IN THE MATTER OF THE APPLICATION OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS FOR A CERTIFICATE OF APPROVAL TO MAKE EXTERIOR ALTERATIONS IN THE VICINITY OF 3711 MARYLAND AVENUE, ELLICOTT CITY	* * * * * *	BEFORE THE HOWARD COUNTY HISTORIC PRESERVATION COMMISSION Case No. 20-79

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DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission ("Commission") convened a public hearing on November 5, 2020 to hear and consider the application of Robert Z. Hollenbeck on behalf of Howard County Department of Public Works ("Applicant"), for a Certificate of Approval to make exterior alterations in the vicinity of 3711 Maryland Avenue, parallel to Main Street eastbound just prior to the Baltimore County line (the "Subject Property"). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the November 5, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the "Design Guidelines" or "Guidelines"); and (6) the general design guidelines listed in Rule 107 of the Commission's Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the vicinity of 3711 Maryland Avenue, parallel to Main Street eastbound just prior to the Baltimore County line, and is located in the Ellicott City Historic District. This application proposes to continue work that was approved in HPC-20-25 in regard to replacing bituminous sidewalks. The application explains, "Shortly after receiving approval for case 20-25, DPW received notification from the Federal Emergency Management Agency (FEMA) that it had approved additional funding for Ellicott City based on a disaster declaration made after the 2018 Flood. At the time of the prior application, DPW did not know if or when FEMA's notification would be made. Had DPW known at the time of the prior application, the work included in this application would have been included. Generally speaking, FEMA's declaration makes proposed concrete sidewalk work eligible for reimbursement up to 75% of its cost. FEMA approved funds allocated directly for this task."

B. Proposed Improvements

The Applicant proposes to replace temporary post-flood bituminous sidewalks with gray tinted concrete sidewalks, to match those previously installed on other sections on Main Street (HPC-20-25). Prior to the 2016 flood, this portion of sidewalk was brick.

The application states that funding was requested and received from FEMA for this work. The application explains that "replacement of asphalt sidewalks with concrete sidewalks is eligible for reimbursement at 75% of cost. FEMA will not cover costs of brick sidewalk replacement, only concrete." The application further explains that DPW views the proposed concrete sidewalks as a temporary solution and has budgeted for comprehensive streetscape improvements in future years. DPW recognizes the Guidelines recommend replacing concrete sidewalks with brick when opportunities arise, but DPW does not believe this is possible until the EC Safe and Sound mitigation projects have been completed and shear stresses are reduced to a level that permit the safe installation of brick paving.

C. <u>Staff Report</u>

Chapter 9.D: Landscape and Site Elements; Walls, Fences, Terraces, Walkways and Driveways

1) *Chapter 9.D states, "The most appropriate design and materials for new walls, driveways and other features depends on the specific context. As a rule, they should be simple in design and require minimal changes to the existing topography and natural features. Simple designs will be consistent with historic Ellicott City structures and help new elements to blend with their context...Whenever possible, the materials used should be those used historically in the particular area of the district, especially for features that will be readily visible from a public way."*

The concrete sidewalks are proposed for the specific context of flood resiliency and as a temporary measure until permanent sidewalks can be installed after flood mitigation has been implemented. The concrete sidewalks are also possible at this time due to the FEMA funding. The proposed sidewalks will be simple in design. Prior to the installation of brick

sidewalks in the 1990s, the sidewalks were all concrete. Research reveals that many different materials have been used for sidewalks in Ellicott City over the years.

