

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2007, Legislative Day No. 6

Bill No. 26-07

Mr. S.G. Samuel Moxley, Chairman
By Request of County Executive

By the County Council, March 19, 2007

A BILL
ENTITLED

AN ACT concerning

Landmarks Preservation

FOR the purpose of creating a county inventory; providing a procedure for the inclusion of certain structures on the county inventory; providing for adding certain structures on the county inventory to the preliminary county landmarks list under certain circumstances; providing for the removal of certain structures from the county inventory and the preliminary county landmarks list under certain circumstances; providing a procedure for demolition of certain structures on the county inventory; limiting the ability to nominate certain structures to the county inventory and preliminary county landmarks list under certain circumstances; providing that a structure that is not placed on the final county landmarks list by a certain time is deemed removed from the county inventory and the preliminary county landmarks list; clarifying that certain structures are not subject to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 ~~Strike out~~ indicates matter stricken from bill.
 Underlining indicates amendments to bill.

certain parts of the landmarks preservation law; clarifying that certain proposed plans for

certain structures shall be approved by the Landmarks Preservation Commission in a certain manner; altering certain requirements regarding alterations to certain structures; altering certain definitions; defining certain terms; providing for the retroactive application of a portion of this Act; providing for the termination of the county inventory; and generally relating to landmarks preservation.

By repealing and reenacting, with amendments

Sections 32-4-223, 32-4-231(a), and 32-4-416(a)
Title 4. Development
Article 32. Planning, Zoning and Subdivision Control
Baltimore County Code, 2003

By adding

Section 32-4-418
Title 4. Development
Article 32. Planning, Zoning and Subdivision Control
Baltimore County Code, 2003

By repealing and reenacting, with amendments

Sections 32-7-101, 32-7-103, 32-7-106, 32-7-107, 32-7-201, 32-7-202(a), 32-7-203(a)(1), (2)(i), and (3) and (b)(1), (3), and (4), 32-7-301, 32-7-302, 32-7-303, 32-7-304, 32-7-401, 32-7-402(a) and (b), 32-7-403, 32-7-404(b)(1), 32-7-405(a)(2), 32-7-406, 32-7-502(a) and (b)(1) and 32-7-503(a)
Title 7. Historical and Architectural Preservation
Article 32. Planning, Zoning and Subdivision Control
Baltimore County Code, 2003

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Sections 32-4-223, 32-4-231(a), and 32-4-416(a) of Title 4. Development of Article 32. Planning, Zoning and Subdivision Control of the Baltimore County Code, 2003, as amended, are hereby repealed and reenacted, with amendments, to read as follows:

§ 32-4-223.

The Development Plan shall identify the following information concerning existing site conditions:

- (1) Topography, and existing topography for adjacent properties as shown on the county photogrammetric plats or more recent information where available;
- (2) Streams, springs, seeps, bodies of water, and forest buffers;
- (3) Soil types in accordance with the soil survey, Baltimore County, Maryland, including identification of prime and productive soils;
- (4) Wooded areas;
- (5) Buildings on the property;
- (6) One-hundred-year floodplains or flood areas for both riverine and tidal areas;
- (7) Nontidal wetlands and tidal wetlands;
- (8) Identification of any building, property, or site within or contiguous to the proposed development that is included in:

(i) The ~~Maryland Historical Trust Inventory of Historic Properties~~

OR THE COUNTY INVENTORY;

(ii) The county preliminary or final landmarks list;

(iii) The National Register of Historic Places;

(iv) The Maryland Archeological [Survey or identification] SURVEY;

(V) ~~IDENTIFICATION of any~~ ANY county historic district; or

(v)(I) A National Register District covering the proposed development;

(9) Areas of critical state concern as designated under the procedures of § 5-611 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(10) As known to the applicant, location and description of hazardous material as defined under § 7-101 of the Environment Article of the Annotated Code of Maryland;

(11) Any additional information as may be required by the Department of Environmental Protection and Resource Management to determine compliance with the critical areas local protection program, under § 33-2-202 of the Code.

§ 32-4-231.

(a) The Hearing Officer shall refer the Development Plan to the Planning Board when:

(1) The Development Plan conflicts with the Master Plan;

(2) The Baltimore County Zoning Regulations require Planning Board consideration;

(3) The Development Plan involves a building, structure, or site included on the Landmarks Preservation Commission preliminary or final COUNTY LANDMARKS list or is located within a county historic district;

(4) The applicant has made a written request, under the authority of COMAR 27.01.11.01.A, for a variation from the standards provided under Article 33, Title 2 of the Code;

or

(5) The proposal is a planned unit development.

§ 32-4-416.

(a) Each Development Plan shall [preserve:

(1) Natural] PRESERVE NATURAL features, including watercourses, waterfalls, beaches, and significant [vegetation; and

(2) Historic structures or sites identified on any of the lists referred to in § 32-4-223(8) of this title] VEGETATION.

SECTION 2. AND BE IT FURTHER ENACTED, That Section 32-4-418 of Title 4 . Development of Article 32. Planning, Zoning, and Subdivision Review of the Baltimore County

Code, 2003, as amended, is hereby added to read as follows:

§ 32-4-418.

