



Maryland's

# HISTORIC DISTRICTS

A Publication of MAHDC: The Maryland Association of Historic District Commissions

Volume 12 Number 3

Summer 2017



## HISTORIC PRESERVATION AWARD RECOGNIZES SMOKEHOUSE RESTORATION

By Chris Berger, Planner II,  
City of Gaithersburg

On May 24, the [Gaithersburg Historic District Commission](#) presented a Historic Preservation Award to Hank Handler, Vice President of Oak Grove Restoration Company, recognizing the company's efforts to restore the smokehouse at [Summit Hall Farm at Bohrer Park](#). The award was given as part of Historic Preservation Month, an annual celebration of the nation's historic resources, held each May.

The 12-by-12-foot smokehouse was built circa 1810 and is considered the oldest structure in the City. It was used to preserve meat in the days before refrigeration. The City acquired the Summit Hall property in 1982. A few years ago, City staff recognized that the smokehouse was under threat from water damage and that some of the logs had deteriorated. The Mayor and City Council appropriated funds

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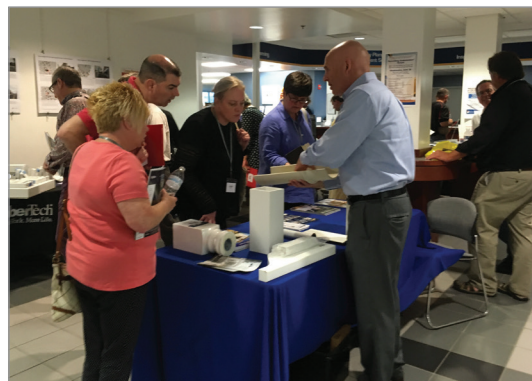
## REPLACEMENT MATERIALS SYMPOSIUM SUCCESS

By Lisa Mroszczyk Murphy, MAHDC Board of Directors

MAHDC's Replacement Materials Symposium held on June 10th at Rockville City Hall was an undisputed success. Almost 100 historic preservation commissioners, city and county staff, historic property owners, and preservationists gathered to tackle the controversial issue of substitute materials in historic places at the organization's second annual statewide symposium. Highly qualified speakers covered the topic with a range of examples from local case studies to international perspectives. Through thought-provoking presentations, participants were able to build upon their diverse preservation experiences to address replacement materials as they relate to historic materials, sustainability, design review, and trends of local commissions. In the Vendor Hall, participants also had the opportunity to meet with representatives of the leading manufacturers of the most popular types of replacement materials such as composite siding; engineered wood siding; synthetic slate and shake roofing; modern metal roofing panel systems; fiberglass windows and doors; and, cellular PVC trim and porch products. Samples and product displays were available for participants to touch, see, and evaluate.



*Nakita Reed, AIA, LEED AP BD+C, Principal, Encore Sustainable Design, presenting on sustainability and historic preservation.*



*Vendor Hall*

Vendor representatives overwhelmingly indicated that symposium participants were one of their best and most informed audiences to date. Many manufacturers also left with a better idea of what qualities are desired if replacement materials are to be used on historic places.

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Providing advocacy, training,  
and program support for  
Maryland's Historic Preservation  
Commissions and local  
governments.

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## SYMPOSIUM SUCCESS

**Thank you to Replacement Materials Symposium Sponsors:** The City of Rockville, JELD-WEN, AIA Potomac Valley, Royal Building Products, Maryland Historic Trust, Preservation Maryland, and Montgomery County, Maryland.

### What others are saying:

*"It was such an informative day! There were some truly compelling speakers and I found Philip Thomason's survey results particularly relevant—I don't often get to hear what other commissions/states/cities are approving with any certainty. It was also wonderful to network with so many preservationists in the area."*

*"Dr. Theodore Prudon was obviously an expert and the international/national perspective was something to sink my teeth into and made me think."* ■

(Continued from page 1)

## SMOKEHOUSE RESTORATION

for a restoration project, which started in June, 2016. Laytonsville-based Oak Grove Restoration, a historic builder that has worked on such high-profile structures as the Virginia State Capitol, President Lincoln's Cottage, and President James Madison's Montpelier, was selected as the contractor.



