

**PROGRAMMATIC AGREEMENT  
BETWEEN  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,  
THE TOWN OF LAWRENCEVILLE,  
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICE  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING THE  
HIGH STREET NEIGHBORHOOD PROJECT**

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) has awarded St. Paul's College (College) in Lawrenceville a Historically Black Colleges and University (HBCU) Grant which is being used by the St. Paul's Community Development Corporation (CDC) to provide for affordable housing in Lawrenceville in the High Street Neighborhood; and

**WHEREAS**, the College and CDC are directly involved in the implementation of this Undertaking they shall be concurring parties to the Agreement; and

**WHEREAS**, the Town of Lawrenceville (Town) in the County of Brunswick, Virginia has applied for and will receive a Community Development Block Grant (CDBG) to address critical housing needs in the High Street Neighborhood; and

**WHEREAS**, the Town and the CDC have agreed to partner in the expenditure of the CDBG and HBCU funds for the High Street Neighborhood Project which consists of housing rehabilitation, demolition, and new construction (Undertaking); and

**WHEREAS**, the Town and HUD, in consultation with the Virginia Department of Historic Resources, which serves as the State Historic Preservation Office (SHPO) in Virginia, has established the Undertaking's Area of Potential Effect (APE), shown in Appendix 1, as the Lawrenceville Historic District (Historic District), which is listed in the National Register of Historic Places, Lawrenceville, Virginia; and

**WHEREAS**, Congress amended the Housing and Community Development Act of 1974 (HCD Act) in 1981 to give each State the opportunity to administer CDBG funds for non-entitlement areas, and

**WHEREAS**, in the Commonwealth of Virginia the Department of Housing and Community Development (DHCD) administers CDBG funds from the U.S. Department of Housing and Urban Development under the HCD Act; and

**WHEREAS**, pursuant to 24 CFR Part 58, those States administering the CDBG program have the responsibility of ensuring that recipient communities comply with applicable State and Federal laws and requirements, including the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and, therefore, the Virginia Department of Housing and Community Development has participated in consultation towards this Agreement; and

**WHEREAS**, HUD and the Town initially determined in consultation with the SHPO that, because no demolition was proposed in the original HBCU or CDBG work program, the Undertaking would result in No Adverse Effect on historic properties, per 36 CFR Part 800.5 of the regulations implementing Section 106 of the NHPA; and

**WHEREAS**, the Town and HUD, in response to changes in the Undertaking's scope of work resulting from new information about the condition of buildings proposed for rehabilitation, has determined in consultation with the SHPO that the Undertaking will now involve demolition of structures, thereby having an Adverse Effect on the Historic District, per 36 CFR Part 800.5(a); and

**WHEREAS**, the Town and the CDC have demolished two properties located at 407 High Street and 409 High Street, using HUD funds, which were considered contributing to the Historic District and, based on their condition, were deemed an imminent threat to public health and safety and the Town has notified the SHPO of the demolitions; and

**WHEREAS**, the SHPO, HUD, and the Town have agreed, per 36 CFR Part 800(3)(g), to compress the steps of the Section 106 process in order to expedite consultation; and

**WHEREAS**, the principles set forth in the ACHP's Policy Statement on Affordable Housing and Historic Preservation (Policy Statement), which is attached as Appendix 2, are incorporated herein and will be taken into consideration by all parties when carrying out the stipulations of this Programmatic Agreement; and

**WHEREAS**, the Town has provided notification to the Advisory Council on Historic Preservation (ACHP) per 36 CFR Part 800.6(a)(1) and the ACHP has elected to participate in consultation; and

**WHEREAS**, the definitions given in Appendix 3 are applicable throughout this Agreement.

**NOW, THEREFORE**, HUD, the Town, the ACHP, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the Undertaking's effects on historic properties.

## **STIPULATIONS**

### **I. Guiding Principles**

A. Unless otherwise specified, the Town will serve as the Lead Agency, per Sec. 800.2(a)(2), with the SHPO for all consultations noted in this Agreement. The concurring parties understand that the Town, as Lead Agency, shall act on their behalf, fulfilling their collective responsibilities under 36 CFR Part 800.

B. In consultation with the SHPO, the Town will meet, when feasible, *The Secretary of the Interior's Standards for Rehabilitation* (Standards) (Appendix 4) for all rehabilitation projects related to this Undertaking.

C. The Town will ensure that, when feasible, all CDBG and HBCU funded new construction within the Historic District is compatible with the historic character of the surrounding district.

## **II. Coordination of Review**

A. When the Town identifies a property that will be affected by an Undertaking covered under this Agreement, it will prepare the following information for the subject property.

1. A Project Review Application Form (Appendix 5).
2. A copy of the map in Appendix 6 showing the precise location of the property.
3. Photographs, digital or print, of the structure from the front, back and sides. For new construction projects, photographs of the site and the neighboring streetscape.
4. A determination of whether the property contributes to the Lawrenceville Historic District, as defined by the map in Appendix 6.

B. If any portion of the Undertaking will result in a cumulative ground disturbance of one (1) acre or greater, the Town will consult with the SHPO pursuant to Stipulation VI.

C. If the Town determines that a property does not contribute to the Historic District, as defined by the National Register nomination and the map contained in Appendix 5, then the Town may proceed with rehabilitation activities on that property, but shall continue to consult with the SHPO, per Stipulation II (D), on any new construction at that location.

D. If it is determined by the Town that a property contributes to the Historic District, then it must be treated as an historic property for the purposes of Section 106 compliance and the effects of the Undertaking on that property must be assessed. The Town shall prepare the following information based on the type of activity anticipated.

### **Rehabilitation**

- a. Detailed scope of work.
- b. Plans and drawings, if applicable.
- c. Material specifications, if applicable.
- d. Description and photos of architectural features to be repaired or replaced.

### **2. Demolition**

- a. An explanation of the reasons for demolition.
- b. Code enforcement documents that support the necessity of demolition.
- c. A structural evaluation and documentation of the building that supports the necessity of demolition.

- d. Adequate background documentation to demonstrate that rehabilitation is not economically or structurally feasible, or that retention of the property would jeopardize the implementation of an affordable housing project.

3. New Construction

- a. Identification of the lot proposed for new construction, including street address and map.
- b. Plans for exterior elevations.
- c. Exterior materials specifications.
- d. Site plan, including the boundaries of the lot and adjacent lots and the proposed footprint of the new construction.

E. For all rehabilitation and demolition projects involving properties considered contributing to the Historic District and all new construction within the Historic District carried out under this Agreement, the Town shall submit to the SHPO for review and comment the following information.

1. All documentation prepared pursuant to Stipulation II (A) ensuring proper identification of the Town coordinating review.
2. All necessary documentation prepared pursuant to Stipulation II (D).
3. A determination of whether the proposed treatment meets the Standards or a detailed statement as to why the Standards cannot be met. A Standards Checklist form should be completed for all new construction and rehabilitation projects (Appendix 7).
4. A Finding of Effect (No Adverse Effect or Adverse Effect) based on an application of the Standards.

### **III. Mitigation**

A. The Town, having determined in consultation with the SHPO that the demolition of 407 High Street and 409 High Street, which were considered contributing to the Historic District, constitutes an adverse effect will complete the following.

1. Within two years of the execution of this Agreement, the Town shall complete a written history of the High Street neighborhood that will focus on the significance of the neighborhood in the context of the larger Lawrenceville Historic District. This narrative should detail the distinctive physical characteristics of the neighborhood, including the architecture and landscape, the social and cultural evolution of the neighborhood, and should discuss major historical events that shaped the identity and development of the community (such as the construction of the railroad). This narrative should be written as an addendum to the National Register Nomination and should be distributed to the local libraries, schools and historical societies as well as SHPO's Archives.
2. The Town shall consult with the College and the Historical Society about the preparation of this narrative.
3. The Town shall submit this historical research to the SHPO for review and approval.

B. If, through consultation with the SHPO, the Town determines that additional adverse effects cannot be avoided, the Town shall photo-document any buildings to be adversely affected so that a sufficient photographic record will remain. A list of required and recommended shots is provided in Appendix 8. Photos must be archival black and white 3-inch by 5-inch prints and must be submitted to the SHPO's Archives for curation. Demolition or rehabilitation shall not commence until the documentation has been approved by SHPO.

#### C. Archaeology

Should the identified adverse effect involve an archaeological site, the Town shall consult with the SHPO pursuant to Stipulation VI(D).

### **IV. Disposition**

Should the CDC decide to dispose of the properties it has acquired with HUD funds without first redeveloping those properties through either rehabilitation or demolition and new construction, then HUD will ensure that adequate covenants are placed in the transfer documents to ensure that development of the property will comply with the terms of this Agreement.

### **V. Emergency Situations**

Should a building collapse, be largely destroyed by fire, be substantially damaged by a storm and/or be on the verge of collapse, the Town may, per 36 CFR Part 800.12, declare an Emergency Situation and, acting in the interest of public health and safety, propose demolition of a historic property. Upon issuance of the order, the Town will, to the extent possible, document the building and notify the SHPO as soon as possible.

