

Resurrection of HPC

M E M O R A N D U M

January 23, 1991

TO: William E. Hanna, Jr., Chair  
PHED Committee

FROM: Richard J. Ferrara, Director *RJF*  
Department of Housing & Community Development

SUBJECT: Relocation of the Historic Preservation Commission

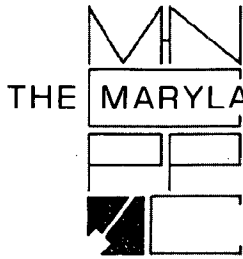
On January 17, 1991, a meeting was held with the County Executive to discuss the Office of Legislative Oversight evaluation of the Historic Preservation Commission. At that meeting, County Executive Neal Potter decided to recommend to the County Council that the Historic Preservation Commission be administratively transferred to the Planning Board.

Mr. Potter believes that there is some duplication of services between the Planning Board and the HPC, since the Planning Board already has some 2.5 work years assigned to its historic preservation activity. This question of overlapping responsibility was discussed in the OLO report as well. In addition, the report notes that the Prince George's County Historic Preservation Commission is located at the Prince George's County Planning Board.

Mr. Potter believes that it would be appropriate to provide some additional funding to assist the Planning Board in administering the HPC activity. If the Council supports this proposal, we would make the arrangements to complete the transfer by July 1, 1991.

RJF/rap:0592C

cc: Neal Potter, County Executive  
William Hussmann, CAO  
Gene Lynch, Special Assistant to County Executive  
Robert Kendal, OMB  
Joyce Stern, County Attorney  
Meg Reissett, OPP  
Leonard Taylor, Chairman, HPC  
Gus Bauman, Chair, Planning Board



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

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Montgomery County Planning Board  
Office of the Chairman

January 23, 1991

The Honorable William E. Hanna, Jr.  
Chairman, PHED Committee  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear <sup>Bill</sup> Mr. Hanna:

On January 17th, the Montgomery County Planning Board met to discuss in detail the Office of Legislative Oversight (OLO) Report on the Montgomery County Historic Preservation Commission (HPC). The Board reviewed all of the recommendations in the OLO Report, utilizing the planning staff's analysis that is attached to this letter.

A number of the OLO recommendations were discussed at length, with the Planning Board giving particular attention to the proposed "sunset" for the current Locational Atlas inventory, the delegation of responsibility for researching of historic resources, and the issue of administrative location for the HPC and its staff. Ultimately, the Board voted to endorse the planning staff's analysis and to forward it to the Council.

In addition, there is currently some confusion as to the different, but complementary, roles of the HPC and its staff in relation to the Planning Department's historic preservation planning effort. This issue is discussed briefly in the OLO Report and at length in the attached staff analysis, which the Board endorses. The Board acknowledges and certainly wishes to maintain the very positive working relationship that presently exists between the HPC and the Planning Department; however, as the OLO Report is considered, it is very important to clearly define and communicate the functions performed by each group.

The Board recognizes that one of the primary and most difficult issues to be addressed in the current analysis of the HPC is the appropriate location for the Commission and its staff. The members of the Planning Board believe that, as a matter of policy, the HPC deserves a level of independence and autonomy that it does not currently have. It is the Board's perception that the HPC has not been able to accomplish effectively its broad and diverse goals because of problems in its current administrative location and because of a lack of resources.

Although the OLO Report recommends retaining the HPC within the Department of Housing and Community Development with a greater level of autonomy, the Board supports the HPC's position (as stated in its letter to the Council of December 8, 1990) that the Commission should be configured as an independent office within the County government, reporting directly to the Executive's Office as well as the Council.

We understand that this is a complex issue and that the Executive and Council may have additional ideas about the appropriate administrative location for the HPC. In fact, some of the Executive's thinking on this matter and his concerns about the HPC's ultimate location were informally shared with the Planning Board at its January 17th meeting. The Board stands ready to work with the Council in analyzing and evaluating all potential location options and will respond promptly to any proposals as the Council reviews the OLO Report.

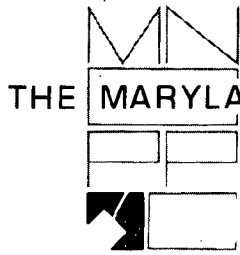
Douglas Alexander and Gwen Marcus of our staff will attend the PHED Committee worksessions on the OLO Report. The Planning Board and staff look forward to working with the Council as this project proceeds.

Sincerely,



Gus Bauman  
Chairman

cc: The Honorable Neal Potter, County Executive  
The Honorable Isiah Leggett, County Council President  
Richard Ferrara, Director, DHCD  
Leonard Taylor, Chairman, HPC  
Karen Orlansky, OLO



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

AGENDA DATE: January 17, 1990

January 14, 1990

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Douglas Alexander, Chief  
Urban Design Division *DA*

FROM: Gwen Marcus, Historic Preservation Planner *GM*  
Urban Design Division

SUBJECT: OLO Report on Historic Preservation Commission and  
M-NCPPC Preservation Role

Introduction

Montgomery County has been involved in historic preservation activities since the mid-1970's. In 1976, the Maryland-National Capital Park and Planning Commission (M-NCPPC) published the Locational Atlas and Index of Historic Sites in Montgomery County. In September, 1979, the Montgomery County Council approved a functional Master Plan for Historic Preservation (which had been drafted by M-NCPPC), along with a Historic Preservation Ordinance (Chapter 24A of the Montgomery County Code).

Over the last decade, the County's historic preservation efforts have grown substantially and have been refined. Both the strengths and weaknesses of the original Master Plan and Ordinance have been brought to light. As preservation activities move into the 1990's, it has been widely acknowledged that it is important to evaluate what the County has been doing and where it is going in the future in regard to this important public interest.

To that end, the Montgomery County Council directed the Office of Legislative Oversight (OLO) to study and evaluate the structure, workload, staffing, and overall operations of the County's Historic Preservation Commission (HPC). This study took place during 1990 and a final report was presented by OLO to the Council on November 13, 1990.

Although the OLO report is primarily concerned with the functioning of the HPC, there are a number of recommendations that relate to the historic preservation planning activities of M-NCPPC. The purpose of this staff report is, therefore, to help the Planning Board analyze and understand the implications of the OLO recommendations, so that the Board can provide well-reasoned comments to the County Council as they review the OLO report. The PHED Committee will be holding its first worksession on this OLO report on Thursday, January 24th. This meeting conflicts with the Board's regularly scheduled agenda; however, staff is planning to attend this worksession and will present Board comments as needed.

Because this is a complex topic, staff divided its report into two sections. The first section deals with the relationship between the work of the HPC and the work of M-NCPPC's historic preservation planning staff. The second section specifically covers the major recommendations in the OLO report.

### Section 1: Relationship Between HPC and M-NCPPC Preservation Planning Efforts

There have been a number of Board discussions concerning the functioning of the HPC and the division of responsibilities between this body and the Planning Department's historic preservation planning section. Staff feels that additional thought needs to be given to the future roles for each group and the Board's expectations for how its historic preservation planning efforts will be handled.

First and foremost, staff would like to emphasize that - by law - historic designation in Montgomery County is a planning process and M-NCPPC has a legitimate, if not essential, role in this process. Every time a site or district is designated, not only is the Master Plan for Historic Preservation amended, but also the applicable area master plan and the General Plan, as well. The County's historic preservation program has been set up to be a complementary relationship between the legislative branch (the Planning Board and County Council) through the planning process, and the executive branch (the Executive and the HPC) through the Ordinance. We see this type of complementary relationship between planning and implementation throughout the County - a good comparison may be the relationship between the Board's planning efforts in Agricultural Preservation and the functioning of the Agricultural Board and its staff in the Office of Economic Development.

Over the last decade, the wisdom of this complementary system has been demonstrated. Historic preservation issues in recent years have become more, not less, tied into larger planning issues - such as the retention of agricultural land and open space, transportation modes, and community character/quality of life concerns. Although the Historic Preservation Commission is clearly charged with taking the lead role in protecting and preserving the County's historic resources and the Planning Board

has a much broader and diverse mandate, it is appropriate and necessary that historic preservation continue to be included in M-NCPPC's work program.

Given this complementary relationship, it is important to clearly define roles so as to avoid duplications of responsibility. In practical terms, the roles that have evolved over the last few years are that the M-NCPPC staff deals primarily with issues relating to the Master Plan designation of historic sites and districts and the HPC deals with design review after sites have been placed on the Master Plan. Clearly, there is overlap - the HPC participates in the designation process and our staff looks at various design proposals (especially subdivisions) for Master Plan sites. However, the basic distinction of duties seems to be workable and, in staff's opinion, appropriate.

Staff understands that the Board recognizes that the HPC must be strengthened and supported in performing its important functions. Certainly staff has done and will continue to do everything possible to be of help to the HPC. However, it is important for the Board to acknowledge that preservation - especially designation of sites and districts - is a distinct and complex discipline that is inextricably tied into the planning process in this County. Even with a strong and vital HPC, the Board must still be involved in preservation planning activities.

#### Section 2: OLO Report Recommendations

**Recommendation #1: "Amend the law to require that the HPC also include representation from the fields of business, real estate, and law."** Staff feels that this recommendation has value and will aid in building a public perception of the HPC as a balanced and objective group. However, it is important to clarify that the intent is not to fill the HPC with businesspeople who have no background, knowledge, or interest in preservation (and, thus, throw the HPC out of balance in another direction), but rather to encourage a broad range of viewpoints. Perhaps this recommendation should be limited to a specific number (two or three) of appointed HPC members.

**Recommendation #2: "Authorize the HPC to establish panels composed of three HPC members who are delegated decision-making authority."** As the number of designated historic sites and districts increases (especially with Takoma Park coming on line as a historic district), the HPC's workload will increase significantly. To avoid all-night meetings, the HPC will either need to meet more often or break up into sub-committees or panels to handle the workload. It is very important that panels be created only at the discretion of the full HPC and that, if created, they are balanced and unbiased (e.g. a Kensington Historic District panel should not include all residents of Kensington). It may be a good idea to direct that all decisions recommended by HPC sub-committees or panels be confirmed by the full HPC to assure that preservation decisions are being made on consistent basis County-wide.

**Recommendation #3: "Authorize the HPC to send cases to the Hearing Examiner in the Office of Zoning and Administrative Hearings for report and recommendation." As historic preservation cases become more complex, the HPC should be able to avail itself, as needed, of all County expertise. Staff feels that the ability to ask the advice of the Hearing Examiner on specific cases may be a valuable tool for the HPC in the future.**

**Recommendation #4: "Clarify in regulation an expanded role for the HPC chair." Staff supports this recommendation.**

**Recommendation #5: "Amend the law to enable HPC members to be compensated." Staff strongly supports this recommendation. The HPC members are dedicated and hard-working. The amount of time they are asked to contribute to HPC work is significant and they should be compensated in the same way as other County boards and commissions.**

**Recommendation #6: "Finalize executive regulations that outline HPC's routine procedures, and the role of the Local Advisory Panels; and develop executive regulations that contain standards for HPC's review of Historic Area Work Permits." This process is currently underway and staff supports its completion.**

**Recommendation #7: "Amend the law to clarify that all HPC decisions are appealable to the Board of Appeals; and to clarify the intent of providing HPC with authority 'to delineate the extent of appurtenances and environmental setting associated with an historic site or resource.'" These are fairly technical changes regarding issues which are not clearly addressed in the existing law. Staff supports this recommendation.**

**Recommendation #8: "Adopt a schedule for the review of all remaining Atlas resources, and establish a sunset date for the Atlas. At the same time, establish a process for nominating resources to be considered in the future for designation on the Master Plan." The OLO recommendations that deal with the evaluation of Locational Atlas resources are of special interest in that they will affect the Board's workload. Staff strongly supports this recommendation and feels that the five year schedule for evaluating the remaining resources which is contained in the OLO report is realistic. In addition, staff supports the language in the recommendation which recognizes the need to establish, by law, a clear process for nominating resources in the future to be considered for designation on the Master Plan for Historic Preservation.**

**Recommendation #9: "Delegate the responsibility for researching remaining Atlas resources to the Planning Department of M-NCPPC." As discussed above, historic designation in Montgomery County is a master planning process. Staff feels that M-NCPPC has a legitimate and essential role to play in deciding which properties should be placed on the Master Plan for Historic Preservation. Because of this significant involvement in the designation proc-**



ess, staff feels that there are a number of reasons for M-NCPPC to be involved in the research that ultimately makes the case for or against designation.

Staff understands that current budget constraints make it unlikely for any new staffing at either the HPC or M-NCPPC. However, it is staff's understanding that HPC will continue to contract for research on historic resources. There are funds granted by the State to Montgomery County because of its status as a Certified Local Government and HPC will continue to utilize these funds for consultants to research historic properties. Since the need for research still exists (even though the topic of additional staffing may be moot), staff would like to outline several reasons that make it beneficial to involve M-NCPPC staff in the researching effort. There are three primary arguments: 1. to streamline the process by which research is obtained, 2. to improve the quality and consistency of the research, and 3. to link the researching effort more closely to the Master Plan designation process by having it done by staff who are familiar with and involved in the overall amendment procedure.

First, staff feels the researching process would be streamlined and improved by doing it "in house". Currently, the HPC contracts with consultants to provide research for historic resources that M-NCPPC is scheduling for evaluation. The process that the HPC goes through of putting out requests for bids and signing contracts with these individual consultants is time consuming and bureaucratically cumbersome. It works out when evaluations are scheduled far enough in advance - although a lot of HPC staff time is spent in preparing requests for bids and monitoring consultant contracts. However, when an emergency or an unplanned evaluation comes up - like a demolition permit request - the reality is that there is no time to go through the procedures required to hire a consultant to provide the needed research. In these cases, M-NCPPC staff (who are packaging the Preliminary Draft Amendment) inevitably end up doing the research. These cases don't come up every day; however, examples of resources that we have needed to research on an "emergency" basis over the last year include the WTOP Transmitter Building, the Montgomery Arms Apartments, and the Americus Dawson Tenant House. If researching responsibilities were handled "in house", it would eliminate the staff time needed to find, hire and monitor consultants and would assure that the research would be available when it is needed - even in the case of an unexpected evaluation.

As stated above, there is logistical benefit to doing research on historic properties "in house". Another benefit is providing consistent quality. Having research done by a series of different consultants has led to wide range in the quality of the end product. When M-NCPPC staff has reviewed certain resources that have been "researched", we have found it necessary to fill in gaps and to obtain significant amounts of additional information. This has been particularly true in terms of historic districts. Staff sees this as a major duplication of effort.

Finally, if research is to be done "in house", it could conceivably be done by either HPC or M-NCPPC staff. There are pros and cons to each option. Staff would propose that, aside from the very real constraints that currently exist on the HPC's available staff time (which, in all likelihood, is why researching was contracted out to consultants in the first place), doing research on sites may be a logical extension of the M-NCPPC staff's role in the process that is utilized to designate sites on the Master Plan for Historic Preservation. Although M-NCPPC staff plays a major role in the designation of historic properties, we currently have no control over the research that is being done or over who is doing it. However, we are required to make professional judgments on difficult issues based, in large part, on that research (or we duplicate efforts by redoing research ourselves). If the Board agrees that M-NCPPC staff should be actively involved in Master Plan designations, it is important that we are able to do the necessary research that is essential to the evaluation process.

**Recommendation #10: "Clarify whether Council action is required to remove properties from the Atlas."** This is another technical change to part of the law that is not clear. Staff agrees that this portion of the current ordinance needs to be considered and improved.

**Recommendation #11: "Where appropriate, include standards for future regulatory action in amendments to the Master Plan for Historic Preservation, and provide by law that the HPC must follow such standards in acting upon HAWPs."** Staff supports these recommendations. The designation process currently does involve decisions and guidance in the Master Plan which ultimately affects the HPC's review of Historic Area Work Permits. Language is often included in Master Plan amendments which provides direction on the nature of environmental settings, the intent of historic designation for a particular property, and even the building elements which are of highest historical or architectural significance. The HPC has always been very diligent in referring to the appropriate Master Plan guidance when reviewing Historic Area Work Permits and staff sees the OLO report's recommendation in this regard as the continuation and expansion of an existing relationship. This issue was discussed extensively during the Board's consideration of the Takoma Park Historic District. The HPC expressed concerns about the location and specificity of guidelines within the Takoma Park Master Plan amendment. At that time, the Board supported including guidelines in the Takoma Park amendment and stated that the master planning process that is utilized for historic designation offers an excellent and natural opportunity for public input and participation in the development of applicable standards and guidelines.

**Recommendation #12: "Amend the law to authorize the HPC to delegate the approval of routine HAWP applications and minor modifications to staff."** As discussed previously, the HPC workload is heavy now and will be increasing. Staff supports this method of delegating routine and non-controversial decisions to HPC staff.

Of course, the HPC members will need to work with their own staff to develop guidelines for which cases come to them and which are handled by their staff.

**Recommendation #13: "Simplify process for HPC action on relatively straightforward and non-controversial HAWP applications."** Staff supports this recommendation for the reasons noted above.

**Recommendation #14: "Authorize the Director of DEP to delegate to DHCD: the intake of HAWP applications; and the inspections of HAWPs."** Staff supports this recommendation, but notes that it will increase the workload of the HPC staff and provisions for additional staffing (especially for inspections) may be needed.

**Recommendation #15: "Forward copies of selected HAWP applications to the M-NCPPC Planning Department staff to provide an opportunity for review and comment; it should be clear that the discretion whether to submit comments remains with the Planning Board and M-NCPPC staff."** This is one of the few recommendations that staff is somewhat concerned about. Staff is very willing to work with the HPC on cases that go beyond usual historic preservation issues and begin to raise broader planning concerns. However, we feel that it is important for the division of responsibility between the HPC and our historic preservation planning staff to remain clearly differentiated. As discussed in Section 1 of this report, the division of responsibility that has evolved over the last three years has come to mean that our historic preservation planning staff deals with designation of historic sites and the HPC deals with design review after a site has been designated. Clearly, there is overlap - the HPC participates in the designation process and our staff looks at various proposals (especially subdivisions) for Master Plan sites. However, the basic distinction of duties - if it is to be continued - is important to keep straight and to communicate to the public. Staff is concerned that directing additional responsibilities to our historic preservation planning staff for design review of Historic Area Work Permits, while also recommending the creation of an official "Historic Preservation Office" at DHCD (Recommendation #24), will continue and even exacerbate existing public confusion about who does what in terms of historic preservation in Montgomery County. Staff suggests that M-NCPPC generally continue to focus on historic preservation duties associated with designations, subdivisions, and large-scale public projects, while leaving design review of Master Plan sites up to the HPC and their staff.

**Recommendations #16 through #20** These five recommendations (which are discussed in detail in the OLO report) are all technical changes to the law to clarify and improve the Historic Area Work Permit process. Staff concurs with these five recommendations.

**Recommendation #21: "Develop better techniques for informing the public about the status of properties designated on the Master Plan for Historic Preservation."** Staff strongly supports this recommendation and gladly work the HPC on any efforts in this

direction.

**Recommendation #22: "Develop materials and programs to better educate the public about the County's historic preservation programs, to include improved publicity about the HPC, the Master plan designation process, the HAWP application process, financial incentives for historic preservation, and the division of responsibilities between Executive branch and M-NCPPC historic preservation staff."** Staff strongly supports this recommendation. In addition to offering to assist the HPC on new educational programs, staff reminds the Board that approval has been given to work on a historic preservation video project and historic district "flyers" (both in this year's work program and both well underway).

**Recommendation #23: "Improve the administration of existing historic preservation programs."** Staff supports this recommendation.

**Recommendation #24: "Establish a separate Historic Preservation Office within DHCD, and authorize an additional senior staff position to manage the County's historic preservation efforts. The respective roles of DHCD's Historic Preservation Office and M-NCPPC's historic preservation planning staff must be clearly defined and communicated to the public."** Staff understands that the ultimate location of the HPC is a very sensitive topic. OLO staff presented a thorough discussion of the staffing alternatives on pages 57 to 60 of the report, including three options: 1. keeping the HPC within DHCD, 2. changing the law to move the HPC staffing responsibilities to M-NCPPC (as is done in Prince George's County), and 3. changing the law to establish HPC as an independent commission. OLO staff has recommended the first option. The HPC is in favor of the third alternative (see attached letter from Leonard Taylor to Isiah Leggett).

All of these options have pros and cons and they are well analyzed in the OLO report. Staff believes that it is possible for the HPC to function successfully under any of the three alternatives. If the HPC is to be retained within DHCD there will need to be a major effort to give the group a high level of autonomy and adequate staff support. In addition, previous disagreements will need to be laid to rest by all parties. If the HPC is to function independently, they will certainly need additional staffing - both professional and administrative - and efforts will need to be made to keep the functions of the HPC closely tied into other government departments and functions. The most radical alternative would be to merge HPC staffing responsibilities into M-NCPPC. The Planning Board would need to strongly support this option in order for it to be accomplished successfully.

**Recommendation #25: "Continue to provide HPC with an enhanced level of legal assistance."** Staff supports this recommendation.

**Recommendation #26: "Develop an annual training seminar for all**

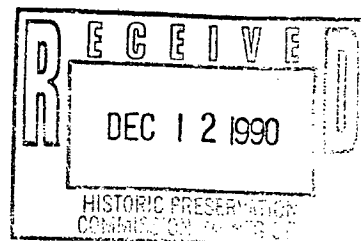
commissioners that serve on the County's adjudicatory boards and commissions, and develop ongoing training for County staff who have primary responsibility for providing support to a County-appointed board, committee, or commission." Staff supports this recommendation.

**Recommendation #27: "Schedule separate annual meetings between the HPC and: a County Council committee, the County Executive, and the Planning Board."** Staff supports this recommendation. As the Board knows, there have been annual dinner meetings with the HPC for the past several years (the last one was on October 25th). Staff has found them to be productive and useful opportunities to share ideas and points of view.

**Leonard Taylor Jr.**  
**Chair, Montgomery County Historic Preservation Commission**  
**5705 Wilson Lane, Bethesda, MD 20814**

December 8, 1990

Mr. Isiah Leggett, President  
Montgomery County Council  
100 Maryland Avenue  
Rockville MD 20850



Re: Critical Concerns of the Historic Preservation Commission

Dear Mr. Leggett and Members of the County Council:

As County Council deliberations proceed in connection with the Office of Legislative Oversight's November 13, 1990 report on the Historic Preservation Commission (HPC), we respectfully request consideration of the issues highlighted below.

The OLO report masterfully reflects successful identification and analysis of many complex matters; we support many of the recommendations. Building on the report, the Commission recommends the following:

1. Create an Independent Office of Historic Preservation

The HPC is currently placed at the lowest level within the Department of Housing and Community Development (DHCD). The OLO report proposes to elevate HPC to "office" status but keep it in DHCD. We believe that placement of HPC under the jurisdiction of any executive branch department conflicts with the Commission's mandate as a quasi-judicial body charged with making impartial, professional judgments on preservation issues. By law, HPC's role impacts the work of the County Planning Board, the Department of Environmental Protection, the Department of Transportation, the County Attorney's Office, and other county agencies. Because of its lack of visibility, the Commission's service to other county agencies in fostering the preservation ethic—as mandated in the ordinance—is compromised. Currently, the HPC is very tightly controlled by DHCD. For example, the department modifies Commission decisions and policies; controls the Commission's budget and staff; and exercises approval over communications. To our knowledge no other county adjudicative body is so constrained. This organizational conflict of interest has on occasion placed DHCD in the uncomfortable position of having to choose between preservation and its other priorities. As a result, HPC's own department has failed to support preservation as the ordinance intended. While the HPC's responsibilities are mandated by law, DHCD's control of those responsibilities is not.

As professionals in government and the private sector, HPC commissioners recognize and appreciate the realities of shrinking budgets and competition for resources. The Commission believes the HPC should be positioned so that it can develop program priorities and an annual work plan with self-managed staff and budget. We want to meet the challenge of achieving a sunset date for the Atlas. We want to write design standards to help govern Historic Area Work Permits (HAWP). We want to provide competent review of more than double the number of current HAWPs as anticipated with the early addition of Takoma Park, Garrett Park, and Chevy Chase historic districts. To have any reasonable chance of accomplishing these goals—among many cited in the OLO report—the HPC's ability to exercise its mandate must be strengthened. It is not realistic to assume that our existing weaknesses, together with a growing HAWP workload, accelerated Atlas reviews, much needed public education efforts, and other work prescribed by law, can be addressed within the departmental structure. The structure hasn't worked in the past; we who live with it daily have no confidence it can ever work well.

2. Provide Resources Commensurate with Scope and Volume of Work

Nine volunteer commissioners, assisted by two DHCD staff members, devote most of their time to HAWPs. The Commission usually meets twice a month; for the past three years, the meetings have started at 7:30 pm and ended at 11:30 pm or later. Handling HAWPs is only one of the Commission's legal mandates. Individual commissioners do site reviews, evaluate grant proposals, represent the HPC before other county agencies, and perform a variety of other official tasks. The absence of adequate resources means that outreach and community

education, clearly envisioned in both the Master Plan for Historic Preservation and the Historic Preservation Ordinance, are virtually ignored. Inadequate resources also impact the Commission's ability to rigorously review Atlas sites and develop clear, comprehensive master plan recommendations. The Commission needs both the structure of an independent office and adequate resources to meet current workload; additional resources, including budget, staff, and computer capability, will be needed to administer the ordinance in a responsible manner with the expanding inventory of historic districts and sites. In brief, competent and fair stewardship of an inventory of historic resources of the magnitude anticipated requires a very different structure and process than the one currently in place.

### 3. Improve Enforcement

The HPC is surprised that so many structures on the 14-year-old Atlas have survived. The Department of Environmental Protection regularly approves permits for work on historic properties that by law require HAWPs. In spite of the ordinance's prohibition of "Demolition by Neglect," structures on the master plan are left by their owners to rot; the police powers of this provision are almost never used to rescue properties. No mechanism exists to ensure that work done on master plan resources comply with approved HAWPs. Even public agencies ignore the preservation ordinance when it does not jibe with their timetable or agenda. We believe vigorous and consistent enforcement of the county ordinance is vital if Montgomery County's commitment to historic preservation is to be taken seriously.

