



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

To: HPC

From: Dan Bruechert, Senior Planner  
Rebecca Ballo, Historic Preservation Supervisor

Re: Amendment to the Historic Preservation Commission Regulations to Permit Staff Level HAWP Approvals

Date: December 11, 2019

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**Recommended Action:**

The Historic Preservation Commission (HPC) should identify any changes to the draft language and recommend that the Planning Director or designee transmit the proposed regulations to the County Executive for adoption under a Method 2 regulation amendment.

**Background:**

On June 26, 2019 Historic Preservation Staff presented to the HPC a proposal to amend the administrative regulations to allow for Staff-level approval of simple Historic Area Work Permits (HAWP) pursuant to Chapter 24-7(g)(2)(A). The HPC directed the Historic Preservation Staff to conduct outreach to Local Advisory Panels (LAPs), local governments, and frequent users of the HAWP process to solicit input and build support for these amendments.

Text of the proposed amendment to the Administrative Regulations can be found as Attachment A. A comparison of work allowed in different jurisdictions is attached as Attachment B. The HPC's Policy on Use of Expedited Staff Reports for Simple HAWP Cases, which has served as the basis for developing the list of proposed items for administrative approval, is included as Attachment C.

**Discussion:**

During the summer and early fall, at the direction of the HPC, Staff met with several LAPs, local governments, and frequent users of the HAWP process including Montgomery Parks Staff. Informally HP Staff reached out to other architects and attorneys HP Staff interacts with frequently. Feedback from these groups was very supportive of the proposed changes.

Staff met with representatives of:

- Kensington LAP
- Kensington Historical Society
- Town of Kensington Government
- Chevy Chase Village LAP
- Takoma Park Façade Advisory Board
  - Historic Takoma

- City of Takoma Park Local Government
- Montgomery Parks Staff

These groups recognized that the proposal would aid residents by allowing for a much quicker approval for these simple projects.

Some questions were raised about how the LAPs would be included in this new process. For HAWP applications that met the criteria for Staff Level Approval, the LAPs would be excluded from the review, but would be notified of the approval on either a bi-weekly or monthly basis as directed by the HPC. Staff reinforced to these groups that the project categories identified in the draft language were for simple projects that would not have an impact on the historic character of the district. In some instances, the groups did not think HP Staff's recommendations went far enough (specifically, the installation of solar panels on all roof elevations). The LAPs uniformly felt that the quicker review proposed in this memo was a sufficient justification to eliminate LAP review for these simple projects.

A larger specific concern was raised by the Takoma Park Façade Advisory Board (FAB). They questioned whether their review would still be necessary for these simple projects. A HAWP application within the two commercial districts in Takoma Park is not considered 'complete' by HP Staff until the FAB has reviewed the proposal. HP Staff determined that the FAB role was established in code and was required under the provision requiring a 'complete' HAWP application. However, if the FAB determined that their review was not necessary, on a project by project basis, HP Staff could then review the application and determine its appropriateness. HP Staff also reinforced that HP review for Staff Level Approval could begin as soon as the FAB issued their review letters. This would shorten the review time for these commercial projects significantly, but the total review would still be longer than the one to five days many other simple projects would qualify for.

Staff notified the other LAPs and municipalities (Garrett Park, Somerset, Brookeville, etc.) of the proposed process changes following the HPS meeting in June. Staff has received no feedback to date from any group other than those mentioned above.

During the meetings the Chevy Chase Village LAP and representatives from Kensington brought up several larger issues that could only be addressed by larger ordinance and/or district specific design guidance. HP Staff has recorded these recommendations and will bring these to the HPC at a future date.

**Recommendation:**

The HPC recommends that the Council amend the Historic Preservation Commission Regulations, under Method 2 authority, to create new regulations as permitted under 24A-7(g)(2)(A) to delegate approval "authority to a County employee qualified in Historic

Preservation and assigned to staff the Commission to review and approve an application for work that commonly has no more than an insignificant effect on a historic resource.”

Following this recommendation by the HPC, the Planning Director or designee may then transmit the regulations to the County Executive for an open review period prior to action by the County Council.

# Attachment A

1 SEC. 24A-4 HISTORIC PRESERVATION COMMISSION — REGULATIONS

2 COMCOR 24A.04.01 Rules, Guidelines, and Procedures

3 \*\*\*

4 1.6 Decisions

5 \*\*\*

6 (c) Staff Level Approval : For simple alterations that will have no more than an insignificant  
7 impact on the historic character of the resource, the Commission delegates authority to Historic  
8 Preservation Staff as defined in Section 24A-4(h)(2) to approve Historic Area Work Permits provided:

9 (1) The Staff member meets the Secretary of the Interior's Professional  
10 Qualification Standards (36 CFR Part 61) for History, Architectural History, Architecture, or Historic  
11 Architecture.