### **VI. Archaeology**

A. The Town may proceed without archeological consultation for projects involving ground-disturbing activities provided that one or more of the following conditions apply:

1. Any new construction less than one acre in extent. The area of potential effect as defined for the purposes of this Agreement shall include all land-disturbing actions associated with the proposed construction, as for example, the footprint of construction, access roads, including temporary access roads, temporary construction easements, equipment storage areas, staging areas, below ground utilities, etc.;
2. Any demolition, rehabilitation or renovation of buildings less than 100 years old;
3. Any excavation for the repair or replacement of building footings, foundations or retaining walls of buildings less than 100 years old; and
4. The installation of utilities, such as sewer, storm, electrical, gas, steam, compressed air, leach lines, and septic tanks in road rights-of-way,

existing utility corridors, or other areas previously disturbed by these activities.

B. Any projects involving ground-disturbing activities not otherwise exempted under Stipulation V(A), above, will be submitted to the SPHO for review and comment through the completion of a Project Review Application Form.

C. Should the Town determine, in consultation with the SPHO, that further archeological identification is needed, the Town shall prepare and implement a program to identify and evaluate archeological resources.

D. Should the Town, as a result of its survey efforts, determine that an eligible archeological site will be affected, a plan for its avoidance, protection, or recovery of data will be submitted to the SHPO and other consulting parties, if any, for review and approval. The Town will consider all comments received in preparing the final treatment plan and will then implement the plan.

E. All archeological studies, resulting from this Agreement including data recovery plan(s), shall be consistent with *The Secretary of the Interior's Standards and Guidelines for Archeological Documentation* (48 FR 4434-37), and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44742, September 29, 1983) (1999, rev. 2001), and shall take into account the ACHP's publications, *Consulting About Archeology Under Section 106* (1990) and *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999).

## **VII. Review of Documentation**

The SHPO agrees to review documentation submitted pursuant to this Agreement within thirty (30) days after confirmed receipt. If no response is received within thirty (30) days, the Town may assume concurrence with its findings.

## **VIII. Unanticipated Discoveries**

The Town shall ensure that construction documents contain the following provisions for the treatment of unexpected discoveries:

A. In the event that a previously unidentified archeological resource is discovered during ground disturbing activities, the Town shall immediately notify the SHPO. All construction work involving subsurface disturbance will be halted in the area of the resource and in the surrounding area where further subsurface remains can reasonably be expected to occur. The Town and the SHPO, or an archeologist meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 FR 44-738-9), immediately will inspect the work site and determine the area and the nature of the affected archeological

property. Construction work may then continue in the project area outside the site area. Within two (2) working days of the original notification of discovery, the Town in consultation with the SHPO will determine the National Register eligibility of the resource.

B. Potentially eligible historic properties will be evaluated using the National Register criteria in accordance with 36 CFR Part 800.4(c). If the Town determines that the resource meets the National Register Criteria for Evaluation (36 CFR Part 60.6), the Town shall ensure compliance with Part 800.13(b)(3) of the ACHP's Regulations. The SHPO shall provide comments on any treatment plan submitted within two (2) business days of receipt. If the SHPO fails to comment, the Town may assume concurrence and implement the plan. Work in the affected area shall not proceed until either the development and implementation of an appropriate treatment plan; or the determination is made that the located resource is not eligible for inclusion on the National Register.

## **IX. Human Remains**

A. Human remains and associated funerary objects encountered during the course of actions taken as a result of this Agreement shall be treated in the manner consistent with the provisions of the *Virginia Antiquities Act*, Section 10.1-2305 of the *Code of Virginia*, and with the final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register of July 15, 1991. Copies of the above-listed law and regulations are included as Appendix 9.

B. In the event that the human remains encountered are likely to be of Native American origin, whether prehistoric or historic, the Town will immediately notify the Virginia Council on Indians (VCI). The treatment of Native American human remains and associated funerary objects will be determined in consultation with the VCI. All reasonable efforts will be made to avoid disturbing Native American gravesites and associated artifacts. To the extent possible, the Town will ensure that the general public is excluded from viewing any Native American gravesites and associated artifacts. No photographs of any Native American gravesites and/or associated funerary objects will be released to the press or to the general public.

C. The Town may obtain a permit from the SHPO for the removal of human remains in accordance with the regulations stated above. In reviewing a permit involving removal of Native American human remains, the SHPO will notify and consult with the VCI as required by the regulations stated above.

## **X. Public Participation**

A. The CDC and the Town will afford the public an opportunity to comment in accordance with the public participation plan approved by DHCD as part of the CDBG grant process.

B. In the event of an Adverse Effect finding, the Town shall solicit public comment regarding the proposed impact to historic properties and provide copies of those comments to the SHPO.

## **XI. Dispute Resolution**

A. Should any party to this Agreement object in writing to the Town regarding any action carried out or proposed with respect to the Undertaking or implementation of this Agreement within relevant time periods, the Town shall consult with the objecting party to resolve the objection. If after initiating such consultation the Town determines that the objection cannot be resolved through consultation, it shall forward all documentation relevant to the objection to the ACHP, including the Town's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options

1. Advise the Town that the ACHP concurs in the Town's proposed response to the objection, whereupon the Town will respond to the objection accordingly;
2. Provide the Town with recommendations, which the Town shall take into account in reaching a final decision regarding its response to the objection; or
3. Notify the Town that the objection will be referred for comment pursuant to 36 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The Town shall take the resulting comment into account in accordance with 36 CFR Part 800.7(c)(4) and Section 110(l) of NHPA.

Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the Town may assume the ACHP's concurrence in its proposed response to the objection.

The Town shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Town's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

B. If the dispute involves an action supported solely with HBCU funds, which the Town believes can be separated from the other actions covered under this Agreement, and, after initiating consultations noted above, the Town determines that the objection cannot be resolved through consultations, it shall notify the ACHP, College, the CDC, and HUD Headquarters Office of Policy Development and Research, requesting that HUD assume Lead Agency responsibility for dispute resolution in accordance with procedures set for in the ACHP's regulations 36 CFR Part 800.

C. At any time during implementation of the measures stipulated in this Agreement, should an objection pertaining to this Agreement or the effect of any individual action on historic properties be raised by a member of the public, the Town shall notify the parties to this Agreement and take the objection into account, consulting with the objector and,



should the objector so request, with any of the parties to this Agreement to resolve the objection in accordance with procedures noted above.

D. Any ACHP recommendations provided in response to a request for involvement in resolution of objections will be taken into account in accordance with the procedures set forth in the ACHP's regulations with reference to the subject of the objection only. The Town's responsibility to carry out all other actions under this Agreement that are not the subjects of a dispute will remain unchanged.

## **XII. Amendment and Termination**

A. Any party to this Agreement may request that it be amended, whereupon the parties shall consult in accordance with 36 CFR Part 800.13 to consider such an amendment.

B. If the Town determines that it cannot implement the terms of this Agreement, or if the SHPO or ACHP determines that the Agreement is not being properly implemented, HUD, the Town, the SHPO or the ACHP may propose to the other parties that it be terminated.

C. Termination shall include the submission of any outstanding documentation on any work done up to and including the date of termination.

D. A party proposing to terminate this Agreement shall so notify all parties to the Agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.

E. Should such consultation fail and the Agreement be terminated, the Town and HUD shall comply with 36 CFR Parts 800.3 through 800.6 with regard to individual undertakings covered by this Agreement

## **XIII. Duration of the Agreement**

This Agreement will continue in full force and effect until five years after the date of the last signature. At any time in the sixth-month period prior to such date, the Town or HUD acting on behalf of the CDC may request the SHPO and the ACHP to consider an extension or modification of this Agreement. No extension or modification will be effective unless all parties to the Agreement have agreed with it in writing.

Execution of this Agreement and implementation of the provisions herein shall be evidence that the Town and HUD have satisfied their Section 106 responsibilities for all individual undertakings subject to the review of this Agreement.

