



STAFF REPORT **INFORMATION/DISCUSSION ITEM**

Item # 7.c.

SUBJECT: (Edited 12.13.21) Transmittal of 2021-005 Historic Preservation Overlay Zone
[ADDED POWERPOINT](Chair Nan Forbes/Planning Commission) (Pgs. 106-138)

DATE OF MEETING: December 14, 2021

STAFF CONTACT(S): Chair Nan Forbes, Planning Commission

BACKGROUND:

The motion passed at the December 2, 2021 Planning Commission Meeting is as follows:

"I move that the Planning Commission recommend to the Town Council:

1. Approve of Zoning Code Amendment 2021-05 to amend Article 14A, as drafted, and
2. Adopt Article 14B, as drafted, and
3. Adopt Article 14C, as drafted and Section 6 as amended; and

Transmit to the Town Council the public comments received by the Planning Commission throughout this process as well as the cover letter that was prepared to go with this packet, as amended; and
Incorporate the changes discussed to the cover letter and direct staff to make the changes to article 14C Section 6 to reflect the language from Virginia Code Section 15.2-2306 Subsection A.3."

ATTACHMENTS:

Transmittal Letter

Article 14A - DRAFT

Article 14B - DRAFT

Article 14C - DRAFT

VA Code Section 15.2-2306 Preservation of Historical Sites and Architecture

Proposed Historic Corridor and Overlay Zone Map

Presentation with 1908 map



December 9, 2021

Dear Mayor and Town Council,

Please find accompanying this letter our proposed ordinance amendments presenting a process prior to the demolition of structures in Purcellville that the Commonwealth of Virginia and United States consider significant historic architectural, archaeological and cultural resources. The Planning Commission proposes these amendments in partial fulfillment of its duty to recommend updated zoning that addresses the aspirations of the 2030 Comprehensive Plan the Town Council adopted in June 2020. Specifically, the Comprehensive Plan recommends on page 87 that the Town expand protection of historic resources beyond the existing Historic Corridor Overlay District (HCOD) codified in Zoning Ordinance Article 14 because these additional historic resources contribute so much to the Town's character. Currently the Town's zoning ordinance protects the approximately 28 percent of Purcellville's historic properties that are within the HCOD, but the remaining 72 percent of the properties recognized by state and nation as historically significant properties remain unprotected by the Town.

The Planning Commission has been working on this task since December 2020. Using the existing HCOD ordinance as a starting point, as ideas started to coalesce, the Planning Commission embarked on a path of community outreach. We sent out a letter of intent in the April 2021 water bill and subsequently held a joint public session with Town Council, two public hearings, three town-hall-style discussions and engaged in numerous email exchanges with citizens. Based on feedback from Councilmember Stinnette and citizens, we drafted Article 14B-Historic Preservation Overlay Zone (HPOZ), and Article 14C-Demolition, using the lightest possible touch, to protect our small town character. Specifically, proposed:

- **Article 14A leaves intact the existing HCOD** designed to protect the Town's unique historical and architectural character, ensuring that new development is in keeping with the small-town character of Purcellville, encouraging aesthetic treatment along the entrances to town to provide an attractive entry into the historic town core
- **Article 14B creates the HPOZ** to retain and conserve the community's significant architectural and cultural heritage sites that best represent the Town's historical development patterns, and which helped influence and shape Purcellville's community character, and to protect the Town's historic resources from demolition.
- **Article 14C only discourages demolition of principal use structures in the HPOZ**, by providing a review process prior to any demolition without imposing restrictions on the demolition of barns, spring houses, garages or other accessory structures, or applying home-owners-association-like regulations on choices for roofing, siding, paint colors, windows or any other design aspects short of demolition of the principal use structure.

Following the most recent public hearing on November 18, 2021, the proposed ordinance we are submitting to the Town Council includes one key adjustment to ensure better compliance with Virginia Code. The Planning Commission, on advice of and consultation with Town Staff, which was trying to ensure the proposed ordinance apply the lightest possible touch in discouraging demolition of our historic resources, sought to give property owners wanting to demolish a contributing resource the option to sell that resource to be relocated, without the land to which it is tied. The Virginia Code indicates that if the

owner of a property with a safe, health-compliant historic resource wants to demolish that resource, the owner must give someone willing to preserve the resource an opportunity to buy the resource and the land it is on for fair market price for a defined period before proceeding with the demolition. We have suggested a change to Article 14C so that our ordinance will track the authorizing language of the Virginia Code, to wit: § 15.2-2306, except we have modified the sale schedule to benefit the property owner.

Sincerely yours,

Nan Forbes
Chair, Planning Commission

DRAFT

ARTICLE 14A. - HISTORIC CORRIDOR OVERLAY DISTRICT—HC

Section 1. - Intent.

The historic corridor overlay district is intended to implement the Purcellville comprehensive plan goals of protecting the town's unique historical and architectural character, ensuring that new development is in keeping with the small-town character of Purcellville, encouraging aesthetic treatment along the entrances to town to provide an attractive entry into the historic town core, and promoting tourism and visitor opportunities through historic preservation and Main Street revitalization, all of the foregoing being deemed to advance and promote the public health, safety and welfare of the citizens of Purcellville and its visitors.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 2. - Applicability.

The historic corridor overlay district is created to conserve elements of the Town's historic character and in accordance with Section 15.2-2306 of the 1950 Code of Virginia, as amended, to preserve and protect corridors: (i) along arterial streets or highways designated as such pursuant to Title 33.1 of the Virginia Code found by the town council to be significant routes of tourist access to the town; (ii) to historic landmarks as may be established by the Virginia Board of Historic Resources and any other buildings or structures within the town having an important historic, architectural or cultural interest and any historic areas within the town as defined by Virginia Code § 15.2-2201; or (iii) to designated historic landmarks, buildings, structures or districts in any contiguous locality.

An historic corridor overlay district may be established over any basic zoning district and/or any other overlay district, and upon the highways and their rights-of-way identified in subsection ~~2.2~~ 2.2 (the "HC streets"), regardless of whether such HC streets are otherwise within a zoning district.

2.1. Historic corridor overlay districts are hereby established over and upon the parcels of land contiguous to the HC streets in subsection ~~2.2~~ 2.2 from the edge of the right-of-way including the full depth of the parcel, as the parcel existed on the original adoption date of these historic corridor regulations and as shown on the Purcellville Zoning Map.