12 (2) The alteration, as proposed, meets the criteria for approval as detailed in §24A-  
13 8, the Secretary of the Interior's Standards for Rehabilitation and district or resource-specific design  
14 guidelines (if applicable).

15 a. If the work identified application requires additional conditions to meet  
16 the criteria for approval or the Staff member recommends denial, the application must be placed on the  
17 next available HPC meeting agenda and will be subject to the publishing and notice requirements of  
18 §24A-7 and §24A.04.01.01.1.3(a).

19 b. Additional documents such as Adopted Master Plan amendments or  
20 historic preservation easements accepted under §24A-13 may define additional work items specific to  
21 that property that may also qualify for Staff level approval of Historic Area Work Permits.

22 (3) Staff review and action must take place within five (5) business days from the  
23 date that the application is deemed complete and transferred from the Director.

24 a. Any complete application not acted upon after 5 (five) working days will  
25 be placed on the next available HPC meeting agenda and will be subject to the publishing and notice  
26 requirements of §24A-7(d) and §24A.04.01.01.1.3(a).

27 (4) If the proposed alteration meets the requirement of this section for Staff-level  
28 approval, the publication, notification, and public meeting requirements of §24A are waived.

29 (5) The proposed alteration must not significantly alter the historical or visual  
30 character of the property and must fall into one of the following categories:

31 a. Repair or replacement of a masonry foundation with new masonry  
32 materials that closely match the original in appearance;

33 b. Installation of vents or venting pipes in locations not visible from the  
34 public right-of-way;

35 c. New gutters and downspouts;

36 d. Removal of vinyl, aluminum, asbestos, or other artificial siding when the  
37 original siding is to be repaired and/or replaced in kind;

38 e. Removal of accessory buildings that are not original to the site or non-  
39 historic construction;

# Attachment A

- 40 f. Repair or replacement of missing or deteriorated architectural details  
41 such as trim or other millwork, stairs or stoops, porch decking or ceilings, columns, railings, balusters,  
42 brackets shutters, etc., with new materials that match the old in design, texture, visual characteristics,  
43 and where possible materials. Applicant must provide one extant example, photographic evidence, or  
44 physical evidence that provides the basis for the work proposed;
- 45 g. Construction of wooden decks that are at the rear of a structure and are  
46 not visible from a public right-of-way;
- 47 h. Roof replacement with historically-compatible roofing materials;
- 48 i. Installation of storm windows or doors that are compatible with the  
49 historic resource or district;
- 50 j. Repair, replacement or installation of foundation-level doors, windows,  
51 window wells, and areaways, or foundation vents, venting pipes, or exterior grills that do not alter the  
52 character-defining features and/or the historic character of the resource;
- 53 k. Construction of fences that are compatible with the historic site or  
54 district in material, height, location, and design. The HPC may create and distribute design guidelines to  
55 further clarify compatible fence designs. Fences approved administratively may not be higher than 48”  
56 forward of the rear wall plane;
- 57 l. Construction of walkways, parking pads, patios, driveways, or other  
58 paved areas that are not visible from a public right-of-way and measure no more than 150 square feet in  
59 size;
- 60 m. Replacement of existing walkways, parking pads, patios, driveways, or  
61 other paved areas with materials that are compatible with the visual character of the historic site and  
62 district and that are no greater than the dimensions of the existing hardscape;
- 63 n. Construction of small accessory buildings no larger than 250 square feet  
64 in size that are not visible from the public right-of-way;
- 65 o. Installation of skylights on the rear of a structure that will not be visible  
66 from the public right-of-way;
- 67 p. Installation of solar panels and arrays in locations that are not readily  
68 visible from the public right-of-way or that are designed so as to have a minimal impact on the historic  
69 resource or the historic district. Examples include systems that are ground-mounted in areas other than  
70 the front or side yard of a corner lot, located on accessory or outbuildings, on non-historic additions, or  
71 on rear facing roof planes;
- 72 q. Alteration of existing canopies and awnings, or additions of new  
73 canopies and awnings;
- 74 r. Installation of satellite dishes;
- 75 s. Removal of trees greater than 6” in diameter (d.b.h.) with a receipt of a  
76 letter from a certified arborist that the tree is dead, dying, or in a hazardous condition. Notwithstanding  
77 the provision in §24A.04.01.01.1.6(c)(2)(a), Staff may condition such approval on the replanting of trees  
78 on the property with a replacement ratio of 1:1.
- 79 t. Removal of trees greater than 6” in diameter (d.b.h.) in the rear of the  
80 property that will not impact the overall tree canopy of the surrounding district or historic site.
- 81 (6) Staff must report monthly to the HPC and appropriate LAP about applications  
82 reviewed and approved by Staff in the previous month.



