

1. Introduction

a. Background

The *Frederick Town Historic District Design Guidelines* (“Guidelines”) have been developed to assist the Historic Preservation Commission (“Commission” or “HPC”) review the exterior rehabilitation of historic properties, new construction, and demolition in the Frederick Town Historic District (“Historic District”). They also should assist property owners, tenants, stewards of public properties, and others in making preliminary decisions about work that requires HPC approval. The provisions of the Guidelines are intended to provide guidance on rehabilitation and new construction that reflect best rehabilitation practice and the unique character of the Historic District and each resource. The intent of the guidelines and the design review process is to ensure that all properties in the Historic District are rehabilitated to best preserve their essential historic qualities and that new construction is sensitive to the scale and historic nature of the Historic District. These guidelines are the basis of the review process and the foundation for decision-making by the Commission.

b. Conformance with Local, State and Federal Codes

The Commission uses the Guidelines and the *Secretary of the Interior's Standards for Rehabilitation* to determine if proposed work is appropriate in the Historic District and appropriate for a particular building or site. Article 66B, §8.01-8.17, of the Annotated Code of Maryland and the Frederick City Code (“City Code”) require the Commission to base its decisions on guidelines approved by the Mayor and Board of Aldermen. The Guidelines must conform to the City Code, which codifies zoning and subdivision requirements. The guidelines must be consistent with those accepted by the Maryland Historical Trust, which are the *Secretary of the Interior's Standards for Rehabilitation*. Conformance with the Secretary’s standards also is a condition of the City’s Certified Local Government status, a program administered by the National Park Service and the Maryland Historical Trust, which is the state’s federally-designated State Historic Preservation Office.

c. Conflict between Guidelines and Codes

In the event of a conflict between state laws or the City Code and the *Frederick Town Historic District Design Guidelines*, the applicable law or code will take precedence.

d. HPC Rules of Procedure

The Commission’s *Rules of Procedure* specify how the Commission operates and how applications are reviewed. Because the *Rules of Procedure* may change from time to time, they are not outlined in the Guidelines; however, they are available at the Planning Department or on the City’s web site. Planning Department staff can provide assistance with all aspects of the review process.

e. Historic District Overlay Zone

The Frederick Town Historic District has been designated a Historic District Overlay (HDO) zone, with the underlying zoning specified on the City’s official zoning map. Because of the HDO designation, all work in the Historic District requires a zoning permit. Some work also requires other permits. Application for zoning and building permits is simultaneous, with both merged on the same document.

f. Other Permits and Approvals

Some work may require other permits or approvals, in addition to zoning and building permits, such as electrical or plumbing permits, variances from the Zoning Board of Appeals, or site plan approvals from the Planning Commission. Staff of the Building Department can provide information on permits and staff of the Planning Department can provide information on variances and site plan approvals. Both departments are located at the Municipal Annex, 140 West Patrick Street. Information also is available on the City's website www.cityoffrederick.com.

g. International Building Code and International Residential Code

The City of Frederick uses the most recently adopted International Building Code (IBC) and International Residential Code (IRC). Both codes accommodate the preservation of important features in historic buildings. Information on the building codes and building permits can be obtained from the Building Department.

h. Rehabilitation

- (1) **Definition.** Rehabilitation is defined by the Secretary of the Interior as “the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions, while preserving those portions or features which convey its historical, cultural, or architectural values” (36 CFR 68.2(b)).
- (2) **Distinct from other treatments.** Rehabilitation is distinct from preservation, restoration, or reconstruction treatments for historic properties. *Preservation* is intended to maintain the existing form, integrity, and materials of a building or site, *restoration* is intended to return a property to a specific period through the removal of later work, and *reconstruction* is the rebuilding of a property that no longer exists. Rehabilitation is the approved treatment for buildings and sites in the Frederick Town Historic District, where historic properties are maintained for contemporary use. New construction and additions are addressed as an aspect of rehabilitation.
- (3) **Application of other treatments.** If the Commission finds that a different treatment would be preferable for a specific property, the Commission shall require application of the standards and guidelines developed by the Secretary of the Interior for preservation, restoration, or reconstruction.