STRUCTURES, AS DEFINED IN TITLE 7 OF THIS ARTICLE, IDENTIFIED ON ANY OF THE LISTS REFERRED TO IN § 32-4-223(8)(I), (II) AND (V) OF THIS TITLE ARE SUBJECT TO THE PROVISIONS OF TITLE 7 OF THIS ARTICLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Sections 32-7-101, 32-7-103, 32-7-106, 32-7-107, 32-7-201, 32-7-202(a), 32-7-203(a)(1), (2)(i), and (3) and (b)(1), (3), and (4), 32-7-301, 32-7-302, 32-7-303, 32-7-304, 32-7-401, 32-7-402(a) and (b), 32-7-403, 32-7-404(b)(1), 32-7-405(a)(2), 32-7-406, 32-7-502(a) and (b)(1) and 32-7-503(a) of Title 7.

Historical and Architectural Preservation of Article 32. Planning, Zoning, and Subdivision Review of the Baltimore County Code, 2003, as amended, are hereby repealed and reenacted, with amendments, to read as follows:

§ 32-7-101.

(a) In this title the following words have the meanings indicated.

(B)(1) "ALTERATION" MEANS ANY EXTERIOR CHANGE THAT WOULD AFFECT THE HISTORIC, ARCHEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF A STRUCTURE.

(2) "ALTERATION" INCLUDES CONSTRUCTION, RECONSTRUCTION, MOVING, OR DEMOLITION.

(C)(1) "CERTIFICATE OF APPROPRIATENESS" MEANS A CERTIFICATE ISSUED BY THE COMMISSION IN ACCORDANCE WITH THIS TITLE INDICATING ITS APPROVAL OF PLANS FOR CONSTRUCTION, ALTERATION, RECONSTRUCTION, MOVING, OR DEMOLITION OF:

(I) A STRUCTURE ON THE PRELIMINARY OR FINAL COUNTY LANDMARKS LIST; OR

(II) A STRUCTURE WITHIN A COUNTY HISTORIC DISTRICT.

(2) "CERTIFICATE OF APPROPRIATENESS" INCLUDES A CERTIFICATE ISSUED BY THE COMMISSION IN ACCORDANCE WITH THIS TITLE INDICATING ITS APPROVAL OF PLANS FOR DEMOLITION OF A STRUCTURE ON THE COUNTY INVENTORY.

[(b)] (D) "Commission" means the COUNTY Landmarks Preservation Commission.

[(c)] (E) "Damage due to weathering" means that condition of any building material of a structure which if unprotected and exposed to the natural elements, including wind, rain, snow, and ice, would fail to meet a minimum durability test.

[(d)] (F) "Demolition" includes demolition by neglect.

[(e)] (G)(1) "Demolition by neglect" means willful neglect in the maintenance, repair, or both maintenance and repair of a [building or] structure ON THE PRELIMINARY OR FINAL COUNTY LANDMARKS LIST OR A STRUCTURE WITHIN A COUNTY HISTORIC DISTRICT resulting in any of the following conditions:

[(1)] (I) The deterioration of any exterior architectural feature so as to create or allow the creation of a hazardous or unsafe condition;

[(2)] (II) The deterioration of exterior walls or other vertical supports;

[(3)] (III) The deterioration of roofs or other horizontal members;

[(4)] (IV) The deterioration of exterior chimneys;

[(5)] (V) The deterioration or crumbling of exterior plaster, mortar, or masonry;

[(6)] (VI) The ineffective waterproofing of exterior walls, roofs, and

foundations, including broken windows and doors; or

[(7)] (VII) Deterioration resulting from damage due to weathering.

(2) "DEMOLITION BY NEGLIGENCE" DOES NOT INCLUDE ~~WILLFUL~~ NEGLIGENCE IN THE MAINTENANCE OR REPAIR OF A HISTORIC ENVIRONMENTAL SETTING.

[(f)] (H) "Exterior architectural features" means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building materials and the type and style of all windows, doors, light fixtures, signs, and other similar exterior features.

[(g)] (I)(1) "COUNTY Historic district" means an area in the county DESIGNATED BY THE COUNTY COUNCIL in which there are located structures that have historical, cultural, educational, or architectural value, the preservation of which is deemed to be for the educational, cultural, economic, and general welfare of the inhabitants of the county.

(2) "COUNTY HISTORIC DISTRICT" INCLUDES ALL PROPERTY WITHIN THE BOUNDARIES DEFINED BY THE COUNTY COUNCIL IN ACCORDANCE WITH THIS TITLE.

(J) "COUNTY LANDMARK" MEANS ANY STRUCTURE DESIGNATED BY THE COUNTY COUNCIL TO BE ON THE COUNTY FINAL LANDMARKS LIST. ~~THAT HAS BEEN DETERMINED TO BE OF EXCEPTIONAL HISTORIC, ARCHEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE.~~

[(h)] (K) "Minimum durability test" means to show visible deterioration so that the structure cannot perform the function for which it is intended.

[(i)] (L) "Owner" means those persons who appear as the owners of record in the assessment records of the State Department of Assessments and Taxation.

(M) "RECONSTRUCTION" MEANS THE PROCESS OF REPRODUCING BY NEW CONSTRUCTION THE EXACT FORM AND DETAIL OF A VANISHED STRUCTURE, OR PART OF A VANISHED STRUCTURE, AS IT APPEARED AT A SPECIFIC PERIOD OF TIME.

