

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

March 30, 2009

**CALL TO PODIUM:**

**Eliza Voigt**

**RESPONSIBLE STAFF:**

**Eliza Voigt, Planner  
Lauren Pruss, Planning Director  
Lynn Board, City Attorney  
Greg Ossont, Director of Planning  
and Code**

**AGENDA ITEM:**

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District Commission
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other: Certificate of Approval

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE: MAHDC SITE VISIT REPORT**

Work Session on MAHDC Site Visit Report and Recommendations

**SUPPORTING BACKGROUND:**

In June 2008, Susan West Montgomery from the Maryland Association of Historic District Commissions (MAHDC) visited Gaithersburg as a part of a program to review and assess how the HDC and HPAC conduct their activities. The purpose of this visit was to provide suggestions to the HDC and HPAC on ways to possibly improve their operations and to find out how the MAHDC can better serve the state historic preservation commissions. The visit to Gaithersburg was one of ten made to commissions across the state in 2008. In December, the MAHDC presented the City with a report and recommendations (attached).

Staff has prepared a memo to the HDC outlining the nine MAHDC recommendations and a staff response for each suggestion. Many of the recommendations are operational (#2;5;6;7;8) and include the addition of specific language to the HAWP application or the recommendation of specific information on the City's historic preservation website. Staff has begun to implement these changes. However, some of the changes are more policy-oriented and are the subject of the work session. The power point presentation will highlight these recommendations.

Cory Kegerise, Administrator of Local Preservation Programs at the Maryland Historic Trust will be in attendance.

**Attachments:**

- Staff memo to HDC - 3/13/09
- Memo from Asst. City Manager Felton to City Manager Jones - 2/18/09
- Copy of Work Session Power Point Presentation
- MAHDC Site Visit Report - 12/17/08

**DESIRED OUTCOME:**

Conduct work session and provide staff guidance.

MEMORANDUM TO: Historic District Commission (HDC)

VIA: Angel L. Jones, City Manager

FROM: Eliza Voigt, Planner  
Planning and Code Administration

DATE: March 13, 2009

SUBJECT: Maryland Association of Historic District  
Commissions (MAHDC) Report and Staff  
Recommendations

The site visit report from the Maryland Association of Historic District Commissions (MAHDC) was previously distributed to you. Staff has reviewed the recommendations by the MAHDC and has provided a response to each. The report and responses are attached.

Please contact me if you have any questions at 301-258-6330 or [evoigt@gaitHERSBURGMD.GOV](mailto:evoigt@gaitHERSBURGMD.GOV)

Attachments

cc: Greg Ossont, Director, Planning and Code Administration  
Lauren Pruss, Planning Director

## **MAHDC RECOMMENDATIONS TO THE COMMISSION:**

1. The HDC's ordinance and Rules of Procedure authorize the City Council to appoint 6 members to the Commission and states that they will elect a Chairman from among them. It does not indicate that these must be City Council and that the Mayor will serve as Chairman, although that has been the practice. The lack of a forthright statement of Gaithersburg's policy regarding appointments to the Commission is troubling. If this is the policy, state it, otherwise you are implying that appointments could come from the general public, which is not the case.

**A1. Staff suggests updating the Rules of Procedures for the HDC to clearly state the City's policy on appointments to the HDC.**

2. The ordinance uses several terms that are not standard in historic preservation ordinances including "impact review area," and "Historic Preservation Advisory Committee." It would be helpful if these terms were defined in the definitions section of the ordinance so that they will be immediately understood when they appear in the text.

**A2. Although these terms are not specifically defined in the definitions section, they are well-defined in the body of the ordinance. Specifically, Section 24-227 defines the Historic Preservation Advisory Committee and Section 24-229 (d) defines the term impact review area. Therefore, staff recommends no changes.**

3. The HPAC and HDC should consider reviewing and re-adopting their Rules of Procedures documents so they appear more current. MAHDC recommends that the Rules of Procedure be posted on the web site and made as widely available as possible.

