



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 12, 2009**

DATE: November 24, 2009

SUBJECT: ZOA-09-10 Zoning Ordinance amendments to Sections 1, 2, and 31A. These amendments would update Section 31A. Historic Preservation Districts, Section 1. Definitions, and Section 2.B. General Regulations. The amendments would revise the Zoning Ordinance to implement the goals and policies in the adopted 2006 Historic Preservation Master Plan. Additionally, an Ordinance to end the current terms of the Historical Affairs and Landmark Review Board (HALRB), and authorize appointment of member for new terms.

C.M. RECOMMENDATION:

Adopt the attached ordinance (ZOA-09-10) to (1) amend, reenact, and recodify the provisions in Sections 1, 2, and 31A of the Arlington County Zoning Ordinance, and (2) to end the terms of the current HALRB members as of midnight, December 31, 2009, and to authorize appointment of members for new terms.

ISSUES: Section 31A was last substantially updated in 1983, and the ordinance is out of sync with current County policies and practices dealing with historic preservation review, and with certain elements of the State enabling legislation. One of the recommendations of the adopted 2006 Historic Preservation Master Plan stated that Section 31A (Historic Preservation Districts) should be reviewed and revised to ensure consistency between current functions and practices of the HALRB, and the Code of Virginia. The proposed changes to Sections 1 (Definitions) and 2 (General Regulations) streamline the Zoning Ordinance by moving historic preservation specific definitions into Section 1, and adding the Historic Preservation District Overlay Zoning designation (HD) to Section 2.

SUMMARY: Since the adoption of the Historic Preservation Master Plan in December 2006, staff has been preparing revisions to Section 31A of the Arlington County Zoning Ordinance (ACZO), "Historic Preservation Districts," as recommended in the Master Plan. The proposed revisions are now ready for consideration and have been reviewed by the HALRB, and the Zoning Ordinance Committee of the Planning Commission (ZOCO). The proposed changes include both legal and policy changes, in response to the growing scope of the HALRB, as mandated by recent County Board actions and policies. Concurrent changes to Section 1 (Definitions) and Section 2 (General Regulations) are also included as part of this rewrite. The new ordinance must also reflect the extent of authority granted in the State's enabling legislation.

County Manager: BMD/GA

County Attorney: CUM SAM

Staff: Rebecca Ballo, DCPHD, Neighborhood Services Division

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The following information provides a summary of the proposed changes:

Section 1: Remove definitions from Section 31A, and move to Section 1, with some language amendments, and some deletions where terms are archaic or inapplicable.

1. A revised definition for a “Historic District” is included.
2. A revised definition for a “Historic Landmark” is included.
3. A new definition has been created for “Historic District Design Guidelines.”
4. A revised definition for an “Exterior Feature” has been created to delete references to review based on color, and references to trees and shrubbery.
5. A new definition has been created for a “Certificate of Appropriateness” (CoA). The new definition allows the HALRB to approve Certificates of Appropriateness for properties called out in the Columbia Pike Form Based Code for such review, but which are not locally designated historic districts.
6. A revised definition for a “Person in Charge” is included. The old language included archaic terms and references which have been deleted.

Section 2: Add Historic Preservation District Zoning Overlay (HD) to the table in Section 2.B., which lists all zoning districts. This corrects what appears to have been a longstanding omission.

Section 31A: The following proposed amendments will be explained fully in the Discussion section, where necessary. Those items that will be discussed further are italicized.

1. The purpose of the regulations is amended and clarified.
2. *The size of the HALRB is given a “ceiling” at 15 members, members are reappointed for new terms, criteria are established for when a member’s appointment is terminated, and membership criteria are altered. New membership criteria are also established, and the membership categories for specific organizations have been eliminated.*
3. Meeting procedures are simplified to be in accordance with the requirements of the Code of Virginia.
4. *Responsibilities of the HALRB are clarified and codified.*
5. *The historic district designation process has been streamlined and clarified.*
6. *Standards for historic district designation have been taken from the HALRB’s Rules and Procedure, modified, and codified in the ordinance.*
7. *The designation and procedure for landmarks designation is eliminated.*
8. Language has been amended throughout to remove references to actions within or pertaining to historic landmarks, and to specify instead actions or references to historic districts.
9. *The HALRB is given limited authority to reduce setback requirements in accordance with standards set by the Zoning Administrator.*
10. *The HALRB is given limited authority to approve and amend design guidelines.*
11. An expiration date for CoAs is established. This language is taken from the HALRB’s Rules and Procedures and codified in the ordinance.
12. *The revisions establish standards by which the HALRB may delegate to their designees (the Historic Preservation Program Staff) limited authority to issue certain types of*

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CoAs.

13. *The standard for County Board review of appeals of HALRB decisions is amended.*
14. *A new process is specified for ascertaining whether a property has been offered for sale at a price reasonably related to fair market value.*
15. The General Maintenance subsection of Section 31A is combined with the Subsection on Ordinary Maintenance Allowed, and Public Safety. Some language edits for correctness were also included.
16. The Subsection on Historic Easements was amended for clarity.
17. A new Subsection on Transfer of Development Rights (TDRs) was added.
18. Subsection L. Investigations and Reports, was deleted, as was Subsection O. Separability.
19. Gender references were removed throughout the document and replaced with gender neutral language.

The second ordinance amendment would result in the termination of all current HALRB appointments, and would reappoint all members for newly staggered terms. The existing terms would all expire as of midnight on December 31, 2009. The newly staggered terms should be as follows: three members appointed to four (4) year terms, three members appointed to three (3) year terms, three members appointed to two (2) year terms, and three members appointed to one (1) year terms.

BACKGROUND: The Historical Affairs and Landmark Review Board has existed in its current form, with 15 members representing various professional disciplines and other parties interested in the County's history and architecture, since 1983. Prior to 1983, the County Board appointed two separate Commissions: the Historical Commission (15 members, est. 1968), and the Historic Landmark Review Board (HLRB, 9 members, est. 1976). The HALRB was charged with undertaking all the functions of the Historical Commission, while continuing with the architectural review duties designated for the Historic Landmark Review Board. The HALRB was directed to provide advice to the County Board on preservation issues, while continuing the legal responsibilities set forth in Section 31A of the ACZO.

Since the adoption of the Historic Preservation Master Plan in December 2006, the Historic Preservation Program staff has been preparing revisions to Section 31A of the Arlington County Zoning Ordinance, "Historic Preservation Districts," as recommended in the Master Plan. Staff examined where the ordinance required updates in order to bring it into line with other recently passed master plans and County ordinances. For example, the 2006 Clarendon Sector Plan, the Columbia Pike Form Based Code, and the ordinance governing Transfer of Development Rights called for review by the HALRB in matters that were outside of their original scope of review as provided for in the ordinance. In addition, staff researched which sections of the preservation ordinance were outdated given the Review Board's current practices, and analyzed how new language could clarify the functions of the Review Board and historic preservation program staff vis-à-vis applicants and other County-appointed Commissions. Lastly, staff examined those functions of the HALRB and the County Board which could be strengthened with additional or amended language.

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DISCUSSION: The order of items in this Discussion section corresponds to the order in which they appear in the proposed ordinance amendment.

Section 31A, #2.: The size of the HALRB is given a “ceiling” at 15 members, instead of a specific number of members. Specificity has been added to provide that members will be reappointed for new terms, and criteria have been established for when a member’s appointment is terminated. The membership criteria have also been altered to allow for greater flexibility in the appointment process.

When the HALRB was established in 1983, from the combination of the old Landmarks Review Board and the Historical Commission, the membership was set at 15 members as an interim measure. The County Manager at the time proposed in his memo to the County Board that the new HALRB would at one point be reduced in membership, but that change would not be part of that 1983 Zoning Ordinance amendment. Since that time, the HALRB has retained 15 members, though the number of actual appointees has fluctuated, and not all of the seats are filled all of the time. However, the advisory functions of the HALRB have been expanded and members are often asked to serve on adjunct County Board appointed commissions and to weigh in with historic preservation input on any number of site plans, master plans, and zoning cases. Staff and the HALRB agree that setting a 15 member ceiling is appropriate, and that the membership should be altered slightly to represent the professions most relevant for an architectural review board. Additional language about terminating terms and reappointing new members has been added to help guide the appointment of members in a smooth and orderly fashion, and to help keep the terms staggered. Through longstanding errors in appointments, the terms are not currently staggered as they should be. Staff recommends as part of the adoption of this ordinance, the County Board terminate all active HALRB members’ terms, and authorize the appointment of new members or the reappointment of existing members for newly staggered terms. There are currently twelve HALRB members who would like to be reappointed. Their newly staggered terms should be as follows: three members appointed to four (4) year terms, three members appointed to three (3) year terms, three members appointed to two (2) year terms, and three members appointed to one (1) year terms. Staff will bring forward the specific appointments for the December meeting.