2.2. Subject to subsection 2.1, historic corridor overlay districts are hereby established upon and along the following streets in their entirety within the corporate limits of the Town of Purcellville:

1. Main Street (Route 7 Business).
2. Route 287.
3. Route 690 North (23rd and 21st Street).
4. Route 690 South (32nd Street).
5. Route 1604 (21st Street between Main and 23rd Streets).

_ 2.3 Unless otherwise expressly exempted, no structure, ~~or~~ building within ~~an~~the historic corridor overlay district shall be erected, reconstructed, altered, restored, relocated or demolished, in whole or in part, unless and until a certificate of design approval authorizing such work shall have been approved in accordance with this article as well as Article 14C, as applicable.

(Ord. No. 05-09-02, § I, 9-13-2005; Ord. No. 12.07.03, 7-10-2012)

2.4 Definitions.

For the purposes of this article, the following definitions shall apply:

~~(1) **Structure.** Anything manmade, including but not limited to buildings, outbuildings, walls, and fixtures.~~

~~(2) **Historic preservation professional.** A person or firm who have professional qualifications to conduct evaluations of the historic character and significance of manmade structures, historic sites, etc., including, but not limited to architectural historians, historians and archaeologists.~~

~~(3) **Historic structure.** Any structure that is:~~

~~(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or the Virginia Landmarks Register or preliminarily determined as meeting the requirements of individual listing on the National Register or Virginia Landmarks Register;~~

~~(b) Certified or preliminarily determined by the Secretary of the Interior or the Virginia Department of Historic Resources (DHR) as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary or the DHR to qualify as a registered historic district;~~

~~(c) Individually listed on a local inventory of historic structures; or~~

~~(d) Designated for protection by the town as a historic structure.~~

~~A historic designation for properties not yet surveyed or designated under items (a) through (d) above shall be made by the zoning administrator on a case-by-case basis under the written opinion of an historic preservation professional, such as an architectural historian or historian.~~

~~(Ord. No. 12.07.03, 7-10-2012)~~

See Article 14(B), Section 3 (Definitions) for terms.

2.5 Exemptions.

The provisions of section 5.1 of this article notwithstanding, no certificate of design approval shall be required for the following activities:

- (1) Construction or alteration of main and accessory buildings or structures in single-family detached residential use or in an agricultural and forestal district where no site plan is required for the work. Demolition of a historic ~~structures~~ resource is NOT exempted by this section, including demolition by neglect.
- (2) Interior alterations to a building or structure having no effect on exterior appearance of the building or structure.

~~(3)~~ (3) Construction of ramps and other modifications to serve the handicapped.

~~(4)~~ (4) The repair and maintenance of non-conforming structures authorized pursuant to section 5.2 of this article.

~~(5)~~ (5) General maintenance where no change in design or material is proposed.

~~(6)~~ (6) Additions or modifications to a building where no change in design or material is proposed as determined by the zoning administrator

~~(7)~~ (7) Signs, fences and light poles.

(Ord. No. 12.07.03, 7-10-2012)

~~2.6~~ 2.6 *A certificate of design approval is required for the following:*

~~a.~~ a. Except as otherwise provided in section 2.5 of this article, no zoning permit shall be issued for any purpose, including demolition, unless and until a certificate of design approval has been issued in accord with this article as well as Article 14C, as applicable, for improvements subject to such zoning permit.

~~b.~~ b. Except as otherwise provided in section 2.5 of this article, for any development requiring site plan approval, no final site plan shall be approved by the town unless and until a certificate of design approval has been issued in accord with this article for all buildings and improvements shown thereon. The certificate of design approval shall be binding upon the proposed development as to conditions of issuance. The certificate shall certify that the proposed development as may be modified by the conditions of issuance is consistent with the design criteria of section 8 of this article and any design guidelines adopted by the town council for the specific HC street. Signature by the zoning administrator upon the final site development plan or zoning permit, as the case may be, shall be deemed to constitute such certification.

In making such determination as to consistency with design guidelines, the board of architectural review may specify any architectural feature as to appearance, such as, but not limited to, motif and style, color, texture and materials together with configuration, orientation and other limitations as to mass, shape, height and location of buildings and structures, location and configuration of parking areas and landscaping and buffering requirements to the extent such practices are authorized under the design criteria of section 8 of this article and any design guidelines hereafter

adopted by the town council without regard to regulations of the underlying zoning district or other provisions of this ordinance.

2.7 ~~2.7~~ *Demolition permit review and approval.*

~~No historic structure, as defined in this article, within any historic corridor overlay district shall be razed, demolished or moved, in whole or in part, until the razing, demolition or moving thereof is approved by the board of architectural review, or, on appeal, by the town council after consultation with the board of architectural review.~~ No Historic Resource may be demolished or relocated unless and until a certificate of design approval authorizing such work has been approved by the BAR or, on appeal, by the Town Council after consultation with the BAR, in accordance with Article 14C.

~~In addition to the right of appeal set forth herein, the owner of a historic structure, the razing or demolition of which is subject to the provisions of this section, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the town council for such right, (ii) the owner has for the period of time set forth in the schedule contained in Section 15.2-2306 of the 1950 Code of Virginia (the "Code"), as amended, and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the town or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule specified in the Code. Any appeal which may be taken to the court from the decision of the town council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the town council, but thereafter the owner may renew his request to the town council to approve the razing or demolition of the historic landmark, building or structure.~~

2.8 *Demolition by neglect.*

~~a.a.~~ a.a. The purpose of this subsection is to prevent the demolition by neglect through permanent damage by weather or vandalism of any historic ~~structure, as defined in this article~~ resource.