**A3. Staff will review the Rules of Procedures this year and propose re-adoption by the HPAC and HDC. The Rules of Procedure are currently posted on the web.**

4. MAHDC is concerned that there appears to be an inherent conflict of interest here. Council Members and the Mayor have a stake in seeing the advancement of projects which they may have initiated in their role as government officials. Can they rule impartially on such cases? Gaithersburg should ask its City Attorney to review this provision. The HDC may want to consider limiting its ability to overrule HPAC findings in cases that involve City actions.

**A4. This issue has been reviewed by the City Attorney. No changes are recommended.**

5. MAHDC recommends that the application be posted either on the website's Documents and Forms Section, and/or on the home pages of the HPAC and HDC. MAHDC recommends that all Commission materials, especially agendas and minutes, ordinances, guidelines, rules of procedure and application forms be made as widely available as possible. Such transparency benefits the Commission in innumerable ways, not the least of which is that it makes the Commission's activities more accessible and understandable to the general public.

**A5. All materials, including agendas and minutes, ordinances, guidelines, rules of procedure and application forms are currently posted.**

6. MAHDC recommends that a question regarding property easements and deed restrictions be added to the application form. This ensures that prior to HPAC consideration, the property owner has received the necessary approvals from the easement holder. Sample text:

Are there any easements or deed restrictions for the exterior of this property? If yes, submit a letter from the easement holder stating their approval of the proposed work.

**A6. Staff recommends updating the application to include this information.**

MAHDC further recommends that a question regarding City, State and Federal Tax credits be added to the application form so that applicants can be made aware that different review standards may apply. Sample text:

Do you intend to apply for City, Federal or State Rehabilitation Tax Credits? If yes, have you met with Maryland Historical Trust staff?

- HDC approval does not guarantee approval for tax credits.

**A6. Staff recommends updating the application to include this information. Currently, at the time of application and at the HPAC hearing, applicants are made aware of their ability to apply for tax credits. Further, the County tax credit information/application is enclosed when the Certificate of Approval is sent to the applicant.**

7. MAHDC recommends that the applicant's rights and responsibilities be made as explicit as possible in all HDC and HPAC materials. Below is sample text that can be included on the application regarding applicant attendance:

The applicant and/or his/her representative need not be present at the hearing at which his/her application will be considered. Please be advised, however, that if the Commission members have questions or require additional information and the applicant is not present, they may reserve the right to postpone action on the application.

**A7. Staff recommends that the suggested text be incorporated into the application.**

8. MAHDC recommends that the opening statement be transcribed in the minutes so that anyone reviewing the minutes will understand the why the HPAC and HDC is qualified to make decisions and the criteria and procedures they use to make decisions. In addition it is helpful to add the following to the opening statement:

Each application heard today is considered on its own merits and is not to be considered as establishing a precedent for any other application.

**A8. Prior to both the HPAC and HDC meetings, the Chair reads a preliminary statement which states why the HPAC and HDC is qualified to make decisions and the criteria and procedures they use to make decisions. Staff suggests that this language be added to the minutes.**

9. MAHDC recommends that Gaithersburg explore the possibility of becoming a CLG.

**A9. The Certified Local Government Program (CLG) is a preservation partnership between local, state and national governments focused on promoting historic preservation at the local level. Benefits include access to federal funding and technical assistance. Staff recommends that the City work with the Maryland Historical Trust to apply for this certification.**

MEMORANDUM TO: Angel L. Jones, City Manager

FROM: Frederick J. Felton, Assistant City Manager 

DATE: February 18, 2009

SUBJECT: HDC Certification Issue

As you know, the letter dated December 17, 2008 from Susan West Montgomery of the Maryland Association of Historic District Commissions indicated that the City was not eligible for certain grants due to the composition of our Historic District Commission (HDC).

Staff has confirmed that the City is not eligible for Certified Local Government (CLG) designation because our HDC does not have the required professional or academic training in history, architectural history, architecture, historic architecture, or archeology in accordance with the *Secretary of the Interior's, Professional Qualification Standards*. For your review, I have attached these standards.