**SIGNATORIES**

By: *Sherone Ivey* Date: 7/15/05  
Sherone Ivey, Office of University Partnerships, PD&R  
HUD Headquarters

By: *C. J. Dean* Date: 5/11/2005  
C. J. Dean, Town Manager, Town of Lawrenceville

By: *[Signature]* Date: 10 June '05  
Kathleen S. Kilpatrick, Director and Virginia State Historic Preservation Officer

By: *John M. Fowler* Date: 9/14/05  
John Fowler, Executive Director  
Advisory Council on Historic Preservation

**CONCURRING PARTIES**

*John K. Waddell* Date: 5/31/05  
St. Paul's College

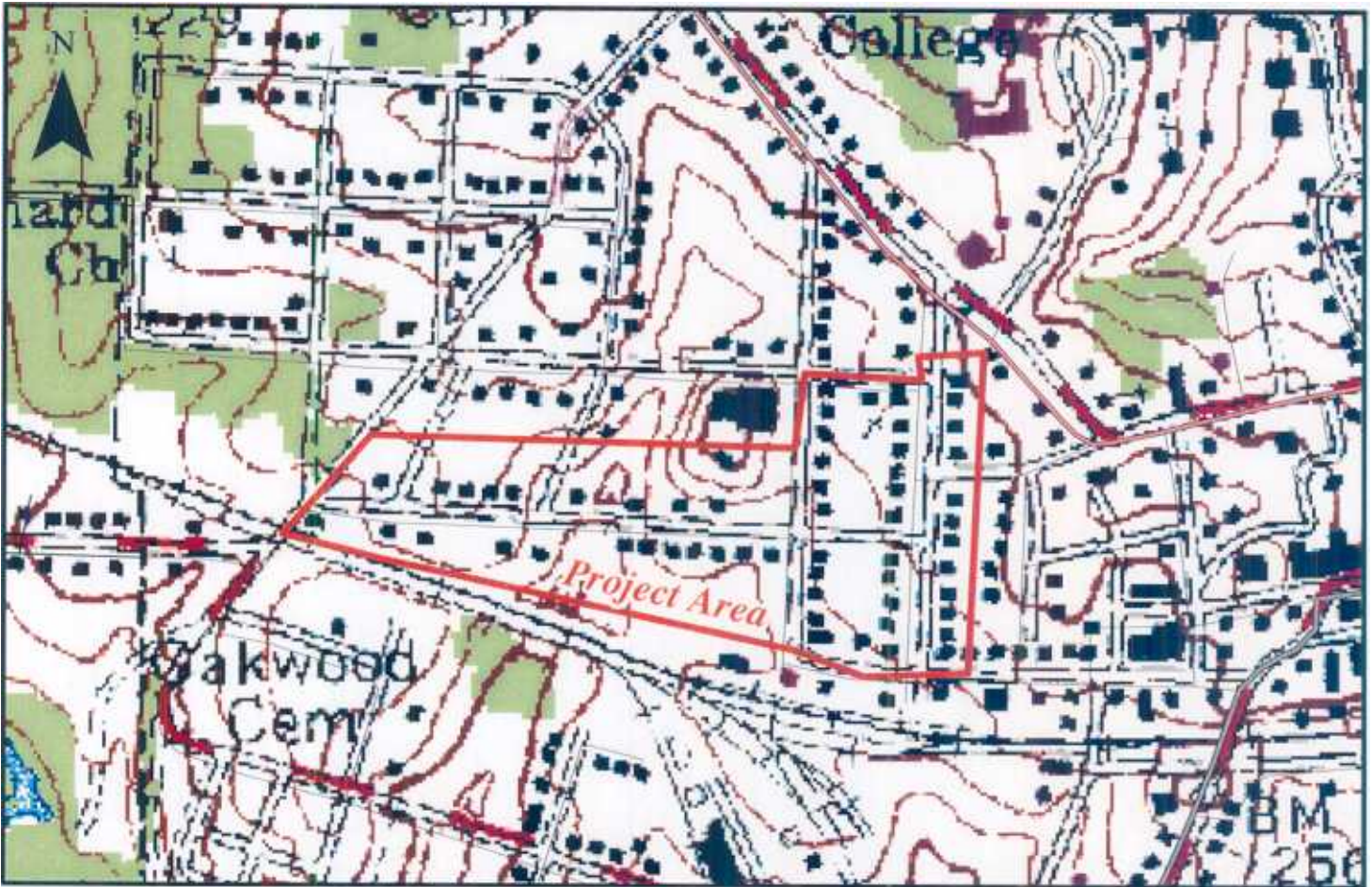
*John K. Waddell* Date: 5/31/05  
St. Paul's Community Development Corporation

## **LIST OF ATTACHED APPENDICES**

- Appendix 1: Map of the APE and Project Area
- Appendix 2: ACHP's Policy Statement on Affordable Housing
- Appendix 3: Definitions
- Appendix 4: Secretary of the Interior's Standards for Rehabilitation
- Appendix 5: Project Review Application form
- Appendix 6: Map of the Project Area showing building footprints and contributing status
- Appendix 7: Standards checklist form
- Appendix 8: Instructions for Photo-Documentation
- Appendix 9: Virginia Laws and Regulations regarding the treatment of human remains

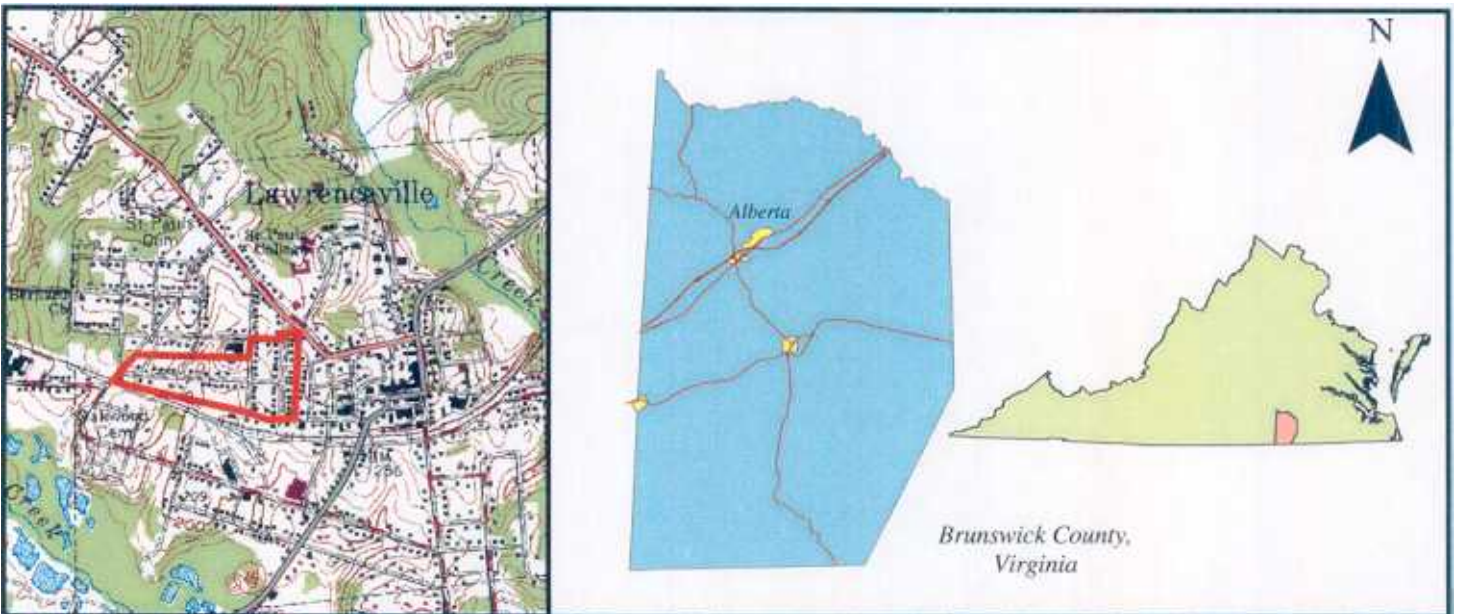
**APPENDIX 1**

**MAP OF THE APE AND PROJECT AREA**



Source: USGS Topographic Map, Scale 1:6000

## *High Street Project Location Map*



Source: USGS Topographic Map, Scale 1:24000

**APPENDIX 2**

**ACHP'S POLICY STATEMENT ON AFFORDABLE HOUSING**

## Appendix 2

### ACHP Policy Statement on Affordable Housing and Historic Preservation

The National Historic Preservation Act of 1966 (NHPA) mandates preservation of the historical and cultural foundations of the Nation as a living part of community life and development in order to provide the American people with a sense of orientation.

It further states that increased knowledge about historic resources, establishment of a better means to identify and administer them, and encouragement of their preservation will not only improve planning and execution of Federal and federally assisted projects and but also assist economic growth and development.

Toward that end, NHPA directs the Federal Government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and "fulfill the social, economic, and other requirements of present and future generations."

Federal agencies that assist in the construction and rehabilitation of housing, most notably the Department of Housing and Urban Development (HUD) and the Department of Agriculture are tasked with meeting Americans basic needs for safe, decent and affordable housing. Historic properties have played a vital role in fulfilling this objective; this must continue.

It is, however, important that Federal and State agencies, local governments, housing providers, and the preservation community in general actively seek ways to reconcile national historic preservation goals with the special economic and social needs associated with affordable housing, given that this is now one of the Nation's most pressing challenges.

In issuing this policy statement, ACHP seeks to promote a new, flexible approach toward affordable housing and historic preservation, which is embodied in the following Implementation Principles. State Historic Preservation Officers (SHPOs), Federal and State agencies, and local governments involved in the administration of the Section 106 review process for affordable housing projects funded or assisted by Federal agencies are encouraged to use these principles as a framework for Section 106 consultation and local historic preservation planning.

ACHP also encourages HUD, in consultation with the national preservation community, including the National Conference of State Historic Preservation Officers, the National Park Service, and the National Trust for Historic Preservation, to develop comprehensive historic preservation training programs for HUD staff, State, county, and local officials, and housing providers who implement affordable housing projects.