Oak Grove's restoration team stripped off the roof and daubing between the logs and lifted the structure onto a new stone foundation. They filled the gaps between the logs with a lime and concrete sand mixture. The ceiling joists and rafter poles also came from old wood salvaged from an outbuilding in Virginia, and the new wood for the gable siding, bargeboards, and roof lath was purchased from a sawmill in Prince George's County. The wood shingles are made of Western red cedar. One of Oak Grove's master carpenters built the board-and-batten cypress door using traditional techniques.

The building sits at Bohrer Park at Summit Hall Farm, a historic Gaithersburg property that is now home to the [City's Water Park](#), [Skate Park](#), [Miniature Golf Course](#), [rental pavilions](#) and [Activity Center](#). The smokehouse can be viewed from the exterior at any time and will be open during [Montgomery Heritage Days](#), June 24 and 25, 2017.

Read a feature article about the smokehouse in the Spring 2017 edition of the City's twice-yearly magazine, *inGaithersburg*, available at all [City facilities](#) and [online here](#). To learn more about Oak Grove Restoration Company visit <http://www.oakgroverestoration.com/Home.html>. ■



Stachura, Dr. John H. Sprinkle, Jr., National Park Service, and keynote speaker Dr. Theodore Prudon, FAIA, FAPT.

# The City of Annapolis Substantially Prevails in Two Enforcement Actions

By Jess Phelps, MAHDC Board of Directors

In recent months, the City of Annapolis substantially prevailed in two cases which merit additional attention. Although addressing quite different violations of the City's historic preservation ordinance, each provides support to communities seeking to enforce ordinances and to protect historic properties within local historic districts.

In *Spaw LLC v. City of Annapolis*, 452 Md. 315 (Mar. 15, 2017), the Court of Appeals ruled in favor of Annapolis in its enforcement action against a property owner who had replaced historic wood windows with vinyl windows without a certificate of approval. At the trial court level, the City prevailed on all counts in proving the violation. On appeal, the owner admitted replacing the windows without commission approval but raised several arguments for why the City had, in its view, exceeded its authority – including two arguments that this summary will explore in more detail: (1) that the enforcement action should have been conducted as a criminal, rather than a civil proceeding; (2) that the citations should have been dismissed for lack of specificity.

On its argument regarding the nature of enforcement actions, Spaw contended that the trial court erred in treating this as a civil rather than as a criminal proceeding. The court rejected this argument based upon its interpretation of the plain language of the state's local government article and the Annapolis ordinance as well as the nature of historic preservation ordinances more generally.

Spaw's second argument was that the citations received were not sufficiently detailed as to allow for a proper defense. The citations generally stated that the entity had removed windows without approval, but did not indicate which of the property's 180 plus windows had been removed and replaced. The court rejected this argument – concluding that the citation only needed to provide the location and date that the violation was observed to provide sufficient legal notice.

*Spaw LLC v. City of Annapolis*, as an opinion of the state's highest court is an instructive opinion for a number of reasons – not the least of which is its extended discussion of the history of Maryland's statutory framework for historic preservation and the case law that has developed in this area over the past 50 years, and also provides some additional support and guidance for communities seeking to properly enforce ordinances against violations.

Two months later, the City also prevailed in *City of Annapolis v. JKB, LLC*, Case No. 3Z36100900 and 1Z41100851 (May 10, 2017) at the trial court level. The JKB decision also involved the City charging a property owner with violating the community's historic

preservation ordinance by virtue of its failure to obtain a certificate of approval. In 2015, JKB commissioned a local artist to paint a mural on the façade of its structure within the historic district. The company failed to obtain commission approval – relying

on provisions of the community's design guidelines that stated that the commission does not review exterior paint color in most instances. The City disagreed that this mural fell within this exception and brought an enforcement action.