Accordingly, we are not eligible for the CLG grant; however, it is noteworthy that the average award is only \$10,900.

I hope this information is helpful. Please let know if you have any questions or want to discuss.

FJF/ms  
Attachment

cc: Greg Ossont  
Eliza Voigt

10. The ordinance must contain specific time limits, as per Article 66B, Section 8.12, within which the commission and applicant must act;
11. Decisions of the commission must be binding upon applicants on all applications for new construction, and alterations to or demolition of all sites and structures within boundaries designated under the ordinance; and
12. Provisions for enforcing decisions and a right of appeal must exist in the historic area zoning ordinance or in the jurisdiction's general zoning ordinance.

#### **B. Qualified Historic Preservation Commission**

Local governments must have established an adequate and qualified historic preservation review commission by state or local legislation. Members of the commission must be appointed by the jurisdiction's chief elected official. A historic preservation commission must meet the following criteria:

1. All members of the commission must possess a demonstrated special interest, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, prehistoric and historic archaeology, cultural anthropology, folklore, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines and must provide information sufficient to allow MHT to verify those qualifications.
2. Each CLG is required to have a historic preservation commission with at least two (2) members who possess professional or academic training in history, architectural history, architecture, historic architecture or archeology in accordance with the *Secretary of the Interior's Professional Qualification Standards (see Appendix II)* to the extent that such professionals are available in the community. Each certified jurisdiction will make a good-faith effort to locate and appoint such professionals, and will provide written information to the State describing how this effort was accomplished.
3. If the membership of the proposed commission does not meet the professional qualifications stipulated in (1) and (2) above, the commission must provide written information concerning how it has sought participation in CLG activities by qualified professionals. This could be provided by copies of newspaper notices, radio announcements, letters to local colleges, universities, and other pertinent institutions and organizations, and copies of any written responses to such inquiries. If the proposed commission does not meet the professional qualifications stipulated above, and if the local government has made other arrangements for the acquisition and use of professional expertise by the commission, a description of these arrangements must accompany the CLG application.
4. Terms of office of commission members shall be staggered and of three years' duration (except as provided in the initiation of a commission).
5. The appointing authority shall act within 60 days to fill a vacancy.
6. Each commission member is required to attend at least one MHT-approved educational training per year, pertaining to the work and functions of the commission or to historic preservation generally. The training should be designed to provide a working knowledge of federal, state or local preservation programs and pertain to the work and functions of the commission. Automatically approved educational sessions include attendance at Maryland's Annual Preservation and Revitalization Conference, attendance at CLG workshops, and participation in

## APPENDIX II

### SECRETARY OF THE INTERIOR'S PROFESSIONAL QUALIFICATION STANDARDS

In the September 29, 1983, issue of the *Federal Register*, the National Park Service published the following Professional Qualification Standards as part of the larger *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*. These Professional Qualification Standards are in effect currently. Since 1983, the National Park Service has not issued any revisions for effect, although the National Park Service is in the process of drafting such revisions.

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

#### **History**

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

#### **Archeology**

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology; and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.



# MAHDC Site Visit Report and Recommendations

Work Session  
March 30, 2009

# MAHDC Recommendation

**Comment:** Update HPAC/HDC Rules of Procedure

**Reason:** Rules are not current  
Update to include MAHDC recommendations

**Policy Issue:** Proceed with updates for HPAC/HDC approval

# MAHDC Recommendation

Comment: Perceived conflict of interest with  
M&CC acting as HDC

Reason: Concern about impartiality

Policy Issue: Reviewed by City Attorney  
No changes recommended

# MAHDC Recommendation

Comment: Pursue becoming a Certified Local Government

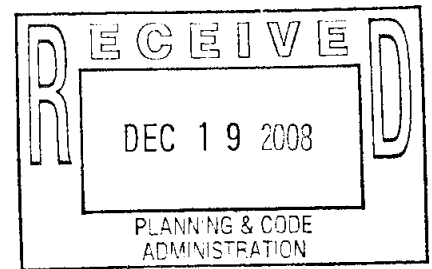
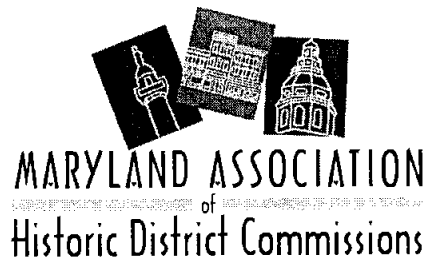
Reason: Potential access to federal grants and technical assistance