Such training should advance the Implementation Principles and the initiatives outlined in the Secretary of HUD's May 5, 1995, Historic Preservation Directive, focusing on:

- 1) Improving coordination of Section 106 reviews;
- 2) Evaluating the National Register eligibility of historic properties;
- 3) Applying the Secretary's Standards;
- 4) Providing technical assistance for routine maintenance and repairs to historic buildings;
- 5) Developing financial packages for affordable housing projects; and
- 6) Integrating historic preservation into Consolidated Plan Documents and local comprehensive plans.

### **Implementation Principles**

- I. Section 106 reviews for affordable housing projects should place principal emphasis on broad-based consensus reflecting the interests, desires, and values of affected communities, neighborhoods, and residents. Consensus-building should be facilitated through training, education, and consultation focused on historic preservation values, collaborative planning, and dispute resolution.
- II. Identification of historic properties and evaluation of their eligibility for the National Register for Historic Places should include discussions with the local community and neighborhood residents to ensure that their views concerning architectural and historic significance and traditional and cultural values receive full consideration by the Federal agency, State, county, or local government, and the SHPO.
- III. When assessing the effects of affordable housing projects on historic properties, consultation should focus not just on individual buildings which may contribute to a historic district but on the overall historic preservation potentials of the broader community, neighborhood, or "target area." This practice will ensure proper consideration is given to the cumulative impacts of projects within a designated area. Historic preservation issues should be related to social and economic development, housing, safety, and programmatic issues integral to community viability.
- IV. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions associated with affordable housing projects should adhere to the recommended approaches in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, when feasible. When economic or design constraints preclude application of the Standards, consulting parties may develop alternative design guidelines tailored to the district or neighborhood to preserve historic materials and spaces to the maximum extent feasible. Alternative guidelines shall be incorporated into executed Memoranda of Agreement or Programmatic Agreements.
- V. Proposals for non-emergency demolitions of historic properties should include adequate background documentation to demonstrate to the SHPO and/or ACHP that rehabilitation is not economically or structurally feasible, or that



retention of such properties would jeopardize the implementation of an affordable housing project.

The Section 106 review process for affordable housing rehabilitation projects and abatement of hazardous conditions should emphasize treatment of exteriors and be limited to significant interior features and spaces that contribute to the property's eligibility for the National Register, unless otherwise agreed to by all consulting parties.

Where appropriate, Section 106 reviews for affordable housing projects should be conducted in conjunction with the Historic Rehabilitation Tax Credits and other State and local administrative reviews to ensure consistency of reviews and to minimize delays. When Section 106 reviews for affordable housing projects precede other related reviews, applicants who are seeking Historic Tax Credits are encouraged to seek the advice of the SHPO and to obtain early review by the National Park Service to assure final eligibility for the Historic Rehabilitation Tax Credit.

- VIII. Archeological investigations should not be required for affordable housing projects, which are limited to rehabilitation and require minimal ground disturbance activities.
- IX. State, county, and local governments are encouraged to develop Programmatic Agreements that promote creative solutions to implement affordable housing projects and to streamline Section 106 reviews through the exemption of categories of routine activities; the adoption of "treatment and design protocols" for rehabilitation and infill new construction; and the delegation of Section 106 reviews to qualified preservation professionals employed by the local community.
- X. Certified local governments and/or communities that employ qualified preservation professionals, as set forth in The Secretary of the Interior's Professional Qualification Standards should be allowed to conduct Section 106 reviews on behalf of ACHP and/or the SHPO for affordable housing projects when the local government and/or community has executed a Programmatic Agreement with ACHP and the SHPO.

**APPENDIX 3**  
**DEFINITIONS**

## APPENDIX 3

### DEFINITIONS

**AREA OF POTENTIAL EFFECTS** – The geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist there. This always includes the actual site of the undertaking, and may also include other areas where the undertaking will cause changes in land use, traffic patterns, or other aspects that could affect historic properties.

**ACTIVITY** – Work to be performed as an undertaking, specifically defined as one or more of the following:

- ***Acquisition.*** The purchase of a property all or in part with federal funds that will trigger all subsequent activities as undertakings.
- ***Demolition.*** The removal of the majority of an existing building's structure to either the foundation or to property grade.
- ***New Construction.*** The construction of a new building on a vacant lot or site currently occupied by a building. New construction does not attempt to directly replicate buildings that stood on the site and/or incorporate the original building footprint.
- ***Rehabilitation.*** The re-use of an existing historic property that will maintain the majority of the historic features of a building, including such elements: framing, roof structure, doors and door openings, windows and window openings, partitions, trim, chimneys, mantels, and doors in a manner consistent with *The Secretary of the Interior's Standards for Rehabilitation* (1995).
- ***Reconstruction.*** The construction of a new building that replaces a demolished building, follows the majority of the original building footprint, and rebuilds the majority of distinguishing features of the building; or the retention of a minority of an existing buildings' features (such as the façade and foundation) and incorporating these features into a new structure.

**CONCURRENCE** – A response from the SHPO, in which the SHPO agrees with the determination of the responsible entity.

**EFFECT** – A determination by the Town and SHPO as to the extent an undertaking will impact a historic property or historic properties. It will include one of the following:

- ***No Effect on Historic Properties.*** There are no historic properties that will be directly or indirectly impacted by the undertaking.
- ***No Adverse Effect on Historic Properties.*** The undertaking impacts a historic property or properties in such a way that the historic character is left intact.
- ***Adverse Effect on Historic Properties.*** The undertaking changes the historic property or properties in such a way that the character of the property is diminished. Demolition of a historic property will constitute an adverse effect. Other activities may or may not constitute an adverse effect depending on their impact on historic properties, a

historic property, or historic features.

**FEASIBILITY** – The degree to which a historic property or historic property feature can be successfully preserved. Whether or not something is feasible is essential in the consideration of an adverse effect and application of *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (1995). One or more of the following elements shall be documented and shall be given reasonable consideration by the Town and SHPO in determining whether or not something is feasible:

- The physical condition of a building or building elements;
- The project scope or design constraints; the significance and integrity of the building or building elements;
- The location and setting of the historic property, or economic constraints including rehabilitation costs and market value for resale of a completed project.

**HISTORIC PROPERTY** – Any property that falls in one or more of the following categories:

- It is a contributing property in a *historic area eligible for listing* in the National Register of Historic Places.
- It is a contributing property in a *historic district listed* in the National Register of Historic Places.
- It is *individually eligible* for listing or is *individually listed* in the National Register of Historic Places.

**NON-HISTORIC PROPERTY** – Any property that falls into one or more of the following categories:

- Is a *non-contributing property* located in an historic area that is either eligible for listing in the National Register of Historic Places, or is listed in the National Register of Historic Places.
- Is not located within an historic district either eligible for listing or listed on the National Register of Historic Places and is not *individually listed in or eligible for listing* in the National Register of Historic Places.

**OBJECTION** – A disagreement by the SHPO or a member of the Public with a determination made by the Town on its determination of effect, conditions, or mitigation measures.

**MITIGATION** – Action to minimize, ameliorate, or compensate for the degradation and/or loss of those characteristics of a property that make it eligible for the National Register.

**NATIONAL HISTORIC LANDMARK** – A historic property that the Secretary of the Interior has designated a National Historic Landmark.

**NATIONAL REGISTER** – The National Register of Historic Places maintained by the Secretary of the Interior.

**NATIONAL REGISTER CRITERIA FOR EVALUATION** – The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association. The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36CFR Part 60). These criteria are used by the Town, SHPO, and Keeper of the National Register to evaluate properties (other than areas of the National Park System and National Historic Landmarks) for the National Register. These criteria are worded in a manner to provide for a wide diversity of resources. The following are the actual National Register Criteria for Evaluation.

**Criterion A:** Properties that are associated with events that have made a significant contribution to the broad patterns of our history;

**Criterion B:** Properties that are associated with the lives of persons significant in our past;

**Criterion C:** Properties that embody the distinctive characteristics of a type, period, or method of construction, that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction;

**Criterion D:** Properties that have yielded, or may be likely to yield, information important in prehistory or history.

**Criteria consideration:** Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties shall qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- (a) a religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- (b) a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
- (c) a birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life; or
- (d) a cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

- (e) a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- (f) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- (g) a property achieving significance within the past 50 years if it is of exceptional importance.

**REHABILITATION** -- The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.

**SECRETARY** – The Secretary of the Interior.

**STATE HISTORIC PRESERVATION OFFICER** – The official appointed or designated pursuant to Section 101 (b)(1) of the Act to administer the State Historic Preservation program or a representative designated to act for the State Historic Preservation Officer. For purposes of this Agreement, the State Historic Preservation Officer shall refer to the Director and staff of the Virginia Department of Historic Resources.

**UNDERTAKING** – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

**APPENDIX 4**

**SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION**

## APPENDIX 4

### SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

**REHABILITATION IS DEFINED AS** *the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.*

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**REHABILITATION AS A TREATMENT.** When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment.