(N) "RESTORATION" MEANS THE PROCESS OF ACCURATELY RECOVERING THE FORM AND DETAILS OF A PROPERTY AS IT APPEARED AT A SPECIFIC PERIOD OF TIME BY MEANS OF REMOVAL OF LATER WORK AND THE REPLACEMENT OF WORK MISSING FROM THAT PERIOD.

[(j)] (O)(1) "Structure" means any man-made or natural combinations of materials to form stable constructions and includes the property or lot or portion thereof which constitutes the historic environmental setting of the structure.

(2) "Structure" includes buildings, bridges, FENCES, towers, walls, trees, archeological sites, and rock formations.

[(k)] (P) "Historic environmental setting" means the property or lot or portion thereof, as delineated by the Commission, which is historically, architecturally, archeologically, or culturally connected to the historic significance of a landmark structure.

§ 32-7-103.

This title may not be construed to:

(1) Prevent any ordinary maintenance or repair of an exterior architectural feature which involves no change in design, material, or outward appearance of a structure:

- (i) In any proposed or designated COUNTY historic district;
- (ii) On the preliminary COUNTY landmarks list; or
- (iii) On the final COUNTY landmarks list;

(2) Prevent the construction, reconstruction, alteration, or demolition of any exterior

architectural feature which the Building Engineer certifies is required for the public safety because of an unsafe or dangerous condition; or

(3) Prevent or prohibit the owner or occupant, if any, of a structure on the COUNTY landmarks list or in [an] A COUNTY historic district from using that structure in any lawful manner, so long as the use does not involve the demolition of the structure or the alteration of its exterior architectural features.

§ 32-7-106.

The COUNTY INVENTORY, THE preliminary and final COUNTY landmarks lists and the list of COUNTY historic districts shall be maintained by the Commission and shall be made available for public inspection at all public libraries in the county and at the Office of Planning as provided for in § 32-7-303 of this title.

§ 32-7-107.

The seller of any real property that appears on the preliminary COUNTY landmarks list, the final COUNTY landmarks list, or THAT is located within any proposed or designated COUNTY historic district shall disclose in writing to the buyer before the execution of a contract of sale that the property is on either of the COUNTY landmark lists, is located within [an] A PROPOSED OR DESIGNATED COUNTY historic district, or is both on a COUNTY LANDMARKS list and located in [an] A COUNTY historic district.

§ 32-7-201.

(a) On the petition of owners of 75% of the property included in the proposed COUNTY historic district, the Commission may, after study and public hearing, delineate any area within the county as a proposed COUNTY historic district by delineating the boundary of the COUNTY historic district.

(b) During the time period between the delineation by the Commission of the

boundary of the proposed COUNTY historic district and the enactment of a law creating a COUNTY historic district, the construction of any structure within the boundary of the proposed COUNTY historic district, and the renovation, reconstruction, alteration, or demolition of the exterior of any existing structure in the proposed COUNTY historic district is subject to the requirements of Subtitle 4 of this title.

§ 32-7-202.

(a) After the Commission has delineated the proposed COUNTY historic district, the Commission shall:

(1) Notify the owner of each property lying wholly or partially within the proposed COUNTY historic district, by first-class mail, of the delineation of the boundaries; and

(2) Submit the proposed COUNTY historic district to the County Executive for review.

§ 32-7-203.

(a)(1) (i) The County Council shall conduct a hearing on a proposed COUNTY historic district.

(ii) The County Council shall give at least 20 days advance notice of a hearing on a proposed COUNTY historic district, including publication in a newspaper of general circulation.

(2) (i) At least 45 days before the hearing, the Commission shall notify the owner of each property wholly or partially lying within the proposed COUNTY historic district of the time and place of the hearing.

(3) During the period of notice, information about the proposed COUNTY historic district shall be available in the Office of Planning or at another public place as the County Council may designate for public inspection.

(b) (1) The County Council shall approve or reject the proposed COUNTY historic district or any portion of the COUNTY historic district.

(3) An area may not be deemed to be [an] A COUNTY historic district unless and until it has been so designated by a law subject to the provisions of Section 308 of the Charter.

(4) If the Council approves a portion of the proposed COUNTY historic district, that portion not included in the district may not be deemed to be [an] A COUNTY historic district.

§ 32-7-301.

(A)(1) The Commission shall compile and maintain a [register of public and private] COUNTY INVENTORY OF structures in the county that [the Commission considers to] POTENTIALLY MAY be of significant historical, architectural, archeological, or cultural value.

(2) THE COUNTY INVENTORY SHALL FUNCTION AS AN INVENTORY OF STRUCTURES THAT MAY BE EVALUATED FOR POSSIBLE INCLUSION ON THE PRELIMINARY COUNTY LANDMARKS LIST.

(B)(1) ALL STRUCTURES INDIVIDUALLY LISTED ON THE MARYLAND INVENTORY OF HISTORIC PROPERTIES ON OR BEFORE APRIL 29, 2007 SHALL BE INCLUDED ON THE COUNTY INVENTORY.

(2) STRUCTURES PROPOSED TO BE INCLUDED ON THE COUNTY INVENTORY AFTER APRIL 29, 2007 ARE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.