In its motion to dismiss, JKB asserted constitutional (First Amendment) defenses and, again argued that based upon the city's design guidelines this mural did not require commission approval.

On the design guidelines argument, the trial court rejected as being not applicable as the guideline related only to color decisions and did not extend to works of art or murals – viewing these as qualitatively different.

On the First Amendment claims, the court provided an in-depth analysis and review of the law that has developed in this area. For the most part, the court held that the community's ordinance passed constitutional muster as it is content-neutral, narrowly tailored, provided sufficient procedural safeguards, as well as ample alternative channels for artistic expression (including provisions within the city's code barring the commission from reviewing murals or art inside buildings within the district and/or buildings outside of the district). The court did, however, strike down a portion of the community's ordinance as unconstitutional – the portion of the ordinance that allowed the consideration “of any other factors including aesthetic factors which the Commission deems to be pertinent” in reviewing projects. Although the offending portion of the ordinance could be severed (in light of severability language within the city's code), it did not survive as this language itself was not sufficiently bounded as to appropriately limit the authority of the commission to make its determinations. In all, this decision fits within the existing trajectory of First Amendment decisions involving artistic expression within local historic districts, but may perhaps merit a close analysis or fresh look to determine whether other ordinances are even more susceptible to legal challenge or constitutional scrutiny.

Again, both decisions are interesting and instructive and provide additional support to those seeking to enforce ordinances across the state and may also present some consideration and direction for future drafting/ordinance revision. ■

*This article does not constitute legal advice and is provided for general information purposes. This article solely represents the views and work of the author in his personal capacity.*



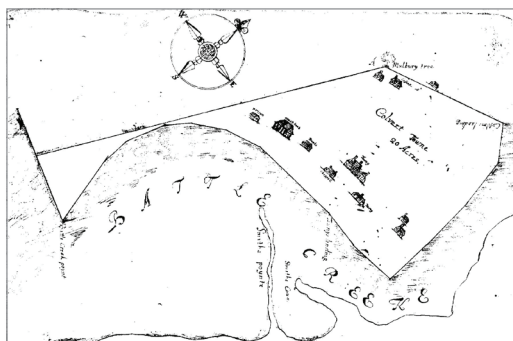


Brent Chippendale  
troweling a large feature

# Finding a Colonial Town

By Kirsti Uunila, MAHDC Board of Directors

In late May and early June, the Archeological Society of Maryland held its annual field session in Calvert County, Maryland. The selected site is a multi-component site which was first occupied by indigenous people in the Woodland Period, and later served as the first seat of government for Calvert County. A primary objective of the project was to determine whether any portions of the seventeenth-century town were still intact beneath the surface.



1682 plat of Calvert Towne

In 1669 Lord Baltimore ordered that towns should be laid out in every county of the province to encourage trade. William Berry who owned a large tract of land

on Battle Creek in Calvert County offered twenty acres to be designated as town land. The shoreline there featured a deep natural harbor and some protection from the winds and water on

the Patuxent River. Lord Baltimore ordered a survey of the land to lay out the town.<sup>1</sup> If the original survey survives, it has not been found. What does remain is a plat of Calverton—also known as Battle Town and Calvert Town—drawn by Robert Jones in 1682 following a dispute between William Berry and Michael Taney, who had purchased land adjacent to both Berry and the town.

The town was abandoned sometime after the court was moved to Prince Frederick in 1724. The town site has been in agriculture since it fell into disuse. Battle Creek has plundered the creek bank at Calverton with an estimated loss of more than 50 meters of shoreline. Matt McKnight, archaeologist at the Maryland Historical Trust, registered the 1682 plat on a 2014 aerial of the property. It showed that several of the buildings are completely gone, including the prison. However, the overlay showed several buildings completely on land with a couple of other buildings partially eroded on the current shoreline.

The 2017 ASM Field Session was the first time a systematic investigation of the site has been possible. Don and Jean McDougall, owners of a parcel of land that covers the eastern extent of the town lands, graciously permitted the project to take place on their property.