~~b.~~b. The owner of any historic ~~structure, as defined by this article,~~resource shall maintain ~~the~~their building ~~or,~~ structure or object in good repair; that is, structurally sound and protected against decay and deterioration in compliance with this section and the provisions of the Virginia Uniform Statewide Building Code, as adopted by the town under Chapter 14 of the Town Code, to the extent that, in the opinion of the zoning administrator, such decay or deterioration may result in irreparable deterioration of any exterior architectural feature or produce a detrimental effect upon the ~~structure,~~ historic resource or upon the character of the district, including, but not limited to:

~~(1)~~(1) The deterioration of exterior walls or other vertical supports; or

~~(2)~~(2) The deterioration of roofs or other horizontal members; or

~~(3)~~(3) The deterioration of exterior chimneys; or

~~(4)~~(4) The deterioration or crumbling of exterior plaster or mortar; or

~~(5)~~(5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows and doors; or

~~(6)~~(6) The peeling of paint, rotting, holes and other forms of decay; or

~~(7)~~(7) The lack of maintenance of surrounding structures, such as fences, walls, gates, sidewalks, steps, signs, or other accessory structures; or

~~(8)~~(8) The deterioration of any feature so as to create or permit the creation of any hazardous condition.

~~c.~~c. The zoning administrator shall have concurrent jurisdiction with the county building official to enforce the requirements of this section.

~~d.~~d. Upon a finding by the zoning administrator that a historic ~~structure~~resource is not in good repair and protected against decay and deterioration, the zoning administrator shall inform the owners of the property in writing, by certified mail, return receipt requested, of the specific deficiencies requiring remediation and shall order such owners to repair or secure such building or structure.

~~e.~~e. If the owners or lien holder of the property cited and notified under subsection (d) have not completed the prescribed repairs or other approved remedial measures within 90 days of the date of the notification prescribed in subsection (d), then the zoning administrator shall notify the owners or lien holder in writing, by certified mail, return receipt requested, that they are in violation of the zoning ordinance, and enforcement shall be pursued by the administrator in accordance with article 11.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 3. - Permitted uses.

3.1 By right.

The following uses shall be permitted by right in any HC overlay district:

- a. All uses permitted by right in the underlying districts except as herein otherwise provided.

3.2 *By special use permit.*

The following uses are authorized within the historic corridor overlay district only by special use permit:

- a. All uses authorized by special use permit in the underlying districts.

Section 4. - Area and bulk regulations; minimum yard and setback requirements; height requirements; landscaping and screening; preservation of natural features.

4.1 Area and bulk regulations, minimum yard and setback requirements, and height regulations shall be as provided by the underlying district, except that the following provisions and limitations shall apply to any development or portion thereof within the district which shall be visible from a designated HC street.

4.2 Regulations of article 7, landscaping, screening and open space regulations, shall apply within any HC overlay district except that:

~~a.~~a. In addition to the provisions of article 7, the board of architectural review may require specific landscaping measures in issuance of a certificate of appropriateness, as the same may be related to ensuring that the proposed development is consistent with any design guidelines adopted by the town council for the specific HC street. Existing landscaping, tree cover and other significant natural features shall be preserved to the greatest extent possible.

b. No grading or other earth disturbing activity (including trenching or tunneling), except as necessary for the construction of tree wells or tree walls, shall occur within the drip line of any trees or wooded areas nor intrude upon any other existing features designated in the certificate of design approval for preservation.

~~c.~~c. Areas designated on approved plans for preservation of existing features shall be clearly and visibly delineated on the site prior to commencement of any grading or other earth-disturbing activity (including trenching or tunneling) and no such disturbing activity or grading or movement of heavy equipment shall occur within such area. The visible delineation of all such existing features shall be maintained until the completion of development of the site. In addition, an applicant for development subject to the provisions of this article, shall sign a conservation checklist approved by the zoning administrator to further ensure that the specified existing features will be protected during development. Except as otherwise expressly approved by the agent in a particular case, such checklist shall conform to specifications contained in the Virginia Erosion and Sediment Control Handbook, pp III-284 through III-297.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 5. - Nonconformities.

5.1 Any existing use, activity, lot or structure subject to the provisions of the HC overlay district, which does not conform to the provisions of the HC overlay district shall be subject to article 5, Nonconformities, of this ordinance.

5.2 *Repair and maintenance of nonconforming structures.*

An owner may repair and maintain a nonconforming structure or a structure occupied or used by a nonconforming use, upon determination by the zoning administrator that such repair or maintenance would not be contrary to the purpose and intent of this article 14A.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 6. - Administration.

Article 14A, Historic Corridor Overlay District—HC, shall be administered by the board of architectural review created and appointed by the Purcellville Town Council pursuant to Chapter 54, Article II of the Town Code. The board of architectural review shall be responsible for issuance of certificates of design approval as required by this article 14A.

Application for a certificate of design approval together with a fee as adopted by the town council shall be filed by the owner or contract purchaser of the subject property with the zoning administrator. Materials submitted with the application shall include all plans, maps, studies and reports which may be reasonably required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records. Complete applications with the required fee must be received by the zoning administrator at least 14 calendar days prior to the board meeting at which consideration is desired.

Upon receipt of a complete application, the zoning administrator shall schedule the same for hearing and shall cause notice of such hearing to be sent to the board of architectural review. The board shall confer with the applicant at the hearing and shall approve or disapprove such application and, if approved, shall issue a certificate of design approval, with or without conditions together with such modifications as deemed necessary to ensure compliance with this article. Failure of the board of architectural review to approve or disapprove such application within 60 days from the date of complete application shall be deemed to constitute approval of the application.

Nothing contained in article 14A, Historic Corridor Overlay District—HC, shall be deemed to compromise, limit, or otherwise impair the planning commission in its exercise of preliminary or final site plan review as authorized in this ordinance and the Purcellville Land Development and Subdivision Control Ordinance. It is the express intent of the town council that matters related to public health and safety as may be defined by the commission shall prevail over issues of aesthetics as may be defined by the board of architectural review. Therefore, the commission in its review of any preliminary or final site plan may modify, vary or waive any requirement of the certificate of design approval related to site plan concerns, such as landscaping, issued by the board of architectural review upon finding that such action would better serve the public health or safety.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 7. - Appeals.

The town council reserves unto itself the right to review all decisions of the board of architectural review made in the administration of article 14A which, in its discretion, it shall deem necessary to the proper administration hereof.

Any person aggrieved by any decision of the board of architectural review in the administration of this article may demand a review of the application by the town council. Such demand shall be made by filing a request therefore in writing with the zoning administrator with the appropriate fee within ten calendar days of the date of such decision. The town council may affirm, reverse or modify, in whole or in part, the decision of the board of architectural review. When considering an appeal pertaining to a public safety facility, the council may issue a certificate of design approval if it finds that the facility is a public necessity. In considering an appeal, the town council shall give due consideration to the recommendations of the board of architectural review together with such other evidence as it deems necessary for a proper review of the application.

