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Hello,

The following are personal comments from Jim Murphy in response to the March 2022 draft ordinance. As always, thank you for the opportunity to respond.

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**All comments are Jim Murphy's personal remarks.** These comments are in response to the changes from the January 2022 Chapter 41 to the March 2022 version. There are other items I could comment on but realize there does not seem to be the will to make additional changes. I say this based on there being only a dozen or so changes from January and, I expect, reliance on NPS standards, and not necessarily on resident livability.

However, adding the language to allow for window replacement due to lead paint dust is a huge change from January. I expressed my appreciation in another document sent to LORC and do so again. **Thank you.** It will be interesting to see how often in the 12 months following enactment this is used. Having the option is key and collaboration with the homeowner and staff continues to be critical as it is in Baltimore. I hope staff and LORC will continue to collaborate with the Baltimore Commission on Historical and Architectural Preservation (CHAP). As I have indicated in other documents, they would love to collaborate with you.

It was pointed out to me that some stakeholders say that they cannot remove lead paint at all, I assume based on communication from us. To my knowledge, we have never said or implied that and only advocated for an option to replace based on our research. If we have given such a message, I would appreciate it if you are able to point out where or by whom. I would like to correct that misunderstanding if it comes from us.

My comments are referred to as “**Jim Murphy comment:**” and are presented in purple text as before. This is a smaller document than my Feb 1 comments. “PP” refers to the Preservation Planner and/or the Landmarks Commission.

## GENERAL COMMENTS:

### Exceptions.

This entire March 2022 code only mentions two district exceptions:

- 1) Additions, (1) General, (d) Exceptions (1) “Additions to structures in Marquette Bungalows Historic District shall be no taller than the existing historic resource”. And,
- 2) New Structures, (1) General, (c) Exceptions: “New principal structures in the Marquette Bungalows Historic District shall be no taller than the existing historic resources in the district. “

Thank you again. But are there no unique needs in the other districts? I have not had time to read all the rest of the submitted testimony, but I am actually quite baffled that there are no other exceptions.

**Homes We Live In** - Our homes still are not static museums. I feel that is still the case with much of the March 2022 version. Except for the lead compromise which has another precedent and is appreciated, LORC relies on Secretary of the Interior, National Park Service standards, and those often do not enhance the livability of an historic structure, only its visage from the street. If you wish examples of this, I refer you to my February 1 personal comments.

**Grandfathering** – As you have heard from me and others, there is concern about grandfathering current non-conforming alterations. There is still no reference allowing grandfathering anywhere in the ordinance. While many of us interpret the following from the PP’s Staff report to LORC that way, we are not sure if that does indeed grandfather current alterations since it does not appear in the code. If it is your intent to have such language in the Guidelines, I suggest that is not strong enough and it needs to actually be in the ordinance. If it had been in earlier versions of the code, we could point that out to concerned neighbors and there would not be this continued misunderstanding. I tell them that the city will not knock on their door and make them replace the non-conforming feature. They say, show me where it says that. Alas, I cannot show them that as it does not exist.

This occurs with my neighbors many more times than you can imagine – they are fearful they will be required to remove non-conforming features from their homes and not to be able to replace non-conforming elements with similar elements. I was at a neighborhood dinner party Sunday 2/27 and it again came up unsolicited. There is a non-conforming bay window installed by a previous owner that will need replacing in a few years. It is unclear to me if they will be allowed to replace it with a similar bay window. Are they able to do that? The ordinance needs to be clear on this issue as well. While staff might work with them the way she did in her comments below, the ordinance does not say it and needs to.

While this comment in the PP’s Staff Report below is the negative: “There is nothing in the ordinance that requires changes ...”, there is no positive language in the code, such as: “All current alterations do not have to be removed. If altered again, the project brings the opportunity to modify an existing alteration, but the alteration does not have to be removed and can be replaced.” If I read this correctly, I again encourage language like this, maybe in 41.30 Spectrum of Review. Has this been a correct interpretation of the info below?

#### ***“Nonconformities***

There were concerns that the ordinance would require previous unsympathetic alterations to be removed. There is nothing in the ordinance that requires changes to an existing building. While building code requires areas undergoing work to become compliant with current building code, the preservation ordinance would treat those activities as an opportunity to make a feature more architecturally sympathetic, but that change would not be required. A recent project in the district wanted to demolish an unsympathetic front porch addition and replace it with one that was more period appropriate. They used historic porches within 200 feet to serve as the model of an appropriate porch, and the project was approved. The draft ordinance would also allow for this type of project, even when a porch had not been there previously. The project would bring the opportunity to modify an existing alteration, but the alteration did not have to be removed.”

**Guidelines:** There is still no language that says there will be Guidelines. It makes for more clarity of use for all stakeholders if know via the dinance that they will exist. Maybe that also is in 41.30 Spectrum of Review.