(C) ANY PERSON MAY PROPOSE A STRUCTURE THAT IS 50 YEARS OLD OR OLDER TO BE INCLUDED ON THE COUNTY INVENTORY BY SUBMITTING AN APPLICATION TO THE OFFICE OF PLANNING.

(D)(1) THE COMMISSION SHALL SEND NOTICE OF THE PROPOSAL FOR INCLUSION OF A STRUCTURE ON THE COUNTY INVENTORY, BY FIRST-CLASS MAIL, TO THE OWNER OF EACH STRUCTURE.

(2) THE NOTICE SHALL INFORM THE OWNER OF THE RIGHT TO REQUEST A HEARING BEFORE THE COMMISSION NOT LESS THAN 30 DAYS AFTER THE OWNER RECEIVES THE NOTICE.

(3)(I) IF THE OWNER REQUESTS A HEARING, THE COMMISSION SHALL CONDUCT A PUBLIC HEARING TO DETERMINE WHETHER A STRUCTURE MAY BE INCLUDED ON THE COUNTY INVENTORY.

(II) THE PUBLIC HEARING SHALL BE HELD NO SOONER THAN 45 DAYS AND NO LATER THAN 60 DAYS AFTER THE OWNER FILES THE REQUEST FOR A HEARING.

(E) THE COMMISSION MAY PLACE A STRUCTURE ON THE COUNTY INVENTORY IF IT DETERMINES THAT THE STRUCTURE IS 50 YEARS OLD OR OLDER.

(F)(1) THE OWNER OF A STRUCTURE THAT IS ON THE COUNTY INVENTORY MAY PETITION THE COMMISSION FOR REMOVAL OF THE STRUCTURE FROM THE COUNTY INVENTORY AT ANY TIME.

(2) AFTER THE NOTICE AND PUBLIC HEARING REQUIREMENTS IN § 32-7-302(C) OF THIS SUBTITLE, THE COMMISSION SHALL APPROVE OR DENY THE REMOVAL OF THE STRUCTURE FROM THE COUNTY INVENTORY BASED ON THE CRITERIA AS SET FORTH IN § 32-7-302(B) OF THIS SUBTITLE.

(3) IF THE COMMISSION FINDS THAT THE PROPERTY DOES NOT MEET THE ELIGIBILITY CRITERIA IN § 32-7-302(B) OF THIS SUBTITLE:

(I) THE COMMISSION SHALL REMOVE THE STRUCTURE FROM THE COUNTY INVENTORY; AND

(II) THE STRUCTURE MAY NOT BE NOMINATED FOR INCLUSION ON THE COUNTY INVENTORY OR THE PRELIMINARY COUNTY LANDMARKS LIST BY ANY PERSON OTHER THAN THE OWNER FOR THREE YEARS AFTER THE DATE OF THE COMMISSION DECISION.

(4) IF THE COMMISSION DENIES THE PETITION TO REMOVE THE STRUCTURE FROM THE COUNTY INVENTORY BY DETERMINING THAT THE STRUCTURE MEETS THE ELIGIBILITY CRITERIA IN § 32-7-302(B) OF THIS SUBTITLE:

(I) THE STRUCTURE SHALL BE DEEMED TO BE ON THE PRELIMINARY COUNTY LANDMARKS LIST; AND

(II) THE COMMISSION SHALL TAKE ACTION IN ACCORDANCE WITH § 32-7-302(E) OF THIS SUBTITLE.

(G)(1) WITHIN 5 WORKING DAYS AFTER RECEIPT OF AN APPLICATION FOR A DEMOLITION PERMIT FOR A STRUCTURE ON THE COUNTY INVENTORY, THE BUILDING ENGINEER SHALL FORWARD TO THE COMMISSION:

(I) THE APPLICATION FOR THE DEMOLITION PERMIT; AND

(II) ALL PLANS AND SPECIFICATIONS RELATIVE TO THE APPLICATION.

(2) THE BUILDING ENGINEER MAY NOT ISSUE A DEMOLITION PERMIT UNTIL THE COMMISSION APPROVES THE DEMOLITION PERMIT APPLICATION.

(3) THE COMMISSION SHALL FOLLOW THE NOTICE AND PUBLIC HEARING PROCEDURES UNDER § 32-7-302(C) OF THIS SUBTITLE.

(4)(I) AFTER THE PUBLIC HEARING, IF THE COMMISSION FINDS THAT THE STRUCTURE MEETS THE ELIGIBILITY REQUIREMENTS IN § 32-7-302(B) OF THIS SUBTITLE, THE COMMISSION SHALL DENY THE DEMOLITION PERMIT APPLICATION.

(II) AFTER THE PUBLIC HEARING, IF THE COMMISSION FINDS THAT THE STRUCTURE DOES NOT MEET THE ELIGIBILITY REQUIREMENTS IN § 32-7-302(B) OF THIS SUBTITLE:

1. THE COMMISSION SHALL APPROVE THE DEMOLITION PERMIT APPLICATION;

2. THE STRUCTURE IS DEEMED REMOVED FROM THE COUNTY INVENTORY; AND

3. THE STRUCTURE MAY NOT BE NOMINATED FOR INCLUSION ON THE COUNTY INVENTORY OR THE PRELIMINARY COUNTY LANDMARKS LIST BY ANY PERSON OTHER THAN THE OWNER FOR THREE YEARS AFTER THE DATE OF THE COMMISSION DECISION.