Any person or persons jointly or severally aggrieved by any decision of the town council may appeal such decision to the Loudoun County Circuit Court for review by filing a petition at law, setting forth the alleged illegality of the action of the town council, provided such petition is filed within 30 days after the final decision is rendered by the town council. The filing of said petition shall stay the decision of the town council pending the outcome of the appeal to the court.

For the purposes of this section, the term "person aggrieved" shall be limited to the applicant, the board of architectural review or any member thereof, the planning commission or any member thereof, the zoning administrator, the town manager, the town council or any member thereof.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 8. - Design criteria.

~~8.1~~ 8.1 The board and, on appeal, the town council shall use the following standards and criteria in considering applications other than demolitions filed under this article:

~~(1)~~ (1) Whether or not the proposed architectural design is suitable for Purcellville's historic small town character in terms of external architectural features, including signs subject to public view, general design and arrangement, texture, color, line, mass, dimension, material and lighting.

~~(2)~~ (2) Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the board, in the vicinity and in the town as a whole.

~~(3)~~ (3) Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the town's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the town a more attractive and desirable place in which to live.

~~(4)~~(4) Whether or not proposed buildings use the same or architecturally harmonious materials, color, texture and treatment for all exterior walls;

~~(5)~~(5) Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, massing, scale, proportion, dimension, color, material, texture, lighting, landscaping and roofline and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability and quality.

~~(6)~~(6) Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, massing, scale, proportion, roof line and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short- term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.

The town council at its discretion and upon recommendation of the board may adopt additional design guidelines for use by the board in the review of applications under this article. Such additional guidelines shall not be adopted unless and until the town clerk has caused notice of same to be published at least once in a newspaper of general circulation within the county, at least seven days before the council meeting at which such proposed adoption is scheduled.

8.2. No specific architectural style to be required.

The board of architectural review and the town council on appeal shall not adopt or impose any specific architectural style in the administration of this article.

8.3 Demolition ~~permit criteria~~.

~~In reviewing demolition applications, the board of architectural review shall consider the following:~~

~~(1) The designation of the particular structure as historic or non-historic by a qualified historic preservation professional or by a government-recognized historic survey;~~

~~(2) The context of the structure in relation to surrounding buildings and landscape on the site and adjacent and nearby sites; and~~

~~(3) The appropriateness, as determined through application of applicable design criteria and guidelines, of proposed structures, which will replace the demolished structure, if any.~~
No Historic Resource may be demolished or relocated unless and until a certificate of design approval authorizing such work has been approved by the BAR or, on appeal, by the Town Council after consultation with the BAR, in accordance with Article 14C.

~~(Ord. No. 05-09-02, § I, 9-13-2005)~~

Section 9. - Deviations from approved plans.

Any person who once having obtained the approval required by this article deviates substantially from the approved plan shall be subject to the violations and penalties specified in article 11, section 19 of this ordinance.

(Ord. No. 05-09-02, § I, 9-13-2005)

Article 14B – Historic Preservation Overlay Zone

Section 1. Purpose and Authority.

1.1 The Historic Preservation Overlay Zone (HPOZ) is adopted to protect the Town's Historic Resources from demolition. Through this ordinance, the Town intends to retain and conserve the community's significant architectural and cultural heritage sites that best represent Purcellville's historical development patterns, and which helped influence and shape Purcellville's community character. The properties mapped in the HPOZ include every property on which a known Historic Resource is located, unless such a property is mapped in the Historic Corridor Overlay District (HCOD) and therefore subject to similar regulations under Section 14A. This ordinance is adopted under authority granted by Va. Code §15.2-2306.

Section 2. Applicability.

2.1

The (HPOZ) is hereby established over and upon all parcels of land outside of the (HCOD) that are known to contain a Principal Building Historic Resource, including any Principal Building Historic Resource that contributes to an eligible or designated historic district, as identified by the Virginia Department of Historic Resources, the National Parks Service, or the Town of Purcellville.

Section 3. Definitions.

a. For the purposes of this article, the following definitions shall apply:

- (1) Demolition. The destruction, in whole or in part, of a resource. Demolition of a building, structure or object shall mean the destruction of greater than twenty-five percent (25%) of all exterior wall surfaces to a building, structure or object regardless of its visibility from the public right-of-way. Demolition of a building, structure or object shall not include the demolition of a single exterior wall to build an addition, even if such wall exceeds twenty-five percent (25%) of the aggregate exterior wall surface area. The mere replacement of any material fabric on a building, structure or object shall not constitute demolition of an exterior wall. Moving a building, structure, or object off of its current foundation(s) to relocate elsewhere shall not constitute demolition.
- (2) Principal Building. A building or structure used, or historically used, to serve the primary use or function of the property on which it is constructed.
- (3) Resource. A building, structure, object, site, or district.
- (4) Historic preservation professional. A person who meets the U.S. Secretary of the Interior's professional qualifications as published in the Code of Federal Regulations, Title 36 CFR Part 61, in history, architectural history, historic architecture or archeology.
- (5) Historic Resource. Any resource that meets one or more of the following criteria:

- i. Any individual resource that is designated and listed in the National Register of Historic Places or the Virginia Landmarks Register or preliminarily determined eligible for individual designation and listing in the National Register of Historic Places or in the Virginia Landmarks Register;
- ii. Identified in either the Virginia Landmarks Register or the National Register of Historic Places as contributing to a designated historic district;
- iii. A designated historic district listed in the National Register of Historic Places or in the Virginia Landmarks Register or preliminarily determined by National Parks Service, or the Virginia Department of Historic Resources as eligible for designation and listing in the National Register of Historic Places or in the Virginia Landmarks Register as a historic district; or
- iv. A resource that has been designated by the Town Council as either (a) a local landmark, or (b) one that has an important historic, architectural, archaeological or cultural interest.

Section 4. Demolition permit review and approval.

4.1 No Principal Building that constitutes a Historic Resource may be demolished or relocated unless and until a certificate of design approval authorizing such work has been approved by the Board of Architectural Review or, on appeal, by the Town Council after consultation with the BAR, in accordance with Article 14C.

Article 14C - Demolition

Section 1. Purpose and Authority.