The existing criteria for membership include a list of local interest groups and professional organizations from which the County Board must choose from when deciding on new appointments to the Review Board. In response to requests from ZOCO, and from the HALRB, staff has removed all such specific references, and has replaced them with a general standard stating that the Review Board’s membership should simply conform to the standards of the Virginia Department of Historic Resources (DHR) Certified Local Government (CLG) program. Arlington County has been a member of the CLG program since 1993, and has received over half a million dollars in matching grant funds from the program. This funding has allowed the County to become the first in the State to be fully architecturally surveyed. The CLG programs set a clear and consistent standard for professionalism in regards to the State’s myriad Architectural Review Boards, and this standard can easily be implemented in the ordinance. The HALRB currently meets these qualifications. The CLG standard is as follows:

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1. At least one architect or architectural historian, unless waived by DHR
2. At least one additional individual meeting the requirements of 36 CFR 61, Appendix A for historian, archaeologist, or (landscape or other specialized) architect or planner. (The 36 CFR 61 designation is used by the National Park Service as a professional standard for human resources purposes.)

Section 31A, #4: Responsibilities of the HALRB are Clarified and Codified.

The existing ordinance does not concisely specify the responsibilities of the HALRB. Their duties are alluded to in multiple subsections, in the County Manager's Report from the 1983 ZOA, and in the HALRB's Rules of Practice and Procedure. Staff combined those responsibilities into Section 31A. Subsection B.

Section 31A, #5: The Historic District Designation Process has been Streamlined and Clarified.

The process for designation of local historic districts has been streamlined in the proposed ordinance to enable the County to move quickly on a designation. In the past, the County's ordinance has required some time-consuming procedural steps that are not required under Virginia law, and that could hamper the County's ability to act. The revised process does not prohibit the County from taking extra procedural steps when the County Board deems it necessary.

Under the existing ordinance, the designation process requires multiple steps. The HALRB recommends a historic district overlay zone be established, then the Planning Commission holds a meeting to review the HALRB's report and make comments, then it returns to the HALRB for a second hearing, and then moves to the County Board for the request to advertise. Then the County Board initiates the normal zoning procedures, which sends the designation back to the Planning Commission before the County Board holds its own final hearing on the zoning request. The process as rewritten would have one required HALRB hearing, and then the designation would be sent to the County Board to start the normal zoning procedures. This would eliminate one Planning Commission hearing and one HALRB hearing; however, both groups would have the opportunity to weigh in on the designation as part of the typical establishment of a zoning overlay. Flow charts that show the existing designation process and the proposed designation process are included in Attachment A.

Staff has tried to minimize the procedural requirements so that the County could designate a property as quickly as possible, while allowing opportunities for public input and for statutorily-required advertising periods. If the County Board, Planning Commission, or HALRB wished to provide for additional hearings in any particular case, they could still do so under the revised ordinance.

Section 31A, #6: Standards for historic district designation have been taken from the HALRB's Rules and Procedures and codified in the ordinance.

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Currently, the ordinance is silent about the criteria that should be used to establish the architectural and/or historical significance of a property as part of the historic district designation process. These criteria are enumerated in the HALRB's Rules and Procedures; however, staff finds that moving these criteria into the ordinance will clarify the process by which a historic preservation overlay district is established. The criteria are broad enough that a truly significant historic property should qualify, while others that are lacking in architectural or historical importance will not. In addition, the new language adds requirements concerning property owner notification in the case of an historic district nomination, and specifies the type of information that should be included in the HALRB's report to the County Board.

There was some discussion at both ZOCO meetings and at the County Board's own Request to Advertise Hearing as to the appropriateness and relative breadth of the designation criteria. The criteria were based on the National Register standards, and are meant to be broad enough to allow for the consideration of a wide variety of cultural, historical, and archaeological resources. The County currently has 30 designated local historic districts. The types of resources represented in these districts include: single-family dwellings, garden-style apartment buildings, schools, churches, a post office, cemeteries—including marked and unmarked graves, a community hall, a fire house, farmhouses, forts, trenches and earthworks, natural rock features, and African-American churches and dwellings. The County currently has 61 recognized National Register Districts, encompassing 11,184 total historic resources. This list includes an even wider variety of resource types, ranging from roads to bridges, unmarked archaeological sites to Arlington House. The criteria were written with this range in mind.

When a property comes under consideration as a potential historic district, the first step towards eligibility is the finding that it meets two of the eleven designation criteria. Meeting two of the criteria is only the beginning of the process; however, as the property must then be further evaluated by the HALRB, Planning Commission, and the County Board in public forums, where the value and importance of the property can be fully debated and analyzed.

Section 31A, #7: The designation and process for landmarks designation is eliminated. Language has been amended throughout to remove references to actions within or pertaining to historic landmarks, and will specify instead actions or references to historic districts.

The Virginia Code authorizes a local government to set forth historic "landmarks," but allows zoning protection only for a landmark that is "within a district" (Va. Code Ann. 15.2-2306). A "landmark" without a district designation is a purely honorific title. The landmarking provision was included in the original ordinance, and is referenced in enabling legislation, to allow localities to use the list of landmarked properties on the Virginia Department of Historic Resources' State Register. This was meant to be a starting point for localities to use to assess their own historic resources, and "landmark" them for honorific purposes. A locality could "landmark" all the buildings on the State Register, and then use that list as the basis to establish historic districts with zoning overlays. All the protections allowed by the enabling legislation occur only within designated historic districts. The landmarks reference in the Code of Virginia was not designed to help localities protect landmarks from change.

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The new language in the definitions would remove the existing definition of a landmark and revise it to include the Virginia Department of Historic Resources' (VDHR) list of landmarks. It also leaves some leeway in case the County Board would like to name something as a "landmark" for honorific purposes, as the enabling legislation foresaw. However, since designating something as a "landmark" has no regulatory effect, the process for designation of a landmark has been removed entirely. The County Board retains the authority to quickly designate a property as an historic district under the newly streamlined designation process. In the case of an emergency, the County Board and the Planning Commission could even hold their hearings on the same day.

Section 31A, #9: The HALRB is given limited authority to reduce setback requirements in accordance with standards set by the Zoning Administrator.

The proposed ordinance provides that the HALRB may, in considering a CoA application, find that a proposed setback from any given lot line is "consistent with the existing streetscape and historic district guidelines" even where it is inconsistent with the zoning regulations. When the HALRB makes such a finding upon approving the CoA, the Zoning Administrator is directed in the ordinance to approve the project with the revised setbacks unless sight distance requirements would be violated. This is designed to ensure that all setbacks in historic districts are appropriate, without the need for a separate action by the Board of Zoning Appeals. The HALRB's action will effectively change the setback; the Zoning Administrator would have the option not to approve the new setback only where sight distance requirements are violated.

Section 31A, #10: The HALRB is given limited authority to approve and amend design guidelines.

The County Board adopted Design Guidelines for Maywood and Buckingham upon creation of those historic districts, but there are many historic districts that do not have specific guidelines for CoA review. The existing ordinance is silent about design guidelines: what they are; how they are adopted; who may approve them. The proposed ordinance would allow the HALRB to adopt design guidelines for the benefit of the applicant, historic preservation program staff, and the HALRB in reviewing CoA applications for historic districts that currently lack design guidelines. Allowing the HALRB to do this will streamline the guidelines and the CoA review process. Where County Board approved design guidelines already exist, the HALRB's guidelines would not overturn or delete any language already stipulated. But the new provisions would enable the HALRB and staff to have some flexibility in crafting updated guidelines. Streamlining this process will enable the adoption of guidelines for more of the County's historic districts. As a result, the public will have better guidance in applying for CoAs.

The new ordinance language also specifies that the County Board is not precluded from adopting design guidelines, and that the HALRB may not adopt design guidelines that are inconsistent with those of the County Board. Furthermore, the HALRB's design guidelines would not bind the County Board in considering an appeal from a decision on a Certificate of Appropriateness.

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Where guidelines are not adopted, the ordinance specifies that the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties, which are the nationally recognized baseline for correct historic preservation practice in this country, would apply in guiding CoA review decisions. It is the expectation of staff that all new historic district designations would come forward with their own set of design guidelines for the County Board to approve as part of the zoning overlay.

Section 31A, #12: Standards by which the HALRB may delegate limited authority to issue certain types of CoA applications by their designees (HP staff) are established.

Currently, some of the CoA issuance functions of the HALRB are delegated to historic preservation program staff. For example, *Design Guidelines* for the Maywood Historic District allow historic preservation program staff to administratively issue CoAs for new fences as long as they follow pre-specified design standards. Those administrative approvals are called Administrative Certificates of Appropriateness (ACOAs). The change in the ordinance provides for these limited administrative approvals, and codifies the existing practice whereby the HALRB delegates some of its authority in issuing COAs to historic preservation program staff.

Section 31A, #13: The standard for County Board review of appeals of HALRB decisions is amended.

