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| IN THE MATTER OF | * | BEFORE THE |
| THE APPLICATION OF | * | HOWARD COUNTY |
| JOHN ECKENRODE | * | |
| FOR A CERTIFICATE OF APPROVAL | * | HISTORIC PRESERVATION |
| TO INSTALL A SIGN | * | |
| AT 8086 MAIN STREET | * | COMMISSION |
| ELLICOTT CITY, MARYLAND | * | |
| | * | Case No. 18-42 |

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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 September 6, 2018, to hear and consider the application of John Eckenrode (“Applicant”), for a Certificate of Approval to install a sign at 8086 Main Street, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Eileen Tennor, Allan Shad, 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 September 6, 2018 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 Ellicott City Historic District. According to SDAT the building dates to 1890.

B. Proposed Improvements

The Applicant seeks approval to install one projecting sign on the exterior of the building, most likely using the existing black metal bracket on the building. If re-use of the existing bracket is not possible, the Applicant will use the scroll bracket shown on the sign picture included in the application packet.

The proposed sign will be 24 inches high by 24 inches wide for a total of 4 square feet. The sign will be constructed out of ½ inch thick MDO wood with a double sided digital print overlay. The sign will have a white background with black text and a yellow smiley face graphic and a dark pink graphic of feet. The sign will read on three lines:

Happy Feet
Asian Foot Therapy
443.251.9622

C. Staff Report

The application generally complies with Chapter 11 recommendations for signs, such as, “use simple, legible words and graphics, keep letters to a minimum and the message brief and to the point. In many cases, symbols or illustrations that communicate the nature of the business can be used, and use a minimum number of colors, generally no more than three. Coordinate sign colors with the building façade.” The sign bracket and sign material comply with Chapter 11 recommendations, “use historically appropriate materials such as wood or iron for signs and supporting hardware.”

The hierarchy of the sign is a bit unclear and a slight reorienting of the text and graphic could result in a more effective sign. The phone number is shown in a larger font size than “Asian Foot Therapy” and should be reduced in size as to not compete with the name of the business. The location of the graphic above the text also makes the business name a secondary feature of the sign, rather than a primary. Using basic clip art to replicate the sign, Staff proposed two alternate scenarios for consideration by the Applicant.

D. Staff Recommendation

Staff recommends approval as submitted. If the Applicant is willing to reorganize the sign as suggested, above, Staff recommends approval of those scenarios as well.

E. Testimony

Mr. Shad swore in John Eckenrode. Mr. Shad asked if there were any additions or corrections to the Staff comments or application. Mr. Eckenrode said that he liked the design options presented by Staff and would like to amend his application to use the graphic suggested by Staff and shown on the right side of Figure 4 on page 5 of the Agenda.

F. Motion

Ms. Tennor moved to approve the application as amended by the Applicant to use the graphic on the right side of Figure 4 on page 5 of the agenda. 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 11 sets forth the relevant recommendations for Signs in the Historic District, 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.

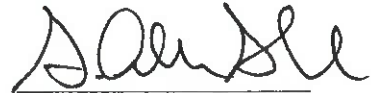
The Applicant proposes to install a single wood projecting sign. The sign complies with Guideline recommendations to use simple, legible words and graphics, keep letters to a minimum and the message brief and to the point. The sign also uses a minimum number of colors and an acceptable graphic that communicates the nature of the business. The sign material and bracket also comply with Guideline recommendations to use historically appropriate materials and supporting hardware.

For these reasons, and for the reasons identified in the Staff Report, 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.

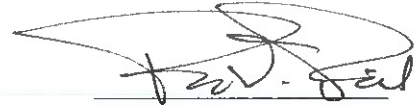
ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 4 to 0, it is this 1 day of November, 2018, **ORDERED**, that the Applicant's request for a Certificate of Approval to install a sign at the Subject Property, is **APPROVED**.