(5) IF THE COMMISSION DENIES THE DEMOLITION PERMIT APPLICATION IN ACCORDANCE WITH THIS SECTION BY DETERMINING THAT THE STRUCTURE MEETS THE ELIGIBILITY REQUIREMENTS IN § 32-7-302(B) OF THIS SUBTITLE:

(I) THE STRUCTURE SHALL BE DEEMED TO BE ON THE PRELIMINARY COUNTY LANDMARKS LIST; AND

(II) THE COMMISSION SHALL TAKE ACTION IN ACCORDANCE WITH § 32-7-302(E) OF THIS SUBTITLE.

(6)(I) AS A CONDITION OF APPROVAL OF THE DEMOLITION PERMIT IN

ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY REQUIRE THE OWNER OF THE STRUCTURE TO COMPLETE ARCHIVAL DOCUMENTATION OF THE PROPERTY BEFORE RECEIVING THE DEMOLITION PERMIT.

(II) ANY ARCHIVAL DOCUMENTATION REQUIRED BY THE COMMISSION SHALL BE SUBMITTED TO THE OFFICE OF PLANNING.

(7) THE COMMISSION SHALL FORWARD TO THE BUILDING ENGINEER THE DECISION OF THE COMMISSION TO APPROVE OR DENY THE DEMOLITION PERMIT APPLICATION WITHIN 10 WORKING DAYS AFTER THE DECISION.

(8) THE BUILDING ENGINEER IS BOUND BY THE DECISION OF THE COMMISSION.

(9) A DEMOLITION PERMIT APPLICATION FOR A STRUCTURE OR SITE THAT IS NOT LISTED ON THE COUNTY INVENTORY:

(I) IS NOT SUBJECT TO THE AUTHORITY OF THE COMMISSION;

AND

(II) SHALL BE APPROVED IN ACCORDANCE WITH ARTICLE 35, TITLE 2 OF THE CODE.

(H) THE PROCEEDINGS PROVIDED BY THIS SECTION ARE EXCLUSIVE.

(I) THE EXTERIOR OF ANY STRUCTURE UNDER CONSIDERATION FOR INCLUSION ON THE PRELIMINARY COUNTY LANDMARKS LIST MAY NOT BE RENOVATED, RECONSTRUCTED, ALTERED, OR DEMOLISHED, AS APPLICABLE, DURING THE TIME PERIOD BETWEEN:

(1) THE DATE THE REQUEST TO REMOVE THE STRUCTURE FROM THE COUNTY INVENTORY IS FILED WITH THE COMMISSION UNDER SUBSECTION (F) OF THIS SECTION AND THE DATE OF THE DECISION OF THE COMMISSION; OR

(2) THE DATE AN APPLICATION FOR THE DEMOLITION OF A STRUCTURE ON THE COUNTY INVENTORY IS FILED WITH THE BUILDING ENGINEER UNDER SUBSECTION (G) OF THIS SECTION AND THE DATE OF THE DECISION OF THE COMMISSION.

§ 32-7-302.

(a) The Commission may adopt a preliminary COUNTY landmarks list.

(b) Before any structure may be placed on the preliminary COUNTY landmarks list, the Commission must specifically find that the structure qualifies by contributing substantially to the architectural, or historical heritage of the county, state, or nation because of any one or more of the following:

(1) It is associated with a personality, group, event, or series of events of historical importance;

(2) It is a distinctive example of a particular architectural style or period;

(3) It is a good example of the work of a noted architect or master builder;

(4) It is a work of notable artistic merit ~~or an object of singular natural beauty;~~

or

(5) It has yielded ~~or~~ AND may be likely to yield information or materials important in prehistory or history.

(c)(1) The Commission shall conduct public hearings to determine [which structures on the register] IF A STRUCTURE may qualify to be included on the preliminary COUNTY landmarks list.

(2) (i) For each structure or group of structures selected [on the register] FOR CONSIDERATION, a sign shall be conspicuously posted by the Commission giving notice of the public hearing on whether a structure should be included on the preliminary COUNTY

landmarks list.

(ii) The public hearing shall be held no sooner than 45 days nor later than 60 days after the sign is posted.

(3) The Commission:

(i) Shall send notice of the hearing, by first-class mail, to the owner of each structure; and

(ii) May provide additional forms of notice in accordance with its rules.

(d) During the time period between the public notice required in subsection (c) of this section and the decision of the commission, the exterior of any structure proposed for inclusion on the preliminary COUNTY landmarks list may not be renovated, reconstructed, altered, or demolished.

(e) (1) The Commission shall act within 30 days after the public hearing or any continuation of the public hearing.

(2) The Commission shall submit the approved preliminary COUNTY landmarks list to the County Executive for review before introduction in the County Council for adoption as a final COUNTY landmarks list.

(3) The County Executive's review period may not exceed [60] 30 days.