i. Basis of the Frederick Town Historic District Design Guidelines

- (1) **Secretary of the Interior's Standards for Rehabilitation.** The *Secretary of the Interior's Standards for Rehabilitation* are the basis of the *Frederick Town Historic District Design Guidelines*. Developed in 1976 and slightly revised in 1992, the Standards were developed to ensure that properties receiving federal funding and federal tax benefits are reviewed consistently. The ten standards are widely accepted in historic preservation practice throughout the United States, and they are the basis of design guidelines nationwide. They are recognized by the Maryland Historical Trust as the basis for design guidelines used in local historic preservation programs.
- (2) **Interpretation of the Standards.** The Secretary of the Interior's Standards are explained in the *Secretary of the Interior's Guidelines for Rehabilitation*. The guidelines have been published in various formats. The City uses the *Illustrated Guidelines for Rehabilitating*

Historic Buildings, published by the National Park Service in 1997, and the *Guidelines for the Treatment of Cultural Landscapes*, published by the National Park Service in 1996. As the National Park Service publishes updated versions of these publications, the City may use them for further interpretation. The Secretary's rehabilitation guidelines are considered explanations of the ten standards and are used to interpret the appropriateness of treatments in the Historic District.

j. Secretary of the Interior's Standards for Rehabilitation, from the Code of Federal Regulations, 36 CFR68.3(b)

- (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- (2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- (3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- (4) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- (6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- (7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- (8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- (9) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- (10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

k. General Parameters for Reviewing Changes in the Frederick Town Historic District

Several general parameters address rehabilitation and new construction in the Frederick Town Historic District. Based on the *Secretary of the Interior's Standards for Rehabilitation*, these general guidelines specifically address the history, architecture, and landscape of Frederick. The general parameters are expanded upon in subsequent chapters of these guidelines. They are:

- (1) **Hierarchy of façades.** Historically, a building's design reflected its location and siting on its lot. The elevations facing a street typically were more elaborately designed and

may have used richer, more decorative detailing than rear elevations. This hierarchy of treatments was based on visibility from the street. The Commission may exercise a certain degree of leniency when considering appropriate treatments for less prominent façades.

- (2) **Character-defining features.** Character-defining features are those building components that make the structure unique and different from other buildings, characteristic elements of a particular architectural style, technique or architect, or features that are important to a building's unique identity. Elements that contribute to a building's overall significance will be more carefully scrutinized than those of lesser significance. Character-defining elements must be identified, retained, and preserved to the fullest extent possible.

Character-Defining Features

Throughout these guidelines reference is made to *character-defining* features. Such features are prominent or distinctive aspects, qualities, or characteristics of a resource that contribute to its physical character. Character-defining features of a building may include its form, decorative or functional elements, or specific materials. Character-defining features of a landscape may include plant materials, decorative and artistic details, streetscape elements, and the design of the space.

photo

- (3) **Original materials.** Every effort must be made to retain and preserve original materials in the Historic District. Non-original materials that the Commission believes have accrued significance must be retained and preserved, if possible. If replacement is necessary, new materials must be compatible in design, quality, materials, size, texture, details, and color.
- (4) **Inappropriate actions.** The following actions are discouraged in the Historic District: removing character-defining elements, radically altering a property, introducing elements to the existing building or site that cannot be documented historically, or demolishing significant and contributing properties.
- (5) **False sense of history.** Changes and new features that create a false sense of historical development, such as adding conjectural features, are not permitted. However, new features can subtly convey their contemporary construction through the use of different materials, offsetting the new feature, or other techniques the Commission may deem appropriate.
- (6) **Missing features.** A *missing* feature is a feature that no longer exists, but is known to have existed historically by documentary or physical evidence. If a missing feature is proposed to be re-installed, the replacement feature shall be compatible in design, materials, and scale with the historic feature.

- (7) **Open spaces.** Spaces that were historically designed to remain open, including but not limited to parks, public squares, formal yards and cemeteries, shall be maintained and preserved in the same manner, wherever possible.
- (8) **Adaptive re-use.** *Adaptive re-use* refers to modifications that render a building usable for a function other than originally intended. These guidelines are intended to encourage the adaptive re-use of properties, as long as character-defining features are not compromised.
- (9) **Energy conservation.** These guidelines are compatible with several measures that result in energy savings. However, when measures that result in the destruction of original fabric are proposed, the Commission may recommend a different strategy that better preserves the resource. See Chapter 7.1.

l. Work that is Reviewed by the Historic Preservation Commission

The Historic Preservation Commission reviews all work specified in the Guidelines, including but not limited to the following:

- (1) **Alteration.** All exterior changes to buildings, sites, structures, or objects. The Commission regulates changes to the entire building envelope, including all façades and roofs. It also reviews changes to all ancillary or secondary buildings and changes to settings and landscapes located in the Historic District;
- (2) **Maintenance** that may impact the integrity of the material or structure, such as re-pointing masonry and cleaning exterior materials;
- (3) **Construction**, including new construction, reconstruction, and additions;
- (4) **Demolition** of any resource in the Historic District; and
- (5) **Moving** buildings, structures, and objects.

m. Work that is Not Reviewed by the Historic Preservation Commission

The Commission does not review the following categories of work:

- (1) Routine maintenance that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archeological, or architectural significance of the site or structure and is not otherwise contrary to the Guidelines. Examples include re-attaching loose downspouts, replacing broken glass, and replacing deteriorated flashing. The Commission maintains a list of work that does not require its approval, which is available at the Planning Department or on the City's website;
- (2) Interior work; and
- (3) Paint color, except painted signs, roofs, building accessories, and other pre-finished elements.

n. Review of All Façades

The Commission reviews all exterior changes to properties in the Historic District if any portion of the structure or site is visible from a public way, whether or not the proposed changes are visible from a public way. Depending on the nature of the project, the significance of the property, and the impact of the work on the historic resource, the Commission may be more lenient when reviewing proposals that affect portions of buildings not visible from a public way.

o. Required Considerations for Reviewing Applications

The Commission will consider the following in its review of applications:

- (1) The historic, archeological, or architectural significance of the site or structure and its relationship to the historic, archeological, or architectural significance of the surrounding area;
- (2) The relationship of the exterior architectural features of the 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 proposed to be used; and
- (4) Any other factors, including aesthetics, which the Historic Preservation Commission considers pertinent.

p. Degree of Importance

(1) **Required consideration.** When the Commission makes a decision regarding construction, reconstruction, alteration, moving, or demolition, it must consider the historical, archeological, and architectural value of the resource, including its integrity. Resources in the Historic District are either contributing or non-contributing.

A. Contributing. *Contributing* resources are the following:

1. Buildings, structures, sites, or objects (or parts thereof) that help define the district;
2. Buildings, structures, sites, or objects (or parts thereof) that add historical or architectural value; or
3. Generally, those buildings, structures, sites, or objects (or parts thereof) that were built during the Historic District's *Period of Significance* (see r, below). Resources that are less than fifty years old, but which are important for their association with a significant event, person, or architectural movement of national relevance, may be considered contributing.

B. Non-contributing. Non-contributing resources are those buildings, structures, sites, or objects that do not help define the Historic District and do not add historical or architectural value to the Historic District. Generally, resources that are less than fifty years old are non-contributing.

q. Judgment of Plans

The Commission “shall strictly judge plans for sites or structures determined by research to be of historic, archeological, or architectural significance” (contributing resources). The Commission “may not strictly judge plans for a site or structure of little historic, archeological, or architectural significance, or involving new construction” (non-contributing resources), unless the plans would seriously impair the historic, archeological, or architectural significance of the surrounding site or structure (66B, Section 8.08).

r. Period of Significance

The *period of significance* refers to the inclusive time period of the development or construction of resources that define the Historic District. The period of significance for above-ground (non-archeological) resources dates from the mid-eighteenth century to fifty years back from the current year. The period of significance for archeological resources extends from pre-historic times to fifty years back from the current year. Resources less than fifty years old may be considered contributing to the Historic District if they are related to an

event of great historical importance, to a person of national or international significance, or if they are the work of a master architect or builder.

s. Deviation from the Guidelines

From time to time the Commission may decide it should make a decision regarding construction, reconstruction, alteration, moving, or demolition that deviates from the Guidelines and may compromise the historical value of a resource. Such deviation shall only be made under the following circumstances and only if the proposed deviation is in keeping with the Historic District and the neighborhood:

- (1) **Deviation for contributing resources.** Deviation from the guidelines will not be permitted for contributing resources if any of the following pertain:
 - A. The integrity of the streetscape will be compromised; or
 - B. The integrity of any surrounding historic properties will be compromised; or
 - C. The contributing resource or its setting will be so altered that it will no longer be contributing.
- (2) **Deviation for non-contributing resources.** Deviation from the guidelines for non-contributing resources will not be permitted if:
 - A. The integrity of the streetscape will be compromised; or
 - B. The integrity of any surrounding historic properties will be compromised; or
 - C. The design integrity of the resource itself will be compromised.

t. Required Findings for Deviation from the Guidelines

The Commission shall not deviate from the Guidelines as described in s, above, unless it finds the following:

- (1) Deviation from the Guidelines will not be contrary to the purpose and intent of the *Frederick Town Historic District Design Guidelines*; or
- (2) Any resulting loss of historic fabric or character will be ameliorated by the proposed construction, reconstruction, alteration, moving, or demolition.

u. Permitted Actions by the Historic Preservation Commission

The Commission may take the following actions with regard to applications:

- (1) Approve;
- (2) Approve with conditions;
- (3) Deny;
- (4) Continue.

