

**MINUTES
BUSINESS MEETING
NEW CASTLE COUNTY HISTORIC REVIEW BOARD
DEPARTMENT OF LAND USE - NEW CASTLE ROOM
87 READS WAY, NEW CASTLE, DELAWARE
March 2, 2021
5:00 P.M.**

The Virtual Business Meeting of the Historic Review Board of New Castle County was held on Tuesday, March 2 2021 via Zoom meetings.

The meeting was called to order by John Davis at [5:17 p.m.]

The following Board members were present:

Perry Patel
John Brook
Karen Anderson
Barbara Silber
John Davis
Steve Johns

The following Board members were absent:

Rafael Zahralddin

Historic Review Board, Department of Law

Colleen Norris

The following Department of Land Use employees were present at the meeting:

Betsy Hatch
Chris Jackson
George Haggerty

RULES OF ORDER

Ms. Hatch read the rules of procedure into the record.

MEETING MINUTES

None.

HISTORIC MARKER PROGRAM

None.

OLD BUSINESS

None.

NEW BUSINESS

App. 2020-0666-H: Text amendment to amend New Castle County Code, Chapter 40 ("Unified Development Code"), Article 15 ("Historic Resources") relating to historic zoning of eligible New Castle County properties. (App. 2020-0664-T / Ord. 20-112).

At a virtual meeting held on March 2, 2021, the Historic Review Board considered the proposed application, public testimony provided at the December 15, 2020 and February 16, 2021 public hearings, as well as the recommendation provided by the Department of Land Use.

On a motion made by Mr. Patel and seconded by Mr. Johns, the Historic Review Board voted unanimously (In Favor: Johns, Brook, Patel, Silber, Davis; In opposition: Anderson Abstention: None; Absent: Zahralddin) to adopt the Department of Land Use's recommendation of **CONDITIONAL APPROVAL** of the ordinance with the following conditions:

1. The ordinance's sponsor introduce a substitute ordinance that clarifies that the language is for future acquisitions and does not apply to current land holdings of the County.
2. Each County initiated rezoning must be accompanied by sufficient data to identify the financial impacts of the rezoning to be contained in a detailed fiscal note. Such data should include, but not be limited to, evaluation of the condition of the structure, cost of required repairs (if any), and adaptive reuse potential.
3. Language regarding a finding if ineligibility by the HRB should be clarified to indicate that the Department will not advance the application to the Planning Board.
4. The sponsor update the proposed code language to ensure the proposed legislation fits within the structure of the Unified Development Code while maintaining its intent as presented.

Discussion preceding the vote included the following:

Ms. Hatch provided a brief presentation on the Department of Land Use's recommendation. Mr. Johns inquired about the Department's recommendation for an accompanying fiscal note and what the purpose of that requirement would be. He inquired if the HRB would be charged with deciding on whether a property should be rezoned to historic based on how much it may cost, noting he believed that may be outside of the Board's purview. Ms. Hatch clarified noted that rezoning ordinances are required to go through other board and County Council, while the Historic Review Board considers historic aspects of the application. Mr. Johns stated that he had a concern that the proposed ordinance places a burden on the County and essentially created an unfunded mandate, noting that there isn't anything in the Code that allows flexibility to decide not to pursue Historic zoning for a property if deemed eligible. He stated the financial impact is helpful, but he didn't believe it would help the County get out of placing an Historic overlay.

Mr. Brook noted that the Board may need additional time to consider the information provided by the Department. George Haggerty, Department of Land Use, provided additional clarification on the Department's recommendation. He stated that the rezoning process is a linear process that starts with the HRB considering the value of the property in relation to Historic overlay zoning and ends with County Council voting on the application. He stated the purpose of having fiscal information accompanying the rezoning ordinance was for the benefit of all the boards that are part of the rezoning process. Mr. Johns stated that if the ordinance stated that all eligible properties shall go through the rezoning process instead of all eligible, County-owned properties shall be rezoned it would be clearer. Mr. Haggerty noted that the Department's recommended conditions was to ensure the language in the ordinance matches the processes in the Code, including clarification that the ordinance will be prospective. He noted that

County Council considers the recommendations of the Historic Review Board and Planning Board, as well as fiscal information.

Mr. Johns stated that he would like the language to be a little more open to the fact that County Council may elect not to place an Historic overlay on a property. He concurred with Mr. Brook that the Board isn't seeing the final product. Mr. Haggerty stated that the Board is being asked to consider all the information in front of them, noting that the Department is looking at the language to ensure that it fits within the code while advancing the idea that eligible, County-owned properties should be rezoned. He noted that County Council has the ability to make changes to the language when they deliberate on it, and that if the Board has concerns, they should raise them.