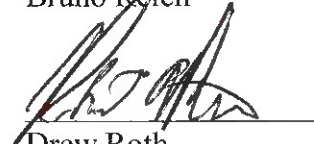
**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair



Bruno Reich



Drew Roth



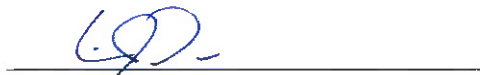
Eileen Tennor



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.

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| IN THE MATTER OF | * | BEFORE THE |
| THE APPLICATION OF | | |
| SHARON WALSH, HOWARD COUNTY | * | HOWARD COUNTY |
| DEPARTMENT OF PUBLIC WORKS | | |
| | * | HISTORIC PRESERVATION |
| FOR A CERTIFICATE OF APPROVAL | | |
| FOR EXTERIOR ALTERATIONS | * | COMMISSION |
| AT PARKING LOT D | | |
| ELLICOTT CITY, MARYLAND | * | Case No. 18-44 |

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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 September 6, 2018 to hear and consider the application of Sharon Walsh, Howard County Department of Public Works (“Applicant”), for a Certificate of Approval for exterior alterations at Parking Lot D, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Eileen Tennor, Allan Shad, Bruno Reich, Drew Roth, 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 September 6, 2018 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 Ellicott City Historic District in Parking Lot D.

B. Proposed Improvements

The Applicant proposes to install bollards between the parking lot and both sides of the stream channel. The goal is to prohibit large items from entering the stream channel if there is another flood that will cause heavy objects such as cars and dumpsters to float. The bollards are considered temporary barriers.

The application presents two options for the bollards. The first option is for wood timber bollards. These bollards will be square posts, 10 inches by 10 inches, and spaced out every 6 feet on center. There should be no more than 60 bollards total. They will be anchored 4 feet into the ground and will be 4 feet tall above the ground. DPW is receptive to painting or staining the timbers black to mimic a metal bollard if desired. The second option is for a square steel bollard to be painted black and filled with concrete. These bollards would be 8 inches by 8 inches in size. The height and spacing would remain the same as the wooden

bollards. DPW's first option is to use the wood bollard since this is intended to be a temporary safety measure.

The old parking meters will be removed to allow room for the new bollards. The dumpsters that previously lined the channel have been relocated to higher ground; the possible final placement of the dumpsters is shown on the submitted plan, but DPW is waiting to hear the preferred locations from the waste removal contractor.

C. Staff Report

The application complies with Chapter 10.C recommendations for Street Furniture, "use street furniture that is simple in design and constructed of traditional materials such as wood and dark metal." The first option for the bollards is wood and the second option is metal. The wood bollard will blend nicely with the existing split rail fence (if the split rail is to remain along the stream channel). The location will be along the stream channel in Parking Lot D and will not obstruct pedestrian traffic. This complies with Chapter 10.C, "carefully evaluate the need before placing additional street furniture on narrow historic district streets and sidewalks" and "particularly along the commercial section of Main Street, place street furniture in areas where the sidewalk is wider or where adjacent public open space provides a more spacious environment." The need for the bollards to keep large items, such as cars, out of the stream channel during a flood event has been proven as a known safety issue. The removal of the old parking meter posts also complies with the Guidelines, which recommend against "items of street furniture that are not necessary."

D. Staff Recommendation

Staff recommends approval as submitted.

E. Testimony

Mr. Shad swore in Sharon Walsh from the Department of Public Works (DPW). Mr. Shad asked if she had any corrections or additions to the staff report. Ms. Walsh explained that DPW was tasked with coming up with suggestions to prevent cars and dumpsters from entering the stream channel during storm events. She explained they worked with different departments to see what could be done in the short term and they came up with two solutions – wood bollards that would have a more temporary feel or metal bollards that would feel more permanent. Ms. Walsh said the wood bollards could be left natural, stained or painted and could have a decorative element at the top. The wood bollards would be 10x10 posts. She said the spacing would be 6 feet apart. The metal bollards would be the same height, 4 feet or 4 feet 6 inches. The metal bollards could be 6x6 posts instead of 10x10. Ms. Walsh said the bollards would be located on both side of the channel.