Policy Issue: Seeking guidance

# Summary

- Update Rules of Procedure
- Conflict of Interest
- Pursue becoming a Certified Local Government





December 17, 2008

Eliza Voigt  
Gaithersburg Historic District Commission (HDC)  
Gaithersburg Historic Preservation Advisory Committee (HPAC)  
31 Summit Avenue  
Gaithersburg, MD 20877

Dear Eliza,

Enclosed please find a copy of the report I prepared detailing my visit to the Gaithersburg in June. Please share it with the HDC and HPAC members and staff. I commend HPAC and HDC on its outstanding, proactive work on behalf of heritage resources in Gaithersburg. In spite of the uniqueness of your ordinance and configuration, you have put in place outstanding policies and procedures that guide your deliberations.

The purpose of my visit was two-fold. One, to review and assess how the HDC and HPAC conduct their activities and perhaps offer some suggestions on ways to improve their operations. And secondly, to find out how the Maryland Association of Historic District Commissions (MAHDC) can better serve commissions through the provision of training, workshops, support materials, and technical assistance. Toward that end, my report makes a series of recommendations for both Gaithersburg and MAHDC. My visit to Gaithersburg is one of ten I have made to commissions across the state in 2008.

I hope you find the report helpful. Please feel free to contact me at any time to discuss this or any other matter.

Sincerely,

Susan West Montgomery  
Circuit Rider, Outreach Coordinator



2008 Circuit Rider Project - Site Visit Report  
**Gaithersburg Historic Preservation Advisory Committee**  
**Gaithersburg Historic District Commission**  
June 5, 2008

The Gaithersburg Historic District Commission (HDC) and Historic Preservation Advisory Committee (HPAC) were created in 1981. The most recent revisions to the ordinance were made in 1996. Gaithersburg is located in the heart of Montgomery County, a rapidly growing, inner ring suburb of Washington, DC. Unlike other historic district commissions in Maryland, the Gaithersburg HDC is made up of the six elected members of the City Council and is chaired by the Mayor. The HPAC reviews all Historic Area Work Permits and advises the HDC as to whether the applications should be approved or denied. This unique arrangement appears to have both advantages and disadvantages. For certain, the City's elected officials are intimately involved in carrying out the objectives of the historic preservation ordinance and their partnership with the Advisory Committee seems to ensure conscientious consideration of proposed changes to historic resources. At the same time, Council members, elected by the citizens of Gaithersburg for a variety of reasons, may or may not have the experience nor the inclination to carry out the mandate of the ordinance. They do, however, complete at least one training seminar annually.

In June, I met with Eliza Voigt and Jacqueline Marsh, Staff Liaisons to the HPAC and the HDC. Below, I have detailed my site visit findings and made a number of recommendations for improvements to the Commission's operations. I have also outlined a number of model practices that I observed in Gaithersburg that MAHDC should consider expanding on and sharing with other commissions.

Respectfully submitted,

Susan West Montgomery  
Circuit Rider, Outreach Coordinator  
December 10, 2008

*Footnotes refer to specific recommendation made regarding this item. ^ indicates that the document referenced is attached to the report.*

## **ORDINANCE**

Gaithersburg's historic district ordinance was last ratified in 1996. ^ It codifies the roles of both the HPAC and the HDC. Commission decisions can be appealed to the Circuit Court. The ordinance includes a demolition by neglect provision which has proven relatively effective. It does not provide for a specialized archeological review process. The ordinance explicitly states that all work undertaken by the City, any other governmental entity, or utility or cable company is subject to the provisions of the ordinance.

