared to meet historic site designation criteria was demolished or significantly altered because it was not included in the Inventory of Historic Resources. These buildings were lost or irretrievably altered, because there was no mechanism in place for their preservation. Therefore, ordinance language and related enforcement measures specifically addressing this gap in resource protection are needed.

Recommendations

Goal: Improve implementation of existing historic preservation regulations.

Policy 1: Protect historic resources through the use of appropriate legislative and legal measures.

Strategies

1. Prepare and enact comprehensive amendments to the historic preservation ordinance following the guidance provided by analysis developed during the preparation of this plan to reflect nationally recognized best practices. The potential amendments may include refinements to definitions, clarifications of provisions for adequate enforcement, demolition-by-neglect, revisions to HAWP criteria and procedures, and to clear definitions of the procedures for establishment of environmental settings.

2. Consider adding more precise language to the preservation ordinance to clarify and strengthen provisions that are intended to prevent demolition-by-neglect by increasing associated fines.

3. Consider amending language in the preservation ordinance to address specific cultural significance criteria for the designation of historic cemeteries and archeological sites.

4. Consider amending language in the preservation ordinance to clarify procedures for establishing and revising environmental settings that encourage the retention of traditional cultural landscapes.

5. Review and revise, where appropriate, the ordinance-specified appeals process addressing the procedures for property owners, public agencies, and other citizens to appeal decisions regarding historic preservation actions.

6. Review and revise, where appropriate, the Historic Preservation Commission’s rules of procedure for approval by the County Council to reflect best practices for meeting procedures.

Policy 2: Ensure uniform and efficient enforcement of the preservation ordinance.

Strategies

1. Continue to compile and maintain a historic property database, historic property inventory files, and a portfolio of photographs of existing conditions for each historic resource.

2. Ensure that rehabilitation of historic sites and/or new construction within historic districts are conducted in accordance with HAWP approvals.

3. Provide trained staff to address enforcement of historic preservation regulations so that projects are conducted in accordance with an approved HAWP, as required.

4. Consistently provide the Historic Preservation Commission, the Planning Board, and the County Council with conditions of approval for development applications that ensure the protection, stabilization, and rehabilitation of historic sites and their environmental settings.
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Policy 3: Ensure interim protection for historic properties threatened with alterations or demolition that are not included in the Inventory of Historic Resources.

Strategy

1. Develop preservation ordinance language and associated provisions in other parts of the county code to delay the granting of a permit for grading, alterations, and/or new construction in order to allow for the evaluation of a property for potential designation as a historic site.

Policy 4: Provide well-informed, consistent, and fair administration of the historic preservation ordinance.

Strategies

1. Continue to participate in and fulfill the requirements of the Certified Local Government (CLG) program by maintaining a preservation ordinance compliant with federal requirements, by filing the required annual report, by participating in training workshops for the Historic Preservation Commissioners, by applying for CLG grants to fund qualifying historic preservation projects, and by supporting the statewide network of CLG communities.

2. Improve the knowledge and expertise of the Historic Preservation Commission, both for new commissioners and for the entire body, through training and annual retreats to ensure that commissioners are informed on best practices.

3. Advertise the availability of Historic Preservation Commission position openings on the Internet and publish notices of openings in local newspapers. The notice should describe the mandated federal CLG appointment requirements.

4. Review and revise HAWP criteria and procedures to ensure consistent decisions that implement the purposes of the historic preservation ordinance.

Policy 5: Continue to ensure that historic property owners, applicants, and presenters before the HPC are informed about the regulations and requirements of Subtitle 29.

Strategies

1. Develop new informational materials to assist those interested in undertaking projects to describe the steps, requirements, and time frames associated with the successful completion of an application or review process.

2. Work with the real estate community to assist in informing sellers and buyers of historic properties about disclosure requirements, relevant preservation regulations, and financial incentives available through county, state, and federal programs.

3. Work with the real estate community to ensure the submittal of an executed historic property disclosure form to the Historic Preservation Commission to demonstrate compliance with the ordinance provision.

4. Continue to ensure that letters are sent annually to the owners of historic sites informing them of their responsibilities under the historic preservation ordinance and the financial incentives available for approved rehabilitation work.

5. Work with the real estate community to develop and distribute a homeowner welcome package for new owners of historic sites within the county that includes a history of the property and its significance, the range of financial incentives available for approved rehabilitation and repair work, explanation of the HAWP process, and other obligations under the historic preservation ordinance.

6. Work with preservation partners to offer a continuing education training course for real estate brokers designed to provide background information on local history and architecture and the requirements and incentives provided by the county’s historic preservation program.
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Policy 6: Continue to monitor state and federal programs and legislation related to historic preservation and take positions on matters of county concern.

Strategies

1. Work with local and state legislators, as appropriate, to initiate new legislation and approve regulatory changes to maintain best practice standards.

2. Maintain current information on state and federal historic preservation programs and provide copies of appropriate materials to the public.

Photo:

Relocation of Buena Vista, 2003 (Historic Site 70-081)