Ms. Walsh said they relocated the dumpsters that were at the low part of the parking lot to higher ground and also had a few ideas on how to keep them from moving, such as adding wings to the dumpster sides so that they catch on the surrounding bollards.

Ms. Tennor asked if the plan shows 50 bollards along the stream. Ms. Walsh said that number was approximate, they need to have a drawing done to scale, but it will be a substantial number. Ms. Tennor said that she found black metal to be preferable. Ms. Zoren agreed, that black metal bollards would be better as they won't be as large and will have more internal strength. Ms. Zoren said the square ones chosen are more contemporary looking and would prefer to see a more circular bollard with a cap.

Mr. Shad said he prefers a wood bollard, especially since the wood fence will remain. He said wood will appear more temporary than steel and the cost will be less. Mr. Roth also

said he would prefer wood over metal. Mr. Reich agreed with Ms. Zoren that round steel would be more appropriate, but recommend the fence be removed or it would look strange to have both materials there.

F. Motion

Ms. Zoren moved to approve the use of black metal bollards, in a more circular form, with a cap of some sort, to be approved by Staff. Ms. Tennor 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 10

sets forth the relevant recommendations for 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.

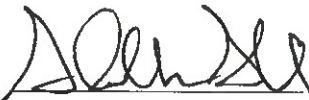
The Applicant seeks approval to install bollards along a waterway in Parking Lot D to prevent objects from entering the waterway during flood events. The proposed bollards are in accord with Guideline recommendations to use street furniture that is simple in design and constructed of traditional materials, such as dark metal. The bollards also comport with Guideline recommendations to install street furniture in areas that do not impede the public way. The proposed locations along the stream channel in Parking Lot D and will not obstruct pedestrian traffic. The removal of the existing parking meter posts, which are no longer necessary, is also in accord with Guideline recommendations as they have no historic value and their removal will reduce visual clutter in the Historic District.

For these reasons, and for the reasons identified in the Staff Report, 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 4 to 0, it is this 1 day of November, 2018, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**


Allan Shad, Chair


Bruno Reich



Drew Roth


Eileen Tennor


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.

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|----------------------------------|---|-----------------------|
| IN THE MATTER OF | * | BEFORE THE |
| THE APPLICATION OF | | |
| JOHN SEEFRIED, HOWARD COUNTY | * | HOWARD COUNTY |
| DEPARTMENT OF PUBLIC WORKS | | |
| | * | HISTORIC PRESERVATION |
| FOR A CERTIFICATE OF APPROVAL | | |
| FOR EXTERIOR ALTERATIONS | * | COMMISSION |
| AT 8390 MAIN STREET AND ELLICOTT | | |
| MILLS DRIVE RIGHT OF WAY | * | Case No. 18-47 |
| ELLICOTT CITY, MARYLAND | | |

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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 September 6, 2018 to hear and consider the application of John Seefried, Howard County Department of Public Works (“Applicant”), for a Certificate of Approval for exterior alterations at 8390 Main Street and Ellicott Mills Drive Right of Way, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Eileen Tennor, Allan Shad, 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 September 6, 2018 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 Ellicott City Historic District.

B. Proposed Improvements

The Applicant seeks retroactive approval for the removal of six trees greater than 12 inches diameter in breast height between 8444 Main Street and 8390 Main Street. The trees included three spruce and three hardwood trees. The application explains that the pipe under Ellicott Mills Drive failed during the May 27, 2018 flood. The three spruce and two hardwood trees were removed from the Wine Bin property because they contributed to the failure via piping and excess and dynamic load. One hardwood tree near the former Court House was removed because of its contribution to failure via piping and hydraulic overtopping. The application further explains,

“there were multiple safety hazards to life and property involved with trees in proximity of a drainage culvert. The roots weaken the bearing capacity of the soil around the pipe and when they eventually decompose, contribute to piping failure. In

the event of flooding, large debris (cars and trees) becomes entangled. This blocks water, raises the floodplain water level and compounds the flood damage. Time was of the essence in removing the trees because the remaining pipe culvert is significantly damaged (and needs to be removed) and stabilization of the floodway is required to prevent further erosion of Main Street.”