(F) IF THE COMMISSION FINDS THAT THE PROPERTY DOES NOT MEET THE ELIGIBILITY CRITERIA IN SUBSECTION (B) OF THIS SECTION:

(1) IF APPLICABLE, THE COMMISSION SHALL REMOVE THE STRUCTURE FROM THE COUNTY INVENTORY; AND

(2) THE STRUCTURE MAY NOT BE NOMINATED FOR INCLUSION ON THE COUNTY INVENTORY OR THE PRELIMINARY COUNTY LANDMARKS LIST BY

ANY PERSON OTHER THAN THE OWNER FOR THREE YEARS AFTER THE DATE OF THE COMMISSION DECISION.

§ 32-7-303.

(a) The County Council may adopt a final COUNTY landmarks list.

(b) The County Council may consider any structure or portion of a structure for inclusion on the final COUNTY landmarks list if the structure was subject to the notice and hearing requirements of § 32-7-302(c) of this subtitle.

(c) (1) (i) The County Council shall conduct public hearings to determine if the structures on the list should be included on the final COUNTY landmarks list.

(ii) The County Council shall give at least 20 days advance notice of a hearing on the final COUNTY landmarks list, including publication in a newspaper of general circulation.

(2) (i) At least 30 days before the hearing, the commission shall notify the owner of each property of the time and place of the hearing.

(ii) The notice to the property owner shall be sent by certified mail, return receipt requested, to the owner.

(iii) If service of the notice is unsuccessful, notice subsequently may be sent by regular mail, postage prepaid.

(3) During the period of notice, the preliminary COUNTY landmarks list shall be available in the Office of Planning or at another public place as the County Council may designate for public inspection.

(d) (1)(I) The County Council shall adopt a final COUNTY landmarks list within 90 days after the public hearing.

(II) IF THE COUNTY COUNCIL DOES NOT ADOPT A STRUCTURE

ON THE PRELIMINARY COUNTY LANDMARKS LIST FOR INCLUSION IN THE FINAL COUNTY LANDMARKS LIST WITHIN 90 DAYS AFTER THE PUBLIC HEARING:

1. PRELIMINARY COUNTY LANDMARK STATUS IS REVOKED;

2. IF APPLICABLE, THE STRUCTURE IS DEEMED REMOVED FROM THE COUNTY INVENTORY; AND

3. THE STRUCTURE MAY NOT BE NOMINATED FOR INCLUSION ON THE COUNTY INVENTORY OR THE PRELIMINARY COUNTY LANDMARKS LIST BY ANY PERSON OTHER THAN THE OWNER FOR THREE YEARS AFTER THE 90TH DAY.

(2) A structure may not be deemed to be a COUNTY landmark unless and until it has been so designated by a law subject to the provisions of Section 308 of the Charter.

(e) The final COUNTY landmarks list shall be available for public inspection in the Department of Permits and Development Management, the Office of Planning, the Land Records Office of the county, all branches of the county public library, and in the office of the Commission.

§ 32-7-304.

[(1)] (A) The owner of any structure that appears on the final COUNTY landmarks list may petition the Commission for removal from the list.

[(2)] (B) The Commission shall then follow the notice and public hearing procedures under § 32-7-302(c) of this subtitle.

[(3)] (C) If the Commission determines that the structure no longer qualifies as a landmark in accordance with § 32-7-302 of this subtitle, the Commission shall recommend the removal of the structure from the list in accordance with §§ 32-7-302(e) and 32-7-303 of this subtitle.

(D) IF THE COUNTY COUNCIL REMOVES A STRUCTURE FROM THE FINAL COUNTY LANDMARKS LIST:

(1) IF APPLICABLE, THE STRUCTURE IS DEEMED REMOVED FROM THE COUNTY INVENTORY; AND

(2) THE STRUCTURE MAY NOT BE NOMINATED FOR INCLUSION ON THE COUNTY INVENTORY OR THE PRELIMINARY COUNTY LANDMARKS LIST BY ANY PERSON OTHER THAN THE OWNER FOR THREE YEARS AFTER THE DATE THE COUNTY COUNCIL BILL REMOVING THE STRUCTURE FROM THE FINAL COUNTY LANDMARKS LIST WENT INTO EFFECT.

§ 32-7-401.

This subtitle applies only to a structure that is:

- (1) In a proposed or designated COUNTY historic district;
- (2) On a preliminary COUNTY landmarks list;
- (3) On a final COUNTY landmarks list; or
- (4) Any combination of items (1) through (3) of this section.

§ 32-7-402.

(a) The agency having responsibility for the preparation of plans for alteration, demolition, reconstruction, EXCAVATION, MOVING, or renovation of any structure that is owned by the county shall refer the plans to the Commission for approval before county action approving or otherwise authorizing the implementation of the plans.

(b) (1)(I) IF THE AGENCY SUBMITS A COMPLETE SET OF PROPOSED PLANS NOT LESS THAN 14 DAYS BEFORE THE NEXT REGULARLY SCHEDULED COMMISSION MEETING, THE COMMISSION SHALL CONSIDER AND APPROVE OR DENY THE PROPOSED PLANS AT THE NEXT REGULARLY SCHEDULED

COMMISSION MEETING AT WHICH THERE IS A QUORUM PRESENT.