From the National Park Service website, <http://www2.cr.nps.gov/tps/secstan1.htm>.



**APPENDIX 5**

**PROJECT REVIEW APPLICATION FORM**

## ***Requesting a Project Review from the Department of Historic Resources***

The Department of Historic Resources (DHR) is Virginia's State Historic Preservation Office (SHPO). Section 106 of the National Historic Preservation Act of 1966, as amended, requires federal agencies to consult with the SHPO and others who may have knowledge of historic properties in identifying known historic properties which may be affected by a federal undertaking, and in determining the need for further survey efforts to identify previously unrecorded historic properties. Information on Section 106 and the text of the Section 106 regulations are available on the web site of the Advisory Council on Historic Preservation ([www.achp.gov](http://www.achp.gov)).

**THIS APPLICATION MUST BE COMPLETED FOR ALL FEDERAL UNDERTAKINGS AND SUBMITTED TO THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES FOR REVIEW.** A federal undertaking is defined in the Section 106 regulations as "a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." **This form may also be used to obtain the comments of DHR as part of a state review process.** Please provide a completed form even in cases where project information is included in a separate document, such as an Environmental Impact Report. Environmental documents may be submitted as attachments to the form if they provide an important part of the project description.

A program specific review application form for cell tower projects is available on DHR's website along with several other attachments to the project review application relating to the rehabilitation and demolition of historic structures which are intended to streamline the process.

### **Before You Complete the Project Review Application Form**

- 1 Determine if your project constitutes an undertaking that has the potential to impact historic properties, assuming such historic properties were present (for the definition of an undertaking, go to the Section 106 Regulations, Definitions section, 36 CFR 800.16, on the web at [www.achp.gov/regs.html](http://www.achp.gov/regs.html)).
- 2 Determine the Area(s) of Potential Effect (APE) for the project. For the purposes of Section 106, the area of potential effect (APE) is defined as the entire geographical area in which changes may occur to historic properties if any are present. The APE for archaeological resources may be different than for architectural resources. The viewshed of historic properties often extends well beyond their boundaries and is often an important contributing element to their historic significance. Therefore, projects which alter the landscape drastically - large scale subdivisions, highway construction - or those which insert a large, intrusive structure into the landscape - cell towers, water towers - must take into account the surrounding viewshed when determining the APE. A field inspection of the project area will help to establish the APE. Establishing the APE is the responsibility of the federal agency in consultation with DHR. When acting on the behalf of a federal agency, the APE that is presented to DHR must be the APE that is approved by that agency. The boundaries of the APE should be clearly described and indicated on a U.S.G.S. quad map (original or clear copy). If there are two different APEs - one where ground disturbance is going to occur and one where viewshed is the only concern, for instance, these should be clearly indicated.
3. Gather information to identify the historic properties within or adjacent to the APE that may be affected by your project. Information on recorded historic properties is available in the DHR Archives, and this information **must** be collected prior to submitting project review application. The Archives are open to the public, and the only charges for use are 15 cents per page for copies. If it is not possible to visit the DHR Archives, the archivist will provide information on recorded properties for a fee (telephone the Archives at 804-367-2323, extension 125 for more information). Please be aware that survey in Virginia is far from complete, and the absence of historic resources in DHR records does not necessarily mean that no historic

properties are present. Information that should be considered in the identification process may also be available in other repositories, such as county planning offices and historical societies. On-site inspections are an essential component of the identification process. Photographs of the subject property and any nearby properties that may be over 50 years old should be provided with your project review application. Please attach the available information on recorded historic properties within the APE and documentation resulting from field inspection to the project review application form. If no historic properties are recorded in the APE, and if no potentially historic properties were observed during field inspection, note this on the application form.

4. Following the identification process, you should complete the project review application form in its entirety by referring to the following instructions. Attach or enclose the required additional information, and submit your application packet to DHR. The Department of Historic Resources will respond to your request within 30 days.

## How to Complete the Project Review Application Form

### **I. GENERAL PROJECT INFORMATION**

Indicate if the project, or any part thereof, has been previously reviewed by DHR and if so, insert the file number. If we know that a project has been previously reviewed, we can often avoid asking for duplicate information.

- 2-3. Complete this section in its entirety providing the name and location (independent city or town and county) of the project. If your project involves work on a specific building, please include the street address of the building.
4. Refer to the attached list of agencies and their abbreviations and indicate the abbreviation(s) for the federal and/or state agencies involved in the project (permitting, licensing, funding, etc.). If more than one agency is involved, one must be designated the lead agency for Section 106 compliance. If the appropriate agency is not included on the list, please write the full agency name in the space provided.
- 5-6. It is important that complete mailing addresses be provided for both the lead federal or state agency contact and the applicant.

### **II. PROJECT LOCATION AND DESCRIPTION**

7. Indicate the name of the USGS quadrangle on which your project area is located. An original or clear photocopy of the 7.5 minute USGS topographic quadrangle, or a **clearly labeled** portion thereof, showing the exact boundaries of the project location, and the project's Area(s) of Potential Effect (APE) **must** be attached to this application. Do **not** reduce or enlarge the map. Topographic maps may be downloaded free of charge from Topozone© ([www.topozone.com](http://www.topozone.com)).
8. Indicate the acreage of the project area.
9. Indicate if an architectural or archaeological survey has been conducted as part of the identification process or in a different context by consulting DHR's Archives. Indicate the author, title, and date of the report and if a copy of it is on file at DHR. If a survey has been completed and a copy is not on file, a copy should be included with the application materials.
10. During the identification stage of the Section 106 process you should determine the presence/absence of structures 50 years old or older. Indicate if the Archives search revealed any historic properties in the APE and if the site inspection revealed any properties over 50 years of age within or adjacent to the project area which may or may not be recorded at DHR. The date of construction for structures is often indicated in county or state tax records. Photographs of all structures over 50 years of age must be included with the application materials.

#### **MAIL COMPLETED FORM AND ATTACHMENTS TO:**

Virginia Department of Historic Resources  
Attention: Project Review  
2801 Kensington Avenue, Richmond, VA 23221  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

- 11-12. These questions are designed to help DHR determine if your project needs to be reviewed by an architectural historian or an archaeologist or both. If the answer to either of these questions is *yes*, a complete explanation is required in the Description.
- 13 Description. Attach a detailed description of the project area and the proposed undertaking, making sure to include the following information:
- a) Description of the existing land use. Include photographs of the project area.
  - b) Description of any recent modifications to the landscape. [Note: If the existing landscape appears to be markedly different from that shown on the attached quad map, please include information to that effect explaining what changes have occurred since the map was last updated.]
  - c) For projects involving the rehabilitation, alteration, or demolition of a structure over 50 years of age, a detailed description of the extent of the proposed alterations, along with photographs, architectural and engineering drawings, project specifications, and maps will be required.
  - d) Detailed project description that includes the precise location of all construction, destruction, and other proposed disturbance, the horizontal and vertical dimensions of all above and below ground construction, and the nature and extent of any previous disturbances – i.e. it is in a plowed field or disturbed VDOT right-of-way – within the APE.

**Please Note:** A complete project review application consists not only of the fully completed form, but also a completed Archives search, a USGS topographic map with the APE marked, a detailed project description, and all required photographs and project plans. A checklist is provided at the end of the application. Accurate and complete information will help in obtaining a timely response. If all required materials are not submitted, you will receive notification that your application is incomplete and the 30-day review period will not begin until all necessary materials are received.

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Virginia Department of Historic Resources  
Attention: Project Review  
2801 Kensington Avenue, Richmond, VA 23221  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

## Federal Agencies

Advisory Council on Historic Preservation	ACHP
Department of the Interior, Bureau of Land Management	BLM
Central Intelligence Agency	CIA
Department of Defense, Army Corps of Engineers	COE
Drug Enforcement Administration	
Department of Defense	
Department of Defense, Army	Army
Department of Defense, Navy	Navy
Department of Defense, Marines	Marines
Department of Defense, Air Force	Air Force
Department of the Interior	DOI
Department of Justice	DOJ
Department of Labor	DOL
Defense Security Service	DSS
Department of Education	ED
Department of Commerce, Economic Development Administration	EDA
Environmental Protection Agency	EPA
Department of Transportation, Federal Aviation Administration	
Fed	FBI
	FCC
Federal Deposit Insurance Corporation	FDIC
Federal Emergency Management Agency	FEMA
Department of Energy, Federal Energy Regulatory Commission	FERC
Federal Highway Administration	FHWA
Federal Railroad Administration	FRA
Department of Transportation, Federal Transit Administration	FTA
Department of Housing and Urban Development	HUD
General Services Administration	GSA
Department of Health and Human Services	HHS
Interstate Commerce Commission	ICC
Library of Congress	LC
Metropolitan Washington Airports Authority	MWAA
National Aeronautics and Space Administration	NASA
National Capital Planning Commission	
	NEH
	NIMA
	NRC
	NOAA
Department of the Interior, National Park Service	NPS
Department of Agriculture, Natural Resources Conservation Service	NRCS