Historic Preservation Tax Credits

Work approved by the Commission is not a substitute for Maryland Historical Trust (MHT) or National Park Service approval of work for which historic preservation tax credits will be used. The Commission may allow work that the state and federal agencies deny, or vice-versa. **The tax credits cannot be used for work already completed.** For information on the tax credits, please see the Maryland Historical Trust web site at www.marylandhistoricaltrust.net or contact the Trust at 410-514-7628. MHT recommends that property owners who intend to use the Rehabilitation Tax Credit submit their applications for Tax Credits to MHT prior to undertaking HPC review.

v. Resubmitting Denied Applications

If an application is denied, the applicant may:

- (1) Modify the proposal so it is not substantially the same and submit a new application; or
- (2) Wait at least one year and resubmit the application; or
- (3) Follow the applicable appeal rights set forth in the City Code.

w. Deadline to Commence Work and Expiration of Approval

The Certificate of Approval is valid for two years, according to the City Code. The applicant has two years from the date of the approval to obtain a building/zoning permit and commence work. Extensions may be granted if the two-year period has elapsed.

x. Commission Meeting Schedule

The Commission meets at regularly scheduled times and occasionally holds special meetings. Commission *workshops* are intended for informal discussion, with no formal action taken. At regular meetings, or *hearings*, formal action is taken on applications and items. All meeting agendas are posted on the City's website (www.cityoffrederick.com), and agendas may be obtained from the Planning Department.

y. Workshops

Workshops provide applicants with an opportunity for Commission feedback and suggestions. Comments made at workshops are intended to provide guidance to applicants. Comments made at workshops are not binding upon the Commission and they may not reflect consensus or the outcome of a formal hearing. No formal action is taken at workshops.

z. Hearings

Hearings are formal and official meetings at which the Commission decides if the application should be approved, approved with modifications, or rejected. If the application is considered incomplete pursuant to the HPC *Rules of Procedure*, the application will be continued to a future hearing. A complete application may be continued if the applicant and Commission mutually agree that the case should be continued.

HPC APPLICATIONS

The approval of work is carried out through the submission of an HPC application to the Planning Department. The department maintains applications for various types of work in the Historic District, which are available at the Planning Department and on the City's website, www.cityoffrederick.com. Once an application has been approved, a Certificate of Approval may be issued so the applicant can obtain a building/zoning permit. If a Certificate of Denial is issued, the applicant cannot obtain a building or zoning permit. The Commission has implemented various measures to facilitate the application and review of proposals, but the same application forms are used, regardless of the review process. Two programs that have been particularly helpful are:

Administrative Approval. The Commission allows qualified historic preservation staff or a qualified consultant to approve certain categories of work that are in compliance with the Guidelines. Categories of work eligible for "administrative approvals" are specified by the Commission in the *HPC Rules of Procedure*. They are listed on the City's web site and are available at the Planning Department. Applications processed administratively do not need to be scheduled for workshops or hearings, unless written comments are received during the public comment period. **The administrative approval process does not preclude the requirements to post a public notice and obtain all required building/zoning permits.**

Construction Phase Modifications. If changes must be made quickly when construction is in progress, the Commission permits historic preservation staff or a qualified consultant to approve certain minor changes to approved plans, without posting a sign for public comment. Examples of such changes include but are not limited to the addition of hose bibs and electrical outlets, the placement of HVAC equipment, and the substitution of models of light fixtures. Applicants must complete an application form, which the historic preservation staff will forward to the Building Department if the proposed work complies with the Guidelines.

Emergency Approvals. The Commission understands that there may be certain extenuating circumstances that require repair work to begin immediately. For that reason, the Planning Department may issue an emergency certificate of approval for stabilization or in-kind repair work that is consistent with the *Frederick Town Historic District Design Guidelines* and the *Secretary of the Interior's Standards for Rehabilitation*. Emergency approvals will not be granted for cases of deferred maintenance.