Existing Section 31A states that when an applicant appeals an HALRB denial of a Certificate of Appropriateness, the County Board may overturn a decision it "finds upon review to be contrary to law or that it is arbitrary and capricious and constitutes an abuse of discretion." However, the Virginia Code does not set such a deferential standard. It provides that an ordinance may restrict actions, such as alterations and the like, on designated properties unless "the review board [Architectural Review Board] or, on appeal, the governing body of the locality" has found such actions are architecturally compatible with the historic landmarks, buildings, or structures therein (Va. Code 15.2-2306.A). The enabling legislation sets forth a standard where the local governing board would have the same review standard as its architectural review board.

The proposed language to amend this subsection would set the same standard for County Board review of an appeal as currently exists for HALRB review of a CoA case. Namely, the County Board would be asked to review the appealed CoA and determine whether or not the proposed alteration is architecturally or historically compatible with the historic district. The County Board's review would constitute a reconsideration while also giving due weight to the HALRB's decision. In any particular case, the County Board would have the ability, under the new standard, to defer to the HALRB's prior decision. Staff does not recommend, however, that the Ordinance be left as it is, because it would bind the Board in all future cases.

Section 31A, #14: A new process is included for ascertaining whether a property has been offered for sale at a price reasonably related to fair market value.

Under the current ordinance, when a property owner applies for a CoA to demolish his property,

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and that CoA is denied by the HALRB and then upheld by the County Board on appeal, the owner must wait a year and offer his property for sale at a price reasonably related to fair market value. If there is no sale within that year, then the owner must be given the demolition permit. A dispute can arise over whether the offering price was actually “reasonably related to fair market value.” There can also be disputes about what constitutes a “bona fide offer to sell.” This language and the process the County must use are taken from the State enabling legislation. Staff has researched what we can add to our ordinance to help the County where such disputes arise. Loudoun County, the Town of Winchester, and the City of Alexandria all have language in their ordinances that help the localities establish fair market value for these properties, and help mitigate disputes between the owner and the locality.

The proposed new language provides that if the HALRB, a group of five citizens, the property owner, or the County Manager challenges the price, then the County will hire an appraiser to determine whether the price is reasonably related to fair market value. The property owner may hire an appraiser, and if the two appraisers do not agree, then together the parties would hire a third appraiser (sharing the cost) as a tie-breaker. This provision could result in a cost to the County, but would help avoid legal proceedings. The proposed new language also establishes that this process would take place when the property is first offered for sale, so that a property owner can know whether their offering price is acceptable well before the year’s time limit is up. If the offer is found to be *not* reasonably related to fair market value, then the owner would have an opportunity to reoffer the property at a new price that met the ordinance standard. This would start the “timeclock” of the one year over again. The newly proposed Subsection E.17. also requires the owner to file a written statement with the County Manager listing the realtor, MLS listing or equivalent, and other pertinent information necessary to determine that the property has actually been listed for sale on the market. The one-year timeclock will not begin until this documentation has been submitted to the County Manager.

Community Process:

Historical Affairs and Landmarks Review Board (HALRB): The proposed amendments were first discussed by the HALRB at a special meeting on September 30, 2009. In general, the HALRB was supportive of the changes recommended by staff. The HALRB spent the majority of the meeting reviewing the new appeal standard language, the language on findings on setback requirements for the Zoning Administrator, and the language on design guidelines. They asked that Subsection E (new language dealing with bona fide offers to sell and questions as to price) include more information in the initial selling statement presented to the County Manager. The HALRB was supportive of amending the appeal standard for County Board review of HALRB decisions, so long as the County Board’s determination gave fair weight to the HALRB’s ruling. In addition, the HALRB supported the idea that the County Board should use the same standard that the HALRB uses in deciding CoA cases; namely, the standard stipulated in the Code of Virginia: architectural and historical compatibility. This language is included in the draft amendment.

The HALRB reviewed these text amendments, and other issues, including membership criteria at

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its October 21, 2009 hearing. At that meeting, a majority of the HALRB agreed with the new membership criteria proposed by ZOCO: that the membership categories should be deleted and simply conform to the standards set forth by the Virginia CLG program. The members stated that the CLG standards are a model for what is appropriate, and should be followed in the ordinance. The HALRB can update their Rules and Procedures to allow for more specificity, and can pass that policy document to the County Board when there are new appointments. The HALRB considered the question from ZOCO as to the suitability of the historic district designation criteria. The HALRB unanimously agreed with staff, that the criteria are meant to be broad enough so that certain rare cultural resources, such as the Washington, DC boundary stones, earthworks, forts, structures or sites associated with or created by minority groups such as African Americans and Native Americans, and other natural features, are not excluded from consideration. The criteria included in the Ordinance are taken from the HALRB Rules and Procedures, from the now-defunct definition of “historical landmarks” and also from the National Register. The HALRB also unanimously agreed that the standard for review of a CoA appeal by the County Board should give due weight to the prior HALRB decision.

Zoning Ordinance Committee of the Planning Commission (ZOCO): The Request to Advertise (and proposed draft amendments) was presented at the October 7th and October 20th 2009, ZOCO meetings. At the October 7th meeting, the ZOCO members seemed supportive of many of the changes, but they had more questions and issues than time allowed. Those issues would need to be addressed later at the following ZOCO meeting. The members wanted to ensure that they fully understood all of the issues in the ZOA, and that the HALRB had ample time to respond to any new text or questions from ZOCO. Unresolved questions centered around the HALRB membership criteria, the suitability of the Multiple Listing Service (MLS) as a standard real estate database, the proposed designation criteria, the proposed designation process, accessibility issues, and the real estate appraisal process.

Staff attended the ZOCO meeting on October 20th to address these questions. New language on the membership criteria, the real estate database, and other edits were provided. One member of ZOCO requested the inclusion of language addressing accessibility issues. Other members of ZOCO expressed concern as to the breadth and number of local historic district designation criteria. Staff agreed to bring these issues forward for discussion with the HALRB at their October 21st meeting (see discussion above).

Planning Commission: At their November 30, 2009, meeting, the Planning Commission voted unanimously (12-0) to recommend that the County Board adopt the proposed amendments to Sections 1, 2, and 31A; and to recommend that the County Board adopt the ordinance to end the terms of the current HALRB members as of midnight, December 31, 2009, and to authorize appointment of members for new terms. HALRB members were present at the hearing, and spoke in favor of the proposed amendments.

The Planning Commission discussed a number of issues with the proposed amendments, including: the appropriateness of removing the Planning Commission review prior to any County Board action on a historic district designation, the appropriateness of two versus three

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designation criteria for historic district status, concerns about the new appeals standard, questions about design review and the history of the use of design guidelines in general, the purpose and necessity of administrative certificates of appropriateness, and the necessity for creating a new committee within the Planning Commission or using an existing committee to review historic district designations prior to a County Board request to advertise. An amendment to strike the word “two” from line 275 and to add the word “three” (changing the number of designation criteria a property would need to meet in order to be considered for historic district status from 2 to 3) failed by a vote of 4-8. An amendment to add the language “and/or vision requirements as stated in Section 32.D.4” to line 406 was unanimously accepted.

CONCLUSION: Staff recommends that the County Board adopt the attached resolution on the attached ordinance to (1) amend, reenact, and recodify the provisions in Sections 1, 2, and 31A of the Arlington County Zoning Ordinance, and (2) to end the terms of the current HALRB members as of midnight, December 31, 2009, and to authorize appointment of members for new terms.

RESOLUTION:

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Note: Text to be added is shown with an underline and text to be deleted is shown with ~~strike~~through. Text to be added or deleted, that has been modified since advertisement is shown with a double underline or ~~double strike~~through, respectively.

RESOLUTION TO AMEND, REENACT AND RECODIFY THE PROPOSED AMENDMENTS TO SECTION 1. "DEFINITIONS", SECTION 2 "GENERAL REGULATIONS", AND SECTION 31A "HISTORIC PRESERVATION DISTRICTS" OF THE ARLINGTON COUNTY ZONING ORDINANCE, AND TO CONSIDER AN ORDINANCE TO END THE TERMS OF THE CURRENT HALRB MEMBERS AS OF MIDNIGHT ON DECEMBER 31, 2009, AND TO AUTHORIZE THE APPOINTMENT OF MEMBERS FOR NEW TERMS. THESE AMENDMENTS ARE NECESSARY IN ORDER TO ENACT PROVISIONS THAT ARE CONSISTENT WITH CURRENT PRACTICE AND VIRGINIA ENABLING LEGISLATION, AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE, AND GOOD ZONING PRACTICE.

The County Board of Arlington County hereby resolves to amend, reenact and recodify the following amendments to Section 1. "Definitions", Section 2 "General Regulations", and Section 31A "Historic Preservation Districts" of the Arlington County Zoning Ordinance, and the ordinance to reappoint members of the HALRB. These amendments would amend, reenact and recodify the proposed zoning ordinance provisions in order to encourage historic preservation activities, promote local historic preservation efforts, ensure that historic preservation activities within the County are consistent with current practice, and for other reasons required by the public necessity, convenience and general welfare and good zoning practice.