Ms. Hatch noted that Councilwoman Durham had provided comment in the chat box, stating that the fiscal impact study should be compiled at the time of acquisition instead of during the rezoning process.

App. 2021-0043-H: 2051 Old Cooches Bridge Road. (TP 11-018.00-059, 11-018.00-061, 11-022.00-015). South side of Old Cooches Bridge Road, east side of Rt. 896. Pencader Hundred. Land development plan to construct approximately 1,087,000 sq. ft. of office / manufacturing / warehouse space within vicinity of known historic resources. OR zoning. CD 11.

At a virtual meeting held on March 2, 2021, the Historic Review Board considered the proposed application, public testimony provided at its February 16, 2021 public hearing, as well as the recommendation provided by the Department of Land Use.

On a motion made by Mr. Johns and seconded by Mr. Patel, the Historic Review Board voted to recommend **APPROVAL** of App. 2021-0043-H (In Favor: Silber, Anderson, Patel, Brook, Johns, Davis; In Opposition: None; Abstention: None; Absent: Zahralddin) with the following findings and recommendation:

1. Find that the presence of significant archaeological resources on the parcels B and D is likely and that the parcels, therefore, meet criterion K for significance under Chapter 40.15.110 of the New Castle County Code;
2. Find that the existing documentary evidence constitutes a preponderance of evidence that parcels B, D, and F are part of the Cooch's Bridge battlefield and, therefore, meets criterion C for significance under Chapter 40.15.110 of the New Castle County Code;
3. The HRB found that the recommendations by Staff adequately addressed the historic and archaeological issues present on the property, namely that the National Register-eligible Paleo Indian sites should be either investigated further or protected and that the property's significance as the site of Delaware's only Revolutionary War battle should be acknowledged, investigated, and made apparent to the public.

Discussion preceding the vote included the following:

Ms. Hatch read the Department's recommendation into the record. She noted that the Historic Review Board was provided with several comment letters from the public following the public hearing. The Board discussed the previous approval, noting that it went through a lengthy process. Mr. Brook noted that the current proposal is consistent with the active record plan and therefore he is compelled to support the application. Ms. Silber noted that there were several conditions that were placed based on the previous recommendation of the historic review board and she believed that they were still valid. She also stated that she had a concern that Parcel F was not evaluated further or addressed at the time of the 2008 application. She stated she agreed with a lot of the concerns the public had stated in their letters. Ms. Silber stated that the Board needs to take into consideration that not only is there Revolutionary War history, but there is a Native American component on the site as well. The Board discussed the three completed

archaeological surveys including the Phase IA, Phase I, and then the metal detection report. Ms. Silber stated that the surveys had recommended that further work be completed.

Ms. Hatch stated that the 2008 Historic Review Board recommendation report noted that the Phase IA completed indicated that no further work was recommended on Parcel F, and that Parcels B and D had a high potential for resource. Mr. Patel noted that the owner maintains the right to construct the development on the active record plan, and that the current proposal reduces the amount of disturbance. He stated while the Board is in a difficult position, the current proposal is appropriate based on the active record plan for the site. Mr. Johns stated that he would like it clarified if there were supposed to be recommended conditions based on the record plan. Ms. Hatch noted that in 2008, the Board had voted to make recommendations instead of conditions and read the Board's recommendation from 2008 for the Board. Mr. Johns noted that he was struggling with the proposal; however, if someone wanted to make it a park, the ownership would have to be different. He stated that without that, the owners have the right to develop the land as presented. Ms. Anderson stated that the situation was very sad noting that once the resources are gone, they are gone forever and that we should value our history and take good care of the historical aspects of our County. She stated that there was discussion that areas be delineated and available to the public showing the importance to the land. She stated that she agreed with Mr. Johns, that the owner has ownership rights.

Ms. Silber noted that the owner does maintain property rights. She stated that the applicant should also be willing to work together to come up with a solution. She stated that the public brought up good points in regard to the archaeological resources and potential for human remains. Ms. Silber recommended that she believed there should be additional survey on Parcel F. Mr. Brook reminded the Board members that the Paleo-Indian places of habitation were identified through extensive investigation and that the Battle of Cooch's Bridge took place over a much larger area. He stated he didn't disagree with the feelings expressed by Ms. Anderson and Ms. Silber however he thought that horse was already at the barn and that the Board needs to support the proposal. Ms. Anderson concurred and noted the Board's position between economic development and historic preservation, particularly because there is an active record plan for the site.

