

**Minutes**  
**Baltimore County Landmarks Preservation Commission**  
**March 8, 2018 Meeting**

**Call to order; introduction of Commission members; pledge of allegiance to the Flag; statement of purpose and operating procedures**

Mr. Rob Brennan, Chair, opened the regular monthly meeting of the Baltimore County Landmarks Preservation Commission (LPC) at 6:00 p.m. The following Commission members were:

Present

Ms. Rose A. Benton  
Mr. Robert P. Brennan, Chair  
Mr. Louis Diggs  
Ms. Faith Nevins Hawks  
Mr. Ed Hord  
Mr. Mitch Kellman  
Ms. Wendy McIver  
Mr. Stephen P. Myer  
Mr. David Thaler  
Mr. Richard Yaffe

Not Present

Ms. Carol Allen  
Mr. C. Bruce Boswell  
Ms. Nancy W. Horst, Vice Chair  
Mr. Qutub U. K. Syed

Attending County staff, Jeff Mayhew (Deputy Director, Department of Planning), Teri Rising (Preservation Services staff) Kaylee Justice (Secretary to the Commission), Andrea Van Arsdale (Director, Department of Planning), and Michael Field (County Attorney)

**1. Review of the Agenda**

Ms. Rising reported there was one item added to the Preliminary Agenda published March 1, 2018.

**2. Approval of the Minutes**

Mr. Brennan asked if anyone proposed changes to the February 8, 2018 Minutes. Hearing none, Mr. Brennan called for a motion to approve the Minutes as drafted.

Mr. Hord moved to approve the Minutes as drafted. Mr. Myer seconded the motion, which passed with affirmative votes being cast by, Ms. Benton, Mr. Brennan, Mr. Diggs,

Ms. Hawks, Mr. Hord, Mr. Kellman, Mr. Myer, Ms. McIver, Mr. Thaler and Mr. Yaffe. There were no dissenting votes.

**3. Consent Agenda**

Ms. Rising read the Action Recommendation for Consent Agenda Item # 6.

Mr. Brennan called for a motion. Mr. Thaler moved to approve the consent agenda items as presented. Mr. Myer seconded the motion, which passed with affirmative votes being cast by Ms. Benton, Mr. Brennan, Mr. Diggs, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, Mr. Thaler, and Mr. Yaffe. There were no dissenting votes.

**Items for Discussion and Vote**

**4. “Eudowood Sanitarium Barn” (Loch Raven Technical Academy Grounds) & setting, 8101 La Salle Road, Towson vicinity [County Council District # 6]**

Ms. Rising gave an overview and background information on the requested Nomination which was postponed at the January 11, 2018 meeting. She shared that no new information or materials had been received since the last meeting and that the Nomination was not supported by staff.

Mr. Brennan called upon Mr. Myer to present the Technical Committee report.

Mr. Myer gave an overview of the Technical Committee report and identified the modifications that had been made to the structure over time. He shared that the Technical Committee did not support the request.

Mr. Brennan called upon the Baltimore County Public School representative to present any testimony.

Mr. Merrill Plaitt, Baltimore County Public Schools, indicated that he wished to postpone the nomination.

Mr. Yaffee questioned the reason for the postponement.

Mr. Plaitt indicated that the school system had recently initiated communication with the Loch Raven Community and would like more time to evaluate their concerns in an attempt to reach an agreement with the community.

Mr. Nicholas Linehan, Loch Raven Village resident, indicated that the community was happy with the previous decision to postpone the nomination to allow for further discussion. He shared that the community would like to see the barn retained and

properly maintained. He requested that the postponement be honored so that discussions may continue between BCPS and the community.

Mr. Yaffee questioned the lack of communication between the third party nominator and the community. He indicated that he would like to proceed with the Hearing in lieu of a postponement.

Ms. Hawks questioned whether or not a postponement would provide information that would impact the Commission's decision regarding the fabric of the structure.

Mr. Thaler asked that the nominator speak.