1. Sections 1, 2, and 31A of the Arlington County Zoning Ordinance are amended, reenacted and recodified as follows:

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1 **SECTION 1. DEFINITIONS**

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3 **A. [Terms defined.]**

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5 *Camp, trailer.* Same as "Tourist camp."

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7 *Certificate of Appropriateness (CoA).* A certificate issued by the Historical Affairs & Landmark

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8 Review Board, or its designee, or on appeal, the County Board, authorizing alteration,
9 construction, relocation, restoration, grading, or demolition of any building, sign, appurtenance,
10 structure, object, parcel of land or building located within a locally designated historic district
11 and, separately, properties governed by the Columbia Pike Form Based Code ordinance.

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13 *Child care center.* Any facility, but not including family day care homes, operated for the
14 purpose of providing care, protection, and guidance to a group of children separated from their
15 parents or guardians during only part of the twenty-four (24) hour day, and that complies with the
16 requirements of Chapter 52 of the Arlington County Code. Every child care center shall have a
17 use permit as required in Section 5 of the Arlington County Zoning Ordinance. (Ord. No. 93-15,
18 7-27-93)

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21 *Enclosed.* Any roofed-over structure or attachment to a structure is enclosed if sides (other than
22 the side or sides where a structure is attached to a main building) are more than forty (40) percent
23 enclosed with any material other than customary wire or mesh screening.

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25 *Exterior Features.* Shall include the architectural style, general design and general arrangement
26 of the entire exterior envelope of a building structure, site, or object, including the kind and
27 texture of the building material and the type and style of all windows, doors, light fixtures, signs,
28 and other appurtenant fixtures, and other natural features. In the case of signs, "Exterior Features"
29 shall be construed to mean the style, material, size and location of all such signs.

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31 *Family:*

- 32 (a) An individual, or two (2) or more persons related by blood, marriage or adoption, or
33 under approved foster care; or
34 (b) A group of not more than four (4) persons (including servants) whether or not related
35 by blood or marriage living together and sharing living areas in a dwelling unit; or
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40 *Guest room.* A room which is designed or intended for occupancy by one (1) or more guests, but
41 in which no provision is made for cooking, and not including dormitories for sleeping purposes.
42 Each guest room shall be not less than two hundred forty (240) square feet. Every guest room
43 having direct access to a common corridor shall constitute one (1) hotel or motel unit. (7-9-69)

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45 *Historic District.* A landmark, building, structure, property, land or area in which historic events
46 occurred or having special public value because of notable architecture, archaeology, or other
47 features relating to the cultural or artistic heritage of the community, and that is included within
48 an overlay zoning district as established by Ordinance adopted by the County Board in
49 accordance with Section 31A of this Ordinance. Such overlay district shall not have boundaries
50 that extend farther than the property line of the land pertaining to such district.

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52 Historic District Design Guidelines. Those guidelines intended to guide and inform the decisions
53 of the Historical Affairs and Landmark Review Board with regard to alterations to the exterior
54 features of a locally designated historic district.

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57 Historic Landmark. Historic Landmarks shall be those properties listed on the Virginia
58 Landmarks Register, as established by the Virginia Board of Historic Resources, and those
59 properties established as such by the County Board on its own motion.

60
61 *Home occupation.* An occupation conducted as an accessory use in or from a residential dwelling
62 or its accessory building by persons whose principal residence is on the premises which has no
63 more effect on adjacent property than normal residential use. Home occupations include those
64 uses as permitted and regulated in Section 31, subsection A.12. (1-7-81)

65
66 * * *

67 *Parking space.* An off-street place:
68 (a) Available and useable for the parking of one (1) motor vehicle;
69 (b) With a vertical clearance of not less than seven (7) feet; and
70 (c) Having usable access to a street or alley. (6-25-77; Ord. No. 83-9, 3-19-83)

71
72 Person in Charge. The owner of a property or improvements thereon, as shown on the land
73 records of the Clerk of the Circuit Court of Arlington County, and/or any other person having the
74 ability to manage or control the property or improvements, including a mortgagee or vendee in
75 possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person directly
76 or indirectly in control of an improvement or improvement parcel.

77
78 *Principal office.* A place of work, which is normally independent from place of residence, that is
79 routinely occupied during scheduled working hours by the practitioner, including employees, for
80 the purpose of meeting with clients and customers, display of merchandise, and sale of goods and
81 services. (1-7-81)

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83 * * *

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85 **SECTION 2. GENERAL REGULATIONS**

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87 * * *

88 **B. Districts.**

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90 For the purposes of this ordinance, Arlington County is hereby divided into zones or
91 districts:

S-3A	Special Districts
S-D	Special Development Districts

DRAFT

R-20	One-Family Dwelling Districts
R-10	One-Family Dwelling Districts
R-10T	One-Family Residential--Town House Dwelling District
R-8	One-Family Dwelling Districts
R-6	One-Family Dwelling Districts
R-5	One-Family Restricted Two-Family Dwelling Districts
R15-30T	Residential Town House Dwelling Districts
R2-7	Two-Family Dwelling Districts
RA14-26	Apartment Dwelling Districts
RA8-18	Apartment Dwelling Districts
RA7-16	Apartment Dwelling Districts
RA6-15	Apartment Dwelling Districts
RA4.8	Multiple-Family Dwelling Districts
R-C	Apartment Dwelling and Commercial Districts
RA-H	Hotel Districts
RA-H-3.2	Multiple-Family Dwelling and Hotel Districts
C-1	Local Commercial Districts
C-1-O	Limited Commercial-Professional Office Building Districts
C-O-1.0	Commercial Office Building, Hotel and Apartment Districts
C-O-1.5	Commercial Office Building, Hotel and Apartment Districts
C-O-2.5	Commercial Office Building, Hotel and Apartment Districts
C-O	Commercial Office Building, Hotel and Multiple-Family Dwelling Districts

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C-O-A	Commercial, Office and Apartment Districts
C-2	General Commercial Districts
C-R	Commercial Redevelopment Districts
C-3	General Commercial Districts
C-TH	Commercial Town House Districts
CM	Limited Industrial Districts
M-1	Light Industrial Districts
P-S	Public Service Districts
M-2	Service Industrial Districts
<u>HD</u>	<u>Historic Preservation Districts</u>

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Whenever the term "S" District, "R" District, "RA" District, "C" District or "M" District are used herein, they shall be deemed to refer to all districts containing the same letter or letters in their names; provided that the term "M" District shall include "CM" Districts.
(Ord. No. 82-1, 1-9-82)

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SECTION 31A. HISTORIC PRESERVATION DISTRICTS

The purpose of these regulations is to promote the ~~educational, cultural and economic welfare of the public of the County by identifying, preserving and protecting historic structures, sites, documents, objects and places of historic value to the community at large, including monuments, streets, squares and neighborhoods all of which serve as reminders of the history and cultural heritage of the County, State, or Nation.~~ In addition, it is the purpose of these regulations to provide the County Board with assistance in the naming of public facilities and advice on other matters of historical value. Further, it is the purpose of these regulations to strengthen the economy of the County by stabilizing and improving property values in historic areas, and to encourage new buildings and developments that will be harmonious with the existing historic buildings and squares. the health, safety, and general welfare of the public through the identification, preservation, and enhancement of buildings, structures, landscapes, settings, neighborhoods, places and features with special historical, cultural, architectural and archaeological significance through the establishment of historic districts, and through the protection of other significant properties. To achieve these general purposes, the County seeks to take the following steps to preserve and protect

118 buildings, structures and properties that serve as important visible reminders of the historic,
119 cultural, architectural, and archaeological heritage of Arlington County, the
120 Commonwealth of Virginia, or the United States of America:

- 121
- 122 1. Promote local historic preservation efforts through the identification and
123 protection of historic resources throughout the county, and through the
124 designation of local historic districts;
- 125 2. Assure that, within Arlington County’s historic districts, new structures,
126 buildings, additions, landscaping and related elements will be in harmony with
127 their setting and environs;
- 128 3. Promote an enhanced quality of life within the County.
- 129 4. Maintain and improve property values by providing incentives for the upkeep,
130 rehabilitation and restoration of older structures and buildings in a safe and
131 healthful manner, and by encouraging desirable uses and forms of
132 development that will lead to the continuance, conservation and improvement of
133 the county’s historic, cultural and architectural resources and institutions within
134 their settings;
- 135 5. Encourage nomination of historic properties to the National Register of Historic
136 Places and the Virginia Landmarks Register; and
- 137 6. Promote tourism and enhance business and industry, through the protection of,
138 and education about, historic, cultural and archaeological resources;

139
140 (Ord. No. 83-1, 1-8-83)

141
142 **A. Definitions.**

- 143 ~~1. An historical landmark or historic landmark is any site (including significant trees~~
144 ~~or other plant life located thereon), building or structure of particular historic~~
145 ~~significance to the County, the State or the Nation. Landmarks include sites,~~
146 ~~buildings or structures where cultural, political, archaeological, spiritual,~~
147 ~~economic, social or artistic history of the community, state or nation is reflected or~~
148 ~~exemplified or which are identified with historic personages or with important~~
149 ~~events in local, state or national history, or which embody the distinguishing~~
150 ~~characteristics of an architectural specimen, inherently valuable for a~~
151 ~~representation of a period, style or method of construction, or a notable work of~~
152 ~~construction, or a notable work of a master designer or architect whose individual~~
153 ~~genius influenced his age.~~
- 154 ~~2. An historical district is any area which includes or encompasses such historic~~
155 ~~sites, landmarks, buildings, signs, appurtenances, structures or objects as the~~
156 ~~County Board may determine to be appropriate for historical preservation. Such~~
157 ~~designated district or districts shall not extend farther than the property line of the~~
158 ~~land pertaining to such historical landmarks, sites, buildings, signs, appurtenances,~~
159 ~~structures or objects.~~
- 160 ~~3. Exterior features shall include the architectural style, general design and general~~
161 ~~arrangement of the exterior of a building or other structure, including the color,~~
162 ~~the kind and texture of the building material and the type and style of all windows,~~
163 ~~doors, light fixtures, signs, other appurtenant fixtures and other natural features~~

such as trees and shrubbery.