## SPECIFIC COMMENTS ON THE CODE LANGUAGE ITSELF

**Jim Murphy comment:** I again only retained the sections of the March 2022 Draft Ordinance that I comment on, and I deleted the rest of the code not addressed to make this letter a little less lengthy.

### 41.30 SPECTRUM OF REVIEW

2. Staff can administratively approve Repair and Alterations proposals in conformance with the Landmarks Commission Policy Manual or may refer the application to the Landmarks Commission for their review.

**Jim Murphy comment:** Since I do not know the Landmarks Commission Policy Manual, please describe what this means in relation to Repairs. Many of us have asked for clarification on the process to get approval for Repairs. Such language is not in the March 2022 ordinance except in 41.30. What do you expect from stakeholders to get a repair? A formal CoA? A phone call? Please define. I still think this will be a problem for homeowners and for staff and needs to be part of the ordinance, even if you plan to have it in the Guidelines.

### 41.32 STANDARDS FOR REPAIRS

**Jim Murphy comment:** Remove the requirement to have Repairs require a CoA.

#### (1) General

#### (5) Windows and Doors

##### (a) Windows & Doors

1. Deteriorated or broken components or features shall be repaired.
2. Replacement in kind or with a compatible substitute material shall be used when materials or features are missing or are physically beyond repair and/or are not economically feasible to repair.

**Jim Murphy comment:** As mentioned, the homeowner, not the PP, should determine if a feature is “physically beyond repair and/or are not economically feasible to repair.” The PP cannot possibly know the circumstances of the homeowner.

### 41.33 STANDARDS FOR ALTERATIONS

#### (1) General

#### (b) Materials and Features

1. Alterations shall be in keeping with the original design and character of the building.
2. The removal of historic features on elevations visible from the developed public right-of-way is prohibited.
3. The introduction of conjectural features without historic precedent on the building is prohibited.

**Jim Murphy comment:** Previous language for 3, including Draft Ordinance 10/27/21 used “.... shall be avoided.” I continue to make a case to remove “... is prohibited” and revert to the original language “. . . shall be avoided.”

As I have said, our neighbors (*some of whom are still in the neighborhood*) felt when they developed current bungalow ordinance language in 1993 with the then current PP - and still feel strongly - allowing adding conjectural features to enhance our historic character. I expect staff relies on NPS guidance on this, but it is short sighted and does not ensure livability – we are not museums. Not every alteration can be documented on the building and should be allowed via language similar to (6) (b) Porch Elements, 1, “Where physical evidence of the overall historic form and detailing are not evident, porch elements shall be of a simple design found on similar historic resources within the district.”

This makes great sense for livability in the neighborhood cultural character and reflects the PP's comment in one of the three virtual listening sessions that "they are not museums," (*Sorry, I lost my note with exact session and the exact quote, but I think this reflects the intent of that statement If not, I apologize.*)

I again ask that this be allowed at least in the bungalow district. This is one of the reasons I have continued to advocate for district specific ordinances, rather than just one for all five. Lost that battle too.

I do not think that tax credit will be much of an issue for the homeowner if they use such a conjectural feature. But if that is an issue (*which I think is a minor issue like with lead*) add similar language like you did in 41.33 Alterations, (1) (e) for lead: Such conjectural features without historic precedent may not be eligible for state preservation tax credits.

### **3. Exterior Walls**

#### **(a) Masonry**

2. Removing a chimney visible from the developed public right-of-way or altering its appearance is prohibited.

**Jim Murphy comment:** I continue to disagree about chimney removal but know I cannot win this fight. This language will just continue the removal of chimneys without notification to the PP, as is often the case, I am told.

#### **(b) "Wood**

1. Replacement siding shall imitate the original siding within (*MISSING DIGIT, Jim highlight*) inch of historic exposure/reveal."

**Jim Murphy comment on a missed typo:** I assume you noticed that the January 2022 Draft Ordinance and the March 2022 version left out either the text that says "one" inch or whatever it was meant to say. The 10/27/21 version says "1 inch". This is still missing in the March 2022 version, and I assume you wish to fix it.

### **(5). Windows and Doors**

#### **(c) Windows**

2. Only when original windows are too deteriorated to repair may they be replaced with new windows that replicate all design details.

**Jim Murphy comment:** Thank you again for the language to allow an option to replace features with lead paint dust in 41.33 (1) (e) when that process is followed. I have informed my bungalow neighbors repeatedly some version of: "Now you have the option to replace features and windows with lead paint dust. But notice that you still cannot replace a window just because you want to." (*Usually with my strong emphasis.*)

6. Storm windows shall have a matching or a one-over-one pane configuration that will not obscure the characteristics of the historic windows and have frames and trim painted or otherwise coated to match the color of the window beneath.

And (d) 3, Storm doors.