### 4. Increase Support for Master Plan Property Owners

In the abstract, most citizens think historic preservation is a good idea; however, when it comes to designating their personal property on the master plan they may hesitate. Many citizens do not know there is a preservation program in the county. Often they are unaware of the recognition, technical assistance, and financial incentives that come with designation. We would like to do more to insure that property owners know about and receive these benefits. That is what the county's education program in historic preservation should be addressing. We think it sad Montgomery County does not even provide plaques saying a property is on the historic register. This type of symbolic support, coupled with meaningful financial incentives such as tax credits, low-interest loans, and professional technical assistance are the tools used by many other local governments throughout the country to build a preservation constituency and insure its future.

Thank you for your consideration. The HPC is grateful for the opportunity to share its critical concerns with the Council. If the outlook for preservation in Montgomery County were not so grim, we would be more sanguine about the future. But your Commission feels strongly that the time has come to put the county's preservation house in order. Action on the OLO report provides an opportunity to do so. We look forward to participating actively in upcoming Council work sessions about the HPC.

Sincerely yours,

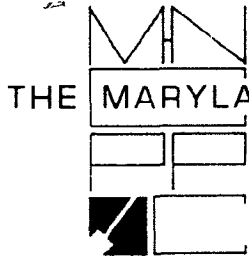
Leonard Taylor Jr.

cc: Mr. Neal Potter, County Executive  
Montgomery County

Mr. Gus Bauman, Chair  
Montgomery County Planning Board

Mr. Richard Ferrara, Director  
Department of Housing and Community Development

Ms. Karen Orlansky  
Office of Legislative Oversight



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
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Montgomery County Planning Board  
Office of the Chairman

October 5, 1990

Andrew Mansinne, Jr.  
Director  
Office of Legislative Oversight  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

  
Dear Mr. Mansinne,

Thank you for the opportunity to comment on the draft copy of OLO Report No. 90-2 on the Montgomery County Historic Preservation Commission (HPC). I have consulted with a number of our staff members who are actively involved in historic preservation efforts - including Melissa Banach, Doug Alexander, and Gwen Marcus - on this report and the following comments reflect the staff's positions as well as my own.

First, I would like to emphasize that we have found the overall report to be very complete, thorough, and well thought out. It clearly represents a formidable analytic effort and is particularly valuable in its detailed documentation of the inception of the County's historic preservation program, its evaluation of current practices, and its comparison of the County's program to other jurisdictions in Maryland and elsewhere around the United States.

Many of the recommendations contained in the draft report deal with the structure of the HPC and procedures for dealing with Historic Area Work Permits. We feel that the majority of these recommendations are quite positive and will substantially improve the ability of the HPC to deal with an increasingly large and complex workload.

In addition, several of the major recommendations in the draft report have a direct bearing on the Board's historic preservation planning work. Our remaining comments will focus in on these specific recommendations.

First, the recommendations that deal with the evaluation of Locational Atlas resources are of special interest in that they will affect the Board's workload and staffing. We strongly support Recommendation #8 to establish a sunset date for the Atlas and feel that the five year schedule for evaluating the



remaining resources is realistic. In addition, we are pleased that the recommendation recognizes the need to establish, by law, a clear process for nominating resources in the future to be considered for designation on the Master Plan for Historic Preservation.

We also support Recommendation #9 to delegate responsibility for researching remaining Atlas resources to our historic preservation planning staff - adding one part-time researcher to our current staffing level of two positions devoted to historic preservation activities. Currently this function is distributed among a variety of consultants hired by the HPC. We feel that having the research on Atlas resources done by one staff person who is familiar with and involved in the overall designation process will make the evaluations more consistent and efficient.

It is important to note that it is our understanding that this recommendation would not require additional funding, but would rather mean that HPC funds currently utilized to hire consultants for research projects would be transferred to the Planning Board's budget to fund the recommended part-time position. There are a variety of ways that this transfer of funds could occur and a variety of ways in which the part-time research position could be structured. We support the concept of folding the researching function in with the rest of our designation activities and are open to a discussion on the details for accomplishing this.

Recommendation #10 calls for additional clarification of the procedures for removing resources from the Locational Atlas. We agree that this portion of the current ordinance needs to be considered and improved.

In the discussion of Historic Area Work Permits, Recommendation #11 suggests that standards for future regulatory action be included in the amendments to the Master Plan for Historic Preservation which designate particular sites. It also recommends that the ordinance be changed to specifically link the direction provided in Master Plan amendments with the HPC's regulatory function. We strongly support these recommendations.

The designation process currently does involve decisions and guidance in the Master Plan which ultimately affects the HPC's review of Historic Area Work Permits. Language is often included in Master Plan amendments which provides direction on the nature of environmental settings, the intent of historic designation for a particular property, and even the building elements which are of highest historical or architectural significance. The HPC has always been very diligent in referring to the appropriate Master Plan guidance when reviewing Historic Area Work Permits and we see the report's recommendation in this regard as the continuation and expansion of a positive existing relationship.

One of the few recommendations that we are concerned about is Recommendation #15, which suggests that the HPC forward copies of selected Historic Area Work Permit applications to our historic preservation planning staff for review and comment. We are very willing to work with the HPC on cases that go beyond usual historic preservation issues and begin to raise broader planning concerns. However, we feel that it is important for the division of responsibility between the HPC and our historic preservation planning staff to remain clearly differentiated.

This division of responsibility that has evolved over the last three years has come to mean that our historic preservation planning staff deals with designation of historic sites and the HPC deals with design review after a site has been designated. Clearly, there is overlap - the HPC participates in the designation process and our staff looks at various proposals (especially subdivisions) for Master Plan sites. However, the basic distinction of duties - if it is to be continued - is important to keep straight and to communicate to the public.

We are concerned that directing additional responsibilities to our historic preservation planning staff for design review of Historic Area Work Permits, while also recommending the creation of an official "Historic Preservation Office" at DHCD (Recommendation #24), will continue and even exacerbate existing public confusion about who does what in terms of historic preservation in Montgomery County.

We would suggest that our staff generally continue to focus on historic preservation duties associated with designations, subdivisions, and large-scale public projects, while leaving design review of Master Plan sites up to the HPC and their staff.

However, if it seems important for our staff to be involved in the design review process, we would suggest that this may demonstrate a need to reopen the issue of consolidating historic preservation activities in the County under "one roof". OLO staff did an excellent job of looking at the various options of where the HPC staffing function should be located and there are clearly problems and opportunities associated with each alternative. Ultimately, it is essential for historic preservation activities in this County to be conducted in the most efficient and effective way possible, with maximum clarity and accessibility for the public.

Perhaps additional consideration of the location issue is warranted at this time. In addition, it would certainly be important to assess the issue of the location of HPC staff when the OLO does a formal follow-up to the current evaluation - in FY 94 or sooner.

Finally, we are very pleased to support Recommendation #27 which calls for annual meetings between the HPC and the County

Council, Executive and Planning Board. The Board has had annual dinner meetings with the HPC for the past several years (in fact, we have one scheduled for October 25th) and we have found them to be productive and useful opportunities to share ideas and points of view.

In conclusion, the draft OLO report on the HPC will be very important and helpful in improving the effectiveness of this Commission. It should go a long way towards solving problems that have been identified in the historic preservation process over the years. The impact on the Board's historic preservation planning program will, we feel, be generally positive. It is, however, essential to clearly define duties, responsibilities and roles.

Sincerely,



Gus Bauman  
Chairman

cc: Melissa Banach, Acting Planning Director  
Doug Alexander, Chief, Urban Design  
Gwen Marcus, Historic Preservation Planner



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760  
(301) 495-4605

Montgomery County Planning Board  
Office of the Chairman

January 23, 1991

The Honorable William E. Hanna, Jr.  
Chairman, PHED Committee  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear <sup>Bill</sup> Mr. Hanna:

On January 17th, the Montgomery County Planning Board met to discuss in detail the Office of Legislative Oversight (OLO) Report on the Montgomery County Historic Preservation Commission (HPC). The Board reviewed all of the recommendations in the OLO Report, utilizing the planning staff's analysis that is attached to this letter.

A number of the OLO recommendations were discussed at length, with the Planning Board giving particular attention to the proposed "sunset" for the current Locational Atlas inventory, the delegation of responsibility for researching of historic resources, and the issue of administrative location for the HPC and its staff. Ultimately, the Board voted to endorse the planning staff's analysis and to forward it to the Council.

In addition, there is currently some confusion as to the different, but complementary, roles of the HPC and its staff in relation to the Planning Department's historic preservation planning effort. This issue is discussed briefly in the OLO Report and at length in the attached staff analysis, which the Board endorses. The Board acknowledges and certainly wishes to maintain the very positive working relationship that presently exists between the HPC and the Planning Department; however, as the OLO Report is considered, it is very important to clearly define and communicate the functions performed by each group.

The Board recognizes that one of the primary and most difficult issues to be addressed in the current analysis of the HPC is the appropriate location for the Commission and its staff. The members of the Planning Board believe that, as a matter of policy, the HPC deserves a level of independence and autonomy that it does not currently have. It is the Board's perception that the HPC has not been able to accomplish effectively its broad and diverse goals because of problems in its current administrative location and because of a lack of resources.

Although the OLO Report recommends retaining the HPC within the Department of Housing and Community Development with a greater level of autonomy, the Board supports the HPC's position (as stated in its letter to the Council of December 8, 1990) that the Commission should be configured as an independent office within the County government, reporting directly to the Executive's Office as well as the Council.

We understand that this is a complex issue and that the Executive and Council may have additional ideas about the appropriate administrative location for the HPC. In fact, some of the Executive's thinking on this matter and his concerns about the HPC's ultimate location were informally shared with the Planning Board at its January 17th meeting. The Board stands ready to work with the Council in analyzing and evaluating all potential location options and will respond promptly to any proposals as the Council reviews the OLO Report.

Douglas Alexander and Gwen Marcus of our staff will attend the PHED Committee worksessions on the OLO Report. The Planning Board and staff look forward to working with the Council as this project proceeds.

Sincerely,



Gus Bauman  
Chairman

cc: The Honorable Neal Potter, County Executive  
The Honorable Isiah Leggett, County Council President  
Richard Ferrara, Director, DHCD  
Leonard Taylor, Chairman, HPC  
Karen Orlansky, OLO



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

AGENDA DATE: January 17, 1990

January 14, 1990

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Douglas Alexander, Chief  
Urban Design Division *DA*

FROM: Gwen Marcus, Historic Preservation Planner  
Urban Design Division *GM*

SUBJECT: OLO Report on Historic Preservation Commission and  
M-NCPPC Preservation Role

Introduction

Montgomery County has been involved in historic preservation activities since the mid-1970's. In 1976, the Maryland-National Capital Park and Planning Commission (M-NCPPC) published the Locational Atlas and Index of Historic Sites in Montgomery County. In September, 1979, the Montgomery County Council approved a functional Master Plan for Historic Preservation (which had been drafted by M-NCPPC), along with a Historic Preservation Ordinance (Chapter 24A of the Montgomery County Code).

Over the last decade, the County's historic preservation efforts have grown substantially and have been refined. Both the strengths and weaknesses of the original Master Plan and Ordinance have been brought to light. As preservation activities move into the 1990's, it has been widely acknowledged that it is important to evaluate what the County has been doing and where it is going in the future in regard to this important public interest.

To that end, the Montgomery County Council directed the Office of Legislative Oversight (OLO) to study and evaluate the structure, workload, staffing, and overall operations of the County's Historic Preservation Commission (HPC). This study took place during 1990 and a final report was presented by OLO to the Council on November 13, 1990.

Although the OLO report is primarily concerned with the functioning of the HPC, there are a number of recommendations that relate to the historic preservation planning activities of M-NCPPC. The purpose of this staff report is, therefore, to help the Planning Board analyze and understand the implications of the OLO recommendations, so that the Board can provide well-reasoned comments to the County Council as they review the OLO report. The PHED Committee will be holding its first worksession on this OLO report on Thursday, January 24th. This meeting conflicts with the Board's regularly scheduled agenda; however, staff is planning to attend this worksession and will present Board comments as needed.

Because this is a complex topic, staff divided its report into two sections. The first section deals with the relationship between the work of the HPC and the work of M-NCPPC's historic preservation planning staff. The second section specifically covers the major recommendations in the OLO report.

### Section 1: Relationship Between HPC and M-NCPPC Preservation Planning Efforts

There have been a number of Board discussions concerning the functioning of the HPC and the division of responsibilities between this body and the Planning Department's historic preservation planning section. Staff feels that additional thought needs to be given to the future roles for each group and the Board's expectations for how its historic preservation planning efforts will be handled.

First and foremost, staff would like to emphasize that - by law - historic designation in Montgomery County is a planning process and M-NCPPC has a legitimate, if not essential, role in this process. Every time a site or district is designated, not only is the Master Plan for Historic Preservation amended, but also the applicable area master plan and the General Plan, as well. The County's historic preservation program has been set up to be a complementary relationship between the legislative branch (the Planning Board and County Council) through the planning process, and the executive branch (the Executive and the HPC) through the Ordinance. We see this type of complementary relationship between planning and implementation throughout the County - a good comparison may be the relationship between the Board's planning efforts in Agricultural Preservation and the functioning of the Agricultural Board and its staff in the Office of Economic Development.

Over the last decade, the wisdom of this complementary system has been demonstrated. Historic preservation issues in recent years have become more, not less, tied into larger planning issues - such as the retention of agricultural land and open space, transportation modes, and community character/quality of life concerns. Although the Historic Preservation Commission is clearly charged with taking the lead role in protecting and preserving the County's historic resources and the Planning Board

has a much broader and diverse mandate, it is appropriate and necessary that historic preservation continue to be included in M-NCPPC's work program.

Given this complementary relationship, it is important to clearly define roles so as to avoid duplications of responsibility. In practical terms, the roles that have evolved over the last few years are that the M-NCPPC staff deals primarily with issues relating to the Master Plan designation of historic sites and districts and the HPC deals with design review after sites have been placed on the Master Plan. Clearly, there is overlap - the HPC participates in the designation process and our staff looks at various design proposals (especially subdivisions) for Master Plan sites. However, the basic distinction of duties seems to be workable and, in staff's opinion, appropriate.

Staff understands that the Board recognizes that the HPC must be strengthened and supported in performing its important functions. Certainly staff has done and will continue to do everything possible to be of help to the HPC. However, it is important for the Board to acknowledge that preservation - especially designation of sites and districts - is a distinct and complex discipline that is inextricably tied into the planning process in this County. Even with a strong and vital HPC, the Board must still be involved in preservation planning activities.

## Section 2: OLO Report Recommendations

**Recommendation #1: "Amend the law to require that the HPC also include representation from the fields of business, real estate, and law."** Staff feels that this recommendation has value and will aid in building a public perception of the HPC as a balanced and objective group. However, it is important to clarify that the intent is not to fill the HPC with businesspeople who have no background, knowledge, or interest in preservation (and, thus, throw the HPC out of balance in another direction), but rather to encourage a broad range of viewpoints. Perhaps this recommendation should be limited to a specific number (two or three) of appointed HPC members.

**Recommendation #2: "Authorize the HPC to establish panels composed of three HPC members who are delegated decision-making authority."** As the number of designated historic sites and districts increases (especially with Takoma Park coming on line as a historic district), the HPC's workload will increase significantly. To avoid all-night meetings, the HPC will either need to meet more often or break up into sub-committees or panels to handle the workload. It is very important that panels be created only at the discretion of the full HPC and that, if created, they are balanced and unbiased (e.g. a Kensington Historic District panel should not include all residents of Kensington). It may be a good idea to direct that all decisions recommended by HPC sub-committees or panels be confirmed by the full HPC to assure that preservation decisions are being made on consistent basis County-wide.



**Recommendation #3: "Authorize the HPC to send cases to the Hearing Examiner in the Office of Zoning and Administrative Hearings for report and recommendation." As historic preservation cases become more complex, the HPC should be able to avail itself, as needed, of all County expertise. Staff feels that the ability to ask the advice of the Hearing Examiner on specific cases may be a valuable tool for the HPC in the future.**

**Recommendation #4: "Clarify in regulation an expanded role for the HPC chair." Staff supports this recommendation.**

**Recommendation #5: "Amend the law to enable HPC members to be compensated." Staff strongly supports this recommendation. The HPC members are dedicated and hard-working. The amount of time they are asked to contribute to HPC work is significant and they should be compensated in the same way as other County boards and commissions.**

**Recommendation #6: "Finalize executive regulations that outline HPC's routine procedures, and the role of the Local Advisory Panels; and develop executive regulations that contain standards for HPC's review of Historic Area Work Permits." This process is currently underway and staff supports its completion.**

**Recommendation #7: "Amend the law to clarify that all HPC decisions are appealable to the Board of Appeals; and to clarify the intent of providing HPC with authority 'to delineate the extent of appurtenances and environmental setting associated with an historic site or resource.'" These are fairly technical changes regarding issues which are not clearly addressed in the existing law. Staff supports this recommendation.**

**Recommendation #8: "Adopt a schedule for the review of all remaining Atlas resources, and establish a sunset date for the Atlas. At the same time, establish a process for nominating resources to be considered in the future for designation on the Master Plan." The OLO recommendations that deal with the evaluation of Locational Atlas resources are of special interest in that they will affect the Board's workload. Staff strongly supports this recommendation and feels that the five year schedule for evaluating the remaining resources which is contained in the OLO report is realistic. In addition, staff supports the language in the recommendation which recognizes the need to establish, by law, a clear process for nominating resources in the future to be considered for designation on the Master Plan for Historic Preservation.**

**Recommendation #9: "Delegate the responsibility for researching remaining Atlas resources to the Planning Department of M-NCPPC." As discussed above, historic designation in Montgomery County is a master planning process. Staff feels that M-NCPPC has a legitimate and essential role to play in deciding which properties should be placed on the Master Plan for Historic Preservation. Because of this significant involvement in the designation proc-**

ess, staff feels that there are a number of reasons for M-NCPPC to be involved in the research that ultimately makes the case for or against designation.

Staff understands that current budget constraints make it unlikely for any new staffing at either the HPC or M-NCPPC. However, it is staff's understanding that HPC will continue to contract for research on historic resources. There are funds granted by the State to Montgomery County because of its status as a Certified Local Government and HPC will continue to utilize these funds for consultants to research historic properties. Since the need for research still exists (even though the topic of additional staffing may be moot), staff would like to outline several reasons that make it beneficial to involve M-NCPPC staff in the researching effort. There are three primary arguments: 1. to streamline the process by which research is obtained, 2. to improve the quality and consistency of the research, and 3. to link the researching effort more closely to the Master Plan designation process by having it done by staff who are familiar with and involved in the overall amendment procedure.

First, staff feels the researching process would be streamlined and improved by doing it "in house". Currently, the HPC contracts with consultants to provide research for historic resources that M-NCPPC is scheduling for evaluation. The process that the HPC goes through of putting out requests for bids and signing contracts with these individual consultants is time consuming and bureaucratically cumbersome. It works out when evaluations are scheduled far enough in advance - although a lot of HPC staff time is spent in preparing requests for bids and monitoring consultant contracts. However, when an emergency or an unplanned evaluation comes up - like a demolition permit request - the reality is that there is no time to go through the procedures required to hire a consultant to provide the needed research. In these cases, M-NCPPC staff (who are packaging the Preliminary Draft Amendment) inevitably end up doing the research. These cases don't come up every day; however, examples of resources that we have needed to research on an "emergency" basis over the last year include the WTOP Transmitter Building, the Montgomery Arms Apartments, and the Americus Dawson Tenant House. If researching responsibilities were handled "in house", it would eliminate the staff time needed to find, hire and monitor consultants and would assure that the research would be available when it is needed - even in the case of an unexpected evaluation.

As stated above, there is logistical benefit to doing research on historic properties "in house". Another benefit is providing consistent quality. Having research done by a series of different consultants has led to wide range in the quality of the end product. When M-NCPPC staff has reviewed certain resources that have been "researched", we have found it necessary to fill in gaps and to obtain significant amounts of additional information. This has been particularly true in terms of historic districts. Staff sees this as a major duplication of effort.

Finally, if research is to be done "in house", it could conceivably be done by either HPC or M-NCPPC staff. There are pros and cons to each option. Staff would propose that, aside from the very real constraints that currently exist on the HPC's available staff time (which, in all likelihood, is why researching was contracted out to consultants in the first place), doing research on sites may be a logical extension of the M-NCPPC staff's role in the process that is utilized to designate sites on the Master Plan for Historic Preservation. Although M-NCPPC staff plays a major role in the designation of historic properties, we currently have no control over the research that is being done or over who is doing it. However, we are required to make professional judgments on difficult issues based, in large part, on that research (or we duplicate efforts by redoing research ourselves). If the Board agrees that M-NCPPC staff should be actively involved in Master Plan designations, it is important that we are able to do the necessary research that is essential to the evaluation process.

**Recommendation #10: "Clarify whether Council action is required to remove properties from the Atlas."** This is another technical change to part of the law that is not clear. Staff agrees that this portion of the current ordinance needs to be considered and improved.

**Recommendation #11: "Where appropriate, include standards for future regulatory action in amendments to the Master Plan for Historic Preservation, and provide by law that the HPC must follow such standards in acting upon HAWPs."** Staff supports these recommendations. The designation process currently does involve decisions and guidance in the Master Plan which ultimately affects the HPC's review of Historic Area Work Permits. Language is often included in Master Plan amendments which provides direction on the nature of environmental settings, the intent of historic designation for a particular property, and even the building elements which are of highest historical or architectural significance. The HPC has always been very diligent in referring to the appropriate Master Plan guidance when reviewing Historic Area Work Permits and staff sees the OLO report's recommendation in this regard as the continuation and expansion of an existing relationship. This issue was discussed extensively during the Board's consideration of the Takoma Park Historic District. The HPC expressed concerns about the location and specificity of guidelines within the Takoma Park Master Plan amendment. At that time, the Board supported including guidelines in the Takoma Park amendment and stated that the master planning process that is utilized for historic designation offers an excellent and natural opportunity for public input and participation in the development of applicable standards and guidelines.

**Recommendation #12: "Amend the law to authorize the HPC to delegate the approval of routine HAWP applications and minor modifications to staff."** As discussed previously, the HPC workload is heavy now and will be increasing. Staff supports this method of delegating routine and non-controversial decisions to HPC staff.

Of course, the HPC members will need to work with their own staff to develop guidelines for which cases come to them and which are handled by their staff.

**Recommendation #13: "Simplify process for HPC action on relatively straightforward and non-controversial HAWP applications."** Staff supports this recommendation for the reasons noted above.

**Recommendation #14: "Authorize the Director of DEP to delegate to DHCD: the intake of HAWP applications; and the inspections of HAWPs."** Staff supports this recommendation, but notes that it will increase the workload of the HPC staff and provisions for additional staffing (especially for inspections) may be needed.

**Recommendation #15: "Forward copies of selected HAWP applications to the M-NCPPC Planning Department staff to provide an opportunity for review and comment; it should be clear that the discretion whether to submit comments remains with the Planning Board and M-NCPPC staff."** This is one of the few recommendations that staff is somewhat concerned about. Staff is very willing to work with the HPC on cases that go beyond usual historic preservation issues and begin to raise broader planning concerns. However, we feel that it is important for the division of responsibility between the HPC and our historic preservation planning staff to remain clearly differentiated. As discussed in Section 1 of this report, the division of responsibility that has evolved over the last three years has come to mean that our historic preservation planning staff deals with designation of historic sites and the HPC deals with design review after a site has been designated. Clearly, there is overlap - the HPC participates in the designation process and our staff looks at various proposals (especially subdivisions) for Master Plan sites. However, the basic distinction of duties - if it is to be continued - is important to keep straight and to communicate to the public. Staff is concerned that directing additional responsibilities to our historic preservation planning staff for design review of Historic Area Work Permits, while also recommending the creation of an official "Historic Preservation Office" at DHCD (Recommendation #24), will continue and even exacerbate existing public confusion about who does what in terms of historic preservation in Montgomery County. Staff suggests that M-NCPPC generally continue to focus on historic preservation duties associated with designations, subdivisions, and large-scale public projects, while leaving design review of Master Plan sites up to the HPC and their staff.

**Recommendations #16 through #20** These five recommendations (which are discussed in detail in the OLO report) are all technical changes to the law to clarify and improve the Historic Area Work Permit process. Staff concurs with these five recommendations.

**Recommendation #21: "Develop better techniques for informing the public about the status of properties designated on the Master Plan for Historic Preservation."** Staff strongly supports this recommendation and gladly work the HPC on any efforts in this

direction.

**Recommendation #22: "Develop materials and programs to better educate the public about the County's historic preservation programs, to include improved publicity about the HPC, the Master plan designation process, the HAWP application process, financial incentives for historic preservation, and the division of responsibilities between Executive branch and M-NCPPC historic preservation staff."** Staff strongly supports this recommendation. In addition to offering to assist the HPC on new educational programs, staff reminds the Board that approval has been given to work on a historic preservation video project and historic district "flyers" (both in this year's work program and both well underway).

**Recommendation #23: "Improve the administration of existing historic preservation programs."** Staff supports this recommendation.

**Recommendation #24: "Establish a separate Historic Preservation Office within DHCD, and authorize an additional senior staff position to manage the County's historic preservation efforts. The respective roles of DHCD's Historic Preservation Office and M-NCPPC's historic preservation planning staff must be clearly defined and communicated to the public."** Staff understands that the ultimate location of the HPC is a very sensitive topic. OLO staff presented a thorough discussion of the staffing alternatives on pages 57 to 60 of the report, including three options: 1. keeping the HPC within DHCD, 2. changing the law to move the HPC staffing responsibilities to M-NCPPC (as is done in Prince George's County), and 3. changing the law to establish HPC as an independent commission. OLO staff has recommended the first option. The HPC is in favor of the third alternative (see attached letter from Leonard Taylor to Isiah Leggett).

All of these options have pros and cons and they are well analyzed in the OLO report. Staff believes that it is possible for the HPC to function successfully under any of the three alternatives. If the HPC is to be retained within DHCD there will need to be a major effort to give the group a high level of autonomy and adequate staff support. In addition, previous disagreements will need to be laid to rest by all parties. If the HPC is to function independently, they will certainly need additional staffing - both professional and administrative - and efforts will need to be made to keep the functions of the HPC closely tied into other government departments and functions. The most radical alternative would be to merge HPC staffing responsibilities into M-NCPPC. The Planning Board would need to strongly support this option in order for it to be accomplished successfully.