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<sup>1</sup> Archives of Maryland Vol. VII, p.279



## Finding a Colonial Town



*Matt McKnight with total station*

Early in May, Charles Hall, State Terrestrial Archaeologist, Matt McKnight, Troy Nowak of the Maryland Historical Trust with assistance of John Fiveash of ASM and the author, who served as principal investigator, conducted a magnetic susceptibility survey over the property. Matt McKnight then processed the data into maps which he compared to a 1682 plat of the town projected on a modern aerial. The result was a

map that guided the excavation strategy for the field session.

Four dwellings on the plat are labeled with the names Tawny [sic], Berry, Banks, and Cosden. Two small unlabeled buildings appear near one another on the plat and seem to be dwellings indicated by chimneys. At least parts of four buildings on the 1682 town seem to be on the McDougall property: the Berry house, which has partially eroded away; a possible dependency to the Tawny house; and the two unlabeled buildings. Each of these showed as “hot spots” on the remote sensing data which also showed two other areas that may represent post-1682 structures.

Period artifacts were recovered and included: imported pottery; Mulberry pipe bowls; a marked pipe stem with a ‘WK’ cartouche; and a smoker’s companion. Handmade brick fragments, wrought nails, and the ubiquitous oyster shell made up the bulk of the assemblage.

While the terrestrial archaeologists labored on land, Troy Nowak and Susan Langley of the Maryland Maritime Archaeology Program plied the waters off the shore, charting the historic shoreline and conducting magnetometry and side-scan studies. Steve Lenik of St. Mary’s College of Maryland, and Isaac Shearns of Baltimore, brought St. Mary’s drone to Calverton to create detailed imaging of the site and some of the features.



*17th-century pipe bowl*

Detailed reports will follow as the analyses continue, thanks to a CLG grant from the Maryland Historical Trust awarded to Calvert County. At this point we may confidently state that at least part of the historic town still possesses integrity underground on the McDougall property. Many thanks are due to the McDougalls, and to the more than fifty people who took part in the effort to uncover Calverton. ■



## MEMBERSHIPS

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- Calvert County
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- Archer, Inc. – *New!*
- Partners for Place – *New!*
- Pipe Restoration, Inc. – *New!*
- Robinson & Associates, Inc. – *New!*
- JMA, a CCRG Company – *New!*
- CEM Design – *New!*

*Thank you for  
your support!*

## RENEWAL TIME FOR RESTORATION CONTRACTOR DIRECTORY LISTINGS

Is your listing up to date? Check your email for a message from MAHDC and a link to keep your business’ page active for 2017.

# HISTORIC PRESERVATION GRANT PROGRAM A SUCCESS IN PRINCE GEORGE'S COUNTY

By Maha Tariq, Maryland-National Capital Park and Planning Commission

Since federal preservation grants and tax credits are aimed at large commercial projects, smaller projects and owner occupied residences were often excluded from federal and state nominations. However, it became important for local governments to not only emphasize the exceptional, but also preserve the vernacular and common by initiating mediation of both preservation and development through other incentives. In Prince George's County this goal was realized in part since historic preservation became an integral part of urban planning practice and moved to a more integrative model.

Although, Prince George's County did gain some success in preserving historic properties through Federal and state tax incentives, the funding was focused on creating a greater impact by preserving large beautiful buildings. Until 2008 there were no preservation grants to rehabilitate privately-owned residences that comprise some of the true historical and cultural gems of Prince George's County. Beginning in 2008 the Planning Board established the Historic Property Grant program, what is now one of the County's strongest preservation tools. This program supports the rehabilitation of private residences is funded through an appropriation in the Planning Department's annual budget. This program awards Capital Grants based on recommendations from the Historic Preservation Commission. The Planning Board allocates several hundred thousand dollars annually for acquiring, preserving, restoring, or rehabilitating historic properties, which extends to individuals, nonprofits, and municipalities.