There is nothing in the ordinance that indicates that the HDC will be made up of the elected members of the City Council, nor does it specify that the Mayor shall serve as Chairman.<sup>1</sup>

The ordinance requires review of changes made to properties individually designated as well as those located in one of the City's two historic districts. It also allows the HPAC to review and make recommendations to the city planning commission on projects located within an "impact review area." The ordinance defines impact review area as "that area adjoining the perimeter boundaries of any historic district, historic site, or resource which is determined by resolution of the historic district commission and which shall be reflected upon the zoning maps of the city."<sup>2</sup> This provision considerably extends the reach of the HDC and HPAC in influencing planning decisions in the City.

The ordinance also codifies a comprehensive notification procedure that calls for mailed written notice to property owners within two hundred feet, posting of a sign on the property, and publication of the notice in a newspaper of general circulation.

## **RULES OF PROCEDURE**

Both the HDC and HPAC have well drafted Rules of Procedure adopted in 1996 and 1994 respectively.<sup>3</sup> ^ The Rules explain conflict of interest and ex parte communication and compel Commissioners and Committee members to be familiar with all laws, criteria and guidelines. It also defines who is qualified to vote noting that Commissioners must have attended HDC's previous deliberations and have reviewed the entire record. The HDC Rules of Procedure include a provision regarding "Applications Involving Member" which calls on members to recuse themselves from any case to which they are a party, where they have a financial interest, or where they represent the applicant in any professional capacity. However,

because the HDC is made up of the Mayor and City Council, the Rules exempt from this provision "any application or case filed by the City Council or any official of the City on behalf of the City Council or the City Government."<sup>4</sup>

The Rules also establish and explain a courtesy review procedure.

#### **APPLICATION FOR CERTIFICATE OF APPROVAL**

The application form is available on the City's web site, although not in an easily accessible location.<sup>5</sup> The application does not ask whether or not there are easements or deed restrictions on the property. It does not explicitly ask whether or not the applicant is seeking City, State or Federal Tax credits for the rehabilitation.<sup>6</sup> The applicant is not asked whether or not he/she or his/her agent will be attending the hearing. Generally, attendance is not mandatory, but HPAC reserves the right to postpone consideration of the application if the applicant is not available to answer questions that may come up at the hearing.<sup>7</sup>

Attached to the application is a list of submission requirements, a copy of the Secretary of Interior Standards for Rehabilitation, and an excellent summary of the application process including a flow chart.

#### **GUIDELINES**

The HPAC and HDC use both the Secretary of the Interior's Standards for Rehabilitation and design guidelines developed specifically for each of the two historic districts entitled, "Brooks, Russell, Walker Historic District Guidelines," and Chestnut/Meem Historic District Guidelines. All three of these documents are readily available on the City's website.

#### **MEETING AGENDA AND MINUTES**

The HPAC and HDC minutes are well drafted and available on the City's website. The meeting agenda and background materials for each agenda item are also posted on the web site.

#### **HPAC HEARING**

The HPAC meets on the first Thursday of the month at 7:30 pm. I visited the HPAC on June 5, 2008. The Chair called roll, established that there was a quorum present, and opened the meeting with a formal qualifications statement although the statement is not included in the minutes.<sup>8</sup>

The meeting was conducted in an orderly fashion with the Chair following a set procedure for

hearing each case. The Chair asked for public comment. Motions were generally well drafted although members need to be more precise in articulating any modifications to the application. In addition, although members want applicants to feel comfortable with the decision making process, they need to refrain from making statements like "would you be willing?" Instead, it needs to be clear that every decision is based solely on whether or not the action conforms to the standards and guidelines.

#### **OTHER OBSERVATIONS OR ISSUES RAISED**

The Gaithersburg HPAC and HDC benefit tremendously from well-trained and qualified professional staff and the willingness of its Commissioners and Committee members to prepare for the hearings and take advantage of training opportunities. If not for its unique requirement that the City Council and Mayor constitute its HDC, Gaithersburg would be an ideal candidate to become of Certified Local Government (CLG). CLG status would make Gaithersburg eligible for grant funding and enhance its credibility and impact.<sup>9</sup>

#### **OTHER RECOMMENDATIONS:**

1. Where appropriate, MAHDC should encourage communities to more explicitly state, in their ordinances and rules of procedure that the work of government entities, utility companies and the like are subject to the provisions of the ordinance.