**Recommendation #25: "Continue to provide HPC with an enhanced level of legal assistance."** Staff supports this recommendation.

**Recommendation #26: "Develop an annual training seminar for all**

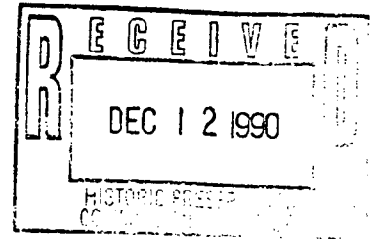
commissioners that serve on the County's adjudicatory boards and commissions, and develop ongoing training for County staff who have primary responsibility for providing support to a County-appointed board, committee, or commission." Staff supports this recommendation.

**Recommendation #27: "Schedule separate annual meetings between the HPC and: a County Council committee, the County Executive, and the Planning Board." Staff supports this recommendation. As the Board knows, there have been annual dinner meetings with the HPC for the past several years (the last one was on October 25th). Staff has found them to be productive and useful opportunities to share ideas and points of view.**

**Leonard Taylor Jr.**  
**Chair, Montgomery County Historic Preservation Commission**  
**5705 Wilson Lane, Bethesda, MD 20814**

December 8, 1990

Mr. Isiah Leggett, President  
Montgomery County Council  
100 Maryland Avenue  
Rockville MD 20850



Re: Critical Concerns of the Historic Preservation Commission

Dear Mr. Leggett and Members of the County Council:

As County Council deliberations proceed in connection with the Office of Legislative Oversight's November 13, 1990 report on the Historic Preservation Commission (HPC), we respectfully request consideration of the issues highlighted below.

The OLO report masterfully reflects successful identification and analysis of many complex matters; we support many of the recommendations. Building on the report, the Commission recommends the following:

1. Create an Independent Office of Historic Preservation

The HPC is currently placed at the lowest level within the Department of Housing and Community Development (DHCD). The OLO report proposes to elevate HPC to "office" status but keep it in DHCD. We believe that placement of HPC under the jurisdiction of any executive branch department conflicts with the Commission's mandate as a quasi-judicial body charged with making impartial, professional judgments on preservation issues. By law, HPC's role impacts the work of the County Planning Board, the Department of Environmental Protection, the Department of Transportation, the County Attorney's Office, and other county agencies. Because of its lack of visibility, the Commission's service to other county agencies in fostering the preservation ethic—as mandated in the ordinance—is compromised. Currently, the HPC is very tightly controlled by DHCD. For example, the department modifies Commission decisions and policies; controls the Commission's budget and staff; and exercises approval over communications. To our knowledge no other county adjudicative body is so constrained. This organizational conflict of interest has on occasion placed DHCD in the uncomfortable position of having to choose between preservation and its other priorities. As a result, HPC's own department has failed to support preservation as the ordinance intended. While the HPC's responsibilities are mandated by law, DHCD's control of those responsibilities is not.

As professionals in government and the private sector, HPC commissioners recognize and appreciate the realities of shrinking budgets and competition for resources. The Commission believes the HPC should be positioned so that it can develop program priorities and an annual work plan with self-managed staff and budget. We want to meet the challenge of achieving a sunset date for the Atlas. We want to write design standards to help govern Historic Area Work Permits (HAWP). We want to provide competent review of more than double the number of current HAWPs as anticipated with the early addition of Takoma Park, Garrett Park, and Chevy Chase historic districts. To have any reasonable chance of accomplishing these goals—among many cited in the OLO report—the HPC's ability to exercise its mandate must be strengthened. It is not realistic to assume that our existing weaknesses, together with a growing HAWP workload, accelerated Atlas reviews, much needed public education efforts, and other work prescribed by law, can be addressed within the departmental structure. The structure hasn't worked in the past; we who live with it daily have no confidence it can ever work well.

2. Provide Resources Commensurate with Scope and Volume of Work

Nine volunteer commissioners, assisted by two DHCD staff members, devote most of their time to HAWPs. The Commission usually meets twice a month; for the past three years, the meetings have started at 7:30 pm and ended at 11:30 pm or later. Handling HAWPs is only one of the Commission's legal mandates. Individual commissioners do site reviews, evaluate grant proposals, represent the HPC before other county agencies, and perform a variety of other official tasks. The absence of adequate resources means that outreach and community

education, clearly envisioned in both the Master Plan for Historic Preservation and the Historic Preservation Ordinance, are virtually ignored. Inadequate resources also impact the Commission's ability to rigorously review Atlas sites and develop clear, comprehensive master plan recommendations. The Commission needs both the structure of an independent office and adequate resources to meet current workload; additional resources, including budget, staff, and computer capability, will be needed to administer the ordinance in a responsible manner with the expanding inventory of historic districts and sites. In brief, competent and fair stewardship of an inventory of historic resources of the magnitude anticipated requires a very different structure and process than the one currently in place.

### 3. Improve Enforcement

The HPC is surprised that so many structures on the 14-year-old Atlas have survived. The Department of Environmental Protection regularly approves permits for work on historic properties that by law require HAWPs. In spite of the ordinance's prohibition of "Demolition by Neglect," structures on the master plan are left by their owners to rot; the police powers of this provision are almost never used to rescue properties. No mechanism exists to ensure that work done on master plan resources comply with approved HAWPs. Even public agencies ignore the preservation ordinance when it does not jibe with their timetable or agenda. We believe vigorous and consistent enforcement of the county ordinance is vital if Montgomery County's commitment to historic preservation is to be taken seriously.

### 4. Increase Support for Master Plan Property Owners

In the abstract, most citizens think historic preservation is a good idea; however, when it comes to designating their personal property on the master plan they may hesitate. Many citizens do not know there is a preservation program in the county. Often they are unaware of the recognition, technical assistance, and financial incentives that come with designation. We would like to do more to insure that property owners know about and receive these benefits. That is what the county's education program in historic preservation should be addressing. We think it sad Montgomery County does not even provide plaques saying a property is on the historic register. This type of symbolic support, coupled with meaningful financial incentives such as tax credits, low-interest loans, and professional technical assistance are the tools used by many other local governments throughout the country to build a preservation constituency and insure its future.

Thank you for your consideration. The HPC is grateful for the opportunity to share its critical concerns with the Council. If the outlook for preservation in Montgomery County were not so grim, we would be more sanguine about the future. But your Commission feels strongly that the time has come to put the county's preservation house in order. Action on the OLO report provides an opportunity to do so. We look forward to participating actively in upcoming Council work sessions about the HPC.

Sincerely yours,

Leonard Taylor Jr.

cc: Mr. Neal Potter, County Executive  
Montgomery County

Mr. Gus Bauman, Chair  
Montgomery County Planning Board

Mr. Richard Ferrara, Director  
Department of Housing and Community Development

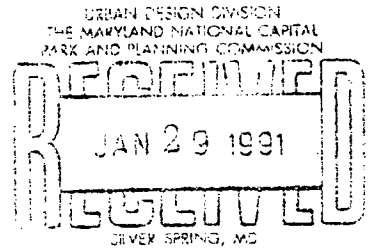
Ms. Karen Orlansky  
Office of Legislative Oversight





# Montgomery County Government

January 25, 1991



Gus Bauman, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Mr. Bauman:

On January 24, 1991, the PHED Committee discussed OLO's recent evaluation (OLO Report No. 90-2) of the Historic Preservation Commission. To address many of the issues raised in the report, the PHED Committee directed Council staff to draft amendments to Chapter 24A, Historic Resources Preservation. A draft bill will return to the PHED Committee before it is formally introduced for Council action.

On the issue of staffing location, as I am sure you have been informed, the County Executive has recommended transferring the Historic Preservation Commission's staffing function from the Department of Housing and Community Development (DHCD) to the Maryland-Capital Park and Planning Commission. (See attached letter of January 23, 1991.) At yesterday's meeting, the PHED Committee requested me to convene an informal working group to think through the details of implementing this proposal.

The working group will be composed of a member of the Historic Preservation Commission plus staff representatives from M-NCPPC, DHCD, the Department of Environmental Protection, the Office of the County Attorney, and the County Council. Ideally, we will report back to the PHED Committee with a workable proposal that has the support of the County Executive, the Planning Board, the M-NCPPC staff, and the Historic Preservation Commission.

Please call me if you would like to discuss the PHED Committee's action. Otherwise, I will proceed to work directly with Melissa Banach and Gwen Marcus as representatives of M-NCPPC.

Sincerely,

*Karen Orlansky*  
Karen Orlansky  
Program Evaluator

KO/cca  
Attachment

cc: Melissa Banach, M-NCPPC  
Gwen Marcus, M-NCPPC

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

M E M O R A N D U M

January 23, 1991

TO: William E. Hanna, Jr., Chair  
PHED Committee

FROM: Richard J. Ferrara, Director *RJF*  
Department of Housing & Community Development

SUBJECT: Relocation of the Historic Preservation Commission

On January 17, 1991, a meeting was held with the County Executive to discuss the Office of Legislative Oversight evaluation of the Historic Preservation Commission. At that meeting, County Executive Neal Potter decided to recommend to the County Council that the Historic Preservation Commission be administratively transferred to the Planning Board.

Mr. Potter believes that there is some duplication of services between the Planning Board and the HPC, since the Planning Board already has some 2.5 work years assigned to its historic preservation activity. This question of overlapping responsibility was discussed in the OLO report as well. In addition, the report notes that the Prince George's County Historic Preservation Commission is located at the Prince George's County Planning Board.

Mr. Potter believes that it would be appropriate to provide some additional funding to assist the Planning Board in administering the HPC activity. If the Council supports this proposal, we would make the arrangements to complete the transfer by July 1, 1991.

RJF/rap:0592C

cc: Neal Potter, County Executive  
William Hussmann, CAO  
Gene Lynch, Special Assistant to County Executive  
Robert Kendal, OMB  
Joyce Stern, County Attorney  
Meg Reissett, OPP  
Leonard Taylor, Chairman, HPC  
Gus Bauman, Chair, Planning Board



# Montgomery County Government

## MEMORANDUM

January 25, 1991

TO: Working Group (See Distribution)

FROM: Karen Orlansky, <sup>KO</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Follow-up to January 24, 1991 PHED Committee Meeting Re: Transfer of Historic Preservation Commission's Staffing Function From DHCD to M-NCPPC

Thanks for agreeing to help. At the request of the PHED Committee, our task is to think through the details of implementing a transfer of the Historic Preservation Commission's staffing function from the Department of Housing and Community Development (DHCD) to the Maryland-National Capital Park and Planning Commission (M-NCPPC). Ideally, we will report back to the PHED Committee with a workable (and legal!) proposal that has the support of the County Executive, the Planning Board, the M-NCPPC staff, and the Historic Preservation Commission.

As I have already had the opportunity to discuss with most of you, I recommend that we tackle this assignment in three meetings:

- Meeting #1:
- Identify the issues that need to be addressed; and
  - Assign specific research tasks to individual Working Group members.
- Meeting #2:
- Share results of additional research;
  - Discuss issues and (where possible) reach consensus on details of proposal; and
  - Identify areas that need additional work.
- Meeting #3:
- Resolve outstanding issues; and
  - Finalize Working Group's response to the PHED Committee.

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

Meeting #1 is scheduled for February 4, 1991 from 9:00-10:30 a.m.  
It will be held in the COB's fifth floor conference room (back). Please bring  
your calendars so that we can select dates for our other two meetings.

Please call Carol Allen (217-7990) to confirm your attendance at the  
February 4th meeting.

Thanks again.

KO/cca  
302/46

cc: Leonard Taylor, Chair, HPC  
Melissa Banach, M-NCPPC  
Gwen Marcus, M-NCPPC  
Victor Brescia, DHCD  
Kathy Hart, Office of the County Attorney  
Robert Hubbard, DEP  
Elizabeth Beninger, County Council

ISSUES LIST FOR 2/4/91 MEETING

Assignment: To think through the details of implementing a transfer of the Historic Preservation Commission's staffing function from the Department of Housing and Community Development (DHCD) to the Maryland-National Capital Park and Planning Commission (M-NCPPC).

I. GENERAL ADMINISTRATION

A. How does M-NCPPC Propose to Provide Staff Support to the HPC?

1. Configuration of staffing

- Number and type of staff;
- Location of function in M-NCPPC's chain of command;
- Physical location of staff (\$).

2. Estimated additional cost to M-NCPPC/Source of funds (\$)

- Personnel/fringe expenses;
- Operating expenses;
- Upfront capital expenses (possibility of transferring any office equipment?)

3. Will current hiring freeze effect implementation? (\$) } CHECK W/ ALAN

*intimidation  
public perception* }

4. Where will HPC meetings be held?

5. Who will be responsible for taking HPC meeting minutes? (\$)

6. Will M-NCPPC staff be able to appear on behalf of HPC in public forums, e.g., in front of the Planning Board, County Council?

B. How Will Staff Support to HPC Relate to M-NCPPC's Current Historic Preservation Functions, e.g., Providing Staff Support to the Planning Board?

C. Legal Support for the HPC and the M-NCPPC Staff Supporting the HPC

1. Charter Section 213 provides that the County Attorney is to serve as the legal advisor to all "instrumentalities of the County Government".

2. In practice, is there potential for conflict between M-NCPPC's legal staff and the Office of the County Attorney?

*how does funding get to M-NCPPC?  
direct appropriation  
vs.  
contract*

DO BUDGET → VERY SPECIFIC

#116,050 TOTAL BUDGET REDUCTION @ DHCD : SALARIES OPERATING EXPENSES



D. Process for Promulgating Executive Regulations

1. By law, entity charged with promulgating Executive Regulations is HPC itself. However, HPC must follow process outlined in Section 2A-15 of the Code, e.g., publishing in Register, comment period, transmittal and approval by Council.

E. Certified Local Government Grant Funds (\$)

1. Who will apply for CLG funds?
2. Who will decide how these funds are allocated?
3. Who will oversee expenditure of grant funds?

4. NOTE: At present, the County provides postage for mailing The Preservationist, and costs are not included as part of CLG grant.

Who issues grants?

Call Gail Rothrock - how do they do it

BUDGET

II. HPC'S ADVISORY FUNCTIONS

A. Logistics of Advising the Planning Board, County Executive, and the County Council on Master Plan Designation

1. Who will conduct research?
2. Will CLG funds for research still be made available? (\$)
3. How will schedule for research be determined?
4. How will HPC recommendation be transmitted to the Planning Board, CE, and CC?

B. Logistics of HPC's Other Advisory Functions

1. Subdivision applications.
2. Legislation or regulations before Council/General Assembly for action.
3. Miscellaneous other issues that are scheduled for discussions either by the Planning Board or Council.

C. Staff Advisory Function: Reviewing Building Permit Applications for Work on Atlas Resources

1. Will DEP continue current practice of requesting staff supporting the HPC to review building permits applications for work on Atlas sites?
2. How will this coordination work with M-NCPPC staff?

HAWP person twice a week

### III. HPC'S REGULATORY FUNCTIONS

#### A. Acting upon Application for HAWPS

##### 1. Intake

- Where will intake of applications occur: at DEP or M-NCPPC?
- Who will be responsible for maintaining up-to-date premise address data base? (This is the data base that DEP consults in order to inform applicants that they need to apply for an HAWP.)
- Who will provide technical assistance to applicants?
- Who will be responsible for tracking regulatory clock?
- How will application of HAWP be coordinated with application for and issuance of building permit?.

45 days } {

##### 2. Public appearance

- Who will place advertisements?
- Where will public appearance be held?

##### 3. Decision

- Will M-NCPPC staff continue with DHCD's current practice of providing a written staff recommendation to HPC on each HAWP application?
- Who will write-up final HPC decisions? (consider that law may be changed to require that all HAWP decisions are in (\$) writing)
- How will decision be transmitted to DEP? (a practical consideration is that final package of application/decision is too bulky to go through inter-office mail)

M-NCPPC staff  
visits DEP  
twice a week  
Mon + Wed.  
office hours

##### 4. Enforcement

- Who will be responsible for enforcement?
- If DEP remains responsible for enforcement, how will this work?

##### 5. Other HAWP issues

- Does M-NCPPC staffing location pose any problems for referring cases to Hearing Examiner for report and recommendation?

delete  
from  
law

- Will Planning Board ever be asked to submit comments on HAWP?

B. Acting upon Demolition by Neglect Appeals

in law:

1. Will DHCD (Housing Code Division) continue to be responsible for investigating/issuing citations for demolition by neglect cases?
2. If not DHCD staff, then who?
3. How will HPC's role be coordinated with inspectors?

IV. HPC'S PROGRAM ADMINISTRATION FUNCTIONS

A. Historic Preservation Tax Credit

1. Coordination of HPC's role with Department of Finance (Finance's Administrative Guidelines for the Historic Preservation Tax Credit are in the process of being revised).
2. Any legal problems here?

B. Historic Preservation Easement Program

1. How will staff support for this (currently inactive) program work?
2. Any legal problems here?

C. Historic Preservation Grant Programs (\$)

1. Historical Activities Support/Nondepartmental Account (currently managed by DHCD).
  - Will these funds transfer to M-NCPPC?
  - Who will be responsible for allocating grant funds?
2. Historic Preservation Grant Fund (portion of NDA that has been allocated to the HPC since FY85).
  - Will HPC continue to have responsibility for allocating these grant funds?
  - How will oversight of grant funds work?
  - NOTE: A number of FY91 grants have due dates beyond July 1, 1991.



D. Historic Preservation Loan Fund (currently inactive, but on paper administered by DHCD?) (\$)

1. Will responsibility for this Fund transfer to M-NCPPC?
2. Do new regulations need to be issued?
3. Are there any plans to provide \$\$\$ for this program?

E. Providing Information and Public Education Materials on Historic Preservation

One of HPC's statutory responsibilities is: " To serve as a clearinghouse for information on historic preservation for County Government, individuals, citizens associations, historical societies and local advisory committees; to provide information and educational materials for the public; and to undertake activities to advance the goals of historic preservation in the County." (Section 24A-5(g))

Any thoughts on how this function will be performed with staff support being provided by M-NCPPC? (\$)

V. **TRANSITION PERIOD**

A. When Should Actual Transfer of Staffing Responsibilities Occur?

B. Can Certain Transitional Activities Begin Before the Official Transfer Date, e.g., Staff Recruitment?

C. Physical Transition: (\$)

1. Files: HAWPs, Master Plan designations, HPC minutes, etc.
2. Resource materials.
3. Computer disks.
4. Pending case files.
5. Furniture?

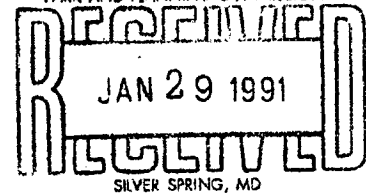
D. Notifying the Public About Effective Date of Change



# Montgomery County Government

January 25, 1991

URBAN DESIGN DIVISION  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION



Gus Bauman, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Mr. Bauman:

On January 24, 1991, the PHED Committee discussed OLO's recent evaluation (OLO Report No. 90-2) of the Historic Preservation Commission. To address many of the issues raised in the report, the PHED Committee directed Council staff to draft amendments to Chapter 24A, Historic Resources Preservation. A draft bill will return to the PHED Committee before it is formally introduced for Council action.

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Please call me if you would like to discuss the PHED Committee's action. Otherwise, I will proceed to work directly with Melissa Banach and Gwen Marcus as representatives of M-NCPPC.

Sincerely,

*Karen Orlansky*  
Karen Orlansky  
Program Evaluator

KO/cca  
Attachment

cc: Melissa Banach, M-NCPPC  
Gwen Marcus, M-NCPPC

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

MEMORANDUM

January 23, 1991

TO: William E. Hanna, Jr., Chair  
PHED Committee

FROM: Richard J. Ferrara, Director *RJF*  
Department of Housing & Community Development

SUBJECT: Relocation of the Historic Preservation Commission

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RJF/rap:0592C

cc: Neal Potter, County Executive  
William Hussmann, CAO  
Gene Lynch, Special Assistant to County Executive  
Robert Kendal, OMB  
Joyce Stern, County Attorney  
Meg Reissett, OPP  
Leonard Taylor, Chairman, HPC  
Gus Bauman, Chair, Planning Board



# Montgomery County Government

## MEMORANDUM

January 25, 1991

TO: Working Group (See Distribution)

FROM: Karen Orlansky, <sup>KO</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Follow-up to January 24, 1991 PHED Committee Meeting Re: Transfer of Historic Preservation Commission's Staffing Function From DHCD to M-NCPPC

Thanks for agreeing to help. At the request of the PHED Committee, our task is to think through the details of implementing a transfer of the Historic Preservation Commission's staffing function from the Department of Housing and Community Development (DHCD) to the Maryland-National Capital Park and Planning Commission (M-NCPPC). Ideally, we will report back to the PHED Committee with a workable (and legal!) proposal that has the support of the County Executive, the Planning Board, the M-NCPPC staff, and the Historic Preservation Commission.

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- Discuss issues and (where possible) reach consensus on details of proposal; and
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Meeting #3:

- Resolve outstanding issues; and
- Finalize Working Group's response to the PHED Committee.

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

Meeting #1 is scheduled for February 4, 1991 from 9:00-10:30 a.m.  
It will be held in the COB's fifth floor conference room (back). Please bring  
your calendars so that we can select dates for our other two meetings.

Please call Carol Allen (217-7990) to confirm your attendance at the  
February 4th meeting.

Thanks again.

KO/cca  
302/46

cc: Leonard Taylor, Chair, HPC  
Melissa Banach, M-NCPPC  
Gwen Marcus, M-NCPPC  
Victor Brescia, DHCD  
Kathy Hart, Office of the County Attorney  
Robert Hubbard, DEP  
Elizabeth Beninger, County Council

CM



# Montgomery County Government

## MEMORANDUM

February 12, 1991

TO: Working Group (See Distribution)

FROM: Karen Orlansky, <sup>KO.</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Next Working Group Meeting: February 25, 1991

### I. Time and Place of Next Meeting

Thanks to all of you for your participation in our first meeting. The next one is scheduled for:

Date: February 25, 1991  
Time: 9:00 to 11:00 a.m.  
Place: Council Office Building  
 Fifth Floor Conference Room (Back)

Please let me know as soon as possible if you are unable to attend.

### II. Agenda for Next Meeting

#### A. Discussion with Gail Rothrock, Historic Preservation Coordinator for Prince George's County.

As suggested, I invited Gail Rothrock, M-NCPPC Historic Preservation Coordinator for Prince George's County, to attend our February 25th meeting. I recommend that we allocate the first half hour of our next meeting to talking with Gail about M-NCPPC's staffing of the Historic Preservation Commission in Prince George's County. Questions raised at our February 4th meeting about Prince George's County included:

- Who provides the HPC with legal support? Is there conflict between the County Attorney and M-NCPPC's legal staff?
- What are the logistics for obtaining Certified Local Government funds?

Office of Legislative Oversight

- What procedures are followed for managing grants and contracts? (e.g., contracts for research on historic resources, CLG grants)
- How does the delegation of routine HAWPs to staff work in practice?
- Have there been any systemic problems with having the Planning Department staff provide support to both the HPC and the Planning Board?

B. Issues Identified for Further Discussion

1. Presentation (by Gwen Marcus) of M-NCPPC's proposal for providing staff support to the HPC, including:
  - Configuration of staff (number, type, hierarchy)
  - Physical location of staff
  - Logistics for HPC meetings (location, minutes)
  - Relationship of staff support for HPC with staff support for Planning Board
  - Estimated personnel/operating/capital costs

Note: Vic Brescia will provide additional information about what equipment/resources (e.g., filing cabinets, tape recorder) the Executive branch will be willing to "loan" the Planning Commission.

2. Flow of Funds: Should funds to support the staffing of the HPC be: (1) appropriated directly into the Planning Department's budget, or (2) appropriated into a Non-Departmental Account (NDA) and allocated to the Planning Commission on a contractual basis?
  - a. Is there a specific legal problem with appropriating funds directly to M-NCPPC for the purpose of providing staff support to the HPC?
  - b. What are the pros/cons of having funds flow through a NDA?
3. What will be the logistics of retaining certain historic preservation functions in the Executive branch?
  - a. Management of preservation-related loans/grants, e.g., "Mini-Grant" Program, Historic Preservation Loan Fund. (The problem we identified is that M-NCPPC is not set up to do loans and grants. Gwen Marcus agreed to find out how this is done in Prince George's County.)

- b. Enforcement of demolition by neglect (Vic Brescia agreed to come back with DHCD's view on amending the law to formally assign this responsibility to DHCD.)
4. Executive Regulations: We discussed amending the law to state that the "County Executive" (instead of the "Historic Preservation Commission") must promulgate the Executive Regulations associated with the administration of the Historic Preservation Ordinance. In practice, how will this work?
5. Special concerns raised by Leonard Taylor, Chair of the Historic Preservation Commission:
  - a. If the HPC has a concern about the staff support being provided to the Commission, then who should HPC contact?
  - b. What will be HPC's role with respect to the budget for historic preservation functions?
  - c. Will the County Executive continue to request the HPC to interview HPC applicants and recommend individuals for appointment?

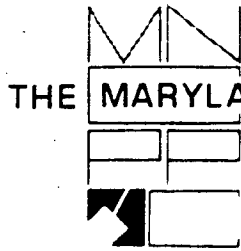
III. Other Issues?

Please call me (217-7996) if you have any changes or additions to the upcoming meeting's agenda. I look forward to seeing you on February 25th.

KO/cca  
302/57

cc: Leonard Taylor, Chair, HPC  
Melissa Banach, M-NCPPC  
~~Gwen Marcus, M-NCPPC~~  
Tom Kennedy, M-NCPPC  
Victor Brescia, DHCD  
Kathy Hart, Office of the County Attorney  
Robert Hubbard, DEP  
Elizabeth Beninger, County Council





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

March 4, 1991

TO: Montgomery County Planning Board

VIA: Robert W. Marriott, Jr. *RW*  
Planning Director

FROM: Melissa C. Banach  
Deputy Planning Director

SUBJECT: FY 92 Budget for Historic Preservation Activities

-----

Subsequent to the preparation of the attached staff report, we discovered that the Nondepartmental Accounts section of the Executive Budget recommends \$10,000 for inclusion in a Historic Preservation Grant Fund which is currently administered by HPC through DHCD. The HPC accepts proposals from County historical groups who compete for use of these funds. Grants are then made on the basis of the best historical preservation projects. The historic groups execute funding agreements for the projects with the DHCD. This funding has the advantage of making County support for historic preservation activities accessible to local historic groups.