## Attachment B

### Locality

	<b>Montgomery County (current)</b>	Washington, DC	Prince George's County	Frederick	Annapolis	City of Rockville	<b>Montgomery County (proposed)</b>
Foundation Alteration		x	x				x
Vents (or venting pipes)		x	x		x		x
Gutters/Downspouts		x	x	x	x		x
Removal of non-historic siding		x	x	x	x	x	x
Post-approval modifications		x			x		
Removal of non-historic accessory structures		x	x	x			x
Restoration of lost features		x	x	x	x		x
Rear wooden decks		x	x				x
Appropriate roof replacement		x		x			x
Storm windows and doors		x			x		x
Compatible fences		x	x	x		x	x
Compatible hardscaping changes		x	x	x	x		x
Construction of small accessory structures		x	x	x		x	x
Skylights to the rear		x					x
Alteration/addition of canopies and awnings		x					x
Plantings and shrubbery		x	x		x		n/a
Installation/alteration of signs		x	x	x		x	
Shutter installation/removal					x		x
Work Reviewed by SHPO			x				
Satellite Dishes		x	x		x		x
Tree Removal		x				x	x

Proposed Work

# Attachment C

## Policy On Use of Expedited Staff Reports for Simple HAWP Cases

This policy is developed with the understanding that:

- I. The HPC's policy regarding in-kind replacements has not changed, that is, all replacements of exterior features with exactly matching materials may be done without a HAWP.
- II. Staff will continue to notify Local Advisory Panel (LAP) and adjacent and confronting owners of all HAWP applications and, if a neighbor or the LAP is known to object to a proposal, the Expedited Staff Report will not be used.
- III. If, because of the specifics of the case, staff is uncertain whether the Expedited Staff Report format is appropriate, or if an applicant requests it, the Standard Staff Report will be used.
- IV. The Expedited Staff Report format may be used on the following type of cases:
  1. Alterations to properties on which the Maryland Historical Trust (MHT) holds an easement and which have been reviewed and approved by the MHT Easement Committee.
  2. Modifications to a property, which do not significantly alter its visual character. These include, but are not limited to:
    - A. Repair or replacement of masonry foundations with new materials that match the original closely.
    - B. Installation of vents, venting pipes, and exterior grills.
    - C. New installation of gutters.
  3. Removal of asbestos, asphalt, or other artificial siding when the original siding is to be repaired, and, where necessary, replaced in kind.
  4. Removal of accessory building that are not original to the site or otherwise historically significant.
  5. Replacement of missing architectural details, provided that at least one example of the detail to be replaced exists on the house, and/or physical or documentary evidence exists that illustrates or describes the missing detail or details.
  6. Signs that are in conformance with all other County sign regulations.



## Attachment C

7. Construction of wooden decks that are at the rear of a structure and are not readily visible from a public right-of-way. This applies to all categories of resources: Outstanding, Contributing, Individually Designated Sites, or Non-contributing.
8. Replacement of roofs on non-contributing or out-of-period building, as well as new installation of historically appropriate roofing materials on outstanding and contributing buildings.
9. Installation of exterior storm windows or doors that are compatible with the historic site or district in terms of material or design.
10. Construction of fences that are compatible with historic site or district in terms of material, height, location, and design. Requests for fences higher than 48" to be located in the front yard of a property will not be reviewed using an Expedited Staff Report.
11. Construction or replacement of walkways, parking areas, patios, driveways or other paved areas that are not readily visible from a public right-of-way and/or are compatible in material, location, and design with the visual character of the historic site or district.
12. Construction or repair of retaining walls where the new walls are compatible in material, location, design and height with the visual character of the historic site or district.
14. Construction or replacement of storage and small accessory buildings that are not readily visible from a public right-of-way.
15. Landscaping, or the removal or modification of existing planting, that is compatible with the visual character of the historic site or district.