4. Person in charge shall be the person or persons possessed of the freehold of an improvement or improvement parcel or a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person directly or indirectly in control of an improvement or improvement parcel.

(12-2-78)

B. A. Historical Affairs and Landmark Review Board.

1. Creation of Historical Affairs and Landmark Review Board: There is hereby created and established an Historical Affairs and Landmark Review Board which shall consist of no more than fifteen (15) members who are residents of the County who have an interest, competence, or knowledge of historic preservation and who shall be appointed by the County Board. The Historical Affairs and Landmark Review Board shall be the architectural review board provided by Section 15.1-503.2 of the Code of Virginia. The Historical Affairs and Landmark Review Board shall hereafter be referred to as "The Review Board."

2. Composition of the Review Board: The County Board shall select the members of the review board ~~from one (1) or more of the following organizations or professions~~ that meet the criteria set forth by the Virginia Department of Historic Resources Certified Local Government (CLG) program.

- a. ~~The Arlington Historical Society, Inc.;~~
- b. ~~Local licensed real estate agents;~~
- c. ~~The local Chamber of Commerce;~~
- d. ~~The American Institute of Architects;~~
- e. ~~The American Institute of Certified Planners;~~
- f. ~~The American Society of Landscape Architects;~~
- g. ~~The Arlington County Bar Association;~~
- h. ~~Interested citizens;~~

~~provided, however, that at least two (2) of the members shall be selected from subsection B.2.d. above one (1) from subsections B.2.a. and B.2.g., above~~

3. Terms of Office.

a. The members of the review board shall serve overlapping terms of four (4) years. Initially, four (4) members shall be appointed for a term of one (1) year, four (4) members shall be appointed for a term of two (2) years, four (4) members shall be appointed for a term of three (3) years, and three (3) members shall be appointed for a term of four (4) years. Thereafter, all appointments shall be made for a term of four (4) years. Where the County Board appoints fewer than fifteen (15) members, the number of appointees with each term length shall be reduced proportionally.

b. Members may be reappointed for consecutive terms.

c. If a member representing a ~~designated organization or profession~~ designated as a requirement by the CLG program ceases to be a member of that ~~organization or profession, or if a vacancy occurs for some other~~

~~reason, then that member will no longer be a member of the Review Board. If a vacancy occurs for any reason, including those noted above, then a new appointment shall be made by the County Board for the remainder of the unexpired term.~~

~~4. Compensation: Members of the review board shall serve without pay.~~

5. ~~4.~~ Organization; Officers; Rules; Meetings:

a. ~~At their first meeting, the appointed members shall elect officers who shall serve for terms of one (1) year.~~ The Review Board shall annually elect from its membership a chairman and vice-chairman, at the first meeting held on or after December 1st in each calendar year, for a one year term of office. In the event such a person is unable to serve for the full term for any reason, a replacement shall be elected to serve for the remainder of the term.

b. The ~~review board~~ Review Board may establish any rules necessary for the orderly conduct of its business.

c. All meetings of the ~~review board~~ Review Board shall be open to the public; ~~no meeting shall take place unless a majority of the members are present and no action shall be taken except by the affirmative vote of a majority of the members present at the meeting, which in no event shall be less than a quorum.~~ to the extent required by the Code of Virginia.

~~d. The review board shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions.~~

(Ord. No. 83-1, 1-8-83; Ord. No. 91-28, 7-30-91; Ord. No. 92-7, 4-4-92)

B. Responsibilities of the Historical Affairs and Landmark Review Board.

The function of the Review Board shall include, but not necessarily be limited to, the following activities:

1. Approve, deny, or approve with conditions Certificate of Appropriateness applications in accordance with the provisions of Subsection E.

2. Recommend additional surveys of potential historic districts, and recommend properties for designation as local historic districts.

3. Approve, adopt, or amend Design Guidelines for the orderly review of CoA applications in designated historic districts.

4. Act in an advisory role on historic preservation and historical affairs to the County Board, County Board appointed commissions and boards, and other groups.

5. Produce an annual report of the Review Board's activities.

6. Prepare, circulate, and approve text for local historic markers.

7. Organize, develop, and execute educational programs focusing on Arlington's heritage and local historic preservation efforts.

8. Undertake such responsibilities as the County Board may direct to protect historic properties.

9. Provide the County Board with assistance in the naming of public facilities and advice on other matters of historical value.

256 **C. Establishment of Historic Districts. The Historic District (Overlay) is hereby established**
257 **as an overlay district, meaning that this district is overlaid upon other districts and the**
258 **land so encumbered may be used in a manner permitted in the underlying district only if**
259 **and to the extent such use also complies within the regulations contained herein.**

260 **Additionally:**

261 Districts shall be established by ordinance.

262 1. Nominations for inclusion within an historic district shall be made by referral to
263 the Review Board.

264 a. An affected property owner shall be informed of the nomination within ten
265 (10) business days of the receipt of a request for consideration via first
266 class mail.

267 b. The Review Board shall hold a public hearing on its recommendation for
268 historic district status after due notice has been given to the owners of all
269 properties to be included in such district(s), and the civic association
270 which includes the proposed district within its boundaries.

271 c. Before establishing findings of historical significance and making a
272 recommendation to the Planning Commission and County Board for
273 historic district status, the Review Board shall not recommend designation
274 unless it finds that at least two of the following Criteria 1 - 11 have been
275 met. The Review Board retains the authority to not recommend
276 designation even if the property does meet at least two of the criteria.

277 1). The property is listed or is eligible for inclusion in the National
278 Register of Historic Places;

279 2). The property has character, interest, or value as part of the
280 development, heritage, or cultural characteristics of the county, state,
281 or nation;

282 3). The property was the site of a significant local, state, or national
283 event;

284 4). The property is associated with a person or persons who significantly
285 contributed to the development of the county, state, or nation;

286 5). The property embodies distinguishing characteristics of an
287 architectural style valuable for the study of a period, type, or method
288 of construction;

289 6). The property is identified as the work of a master builder, architect,
290 or landscape architect;

291 7). The property embodies elements of design, detailing, materials, or
292 craftsmanship that render it structurally or architecturally
293 significant;

294 8). The property has a ~~unique~~-distinctive location, or singular physical
295 characteristics that make it an established or familiar visual feature;

296 9). The property is a particularly fine or unique example of a utilitarian
297 structure representing a period or style in the commercial, industrial, or
298 agricultural development of the county, with a high level of historic
299 integrity or architectural significance;

300 10). The property has the potential to yield information important to the
301 prehistory or history of the county, state, or nation; or

- 302 11). The property is suitable for preservation or restoration.
- 303 d. If the Review Board recommends designation, then written copies of the
- 304 Review Board's recommendation, including determinations of historical
- 305 significance, and recommendations concerning the area to be included in
- 306 the proposed historic district, shall be transmitted for review to the County
- 307 Board.
- 308 e. In the event that the Review Board does not recommend designation, the
- 309 County Board, upon its own motion, may initiate the designation review
- 310 process.
- 311 ~~2. The ordinance establishing a neighborhood historic district may identify specific~~
- 312 ~~exterior features as historically irrelevant to that district.~~
- 313 ~~3. Before the establishment of a historic district, the review board shall conduct~~
- 314 ~~studies and research and make a report on the historic significance of the exteriors~~
- 315 ~~of buildings, structures, features, sites, objects and surroundings in the County.~~
- 316 ~~The review board's report shall contain recommendations concerning the area(s)~~
- 317 ~~to be included in the proposed historic districts.~~
- 318 ~~4. Copies of the report shall be transmitted for review and recommendation to the~~
- 319 ~~planning commission. Sixty (60) days after the transmittal, the review board shall~~
- 320 ~~hold a public hearing thereon after due notice, which shall include a written notice~~
- 321 ~~to the owners of all properties to be included in such district(s).~~
- 322 ~~5. After said public hearing, the review board shall submit a final report with its~~
- 323 ~~recommendations and those of the planning commission and a draft of a proposed~~
- 324 ~~ordinance to the County Board.~~
- 325 ~~6. 2. The County Board shall act on the report and recommendations in accordance~~
- 326 ~~with the normal zoning approval procedure as specified in Section 15.1-431 of the~~
- 327 ~~Code of Virginia. The designation of such an historic district shall be shown as an~~
- 328 ~~overlay on the map referred to in Section 2.C. of the Zoning Ordinance.~~
- 329 ~~3. Upon adoption of the ordinance, the owners and occupants of each designated~~
- 330 ~~historic district shall be given written notification of such designation by the~~
- 331 ~~County Board.~~

