



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

March 23, 2009

MEMORANDUM

TO: Montgomery County Planning Board  
FROM: Scott Whipple, Historic Preservation Supervisor *SW*  
SUBJECT: Historic Preservation Amendment 09-01 – Historic Resources Preservation --  
Amendments

---

**STAFF RECOMMENDATION:** Support an amendment in the nature of a substitute to the *Historic Preservation Amendment 09-01 – Historic Resources Preservation -- Amendments*

**Background**

On February 24, 2009, Councilmember Knapp introduced the Historic Resources Preservation Amendment, HPA 09-01. This ordinance amends all sections of the Montgomery County Historic Resources Preservation Ordinance, Chapter 24A of the County Code. The Council will hold a public hearing on March 31, 2009 at 7:30 PM.

Over the past year, the Planning Board has transmitted to the County Council for evaluation several amendments to the Master Plan for Historic Preservation (MPHP). In considering these amendments, Mr. Knapp and other members of the Council have raised concerns over 1) the current process of designating sites and districts to the MPHP, and 2) the implications for property owners of having their property designated. Mr. Knapp's amendment makes changes to Chapter 24A to define, and in some cases significantly alter, various processes related to the designation and regulation of historic resources, among other things. This memorandum summarizes three significant issues raised by the proposed amendment and offers recommendations for Board action.

**Issues**

- The appropriate roles of the Historic Preservation Commission, Planning Board, and County Council in the historic designation process
- The appropriate consideration of owner objection to historic designation
- The appropriateness of making certain Board recommendations final

**Discussion**

*The appropriate roles of the Historic Preservation Commission, Planning Board, and County Council in the historic designation process*

- *Proposed Amendment:* The amendment proposes significant changes to the designation process, and refines the process by which resources are considered for listing in the Locational Atlas and Index of Historic Sites (lines 598) and MPHP (line 702). The amendment establishes different processes for the consideration of those amendments initiated as part of the Planning Department's work program and those that are not part of the work program (710; discussed below).
- *Staff Recommendation:* As an alternative to the proposed amendment, transfer to the HPC authority to maintain the Locational Atlas. Establish a process wherein the HPC considers whether a resource should be added to, retained on, or removed from the Atlas, based on historic preservation criteria in 24A-3 (line 76). The HPC may recommend that the Planning Board initiate consideration of an amendment to the MPHP to designate any resource the HPC has listed in the Locational Atlas. The Planning Board would consider a Public Hearing Draft Amendment, formulate recommendations in a Planning Board Draft Amendment making recommendations to the County Council for designation. In making its recommendation, the Planning Board must consider the findings of the HPC related to a resource's historic or architectural significance, applicable Master Plans, the views of property owners and other interested parties, and find that the designation of the resource was in the public interest. All Planning Board recommendations, *regardless of whether they were initiated through the Board's work program or not and whether the Board recommends for or against designation*, would be forwarded to the Council for consideration. As provided under Chapter 33A, the Council could decide to consider the Planning Board Draft Amendment, or decline to consider the amendment. These changes to the designation process would have the dual benefits of making the process shorter and less onerous for owners of non-historic properties and more efficient by eliminating Planning Board and Council review resources that the HPC determines do not meet designation criteria.

*The appropriate consideration of owner objection to historic designation*

- *Proposed Amendment:* The amendment would establish a new process for the consideration of Master Plan amendments (line 717). Under the amendment, should a property owner not consent to designation four members of the Planning Board must find that the resource meets three criteria for designation and that the public interest in preserving the resource outweighs the interests of the property owner. In the event that a property owner consents to designation, there would be no change to the existing review process wherein the Board must find that the resource meets at least one designation criterion.
- *Staff Recommendation:* Oppose the establishment of a separate review process when owners do not consent to designation. Such a process is inconsistent with historic preservation best practices recognized by the State of Maryland and the federal government. Establishing a dual process for historic preservation review may raise the question of whether such a process should be established for other areas of regulation, such as zoning, forest conservation, special protection areas, etc.

*The appropriateness of making certain Board recommendations final*

- *Proposed Amendment:* The amendment codifies that MPHP amendments are considered and adopted under Chapter 33A, and creates separate processes for the consideration of MPHP amendments that are in the Planning Department's work program and those that are not within

the work program (line 708). Under the Knapp amendment, the Board must forward to the Council for consideration all MPHP amendments within the Board's work program, irrespective of the Board's recommendation. The amendment authorizes the Board to forward MPHP amendments that are not in the work program, if the Board finds that the resource(s) merit designation.

- *Staff Recommendation:* Oppose the establishment of dual processes for MPHP amendments consideration. The Council, not the Board, should make the final decision on master plan amendments. The Board should transmit to the Council all MPHP amendments that the HPC has found to meet designation criteria, regardless of the Board's recommendation.