This ordinance governs the process for the Town's review and action upon requests to demolish or relocate a Historic Resource, as defined under Section 14B of the Zoning Ordinance. This ordinance implements authority granted under Va. Code §15.2-2306.

Section 2. Application and Consideration by the Board of Architectural Review.

It shall be unlawful to demolish or relocate a Historic Resource without first obtaining a certificate of design approval from the Board of Architectural Review (BAR). Application for a certificate of design approval shall be submitted on the proper form to the Town's zoning administrator, together with the application fee as adopted by the Town Council. Complete applications must be received by the zoning administrator at least 14 calendar days prior to the BAR meeting at which consideration is desired.

Upon receipt of a complete application, the zoning administrator shall schedule the same for hearing and shall cause notice of such hearing to be sent to the BAR. The BAR shall confer with the applicant at the hearing and shall approve or disapprove such application and, if approved, shall issue a certificate of design approval, with or without conditions together with such modifications as deemed necessary to ensure compliance with this Article. Failure of the BAR to approve or disapprove such application within 60 calendar days from the date on which a complete application was submitted shall be deemed to constitute approval of the application.

Section 3. Demolition criteria.

3.1 In reviewing applications for the demolition or relocation of a Historic Resource, the BAR shall consider the following:

- a) How the demolition or relocation will impact the historic integrity of the site and any remaining on-site historic resources on the same property based on the integrity considerations in National Register Bulletin 15.
- b) How the loss of the historic resource will impact the historic integrity of any adjacent historic property based on the integrity considerations contained in National Register Bulletin 15;
- c) The impact the loss of the historic resource will have on the overall integrity to any historic district or zone that the historic resource is located in, based on the historic integrity considerations contained in National Register Bulletin 15;
- d) The ability of the historic resource to be adaptively re-used as part of a new on-site development which would not adversely impact the historic resource's ability to convey

- its historic significance through its integrity of location, setting, feeling, association, design, materials and workmanship, as described in National Register Bulletin 15;
- e) Whether any monies or assistance to facilitate the on-site preservation of the historic resource could be made available to the property owner within 180 days of the owner's request to demolish or relocate the historic resource; and
 - f) The structural soundness of the historic resource.

Section 4. Appeals.

The Town Council reserves unto itself the right to review all decisions of the BAR made in the administration of this Article.

Any person aggrieved by any decision of the BAR in the administration of this Article has the right to appeal the decision to the Town Council. Such appeal shall be made by submitting a written application to the zoning administrator clearly stating how the BAR erred in assessing the demolition criteria set forth in Section 3.1. For the appeal to be considered, such application must be submitted, with the appropriate fee, no later than ten calendar days after the date of the BAR's decision. The Town Council may affirm, reverse, or modify, in whole or in part, the decision of the BAR. In considering an appeal, the Town Council shall give due consideration to the recommendations of the BAR together with such other evidence as it deems necessary for a proper review of the application.

Any person aggrieved by a decision of the Town Council under this Article may appeal such decision to the Loudoun County Circuit Court by filing a petition at law, setting forth the alleged illegality of the action of the Town Council, provided such petition is filed within 30 calendar days after the final decision is rendered by the Town Council. The filing of said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court.

Section 5. Deviations from approved plans.

5.1 Any person who once having obtained the approval required by this Article deviates substantially from the approved plan shall be subject to the violations and penalties specified in Article 11, section 17 of this ordinance.

Section 6. Right to Demolish After Denial of Application

The owner of a historic landmark, building or structure shall, as a matter of right, be entitled to raze, demolish or move their Historic Resource provided that: (i) the owner has appealed to the Town Council for such right and been denied, (ii) the owner has, for the applicable time period set forth in the schedule below, at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the

locality or to any person, firm, corporation, government, or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. The time schedule, with such time periods to be calculated from the date on which the Town Council rendered its final denial is as follows:

- (a) three months when the offering price is less than \$25,000;
- (b) four months when the offering price is \$25,000 or more but less than \$40,000;
- (c) five months when the offering price is \$40,000 or more but less than \$55,000;
- (d) six months when the offering price is \$55,000 or more.

No appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, shall affect the rights of the owner to enter into the bona fide offer to sell, referred to above.

If all steps above have been satisfied and no bona fide contract is fully executed within the applicable time frame as set forth above, then the owner shall be entitled to obtain from the Town a permit to demolish the historic building, structure or object. If the owner has acquired the right to demolish the historic building, structure or object, subject to the process set forth above, and has not obtained a demolition permit within twenty-four (24) months from the date on which the Town Council issued its final denial, then, prior to demolishing the historic building, structure or object the owner will be required to re-commence and re-complete the demolition application process, as described above.

Code of Virginia
 Title 15.2. Counties, Cities and Towns
 Chapter 22. Planning, Subdivision of Land and Zoning

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

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § [15.2-2201](#), and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § [33.2-319](#) of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ [15.2-2280](#) et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