(Ord. No. 83-1, 1-8-83; Ord. No. 89-4, 4-8-89)

~~D. Designation of Historic Landmarks:~~

- 336 ~~1. After consideration by the review board or a submittal to the review board not~~
- 337 ~~acted on within thirty (30) days, the County Board may, after holding a public~~
- 338 ~~hearing preceded by giving the notice required for zoning ordinances to the~~
- 339 ~~owners and occupants of the affected property and posting notice in its normal~~
- 340 ~~manner, adopt an ordinance designating one (1) or more historic landmarks on the~~
- 341 ~~following criteria:~~
- 342 ~~a. Historical significance;~~
- 343 ~~b. Suitability for preservation or restoration;~~
- 344 ~~c. Educational value.~~
- 345 ~~2. Upon adoption of the ordinance, the owners and occupants of each designated~~
- 346 ~~historic landmark shall be given written notification of such designation by the~~
- 347 ~~County Board.~~

County Board.

~~3. One (1) copy of the ordinance shall be filed by the review board in the Office of Register of Deeds of Arlington County.~~

~~4. The ordinance may also provide for a suitable sign or marker on or near the property indicating that the property has been so designated.~~

D. Building or Altering in a District; Certificate of Appropriateness (CoA).

1. After the designation of an historic district, no exterior portion of any landmark, building or other structure (including walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor aboveground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a ~~certificate of appropriateness CoA as to exterior features~~ has been submitted to and approved by the ~~review board~~ Review Board or its designee, or, on appeal from a decision of the review board Review Board, by the County Board as being architecturally or historically compatible with the historic district, buildings, or structures therein.
2. ~~Such certificate~~ The CoA must be issued by the ~~review board~~ Review Board or its designee, or, on appeal, by the County Board prior to the issuance of a building permit (or other permit granted for purposes of constructing or altering structures).
3. A ~~certificate of appropriateness CoA~~ shall be required regardless of whether or not a building permit is required.
4. ~~In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs.~~
5. The ~~historic landmark review board~~ Review Board or, on appeal, the County Board shall not consider interior arrangement and shall take no action under this subsection except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features in the historic district which would be incongruous with the historical aspects of the district.
6. ~~If the ordinance establishing a neighborhood historic district has identified specific exterior features as historically irrelevant to that district, nothing in this subsection shall require a certificate of appropriateness before those features may be changed.~~ Any CoA issued pursuant to this Section shall expire (12) months from the date of approval if the authorized work has not commenced if a building permit is not required. If a building permit is required, it must be diligently pursued by the applicant after the CoA approval.

(8-5-78; Ord. No. 83-1, 1-8-83; Ord. No. 89-4, 4-8-89)

E. Certificate Procedure; Notice; Reasons; Appeal.

1. All applications for Certificates of Appropriateness shall be submitted on forms specified by the County. When an initial determination has been made that the application is complete, then the application shall be forwarded to the Review Board. The Review Board may request additional information if needed.
2. The Review Board may authorize County Staff to issue Certificates of

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Appropriateness that meet certain standards. Staff may administratively issue Certificates of Appropriateness where the Review Board has specified:
a. the properties eligible for designee action;
b. the specific category of modifications for which the designee may grant a CoA; and
c. the standards the designee must use in deciding whether to issue the CoA.

3. As part of the Certificate of Appropriateness review process, the Review Board may find that the proposed setback for buildings and structures is consistent with the existing streetscape and historic district guidelines even though such setback is inconsistent with the requirements of the underlying zoning district. When the Review Board makes this finding, the Zoning Administrator shall grant a modification to the underlying setbacks, unless such modification violates ~~sight distance requirements~~ vision clearance requirements from Section 32.D.4.

± 4. Prior to issuance or denial of action on a certificate of appropriateness CoA, the review board Review Board or, on appeal to the County Board as provided by paragraph F.4.E.12 , below, the County Board shall give the applicant and other persons an opportunity to be heard after the following notice has been given:
a. A notice of the public hearing shall be published ten (10) days prior to the hearing date in a newspaper having general circulation in the County;
b. Notice shall be sent by first class mail to owner(s) of the property which will be the subject of the hearing and owner(s) of abutting property and property immediately across the street from the affected property, including any property which lies in an adjoining jurisdiction, at least ten (10) days prior to the public hearing;
c. The civic association representing the neighborhood where the affected property is located shall be notified in writing at least seven (7) days prior to the public hearing;
d. One (1) placard containing the public hearing notice shall be posted on the affected property and no fewer than four (4) placards shall be posted in the surrounding neighborhood at least seven (7) days prior to the public hearing.
e. If any setback modifications are requested as part of the CoA, that information should be included in all notices.

5. The Review Board shall utilize the historic district design guidelines relevant to the specific historic district under consideration in their review of any application for alterations to an exterior feature. The design guidelines will guide and inform the decisions of the Review Board with regard to these exterior alterations. The design guidelines are for the benefit of the applicant as well as the Review Board and shall not bind the County Board in its consideration of appeals under subsection 31A.E. 12 of this Ordinance. Design guidelines for an historic district may be established, amended, or updated by the Review Board. Nothing herein is meant to preclude the County Board from adopting historic district design guidelines and the Review Board shall not adopt guidelines that are inconsistent with County Board adopted guidelines.

6. The design guidelines shall also describe which modifications, if any,

440 _____ can be administratively approved by its designee, and shall provide specific
441 _____ standards for such approval.

442 ~~7.~~ Amendments or updates to existing design guidelines may be approved in the
443 _____ same manner as the original.

444 ~~8.~~ Design guidelines shall not be created, amended, or updated except after a
445 _____ public hearing.

446 ~~9.~~ For districts without approved design guidelines, *The Secretary of the Interior's*
447 *Standards for Rehabilitation, The Secretary of the Interior's Standards for the*
448 *Treatment of Historic Properties with Guidelines for the Treatment of Cultural*
449 *Landscapes, or The Secretary of the Interior's Standards and Guidelines for*
450 *Archaeology Documentation shall be used to guide the CoA review process as*
451 *amended.*

452 ~~2-10.~~ If the ~~review board~~ Review Board makes the findings called for in Subsection D1,
453 or, after an appeal as provided in paragraph F.4.E.12, below, the County Board
454 determines that the proposed construction, reconstruction, alteration, moving or
455 demolition is ~~appropriate architecturally or historically compatible with the~~
456 historic districts, buildings, or structures therein, it shall forthwith approve such
457 application and shall issue to the applicant a ~~certificate of appropriateness CoA.~~

458 ~~3-11.~~ If the ~~review board~~ Review Board or, after an appeal as provided in paragraph
459 F.4.E.12., below, the County Board determines that a ~~certificate of~~
460 appropriateness CoA should not be issued, it shall forthwith notify the applicant
461 of such determination, furnishing him a copy of the reasons ~~therefore~~ and the
462 recommendations, if any, as appearing in the records of the ~~review board~~ Review
463 Board.

464 ~~4-12.~~ Any person or persons jointly or severally aggrieved by any final decision of the
465 ~~review board~~ Review Board under subsections 31A.D., or 31A.E., ~~or 31A.F.~~,
466 above, may, within thirty (30) days after the final decision, have the right of
467 appeal ~~of that decision~~ to the County Board of Arlington County by filing a
468 petition which shall stay the decision of the ~~review board~~ Review Board pending
469 the outcome of the appeal, provided that such a petition shall not stay a decision
470 which denies the right to raze or demolish a historic landmark, building or
471 structure. The County Board may reverse or modify, in whole or in part, any
472 decision it finds upon review to be erroneous, after giving the Review Board's
473 decision due weight. The County Board may reverse or modify, in whole or in
474 part, any decision it finds upon review to be contrary to law or that is arbitrary and
475 constitutes an abuse of discretion, or it may affirm the decision of the board.

476 ~~5-13.~~ Any person or persons jointly or severally aggrieved by any final decision of the
477 County Board under subsections 31A.C., 31A.D., or 31A.E., ~~or 31A.F.~~, above,
478 may within thirty (30) days after the final decision have the right to appeal to the
479 ~~circuit court~~ Circuit Court of Arlington County by filing a petition at law which
480 shall stay the decision of the County Board pending the outcome of the appeal,
481 provided that such a petition shall not stay a decision which denies the right to
482 raze or demolish a historic ~~landmark~~, building or structure within an historic
483 district. The ~~court~~ Circuit Court may reverse or modify, in whole or in part, any
484 decision it finds upon review to be contrary to law or that is arbitrary and
485 constitutes an abuse of discretion, or it may affirm the decision of the board.