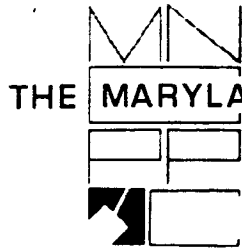
Given the purpose of the Grant Fund, staff cannot assume that the \$10,000 can be used to reduce the \$38,750 deficit. However, staff will further investigate this possibility and report to the Planning Board on Thursday, March 7th.

MCB:RWM:el

Attachment

cc: Alan Lemke  
Gwen Marcus

*1991*



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

AGENDA DATE: March 7, 1991

February 28, 1991

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Robert W. Marriott, Jr. *RW*  
Planning Director

FROM: Gwen Marcus, Historic Preservation Planner  
Urban Design Division *G.M.*

SUBJECT: Consolidation of HPC Staffing Function within M-NCPPC  
Historic Preservation Planning Program - Budget and  
Staffing

---

Staff Recommendation

- o Increase the County's contribution for historic preservation activities by \$38,750.
- o Support the transfer of HPC activities from DHCD to the Planning Department.

Background

The ultimate location of the Historic Preservation Commission's (HPC) staffing function was discussed extensively in the Office of Legislative Oversight's (OLO) report on the HPC. A number of options for location were analyzed: keeping the HPC staff within the Department of Housing and Community Development (DHCD), making the HPC independent, and transferring the HPC staff to M-NCPPC.

Since the issuance of the OLO report, the County Executive has recommended consolidating the HPC staffing function within M-NCPPC's historic preservation planning program. In addition, the County Council PHED Committee has reviewed the OLO report and has directed Council staff to coordinate a working group to think through the details of implementing such a transfer.

*OLO*

A working group has been formed with representatives from DHCD, DEP, M-NCPPC, the County Attorney's Office, OLO, and the HPC. The group has met twice, has done a great deal of additional research and analysis, and has come to consensus on many technical and procedural issues.

The purpose of this memo is to apprise the Board of the discussions that have taken place within the working group, so that the Board can develop detailed recommendations for the PHED Committee and the County Council on the proposed consolidation.

Since this is a complex issue, staff has divided it into two parts for the Board to look at: first, the issues of budget and staffing - to be discussed in closed session on March 7th - and secondly, the issue of the working relationship between the HPC and the Board - to be discussed as part of the Board's regular agenda on March 14th. Thus, this memorandum will deal with the budget and staffing issues only, with a second memo to follow next week. In addition, all of the individuals who have participated in the OLO's working group will be invited to attend the March 14th discussion.

### Discussion

#### 1. Staffing and Budget

There are currently two work years committed to historic preservation activities within DHCD and two work years committed to historic preservation at M-NCPPC with each staff utilizing "borrowed" administrative secretarial support from the respective agencies. Transferring the HPC staffing function would necessitate combining the two existing historic preservation units into one County historic preservation office which would deal with all preservation issues.

Specifically, consolidating the HPC staffing function within M-NCPPC's current historic preservation planning program would mean that M-NCPPC staff would be involved in both the designation of historic sites and districts, as well as the design review of alterations to sites that have already been designated. Although such a consolidation would involve an unusual combining of the planning and implementation functions for a particular aspect of the County's work, it would have many benefits in terms of streamlining historic preservation processes and making the County's preservation efforts clearer and more understandable for the public. For these reasons, the Planning Department supports the consolidation of the HPC staffing within M-NCPPC's historic preservation planning program.

Planning Department staff proposes that the consolidated County historic preservation office be staffed by 3 1/2 professional work years and one support/secretarial work year. The staff would function as a single unit with individual staff responsibilities divided by tasks, rather than by specific con-

nection to either the HPC or the Board. Thus, the staff would preservation program, one full-time planner to handle all issues related to Historic Area Work Permits (HAWPs), two part-time planners (as currently exists) to continue working on designations, referrals and other preservation planning issues, one part-time planner to do research needed to complete the evaluation of the Locational Atlas, and one full-time secretary/typist. A more detailed explanation of each of these positions is included in Attachment #2 - which is a descriptive FY 1992 budget for the consolidated historic preservation office.

The consolidation as described above would require the relocation of the historic preservation office out of the MRO building and into nearby lease space. This relocation will require several capital expenditures for moving, furniture, telephones, and computers. The separate location of the historic preservation office from the main building also makes the secretarial position mentioned above of particular necessity. Support services/operating costs are also described in Attachment #2.

In addition to staffing and operating costs, the HPC has traditionally administered a number of programs and projects that are funded by grants. These funds come from the State of Maryland through the Certified Local Governments (CLG) program and are matched dollar-for-dollar by the County. Many important projects, like the Preservationist newsletter and the County's Preservation Week activities, have been funded by the CLG/County grant pool and Attachment #2 shows a continuation of these efforts.

## 2. Sources of Funding

A great deal of discussion has taken place within the working group as to how the historic preservation office should be staffed and what its budget should be. General consensus has been reached on the proposals - as outlined - for staffing, operating costs, and grant funded programs.

WORKING  
GROUP  
LOOKED  
AT EARLIER  
VERSIONS  
↓

However, the funding issues are not completely resolved - awaiting the Planning Board's review and recommendations. The budget for the consolidated historic preservation office is \$300,300 in total. The State of Maryland can be expected to contribute \$20,900 in CLG funds towards this program. M-NCPPC had included \$128,100 for historic preservation activities in its FY 1992 budget.\* The County Executive Branch had initially proposed contributing \$116,000 towards the consolidated historic preservation office and has since increased that contribution to \$126,000.

The Executive's proposed FY 92 budget recommends a reduction of the Planning Department's budget by 10-1/2%. This reduction decreases the proposed budget for historic preservation activities in the Planning Department from \$128,100 to \$114,650 - a \$13,450 cut. There remains a deficit of \$38,700.

\*FY 91 BUDGET = EXPLAIN WITH ~~LESS~~ <sup>LESS</sup> IN FY 92 THAN FY 91

The budget has been pared down as much as possible - in response to overall County budget constraints. Planning Department staff does not feel it is possible to decrease the budget further and still perform all of the historic preservation functions required - especially with the proposed five year sunset for the Locational Atlas evaluations.

Staff recommends that the counties contribution should be increased by \$38,750., thereby protecting the Planning Department from receiving a financial penalty for an otherwise highly desirably consolidation. By incorporating this adjustment into the funding plan, the staff recommends Planning Board approval of the proposal to consolidate HPC staffing functions within the Planning Department.

ATTACHMENT #1

PROPOSED FY92 EXPENDITURE REQUEST  
RECOMMENDED BY THE PLANNING DEPARTMENT

-----

Operating Expenses	\$258,500
Grant Programs	\$41,800
Total	----- \$300,300

FY92 FUNDING SOURCES

-----

County Contribution	\$126,000
MNCPPC Current Budgeted Amount	\$128,100
Less County Executive Cut	(\$13,450)
State of Maryland CLG	\$20,900
Additional MNCPPC Request to the County Council	\$38,750
TOTAL FUNDING SOURCES	----- \$300,300

ESTIMATED COSTS TO TRANSFER THE HISTORIC PRESERVATION  
 COMMISSION'S STAFFING FUNCTION FROM DHCD TO MNCPPC  
 MARCH 4, 1991

FY92 EXPENDITURE REQUEST

PERSONAL SERVICES (SALARY & FRINGE)	AMOUNT
Preservation Coordinator (Planner IV/V) Full Time: Marcus	\$71,500
HAWP Planner/Architect (Planner III) Full Time: Vacant	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time: Kennedy	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time: Rolland	\$25,000
Preservation Planner/Researcher/Public Information (Planner I) Part Time: Vacant	\$21,700
Secretary (Grade 9)/ Receptionist Full Time: Vacant	\$28,600
Subtotal	\$224,200

(CUT 37,000)

SUPPORT SERVICES

Rental of Office Space	\$12,300
Moving Expenses	\$500
Computers (3 New Vectras and 1 Printer)	\$11,000
Furniture	\$1,000
Materials/Supplies	\$1,500
Telephones	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Preservation Workshops required by CLG	\$1,500
Subtotal	\$34,300

(NEW)

(1 MORE  
COMPUTER)

\$258,500

Grant Programs (see following page)	\$41,800
TOTAL EXPENDITURES	\$300,300

GRANT FUNDED PROGRAMS

EXPENDITURES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
Grants	\$20,900	\$0	\$20,900	\$41,800



ATTACHMENT #2

Montgomery County Historic Preservation Office - FY 1992 Budget

Staffing/Salaries including all Fringe Benefits:

Coordinator (Planner IV/V) \$71,500

**Gwen Marcus**

- o Direct all aspects of the program, including supervision of staff, setting of work program, and accomplishment of all designation/planning projects and HAWP/regulatory efforts.

HAWP Planner/Architect (Planner III) \$49,400

**To Be Filled**

- o Handle regulatory efforts on all HAWP applications, including fieldwork and photography, assistance to applicants, preparation of staff reports for HPC, rehab advice to citizens, etc.

Preservation Planner/Architectural Historian: \$53,000

Part-Time Planner II - **Carol Kennedy**  
Part-Time Planner I - **Mary Ann Rolland**

- o Work on planning and designation efforts, including analysis of potential sites and districts, preparation of amendments and chapters in master plans, and monitoring of referrals on all subdivisions, zoning cases, etc.

Preservation Planner/Researcher/  
Public Info (Part-Time Planner I) \$21,700

**To Be Filled**

- o Do all research on Locational Atlas resources. Work on all educational publications, videos, brochures, etc. Handle citizen inquiries and requests for general information.

Secretary (Grade 9) \$28,600

**To Be Filled**

- o Perform all office support work, including typing, copying, filing, etc. Prepare minutes for all HPC meetings.

**Subtotal for Staffing/Salaries.....\$224,200**

Support Services:

Rental of Office Space	\$12,300
o Transfer of HPC staffing to M-NCPPC will involve relocating this work unit into leased office space.	
Moving Expenses	500
o Relocation into new office	
Computers	11,000
o 3 new Vectras and 1 printer	
Furniture	1,000
o Chairs, shelves, etc. as needed	
Materials/Supplies	1,500
o Includes coffee, etc. for HPC meetings	
Telephones	1,500
Postage	3,000
o Includes all regular mailings, such as notices to owners of designation hearings, HPC packet distribution, etc.	
Public Notices	2,000
o Legal notices for HAWP hearings and public hearings on amendments	
Workshops	1,500
o CLG status requires all HPC Commissioners to attend one educational workshop per year	
<b>Subtotal for Support Services.....</b>	<b>\$34,300</b>

TOTAL FOR SALARIES AND SUPPORT SERVICES.....\$258,500.

Historic Preservation Grant-Funded Projects:

NOTE: This portion of the budget is to be paid through a combination of CLG funds from the State of Maryland (\$20,900) and Montgomery County funds matching the CLG grant one-for-one (\$20,900). CLG grants have been given to Montgomery County's historic preservation program for the past four years and, as required by the State, have been matched by the County each year. This grant money has been used to pay for HPC preservation projects in past years and can not be used for salaries or for support services.

Preservationist Newsletter:

- Printing \$3,300
- Editorial Services 8,500
- Postage 3,000

o This newsletter has been published by the HPC for a number of years. It is one of the most important public education/information tools for preservation in the County. Costs projected for FY 1992 are unchanged from FY 1991.

Historic Preservation Brochure \$5,000

o The HPC anticipated doing a brochure in FY 1991, but has not completed this project. M-NCPPC had included funding for a brochure in its FY 1992 budget. This new publication proposal will merge the two projects and will address both preservation planning and HAWP/regulatory activities in Montgomery County.

Preservation Week Activities \$2,000

o For the past three years, the HPC has assisted in sponsoring the annual Preservation Awards ceremony at Strathmore Hall and in funding the Montgomery Prize for Preservation. This is an important event in terms of gaining public interest and support for preservation by recognizing excellent projects that have been completed in the County. Costs projected for FY 1992 are in line with previous contributions.

Preservation Grant Fund \$20,000

o This program has existed since FY 1985. Its purpose is to provide small seed grants to non-profit groups in the County that are

involved in preservation projects.  
All grants are matched by the non-  
profits. The grant fund as proposed  
for FY 1992 is substantially lower  
than past years - the fund is rolled  
back to approximately its FY 1987 level.

**Subtotal for Historic Preservation Projects.....\$41,800**

SALARIES AND SUPPORT SERVICES.....\$258,500

HISTORIC PRESERVATION PROJECTS.....\$41,800

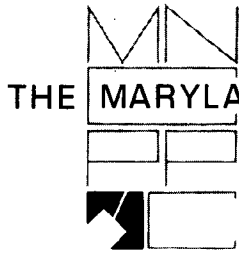
TOTAL.....\$300,300

HISTORIC PLUS

DEFICIT w/ VARIOUS

CUTS

<u>BUDGET</u>	<u>DEFICIT</u>
AS PROPOSED	28,100
CE CUT	38,750
CC 642 GUIDELINE	32,220
CC 775 GUIDELINE	33,660



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

AGENDA DATE: March 14, 1991

March 11, 1991

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Robert W. Marriott, Jr. *RWM/bap*  
Planning Director

FROM: Gwen Marcus, Historic Preservation Planner *GM*  
Urban Design Division

SUBJECT: Consolidation of HPC Staffing Function within M-NCPPC  
Historic Preservation Planning Program - Administrative Relationships

Background

During last week's budget discussions, the Planning Board considered a proposal to consolidate the HPC staffing function with M-NCPPC's historic preservation planning program. The Board supported the Planning Department's recommendations on this issue, including:

- o Support the transfer of HPC activities from DHCD to the Planning Department.
- o Increase the County's contribution for historic preservation activities by \$38,750.

A brief summary of the budget and staffing issues which were discussed and approved by the Board is as follows:

The overall budget which was proposed for the Historic Preservation Unit was \$300,300 (see Attachment #1). This figure includes \$41,800 in grant funded programs (consisting of a \$20,900 Certified Local Government grant from the State of Maryland which must be matched by Montgomery County).

The Planning Board agreed to include \$114,650 in their FY 1992 budget proposal for the funding of the Historic Preservation Unit (which reflects the Executive-requested 10-1/2% cut in the Planning Department budget). With the County's proposed contribution of \$126,000, there remains a deficit of \$38,750 (see Attachment #2).

The staffing complement proposed by the Planning Department and approved by the Board included 3 1/2 professional work years and one support/secretarial work year. As proposed, the staff would function as a single unit with individual staff responsibilities divided by tasks, rather than by specific connection to either the HPC or the Board. Thus, the staff would include one coordinator to administer all aspects of the preservation program, one full-time planner to handle all issues related to Historic Area Work Permits (HAWPs), two part-time planners (as currently exists) to continue working on designations, referrals and other preservation planning issues, one part-time planner to do research needed to complete the evaluation of the Locational Atlas, and one full-time secretary/typist.

The purpose of this memo is to continue the analysis of this consolidation proposal so that the Board can develop detailed recommendations for the PHED Committee and the County Council. This memo will specifically address the issue of the working relationship between the HPC and the Board.

### Discussion

The most simplistic explanation of the current division of responsibility between the HPC and the Planning Department/Board is that the HPC has focused its primary attention on the design review of alterations to designated historic sites, while the Planning Board and its staff has taken the lead on evaluation of historic sites for possible designation. There is definite overlap, e.g. the HPC making recommendations to the Board on designations, but in a very basic sense this is how the work has been split. A description of the HPC's powers and duties is included as Attachment #3, while the activities of the Planning Department's historic preservation planning program are listed on Attachment #4.

Part of the logic of this division is that the HPC legally has final authority (except for appeals) on Historic Area Work Permits (HAWPs), while designation is a planning process - an amendment to the Master Plan for Historic Preservation with approval by the Council and adoption by the Board and full M-NCPPC (a chart describing the designation process in detail is included as Attachment #5). The HPC's recommendation is only one component of the overall designation process. The Planning Department staff, Planning Board and County Council currently do not deal at all with Historic Area Work Permits.

The proposed consolidation will change the Planning Department staff's current duties in several ways, but will not affect their administrative position - they will remain M-NCPPC employees who report to and are evaluated by the Director of the Planning Department. Although they will be staffing the HPC and the Planning Board, it must be very clear that they remain Planning Department employees.

One primary change in staff's duties is that they will be

very involved in the Historic Area Work Permit process, much in the same way that Planning Department staff supports the Board of Appeals on special exception cases. Staff will work with property owners to assist them in the completion of HAWP applications, conduct field visits, provide technical rehabilitation assistance, and write detailed staff recommendations for the HPC on each HAWP application.

Although staff's role will change, the proposed consolidation will not mean that the Planning Board and County Council will review Historic Area Work Permits. Essentially, the Board's role on Historic Area Work Permits will not change at all.

Planning Department staff will continue to work on designations and other preservation planning issues much in the same way that they currently do - individual Locational Atlas resources will be researched and evaluated by staff, with detailed recommendations prepared on the potential designation of each resource. Staff envisions that this technical preservation analysis will be presented in its entirety to both the HPC and the Planning Board in turn. Each body will develop their own recommendation on whether a resource should be designated or not and staff will strive to objectively represent those recommendations to the County Council. This process would function in much the same way as the current process used by the Development Review Division for reviewing zoning cases.

Because designation is a multiple-step process and because there is potential for differing recommendations between the HPC and the Board, staff sees this process as the main area where conflict could arise. However, it is important to note that differing recommendations have been relatively rare in the past and have been handled without ill feeling on the part of either the HPC or the Board. This has been true because the HPC understands that they are advisory to the Planning Board on designations and that the Council ultimately makes the final decision.

Nonetheless, if the HPC recommends a site for designation and the Board recommends against designation, the presentation before the County Council on this site could end up being controversial. This has been handled effectively in the past by the HPC and the Board each sending a member (not a staff person) to make their cases before the Council and having the Council responsible for the ultimate decision. Staff feel that this process should be continued and will, in all likelihood, help to avoid potential conflicts.

An additional area of clarification which is necessary regards the legal support for preservation issues. By law, the HPC must receive its legal advice from the County Attorney's Office. Therefore, Planning Department staff will consult with the County Attorney's Office on issues before the HPC (for example, HAWPs) and with the M-NCPPC legal office on preservation issues before the Planning Board (for example, master planning or designation questions).



Although consolidating the HPC staffing with the current historic preservation planning program will be challenging, it should not involve major administrative conflicts for the HPC and the Planning Board. The HPC will continue to operate relatively independently on Historic Area Work Permits and the designation process will continue to be a multi-step process with both HPC and Planning Board recommendations made available to the County Council.

Staff's role should be clearly defined from the outset - their primary responsibility is to make professional, technical preservation analyses, rather than to act as advocates for one particular point of view or another. It should also remain clear that staff works for the Planning Department and reports to the Planning Director. Staffing issues and/or problems will ultimately need to be resolved by the Director.

## Attachment #1

ESTIMATED COSTS TO TRANSFER THE HISTORIC PRESERVATION  
COMMISSION'S STAFFING FUNCTION FROM DHCD TO MNCPPC  
MARCH 11, 1991

## FY92 EXPENDITURE REQUEST

PERSONAL SERVICES (SALARY & FRINGE)	AMOUNT
-----	-----
Preservation Coordinator (Planner IV/V) Full Time: Marcus	\$71,500
HAWP Planner/Architect (Planner III) Full Time: Vacant	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time: Kennedy	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time: Rolland	\$25,000
Preservation Planner/Researcher/Public Information (Planner I) Part Time: Vacant	\$21,700
Secretary (Grade 9)/ Receptionist Full Time: Vacant	\$28,600
Subtotal	\$224,200
-----	-----
SUPPORT SERVICES	
-----	-----
Rental of Office Space	\$12,300
Supplies & Materials	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Preservation Workshops required by CLG	\$1,500
ONE TIME EXPENSES	
Moving Expenses	\$500
Computers (3 New Vectras and 1 Printer)	\$11,000
Furniture	\$1,000
Telephones	\$1,500
	\$14,000
Subtotal	\$34,300
-----	-----
	\$258,500
Grant Programs (see following page)	\$41,800
TOTAL EXPENDITURES	\$300,300

Attachment #1 (cont.)

GRANT FUNDED PROGRAMS

EXPENDITURES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Grants	\$20,900	\$0	\$20,900	\$41,800

Attachment #2

PROPOSED FY92 EXPENDITURE REQUEST  
RECOMMENDED BY THE PLANNING DEPARTMENT

-----

Operating Expenses		\$258,500
Grant Programs		\$41,800
	Total	----- \$300,300

FY92 FUNDING SOURCES

-----

County Contribution	\$126,000
MNCPPC Current Budgeted Amount	\$128,100
Less County Executive Cut	(\$13,450)
State of Maryland CLG	\$20,900
Additional MNCPPC Request to the County Council	\$38,750
TOTAL FUNDING SOURCES	----- \$300,300

Attachment #3

**POWERS AND DUTIES OF THE HISTORIC PRESERVATION COMMISSION**

By law, the HPC has adjudicatory, advisory, and administrative responsibilities.

Its adjudicatory powers include:

- o Acting upon applications for Historic Area Work Permits (HAWP) on sites that have been designated on the Master Plan for Historic Preservation. (Appeals of HPC decisions on HAWP cases go to the Board of Appeals. Further appeals then go to Circuit Court.)
- o Acting as the appellate body for citations issued by the County under the demolition by neglect provisions of the Historic Preservation Ordinance.

Advisory responsibilities include:

- o Making recommendations to the Planning Board on the designation of historic sites on the Master Plan.
- o Making recommendations to the Planning Board on additions to the Locational Atlas.
- o Making recommendations to the Planning Board on subdivisions and site plans that affect designated or potential historic sites.
- o Making recommendations to other County boards and agencies on zoning cases, special exceptions, capital improvement projects, etc. that may affect designated or potential historic sites.
- o Making recommendations on programs and legislation which concerns historic preservation in the County.

Administrative responsibilities include:

- o Appointing members to Local Advisory Panels to assist and advise the HPC.
- o Developing executive regulations which outline the procedures and processes of the HPC.
- o Administering the historic preservation easement program and any revolving funds or grant programs to assist in preservation in the County.
- o Serving as a clearinghouse for information on historic preservation, providing information/educational materials to the public, and generally undertaking activities to advance the goals of preservation in the County.

Attachment #4

**ACTIVITIES OF THE PLANNING DEPARTMENT'S PRESERVATION PROGRAM**

- o Designate historic sites and districts by initiating amendments to the Master Plan for Historic Preservation and following these amendments through the entire master planning process.
- o Prepare chapters in comprehensive area master plans on pertinent historic preservation issues: the designation of resources, potentials for adaptive reuse, coordination with other master plan goals, relationship to transportation, environmental, etc. issues.
- o Advise the Planning Board on subdivisions, site plans, CIP projects, mandatory referrals, zoning cases, special exceptions, etc. that may affect designated or potential historic sites.
- o Conduct special studies and projects related to historic preservation. For example, the preparation of design guidelines and streetscape standards for the Town of Poolesville.



**MONTGOMERY COUNTY  
MASTER PLAN FOR HISTORIC PRESERVATION  
DESIGNATION PROCESS**

The chart below outlines the procedures in place for any property in Montgomery County to be designated as an historic site and, thus, to be protected under the provisions of the Historic Preservation Ordinance, Chapter 24A of the Montgomery County Code,

In 1976, M-NCPPC prepared an inventory of all potential historic resources in Montgomery County. This inventory was published as the:

**LOCATIONAL ATLAS AND INDEX OF HISTORIC SITES**

The HPC initiates the evaluation of Atlas resources by having their staff prepare research and background materials on the resources. Then a public hearing is scheduled for the:

**HPC REVIEW**

The HPC evaluates whether the resources meet the designation criteria listed in the Ordinance. They then transmit their recommendations to the Planning Board for incorporation into:

**PRELIMINARY DRAFT AMENDMENT**

The Planning Board holds a public hearing on the Preliminary Draft. After the hearing, planning staff reviews the resources and makes an independent staff recommendation which is presented to the Board at a worksession. The Board reviews the HPC recommendations, the public hearing testimony, and the planning staff's recommendations and formulates its own recommendations which are reflected in:

**FINAL DRAFT AMENDMENT**

The County Executive reviews the Final Draft and makes revisions deemed appropriate. The Executive forwards to County Council:

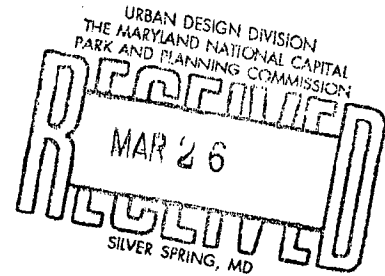
**FINAL DRAFT AMENDMENT  
WITH EXECUTIVE'S RECOMMENDED REVISIONS**

County Council holds a public hearing and worksessions and approves, disapproves, or amends the Final Draft with Executive Revisions. The Final Draft is then forwarded to M-NCPPC to become:

**APPROVED AND ADOPTED AMENDMENT TO THE  
MASTER PLAN FOR HISTORIC PRESERVATION**



# Montgomery County Government



## MEMORANDUM

March 21, 1991

TO: Working Group (See Distribution)

FROM: Karen Orlansky, <sup>KO.</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: DRAFT #2 of Working Group's Report to PHED Committee

Attached is DRAFT #2 of our Working Group's report back to the PHED Committee. This DRAFT incorporates all editorial suggestions that I received by March 20, 1991.

You will note that there are only a few changes from the original DRAFT circulated on March 5, 1991. The only substantive changes are found in the response to Question (1); specifically, the list of staff activities was expanded and the description of the administrative location of the Historic Preservation Office was clarified.

As of this writing, because the funding issue is still under discussion, the answer to Question (2) remains blank.