Mr. Tim Bishop, Preservation Alliance of Baltimore County, indicated that he supported the decision for a postponement.

Mr. Myer moved to postpone the Public Hearing until the May 10, 2018 meeting. Mr. Diggs seconded the motion which passed with affirmative votes being cast by Ms. Benton, Mr. Brennan, Mr. Diggs, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, and Mr. Thaler. A dissenting vote was cast by Mr. Yaffee.

*Citing Baltimore County Code, Section 32-7-402*

5. 5009 Cedar Avenue, contributing structure in the Relay County Historic District, Correction Notice # CB1700321; Status Update of replacement of existing front porch wood decking with composite porch decking and replacement of 2 existing square porch columns with wood columns to match previously existing round wood columns [County Council District #1]

Ms. Rising gave an overview of the request. She indicated that staff had requested that Code Enforcement visit the site and that photos were provided demonstrating that the work is in progress but not yet completed.

Mr. Brennan called upon the homeowner. The homeowner was not present.

Ms. Hord moved to vote to refer the matter to Code Enforcement. Ms. McIver seconded the motion which passed with affirmative votes being cast by Ms. Benton, Mr. Brennan, Mr. Diggs, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, Mr. Thaler and Mr. Yaffee. There were no dissenting votes.

*Citing Baltimore County Code, Section 32-7-402*

- \*\*6. 210 Melancthon Avenue, Non-contributing structure in the Lutherville County Historic District; request for rehabilitation of property to include roof replacement, window replacement, gutter and downspout replacement, siding replacement, and porch and railing installation. [County Council District #3]

Approved via the Consent Agenda to issue a Certificate of Appropriateness.

*Citing County Code, Sec 32-7-403 and Baltimore County Historic Design Guidelines: Additions & Infill, p. 4.*

7. 3605 Stoneybrook Road, Non-contributing structure in the Fieldstone County Historic District; request for ex post facto approval of wooden fence and solar panel installation Correction Notice # CB1800038. [County Council District #4]

Ms. Rising gave an overview of the request. She indicated that the landowner had requested to keep the fence and solar panels as installed.

Mr. Yaffe questioned whether or not permits were required for the installation of the solar panels.

Mr. Hord shared that he believed permits were required.

Mr. Rising indicated that the landowner should have received a permit for the solar panel installation within a Historic District. She shared that based on staff experience the burden of meeting permitting requirements typically falls to the homeowner.

Mr. Hord moved to vote to issue an ex-post facto Certificate of Appropriateness for the fence as constructed and to vote to issue an ex-post facto Certificate of Appropriateness for the solar panels as installed on the rear roof only. Ms. McIver seconded the motion which passed with affirmative votes being cast by Ms. Benton, Mr. Brennan, Mr. Diggs, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, Mr. Thaler and Mr. Yaffe. There were no dissenting votes.

*Citing County Code, Sec 32-7-403 and Baltimore County Historic Design Guidelines: Windows & Doors, p. 2, p. 5, pp. 7-8; Roofs, p. 8; Façade Materials, p. 7 Additions & Infill, pp. 2-4; Fences & Landscape, pp. 3-4.*

## **Other Business**

### **Fort Howard-**

Ms. Rising introduced the request for Other Business to discuss the third party nomination of Fort Howard that was declined for acceptance by staff as per advice from the Baltimore County Office of Law.

Ms. Rising shared that under Section 3-3-1205 of the Baltimore County Code, the Landmarks Preservation Commission may adopt rules of procedure for the conduct of its business. She shared that in 2006, the Commission adopted a Resolution Establishing Procedures for the Receipt and Scheduling of Landmark List Nominations which provides an opportunity for the nominator of a rejected application to appear before the Commission to request reconsideration of the application rejected by staff. She indicated

that the item appeared on the February 8, 2018 agenda and was tabled for full discussion until the March 8th, 2018 meeting at the request of Michael Field, County Attorney.