Comptroller of the Currency	OCC
Department of the Interior, Office of Surface Mining	OSM
Department of Agriculture, Rural Development	RD
Rural Utilities Service	RUS
Smithsonian Institute	SI
	STB
Technology Administration	TA
Tennessee Valley Authority	TVA
United States Coast Guard	USCG
United States Department of Agriculture	USDA
United States Department of Commerce	USDOC
United States Department of Energy	USDOE
Department of Agriculture, Forest Service	USFS
Department of the Interior, Fish and Wildlife Service	USFWS
	USGS
	USPS
	VA

Christopher Newport University	CNU
Central Virginia Community College	CVCC
College of William and Mary	CWM
Department of Criminal Justice Services	DCJS
Department of Conservation and Recreation	DCR
Department of Environmental Quality	DEQ
Department of Game and Inland Fisheries	DGIF
Department of General Services	DGS
	DHCD
	DHR
Department of Juvenile Justice	DJJ
Department of Mental Health, Mental Retardation and Substance Abuse Services	DMHMRSAS
Department of Mines, Minerals and Energy	DMME
Department of Motor Vehicles	DMV
Department of Accounts	DOA
Department of Corrections	DOC
Department of Education	DOE
Dej	DOF
Department of Veterans Affairs	
	FCM
Germanna Community College	GCC
Gunston Hall	GH
George Mason University	GMU
James Madison University	JMU

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John Tyler Community College	JTCC
Jamestown-Yorktown Foundation	JYF
Medical College of Virginia	MCV
North Carolina Department of Transportation	NCDOT
Norfolk State University	NSU
Old Dominion University	ODU
Piedmont Virginia Community College	PVCC
Radford University	RU
State Corporation Commission	SCC
Science Museum of Virginia	SMV
Tidewater Community College	TCC
Thomas Nelson Community College	TNCC
University of Mary Washington	UMW
University of Virginia	UVA
Virginia Community College System	VCCS
Virginia Commonwealth University	VCU
Department of Agriculture and Consumer Services	VDACS
Department of Health	VDH
Department of Transportation	VDOT
Virginia Employment Commission	VEC
Virginia Institute of Marine Science	VIMS
Virginia Museum of Fine Arts	VMFA
Virginia Military Institute	VMI
Virginia Museum of Natural History	VMNH
Virginia Outdoors Foundation	VOF
Virginia Port Authority	VPA
Virginia Polytechnic Institute and State University	VPISU
Virginia Resources Authority	VRA
Virginia School for the Deaf and Blind	VSDB
Library of Virginia	VSLA
Department of State Police	VSP
Virginia State University	VSU
Virginia Western Community College	VWCC
Wytheville Community College	WCC
West Virginia Department of Transportation	WVDOT

**MAIL COMPLETED FORM AND ATTACHMENTS TO:**  
Virginia Department of Historic Resources  
Attention: Project Review  
2801 Kensington Avenue, Richmond, VA 23221  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

# *Project Review Application Form*

This application must be completed for all projects that will be federally funded, licensed, or permitted, or that are subject to state review. Please allow 30 days from receipt for the review of a project. All information must be completed before review of a project can begin and incomplete forms will be returned for completion.

## **I. GENERAL PROJECT INFORMATION**

1. Has this project been previously reviewed by DHR? YES \_\_\_ NO \_\_\_ DHR File # \_\_\_\_\_

2. Project Name \_\_\_\_\_

3. Project Location \_\_\_\_\_  
City Town County

4. Specify Federal and State agencies involved in project (providing funding, assistance, license or permit). Refer to the list of agencies and abbreviations in the instructions.

Lead Federal Agency \_\_\_\_\_

Other Federal Agency \_\_\_\_\_

State Agency \_\_\_\_\_

### **5. Lead Agency Contact Information**

Contact Person \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Email Address \_\_\_\_\_

### **6. Applicant Contact Information**

Contact Person \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Email Address \_\_\_\_\_

## **II. PROJECT LOCATION AND DESCRIPTION**

7. USGS Quadrangle Name \_\_\_\_\_

8. Number of acres included in the project \_\_\_\_\_

**MAIL COMPLETED FORM AND ATTACHMENTS TO:**  
Virginia Department of Historic Resources  
Attention: Project Review  
2801 Kensington Avenue, Richmond, VA 23221  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)



9. Have any architectural or archaeological surveys of the area been conducted? YES  
NO

If yes, list author, title, and date of report here. Indicate if a copy is on file at DHR.

10. Are any structures 50 years old or older within or adjacent to the project area? YES  
NO

If yes, give date(s) of construction and provide photographs.

11. Does the project involve the rehabilitation, alteration, removal, or demolition of any structure, building, designed site (e.g. park, cemetery), or district that is 50 years or older? If yes, this must be explained fully in the project description. YES  
NO

12. Does the project involve any ground disturbance (e.g. excavating for footings, installing sewer or water lines or utilities, grading roads, etc.)? If yes, this must be explained fully in the project description. YES  
NO

13. **DESCRIPTION:** Attach a complete description of the project. Refer to the instructions for the required information.

To the best of my knowledge I have accurately described the proposed project and its likely impacts

\_\_\_\_\_  
Signature of Applicant/Agent

\_\_\_\_\_  
Date

**The following information must be attached to this form:**

- Completed DHR Archives search
- USGS map with APE shown
- Complete project description
- Any required photographs and plans

<input type="checkbox"/> No historic properties affected <input type="checkbox"/> No adverse effect <input type="checkbox"/> Additional information is needed in order to complete our review. <input type="checkbox"/> We have previously reviewed this project. A copy of our correspondence is attached.
Comments: _____ _____ _____
Signature _____ Date _____
Phone number _____ DHR File # _____ <i>This Space For Department Of Historic Resources Use Only</i>

**MAIL COMPLETED FORM AND ATTACHMENTS TO**  
 Virginia Department of Historic Resources  
 Attention: Project Review  
 2801 Kensington Avenue, Richmond, VA 23221  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

**APPENDIX 7**

**STANDARDS CHECKLIST FORM**

***Work Write-up and Secretary of the Interior's Standards Check List  
for Rehabilitation and New Construction Projects:  
Attachment to the Department of Historic Resources  
Project Review Application***

*Please read the following instructions completely. If incomplete or inaccurate information is provided with your application, delays in review will result.*

This form is to be used to indicate whether work to be carried out as part of a proposed project involving preservation, rehabilitation, restoration, or reconstruction will meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. It is also to be used for projects involving new construction, to indicate whether the new construction will be compatible with historic properties that it might affect. Please fill out the form in its entirety. If you check "Modification" under the Proposed Treatment column, you must provide a complete explanation of what that modification will be and why it is the chosen course of action. If that modification does not meet the Standards, you must provide a complete explanation (and, if appropriate, a financial justification) of the economic or design constraints that preclude the project from meeting the Standards. The Advisory Council on Historic Preservation has issued a *Policy Statement on Affordable Housing and Historic Preservation* which allows for some flexibility on a case by case basis in the application of the Standards to affordable housing projects. See the Advisory Council's website ([www.achp.gov](http://www.achp.gov)) for the text of the Policy Statement. Attach additional pages as necessary.

This form *must* be accompanied by a completed Project Review Application form. Incomplete information on the Project Review Application or this form will delay our review process and may result in return of the application. A work write-up or scope of work may be provided as well, but cannot be substituted for the attached form. Architectural drawings, showing exterior elevations for new construction and exterior and interior details for rehabilitation, are also required. Please see the instructions accompanying the Project Review Application for additional information. If you have questions about what to submit, please contact the Office of Review and Compliance at (804) 367-2323.

The Secretary of the Interior's *Standards for Rehabilitation* are summarized on the following page. For more information on the Standards and their application, see the web site at <http://www2.cr.nps.gov/tps/standguide/index.htm>. To meet the Standards, work on historic properties must follow guidance in the series of technical information publications prepared by the National Park Service, known as the Preservation Brief series. The Preservation Briefs, listed on Page 3, can be downloaded from the Internet at <http://www.cr.nps.gov/hps/tps/briefs/presbhom.htm>. If Internet access is not available, copies of Preservation Briefs can be obtained from the Department of Historic Resources, by calling 804-367-2323 (please specify which publication is needed, or what topic is being addressed).

Some communities may, in consultation with DHR, develop alternative rehabilitation and/or new construction guidelines for certain historic districts. If DHR has approved the use of alternate guidelines for your community, please make a note on the form which guidelines are being followed and it will be understood that reference to the Standards on the following form will refer to the approved alternate guidelines in place.

Please note that rehabilitation projects may also qualify for federal and/or state historic rehabilitation tax credit programs. For additional information, contact DHR at 804-367-2323, ext. 100, or by e-mail at [Kyle.Meyer@dhr.virginia.gov](mailto:Kyle.Meyer@dhr.virginia.gov).