The program has been a great success in the past years and has awarded a total of approximately three million dollars to preserve 98 historic properties. On average there are about 12 properties awarded grants each year with an average grant award of \$30,000. Almost 13.2% of the total awards constituting almost \$350,000 have been granted to properties having primary cultural significance in African-American history. Once applications are received a committee is selected to score projects based on a competitive selection criteria approved by the Planning Board. The committee submits these recommendations to the Historic Preservation Commission for approval. The final selection of the awards is made at the Planning Board hearing. The program requires the grant recipients to convey a perpetual preservation easement to The Maryland-National Capital Parks and Planning Commission (M-NCPPC). To date 41 easements have been recorded in the land records. Workshops are held every year to engage the community in the process of preservation and make them familiar with the program guidelines and processes.

The Grant Program was designed to preserve, protect, and enhance historic properties. Fulfilling its primary purpose, the program also



encourages citizens to engage in the process of preservation. Such is the case with the homeowners of the nineteenth-century, one-story frame Clagett House at Cool Spring Manor in Upper Marlboro. The owners bought a dilapidated house, marked for demolition by neglect, and got engaged in property research and preservation efforts. While scraping off the layers of mold and discovering original stone hearth and pine floor boards, their interest in preservation grew, resulting in the property's listing in the National Register of Historic Places. Owners made every effort to match the lost elements of the house to the original, which included making exact copies of the original hinges and wood window shutters. Within two years the exterior of the house was completely restored to its lost grandeur in accordance with the Secretary of the Interior's Standards. The Historic Property Grant Program served as a vehicle that transformed what seemed like a monumental task into an exemplary work of preservation.

Another prominent property that was rehabilitated using the County's Grant Program was a residence listed as a contributing property on the National Register of Historic Places, located within Saint Thomas' Episcopal Parish Historic District. The residence was originally a Croom Industrial Institute, established in 1905, that provided industrial, agricultural, and domestic education to African American students. Although not primarily known in the community for its architectural significance, its historical and cultural significance to the African American community as a center of social life for rural residents is well known. Since program's inception 43 projects have been completed. The program not only benefits residential properties, but a range of other property types which include 55 dwellings, 26 churches, five barns, four schools, two cemeteries, two stores, and a bank.

Despite the program's success, it is facing a major challenge as noted by Lisa Davidson, a member of Historic Preservation Commission at Prince George's County and a historian at the National Park Service, "It is very gratifying to be able to give direct financial support to dedicated owners working to restore historic properties in Prince George's County. My only regret is that the need far exceeds the available funds." On average, 15 applications are received every year, but only half of the projects received funding. For FY2017, only seven projects were funded out of the total of 13 projects. Four projects received a recommendation for full funding, and three projects received a recommendation for partial funding. The program strives to save communities from the repercussions of long-term vacancies by providing financial incentives and technical support to homeowners for vacant and dilapidated properties. Although limited in scale and impact, the Historic Preservation Grant Program is a great preservation success story in Prince George's County. ■



## UPCOMING TRAINING OPPORTUNITIES

### ■ BEYOND THE BUILDING: CHALLENGES AND OPPORTUNITIES IN EVALUATING RECENT PAST RESOURCES

WEBINAR • **AUGUST 23, 2017**

This online panel discussion will use case studies to address the challenges and opportunities regarding the documentation and evaluation of properties from the recent past. Questions addressed will include the following: Should we apply lower thresholds of integrity to properties associated with people and events? How do historians evaluate buildings and sites associated with people who may still living? What should consultants and historians know about examining significance of modern architecture when the architectural design is secondary to its cultural or intangible significance?

### ■ A METHODOLOGY FOR LARGE SCALE RURAL LANDSCAPES

WEBINAR • **AUGUST 23, 2017**

The webinar will be a discussion of methodology pertaining to large scale rural landscapes. Attendees will be introduced to the survey, documentation, and evaluation of large scale cultural landscapes and learn how to survey a large scale cultural landscape, methods for photo documentation of a large number of built environment resources, elements of cultural landscapes on a large scale, and evaluation of contributing elements of a large cultural landscape.