In addition, the Working Group should be aware that Kathy Hart, Senior Assistant County Attorney, continues to have some legal concerns regarding the transfer of HPC staffing responsibilities from the Executive Branch to the M-NCPPC. She is researching her concerns and expects to reach a conclusion shortly. She promises to keep us informed.

Our Working Group is scheduled tentatively to report back to the PHED Committee at 9:00 a.m. on April 15, 1991. Our report will be on the same day that the PHED Committee holds a worksession on the proposed FY92 operating budget for the Planning Department. I will be sure to let you know when the date and time of our meeting with the PHED Committee is confirmed.

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990



Please call me with any recommended changes to DRAFT #2 no later than March 29, 1991. If I do not hear from you, I will again assume that you have no objection to what is written. Again, thanks to all of you for your help with this project.

KO/cca  
384/31

Attachment

Distribution:

Leonard Taylor, Chair, HPC  
Victor Brescia, DHCD  
Kathy Hart, Office of the County Attorney  
Robert Hubbard, DEP  
Elizabeth Beninger, County Council  
Melissa Banach, M-NCPPC  
✓Gwen Marcus, M-NCPPC  
Tom Kennedy, M-NCPPC  
Alan Lemke, M-NCPPC



DRAFT

## Montgomery County Government

### MEMORANDUM

April 10, 1991

TO: PHED Committee

FROM: Karen Orlansky, <sup>K.O.</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Report of Working Group Appointed by PHED Committee to Examine  
Transfer of Historic Preservation Commission Staffing Responsibility

#### I. BACKGROUND

On January 24, 1990, the PHED Committee conducted a worksession on the major issues raised by the Office of Legislative Oversight's recent evaluation of the Historic Preservation Commission (OLO Report No. 90-2). Among the issues discussed was a recommendation from the County Executive to transfer the responsibility for providing staff support to the Historic Preservation Commission (HPC) from the Department of Housing and Community Development (DHCD) to the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

The PHED Committee directed OLO staff to convene an inter-agency Working Group to think through the details of implementing a transfer of the HPC staffing function from DHCD to M-NCPPC. The Working Group has completed its work and this memorandum constitutes our report back to the PHED Committee.

On January 24th, the PHED Committee also directed Council staff to prepare certain amendments to Chapter 24A, Historic Resources Preservation. These amendments, which include the necessary legislative changes to implement a transfer of the staffing responsibility from DHCD to M-NCPPC, will be forwarded to the Committee under separate cover.

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

DRAFT

-2-

## II. WORKING GROUP PARTICIPANTS

OLO appreciates the time and effort spent by the following individuals, who actively participated in our Working Group's activities:

Leonard Taylor, Chairman, HPC  
Victor Brescia, Deputy Director, DHCD  
Kathy Hart, Senior Assistant County Attorney  
Robert Hubbard, Construction Codes Division, DEP  
Elizabeth Beninger, Legislative Attorney, Council Staff  
Melissa Banach, Deputy Director for Planning, M-NCPPC  
Gwen Marcus, Preservation Planner, M-NCPPC  
Tom Kennedy, Associate General Counsel, M-NCPPC  
Alan Lemke, Budget Officer, M-NCPPC

In addition, OLO extends special thanks to Gail Rothrock, Historic Preservation Coordinator, Prince George's County, who took time to explain to our Working Group the logistics of how the Prince George's Planning Department provides staff support to the Historic Preservation Commission.

## III. ISSUES AND ANSWERS

The Working Group identified a number of administrative, legislative, and budgetary issues to be addressed as part of any plan to transfer the Historic Preservation Commission (HPC) staffing responsibility from DHCD to M-NCPPC. For purposes of communicating our ideas back to the PHED Committee, the following is a list of the major questions we felt needed to be answered and a summary of how we, as a group, recommend the questions be answered.

### (1) What will be the configuration of the staff support to the HPC?

As proposed by M-NCPPC, a Montgomery County Historic Preservation Office will be established in the Montgomery County Planning Department of M-NCPPC. Initially, the Historic Preservation Office will report directly to the Planning Director's Office, but in the future may be incorporated into one of the Planning Department's divisions. Preservation Office staff will be M-NCPPC employees.

The Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as staff support for the Planning Board on historic preservation issues. Major activities will include:

- Conducting research and preparing professional staff recommendations and public hearing testimony for both the HPC and the Planning Board regarding the designation of sites on the Master Plan for Historic Preservation;

DRAFT

-3-

- Managing the processing of Historic Area Work Permits (HAWPs) to include providing technical staff assistance to applicants, formulating professional staff recommendations, working with the Department of Environmental Protection to coordinate intake and enforcement, and assisting HPC and the Office of the County Attorney on HAWP appeals;
- Working with the HPC, Planning Board, and public to develop preservation guidelines and plans for historic districts designated on the Master Plan for Historic Preservation;
- Providing professional staff recommendations to the HPC and the Planning Board on subdivision applications, Area Master and Sector Plans, and other planning issues that affect the preservation of historic resources and sites in the County;
- Managing special preservation projects to include: providing information and educational materials to the public about historic preservation; and overseeing the expenditure of any funds received from the Maryland Historical Trust through the Certified Local Government program; and
- Providing staff support to the HPC to carry-out HPC's statutory responsibilities with respect to the County's Historic Preservation Tax Credit Program, Historic Preservation Easement Program, and Historic Preservation Grant Program.

(2) How will staff support for the HPC relate to M-NCPPC's current historic preservation planning functions?

As indicated above, the Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as for the Planning Board on historic preservation issues. Preservation Office staff will work with both the Planning Board and the HPC to develop their proposed annual work program and budget.

Activities of the Historic Preservation Office will be included in the Planning Department's annual work program and quarterly reports to the County Council. The annual budget for the Preservation Office will appear in the M-NCPPC budget, which is a document proposed by the Planning Board, reviewed by the Executive, and approved by the Council.

(3) How much will the staffing cost and how will it be funded?

(ANSWER TO BE FILLED IN.)

DRAFT

-4-

**(4) Who will provide legal support to the HPC?**

Charter Section 213 provides that the County Attorney is to serve as the legal advisor to all "instrumentalities of the County Government." Because HPC members will continue to be appointed by the County Executive and confirmed by the Council, the HPC is considered an instrumentality of the County Government, and will therefore continue to receive legal advice from the Office of the County Attorney.

In practice, for legal advice on issues before the HPC, M-NCPPC staff will consult with the County Attorney. However, for legal advice on preservation-related issues before the Planning Board, M-NCPPC staff will continue their current practice of consulting with M-NCPPC's legal office.

**(5) How will Executive Regulations be promulgated?**

Current law requires Executive Regulations concerning the administration of Chapter 24A, Historic Resources Preservation, to be promulgated as Method (2) Executive Regulations. Transferring the staffing responsibility from DHCD to M-NCPPC will not change this requirement. In practice, it is expected that Executive Regulations will be drafted by the HPC (with staff support provided by M-NCPPC), forwarded to the County Attorney for review, and then promulgated according to the standard Method (2) process.

**(6) How will the logistics for the intake, staff review, decision-making, and enforcement of Historic Area Work Permit (HAWP) applications work?**

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M-NCPPC staff will routinely pick-up HAWP applications at DEP. M-NCPPC will provide staff support to the HPC for consideration of HAWP applications, to include: fulfilling advertising requirements, informing applicants of the date that the HPC will consider their application, providing a staff recommendation on whether to approve the HAWP, and assisting the HPC draft written HAWP decisions. M-NCPPC staff will also be responsible for transmitting HPC's final decision to DEP.

DEP will continue to be responsible for HAWP enforcement, and will respond to HPC's requests for inspecting specific properties. M-NCPPC staff will be responsible for updating DEP's premise address data base to identify Atlas resources and historic sites designated on the Master Plan for Historic Preservation.

DRAFT

-5-

(7) Will DHCD (Housing Code Division) continue to be responsible for investigating/issuing citations for demolition by neglect cases?

Yes. Currently, pursuant to a Memorandum of Understanding between DHCD and DEP, housing inspectors working in DHCD's Housing Code Division are responsible for investigating demolition by neglect cases, and for issuing warnings and citations as appropriate. By law, (Section 24A-9) the HPC hears appeals of demolition by neglect citations.

DHCD is willing to continue its current enforcement of the demolition by neglect provisions of the historic preservation ordinance. To eliminate the need for a Memorandum of Understanding, Chapter 24A should be amended to directly assign DHCD this responsibility. (See Question #15 below.)

(8) What will be the logistics for researching Atlas resources?

M-NCPPC will assume responsibility for researching Atlas resources. The research will be conducted either by M-NCPPC staff or by consultants on contract to M-NCPPC. The schedule for research will be determined as it is now, that is, primarily by the Planning Board's approved Master Plan work program.

Research on Atlas resources, along with a M-NCPPC staff recommendation concerning whether specific resources should be designated on the Master Plan for Historic Preservation, will be forwarded to the HPC. The research, staff recommendation, plus HPC recommendation will then be forwarded to the Planning Board, and the procedures for considering all Master Plan amendments will continue to be followed.

(9) Will M-NCPPC staff be able to appear before the Planning Board and the County Council on behalf of the HPC?

This issue arises primarily with respect to HPC's recommendations on whether specific Atlas resources should be designated on the Master Plan for Historic Preservation. Consistent with current practice, M-NCPPC staff will be able to communicate recommendations of the HPC to the Planning Board and the County Council. However, if the views of the HPC differ significantly from those of the M-NCPPC staff and/or the Planning Board, then it may be preferable for an HPC member to personally appear before the Council to explain the HPC's recommendation.

DRAFT

-6-

**(10) Will DEP continue its current practice of requesting staff supporting the HPC to review building permit applications for work on Atlas resources?**

Yes. When DEP receives a building permit application for work on an Atlas resource, DEP will forward the application to M-NCPPC staff for review. M-NCPPC staff will advise DEP whether the application constitutes a proposal to substantially alter the exterior features of an historic resource. This determination is significant because if DEP determines that the application constitutes a proposal to substantially alter the resource, then evaluation of the resource for designation on the Master Plan for Historic Preservation must proceed pursuant to the fast-track procedures outlined in Section 24A-10 of the Code.

**(11) Who will apply for Certified Local Government grant funds and who will oversee expenditure of funds?**

Under regulations of the Maryland Historical Trust, the County is the entity designated as the "Certified Local Government (CLG)." However, as the agency charged with providing staff support to the County's HPC, the M-NCPPC is eligible to apply directly for CLG matching grant funds; sufficient funds to match the CLG funds should be included in M-NCPPC's budget. M-NCPPC staff will also assume responsibility for overseeing the expenditure of CLG grant funds. (See following question with respect to administration of the Historic Preservation Grant Fund.)

**(12) How will transferring the HPC staffing function to M-NCPPC effect operation of the Historic Preservation Grant Fund program?**

Since FY85, County funds for the Historic Preservation Grant Fund have been appropriated annually as part of the Historical Activities/Nondepartmental Account (NDA). The Historic Preservation Commission has allocated these grant funds, with staff assistance provided by DHCD; in FY91, \$27,500 was appropriated to the Historic Preservation Grant Program. The Executive's proposed FY92 Operating Budget recommends \$10,000 in funding for the Historic Preservation Grant Fund.

At present, the Montgomery County Board of the M-NCPPC is not authorized under State law to administer a historic preservation grant program. In 1987, the Regional District Act was amended (Article 28, Sections 5-301 through 5-307) to authorize the Prince George's Board of the M-NCPPC to administer the Prince George's County Historic Preservation Grant Fund.

State legislation, similar to that passed for the Prince George's Board in 1987, should be sought to authorize the Montgomery County Board of M-NCPPC to administer a Montgomery County Historic Preservation Grant Fund. Until such authority is granted, however, any preservation grant program will have to be managed with continued assistance from the Executive Branch.

DRAFT

-7-

**(13) How will transferring the HPC staffing function to M-NCPPC affect operation of the Historic Preservation Tax Credit program?**

The Department of Finance will continue to be responsible for administering the Historic Preservation Tax Credit program, and the HPC will continue to evaluate all applications for the purpose of advising the Department of Finance whether the work meets certain eligibility requirements. The operation of the program will change only to the extent that applications for the tax credit will be submitted to M-NCPPC staff supporting the HPC (instead of DHCD), and M-NCPPC staff will assist the HPC perform its statutory responsibility to evaluate historic preservation tax credit applications.

**(14) When should the official transfer of staffing responsibilities occur?**

As long as the necessary legislative and budget action can be accomplished in time, the official transfer of staffing responsibilities should be effective July 1, 1991. To the extent possible, DHCD and M-NCPPC staff should cooperatively work to transfer background material and pending case files before the official transfer of staffing responsibilities occurs.

**(15) What legislative changes are required to implement the transfer of staffing responsibilities?**

County Code Changes: Section 24A-4(h)(2) Staff, must be amended to assign the M-NCPPC with the responsibility for providing staff support to the HPC. (Note: The law currently assigns this responsibility to the Chief Administrative Officer.)

References in Chapter 24A to the "Director", defined as the Director of the Department of Environmental Protection (DEP), do not need to be changed because DEP will continue to be responsible for the intake of HAWP applications and for most enforcement activities. (See Question #7 above.) However, to eliminate the need for a Memorandum of Understanding between DEP and DHCD, Section 24A-9 should be amended to explicitly assign DHCD the responsibility for investigating and enforcing the demolition by neglect provisions of Chapter 24A.

State Law Changes: As discussed in Question #12 above, if M-NCPPC is going to administer an historic preservation grant program without continued assistance from the Executive Branch, then State legislation is required to provide the Montgomery County Planning Board of M-NCPPC with the necessary authority.

AM/cca  
384/20





# Montgomery County Government

## MEMORANDUM

April 8, 1991

TO: Working Group (See Distribution)

FROM: Karen Orlansky<sup>KO</sup> Program Evaluator  
Office of Legislative Oversight

SUBJECT: Working Group's Final Report to PHED Committee

Attached is a copy of our Working Group's report back to the PHED Committee. The final report incorporates all editorial suggestions that I received by April 8, 1991.

At this point, the Executive Branch and M-NCPPC still have not reached agreement on the details of funding the Historic Preservation Office. In response to the question about funding (Question #3), the report references Attachment A, which describes the funding disagreement and outlines the positions taken by Executive Branch and M-NCPPC officials.

Our Working Group remains scheduled to report back to the PHED Committee on April 15, 1991. However, our report is now scheduled as the second item in the afternoon meeting of the PHED Committee. My best guess is that the PHED Committee will get to our Working Group report between 1:15-1:30pm. Discussion of our report will be followed by discussion of the operating budget for the Planning Department.

I hope to see all of you on April 15th. If you are unable to make the meeting, please call me at 217-7996. Thanks again for all of your help.

### Attachment

### Distribution:

Leonard Taylor, Chair, HPC  
Victor Brescia, DHCD  
Kathy Hart, Office of the County Attorney  
Robert Hubbard, DEP  
Elizabeth Beninger, County Council  
Melissa Banach, M-NCPPC  
Gwen Marcus, M-NCPPC ✓  
Tom Kennedy, M-NCPPC  
Alan Lemke, M-NCPPC

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990



PHED Committee  
April 15, 1991

# Montgomery County Government

## MEMORANDUM

April 10, 1991

TO: PHED Committee

FROM: Karen Orlansky, <sup>K.O.</sup> Program Evaluator, Office of Legislative Oversight

SUBJECT: Report of Working Group Appointed by PHED Committee to Examine  
Transfer of Historic Preservation Commission Staffing Responsibility

### I. BACKGROUND

On January 24, 1990, the PHED Committee conducted a worksession on the major issues raised by the Office of Legislative Oversight's recent evaluation of the Historic Preservation Commission (OLO Report No. 90-2). Among the issues discussed was a recommendation from the County Executive to transfer the responsibility for providing staff support to the Historic Preservation Commission (HPC) from the Department of Housing and Community Development (DHCD) to the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

The PHED Committee directed OLO staff to convene an inter-agency Working Group to think through the details of implementing a transfer of the HPC staffing function from DHCD to M-NCPPC. The Working Group has completed its work and this memorandum constitutes our report back to the PHED Committee.

On January 24th, the PHED Committee also directed Council staff to prepare certain amendments to Chapter 24A, Historic Resources Preservation. These amendments, which include the necessary legislative changes to implement a transfer of the staffing responsibility from DHCD to M-NCPPC, will be forwarded to the Committee under separate cover.

### II. WORKING GROUP PARTICIPANTS

OLO appreciates the time and effort spent by the following individuals, who actively participated in our Working Group's activities:

Leonard Taylor, Chairman, HPC  
Victor Brescia, Deputy Director, DHCD  
Kathy Hart, Senior Assistant County Attorney  
Robert Hubbard, Construction Codes Division, DEP  
Elizabeth Beninger, Legislative Attorney, Council Staff  
Melissa Banach, Deputy Director for Planning, M-NCPPC  
Gwen Marcus, Preservation Planner, M-NCPPC  
Tom Kennedy, Associate General Counsel, M-NCPPC  
Alan Lemke, Budget Officer, M-NCPPC

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

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In addition, OLO extends special thanks to Gail Rothrock, Historic Preservation Coordinator, Prince George's County, who took time to explain to our Working Group the logistics of how the Prince George's Planning Department provides staff support to the Historic Preservation Commission.

### III. ISSUES AND ANSWERS

The Working Group identified a number of administrative, legislative, and budgetary issues to be addressed as part of any plan to transfer the Historic Preservation Commission (HPC) staffing responsibility from DHCD to M-NCPPC. For purposes of communicating our ideas back to the PHED Committee, the following is a list of the major questions we felt needed to be answered and a summary of how we, as a group, recommend the questions be answered.

#### (1) What will be the configuration of the staff support to the HPC?

As proposed by M-NCPPC, a Montgomery County Historic Preservation Office will be established in the Montgomery County Planning Department of M-NCPPC. Initially, the Historic Preservation Office will report directly to the Planning Director's Office, but in the future may be incorporated into one of the Planning Department's divisions. Preservation Office staff will be M-NCPPC employees.

The Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as staff support for the Planning Board on historic preservation issues. Major activities will include:

- Conducting research and preparing professional staff recommendations and public hearing testimony for both the HPC and the Planning Board regarding the designation of sites on the Master Plan for Historic Preservation;
- Managing the processing of Historic Area Work Permits (HAWPs) to include providing technical staff assistance to applicants, formulating professional staff recommendations, working with the Department of Environmental Protection to coordinate intake and enforcement, and assisting HPC and the Office of the County Attorney on HAWP appeals;
- Working with the HPC, Planning Board, and public to develop preservation guidelines and plans for historic districts designated on the Master Plan for Historic Preservation;
- Providing professional staff recommendations to the HPC and the Planning Board on subdivision applications, Area Master and Sector Plans, and other planning issues that affect the preservation of historic resources and sites in the County;

- Managing special preservation projects to include: providing information and educational materials to the public about historic preservation; and overseeing the expenditure of any funds received from the Maryland Historical Trust through the Certified Local Government program; and
- Providing staff support to the HPC to carry-out HPC's statutory responsibilities with respect to the County's Historic Preservation Tax Credit Program, Historic Preservation Easement Program, and Historic Preservation Grant Program.

**(2) How will staff support for the HPC relate to M-NCPPC's current historic preservation planning functions?**

As indicated above, the Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as for the Planning Board on historic preservation issues. Preservation Office staff will work with both the Planning Board and the HPC to develop their proposed annual work program and budget.

Activities of the Historic Preservation Office will be included in the Planning Department's annual work program and quarterly reports to the County Council. The annual budget for the Preservation Office will appear in the M-NCPPC budget, which is a document proposed by the Planning Board, reviewed by the Executive, and approved by the Council.

**(3) How much will it cost for M-NCPPC to provide staff support for the HPC, and how will it be funded?**

Funds to support the Historic Preservation Office will be included in M-NCPPC's Planning Department's budget, which are appropriated by the Council as part of M-NCPPC's Administration Fund. As of this writing, the Executive and M-NCPPC do not agree on the details of funding the Historic Preservation Office in FY92. A description of the funding issue is included as Attachment A to this Working Group report. (See circle 8 ).

**(4) Who will provide legal support to the HPC?**

Charter Section 213 provides that the County Attorney is to serve as the legal advisor to all "instrumentalities of the County Government." Because HPC members will continue to be appointed by the County Executive and confirmed by the Council, the HPC is considered an instrumentality of the County Government, and will therefore continue to receive legal advice from the Office of the County Attorney.

In practice, for legal advice on issues before the HPC, M-NCPPC staff will consult with the County Attorney. However, for legal advice on preservation-related issues before the Planning Board, M-NCPPC staff will continue their current practice of consulting with M-NCPPC's legal office.

**(5) How will Executive Regulations be promulgated?**

Current law requires Executive Regulations concerning the administration of Chapter 24A, Historic Resources Preservation, to be promulgated as Method (2) Executive Regulations. Transferring the staffing responsibility from DHCD to M-NCPPC will not change this requirement. In practice, it is expected that Executive Regulations will be drafted by the HPC (with staff support provided by M-NCPPC), forwarded to the County Attorney for review, and then promulgated according to the standard Method (2) process.

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**(14) When should the official transfer of staffing responsibilities occur?**

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State Law Changes: As discussed in Question #12 above, if M-NCPPC is going to administer an historic preservation grant program without continued assistance from the Executive Branch, then State legislation is required to provide the Montgomery County Planning Board of M-NCPPC with the necessary authority.

KO/cca  
404/1



Explanation of FY92 Funding Issue

M-NCPPC's Proposal for the Historic Preservation Office

The Planning Commission proposes a FY92 budget for the Historic Preservation Office that totals \$300,300. As outlined in the M-NCPPC proposal (Circle 11 ), this figure includes:

- Personal services costs of \$224,200 to fund an Historic Preservation Office staff of 3 1/2 professional workyears and one secretary/receptionist workyear;
- Costs (\$12,300) of rented space to house the Historic Preservation Office;
- \$14,000 in one-time expenses to cover moving costs plus the purchase of computers, furniture, and telephones for the Historic Preservation Office; and
- \$41,800 in grant funded programs, consisting of a \$20,900 in Certified Local Government grant from the State, which must be matched by a County contribution of \$20,900.

Comparison of M-NCPPC FY92 Proposal to FY91 Expenditures

The table attached at Circle 10 compares the cost of M-NCPPC's FY92 proposal for the Historic Preservation Office to actual FY91 costs of staff support to the Historic Preservation Commission and historic preservation activities of the Planning Commission. Part (1) of the table shows that M-NCPPC's \$300,300 proposal represents a \$47,780 or 19 percent increase over the \$252,520 spent in FY91.

\$14,000 of the \$47,780 cost increase is due to one time "transfer costs", e.g., moving expenses, plus computers, furniture, and telephones for the Historic Preservation Office. The remaining \$33,780 increase is due largely to the costs associated with locating the Historic Preservation Office in leased office space outside the Montgomery Regional Office (MRO). M-NCPPC's view is that, even with staff reductions under the most severe budget scenario, the MRO is too crowded to house the Historic Preservation Office.

In addition to the costs of renting space, locating the Historic Preservation Office outside the MRO adds the cost of a full-time secretary/receptionist. If the Historic Preservation Office were able to be housed within the MRO, then the Office could use existing administrative/support and word processing staff. (According to M-NCPPC, whether existing MRO support staff could easily absorb the additional work associated with the new responsibility of staffing the HPC is unknown.)

Description of the FY92 Funding Gap

As of April 10, 1991, there are insufficient funds available to fully fund M-NCPPC's \$300,300 proposal. As shown in Part (2) of the table on Circle 10 :

- The Planning Commission initially allocated \$128,100 for historic preservation activities in FY92. However, in response to the County Executive's recommended 10.5 percent reduction to M-NCPPC's budget, M-NCPPC reduced the allocation to historic preservation to \$114,650;
- The County Executive has agreed to add \$126,000 to the Planning Department's FY92 budget for assuming the additional responsibility of providing staff support to the HPC. \$126,000 represents an increase of \$9,050 or 7.8 percent from the \$116,950 spent by the County Government in FY91 to staff the HPC and match the State's CLG grant.
- With \$20,900 from the State, \$114,650 from M-NCPPC, and \$126,000 from the County Government, an additional \$38,750 is needed to fully fund the \$300,300 M-NCPPC proposal for the Historic Preservation Office in FY92.

The Planning Commission requests that the remaining \$38,750 be added to the Planning Department's overall FY92 budget request. This request is based upon the Planning Commission's argument that assuming the responsibility to staff the Historic Preservation Commission should not add to the budget problems of the Planning Department.

It is the County Executive's position that the transfer of the HPC staffing function should not cost the County Government more than if it remained in DHCD, and that the additional \$126,000 should be sufficient to cover M-NCPPC's incremental costs associated with staffing the Historic Preservation Commission. It is the County Executive's position that if M-NCPPC feels it is necessary to fully fund the \$300,300 proposal, then the additional \$38,750 should come out of the total amount already allocated to the Planning Department.

**COMPARISON OF FY91 ACTUAL COSTS AND M-NCPPC'S PROPOSED FY92 COSTS OF FUNDING  
STAFF SUPPORT TO THE HPC AND HISTORIC PRESERVATION ACTIVITIES  
OF THE PLANNING COMMISSION**

**(1) Total Costs by Category**

	(Actuals) FY91	(M-NCPPC Proposal) FY92	\$ Change	% Change
Personal/Operating Expenses	\$210,720	\$244,500	\$33,780	+16%
CLG grant funds				
County match	20,900	20,900	-0-	0%
State match	20,900	20,900	-0-	0%
Subtotal	252,520	286,300	33,780	+13%
One-time "transfer costs"	N/A	14,000	14,000	N/A
<b>Total</b>	<b>\$252,520</b>	<b>\$300,300</b>	<b>\$47,780</b>	<b>+19%</b>

**(2) Source of Funds**

State CLG grant	20,900	20,900	-0-	0%
M-NCPPC	114,670*	114,650**	(20)	-0.02%
County Government	116,950	126,000	9,050	+7.8%
Additional funds needed	N/A	38,750	38,750	N/A
<b>Total</b>	<b>\$252,520</b>	<b>\$300,300</b>	<b>\$47,780</b>	<b>+19%</b>

\* This figure does not include an additional \$35,000 that M-NCPPC spent on "one-time" historic preservation activities in FY91 (e.g., for reprinting of the Atlas and costs of an intern).