C. Staff Report

Chapter 9.B of the Guidelines states that work requiring a Certificate of Approval includes, “removing live trees with a diameter of 12 inches or greater 4.5 feet above ground level” and “installing or removing landscaped areas in plazas, parking lots, public parks or public rights-of-way. Major changes to the plantings in such landscaped areas, including planting or removing trees or large shrubs.”

Chapter 9.B recommends, “plant new trees and shrubs far enough from buildings to avoid moisture problems and damage to the buildings from falling limbs and roots as the plants grow.” The current Guidelines do not adequately address the effect of the tree roots along the stone stream walls, and in this case, along underground utilities. If the application had come in for approval prior to the work being done, Staff would have recommended Approval as submitted because of the required engineering necessary for the repair of the Ellicott Mills Drive culvert and the widening of the stream channel in this area.

D. Staff Recommendation

Staff recommends approval as submitted.

E. Testimony

Mr. Shad swore in Mr. Seefried, Deputy Chief of the Bureau of Engineering from the Department of Public Works (DPW).

Mr. Seefried clarified the mistake of having 6 trees removed without getting approval from this Commission. He described their locations- there were five trees behind the Wine Bin and one adjacent to Ellicott Mills Road and the historic courthouse. Mr. Seefried stated the trees needed to be taken down due to the failed 400-foot aluminum arch pipe that washed out creating the chasm under Ellicott Mills Drive.

Mr. Shad stated Mr. DeLuca was at the July HPC meeting with a powerpoint presentation discussing this project and he did not mention the removal of any trees but within two weeks the trees were gone. Mr. Shad asked for clarification of the multiple safety hazards of life and property mentioned.

Mr. Seefried said there were three issues involved. The first issue was the piping which is the movement of the water outside of the pipe arch so that the roots contribute to that. First the roots create space and when the tree dies, that space is a problem for the water passing through. With any stormwater management facility in the County, you can't be within 20 feet of the toe of the embankment to contribute to the breach of the embankment. The second issue is the physical load of the trees on the culvert. The physical weight of multiple trees on top of the culvert is a problem as the culvert pipe is not designed for the weight of the trees. The third issue is the hydrologic overtopping. Mr. Seefried explained that anything caught in tree contributes to the weight over top leading to the failure. For the Ellicott Mills situation, when the pipe is failing, we lose the conveyance of the pipe and all the materials that fail are sent downstream as debris clogging the channel.

Mr. Shad said the trees have been there probably 30 to 50 years so he questioned the rational of them being an emergency that could not wait to come the Commission for approval. He questioned why this was not brought to the HPC or even a call to HPC staff as emergency

procedures are in place. He said trees were cut down and no one was notified. Mr. Shad did not understand the urgency.

Mr. Seefried said the pipe was 10 feet tall, 15 wide and 400 feet long and it catastrophically failed. Five of the trees needed to be removed because of the pipe. He apologized for not knowing the protocol. As a professional engineer, he said the trees needed to be removed because of the failure of the pipe.

Mr. Roth asked if the pipe was removed.

Mr. Seefried stated that half of the pipe has been removed. The area had to be stabilized but the rest of the pipe will be removed. He had not determined that the last 200 feet of pipe was failing as he could not see the bottom of the pipe after the flood but when he inspected the remaining 200 feet, he discovered it had to be replaced.

Mr. Shad stated he did not understand how the plan changed dramatically to the point of emergency tree removal.

Mr. Seefried noted that he had not determined by the July meeting that the bottom of the pipe had failed.

Mr. Roth confirmed that the pipe had to be removed and the trees had to be removed as a result being that they were over top of the pipe.

Mr. Shad stated that he was told the plan would not change drastically from the July meeting but, the plan has changed dramatically without notification.

F. Motion

Mr. Roth moved to retroactively Approve the application as submitted. Mr. Reich seconded. Mr. Shad opposed. The motion was approved 4 to 1.