Ms. Silber recommended that additional information had come to light regarding the site's significance since the previous Historic Review Board's recommendation and that a new recommendation that additional work be completed may be warranted. The Board called on Mr. Hoffman, the applicant's representative, for questions. Ms. Silber inquired if the applicant would be willing to undertake additional archaeological surveys to address the concerns that were raised at the public hearing and by the public prior to construction. Mr. Hoffman noted that the situation was unique in the fact that there was an active record plan on file. He stated following the extensive review in 2008, the Historic Review Board did not recommend that further work be completed and declined to recommend that a Phase II investigation be completed. He noted the applicant was committed to reducing the impervious surface coverage, disturbance, preserve additional open space, as well as working with stakeholders with an interest in the property and the property's history. He stated based on the extensive record, the applicant was not in a position to undertake additional archaeological work.

Ms. Silber noted that the Historic Review Board's recommendation in 2008 were still relevant. Ms. Hatch clarified that findings of the Historic Review Board in 2008. Ms. Anderson asked the applicant how they have acknowledged, investigated, and made the property's history apparent to the public. Mr. Hoffman stated that the Historic Review Board had a long list of recommendations that they considered but did not adopt in 2008. He stated following the Board's decision in 2008, the Bravo study was completed, and artifacts were turned over to the Division of Historic and Cultural Affairs. He said that an award was given to the applicant by New Castle County regarding their work on the archaeological investigations that were completed. He stated that the applicant and the current proposal reduces the proposed disturbance. He reiterated that the applicant is seeking to engage stakeholders in the future. He stated that he believed that additional recommendations of work on the subject application would not be appropriate due to the record

that has been established. The Board members discussed that they should not put additional recommendations on the application that we're not recommended in 2008.

App. 2021-0045-H: 617 Horseshoe Hill Road. (TP 08-009.00-037) Located at the eastern side of Horseshoe Hill Road at the intersection with Brackenville Road. Demolition permit to demolish ca. 1940 dwelling. SE Zoning. CD 3.

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On a motion made by Mr. Brook and seconded by Mr. Johns, the Historic Review Board voted to recommend **RELEASE** the proposed demolition permit (In Favor: Patel, Brook, Johns, Davis; In Opposition: Silber, Anderson; Abstention: None; Absent: Zahralddin).

Discussion preceding the vote included the following:

Ms. Hatch provided a brief presentation on the Department of Land Use's recommendation. A motion was made by Ms. Anderson and seconded by Mr. Patel to hold the demolition permit in accordance with the Department's recommendation (In Favor: Patel, Silber, Anderson; In Opposition: Johns, Davis, Brook; Abstention: None; Absent: Zahralddin). The motion failed as there was no majority vote. Following the motion, the Board discussed the historic significance of the property. Mr. Brook stated that he believed that the structure was not historically significant based on the background of the structure and the people that were associated with house. Mr. Johns agreed with Mr. Brook, noting that the architect that designed the house was not one of historic significance.

Ms. Anderson stated that she believed the structure had historic significance and included original features that have not been modified over time. She stated the structure was an in-tact example of a mid-century modern residence and would argue that it is significant. She stated that the subject structure was located within an area that was quickly changing and the house is one of the few remaining resources of its type. Mr. Brook stated the Board is looking at whether or not the house qualifies as an historically significant and that there were several types of this house scattered in the area.

Ms. Anderson noted the importance of the mid-century modern movement, that occurred following World War II. She noted that the movement is historically identified with more open floor plans, simple and clean lines, use of simple materials instead of decorative embellishments. She stated that the building is a prime example of the mid-century movement and has all of the mid-century modern aspects to it. Ms. Silber agreed with the points that were raised by Ms. Anderson, noting the mid-century movement was a change of a school of thought, noting the subject building is an early representation of the movement becoming a mainstream style. She said that the Board should not dismiss a resource because it is not associated with an important person, rather that resources of this age and similar style may be associated with the movement such as the suburbanization of the greater Wilmington area.

ANNUAL REVIEW OF RULES OF PROCEDURE

Ms. Norris read into the record the proposed changes of the Rules of Procedure. The changes include updates to Article 2 to reference the Unified Development Code (UDC). Changes to Article 4 Section IV included changing the language to be consistent to the Rules of Order. She stated that changes to Article 8 included updates to the Order of Business, such as the Historic Marker program, report of the preservation planner, report of the chair, and public comment. Changes to Article 9 included updates to the responsibilities of the Board based on updates to the UDC. Article 10 included updates to clarify that the HRB provides recommendations to the New Castle County planning board in New Castle County Council regarding Historic overlay rezoning applications. She

stated there was housekeeping updates to avoid duplicative language. Ms. Norris noted that Article 11 was updated to include recent updates to the UDC that were adopted under recent legislation.

REPORT OF THE PRESERVATION PLANNER

None.

REPORT OF THE CHAIRPERSON

None.

COMMENTS FROM THE PUBLIC

None.

ADJOURNMENT

ATTEST:

Richard E. Hall, AICP
General Manager
Department of Land Use

John R. Davis
Chairperson
Historic Review Board