\*\* \$114,650 represents a 10.5 percent reduction from M-NCPPC's initial FY92 budgeted amount of \$128,100 for historic preservation activities of the Planning Commission; this reduction was taken in response to the 10.5 percent reduction to M-NCPPC's budget recommended by the County Executive.

M-NCPPC PROPOSAL

ESTIMATED COSTS TO TRANSFER THE HISTORIC PRESERVATION  
COMMISSION'S STAFFING FUNCTION FROM DHCD TO MNCPPC  
MARCH 11, 1991

FY92 EXPENDITURE REQUEST

PERSONAL SERVICES (SALARY & FRINGE)	AMOUNT
Preservation Coordinator (Planner IV/V) Full Time: Marcus	\$71,500
HAWP Planner/Architect (Planner III) Full Time: Vacant	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time: Kennedy	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time: Rolland	\$25,000
Preservation Planner/Researcher/Public Information (Planner I) Part Time: Vacant	\$21,700
Secretary (Grade 9)/ Receptionist Full Time: Vacant	\$28,600
Subtotal	\$224,200

SUPPORT SERVICES

Rental of Office Space	\$12,300
Supplies & Materials	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Preservation Workshops required by CLG	\$1,500
ONE TIME EXPENSES	
Moving Expenses	\$500
Computers (3 New Vectras and 1 Printer)	\$11,000
Furniture	\$1,000
Telephones	\$1,500
	\$14,000
Subtotal	\$34,300

	\$258,500
Grant Programs (see following page)	\$41,800
TOTAL EXPENDITURES	\$300,300

GRANT FUNDED PROGRAMS

EXPENDITURES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES				
Grants	\$20,900	\$0	\$20,900	\$41,800



PHED Committee  
1:30 p.m.  
Agenda Item #3  
April 15, 1991

# Montgomery County Government

## MEMORANDUM

April 11, 1991

*WRAMC*  
*Louisa Helms*  
*229-1550* ↓

TO: PHED Committee  
FROM: Karen Orlansky, <sup>PO.</sup> Program Evaluator, Office of Legislative Oversight  
SUBJECT: Report of Working Group Appointed by PHED Committee to Examine Transfer of Historic Preservation Commission Staffing Responsibility

*Retired Army*

### I. BACKGROUND

On January 24, 1990, the PHED Committee conducted a worksession on the major issues raised by the Office of Legislative Oversight's recent evaluation of the Historic Preservation Commission (OLO Report No. 90-2). Among the issues discussed was a recommendation from the County Executive to transfer the responsibility for providing staff support to the Historic Preservation Commission (HPC) from the Department of Housing and Community Development (DHCD) to the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

The PHED Committee directed OLO staff to convene an inter-agency Working Group to think through the details of implementing a transfer of the HPC staffing function from DHCD to M-NCPPC. The Working Group has completed its work and this memorandum constitutes our report back to the PHED Committee.

On January 24th, the PHED Committee also directed Council staff to prepare certain amendments to Chapter 24A, Historic Resources Preservation. These amendments will be forwarded to the Committee under separate cover.

### II. WORKING GROUP PARTICIPANTS

OLO appreciates the time and effort spent by the following individuals, who actively participated in our Working Group's activities:

- Leonard Taylor, Chairman, HPC
- Victor Brescia, Deputy Director, DHCD
- Kathy Hart, Senior Assistant County Attorney
- Robert Hubbard, Construction Codes Division, DEP
- Elizabeth Beninger, Legislative Attorney, Council Staff
- Melissa Banach, Deputy Director for Planning, M-NCPPC
- Gwen Marcus, Preservation Planner, M-NCPPC
- Tom Kennedy, Associate General Counsel, M-NCPPC
- Alan Lemke, Budget Officer, M-NCPPC

In addition, OLO extends special thanks to Gail Rothrock, Historic Preservation Coordinator, Prince George's County, who took time to explain to our Working Group the logistics of how the Prince George's Planning Department provides staff support to the Historic Preservation Commission.

### III. ISSUES AND ANSWERS

The Working Group identified a number of administrative, legislative, and budgetary issues to be addressed as part of any plan to transfer the Historic Preservation Commission (HPC) staffing responsibility from DHCD to M-NCPPC. For purposes of communicating our ideas back to the PHED Committee, the following is a list of the major questions we felt needed to be answered and a summary of how we, as a group, recommend the questions be answered.

#### (1) What will be the configuration of the staff support to the HPC?

As proposed by M-NCPPC, a Montgomery County Historic Preservation Office will be established in the Montgomery County Planning Department of M-NCPPC. Initially, the Historic Preservation Office will report directly to the Planning Director's Office, but in the future may be incorporated into one of the Planning Department's divisions. Preservation Office staff will be M-NCPPC employees.

The Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as staff support for the Planning Board on historic preservation issues. Major activities will include:

- Conducting research and preparing professional staff recommendations and public hearing testimony for both the HPC and the Planning Board regarding the designation of sites on the Master Plan for Historic Preservation;
- Managing the processing of Historic Area Work Permits (HAWPs) to include providing technical staff assistance to applicants, formulating professional staff recommendations, working with the Department of Environmental Protection to coordinate intake and enforcement, and assisting HPC and the Office of the County Attorney on HAWP appeals;
- Working with the HPC, Planning Board, and public to develop preservation guidelines and plans for historic districts designated on the Master Plan for Historic Preservation;
- Providing professional staff recommendations to the HPC and the Planning Board on subdivision applications, Area Master and Sector Plans, and other planning issues that affect the preservation of historic resources and sites in the County;

- Managing special preservation projects to include: providing information and educational materials to the public about historic preservation; and overseeing the expenditure of any funds received from the Maryland Historical Trust through the Certified Local Government program; and
- Providing staff support to the HPC to carry-out HPC's statutory responsibilities with respect to the County's Historic Preservation Tax Credit Program, Historic Preservation Easement Program, and Historic Preservation Grant Program.

**(2) How will staff support for the HPC relate to M-NCPPC's current historic preservation planning functions?**

As indicated above, the Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as for the Planning Board on historic preservation issues. Preservation Office staff will work with both the Planning Board and the HPC to develop their proposed annual work program and budget. Activities of the Historic Preservation Office will be included in the Planning Department's annual work program and quarterly reports to the County Council.

**(3) How much will it cost for M-NCPPC to provide staff support for the HPC, and how will it be funded?**

The County Attorney recommends that funds to support the Historic Preservation Office be allocated in the following way:

- Staff work associated with historic preservation activities of the Planning Commission should continue to be funded as part of M-NCPPC's Planning Department budget; and
- Staff work associated with the Historic Preservation Commission should be supported by appropriating funds to a County Government Nondepartmental Account (NDA); these funds would then be provided to M-NCPPC on the basis of a contract or an inter-governmental agreement.

According to the County Attorney, this funding arrangement is recommended based upon Section 211 of the Charter, which assigns the Chief Administrative Officer the responsibility of supervising all agencies of the Executive Branch. Executive Branch and M-NCPPC officials have agreed to work on the details of a contract or inter-governmental agreement, once a final decision is made to transfer the HPC staffing responsibility to M-NCPPC.

Although there appears to be agreement on the method of providing funds, as of this writing, the Executive and M-NCPPC do not agree on the level of funding for the Historic Preservation Office in FY92. A description of the funding issue is included as Attachment A to this Working Group report. (See Circle 8 .)



**(4) Who will provide legal support to the HPC?**

Charter Section 213 provides that the County Attorney is to serve as the legal advisor to all "instrumentalities of the County Government." Because HPC members will continue to be appointed by the County Executive and confirmed by the Council, the HPC is considered an instrumentality of the County Government, and will therefore continue to receive legal advice from the Office of the County Attorney.

In practice, for legal advice on issues before the HPC, M-NCPPC staff will consult with the County Attorney. However, for legal advice on preservation-related issues before the Planning Board, M-NCPPC staff will continue their current practice of consulting with M-NCPPC's legal office.

**(5) How will Executive Regulations be promulgated?**

Current law requires Executive Regulations concerning the administration of Chapter 24A, Historic Resources Preservation, to be promulgated as Method (2) Executive Regulations. Transferring the staffing responsibility from DHCD to M-NCPPC will not change this requirement. In practice, it is expected that Executive Regulations will be drafted by the HPC (with staff support provided by M-NCPPC), forwarded to the County Attorney for review, and then promulgated according to the standard Method (2) process.

**(6) How will the logistics for the intake, staff review, decision-making, and enforcement of Historic Area Work Permit (HAWP) applications work?**

Although blank applications for HAWPs will be available at both M-NCPPC and DEP offices, completed applications for HAWPs will continue to be filed formally with DEP. The 45-day regulatory clock will begin the day that a completed application is filed with DEP. DEP's current practice of withholding final approval of a building permit for an historic site until the HPC has formally recommended approval of an HAWP will continue.

M-NCPPC staff will routinely pick-up HAWP applications at DEP. M-NCPPC will provide staff support to the HPC for consideration of HAWP applications, to include: fulfilling advertising requirements, informing applicants of the date that the HPC will consider their application, providing a staff recommendation on whether to approve the HAWP, and assisting the HPC draft written HAWP decisions. M-NCPPC staff will also be responsible for transmitting HPC's final decision to DEP.

DEP will continue to be responsible for HAWP enforcement, and will respond to HPC's requests for inspecting specific properties. M-NCPPC staff will be responsible for updating DEP's premise address data base to identify Atlas resources and historic sites designated on the Master Plan for Historic Preservation.

**(7) Will DHCD (Housing Code Division) continue to be responsible for investigating/issuing citations for demolition by neglect cases?**

Yes. Currently, pursuant to a Memorandum of Understanding between DHCD and DEP, housing inspectors working in DHCD's Housing Code Division are responsible for investigating demolition by neglect cases, and for issuing warnings and citations as appropriate. By law, (Section 24A-9) the HPC hears appeals of demolition by neglect citations.

DHCD is willing to continue its current enforcement of the demolition by neglect provisions of the historic preservation ordinance. To eliminate the need for a Memorandum of Understanding, Chapter 24A should be amended to directly assign DHCD this responsibility. (See Question #15 below.)

**(8) What will be the logistics for researching Atlas resources?**

M-NCPPC will assume responsibility for researching Atlas resources. The research will be conducted either by M-NCPPC staff or by consultants on contract to M-NCPPC. The schedule for research will be determined as it is now, that is, primarily by the Planning Board's approved Master Plan work program.

Research on Atlas resources, along with a M-NCPPC staff recommendation concerning whether specific resources should be designated on the Master Plan for Historic Preservation, will be forwarded to the HPC. The research, staff recommendation, plus HPC recommendation will then be forwarded to the Planning Board, and the procedures for considering all Master Plan amendments will continue to be followed.

**(9) Will M-NCPPC staff be able to appear before the Planning Board and the County Council on behalf of the HPC?**

This issue arises primarily with respect to HPC's recommendations on whether specific Atlas resources should be designated on the Master Plan for Historic Preservation. Consistent with current practice, M-NCPPC staff will be able to communicate recommendations of the HPC to the Planning Board and the County Council. However, if the views of the HPC differ significantly from those of the M-NCPPC staff and/or the Planning Board, then it may be preferable for an HPC member to personally appear before the Council to explain the HPC's recommendation.

**(10) Will DEP continue its current practice of requesting staff supporting the HPC to review building permit applications for work on Atlas resources?**

Yes. When DEP receives a building permit application for work on an Atlas resource, DEP will forward the application to M-NCPPC staff for review. M-NCPPC staff will advise DEP whether the application constitutes a proposal to substantially alter the exterior features of an historic resource. This determination is significant because if DEP determines that the application constitutes a proposal to substantially alter the resource,

then evaluation of the resource for designation on the Master Plan for Historic Preservation must proceed pursuant to the fast-track procedures outlined in Section 24A-10 of the Code.

**(11) Who will apply for Certified Local Government grant funds and who will oversee expenditure of funds?**

Under regulations of the Maryland Historical Trust, the County is the entity designated as the "Certified Local Government (CLG)." However, as the agency providing staff support to the County's HPC, the M-NCPPC will be eligible to apply directly for CLG matching grant funds. M-NCPPC staff will assume responsibility for overseeing the expenditure of CLG grant funds. (See following question with respect to administration of the Historic Preservation Grant Fund.)

**(12) How will transferring the HPC staffing function to M-NCPPC effect operation of the Historic Preservation Grant Fund program?**

Since FY85, County funds for the Historic Preservation Grant Fund have been appropriated annually as part of the Historical Activities/Nondepartmental Account (NDA). The Historic Preservation Commission has allocated these grant funds, with staff assistance provided by DHCD; in FY91, \$27,500 was appropriated to the Historic Preservation Grant Program. The Executive's proposed FY92 Operating Budget recommends \$10,000 in funding for the Historic Preservation Grant Fund.

At present, the Montgomery County Board of the M-NCPPC is not authorized under State law to administer a historic preservation grant program. In 1987, the Regional District Act was amended (Article 28, Sections 5-301 through 5-307) to authorize the Prince George's Board of the M-NCPPC to administer the Prince George's County Historic Preservation Grant Fund.

State legislation, similar to that passed for the Prince George's Board in 1987, should be sought to authorize the Montgomery County Board of M-NCPPC to administer a Montgomery County Historic Preservation Grant Fund. Until such authority is granted, however, any preservation grant program will have to be managed with continued assistance from the Executive Branch.

**(13) How will transferring the HPC staffing function to M-NCPPC affect operation of the Historic Preservation Tax Credit program?**

The Department of Finance will continue to be responsible for administering the Historic Preservation Tax Credit program, and the HPC will continue to evaluate all applications for the purpose of advising the Department of Finance whether the work meets certain eligibility requirements. The operation of the program will change only to the extent that applications for the tax credit will be submitted to M-NCPPC staff supporting the HPC (instead of DHCD), and M-NCPPC staff will assist the HPC perform its statutory responsibility to evaluate historic preservation tax credit applications.

**(14) When should the official transfer of staffing responsibilities occur?**

As long as the necessary budget action and negotiation of a contract or inter-governmental agreement between the County Government and M-NCPPC can be accomplished in time, the official transfer of staffing responsibilities should be effective July 1, 1991. To the extent possible, DHCD and M-NCPPC staff should cooperatively work to transfer background material and pending case files before the official transfer of staffing responsibilities occurs.

**(15) What legislative changes are required to implement the transfer of staffing responsibilities?**

County Code Changes: Current law (Section 24A-4(h)(2), Staff) assigns the responsibility for staffing the HPC to the Chief Administrative Officer. If, as recommended by the County Attorney, the HPC staffing function is transferred to M-NCPPC on the basis of a contract or inter-governmental agreement, then the current statutory language regarding staffing does not need to be amended.

References in Chapter 24A to the "Director", defined as the Director of the Department of Environmental Protection (DEP), also do not need to be changed because DEP will continue to be responsible for the intake of HAWP applications and for most enforcement activities. (See Question #7 above.) However, to eliminate the need for a Memorandum of Understanding between DEP and DHCD, Section 24A-9 should be amended to explicitly assign DHCD the responsibility for investigating and enforcing the demolition by neglect provisions of Chapter 24A.

State Law Changes: As discussed in Question #12 above, if M-NCPPC is going to administer an historic preservation grant program without continued assistance from the Executive Branch, then State legislation is required to provide the Montgomery County Planning Board of M-NCPPC with the necessary authority.

KO/cca  
404/1

Explanation of FY92 Funding Issue

M-NCPPC's Proposal for the Historic Preservation Office

The Planning Commission proposes a FY92 budget for the Historic Preservation Office that totals \$300,300. As outlined in the M-NCPPC proposal (Circle II ), this figure includes:

- Personal services costs of \$224,200 to fund an Historic Preservation Office staff of 3 1/2 professional workyears and one secretary/receptionist workyear;
- Costs (\$12,300) of rented space to house the Historic Preservation Office;
- \$14,000 in one-time expenses to cover moving costs plus the purchase of computers, furniture, and telephones for the Historic Preservation Office; and
- \$41,800 in grant funded programs, consisting of a \$20,900 in Certified Local Government grant from the State, which must be matched by a County contribution of \$20,900.

Comparison of M-NCPPC FY92 Proposal to FY91 Expenditures

The table attached at Circle 10 compares the cost of M-NCPPC's FY92 proposal for the Historic Preservation Office to actual FY91 costs of staff support to the Historic Preservation Commission and historic preservation activities of the Planning Commission. Part (1) of the table shows that M-NCPPC's \$300,300 proposal represents a \$47,780 or 19 percent increase over the \$252,520 spent in FY91.

\$14,000 of the \$47,780 cost increase is due to one time "transfer costs", e.g., moving expenses, plus computers, furniture, and telephones for the Historic Preservation Office. The remaining \$33,780 increase is due largely to the costs associated with locating the Historic Preservation Office in leased office space outside the Montgomery Regional Office (MRO). M-NCPPC's view is that, even with staff reductions under the most severe budget scenario, the MRO is too crowded to house the Historic Preservation Office.

In addition to the costs of renting space, locating the Historic Preservation Office outside the MRO adds the cost of a full-time secretary/receptionist. If the Historic Preservation Office were able to be housed within the MRQ, then the Office could use existing administrative/support and word processing staff. (According to M-NCPPC, whether existing MRO support staff could easily absorb the additional work associated with the new responsibility of staffing the HPC is unknown.)

### Description of the FY92 Funding Gap

As of April 10, 1991, there are insufficient funds available to fully fund M-NCPPC's \$300,300 proposal. As shown in Part (2) of the table on Circle 10:

- The Planning Commission initially allocated \$128,100 for historic preservation activities in FY92. However, in response to the County Executive's recommended 10.5 percent reduction to M-NCPPC's budget, M-NCPPC reduced the allocation to historic preservation to \$114,650.
- The County Executive has agreed to contribute \$126,000 to fund M-NCPPC's additional responsibility of staffing the HPC. \$126,000 represents an increase of \$9,050 or 7.8 percent from the \$116,950 spent by the County Government in FY91 to staff the HPC and match the State's CLG grant. (As discussed elsewhere in this memo, based upon advice from the County Attorney, this \$126,000 would be placed in a County Government Nondepartmental Account, and provided to M-NCPPC on the basis of a contract or inter-governmental agreement.)
- With \$20,900 from the State, \$114,650 from M-NCPPC, and \$126,000 from the County Government, an additional \$38,750 is needed to fully fund the \$300,300 M-NCPPC proposal for the Historic Preservation Office in FY92.

The Planning Commission requests that the County Government contribution be increased by \$38,750. This request is based upon the Planning Commission's argument that assuming the responsibility of staffing the Historic Preservation Commission should not add to the budget problems of the Planning Department.

It is the County Executive's position that the transfer of the HPC staffing function should not cost the County Government more than if the staffing responsibility remained in DHCD. The County Executive maintains that \$126,000 is sufficient to cover M-NCPPC's incremental costs associated with staffing the Historic Preservation Commission. It is the County Executive's view that if M-NCPPC feels it is necessary to fully fund the \$300,300 proposal, then the additional \$38,750 should come out of the total amount already allocated to the Planning Department.

**COMPARISON OF FY91 ACTUAL COSTS AND M-NCPPC'S PROPOSED FY92 COSTS OF FUNDING  
STAFF SUPPORT TO THE HPC AND HISTORIC PRESERVATION ACTIVITIES  
OF THE PLANNING COMMISSION**

**(1) Total Costs by Category**

	(Actuals) <u>FY91</u>	(M-NCPPC Proposal) <u>FY92</u>	<u>\$ Change</u>	<u>% Change</u>
Personal/Operating Expenses	\$210,720	\$244,500	\$33,780	+16%
CLG grant funds				
County match	20,900	20,900	-0-	0%
State match	20,900	20,900	-0-	0%
Subtotal	252,520	286,300	33,780	+13%
One-time "transfer costs"	N/A	14,000	14,000	N/A
<b>Total</b>	\$252,520	\$300,300	\$47,780	+19%

**(2) Source of Funds**

State CLG grant	20,900	20,900	-0-	0%
M-NCPPC	114,670*	114,650**	(20)	-0.02%
County Government	116,950	126,000	9,050	+7.8%
Additional funds needed	N/A	38,750	38,750	N/A
<b>Total</b>	\$252,520	\$300,300	\$47,780	+19%

14,000  
\$266,520

\* This figure does not include an additional \$35,000 that M-NCPPC spent on "one-time" historic preservation activities in FY91 (e.g., for reprinting of the Atlas and costs of an intern).

\*\* \$114,650 represents a 10.5 percent reduction from M-NCPPC's initial FY92 budgeted amount of \$128,100 for historic preservation activities of the Planning Commission; this reduction was taken in reponse to the 10.5 percent reduction to M-NCPPC's budget recommended by the County Executive.

M-NCPPC PROPOSAL

ESTIMATED COSTS TO TRANSFER THE HISTORIC PRESERVATION  
COMMISSION'S STAFFING FUNCTION FROM DHCD TO MNCPPC  
MARCH 11, 1991

FY92 EXPENDITURE REQUEST

PERSONAL SERVICES (SALARY & FRINGE)	AMOUNT
Preservation Coordinator (Planner IV/V) Full Time: Marcus	\$71,500
HAWP Planner/Architect (Planner III) Full Time: Vacant	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time: Kennedy	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time: Rolland	\$25,000
Preservation Planner/Researcher/Public Information (Planner I) Part Time: Vacant	\$21,700
Secretary (Grade 9)/ Receptionist Full Time: Vacant	\$28,600
Subtotal	\$224,200

SUPPORT SERVICES

Rental of Office Space	\$12,300
Supplies & Materials	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Preservation Workshops required by CLG	\$1,500
ONE TIME EXPENSES	
Moving Expenses	\$500
Computers (3 New Vectras and 1 Printer)	\$11,000
Furniture	\$1,000
Telephones	\$1,500
Subtotal	\$14,000

Subtotal	\$258,500
Grant Programs (see following page)	\$41,800
TOTAL EXPENDITURES	\$300,300



GRANT FUNDED PROGRAMS

EXPENDITURES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
Grants	\$20,900	\$0	\$20,900	\$41,800

# DRAFT

## Montgomery County Historic Preservation Office - FY 1992 Budget

### EXPENSES

#### Staffing/Salaries including all Fringe Benefits:

Coordinator (Planner V)	\$71,500
<b>Gwen Marcus</b>	
o Direct all aspects of the program, including supervision of staff, setting of work program, and accomplishment of all designation/planning projects and HAWP/regulatory efforts.	
HAWP Planner/Architect (Planner III)	\$49,400
<b>To Be Filled</b>	
o Handle regulatory efforts on all HAWP applications, including fieldwork and photography, assistance to applicants, preparation of staff reports for HPC, rehab advice to citizens, etc.	
Preservation Planner/Architectural Historian:	\$53,000
Part-Time Planner II - <b>Carol Kennedy</b>	
Part-Time Planner I - <b>Mary Ann Rolland</b>	
o Work on planning and designation efforts, including analysis of potential sites and districts, preparation of amendments and chapters in master plans, and monitoring of referrals on all subdivisions, zoning cases, etc.	
Preservation Planner/Researcher/ Public Information (Planner I)	\$36,400
<b>To Be Filled</b>	
o Do all research on Locational Atlas resources. Work on all educational publications, videos, brochures, etc. Handle citizen inquiries and requests for general information.	
Secretary (Grade 9)	\$28,600
<b>To Be Filled</b>	
o Perform all office support work, including typing, copying, filing, etc. Prepare minutes for all HPC meetings.	
<b>Subtotal for Staffing/Salaries.....</b>	<b>\$238,900</b>

**EXPENSES - CONTINUED**

Support Services:

Rental of Office Space	-0-
o Transfer of HPC staffing to M-NCPPC will involve relocating this work unit into leased office space. The unit will be located in space which is already under lease.	
Moving Expenses	500
o Relocation into new office	
Computers	8,000
o 2 new Vectras and 1 printer	
Furniture	1,000
o Chairs, shelves, etc. as needed	
Materials/Supplies	1,500
o Includes coffee, etc. for HPC meetings	
Telephones	1,500
Postage	3,000
o Includes all regular mailings, such as notices to owners of designation hearings, HPC packet distribution, etc.	
Public Notices	2,000
o Legal notices for HAWP hearings and public hearings on amendments	
Travel/Workshops	1,500
o CLG status requires all HPC Commissioners to attend one educational workshop per year	
<b>Subtotal for Support Services.....</b>	<b>\$19,000</b>
<b>TOTAL FOR SALARIES AND SUPPORT SERVICES.....</b>	<b>\$257,900</b>

EXPENSES - CONTINUED

Historic Preservation Grant-Funded Projects:

NOTE: This portion of the budget is to be paid through a combination of CLG funds from the State of Maryland (\$20,900) and Montgomery County funds matching the CLG grant one-for-one (\$20,900). CLG grants have been given to Montgomery County's historic preservation program for the past four years and, as required by the State, have been matched by the County each year. This grant money has been used to pay for HPC preservation projects in past years and can not be used for salaries or for support services.

Preservationist Newsletter:

- Printing \$3,300
- Editorial Services 8,500
- Postage 3,000

o This newsletter has been published by the HPC for a number of years. It is one of the most important public education/information tools for preservation in the County. Costs projected for FY 1992 are unchanged from FY 1991.

Historic Preservation Brochure \$5,000

o The HPC anticipated doing a brochure in FY 1991, but has not completed this project. M-NCPPC had included funding for a brochure in its FY 1992 budget. This new publication proposal will merge the two projects and will address both preservation planning and HAWP/regulatory activities in Montgomery County.

Preservation Week Activities \$2,000

o For the past three years, the HPC has assisted in sponsoring the annual Preservation Awards ceremony at Strathmore Hall and in funding the Montgomery Prize for Preservation. This is an important event in terms of gaining public interest and support for preservation by recognizing excellent projects that have been completed in the County. Costs projected for FY 1992 are in line with previous contributions.

Preservation Grant Fund \$20,000

o This program has existed since FY 1985. Its purpose is to provide small seed grants to non-profit

groups in the County that are involved in preservation projects. All grants are matched by the non-profits. The grant fund as proposed for FY 1992 is substantially lower than past years - the fund is rolled back to approximately its FY 1987 level.