### ■ BMORE HISTORIC

BALTIMORE, MD • **OCTOBER 21, 2017**

Bmore Historic is a participant-led unconference for scholars, students, professionals and volunteers who care about public history, historic preservation and cultural heritage in the Baltimore region. Bmore Historic is a unique opportunity to connect with local historians, humanities scholars, preservation advocates, museum professionals, archivists, and anyone interested in exploring the vital intersections between people, places and the past in Baltimore and Maryland. Baltimore Heritage brings people together and attendees set the agenda.

### ■ CONFERENCE: KEEPING HISTORY ABOVE WATER

ANNAPOLIS, MD • **OCTOBER 29–NOVEMBER 1, 2017**

Keeping History Above Water is an international gathering hosted by the City of Annapolis in partnership with the Newport Restoration Foundation. Conference discussions will examine the increasing and varied risks posed by sea level rise to historic coastal communities, their built environments and traditional lifeways.

## ■ TRAINING CALENDAR

**August 23, 2017**

**Beyond the Building: Challenges and Opportunities in Evaluating Recent Past Resources**

Webinar

**August 23, 2017**

**A Methodology for Large Scale Rural Landscapes**

Webinar

**October 21, 2017**

**Bmore Historic**

Baltimore, MD

**October 29–November 1, 2017**

**Conference: Keeping History**

**Above Water**

Annapolis, MD





## NEWS FROM THE COMMISSIONS

Have you visited [www.mahdc.org](http://www.mahdc.org) recently? Here are some of the news items you may have missed:

- Baltimore County LPC's consideration of Bosley Mansion for designation delayed
- Frederick HPC to review proposed downtown hotel and conference center project
- Annapolis seeks HPC members
- Preservationists advocate at Frederick HDC meeting for tannery site
- Gaithersburg HDC recognizes smokehouse restoration with historic preservation award
- Court sides with Annapolis HPC over mural
- Scott Winnette steps down after decade on Frederick City HPC
- Berlin HDC approves new look for Main Street building
- City of Frederick considers adding architectural inspector position
- City of Frederick HPC denies post-work approval of painted brick
- City of Frederick Historic Preservation Guidelines to be updated - public input requested
- Berlin HPC supports oyster shell concrete in historic district
- City of Frederick HPC approves dinosaur mural
- Court sides with Annapolis HPC over vinyl windows
- Prince George's County HPC approves plan to move cemetery
- Kent County HDC Chair praises commission's mission and procedures
- City of Frederick seeking HPC members

Please share your commission's news with MAHDC by emailing [director@mahdc.org](mailto:director@mahdc.org).



## 2017 COMMISSION TRAINING PROGRAM CURRICULUM

To learn more and schedule a training in your community, visit [mahdc.org/training-programs](http://mahdc.org/training-programs).

### ■ SELF-STUDY

Maryland Historic Preservation Commissions Tutorial and Training Manual

### ■ FOUNDATIONAL WORKSHOPS

HPC 100. Design Review

HPC 101. Law and Procedures

HPC 102. Ethics and Defensive Decision Making for Historic Preservation Commissions

### ■ SKILL SESSIONS

HPC 200. Connecting with your Community: Communication, Education, and Outreach

HPC 201. Sustainability for Historic Preservation Commissions

HPC 202. Modernism for Maryland's Historic Preservation Commissions



MAHDC depends on the support of our members, dedicated commissioners and individuals who understand that preservation, at its most vibrant and compelling, takes place locally.

### MEMBERSHIP BENEFITS INCLUDE:

- Access to MAHDC training programs at the discounted membership rates
- Subscription to MAHDC's timely e-newsletter
- Participation in a professional network of historic preservation commissioners, preservation professionals, and grassroots activists
- Influence in advocating for responsible government decisions affecting historic resources

**PLEASE JOIN US!** The membership application and payment can now be completed [online](#).



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