2. Public notification requirements and procedures vary widely among commissions. Gaithersburg's is one of the most extensive. Notification should be considered part of the outreach and education process. MAHDC should identify various approaches and share them with commissions through a newsletter article.

3. MAHDC should share with other commissions Gaithersburg's Rules of Procedure regarding qualification to vote:

No HDC member shall vote on any matter deciding an application or a request to reconsider unless that member shall have attended the HDC's previous deliberations on such application, or shall have otherwise reviewed the entire record including any transcript or minutes." This should be expanded to include all votes.

4. MAHDC should publish a sample flow chart explaining the application process in its newsletter.

## MAHDC RECOMMENDATIONS TO THE COMMISSION:

1. The HDC's ordinance and Rules of Procedure authorize the City Council to appoint 6 members to the Commission and states that they will elect a Chairman from among them. It does not indicate that these must be City Council and that the Mayor will serve as Chairman, although that has been the practice. The lack of a forthright statement of Gaithersburg's policy regarding appointments to the Commission is troubling. If this is the policy, state it, otherwise you are implying that appointments could come from the general public, which is not the case.
2. The ordinance uses several terms that are not standard in historic preservation ordinances including "impact review area," and "Historic Preservation Advisory Committee." It would be helpful if these terms were defined in the definitions section of the ordinance so that they will be immediately understood when they appear in the text.
3. The HPAC and HDC should consider reviewing and re-adopting their Rules of Procedures documents so they appear more current. MAHDC recommends that the Rules of Procedure be posted on the web site and made as widely available as possible.
4. MAHDC is concerned that there appears to be an inherent conflict of interest here. Council Member and the Mayor have a stake in seeing the advancement of projects which they may have initiated in their role as government officials. Can they rule impartially on such cases? Gaithersburg should ask its City Attorney to review this provision. The HDC may want to consider limiting its ability to overrule HPAC finding in cases that involve City actions.
5. MAHDC recommends that the application be posted more prominently either on the website's Documents and Forms Section, and/or on the home pages of the HPAC and HDC. MAHDC recommends that all Commission materials, especially agendas and minutes, ordinances, guidelines, rules of procedure and application forms be made as widely available as possible. Such transparency benefits the Commission in innumerable ways, not the least of which is that it makes the Commission's activities more accessible and understandable to the general public.
6. MAHDC recommends that a question regarding property easements and deed restrictions be added to the application form. This ensures that prior to HPAC consideration, the

property owner has received the necessary approvals from the easement holder. Sample text:

Are there any easements or deed restrictions for the exterior of this property?  
If yes, submit a letter from the easement holder stating their approval of the proposed work.

MAHDC recommends that a question regarding City, State and Federal Tax credits be added to the application form so that applicants can be made aware that different review standards may apply. Sample text:

Do you intend to apply for City, Federal or State Rehabilitation Tax Credits?  
If yes, have you met with Maryland Historical Trust staff?  
\* HDC approval does not guarantee approval for tax credits.

7. MAHDC recommends that the applicant's rights and responsibilities be made as explicit as possible in all HDC and HPAC materials. Below is sample text that can be included on the application regarding applicant attendance:

The applicant and/or his/her representative need not be present at the hearing at which his/her application will be considered. Please be advised, however, that if the Commission members have questions or require additional information and the applicant is not present, they may reserve the right to postpone action on the application.

8. MAHDC recommends that the opening statement be transcribed in the minutes so that anyone reviewing the minutes will understand the why the HPAC and HDC is qualified to make decisions and the criteria and procedures they use to make decisions. In addition it is helpful to add the following to the opening statement:

Each application heard today is considered on its own merits and is not to be considered as establishing a precedent for any other application.

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