**Subtotal for Historic Preservation Projects.....\$41,800**

SALARIES AND SUPPORT SERVICES.....\$257,900

HISTORIC PRESERVATION PROJECTS.....\$41,800

TOTAL FOR ALL EXPENSES.....\$299,700

Montgomery County Historic Preservation Office - FY 1992 Budget

**INCOME**

Montgomery County Contribution	
For Salaries/Support Services	\$116,000
For Projects (Matching CLG Grant)	20,900
M-NCPPC Contribution	128,100
(Currently shown as historic preservation costs in FY 1992 Budget)	
State of Maryland Contribution (CLG)	20,900
TOTAL FOR ALL INCOME.....	\$285,900

**INCOME VS. EXPENSES ANALYSIS**

Salaries/Support Services Expenses	\$257,900
Montgomery County Contribution	- 116,000
M-NCPPC Contribution	- 128,100
Difference	<u>\$13,800</u>

\*\*\*\*\*

Historic Preservation Projects	\$41,800
CLG Grant	- 20,900
Montgomery County Matching Contribution	- 20,900
Difference	<u>-0-</u>

\*\*\*\*\*

Total Expenses	\$299,700
Total Income	- 285,900
Total Difference	<u>\$13,800</u>

ESTIMATED COSTS TO TRANSFER  
 THE HISTORIC PRESERVATION COMMISSION'S  
 STAFFING FUNCTION FROM DHCD TO MNCPPC  
 FEBRUARY 22, 1991

**DRAFT**

FY92 EXPENDITURE REQUEST

PERSONAL SERVICES	AMOUNT
Coordinator (Planner V)	\$71,500
HAWP Planner/Architect (Planner III)	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time	\$25,000
Preservation Planner/Researcher/ Public Information (Planner I)	\$36,400
Secretary (Grade 9)	\$28,600
Subtotal	\$238,900

SUPPORT SERVICES

Rental of Office Space	\$0
Moving Expenses	\$500
Computers (2 New Vectras and 1 Printer)	\$8,000
Furniture	\$1,000
Materials/Supplies	\$1,500
Telephones	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Travel	\$1,500
Subtotal	\$19,000

TOTAL EXPENDITURES \$257,900

FY92 REVENUE REQUEST	FROM DHCD	FROM MNCPPC	Total
DHCD Contribution - Operating Expenses	\$116,000		
MNCPPC Current Budgeted Amount		\$128,100	
TOTAL REVENUES	\$116,000	\$128,100	\$244,100

ADDITIONAL COST TO TRANSFER TO MNCPPC \$13,800



GRANT FUNDED PROGRAMS

EXPENDITURES	FROM DHCD	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES	FROM DHCD	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Grants	\$20,900	\$0	\$20,900	\$41,800

AGENDA ITEM #12  
May 7, 1991

*no discussion*

MEMORANDUM

May 3, 1991

TO: County Council

VIA: William E. Hanna, Chairmen  
Planning, Housing and Economic Development (PHED) Committee

FROM: Marlene L. Michaelson, Legislative Analyst *MLM*

SUBJECT: Historic Preservation Office Budget

**Summary of Committee Recommendation:** The PHED Committee recommends the transfer of the Historic Preservation Commission staffing responsibilities from the Department of Housing and Community Development to the Planning Department of the Maryland-National Park and Planning Commission (M-NCPPC) under a contractual arrangement between the County Government and the M-NCPPC. In addition to \$20,900 in State grant funding, the Committee recommends that the County provide \$130,950 in funds in a Nondepartmental Account; the \$130,950 includes \$14,000 to fund one-time transfer costs. M-NCPPC would provide an additional \$114,650 in its budget to fund staff support for historic preservation related activities of the Planning Commission.

**Discussion:** An analysis conducted by the Office of Legislative Oversight (see circles 1 to 12) concludes that the Maryland-National Capital Park and Planning Commission's (M-NCPPC) proposed FY92 budget for a consolidated Historic Preservation Office located within M-NCPPC's Planning Department represents a \$47,780 increase from FY91 expenditures on similar staffing functions. These costs are attributable to a one time \$14,000 "transfer cost" and \$33,780 to locate the Historic Preservation Office in leased office space outside the Montgomery Regional Office (MRO). The latter costs consist of the rental charges and the cost of an additional secretary since Preservation staff would no longer be able to share the existing secretarial services in MRO. M-NCPPC believes that the MRO is too crowded to house an expanded Historic Preservation Office.

One of the purposes of the move is to take advantage of any efficiencies and cost savings which could be realized through consolidating historic preservation activities in one office. The Committee expressed their concern that a cost increase, rather than a decrease, is indicated. Given the fiscal problems currently faced by the County, the Committee recommends that the Historic Preservation staffing be funded at its FY91 levels, with an additional \$14,000 for one-time transfer costs. The Committee believes that it is inappropriate for the Council to take any action this year which would significantly increase the budget for the Historic Preservation functions beyond its FY91 funding level. Therefore, the Committee recommends against funding the additional \$38,750 requested to house the Historic Preservation Office outside MRO. The Committee's recommendation means that M-NCPPC will be required to either accomodate the two additional staff people they will gain through the transfer in the MRO or reallocate funds within their budget to pay rental and additional secretarial costs for space outside MRO. Since the M-NCPPC response to the Executive recommended budget proposes eliminating 7.5 filled temporary positions, the space availability at MRO should change.

Prior to the April 15, 1991 PHED Committee meeting, the Historic Preservation Office Working Group (appointed by the PHED Committee) had been led to believe that the County Government had allocated \$126,000 in its budget for its contribution to the Historic Preservation Office. At the Committee meeting, OMB staff indicated that no money had been allocated for Historic Preservation purposes in the County Government budget and that they believed this funding should come entirely from the amount allocated in the County Executive recommended FY92 operating budget for M-NCPPC. The Committee recommends that County Government should fund historic preservation activities in FY92 at the FY91 level plus the \$14,000 one-time transfer costs for a total of \$130,950 to be placed in a Nondepartmental Account (in addition to State grant funds of \$20,900). County Government funding is especially appropriate in view of the County Attorney's opinion that services should be provided by M-NCPPC staff to the Historic Preservation Commission on a contractual basis.

MLM:gp  
Attachment  
57PLAN37-38



PHED Committee  
1:30 p.m.  
Agenda Item #3  
April 15, 1991

# Montgomery County Government

## MEMORANDUM

April 11, 1991

TO: PHED Committee

FROM: Karen Orlansky, <sup>K.O.</sup> Program Evaluator, Office of Legislative Oversight

SUBJECT: Report of Working Group Appointed by PHED Committee to Examine Transfer of Historic Preservation Commission Staffing Responsibility

### I. BACKGROUND

On January 24, 1990, the PHED Committee conducted a worksession on the major issues raised by the Office of Legislative Oversight's recent evaluation of the Historic Preservation Commission (OLO Report No. 90-2). Among the issues discussed was a recommendation from the County Executive to transfer the responsibility for providing staff support to the Historic Preservation Commission (HPC) from the Department of Housing and Community Development (DHCD) to the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

The PHED Committee directed OLO staff to convene an inter-agency Working Group to think through the details of implementing a transfer of the HPC staffing function from DHCD to M-NCPPC. The Working Group has completed its work and this memorandum constitutes our report back to the PHED Committee.

On January 24th, the PHED Committee also directed Council staff to prepare certain amendments to Chapter 24A, Historic Resources Preservation. These amendments will be forwarded to the Committee under separate cover.

### II. WORKING GROUP PARTICIPANTS

OLO appreciates the time and effort spent by the following individuals, who actively participated in our Working Group's activities:

Leonard Taylor, Chairman, HPC  
Victor Brescia, Deputy Director, DHCD  
Kathy Hart, Senior Assistant County Attorney  
Robert Hubbard, Construction Codes Division, DEP  
Elizabeth Beninger, Legislative Attorney, Council Staff  
Melissa Banach, Deputy Director for Planning, M-NCPPC  
Gwen Marcus, Preservation Planner, M-NCPPC  
Tom Kennedy, Associate General Counsel, M-NCPPC  
Alan Lemke, Budget Officer, M-NCPPC

In addition, OLO extends special thanks to Gail Rothrock, Historic Preservation Coordinator, Prince George's County, who took time to explain to our Working Group the logistics of how the Prince George's Planning Department provides staff support to the Historic Preservation Commission.

### III. ISSUES AND ANSWERS

The Working Group identified a number of administrative, legislative, and budgetary issues to be addressed as part of any plan to transfer the Historic Preservation Commission (HPC) staffing responsibility from DHCD to M-NCPPC. For purposes of communicating our ideas back to the PHED Committee, the following is a list of the major questions we felt needed to be answered and a summary of how we, as a group, recommend the questions be answered.

(1) What will be the configuration of the staff support to the HPC?

As proposed by M-NCPPC, a Montgomery County Historic Preservation Office will be established in the Montgomery County Planning Department of M-NCPPC. Initially, the Historic Preservation Office will report directly to the Planning Director's Office, but in the future may be incorporated into one of the Planning Department's divisions. Preservation Office staff will be M-NCPPC employees.

The Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as staff support for the Planning Board on historic preservation issues. Major activities will include:

- Conducting research and preparing professional staff recommendations and public hearing testimony for both the HPC and the Planning Board regarding the designation of sites on the Master Plan for Historic Preservation;
- Managing the processing of Historic Area Work Permits (HAWPs) to include providing technical staff assistance to applicants, formulating professional staff recommendations, working with the Department of Environmental Protection to coordinate intake and enforcement, and assisting HPC and the Office of the County Attorney on HAWP appeals;
- Working with the HPC, Planning Board, and public to develop preservation guidelines and plans for historic districts designated on the Master Plan for Historic Preservation;
- Providing professional staff recommendations to the HPC and the Planning Board on subdivision applications, Area Master and Sector Plans, and other planning issues that affect the preservation of historic resources and sites in the County;

- Managing special preservation projects to include: providing information and educational materials to the public about historic preservation; and overseeing the expenditure of any funds received from the Maryland Historical Trust through the Certified Local Government program; and
- Providing staff support to the HPC to carry-out HPC's statutory responsibilities with respect to the County's Historic Preservation Tax Credit Program, Historic Preservation Easement Program, and Historic Preservation Grant Program.

(2) How will staff support for the HPC relate to M-NCPPC's current historic preservation planning functions?

As indicated above, the Historic Preservation Office will be responsible for providing staff support for the Historic Preservation Commission, as well as for the Planning Board on historic preservation issues. Preservation Office staff will work with both the Planning Board and the HPC to develop their proposed annual work program and budget. Activities of the Historic Preservation Office will be included in the Planning Department's annual work program and quarterly reports to the County Council.

(3) How much will it cost for M-NCPPC to provide staff support for the HPC, and how will it be funded?

The County Attorney recommends that funds to support the Historic Preservation Office be allocated in the following way:

- Staff work associated with historic preservation activities of the Planning Commission should continue to be funded as part of M-NCPPC's Planning Department budget; and
- Staff work associated with the Historic Preservation Commission should be supported by appropriating funds to a County Government Nondepartmental Account (NDA); these funds would then be provided to M-NCPPC on the basis of a contract or an inter-governmental agreement.

According to the County Attorney, this funding arrangement is recommended based upon Section 211 of the Charter, which assigns the Chief Administrative Officer the responsibility of supervising all agencies of the Executive Branch. Executive Branch and M-NCPPC officials have agreed to work on the details of a contract or inter-governmental agreement, once a final decision is made to transfer the HPC staffing responsibility to M-NCPPC.

Although there appears to be agreement on the method of providing funds, as of this writing, the Executive and M-NCPPC do not agree on the level of funding for the Historic Preservation Office in FY92. A description of the funding issue is included as Attachment A to this Working Group report. (See Circle 8 .)

**(4) Who will provide legal support to the HPC?**

Charter Section 213 provides that the County Attorney is to serve as the legal advisor to all "instrumentalities of the County Government." Because HPC members will continue to be appointed by the County Executive and confirmed by the Council, the HPC is considered an instrumentality of the County Government, and will therefore continue to receive legal advice from the Office of the County Attorney.

In practice, for legal advice on issues before the HPC, M-NCPPC staff will consult with the County Attorney. However, for legal advice on preservation-related issues before the Planning Board, M-NCPPC staff will continue their current practice of consulting with M-NCPPC's legal office.

**(5) How will Executive Regulations be promulgated?**

Current law requires Executive Regulations concerning the administration of Chapter 24A, Historic Resources Preservation, to be promulgated as Method (2) Executive Regulations. Transferring the staffing responsibility from DHCD to M-NCPPC will not change this requirement. In practice, it is expected that Executive Regulations will be drafted by the HPC (with staff support provided by M-NCPPC), forwarded to the County Attorney for review, and then promulgated according to the standard Method (2) process.

**(6) How will the logistics for the intake, staff review, decision-making, and enforcement of Historic Area Work Permit (HAWP) applications work?**

Although blank applications for HAWPs will be available at both M-NCPPC and DEP offices, completed applications for HAWPs will continue to be filed formally with DEP. The 45-day regulatory clock will begin the day that a completed application is filed with DEP. DEP's current practice of withholding final approval of a building permit for an historic site until the HPC has formally recommended approval of an HAWP will continue.

M-NCPPC staff will routinely pick-up HAWP applications at DEP. M-NCPPC will provide staff support to the HPC for consideration of HAWP applications, to include: fulfilling advertising requirements, informing applicants of the date that the HPC will consider their application, providing a staff recommendation on whether to approve the HAWP, and assisting the HPC draft written HAWP decisions. M-NCPPC staff will also be responsible for transmitting HPC's final decision to DEP.

DEP will continue to be responsible for HAWP enforcement, and will respond to HPC's requests for inspecting specific properties. M-NCPPC staff will be responsible for updating DEP's premise address data base to identify Atlas resources and historic sites designated on the Master Plan for Historic Preservation.

(7) Will DHCD (Housing Code Division) continue to be responsible for investigating/issuing citations for demolition by neglect cases?

Yes. Currently, pursuant to a Memorandum of Understanding between DHCD and DEP, housing inspectors working in DHCD's Housing Code Division are responsible for investigating demolition by neglect cases, and for issuing warnings and citations as appropriate. By law, (Section 24A-9) the HPC hears appeals of demolition by neglect citations.

DHCD is willing to continue its current enforcement of the demolition by neglect provisions of the historic preservation ordinance. To eliminate the need for a Memorandum of Understanding, Chapter 24A should be amended to directly assign DHCD this responsibility. (See Question #15 below.)

(8) What will be the logistics for researching Atlas resources?

M-NCPPC will assume responsibility for researching Atlas resources. The research will be conducted either by M-NCPPC staff or by consultants on contract to M-NCPPC. The schedule for research will be determined as it is now, that is, primarily by the Planning Board's approved Master Plan work program.

Research on Atlas resources, along with a M-NCPPC staff recommendation concerning whether specific resources should be designated on the Master Plan for Historic Preservation, will be forwarded to the HPC. The research, staff recommendation, plus HPC recommendation will then be forwarded to the Planning Board, and the procedures for considering all Master Plan amendments will continue to be followed.

(9) Will M-NCPPC staff be able to appear before the Planning Board and the County Council on behalf of the HPC?

This issue arises primarily with respect to HPC's recommendations on whether specific Atlas resources should be designated on the Master Plan for Historic Preservation. Consistent with current practice, M-NCPPC staff will be able to communicate recommendations of the HPC to the Planning Board and the County Council. However, if the views of the HPC differ significantly from those of the M-NCPPC staff and/or the Planning Board, then it may be preferable for an HPC member to personally appear before the Council to explain the HPC's recommendation.

(10) Will DEP continue its current practice of requesting staff supporting the HPC to review building permit applications for work on Atlas resources?

Yes. When DEP receives a building permit application for work on an Atlas resource, DEP will forward the application to M-NCPPC staff for review. M-NCPPC staff will advise DEP whether the application constitutes a proposal to substantially alter the exterior features of an historic resource. This determination is significant because if DEP determines that the application constitutes a proposal to substantially alter the resource,



then evaluation of the resource for designation on the Master Plan for Historic Preservation must proceed pursuant to the fast-track procedures outlined in Section 24A-10 of the Code.

**(11) Who will apply for Certified Local Government grant funds and who will oversee expenditure of funds?**

Under regulations of the Maryland Historical Trust, the County is the entity designated as the "Certified Local Government (CLG)." However, as the agency providing staff support to the County's HPC, the M-NCPPC will be eligible to apply directly for CLG matching grant funds. M-NCPPC staff will assume responsibility for overseeing the expenditure of CLG grant funds. (See following question with respect to administration of the Historic Preservation Grant Fund.)

**(12) How will transferring the HPC staffing function to M-NCPPC effect operation of the Historic Preservation Grant Fund program?**

Since FY85, County funds for the Historic Preservation Grant Fund have been appropriated annually as part of the Historical Activities/Nondepartmental Account (NDA). The Historic Preservation Commission has allocated these grant funds, with staff assistance provided by DHCD; in FY91, \$27,500 was appropriated to the Historic Preservation Grant Program. The Executive's proposed FY92 Operating Budget recommends \$10,000 in funding for the Historic Preservation Grant Fund.

At present, the Montgomery County Board of the M-NCPPC is not authorized under State law to administer a historic preservation grant program. In 1987, the Regional District Act was amended (Article 28, Sections 5-301 through 5-307) to authorize the Prince George's Board of the M-NCPPC to administer the Prince George's County Historic Preservation Grant Fund.

State legislation, similar to that passed for the Prince George's Board in 1987, should be sought to authorize the Montgomery County Board of M-NCPPC to administer a Montgomery County Historic Preservation Grant Fund. Until such authority is granted, however, any preservation grant program will have to be managed with continued assistance from the Executive Branch.

**(13) How will transferring the HPC staffing function to M-NCPPC affect operation of the Historic Preservation Tax Credit program?**

The Department of Finance will continue to be responsible for administering the Historic Preservation Tax Credit program, and the HPC will continue to evaluate all applications for the purpose of advising the Department of Finance whether the work meets certain eligibility requirements. The operation of the program will change only to the extent that applications for the tax credit will be submitted to M-NCPPC staff supporting the HPC (instead of DHCD), and M-NCPPC staff will assist the HPC perform its statutory responsibility to evaluate historic preservation tax credit applications.

**(14) When should the official transfer of staffing responsibilities occur?**

As long as the necessary budget action and negotiation of a contract or inter-governmental agreement between the County Government and M-NCPPC can be accomplished in time, the official transfer of staffing responsibilities should be effective July 1, 1991. To the extent possible, DHCD and M-NCPPC staff should cooperatively work to transfer background material and pending case files before the official transfer of staffing responsibilities occurs.

**(15) What legislative changes are required to implement the transfer of staffing responsibilities?**

County Code Changes: Current law (Section 24A-4(h)(2), Staff) assigns the responsibility for staffing the HPC to the Chief Administrative Officer. If, as recommended by the County Attorney, the HPC staffing function is transferred to M-NCPPC on the basis of a contract or inter-governmental agreement, then the current statutory language regarding staffing does not need to be amended.

References in Chapter 24A to the "Director", defined as the Director of the Department of Environmental Protection (DEP), also do not need to be changed because DEP will continue to be responsible for the intake of HAWP applications and for most enforcement activities. (See Question #7 above.) However, to eliminate the need for a Memorandum of Understanding between DEP and DHCD, Section 24A-9 should be amended to explicitly assign DHCD the responsibility for investigating and enforcing the demolition by neglect provisions of Chapter 24A.

State Law Changes: As discussed in Question #12 above, if M-NCPPC is going to administer an historic preservation grant program without continued assistance from the Executive Branch, then State legislation is required to provide the Montgomery County Planning Board of M-NCPPC with the necessary authority.

KO/cca  
404/1

Explanation of FY92 Funding Issue

M-NCPPC's Proposal for the Historic Preservation Office

The Planning Commission proposes a FY92 budget for the Historic Preservation Office that totals \$300,300. As outlined in the M-NCPPC proposal (Circle 11 ), this figure includes:

- Personal services costs of \$224,200 to fund an Historic Preservation Office staff of 3 1/2 professional workyears and one secretary/receptionist workyear;
- Costs (\$12,300) of rented space to house the Historic Preservation Office;
- \$14,000 in one-time expenses to cover moving costs plus the purchase of computers, furniture, and telephones for the Historic Preservation Office; and
- \$41,800 in grant funded programs, consisting of a \$20,900 in Certified Local Government grant from the State, which must be matched by a County contribution of \$20,900.

Comparison of M-NCPPC FY92 Proposal to FY91 Expenditures

The table attached at Circle 10 compares the cost of M-NCPPC's FY92 proposal for the Historic Preservation Office to actual FY91 costs of staff support to the Historic Preservation Commission and historic preservation activities of the Planning Commission. Part (1) of the table shows that M-NCPPC's \$300,300 proposal represents a \$47,780 or 19 percent increase over the \$252,520 spent in FY91.

\$14,000 of the \$47,780 cost increase is due to one time "transfer costs", e.g., moving expenses, plus computers, furniture, and telephones for the Historic Preservation Office. The remaining \$33,780 increase is due largely to the costs associated with locating the Historic Preservation Office in leased office space outside the Montgomery Regional Office (MRO). M-NCPPC's view is that, even with staff reductions under the most severe budget scenario, the MRO is too crowded to house the Historic Preservation Office.

In addition to the costs of renting space, locating the Historic Preservation Office outside the MRO adds the cost of a full-time secretary/receptionist. If the Historic Preservation Office were able to be housed within the MRO, then the Office could use existing administrative/support and word processing staff. (According to M-NCPPC, whether existing MRO support staff could easily absorb the additional work associated with the new responsibility of staffing the HPC is unknown.)

Description of the FY92 Funding Gap

As of April 10, 1991, there are insufficient funds available to fully fund M-NCPPC's \$300,300 proposal. As shown in Part (2) of the table on Circle 10:

- The Planning Commission initially allocated \$128,100 for historic preservation activities in FY92. However, in response to the County Executive's recommended 10.5 percent reduction to M-NCPPC's budget, M-NCPPC reduced the allocation to historic preservation to \$114,650.
- The County Executive has agreed to contribute \$126,000 to fund M-NCPPC's additional responsibility of staffing the HPC. \$126,000 represents an increase of \$9,050 or 7.8 percent from the \$116,950 spent by the County Government in FY91 to staff the HPC and match the State's CLG grant. (As discussed elsewhere in this memo, based upon advice from the County Attorney, this \$126,000 would be placed in a County Government Nondepartmental Account, and provided to M-NCPPC on the basis of a contract or inter-governmental agreement.)
- With \$20,900 from the State, \$114,650 from M-NCPPC, and \$126,000 from the County Government, an additional \$38,750 is needed to fully fund the \$300,300 M-NCPPC proposal for the Historic Preservation Office in FY92.

The Planning Commission requests that the County Government contribution be increased by \$38,750. This request is based upon the Planning Commission's argument that assuming the responsibility of staffing the Historic Preservation Commission should not add to the budget problems of the Planning Department.

It is the County Executive's position that the transfer of the HPC staffing function should not cost the County Government more than if the staffing responsibility remained in DHCD. The County Executive maintains that \$126,000 is sufficient to cover M-NCPPC's incremental costs associated with staffing the Historic Preservation Commission. It is the County Executive's view that if M-NCPPC feels it is necessary to fully fund the \$300,300 proposal, then the additional \$38,750 should come out of the total amount already allocated to the Planning Department.

**COMPARISON OF FY91 ACTUAL COSTS AND M-NCPPC'S PROPOSED FY92 COSTS OF FUNDING  
STAFF SUPPORT TO THE HPC AND HISTORIC PRESERVATION ACTIVITIES  
OF THE PLANNING COMMISSION**

**(1) Total Costs by Category**

	(Actuals) <u>FY91</u>	(M-NCPPC Proposal) <u>FY92</u>	<u>\$ Change</u>	<u>% Change</u>
Personal/Operating Expenses	\$210,720	\$244,500	\$33,780	+16%
CLG grant funds				
County match	20,900	20,900	-0-	0%
State match	20,900	20,900	-0-	0%
Subtotal	252,520	286,300	33,780	+13%
One-time "transfer costs"	N/A	14,000	14,000	N/A
<b>Total</b>	<b>\$252,520</b>	<b>\$300,300</b>	<b>\$47,780</b>	<b>+19%</b>

**(2) Source of Funds**

State CLG grant	20,900	20,900	-0-	0%
M-NCPPC	114,670*	114,650**	(20)	-0.02%
County Government	116,950	126,000	9,050	+7.8%
Additional funds needed	N/A	38,750	38,750	N/A
<b>Total</b>	<b>\$252,520</b>	<b>\$300,300</b>	<b>\$47,780</b>	<b>+19%</b>

\* This figure does not include an additional \$35,000 that M-NCPPC spent on "one-time" historic preservation activities in FY91 (e.g., for reprinting of the Atlas and costs of an intern).

\*\* \$114,650 represents a 10.5 percent reduction from M-NCPPC's initial FY92 budgeted amount of \$128,100 for historic preservation activities of the Planning Commission; this reduction was taken in response to the 10.5 percent reduction to M-NCPPC's budget recommended by the County Executive.