Chapter 10.A: Parking Lots, Public Streets and Street Furniture; Paving Materials and Street Design

1) *Chapter 10.A states, "A variety of paving materials can be used as alternatives to asphalt or concrete. The brick sidewalks and crosswalks used along portions of Main Street blend well with the mix of historic building materials. Granite pavers or stone walks would be in keeping with the early Ellicott's Mills period of the historic district's growth. During the later Ellicott City growth period (mid to late 19th century) granite curbs with asphalt block and London Walk pavers would have been used. Use of materials such as these for plazas, parking areas, driveways or walkways will help to provide an appropriate public environment for the historic district."*
2) *Chapter 10.A states, "The concrete sidewalks along Main Street should continue to be replaced with brick when possible. The uniform use of brick for these sidewalks will help to create an identifiable, attractive historic commercial area."*
3) *Chapter 10.A recommends, "When opportunities arise, replace concrete sidewalks with brick along Main Street between Ellicott Mills Drive and the Patapsco River."*

While the proposed scored concrete sidewalks do not comply with the Guideline's recommendations to replace the sidewalks with brick, the existing adopted design guidelines do not anticipate flood resilient materials and scenarios or account for high velocity floods and the corresponding shear stress on the infrastructure. The proposed replacement also complies with the previous approval from July 2019 (HPC-19-34) and May 2020 (HPC-20-25) to replace the areas that are all asphalt with concrete.

The proposed concrete sidewalks would comply with the goal of Chapter 10.A in that it would involve the uniform use of one material and would "create an identifiable, attractive historic commercial area." The areas to be replaced with concrete consist of bituminous asphalt, which does not create an attractive historic district and has become a safety hazard. By extending the use of concrete to other areas, it will help to maintain uniformity and a cohesive streetscape.

D. <u>Staff Recommendation</u>

Staff recommends the HPC approve the application as submitted, due to it being temporary until mitigation efforts allow for the safe installation of brick.

E. Testimony

Mr. Shad swore in Robert Z. Hollenbeck from the Department of Public Works. Mr. Shad asked if Mr. Hollenbeck had any comments regarding the staff report. Mr. Hollenbeck said he was not trying to piecemeal sidewalk applications to the Commission in order to convert all sidewalks to concrete. Mr. Hollenbeck explained that if DPW had known that there was funding pending or available for this location of sidewalk while HPC-20-25 was underway, it would have been included in the former request. DPW had since received additional approval for funding from FEMA to cover the costs due to the 2018 floods. The schedule of the funding and when the funding would be submitted was unknown during HPC-20-25 and the work approved in HPC-20-25 has not proceeded at this time but DPW plans to do the work in Spring 2021.

Mr. Hurewitz was previously sworn in. Mr. Hurewitz was in opposition to the application and asked the Applicant a variety of questions about FEMA's choice of concrete materials, FEMA's evaluation of sidewalk materials, DPW's concrete placement and scoring techniques and FEMA's reimbursement of chosen concrete materials. Mr. Hurewitz expressed concern with loose brick being installed after all the flood mitigation from the Ellicott City Safe and Sound projects conclude.

Mr. Shad asked if this application was a temporary solution until the Master Plan and Ellicott City Safe and Sound flood mitigation projects conclude. Mr. Hollenbeck said Mr. Shad was correct and the concrete sidewalks were a temporary solution.

Mr. Reich asked if the scoring pattern would be every 3-4 feet and run along the edge of building. Mr. Hollenbeck said the pattern was chosen to be every 3-4 joints and there would be no score line along the side as there is no building for it to adjoin with.

The Commission said based on the circumstances with the understanding that concrete is meant to be a temporary condition, in a limited location, and will only replace asphalt sidewalk and not existing brick the proposal is appropriate in the location in the extent of the request.

Mr. Roth added that when the Commission analyzes the Guidelines, the Commission does not take into consideration if the materials chosen will be funded by FEMA, but agreed it was okay to replace temporary asphalt with temporary cement until all flood mitigation is in effect and the sidewalks can be replaced with brick. Mr. Hollenbeck said the FEMA funding was brought up merely to convey that DPW would have put this request in the HPC-20-25 case if DPW knew that funding was available.