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

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

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or

political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

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

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

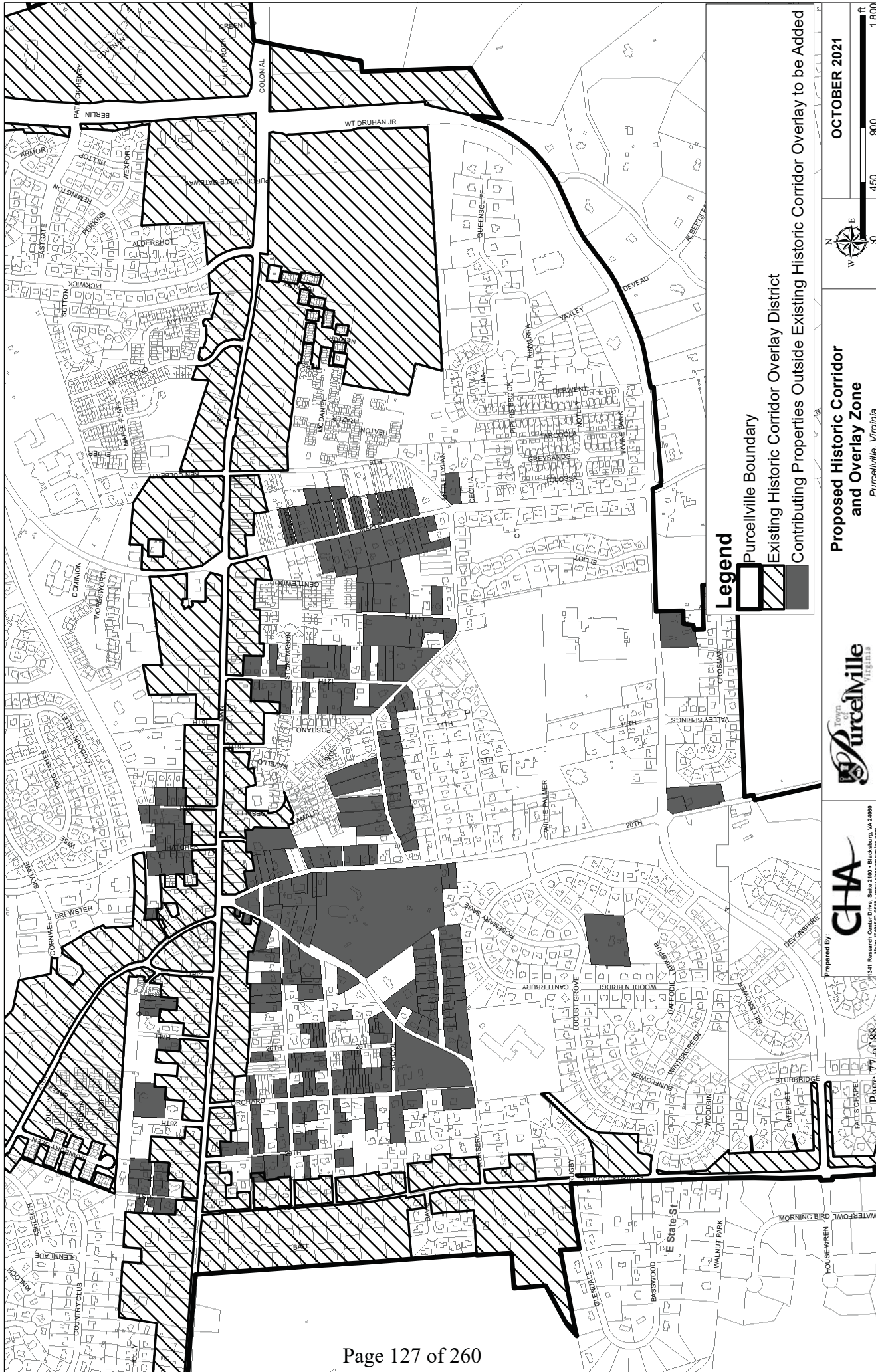
B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in

accordance with § [15.2-2204](#); (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

1973, c. 270, § 15.1-503.2; 1974, c. 90; 1975, cc. 98, 574, 575, 641; 1977, c. 473; 1987, c. 563; 1988, c. 700; 1989, c. 174; 1993, c. 770; 1996, c. [424](#); 1997, cc. [587](#), [676](#); 2009, c. [290](#); 2011, c. [237](#); 2012, c. [790](#); 2021, Sp. Sess. I, c. [531](#).



Historic Preservation Overlay Zone

**Purcellville Planning Commission
Presentation to Town Council**

December 14, 2021



Figure 166. The Dillon House c.1795



Figure 167. The White Palace c.1930



Figure 168. The 1904 Train Depot and 1905 Hirst and Smith Mill



HISTORICAL RESOURCES

Purcellville's rich history is reflected in several ways. The Purcellville Historic District is listed on the National Register of Historic Places and the Virginia Register of Historic Places and is roughly centered around the downtown area, although it also includes many of the older residences in Town. Several historic buildings still exist in the Town that contribute to the Historic District, though only the Purcellville Train Station, Tabernacle/Fireman's Field Complex, and Locust Grove House (located outside of the Historic District) are independently listed on the National Register. Crooked Run Orchard on the east end of Purcellville is recognized and honored by the Virginia Department of Agriculture as a Century Farm. The farm has been in operation for over 200 years and is a living link to the past and an oasis for nature. Major routes along West Main Street, East Main Street, North 21st Street, North 23rd Street, South 32nd Street, and Berlin Turnpike have been deemed historic corridors by the Town through the creation of the Historic Corridor Overlay Zoning District and are recognized in the National and Virginia Register of Historic Places. All of these features contribute to Purcellville's unique character and small town charm.