- 486 6-14. In addition to the right of appeal, the property owner of an historic landmark,
487 building or structure shall have a right to demolish or raze such landmark,
488 building or structure in an historic district provided that:
489 a. ~~He~~ The owner has applied to the ~~review board~~ Review Board for such
490 right and on appeal been denied such right by the County Board;
491 b. ~~He~~ The owner has, for the period of time set forth below at a price
492 reasonably related to fair market value, made a bona fide offer to sell such
493 ~~landmark,~~ building or structure and the land pertaining to it to the County
494 or to any person, firm, corporation, government or government agency,
495 political subdivision or agency, which give reasonable assurance that it is
496 willing to preserve and restore the landmark, building or structure and the
497 land pertaining to it; and
498 c. No bona fide contract, binding on all parties to it, shall have been executed
499 for the sale of any such landmark, building or structure and the land
500 pertaining to it, prior to the expiration of the period of time set forth
501 below.
- 502 7-15. No such offer to sell may be made more than one (1) year after a final decision of
503 the County Board but no appeal to the ~~circuit court~~ Circuit Court from a decision
504 of the County Board shall stay or otherwise impair the right of such owner to offer
505 for sale. After one (1) year has passed from any such final decision (which has not
506 been appealed or has been affirmed) of the County Board, the owner may renew
507 his request to the ~~review board~~ Review Board for approval of a razing or
508 demolition of the historic ~~landmark,~~ building or structure.
- 509 8-16. The time schedule for offers to sell shall be as follows:
510 Offering price under twenty-five thousand dollars (\$25,000.00)--Three (3)
511 months.
512 Offering price of twenty-five thousand dollars (\$25,000.00) or more and less than
513 forty thousand dollars (\$40,000.00)--Four (4) months.
514 Offering price of forty thousand dollars (\$40,000.00) or more and less than fifty-
515 five thousand dollars (\$55,000.00)--Five (5) months.
516 Offering price of fifty-five thousand dollars (\$55,000.00) or more and less than
517 seventy-five thousand dollars (\$75,000.00)--Six (6) months.
518 Offering price of seventy-five thousand dollars (\$75,000.00) or more and less than
519 ninety thousand dollars (\$90,000.00)--Seven (7) months.
520 Offering price of ninety thousand dollars (\$90,000.00) or more--Twelve (12)
521 months.
- 522 17. Before making a bona fide offer to sell as provided for in this section, an owner
523 shall first file a statement with the County Manager. The statement shall identify
524 the property, state the offering price, reference the property's Multiple Listing
525 Service (MLS) identification number, or similar identifying information from a
526 listing in an equivalent, comparable, real estate database system, the date the offer
527 of sale is to begin and name and address of the listing real estate agent, if any. The
528 statement shall provide assurances that the building or structure shall be
529 maintained during the period of offering for sale. No time period set forth in the
530 time schedule contained in Section E.16 shall begin to run until said statement has
531 been filed. Within five (5) days of receipt of a statement, copies of the statement

532 shall be delivered to the Review Board members. If at any time the offering price
533 of the property increases, the owner shall refile the statement with the County
534 Manager.

535 18. During this period, the County may negotiate with the owner or person in charge
536 of the historic district and with other parties in an effort to find a means of
537 preserving the property.

538 19. During this period, or at any time prior thereto following notice to the owner and
539 where such action is reasonably necessary or appropriate for the continued
540 preservation of the property, the County Board may enter into negotiations with
541 the owner for the acquisition by gift, purchase, exchange or otherwise of the
542 property or any interest therein.

543 20. Question as to Price. The fact that a building or structure has been offered for sale
544 at a price reasonably related to fair market value (FMV) may be questioned,
545 provided that a petition in writing is filed with the County Manager within fifteen
546 (15) days after the offer of sale has begun. The petition may be filed by the
547 Review Board, or a petition in writing signed by at least five persons owning real
548 estate in the vicinity of the property offered for sale. Alternatively, the County
549 Manager may do the same within the same time frame. The County Manager
550 retains the discretion to accept or reject the aforementioned petitions as grounds
551 for initiating an appraisal process. Within fifteen (15) business days after the filing
552 of a petition questioning the reasonableness of the sale price offered, the County
553 and the owner shall each give written notice to the other setting forth the name
554 and address of an appraiser licensed to perform appraisals in the Commonwealth
555 of Virginia ("Appraiser"), selected by such party, who has agreed to act in such
556 capacity to determine whether the offering price of the property is reasonably
557 related to the FMV of the property. If either party shall fail to select an Appraiser
558 aforesaid, and such failure shall continue for a period of ten (10) business days
559 after receipt of written notice from the other party, then the FMV shall be
560 determined by the Appraiser selected by the other party. When the Appraiser(s)
561 have been selected, then each Appraiser shall thereupon independently make
562 his/her determination of whether the offering price of the property is reasonably
563 related to the FMV of the property within twenty-one (21) days. If the two
564 Appraisers' disagree significantly as to their determinations of the FMV of the
565 property, then the two Appraisers shall appoint a third Appraiser within ten (10)
566 business days after the second of the two determinations described above has been
567 rendered. The third Appraiser shall independently make his/her determination of
568 whether the offering price of the property is reasonably related to the FMV of the
569 property within thirty (30) days after his/her appointment. Each party shall pay for
570 the cost of its Appraiser and one-half of the cost of the third Appraiser. The
571 opinion of any two of the three appraisers shall be final and binding. In the event
572 the opinion is to the effect that the offer to sell the building or structure is at a
573 price reasonably related to its FMV, the owner may continue to offer the property
574 for sale pursuant to Sections ~~E. F.14~~ ~~E. F.16~~. In the event the opinion is to the
575 effect that the offer to sell the building or structure is not at a price reasonably
576 related to its FMV, the date of the offer to sell first established pursuant to Section
577 ~~E. F.11~~ shall be void and the owner, if he wishes to take advantage of the right

provided in said section, must refile the notice provided for above.
Notwithstanding an adverse opinion by the Appraisers if an owner has entered into a binding contract as provided in Section E F.14.c prior to the date the Appraisers have filed their report with the County Manager, the price shall be deemed reasonably related to the FMV, for the purposes of this contract.

(8-5-78; 12-2-78; Ord. No. 83-1, 1-8-83; Ord. No. 91-28, 7-30-91)

G. F. General Maintenance; Ordinary Maintenance Allowed; Public Safety.

1. Nothing in ~~subsections 31A.E., or 31A.I.~~ this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior feature in an historic district ~~or of any landmark~~ which does not involve a change in design, material, ~~color~~ or outer appearance thereof.
2. Nothing in ~~subsections 31A.E., or 31A.I.~~ this ordinance shall prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the ~~building inspector~~ Building Official shall certify is required by ~~the~~ to maintain and uphold public safety because of an unsafe or dangerous condition that cannot otherwise be remedied and that is not the result, either directly or indirectly, of the owner's negligence.
3. Neither the owner of nor the person in charge of a structure within an historic district shall permit such structure to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce a detrimental effect upon the character of the district as a whole or in part, and character of the landmark or structure in question, including but not limited to:
 - a. The deterioration of exterior walls or other vertical supports.
 - b. The deterioration of roofs or other horizontal members.
 - c. The deterioration of exterior chimneys.
 - d. The deterioration or crumbling of exterior plaster or mortar.
 - e. The ineffective waterproofing of exterior walls, roofs and foundations including broken windows or doors.
 - f. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe, conditions or conditions.

H. G. Acquisition of Historic Easements.

1. The County may acquire, by purchase or donation or eminent domain, historic easements in any area within its jurisdiction wherever and to the extent that the County Board determines that the acquisition will be in the public interest. ~~For the purpose of this section, the term "historic easement" means any easement, restriction, covenant or condition running with the land, designated to preserve, maintain or enhance all or part of the existing state of places of historic, architectural or cultural significance. The County Board shall not use the right of condemnation under this paragraph unless the historic value of such areas, landmark, building, structure, land pertaining thereto, or estate or interest therein~~

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is about to be destroyed, and as permitted by Virginia Law.