Ms. Rising shared that when nominations for State and Federal properties were submitted previously, the Office of Law advised against holding public hearings on them because the Commission does not have the authority to enforce the provisions of Title 7 of the Baltimore County Code in regard to State and Federal property. She indicated that the general rule in Maryland is that the State is not subject to local zoning laws unless the General Assembly has clearly indicated its intention that the State be bound to them (such as the State law that makes MTA's facilities subject to local zoning). She stated that Federal supremacy protects the legitimate activities of the United States from regulations by state and local authorities and consequently, staff advised the applicant that a hearing for the property would not be scheduled.

Ms. Rising shared that national historic preservation activities are authorized by the National Historic Preservation Act (NHPA) and is generally administered at three government levels: Federal (Department of the Interior/National Park Service) SHPO - State Historic Preservation Office (Maryland Dept of Planning, Maryland Historical Trust Trust) CLG - County Certified Local Government Office (Baltimore Co Dept of Planning, Preservation Services)

Ms. Rising gave an overview of the authority and participation that is associated with being a CLG agency.

Ms. Rising shared that Federal supremacy protects the legitimate activities of the United States from regulations by state and local authorities, and in some cases, Congress has enacted federal land use control, natural resource protection and pollution control statutes which apply to federal activities. She indicated that Section 106 of the NHPA directs federal agencies to consult with state and local governments and other stakeholders when the undertaking involves properties listed in or eligible for listing in the National Register of Historic Places.

Ms. Rising provided information on the Section 106 consultation process, sharing that the Trust entered into a Programmatic Agreement (PA) with the United States Department of Veterans Affairs and the developer to ensure that historic resources on the site would be treated sensitively as the project moves forward and afford appropriate mitigation for any adverse effects during project development. She indicated that as enacted, the PA directs the preservation activities for the site.

Mr. Scott Pappas, President of Fort Howard Community Association, requested a continuance for 30 days to allow for review of the documentation presented in order to make a prudent decision on how to move forward.

Mr. Tim Bishop, Chairman of the Preservation Alliance of Baltimore County, indicated that a thorough legal examination has taken and should be subject to interpretation and therefore is requesting time for an opportunity for legal review.

Mr. Thaler requested to hear from Baltimore County Attorney Michael Field.

Mr. Field gave an overview of the National Historic Preservation Act. He indicated that Federal Supremacy prohibits us from imposing regulatory authority over Federal properties. He shared that the Federal government did create a mechanism through the 106 process in which the local authority has the ability to influence what goes on when a Federal property has historic consequences. He indicated that a programmatic agreement between the developers, the VA, and MHT exists. He shared that the VA is correct in stating that landmarking the property will create confusion over authority.

Mr. Thaler questioned whether the Commission should do nothing in response to the nomination or vote to decline the nomination request.

Ms. Rising shared that in previous circumstances the Commission has declined to accept the nomination.

Mr. Thaler shared that accepting the nomination was not a good idea due to a lack of authority and the already existing programmatic agreement and process. He indicated that he does not feel declining the nomination will advance any redevelopment on the property.

Mr. Diggs questioned the implications of declining the request.

Ms. Benson added that the property is not maintained.

Mr. Thaler moved to vote to decline the nomination submission. Mr. Myer seconded the motion which passed with affirmative votes being cast by Mr. Brennan, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, Mr. Thaler and Mr. Yaffe. A dissenting vote was cast by Mr. Diggs. Ms. Benson recused herself.

Mr. Thaler recused himself from the Ehrenfeld property Tax Credit present on the Agenda for additional information purposes only.

Mr. Thaler moved to adjourn the meeting. Mr. Hord seconded the motion which passed with affirmative votes being cast by Ms. Benson, Mr. Brennan, Mr. Diggs, Ms. Hawks, Mr. Hord, Mr. Kellman, Ms. McIver, Mr. Myer, Mr. Thaler and Mr. Yaffe. There were no dissenting votes.

The meeting adjourned at 7:00 p.m.

KBJ/kbj