**MAIL THIS FORM WITH THE PROJECT REVIEW APPLICATION TO:**

Virginia Department of Historic Resources  
Attention: Project Review  
2801 Kensington Avenue, Richmond, VA 23221

## *SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION*

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## *NATIONAL PARK SERVICE'S PRESERVATION BRIEFS*

The following is a list of the Preservation Briefs. Each Preservation brief can be accessed online at the National Park Service's website: <http://www2.cr.nps.gov/tps/briefs/presbhom.htm>. If Internet access is not available, copies of Preservation Briefs can be obtained from the Department of Historic Resources, and printed versions may be purchased from the United States Government Printing Office.

- 01: The Cleaning and Waterproof Coating of Masonry Buildings
- 02: Repointing Mortar Joints in Historic Masonry Buildings
- 03: Conserving Energy in Historic Buildings
- 04: Roofing for Historic Buildings
- 05: The Preservation of Historic Adobe Buildings
- 06: Dangers of Abrasive Cleaning to Historic Buildings
- 07: The Preservation of Historic Glazed Architectural Terra-Cotta
- 08: Aluminum and Vinyl Siding on Historic Buildings: The Appropriateness of Substitute Materials for Resurfacing Historic Wood Frame Buildings
- 09: The Repair of Historic Wooden Windows
- 10: Exterior Paint Problems on Historic Woodwork
- 11: Rehabilitating Historic Storefronts
- 12: The Preservation of Historic Pigmented Structural Glass (Vitrolite and Carrara Glass)
- 13: The Repair and Thermal Upgrading of Historic Steel Windows
- 14: New Exterior Additions to Historic Buildings: Preservation Concerns
- 15: Preservation of Historic Concrete: Problems and General Approaches
- 16: The Use of Substitute Materials on Historic Building Exteriors
- 17: Architectural Character - Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character
- 18: Rehabilitating Interiors in Historic Buildings - Identifying Character-Defining Elements
- 19: The Repair and Replacement of Historic Wooden Shingle Roofs
- 20: The Preservation of Historic Barns
- 21: Repairing Historic Flat Plaster - Walls and Ceilings
- 22: The Preservation and Repair of Historic Stucco
- 23: Preserving Historic Ornamental Plaster
- 24: Heating, Ventilating, and Cooling Historic Buildings: Problems and Recommended Approaches
- 25: The Preservation of Historic Signs
- 26: The Preservation and Repair of Historic Log Buildings
- 27: The Maintenance and Repair of Architectural Cast Iron
- 28: Painting Historic Interiors
- 29: The Repair, Replacement, and Maintenance of Historic Slate Roofs
- 30: The Preservation and Repair of Historic Clay Tile Roofs
- 31: Mothballing Historic Buildings
- 32: Making Historic Properties Accessible
- 33: The Preservation and Repair of Historic Stained and Leaded Glass
- 34: Applied Decoration for Historic Interiors: Preserving Historic Composition Ornament
- 35: Understanding Old Buildings: The Process of Architectural Investigation
- 36: Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes
- 37: Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing
- 38: Removing Graffiti from Historic Masonry
- 39: Holding the Line: Controlling Unwanted Moisture in Historic Buildings
- 40: Preserving Historic Ceramic Tile Floors
- 41: The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront
- 42: The Maintenance, Repair, and Replacement of Historic Cast Stone

## WORK WRITE-UP AND STANDARDS CHECK LIST

Property Address : \_\_\_\_\_

Lead Agency/Contact Person: \_\_\_\_\_

Program Name: \_\_\_\_\_

### EXTERIOR (FOR BOTH NEW CONSTRUCTION AND REHABILITATION)

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<u>Impact</u>	<u>Description of Modification</u>	
<b>Roof</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Exterior cladding</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Windows</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Doors</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch roof</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch ceiling</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch floor</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch posts</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<u>Impact</u>	<u>Description of Modification</u>	
<b>Porch railing</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch steps</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Porch other: (describe)</b> _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Chimney</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Cornice</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Soffit</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other exterior trim: (describe)</b> _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

**INTERIOR (FOR REHABILITATION PROJECTS ONLY)**

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<u>Impact</u>	<u>Description of Modification</u>	
<b>Floorplan</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Walls</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

<b>Property component</b>	<b>Proposed treatment</b>		<b>Does proposed treatment meet the Standards?</b>
	<b>Impact</b>	<b>Description of Modification</b>	
<b>Floors</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Ceilings</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Stairs</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Door/window trim</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Baseboard trim</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other trim: (describe)</b> _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Mantles</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Paneling</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other interior architectural detail: (describe)</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Mechanical systems (HVAC, plumbing, electrical, etc.)</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No



<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<b>Impact</b>	<b>Description of Modification</b>	
<b>Other: (describe)</b> _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

**SITE WORK (FOR BOTH NEW CONSTRUCTION AND REHABILITATION)**

<u>Property component</u>	<u>Proposed treatment</u>		<u>Does proposed treatment meet the Standards?</u>
	<b>Impact</b>	<b>Description of Modification</b>	
<b>Fences/walls</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Paving (sidewalks, parking, etc.)</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Landscaping</b>	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other: (describe)</b> _____	<input type="checkbox"/> No impact <input type="checkbox"/> Repair <input type="checkbox"/> Replace in kind <input type="checkbox"/> Modification		<input type="checkbox"/> Yes <input type="checkbox"/> No

**APPENDIX 8**

**INSTRUCTIONS FOR PHOTO-DOCUMENTATION**

## APPENDIX 8

### INSTRUCTIONS FOR PHOTO-DOCUMENTATION

When the Town has determined, in consultation with the SHPO, that an adverse effect cannot be avoided, the Town shall proceed to photo-document the structure before the adverse effect occurs. For a building facing demolition, this will be the last opportunity to record its important or unique characteristics, and every effort should be made to photograph the building as comprehensively as possible. Photos must be shot using a 35 mm camera with true black and white film.

#### Required views

- Front elevation
- 2. Front “three-quarter” view (looking at one of the front corners of the building showing the front and a side for the purpose of showing the full depth of a building)
- 3. Left elevation
- 4. Right elevation
- 5. Rear elevation
- 6. View showing the building in the streetscape
- 7. At least one shot of any outbuildings
- 8. Close up of the front entrance showing any porch or portico
- 9. Close ups of any significant exterior decorative features – stained or leaded glass windows; decorative wood trim around porches, windows, or doors; cornices; brackets, etc

#### Recommended views

- Interior stair, if any, including newel post and any stair end decoration
- 2. All mantles, if any
- 3. Significant interior trim – wainscoting, chair rails, crown molding, window and door trim, etc., if any
- 4. Any built-in cabinets or shelves
- 5. Any original doors
- 6. Overall views looking from front entrance into principal rooms showing overall layout and volume of space
- 7. Any other interior or exterior features or construction techniques that are character-defining, unique, or otherwise noteworthy, if any

#### Photo Processing and Submission Requirements

- All photos must be printed using true black and white processing (usually called HC 110 processing, but never C-41 processing) on photo paper made specifically for use with HC 110 processing.
- 2. All photos must be labeled on the back with a soft lead pencil or a permanent audio-visual marker (Sharpie). Include the following information in the label:
    - a. Street Address
    - b. Town and County or Independent City
    - c. Name of the historic district in which the property is located
    - d. Date photo was taken
    - e. Name of photographer
    - f. Description – i.e. “Front elevation,” “West elevation,” “Detail of front porch”
  - 3. Photographs must be submitted in transparent, archival photo sleeves.

**APPENDIX 9**

**VIRGINIA LAWS AND REGULATIONS GOVERNING THE TREATMENT OF  
HUMAN REMAINS**

## APPENDIX 9

### VIRGINIA LAWS AND REGULATIONS GOVERNING THE TREATMENT OF HUMAN REMAINS

#### *Virginia Antiquities Act, Section 10.1-2305 of the Code of Virginia*

§ 10.1-2305. Permit required for the archaeological excavation of human remains.

A. It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age of an archaeological site and regardless of ownership without first receiving a permit from the Director.

B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and 57-39. However, such exemption shall not apply in the case of human burials within formally chartered cemeteries that have been abandoned.

C. The Department shall be considered an interested party in court proceedings considering the abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from the Director is required if archaeological investigations are undertaken as a part of a court-approved removal of a cemetery.

D. The Board shall promulgate regulations implementing this section that provide for appropriate public notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific quality of the research conducted on the remains, and the appropriate disposition of the remains upon completion of the research. The Department may carry out such excavations and research without a permit, provided that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.

E. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court. Such appeal must be filed within fourteen days of the Director's decision.

(1989, c. 656.)

**Final Regulations Adopted by the Virginia Board of Historic Resources and  
Published in the Virginia Register of July 15, 1991**

17VAC5-20-30. General provisions.

Any person conducting any field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall first obtain a permit from the director.

1. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be conducted without a permit.
2. In cases where a field investigation may reasonably be anticipated to involve the excavation and removal of human remains or associated artifacts, the person conducting such investigation may obtain a permit prior to the actual discovery of human burials.
3. In any case where human remains are encountered in a field investigation without having received a permit, all work on the burial or burials shall cease until a permit has been obtained.
4. No field investigation involving the removal of human remains or associated artifacts from any unmarked human burial on an archaeological site shall be performed except under the supervision and control of an archaeologist meeting the qualifications stated in 17VAC5-20-40.
5. Any human remains removed in the course of field investigations shall be examined by a skeletal biologist or other specialist meeting the qualifications stated in 17VAC5-20-40.
6. Any approved field investigation shall include an interim progress report summarizing the field portion of the permitted investigation within 60 days of completion of the removal of all human remains and associated artifacts. Reports indicating progress on analysis and report preparation shall be submitted to the department at 90-day intervals until the final report and disposition are accomplished.
7. The applicant shall make the site and laboratory available to the department for purposes of monitoring progress and compliance with this chapter as requested by the department.
8. A copy of the final report including the analysis of materials removed from the burial shall be delivered to the director according to the timetable described in the application.
9. Documentation of final disposition as required by the permit shall be delivered to the department within 15 days of such disposition.

cc:

City of Gary: Letty Almodovar (e-mail: [lalmodo@ci.gary.in.us](mailto:lalmodo@ci.gary.in.us))

City of Gary: Isaac Burnett (e-mail: [iburnett@ci.gary.in.us](mailto:iburnett@ci.gary.in.us))

Indiana SHPO: Jon C. Smith (e-mail: [jsmith@dnr.in.gov](mailto:jsmith@dnr.in.gov))

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OFAP: Jeff Durbin (e-mail: [jdurbin@achp.gov](mailto:jdurbin@achp.gov))

FILE NAME: IN/Dalton Apartment Building and Annex/CDBG Acquisition and Rehabilitation

FILE COLOR CODE: Orange

ACCESS #: 3873

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE CITY OF GARY, INDIANA  
AND  
THE INDIANA STATE HISTORIC PRESERVATION OFFICER**

**SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
PURSUANT TO 36 C.F.R. SECTION 800.6 (b) (iv)**

**REGARDING THE Rehabilitation of the Dalton Apartments and Annex,  
located at 101-37 East 5<sup>th</sup> Avenue,  
using natural resource and community development block grant funds**

**in Gary, Calumet TOWNSHIP, Lake COUNTY, INDIANA**

**WHEREAS,** the City of Gary ("City") proposes to rehabilitate the Dalton Apartments and Annex in Gary, Calumet Township, Lake County, Indiana; and

**WHEREAS,** the City is receiving Department of Housing and Urban Development Community Development Block Grant ("CDBG") Funds to partially rehabilitate the Dalton Apartments and Annex; and

**WHEREAS,** the Department of Housing and Urban Development has previously delegated its Section 106 responsibilities to its applicants receiving CDBG Funds; and

**WHEREAS,** the City, in consultation with the Indiana State Historic Preservation Officer ("Indiana SHPO"), has defined the undertaking to rehabilitate the Dalton Apartments and Annex's area of potential effects, as the term is defined in 36 C.F.R. Section 800.16 (d), to be the area within a two (2) block radius around the of the Dalton Apartments and Annex, being more particularly described as: the area within the Toll Road to the north; Eighth Avenue to the south; Maryland Street to the east; and Massachusetts Street to the west; and

**WHEREAS,** the City, in consultation with the Indiana SHPO, has found that the Dalton Apartments and Annex is within the area of potential effects; and

**WHEREAS,** the City, in consultation with the Indiana SHPO, has determined, pursuant to C.F.R. Section 800.4 (c), that the Dalton Apartments and Annex is an outstanding resource within the Gary City Center Historic District and recognizes that the Gary City Center Historic District is listed in the National Register of Historic Places; and



**WHEREAS,** the City, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. Section 800.5 (a), that the Rehabilitation of the Dalton Apartments and Annex will have an adverse effect on the Dalton Apartments and Annex; and

**WHEREAS,** the City has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and its implementing regulations (36 C.F.R. Part 800) to resolve the adverse effect on the Dalton Apartments and Annex; and

**WHEREAS,** the City has invited the Indiana State Historic Preservation Officer to participate in the consultation and to become a signatory to this memorandum of agreement; and

**WHEREAS,** the City has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and its implementing regulations (30 C.F.R. Part 800) concerning the scope of work as presented in the materials and plans dated January 30, 2004, and agreed to proceed with the project as proposed,

**NOW, THEREFORE,** the City and Indiana SHPO agree that, upon the submission of a copy of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. Section 800.11 (e) and (f), to the Advisory Council on Historic Preservation ("Council") pursuant to 36 C.F.R. Section 800.6 [b] [1] [iv] and upon the NRA and the City's approval of the Rehabilitation of the Dalton Apartments and Annex, the City of Gary shall ensure that the following stipulations are implemental in order to take into account the effect of the Rehabilitation of the Dalton Apartments and Annex on historic properties:

**Stipulations**

The City of Gary will rehabilitate the Dalton Apartments and Annex.

2. The original windows will be retained and repaired, to the greatest extent possible. If the original windows are beyond repair, the City will adequately document the condition with a description of their condition and close-up photographs.

In order to determine the feasibility of repair, the City will commission a window survey, documenting the condition of each window in detail, and submit the same to DNR to determine the feasibility of repair. The window survey shall reflect which windows will require minor repair and which windows may require more extensive repairs.

Several estimates for window repair shall be obtained from window specialists to ensure that a competitive and reasonable quotation is obtained. The window survey will be distributed to interested bidders to help provide consistency for cost estimate repairs.

In addition, the City will provide to DNR a cost estimate for replacement windows that match the original windows in size, proportions of the frame and sash configuration of window panes, muntin profiles, material and characteristics of decorative elements.

If evidence is provided demonstrating that wholesale repair is infeasible or if evidence is provided demonstrating that some percentage of the windows require replacement, then the City, in conjunction with the DNR, will consider an appropriate replacement window. Replacement windows must match the existing historic windows, as herein provided. Consequently, efforts will be made to find a wood window that closely resembles the existing wood windows with true divided lights.

3. The City of Gary will provide the Indiana SHPO with a copy of plans and Specifications for review and comment prior to the window replacement or repairs on the 2<sup>nd</sup> to the 7<sup>th</sup> floors of the Dalton Apartments and Annex.
4. If after review, it is found that one or more of the items included in the scope of work cannot be performed or will be modified in some way, then the City of Gary and the Indiana SHPO will consult to develop appropriate mitigation to resolve an adverse effect.
5. **OBJECTION RESOLUTION PROVISION**

Disagreements and misunderstandings about how this memorandum of agreement is or is not being implemented shall be resolved in the following manner:

- A. If the Indiana SHPO or any invited signatory to this memorandum of agreement should object in writing to the City regarding any action carried out or proposed with respect to the Rehabilitation of the Dalton Apartments and Annex or implementation of this memorandum of agreement, the City shall consult with the objecting party to resolve the objection. If after initiating such consultation, the City determines that

the objection cannot be resolved through consultation, the City shall forward all documentation relevant to the objection to the Council, including the DNR's proposed response to the objection. Within 45 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

Provide the City with a staff-level recommendation, which the City shall take into account in reaching a final decision regarding its response to the objection;

or

ii. Notify the City that the objection will be referred for formal comment pursuant to 36 C.F.R. Section 800.7 (c), and proceed to refer the objection and comment. The City shall take into account the Council's comments in reaching a final decision regarding its response to the objection.

B. If comments from the Council are provided in accordance with Stipulation 5 (A) of this memorandum of agreement, then the City shall take into account any Council comment provided in accordance with 36 C.F.R. Section 800.7 (a) (4) with reference only to the subject of the objection. The City's responsibility to carry out all actions under this memorandum of agreement that are not the subjects of the objection shall remain unchanged.

6. POST REVIEW DISCOVERY

In the event that one or more historic properties – other than the Dalton Apartments and Annex – are found during the implementation of this memorandum of agreement, the City shall follow the procedure specified in 36 C.F. R. Section 800.13.

7. AMENDMENT

Any signatory to the memorandum of agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreements on amendments or other actions that would avoid termination. In the event of termination, the City shall comply with 36 C.F.R. Sections 800.3 through 800.7 with regard to the review of the Rehabilitation of the Dalton Apartments and Annex.

The execution of this memorandum of agreement by the City and the Indiana SHPO, the submission of a copy of it to the Council with the appropriate documentation specified in 36 C.F.R. Section 800.11 (e) and (f), and the implementation of its terms evidence that the City has afforded the Council an opportunity to comment on the Rehabilitation of the Dalton Apartments and Annex and its effects on historic properties and that the City of Gary has taken into account the effects of the Rehabilitation of the Dalton Apartments and Annex on historic properties.

**SIGNATORIES (Required):**

**INDIANA STATE HISTORIC PRESERVATION OFFICER**

Signed by:

  
\_\_\_\_\_

Date: Dec 7, 2004

Name and Title:

Jon C. Smith  
Deputy State Historic Preservation Officer

**CITY OF GARY, INDIANA**

Signed by:

  
\_\_\_\_\_

Date: 11/10/04

Name and Title:

Letty Almodovar, Director  
Department of Community Development