624
625 (8-5-78)

626
627 ~~I. Alteration of a Landmark.~~

- 628
- 629 ~~1. An historic landmark designated by ordinance as herein provided may be~~
- 630 ~~demolished, materially altered, remodeled, relocated or put to a different use only~~
- 631 ~~after written notice of the owner's (or person's in charge) proposed action has been~~
- 632 ~~given to the County Board for the period specified in subsection 31A.F.8.~~
- 633 ~~2. During this period, the review board may negotiate with the owner or person in~~
- 634 ~~charge of the landmark and with other parties in an effort to find a means of~~
- 635 ~~preserving the property.~~
- 636 ~~3. During this period, or at any time prior thereto following notice of designation to~~
- 637 ~~the owner and where such action is reasonably necessary or appropriate for the~~
- 638 ~~continued preservation of the property, the County Board may enter into~~
- 639 ~~negotiations with the owner for the acquisition by gift, purchase, exchange or~~
- 640 ~~otherwise of the property or any interest therein.~~
- 641 ~~4. The County Board may reduce the waiting period required by this section in any~~
- 642 ~~case where the owner would suffer extreme hardship, not including loss of profit,~~
- 643 ~~unless a reduction in the required period were allowed.~~
- 644 ~~5. The County Board shall have the discretionary authority to waive all or any~~
- 645 ~~portion of the required waiting period, provided, that the alteration, remodeling,~~
- 646 ~~relocation or change of use is undertaken subject to conditions adopted by the~~
- 647 ~~review board ensuring the continued maintenance of the historical, architectural or~~
- 648 ~~cultural integrity and character of the property.~~

649 (Ord. No. 83-1, 1-8-83)

650
651 **H. Transfer of Development Rights (TDRs).**

- 652
- 653 ~~1. The County Board may seek findings and recommendations from the Review~~
- 654 ~~Board on Transfer of Development Rights applications per Section 36.H.5b of the~~
- 655 ~~Zoning Ordinance.~~

656
657 **J. I. Federal Grants.**

- 658
- 659 1. The County Board may, wherever practicable, make use of federal grants as
- 660 provided in the National Historic Preservation Act of 1966.

661
662 **K. J. Regulations.**

- 663
- 664 1. The County Board may from time to time promulgate, amend and rescind such
- 665 regulations as it may deem necessary to effectuate the purposes of these
- 666 regulations.

667
668 ~~L. Investigations and Reports.~~

669

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670 ~~1. The review board may make such investigations and studies of matters relating to~~
671 ~~the protection, enhancement, perpetuation or use of landmarks and historic~~
672 ~~districts, and to the restoration of landmarks as the review board may, from time~~
673 ~~to time deem necessary or appropriate for the effectuation of the purposes of these~~
674 ~~regulations, and may submit reports and recommendations as to such matters to~~
675 ~~the County Board and other agencies of the County. In making such investigations~~
676 ~~and studies, and review board may hold such public hearings as it may deem~~
677 ~~necessary and appropriate.~~

678 (Ord. No. 83-1, 1-8-83)

679
680 **M. Maintenance and Repair Required.**

- 681 ~~1. Neither the owner of nor the person in charge of a structure within an historic~~
682 ~~district or of a designated landmark shall permit such structure or landmark to fall~~
683 ~~into a state of disrepair which may result in the deterioration of any exterior~~
684 ~~appurtenance or architectural feature so as to produce or tend to produce a~~
685 ~~detrimental effect upon the character of the district as a whole or the lift, and~~
686 ~~character of the landmark or structure in question, including but not limited to:~~
687 ~~a. The deterioration of exterior walls or other vertical supports.~~
688 ~~b. The deterioration of roofs or other horizontal members.~~
689 ~~c. The deterioration of exterior chimneys.~~
690 ~~d. The deterioration or crumbling of exterior plaster or mortar.~~
691 ~~e. The ineffective waterproofing of exterior walls, roofs and foundations~~
692 ~~including broken windows or doors.~~
693 ~~f. The deterioration of any feature so as to create or permit the creation of~~
694 ~~any hazardous or unsafe, conditions or conditions.~~

695
696
697 **N. K. Penalties.** Penalties shall be as provided in Section 37.

698
699
700 (Ord. No. 90-28, 8-11-90; Ord. No. 91-28, 7-30-91; Ord. No. 09-02, 2-21-09)

701
702
703 **O. Separability.**

- 704
705 ~~1. If any provision of this Section 31A or the application thereof to any person or~~
706 ~~circumstances is held invalid, the remainder of this section and the application of~~
707 ~~such provisions to other persons or circumstances shall not be affected thereby.~~

708 (9-11-76; 8-5-78; 12-2-78)

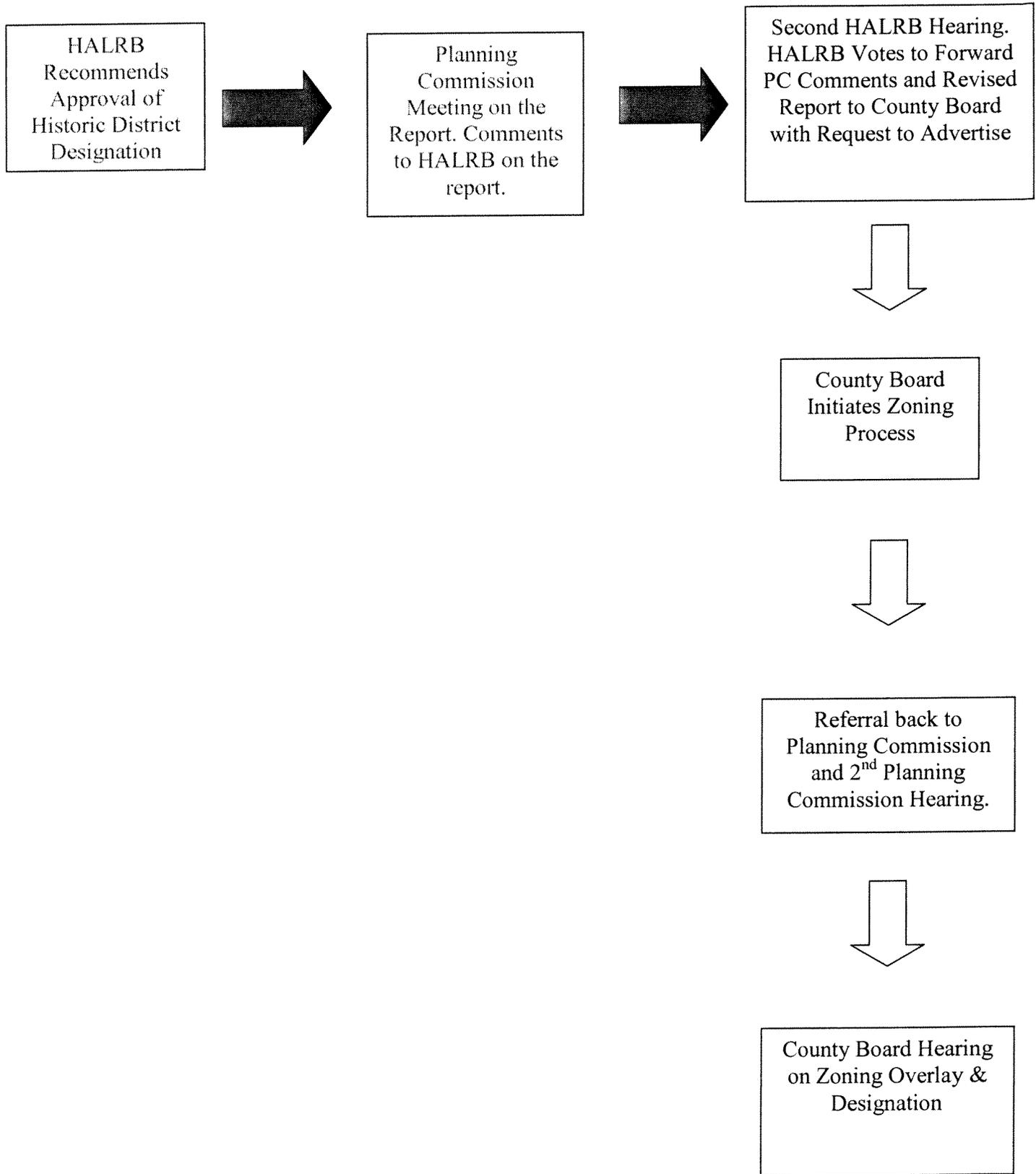
709 * * *

2. The terms of all currently-appointed members of the Historic Affairs and Landmark Review Board (“HALRB”) shall automatically terminate as of midnight on December 31, 2009. Prior to that time, the County Board of Arlington County shall appoint new members to the HALRB.

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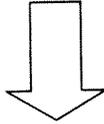
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Attachment A
Existing Historic District Designation Process

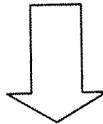


Proposed Historic District Designation Process

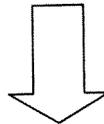
HALRB Recommends Approval of Historic District Designation. HALRB forwards recommendation to County Board with Request to Advertise.



County Board Initiates Zoning Process. Sets Planning Commission hearing time limit.



Referral to Planning Commission & Planning Commission Hearing.



County Board Hearing on Zoning Overlay & Designation.

Code of Virginia

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.1, including § 33.1-41.1 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to

the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

(1973, c. 270, § 15.1-503.2; 1974, c. 90; 1975, cc. 98, 574, 575, 641; 1977, c. 473; 1987, c. 563; 1988, c. 700; 1989, c. 174; 1993, c. 770; 1996, c. 424; 1997, cc. 587, 676.)