(II) IF THE AGENCY SUBMITS A COMPLETE SET OF PROPOSED PLANS LESS THAN 14 DAYS BEFORE THE NEXT REGULARLY SCHEDULED COMMISSION MEETING, THE COMMISSION SHALL CONSIDER AND APPROVE OR DENY THE PROPOSED PLANS AT THE REGULARLY SCHEDULED COMMISSION MEETING AT WHICH THERE IS A QUORUM PRESENT AFTER THE NEXT REGULARLY SCHEDULED COMMISSION MEETING.

(2) If the Commission determines that the proposed plans are inappropriate, it shall promptly provide the requesting agency with a report specifying its reasons.

[~~(2)~~] (3) If the Commission has not approved the plans or provided a report on the plans to the requesting agency within [~~45~~] 10 WORKING days after [receipt of the plans] THE REGULARLY SCHEDULED COMMISSION MEETING AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, the plans shall be deemed to be approved by the Commission.

§ 32-7-403.

A person shall apply for and receive from the Building Engineer a permit before a person may begin any:

(1) [~~Excavation or the construction~~] EXCAVATION, CONSTRUCTION, ALTERATION, RECONSTRUCTION, MOVING, DEMOLITION, REMOVAL, or erection of any building, fence, wall, or other new structure of any kind in a proposed or designated COUNTY historic district;

(2) Alteration, demolition, reconstruction, MOVING, ERECTION, or removal of an exterior architectural feature of any existing structure; or

(3) Demolition of any structure.

§ 32-7-404.

(b)(1) All plans, elevations, and other information considered necessary by the commission to determine the appropriateness of the proposed excavation, REMOVAL OF AN exterior architectural feature, CONSTRUCTION, ALTERATION, RECONSTRUCTION, MOVING, or demolition of any structure shall be made available to the Commission.

§ 32-7-405.

(a)(2) [If the Commission does not act on the application for permit within 45 days after receipt of the completed application, the application shall be deemed approved by the

commission.] (I) IF THE APPLICANT SUBMITS A COMPLETE SET OF PROPOSED PLANS NOT LESS THAN 14 DAYS BEFORE THE NEXT REGULARLY SCHEDULED COMMISSION MEETING, THE COMMISSION SHALL CONSIDER AND APPROVE OR DENY THE PROPOSED PLANS AT THE NEXT REGULARLY SCHEDULED COMMISSION MEETING AT WHICH THERE IS A QUORUM PRESENT.

(II) IF THE APPLICANT SUBMITS A COMPLETE SET OF PROPOSED PLANS LESS THAN 14 DAYS BEFORE THE NEXT REGULARLY SCHEDULED COMMISSION MEETING, THE COMMISSION SHALL CONSIDER AND APPROVE OR DENY THE PROPOSED PLANS AT THE REGULARLY SCHEDULED COMMISSION MEETING AT WHICH THERE IS A QUORUM PRESENT AFTER THE NEXT REGULARLY SCHEDULED COMMISSION MEETING.

(III) IF THE COMMISSION HAS NOT APPROVED THE PLANS OR PROVIDED A REPORT ON THE PLANS TO THE APPLICANT WITHIN 10 WORKING DAYS AFTER THE REGULARLY SCHEDULED COMMISSION MEETING AS PROVIDED IN THIS PARAGRAPH, THE PLANS SHALL BE DEEMED TO BE APPROVED BY THE COMMISSION.

§ 32-7-406.

(a) In passing upon appropriateness, the Commission shall consider, in addition to any other pertinent factors, the historic or architectural value and significance, architectural style, general design, arrangement, texture, and material of the exterior architectural features of other structures in the immediate neighborhood.

(b) (1) If the Commission does not issue a certificate of appropriateness or notice to proceed promptly, within 15 days after receipt of a complete application for a permit and the plans and specifications relative to the application, the Commission shall cause a sign to be posted conspicuously located on the property involved, giving notice of a public hearing to be held by the Commission on the application [no sooner than 45 days nor later than 60 days after the sign is posted] AS PROVIDED IN § 32-7-405(A)(2) OF THIS SUBTITLE.

(2) The sign shall inform the public of the time and place of the hearing and the nature of the change proposed.

(c) As soon as convenient after the conclusion of the public hearing but in any event within 10 days after the hearing or within any further time as the applicant for the permit approves in writing, the Commission shall determine:

(1) Whether the proposed excavation, construction or erection, reconstruction, alteration, removal of an exterior architectural feature, MOVING, or demolition would be appropriate to the preservation of the particular COUNTY historic district or to the preservation of the structure appearing on the preliminary COUNTY landmarks list or on the final COUNTY landmarks list, and may issue a certificate of appropriateness;

(2) Whether, notwithstanding that the proposed excavation, construction or erection, reconstruction, alteration, removal of an exterior architectural feature, MOVING, or demolition would be inappropriate, the work would not result in substantial detriment to the

public welfare nor in substantial derogation from the intent and purposes of this title and denial of the application would result in substantial hardship to the applicant, in which case the Commission may issue a notice to proceed in lieu of a certificate of appropriateness; or

(3) Whether neither a certificate of appropriateness nor a notice to proceed should be issued.

(d)(1) If the Commission makes the determination provided for under subsection (c)(1) or (c)(2) of this section, the secretary of the Commission shall promptly forward to the Building Engineer a certificate of appropriateness or a notice to proceed, as applicable, along with the application and the plans and relevant specifications.