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 sets forth the relevant recommendations for Landscape and Site Elements, 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 seeks retroactive approval for the removal of six trees greater than 12 inches diameter at breast height. The Guidelines generally disfavor the removal of trees; however, there are exceptions where removal is necessary to prevent damage to historic structures. Here, a professional engineer testified that the trees needed to be removed to repair a 15-foot wide, 400-foot long underground pipe that conveys water through the Historic District. Although the Applicant originally only believed a 200-foot section of pipe needed to be replaced, it was ultimately determined that another 200-foot section of pipe needed to be replaced.

Recent flooding in the Historic District has made clear that the conveyance of water safely through the District is necessary to protect the historic structures located along and near Main Street. The Applicant explained that safety and structural integrity issues required the removal of the trees. The Applicant further explained that time was of the essence to prevent further erosion on Main Street.

Despite these facts, which favor approval of the tree removal, the Commission is concerned the Applicant did not take advantage of the procedures for issuing a Certificate of Approval in emergency situations, which are detailed in the attached dissent to this Decision. Although the facts indicate that the 24-hour period that would be required for an emergency approval would not have had an undue adverse impact on public safety, failure to utilize that procedure is not necessarily a basis for denying the proposed work where there is otherwise a clear basis for issuing retroactive approval. Therefore, the Commission approves the tree

removal but strongly urges the Applicant to make every effort to seek a Certificate of Approval before work is commenced.

For these reasons, and for the reasons identified in the Staff Report, 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 4 to 1, it is this 1 day of November, 2018, **ORDERED**, that the Applicant's request for a retroactive Certificate of Approval for tree removal at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**

DISSENT
Allan Shad, Chair



Bruno Reich



Drew Roth



Eileen Tennor



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.

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| JOHN SEEFRIED, HOWARD COUNTY | * | HOWARD COUNTY |
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| MILLS DRIVE RIGHT OF WAY | * | Case No. 18-47 |
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* * * * *

DISSENT

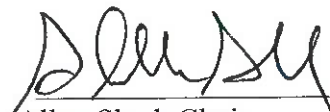
I write in dissent to the Commission’s decision in HPC 18-47, which is incorporated here by reference and was filed as an application for “retroactive approval.” Although good reasons were presented at the hearing in this case for the need to remove trees as part of the repair of public infrastructure, there is no reason why the Department of Public Works could not have brought its application for tree removal to the Commission before the trees were removed, as required by law. Howard County Code 16.603. The Ellicott City Historic District Design Guidelines clearly state in Chapter 9 – Landscape and Site Elements, Section B – that removal of *“live trees with a diameter of 12 inches or greater, 4.5 feet above ground level”* requires Certificate of Approval. If the government does not comply with the law it undermines the role of the Commission and sets a negative example that others may follow.

It is disappointing that at a prior Commission hearing for advisory comments on the proposed infrastructure repair, HPC 18-40, there was no mention of any tree removal. Apparently, the need for the tree removal arose afterwards, although the record is not clear. It is particularly important that where an application makes representations to the Commission that subsequently change, those changes be brought before the Commission before work commences.

I do not find the statement of the Department of Public Works that “time was of the essence” in terms of the tree removal to be a credible explanation for failing to seek prior approval as the law requires. If the danger was imminent, why did it take over seven weeks, from the initial presentation in 18-40, until the trees were removed? Additionally, had the need truly been urgent, County Code § 16.605(b)(4) and the Commission’s Rules of Procedure provide a mechanism for just this type of emergency. Rule 101 provides that, “*Emergency meetings of the Commission may be called by the Chairperson to hear applications for Certificates of Approval and/or pre-approval of Certificates of Eligibility which require immediate action to allow emergency repairs to structures or to remedy immediate safety or health hazards.*”

Because this was a case for retroactive approval, a denial would not have resulted in saving the trees. However, in similar situations, applicants would typically be required to replace the trees with new plantings, which was not required here.

I urge and expect that the Department of Public Works will replace the trees once the primary construction work has been completed. I also urge and expect that the Department will not bring any further cases for “retroactive approval,” but will use the procedures established in the County Code for future work in the Historic District.


Allan Shad, Chair