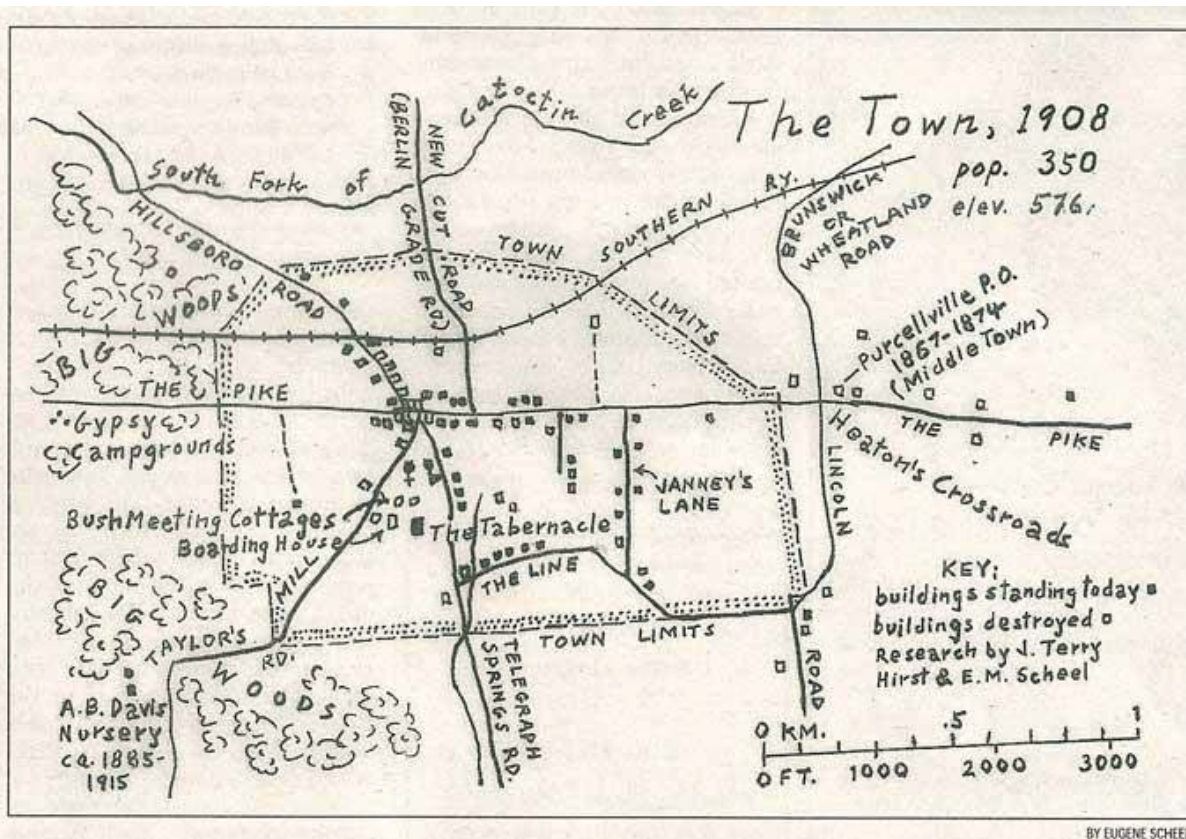
RECOMMENDATIONS

The following are recommendations to consider in all land use and development decisions to continue protecting and incorporating historical resources into the fabric and character of Purcellville.

1. Consider amending the Town's historic zoning overlay district to be more inclusive of all historically contributing structures even in non-contiguous areas and entertain recommendations from relevant entities to expand recognition of historic assets within Town.
2. Consider becoming a Certified Local Government (CLG).

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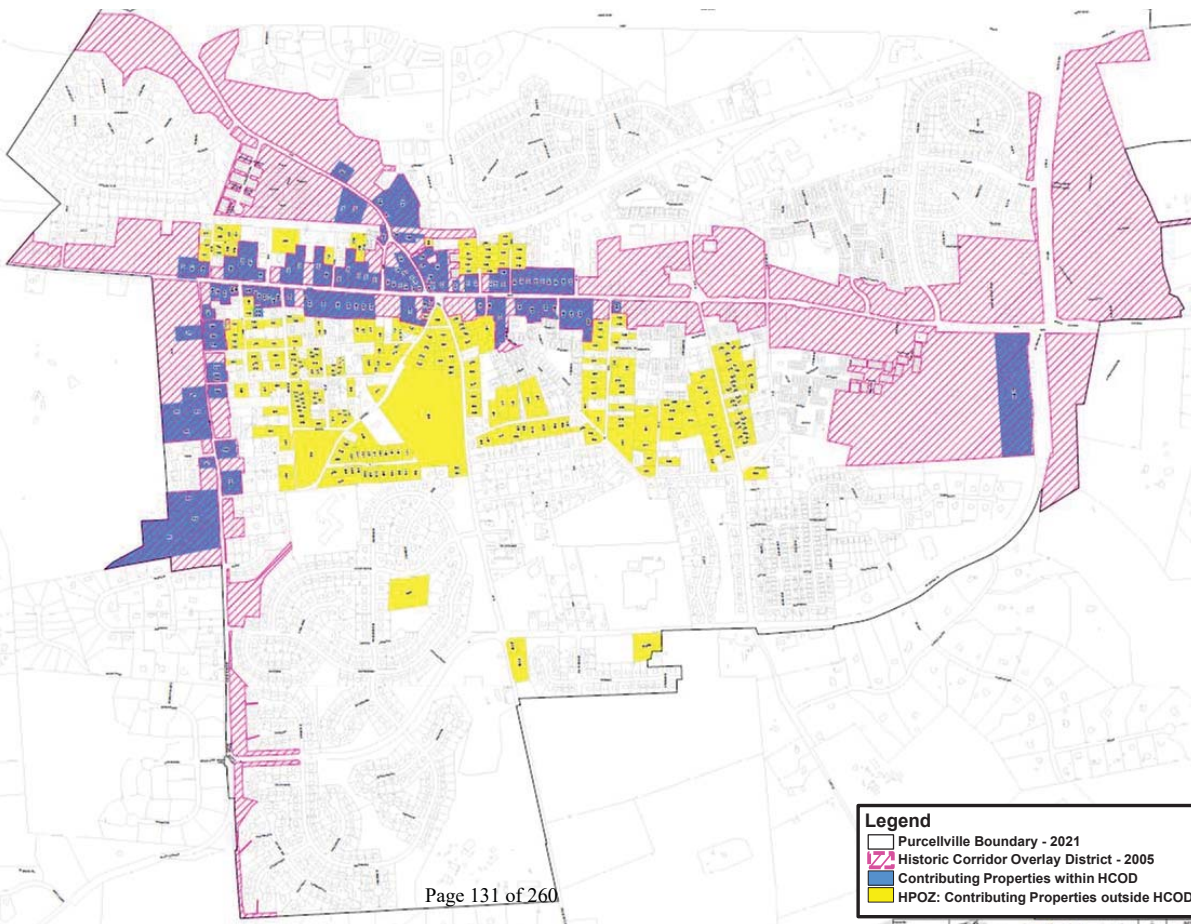
Comprehensive
Plan
page 87



Purcellville 1908

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Purcellville Historic Overlays



How did we get here?

- The 2030 Comprehensive Plan says the Town should expand protection of historic resources beyond what the existing Historic Corridor Overlay District (HCOD) provides because these historic resources contribute so much to the Town's character.
- Starting from the existing HCOD ordinance, the Planning Commission drafted Article 14B-Historic Preservation Overlay Zone (HPOZ), and Article 14C-Demolition using the **lightest possible touch** to protect our small town character.

The Town protects approximately 28 percent of the recognized 396 historic properties, but 72 percent of the properties (283) recognized by state and nation remain unprotected by the Town.

What properties would be affected?

- This proposed ordinance would apply strictly to historic properties that our state and nation have formally listed as contributing individually or as part of a recognized district.
- To be included in the HPOZ, a property must be:
 - Within the Town boundaries
 - Outside the HCOD
 - Listed as contributing in the National or Virginia Historic Registry

How have we engaged citizens?