(2) (i) If the Commission makes the determination under subsection (c)(3) of this section, the Commission shall:

1. Issue written findings and conclusions for the determination; and

2. May include a recommendation regarding the proposed excavation, construction or erection, reconstruction, alteration, removal of an exterior architectural feature, MOVING, or demolition.

(ii) The Commission shall notify the applicant and the Building Engineer of the determination, transmitting to each of them an attested copy of the reasons and recommendations.

(e)(1) Upon return to the Building Engineer of the application and the plans and specifications by the Commission, the Building Engineer is bound by the determination of the Commission.

(2) The Building Engineer shall approve, if in conformance with other provisions of the Building Code, or disapprove any application for the proposed excavation,

construction or erection, reconstruction, alteration, removal of an exterior architectural feature, MOVING, or demolition of any building or structure in [an] A COUNTY historic district or on the final COUNTY landmarks list in accordance with the Commission's determination.

(f)(1) If the Commission determines that the proposed excavation, construction or erection, reconstruction, alteration, removal of an exterior architectural feature, MOVING or demolition of any building or structure on the preliminary COUNTY landmarks list is inappropriate, the commission shall notify the Building Engineer in writing to postpone the issuance of the permit.

(2) (i) The Building Engineer shall postpone the issuance of the permit for a period not to exceed 90 days after the date of the notification of determination by the Commission or until notified by the Commission to issue the permit, whichever occurs first.

(ii) Thereafter, the Building Engineer shall issue the permit if it complies with all legal requirements.

(3) Within the period of postponement, the commission shall meet with the applicant for the permit and shall consult with civic groups, public agencies, and interested citizens to ascertain what the county may do to preserve the building.

(G) THIS TITLE MAY NOT BE CONSTRUED TO PREVENT MAINTENANCE THAT DOES NOT ALTER THE EXTERIOR FABRIC OR FEATURES OF A DESIGNATED STRUCTURE, CUSTOMARY FARMING OPERATIONS, OR LANDSCAPING WHICH WILL HAVE NO MATERIAL EFFECT ON THE HISTORIC, ARCHEOLOGICAL, OR ARCHITECTURAL SIGNIFICANCE OF A COUNTY LANDMARK OR COUNTY HISTORIC DISTRICT.

§ 32-7-502.

(a) Upon application of the Commission and in accordance with the Charter, the

circuit court for the county may:

(1) Restrain or enjoin the excavation, construction or erection, reconstruction, alteration, removal of any exterior feature, MOVING, or demolition of any building or structure in [an] COUNTY historic district or on the preliminary COUNTY landmarks list or the final COUNTY landmarks list, if found to be in violation of this title; and

(2) Order the removal of any exterior architectural feature constructed or reconstructed in violation of this title.

(b)(1) The Building Engineer shall notify the Commission of all instances of demolition by neglect with respect to structures in [an] A COUNTY historic district or on the preliminary or final COUNTY landmarks list which are brought to the attention of the Building Engineer.

§ 32-7-503.

(a) A person may not excavate, construct or erect, reconstruct, alter, or remove any exterior architectural [feature] FEATURE, MOVE or demolish any buildings or structures in any COUNTY historic district or any building or structure on the preliminary COUNTY landmarks list or on the final COUNTY landmarks list in violation of the provisions of this title.

SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of § 32-7-303(d)(1)(ii) of the Baltimore County Code, 2003 shall apply retroactively to any structure placed on the preliminary county landmarks list before the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the Landmarks Preservation Commission may authorize the Office of Planning to review the structures included on the county inventory under § 32-7-301(b)(1) of the Baltimore County Code, 2003 in order to identify structures that should not be included on the county inventory. The types of structures

that the Office of Planning may identify include structures that no longer exist, structures that have been altered so significantly that they have no historical value and any other types of structures as determined by the Commission and delegated to the Office. A structure may only be removed from the county inventory by vote of the Commission at a duly announced and advertised hearing of the Commission but the Office of Planning is not required to provide the notice that would otherwise be required under § 32-7-301 of the Code. The Commission may vote on a slate of structures to remove them from the county inventory under the authority of this Section.

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of this Act that the Special Administrative Hearing for structures on the Maryland Inventory of Historic Properties formerly established by administrative order is hereby repealed.

SECTION 7. AND BE IT FURTHER ENACTED, That §32-7-301 of the Baltimore County Code, 2003 does not apply to any structure that has received a notice to proceed with demolition or certificate of appropriateness from the Landmarks Preservation Commission before the effective date of this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That the county inventory, as established in §32-7-301 of the Baltimore County Code, 2003 shall cease to exist after April 29, 2010 without the necessity of further action by the County Council. After that date, structures formerly considered to be included on the county inventory or currently or thereafter included on the Maryland Inventory of Historic Properties may not be considered to be subject to any regulation under Article 32, Title 7 of the Baltimore County Code, 2003 unless the structure has

been nominated for placement on the preliminary county landmarks list, is on the preliminary or final county landmarks list or is in a proposed or designated county historic district.

SECTION 6 9. AND BE IT FURTHER ENACTED, That this Act, having been passed by an affirmative vote of five members of the County Council, shall take effect April 29, 2007.

EFFECTIVE DATE: 4/29/07

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