**Jim Murphy comment:** You have removed several places that required color matching in the January 2022 version – thank you for each instance, especially for substitute materials - except for storm windows and storm doors. I continue to disagree about color requirement for storm windows and storm doors.

In the PP Staff Report she forgot to mention color is still required in storm windows and storm doors which I do not see that the "... alteration would be permanent ..." or "...blend in a repair ..."

#### ***"Color***

There were several comments about the regulation of color. Traditionally the Landmarks Commission does not

weigh in on color when it is a matter of paint. While there were several places in the ordinance where color was mentioned as a way to make an alteration or addition blend better with the district, once that project was approved, a property owner would be allowed to repaint it in any color they would choose. As such, those places we are proposing to strike the language. We kept color references in places where the alteration would be permanent (masonry units and mortar) or where trying to blend in a repair (a different colored piece of soffit when all the rest are otherwise the same color would be problematic).”

Require storm doors to be painted but eliminate the color requirement for storm doors. My original front door is stained a beautiful golden oak. Do you really expect me to paint a new storm door the color tan or brown so it is “... the same color as the entrance door or trim ....” I venture to guess that many homes in the historic districts have stained front doors and would face the same dilemma.

Eliminate color requirement for storm windows and storm doors.

I am OK with color requirements for masonry, stucco, concrete, mortar and soffits etc in 7 Building Systems, (a) mechanical systems, (2) grills vents etc as well as skylights in all sections.

## **(6) Entrances, Porches, Balconies and Decks**

### **(a) Replacement**

1. An entire entrance or porch that is too deteriorated to repair shall be replaced using any available physical evidence or historic documentation as a model to reproduce the porch features.
2. A historic entrance or porch shall be retained in all instances, including change of use or space function.

### **(b) Porch Elements**

1. Where physical evidence of the overall historic form and detailing are not evident, porch elements shall be of a simple design found on similar historic resources within the district.

## **Jim Murphy comment:**

I again suggest that using such additional language as: “... replacement that meets the historic character of the neighborhood, even without physical evidence but found on similar historic resources within the district ...” allows for additional historic character - and more livability - in the neighborhood. At least in the bungalow district since that was neighborhood intent in 1993.

### **(c) Lighting and Electrical Systems**

3. Exterior mounted conduit on elevations visible from the developed public right-of-way is prohibited.

**Jim Murphy comment:** If this is in relation to the location of the electric service entrance into the house (if that is what this refers to), that is a consultation between the electrician and the service provider.

I talked to Tim Cole of Madison Gas and Electric on 2/28. He told me that in many cases the “... only option often is run the line from the pole to the front of the house.” In addition, he told me that code requires that the meter be outside, not inside, which means that conduit will be installed outside as well from the head to the meter. And, in many cases, it is on elevations visible from the developed right of way. He said I can provide his contact info: 608/252-4709 [tcollection@mge.com](mailto:tcollection@mge.com) and he is happy to talk with you. He said the cost of putting the line underground or adding a pole in the back of the house to provide service not visible is prohibitive and not even feasible in many cases.

One of my reviewers read this language to mean you cannot add conduit if visible from the developed public right-of-way to, as an example, a 2<sup>nd</sup> floor to add a circuit for a window air conditioner He does not think it refers to the service entrance. If he is correct, I think that does not support livability if that the only way cost effective way to get power is that location in the home. Please provide clarity on what exactly is prohibited.

Since LORC clearly sees this as an issue, I again suggest something like: “Exterior mounted conduit on elevations visible from the developed public right-of-way is discouraged.” Or at the least match the language in Additions (7) Building Systems (a) Mechanical Systems (3) “... unless technically infeasible.” The location of power feeds into the house is ultimately determined as described above.

As another option, you might wish to add this to the list items in (a) items such as grills, vents etc and they must “match the building.” That section already requires meters to match the building and you could add “exterior mounted conduit” to this list easily to do the same.

Discourage, do not prohibit.

I can live with this requirement in new construction.

## **41.34 STANDARDS FOR ADDITIONS**

### **(7) Building Systems**

#### **(c) Lighting and Electrical Systems**

3. Exterior mounted conduit on elevations visible from the developed public right-of-way is prohibited.

**Jim Murphy comment:** See comments above in Alterations on this issue

## **41.35 STANDARDS FOR NEW STRUCTURES**

### **(1) General**

#### **(c) Exceptions**

1. New principal structures in Marquette Bungalows Historic District shall be no taller than the existing historic resources in the district.

**Jim Murphy comment:** I still feel strongly there should be additional language to ensure any new or replacement structure – inevitable - in our bungalow district be only of bungalow design, not necessarily from other designs in the period of significance, 1924-1930. I again suggest “New principal structures in Marquette Bungalows Historic District shall be of bungalow design and shall be no taller than the existing historic resources in the district.”

This was also recommended by 74 homeowners in the January 31 letter from the Marquette Bungalows Neighbors Group.