- Public outreach efforts related to this proposed ordinance:
 - Joint public meeting with Town Council (March 2021)
 - Letter in Water Bill informing all citizens and businesses of effort (April 2021)
 - 2 Public hearings (July & November 2021)
 - 3 Town-Hall-style discussions (July, September, November 2021)
 - Responded to all emails received

Outcomes of public meetings

REQUEST	RESPONSE	RESULT
Address convoluted language	Simplified the language, and separated the ordinance into three sections: Article 14A-Historic Corridor Overlay District; Article 14B-Historic Preservation Overlay Zone; and Article 14C-Demolition.	✓
Create a Town-wide demolition ordinance	The Town Attorney said the State Law says the Town can only legally discourage demolition of historically contributing properties.	✗
Exclude accessory structures	The ordinance only discourages demolition of principal use structures.	✓
Explain why properties are included or excluded	HPOZ properties must lie within and contribute to the Purcellville Historic District or are listed in the National Register of Historic Places.	✓
Allow opting out	The Town Attorney said the State Law says this is not legal.	✗
Provide additional opportunities for citizen input	In addition to regular meetings, public hearings, special meetings and town halls were held on 7/15, 7/28, 9/9 and tonight to engage the public and allow citizens to provide additional input and exchange views with the Planning	✓

Historic Protection Overlay Zone in a nutshell:

- Applies only to historic properties not already in the existing corridor district
- Applies to individual properties rather than a broad area
- Does not require extra approvals for repairs/modifications
- Does not place restrictions on uses in the base zoning
- Provides a process for demolition of principal use structures
- Reduces the State-imposed burden on demolition by property owners

ARTICLE 14A. - HISTORIC CORRIDOR OVERLAY DISTRICT—HC

Section 1. - Intent.

The historic corridor overlay district is intended to implement the Purcellville comprehensive plan goals of protecting the town's unique historical and architectural character in keeping with the small-town character of Purcellville, encourage entrances to town to provide an attractive entry into the historic town, and provide visitor opportunities through historic preservation and Main Street revitalization, all being deemed to advance and promote the public health, safety and general welfare of Purcellville and its visitors.

(Ord. No. 05-09-02, § I, 9-13-2005)

Section 2. - Applicability.

The historic corridor overlay district is created to conserve elements of the town's historic character in accordance with Section 15.2-2306 of the 1950 Code of Virginia, which defines historic corridors: (i) along arterial streets or highways designated as such by the town council to be significant routes of travel, and (ii) along historic landmarks as may be established by the Virginia Board of Historic Landmarks. The district shall apply to historic structures within the town having an important historic, architectural or cultural significance within the town as defined by Virginia Code § 15.2-2306, landmarks, buildings, structures or districts in any contiguous localities.

Article 14B – Historic Preservation Overlay Zone

Section 1. Purpose and Authority.

1.1 The Historic Preservation Overlay Zone (HPOZ) is adopted to protect the Town's Historic Resources from demolition. Through this ordinance, the Town intends to retain and conserve the community's significant architectural and cultural heritage sites that best represent Purcellville's historical development patterns, and which helped influence and shape Purcellville's community character. The properties mapped in the HPOZ include every property on which a known Principal Building Historic Resource is located, unless such a property is mapped in the Historic Corridor Overlay District (HCOD) and therefore subject to similar regulations. This ordinance is adopted under authority granted by Va. Code § 15.2-2306.

Section 2. Applicability.

2.1 Historic Preservation Overlay Zone. The (HPOZ) is hereby established over and upon all parcels of land that are known to contain a Principal Building Historic Resource or a designated Historic Resource that contributes to an eligible or designated historic district. The Virginia Department of Historic Resources, the National Historic Preservation Act, and the National Historic Preservation Act of 1966 shall apply to the HPOZ.

Section 3. Definitions.

- a. For the purposes of this article, the following definitions shall apply:
- (1) Demolition. The destruction, in whole or in part, of a building, structure or object shall mean the destruction of greater than 50% of all exterior wall surfaces to a building, structure or object, or the destruction of the public right-of-way. Demolition of a building, structure or object shall not include the demolition of a single exterior wall to build an addition or other structure.

Proposed Zoning Ordinance Amendments

Article 14C - Demolition

Section 1. Purpose and Authority.

This ordinance governs the process for the Town's review and action upon requests to demolish or relocate a Historic Resource, as defined under Section 14B of the Zoning Ordinance. This ordinance implements authority granted under Va. Code §15.2-2306.

Section 2. Application and Consideration by the Board of Architectural Review.

It shall be unlawful to demolish or relocate a Historic Resource without first obtaining a certificate of design approval from the Board of Architectural Review (BAR). Application for a certificate of design approval shall be submitted on the proper form to the Town's zoning administrator, together with the application fee as adopted by the Town Council. Complete applications must be received by the zoning administrator at least 14 calendar days prior to the BAR meeting at which consideration is desired.

Upon receipt of a complete application, the zoning administrator shall schedule the same for hearing and shall cause notice of such hearing to be sent to the BAR. The BAR shall confer with the applicant at the hearing and shall approve or disapprove such application and, if approved, shall issue a certificate of design approval, with or without conditions together with such modifications as deemed necessary to ensure compliance with this Article. Failure of the BAR to approve or disapprove such application within 60 calendar days from the date on which a complete application was submitted shall be deemed to constitute approval of the application.

Contrasting Historic Overlay Approaches

NOTE: These overlays are mutually exclusive.

	Historic Corridor Overlay District	Historic Preservation Overlay Zone
Purpose:	<ul style="list-style-type: none">• Preserve all properties along the Corridor	<ul style="list-style-type: none">• Preserve individual historic properties outside the Corridor
Claim:	<ul style="list-style-type: none">• To protect the Town's unique historical and architectural character, ensuring that new development is in keeping with the small-town character of Purcellville, encouraging aesthetic treatment along the entrances to town to provide an attractive entry into the historic town core.	<ul style="list-style-type: none">• To retain and conserve the community's significant architectural and cultural heritage sites that best represent the Town's historical development patterns, and which helped influence and shape Purcellville's community character, and to protect the Town's Historic Resources from demolition.
Modifications:	<ul style="list-style-type: none">• In determining consistency with design guidelines, the BAR may specify any architectural feature as to appearance	<ul style="list-style-type: none">• No BAR approval required for modification.
Demolition:	<ul style="list-style-type: none">• BAR approval for all structures	<ul style="list-style-type: none">• BAR approval for primary structures only

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