Mr. Hurewitz said the Commission remembers his concerns with the previous sidewalk cases. Mr. Hurewitz implored the Commission to consider other flood resistant options such as faux brick or Belgium block. Mr. Hurewitz said the Master Plan is going to be approved and the Commission should figure out plans now that will be flood resistant and good in appearance at the same time. Mr. Hurewitz expressed concern for the definition of temporary in regard to concrete sidewalk and the appearance of the material used at the B&O Plaza. Mr. Hurewitz asked that the Historic Design Guidelines be updated for materials on sidewalk when the Master Plan gets approved.

Mr. Reich said the application was in line with the previous plans approved last year with temporary concrete and he would be fine to approve the application as submitted. Mr.

Reich noted Mr. Hurewitz made good points with regard to temporary solutions being permanent or appearing permanent or setting a precedent of permeance. The plaza will now be half concrete and half brick. Mr. Reich said the Master Plans and revisions to the guidelines must be completed in order to advise the Commission moving forward on sidewalk material.

Ms. Tennor said while the plaza is focal point, it is conceivable that after 7-10 years there would be a decision to do something significant at the B&O Plaza with Belgium block or something suitable for this location. Ms. Tennor said the Commission is not prepared to make a decision without the Master Plan being approved and adding the benefit of time and funding in the future. Concrete replacing asphalt in the interim is a good solution.

Mr. Shad echoed the other Commission members and said the request is a temporary solution with a problem of the temporary asphalt. Mr. Shad agreed with Mr. Hurewitz about the Master Plan and the Design Guidelines update. Mr. Shad said he hoped there would be multiple options for sidewalk replacement besides brick or concrete. As for the current application, Mr. Shad is in favor of the temporary asphalt being replaced with temporary concrete. After the flood mitigation process is done, Mr. Shad does not believe that anyone is going to want to leave a combination of brick and concrete in place and there will be requests made pretty quickly to replace the sidewalks throughout town. Mr. Shad does not think the sidewalk replacement will take 20 years, but it could be several years.

F. Motion

Mr. Reich moved to approve the application as submitted. Mr. Roth seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

> (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
> (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
> (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
> (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

> It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 9 of the Guidelines addresses recommendations for Landscape and Site Elements and Chapter 10 addresses Parking Lots, Public Streets, and Street Furniture, as detailed in the Findings of Fact, Part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the

surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant proposes to repair areas of sidewalk damaged in the 2016 and 2018 Tiber River Floods. The Commission has considered the issue extensively in multiple public hearings, including HPC Case 19-34 and Case 20-25, which are incorporated here by reference. The Applicant seeks approval to replace temporary post-flood bituminous sidewalks with gray tinted concrete sidewalks as a temporary solution until the Master Plan and Ellicott City Safe and Sound flood mitigation projects conclude, and a more holistic approach is devised for public sidewalks and related areas on Main Street. The proposed sidewalks match those previously installed on other sections on Main Street. Prior to the 2016 flood, the sidewalk in the area was brick.

The existing sidewalks are not historic and are not compatible with the Historic District. They are also difficult to navigate for people with mobility issues. In both floods brick from sidewalks was dislodged and contributed to damage to historic buildings.

Although the Guidelines prefer brick, given the circumstances, and considering the Guidelines' directive that they "do not dictate specific solutions that must always prevail," (G. at 6) and that street improvements related to public safety "take priority over retaining historic characteristics," (G. at 73), and given that brick is not an intrinsic characteristic of the historic value of the District, the Commission has determined that the proposed work is in accord with the Guidelines as a temporary measure until a more comprehensive plan is developed after the flood mitigation projects have been constructed.

For these reasons, and for the reasons identified in the Staff Report, the reasons stated in Case 19-34 and Case 20-25, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 3rd day of December, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval to make exterior alterations at the Subject Property, is **APPROVED as a temporary measure until the Master Plan and Ellicott City Safe and Sound flood mitigation projects conclude.**

HOWARD COUNTY HISTORIC PRESERVATION COMMISSION

Allan Shad, Chair

BB
Eileen Tennor, Vice-Chair

BB
Drew Roth

BB
Bruno Reich

BB
Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW

Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.