M-NCPPC PROPOSAL

ESTIMATED COSTS TO TRANSFER THE HISTORIC PRESERVATION  
COMMISSION'S STAFFING FUNCTION FROM DHCD TO MNCPPC  
MARCH 11, 1991

FY92 EXPENDITURE REQUEST

PERSONAL SERVICES (SALARY & FRINGE)	AMOUNT
-----	-----
Preservation Coordinator (Planner IV/V) Full Time: Marcus	\$71,500
HAWP Planner/Architect (Planner III) Full Time: Vacant	\$49,400
Preservation Planner/Arch. Historian (Planner II) Part-Time: Kennedy	\$28,000
Preservation Planner/Arch. Historian (Planner I) Part-Time: Rolland	\$25,000
Preservation Planner/Researcher/Public Information (Planner I) Part Time: Vacant	\$21,700
Secretary (Grade 9)/ Receptionist Full Time: Vacant	\$28,600
Subtotal	----- \$224,200
SUPPORT SERVICES	
-----	
Rental of Office Space	\$12,300
Supplies & Materials	\$1,500
Postage	\$3,000
Public Notices	\$2,000
Preservation Workshops required by CLG	\$1,500
ONE TIME EXPENSES	
Moving Expenses	\$500
Computers (3 New Vectras and 1 Printer)	\$11,000
Furniture	\$1,000
Telephones	\$1,500
	\$14,000
Subtotal	----- \$34,300
	----- \$258,500
Grant Programs (see following page)	\$41,800
TOTAL EXPENDITURES	----- \$300,300

GRANT FUNDED PROGRAMS

EXPENDITURES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Preservationist Newsletter				
- Printing			\$3,300	
- Editorial Services			\$8,500	
- Postage			\$3,000	
Historic Preservation Brochure			\$5,000	
Preservation Week Activities	\$900		\$1,100	
Preservation Grant Fund	\$20,000			
-----				
Subtotal	\$20,900	\$0	\$20,900	\$41,800
REVENUES	FROM Mont. Co.	FROM MNCPPC	FROM MD CLG	TOTAL
-----				
Grants	\$20,900	\$0	\$20,900	\$41,800

DHCD STAFF BRIEFING TO PB STAFF

MARCH 20, 1991

I. Historic Area Work Permit Process

Contact: Robert Hubbard, Environmental Protection Manager, Department of Environmental Protection 738-3176, or Joe Kozlowski, HAWP intake, DEP. 738-3138. (REPLACED SALLY)

HAWPS  
- APPROX. 8-10  
PER MONTH  
- 20-30 INQUIRIES  
PER MONTH

Technical assistance to HAWP applicants  
HAWP Application Packet (Attachment I) — DEP COPIES APPLICATIONS  
DEP accepts and sends out all applications (SEND COPY TO LAP AS WELL)  
Advertising deadlines must be met (Attachment II) MONT. JOURNAL  
Staff processes applications based on HPC's decisions the morning after the meeting  
Transmittal Memo to DEP (Attachment III)  
TRANSMITTAL MEMO TO OWNER (III.1)

II. Substantial Alteration

Contact: Allan Kerr or Dave Farrell, both building permit intake personnel, Department of Environmental Protection, 738-3172.

8 PER MONTH  
(MANY TAKOMA  
PARK)

DEP flags all applications from within Atlas H.D.'s and for projects on Atlas sites (flagging is done on basis of Historic Properties on the Premise list -- more on this later)  
DEP notifies HPC staff that an application has been filed and makes a copy of application available  
HPC staff picks up  
HPC staff reviews application and makes recommendation to Director of DEP (see Attachment IV) as to whether the proposed work will/will not substantially alter the site

III. Tax Credit Program

Contact: Doug Browning, Division Chief, Revenue, Department of Finance 217-2917

Staff makes recommendation to HPC on each application as to its tax credit eligibility  
When in doubt, any application approved under (b)(2) of ordinance is generally eligible, unless HPC dictates otherwise  
Applications are available from HPC office (See Attachment V) all year

RETROACTIVE O.K.  
IF ALL RECEIPTS  
AVAILABLE  
RECOMMENDATIONS  
ALWAYS O.K.d BY  
BROWNING

NEED LIST OF WHAT  
QUALIFIES AND WHAT DOESN'T



round, and are due April 1, 1991.

Staff reviews each tax credit application for completeness, adequate documentation, and eligibility of project(s)

Commission reviews and makes recommendation on each application in late April/early May

Each original application and the Commission's recommendation is transmitted to Doug Browning, Division Chief, Department of Finance, in mid-late May

Finance makes the final decision on each application

Decisions are transmitted to applicants by Finance via letter generally in mid-August - mid-September

#### IV. Historic Preservation Fund Program

Applications (see Attachment VI) are generally made available in June  
Availability of funding is advertised in Montgomery Journal classified ads and a press release is issued with a short description of the program and funding available (Attachment VII)

Applications are due August 1 - staff reviews for completeness and eligibility according to the guidelines

A committee of 2-3 Commissioners reviews each application and makes recommendations on funding to the full Commission

Staff formulates recommendations on each grant and presents to HPC

Commission makes final decision on funding

Staff administers each grant, monitoring projects, communicating regularly with grantees, verifying requests for payment

#### V. Certified Local Government Grant Program

Contact: Michael K. Day, Local Government Grants Administrator, Maryland Historical Trust. (301) 974-3642. Richelle Thomas, Grants Manager, Maryland Historical Trust. (301) 974-3673.

Applications generally due November 1 of each year at the Maryland Historical Trust (Attachment VIII)

Application is completed by HPC staff after consultation with HPC on types of projects to be included in application

MHT deliberates on applications and generally notifies of grant status in early spring

Theoretically, contract (Attachment IX) is executed July 1 of each year and funding is available then. In practice, contract is generally executed in September, although MHT is working on getting back to July as the execution date

Projects funded in contract are administered by HPC staff, who are responsible for monitoring funds, subcontractors, and providing bi-monthly status reports to MHT

All projects must be completed by June 30

All invoices for payment and products of contract (Attachment X) must be received by MHT by July 31

Annual report as required under CLG status must be received by MHT by July 31 (Attachment XI)

VI. Maintenance of Historic Properties on the Premise Address Listing

Contact: Mary Quattro, Executive Administrative Aide, Division of Construction Codes Enforcement, Department of Environmental Protection. 738-3035

List (Attachment XII) is printed monthly by DEP and sent to HPC staff for record-keeping

Changes - additions/deletions are made by DEP after receiving a memorandum from HPC staff requesting the alteration

Deletions can be made by providing address to DEP

Additions must include address, lot and block number

Master Plan sites are identified with black dots

Other addresses are presumably Atlas (although we have been working on it, some addresses not denoted with a black dot may not be on the Atlas; they may be addresses for removed sites, typographical errors, or on the list for unknown reasons)

HPC staff denotes Master Plan sites with dots, double checks list for inclusion of requested additions and deletion of requested addresses, etc., and returns to DEP staff for implementation and action

COMPUTER  
PROBLEMS

VII. Maintenance of Files/Index Cards

A. Files (see Attachment XIII)

Heavy Pressboard (Red) = HAWP case file

all information related to HAWP application (including plans) is placed in red file. Red files are filed alphabetically by street, then numerically behind historic district file. Red files (case files) pertaining to Master Plan sites are filed chronologically by case file number

Labels contain case number and address

Heavy Pressboard (Blue) = Master Plan site file

Labels contain site number, name of site and address

Position 1 contains all correspondence, Position 2 contains research MP amendment and photographs/maps

Heavy Pressboard (Brown) = Master Plan historic district file

Labels contain district number and name of district

Position 1 contains all correspondence, Position 2 contains research and/or MP amendment, Position 3 is miscellaneous, Position 4 is address listings and maps, photographs

Lightweight (blue) = Atlas site/Atlas district file

Labels contain site/district number

File contains everything in no particular order

B. Index Cards (Attachment XIV)

Cards were created with eventual computerization of information they contain in mind

Two file boxes - one for Atlas, one for MP

Information is gathered through files, tax computer, owners, etc.

Cards are marked in soft pencil only for easy revisions

Atlas cards are converted to MP in accordance with designation process

Atlas cards are now complete with the exception of Atlas districts

MP cards are complete

Each HAWP and its resolution is noted on pertinent card after each meeting

VIII. Fair/Ethnic Heritage Festival

Contact: Susan Kuklewicz, 1989/1990 contractor, 253-6627

RFP (Attachment XV) goes out in May

Contract should be executed in early-mid July

Coordinator works with HPC staff to gather displays (provided by HPC grantees), informational materials, rent tent, tables and chairs, and schedule staffing of tent/booth

Coordinator prepares final report for distribution to Commission on attendance, suggestions for improvement, etc.

IX. Packet Assembly

Laura - this one's all yours

X. Current Projects/Upcoming Projects

Preservationist newsletter

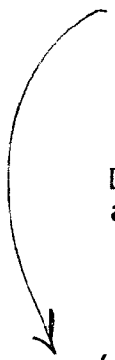
current contract is for six issues (renewable up to 2x)

current printing order will cover more issues

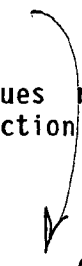
→ IN ONE YEAR

YEARS

DISCUSSION QUESTIONS: What legal/logistic/contractual issues need to be addressed and/or resolved for the newsletter to continue production smoothly?



LITTLE EDITORIAL INPUT  
NEW CONTRACT W/ ROBINSONS



LAST ONE UNDER DHCD OUT AT END OF JUNE

BREAK FOR THE SUMMER - BIG ISSUE IN SEPT.

Brochure describing preservation program/HPC end of it  
HPC's brochure (Attachment XVI) is currently out of print  
Cosmetics of program will presumably change July 1

DISCUSSION QUESTIONS: Can DHCD assist the Planning Board in any way in terms of preparing/providing material for production of a brochure? Can some material be prepared to utilize temporarily, until a new brochure can be printed?

#### Training of new Commissioners

DISCUSSION QUESTIONS: How can DHCD and PB staff work together to accomplish this year's training? Should the black notebooks (Attachment XVII) include any additional information? What else do we need to provide to new Commissioners?

#### XI. Projects Which Will Not be Finished as of July 1, 1991

FY 1991 Historic Preservation Grant Fund contracts/projects

DISCUSSION QUESTIONS: How will we handle these 14-odd grants? Who will administer? Assuming that DHCD will, what type of liaison/oversight should PB staff have?

#### Executive Regulations for HAWP process, LAPs, and Easements

DISCUSSION QUESTIONS: How will PB staff work with the Executive Branch to adopt and implement finalized regulations? Can or should DHCD staff play a role in the E.R. process?

#### Other Attachments

XVIII Memo to Leonard Taylor from Annette G. van Hilst

XIX Monthly Report for February, 1991

2586E

3/20/91

- Mary Ann: cancel meeting w/ Alexon
- Leonard mtg. every other Tues. (before HPC mtg.)
- HAWP person picks up stuff @ DEP twice per week + spends one hour per day twice a week @ DEP to advise people (like college office hours)
- List of ~~DEP~~ Chevy Chase addresses to DEP
- hunt down Doug Browning - update agreement on tax credits

→ Administrative Guidelines for LAPs ] still to do

→ Exec Regs, done by 7/1/91  
for HAWPs

→ Exec Regs for easements (at a later date)

→ Exec Regs for appeal of Demo-by-Neglect (at a later date)

design guidelines eventually done by Administrative Guidelines

→ Administrative Guidelines for Economic Hardship (at a later date)

→ Section 106 Review: who does?

Where will HPC be meeting?

- o telephone line for HPC = #?
- o telephone line for HPC agenda = #?

in June  
newsletter

- o where can people pick up application?

~~not~~  
~~pick up mtg. w/ Bob Hubbard~~

meet w/  
Don Boswell - enforcement

- o newsletter contract — call Bob and Martha ✓  
Alan initiates contract procedure

a list of MP and Removed resources to Etta — CAROL DOES

a MRI reimbursement requests

o file cabinets come to us MC movers

o audio system — which one? PB or HPC ✓

- o July 10th mtg.

DHCD does ads + accepts GRANTS + does public notices  
we do staff reports

- o DHCD will do this year's Pres. Grants

Bill Korman  
Tom Thumbe  
Bob

Karen O. —  
Chapter 24A  
stop work order  
authority

M E M O R A N D U M

TO: Gwen Marcus, Historic Preservation Planner  
Maryland-National Capital Park and Planning Commission

FROM: Annette G. van Hilst, Chief  
Division of Community Planning and Development  
Department of Housing and Community Development

SUBJECT: Meeting of May 22, 1991

DATE: May 30, 1991

Thank you for meeting with Laura, Alison, Etta and me last Wednesday. I feel that we got many issues related to smooth transition squared away.

My recollection of our discussion and the actions we decided upon is as follows:

1. Laura will forward all Historic Area Work Permits received after June 21, 1991 to you as soon as they are logged in our office. These permits will be those scheduled for July 10, 1991. You and/or your staff will compile the staff reports on these permit applications and prepare the packet for the July 10 meeting. We will arrange for advertising and set the agenda in conjunction with the Chair of the Commission. After July 1, 1991, this office will no longer process HAWP applications.
2. Alison will make the necessary arrangements to have all standard forms and documents converted into Wordstar as you requested. Laura should have provided you with a list of all such documents, and you will need to let Alison or Laura know which documents necessitate conversion.
3. Alison and Laura will plan on spending the day at your office on June 14, 1991. They will be briefing you and your staff on the CLG program, tax credit program, and Historic Preservation Fund.

Gwen Marcus  
May 30, 1991  
Page Two

4. Alison will mail out Historic Preservation Grant Fund applications June 1, 1991. The applications will be due August 1, 1991.
5. File cabinets containing all site and permit files will be delivered to Park and Planning on or about Friday, June 28, 1991, if we can arrange for County staff to move the file cabinets. Sometime prior to this date, you and/or your designated staff person will "walk through" other Commission files with Laura and Alison, to determine what other materials you wish to have transferred to your office.
6. You will work with Bob and Martha Robinson to provide them with pertinent phone numbers, addresses, and other information related to the change in the HPC's office location, to be printed in the June Preservationist. You will arrange for a new contract for writing and editorial services, as well as the printing of the newsletter.

Please don't hesitate to contact me if you have any questions or comments to add to this summary.

2742E



Documents for Possible Conversion

Memo to DEP - Substantial Alteration

Memo to DEP - Ordinary Maintenance

Memo to DEP - Interior Work

Memo to DEP - HAWP Transmittal

Memo to Applicant - Approved HAWP Transmittal

Memo to Applicant - Staff Report Transmittal (HAWPS, Prelims. and Subdivisions)

Memo to LAPs - HAWP application

Tax Credit Info. - Info. Sheet, Application Form, Ordinance

Chapter 24A

Financial Incentives

HAWP Info. Sheet

Staff Report Form

Agenda Format

Agenda Mailing List (labels)

HPC Addresses and Phone Numbers

Site Status Sheet

HAWP Log (through which case #s are assigned)

*Monthly Report to Commission*

2736E

M E M O R A N D U M

TO: Gwen Marcus, M-NCPPC  
FROM: Laura McGrath, DHCD  
SUBJECT: Transition Items  
DATE: June 28, 1991

# of packets = 12  
9 for HPC.  
1 for Christopher  
1 for Robinsone  
1 for me

I thought I would provide you with some background on items before the Commission and on which projects I will be following up on in the weeks to come.

July 10, 1991 HPC Agenda - As you know, Case 35/36-91E has been rescheduled for this meeting, as has the preliminary consultation for 5810 Warwick Place, so that the Somerset LAP can provide comments to the Commission. The applicant in Case 35/36-91E will not be able to attend the July 10 meeting; however, because of the 45 day limit, the record for the case will have to be opened and then continued. Leonard is aware of this. As you know, I have done staff reports for both cases. In addition, I received comments on the plans for 5810 Warwick from a neighbor; these comments are in the case file.

4901 Dorset Avenue, Somerset - Concurrent with the release of the decision regarding the demolition of this property, the owners requested approval of several minor modifications to the modified elevations approved by the Commission in June. Leonard reviewed and approved the changes; a copy has been sent to DEP. The file copy is attached - it was completed after the files were packed. Sorry!

Continuing Cases - Two cases are still open and pending before the Commission:

23/65-91A, Parcel 441, Market Street, Brookeville - The applicants are to determine what is the correct zoning category for their lot and were asked to consider Commission/LAP comments on their proposal prior to returning to the Commission. Record left open on May 8, 1991.

18/8-91A, 19920 White Ground Road, Boyds - The applicants agreed to explore further the possibility of repairing their roof or replacing it in kind or with standing seam tin. The applicants have informed me that two experts referred to them by the Commission agreed that the roof cannot be repaired; the applicants are now considering a case of economic hardship or replacement with standing seam copper. The applicants would like to be put on the July 24 agenda. They will be sending something to you prior to that and will probably call you as well.

Appeals Cases

Darnestown Presbyterian Church - Board of Appeals; rescheduled to July 30, 1991; Leonard will be working with Eddie on this one.

Avery-Flaherty - Circuit Court - August 26, 1991

HPC Projects I Will Follow Up On

HAWP Executive Regulations - Have been reviewed and approved by Leonard and by Christopher; are now with Kathy Hart, County Attorney, for final review. I will then follow through on the review and adoption process. Will keep you informed of progress.

June Monthly Report to HPC - I will have ready for you for distribution at the July 10 meeting.

May 8, 1991 Minutes - Are ready for distribution to the Commission

June 26, 1991, Minutes - I will have to you for HPC review by July 17.

Other Projects I Will Complete

Federal FY 1990 Certified Local Government Contract Closure and Final Report

Fy 1991 Historic Preservation Grant Projects and other outstanding grant projects

I will keep CLG and Grants files until projects are complete. I also will need substantial alteration files and minutes for several weeks.

ATTACHED -

May 8, 1991 minutes

Open Case files

4901 Dorset Avenue Modifications

35/36-91E (Ringland) and Sorenson Preliminary Files

List of Phone Numbers you may need

LAP Chairs Addresses/Phone Numbers

2774E

CLG - CK

clarify } Who does state enter into CLG contract with -  
County or M-NCPPC?

Preservationist newsletter

add Annette to Preservationist newsletter

# CLG Timetable

October 1

Application arrives from MHT. Staff should schedule a work session w/ HPC to determine which projects they wish to request funding for. After consideration of these suggestions, staff drafts an application, budget and timetable for each project.

November 1 Application is due at MHT, along with two letters of support from preservation-related organizations.

\* February staff should hear from MHT, first informally, then by letter, that awards have been made.

\* April Staff should receive draft contract from MHT for signature by County / M-NCPPC (?) officials. Contract is turned around shortly and mailed back to MHT for execution

\* \* July 1 contract term begins.

September 1 1st bi-monthly report is due - must include bills for work done during this period.

November 1, January 1, March 1, May 1 - Bi-monthly reports due. See above.

June 30 contract ends

\* Approximate July 31 final report due w/ bills + products

\* \* Since I have been here, no contract has been executed on time. This timeline is MHT's target date

## PRESERVATION GRANT FUND - MAR

DHCD does paperwork, contracts, and writes checks  
M-NCPPC does analysis, monitoring, recommendations  
to HPC

guidelines? meeting County preservation goals

① more sites on National Register

I have applications

\* every grant is a matching grant

new timetable

\* change Regional District Act so we can give out grants

bi-monthly reports are very important

no bricks + mortar projects at this point  
\* discuss w/ Commission

give deadlines for responses

on-site monitoring

end of the year symposium / exhibits @ Fair

# Preservation Grant Fund Timetable

June 1 Applications are sent out to those groups who have current grants, those who request them, other interested parties. Press release is issued; advertisement of availability of funds is made in a newspaper of public record (i.e., the Journal).

August 1 Applications are due. Staff checks each application for completeness, obtains additional ~~more~~ information (if necessary), formulates recommendations. Staff schedules Commission work session, in which HPC, acting on the recommendation of a (generally) 3-member sub-committee (last year: Jeff Miskin + Walter Booth), makes the final decision on each grant application. HPC makes the determination as to which groups receive full, partial, or no funding.

September 30 HPC makes final decision. Staff notifies applicants by this date. Staff begins to process applications, incorporating application material and revised project scopes into grant agreements.

January 1 Grant agreements are completed; grantees are issued notice to proceed.

March 1, May 1, July 1, September 1, November 1 Bi-monthly reports due.  
December 31 Grants cycle ends.

## TAX CREDIT PROGRAM - HAWP PLANNER

due April 1st, but accepted all year

use Criteria 24A-8<sup>(b)</sup>(3) to make judgements  
on borderline cases

Change/Correct → information sheet will be on disc - but provides  
general guidelines only  
judgements will be made on many cases

? Doug Browning - Dept. of Finance phone# ?

→ issue for discussion w/ HPC - changing law to  
apply retroactively to Atlas resources

notify applicants of HPC recommendation, as a courtesy

everyone who asks for a HAWP application, should  
get a tax credit info sheet



## Tax Credit Program Timetable

Applications are distributed, on request, throughout the year. Each <sup>HAWP</sup> application received in the office is analyzed for its tax credit eligibility, and applicants should be notified as to what portions of their application are eligible.

April 1 - Applications are due at the HPC office. Staff schedules a worksession w/ HPC and formulates analysis + recommendation for each application. HPC makes final recommendation on eligibility and specific amount that is creditable.

May 1, Applications (originals) are transmitted to Department of Finance with HPC recommendations. Property owners are apprised of recommendation by mail.

August Applicants are notified by mail of Department of Finance decision re: credit. Credit is applied to current tax bill.

## CHAPTER 52, TAXATION

### Article VI, Historic Preservation Tax Credit

52-41. Tax credit generally.

There is a tax credit against County real property taxes for certain expenses of a taxpayer after September 21, 1979 for restoration and preservation of certain properties of historic, architectural, archaeological or cultural value.

52-42. Qualification for tax credit.

(a) To qualify for the tax credit, the taxpayer must show that:

(a)(1) The property is an historic site or in an historic district on a County or municipal master plan or zoning map.

(b)(2) The expenses are:

A. for work under an approved County historic area work permit or municipal certificate of approval;

B. for ordinary maintenance expenses as defined in guidelines adopted under section 24A-6, over \$1,000;

(3) the work is done by a licensed contractor; and

(4) the taxpayer has paid for the work.

(b) A taxpayer must not receive a tax credit for new construction, including:

(1) a new structure on an historic site or in an historic district, or

(2) a new addition constructed as part of, or next to, an existing structure of historic, architectural, or cultural value, regardless of the architectural compatibility of the addition.

52-43. Use of tax credit.

(a) The tax credit is 10 percent of the taxpayer's qualified expenses under section 52-42.

- (b) The tax credit applies to the next tax year after the year in which the work or any part is completed. Any unused tax credit may be carried forward to as many as 5 subsequent tax years. However, if the property is removed as an historic site or excluded from an historic district on the applicable or municipal master plan or zoning map, any unused tax credit must lapse.

52-44. Application for tax credit; appeals.

(a) Application.

- (1) A taxpayer must file an application for a tax credit with the applicable County or municipal historic preservation commission on forms approved by the County Director of Finance.
- (2) An application must include an oath or affirmation by the taxpayer that the receipts are for qualified expenses under section 52-42.
- (3) An application must be filed by the first day of April of the year before the tax year in which a tax credit is used.
- (4) The applicable County or municipal historic preservation commission must transmit all applications to the County Director of Finance with a certificate that the property is an historic site or in an historic district on the applicable County or municipal master plan or zoning map.
- (5) The County Director of Finance may require additional information and documentation from the taxpayer, and may reject all or part of the claimed expenses for lack of adequate documentation or if the claimed expenses do not qualify under section 52-42. The Director must notify the taxpayer of the Director's decision on the application.

(b) Appeal

Any taxpayer aggrieved by the decision of the County Director of Finance may appeal to the Maryland Tax Court.

52-45. Penalties.

- (a) A person must not knowingly file a false or fraudulent application to obtain a tax credit under this article. A violation of this section is a class A violation.

(b) In addition, a taxpayer who violates this article must pay the County any taxes and interest offset by the tax credit, and the County's fees and costs in any action to enforce this article.

52-46. Regulations.

(b) The County Executive may adopt regulations under method (2) to administer this article.

Enacted October 17, 1989

2333E

List of things to be done.

Chiswell Transmittal  
11

Normal

Every two weeks  
160 hours

<del>Write</del>		
Write staff reports	4-8 hours	8
HAWPS	1 hour x 2	2
* Agenda +	1 hour	1
* Ad	<del>30 min</del>	
* mailing of agenda	1 hour	1
* reproducing & sending packet	8 hours	8
* prep for mtg	1/2 day	4
Field visits	1 day	8
<del>Prep</del>		
post-meeting	1/2 day	4
Follow up letters + ph calls		4
Process HAWPS		
Minutes	1/2 day	4
Master Plan Xmittal's	1-3 hours	3

[ 116.25 ]

Written decisions	1/2 day to draft	4
Subdiv Xmittals	1/2 hour	4
Contract Administration	6-8 hours/week	8
DSA's	15 min/ea	25
Coord. <del>consultation</del> w/ <del>outside</del> <sup>Dept. / agency</sup> staff	3 hrs/wk	6
Phones	2 hours a day / 10 hrs week	20
Prelim Consultations	1 hr 1/week	2
System Maintenance	1 hr/week	2
Filing/ office reception walk in assistance	1 hr/week	2
meetings w/ LT / BW	1 1/2 hr/wk	3
Follow up after mtg w/ LT	1/2 day	4
Researching requests mailing information	1 hr/week	1
Payments / Accounting	1/2 hr week	30
Index Card Maint.	2 hrs/week	4

~~Cherry Chase~~

Darnestown church pre-hearing submissions  
adding Takama Park addresses to  
DEP ~~banda~~ list.

RFP for research of 32 h.s.

- reviewing
- ~~edit~~ editing
- writing contract

Preservation fund contracts + purchase orders

To do:

3 dist evals

- identifying prop owners + addresses
- notifying same

Cherry Chase Atlas addresses  
notification to Atlas owners.

Pursuing historic marker program  
converting index cards to computer file  
researching land trust

Sechin 106 process

various correspondence to be replied to.

(3) The expenditure for Montgomery County's share of the bi-County offices is:

Personal Services	2,918,850
Supplies and Materials	116,803
Other Services	904,734
Capital Outlay	5,180
Debt Service	28,000

TOTAL

---

3,973,567

- (4) Except as specifically reflected elsewhere in this resolution, approval of funds for prior years for all capital projects, to the extent that those funds are not expended or encumbered, are reapproved or approved in the amounts and for the purposes specified in the approved FY 1992 capital budget for the Maryland-National Capital Park and Planning Commission.
- (5) The Council requests that the Planning Board send to the Council, within 15 days after the end of each quarter, budget reports for each quarter.
- (6) The Council requests that the Planning Board send to the Council, within 15 days after the end of each quarter, a report of authorized positions and monthly average staff size for each month.
- (7) The Planning Department is authorized to create an appropriate mechanism to receive and spend \$151,850 placed in County Government Non-Departmental account #9435 for Historical Activities Support.



weekly visits

Mon. afternoon  
Thurs. morning

- ① application intake  
Station 4 - Gwen Callis  
Mary
- ② determination of sub. alteration  
- almost daily  
- make determination on the spot / twice a week
- ③ Vivian re: how we hook in / Drew / request ~~to~~ improve  
w/ permits? computer system
- ④ GIS