



ISSUES REPORT

APPENDIX C: HISTORIC PRESERVATION BEST PRACTICES, A WHITE PAPER FOR LOWER MERION TOWNSHIP

Prepared by
Lower Merion Conservancy, 2010

Funded by
*The Henry A. Jordan Preservation Excellence Fund of the
National Trust for Historic Preservation, Lower Merion Township,
and the Lower Merion Conservancy*



HISTORIC PRESERVATION BEST PRACTICES

A White Paper for
Lower Merion Township

January, 2010

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Historic Preservation Best Practices

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Historic Preservation Best Practices **A White Paper for Lower Merion Township**

Purpose

This white paper seeks to identify preservation issues in Lower Merion, present an assessment of relevant preservation practices in other municipalities, and offer possible actions to best preserve the historic resources of Lower Merion. As a product of research, it is offered to assist anyone interested in preserving the built environment. Conceived and created by the Lower Merion Conservancy, the Historic Preservation Best Practices white paper was funded by Lower Merion Township, the National Trust for Historic Preservation, and the Conservancy. The list of possible actions provided in the paper's final section have not been endorsed by these organizations, although elements of this list will be used by the Township and the Conservancy as a basis for further action and discussion.

Background

Lower Merion, a first-ring railroad suburb of Philadelphia, is a township comprised of many complex historical layers. Among the late-19th and early-20th century neighborhoods lies a collection of 17th-century meetinghouses, 18th-century farmhouses and inns, and 19th century Victorian mansions and mill buildings. Important architects like Frank Lloyd Wright, Louis Kahn, Frank Furness, Paul Phillipe Cret, William Lescaze, Wilson Eyre, and William Lightfoot Price have built in Lower Merion, and some have even lived here.

A township of the first class, Lower Merion has a strong interest in preservation and was a pioneer in approving a local preservation ordinance to protect historic structures outside of identified historic districts. In the years since this ordinance was passed, it has become apparent that the preservation incentives offered, the restrictions put in place, and the regulatory processes do not always work as hoped. This was colorfully illustrated during the recent unsuccessful struggle to rescue La Ronda from demolition. Development pressures and neglect threaten unprotected and under-protected resources, and in the last few years, the community has lost several notable buildings because of gaps in the ordinance's protections and execution.

Many stakeholders have many different ideas about how to change the ordinance to improve neighborhood and landmark preservation efforts without altering elements that work. As part of the initial stages of the Township's current Comprehensive Planning process, the Conservancy and its advisors developed a list of preservation issues, submitted to the Township in September of 2008.

That list became the basis for the issues presented here, refined with the input of Township and Montgomery County planning staff, several Township Commissioners, local preservationists and planners, and with the assistance of several Conservancy colleagues through the National Trust Local Partners Network. The Conservancy organized these concerns into three categories: historic designation and classification, incentives, and administration.

As a result of these meetings it became clear that this analysis would be most useful if concentrated on Pennsylvania municipalities, with special attention given to first class townships. However, the codes and practices of several other Pennsylvania and non-

Pennsylvania municipalities were reviewed and were found to offer important possible approaches, especially where incentives are concerned. Several possible courses of action to improve Lower Merion Township’s historic preservation practices emerged and are presented here, based on a review of the issues and findings in this report.

Issue—Historic designation and classification

One central issue is the complicated designation structure for local districts and individual resources, and the resulting confusion about what is “historic,” what process to use, and which agency to appear before. The Township’s preservation ordinance describes three basic levels of designation and protection:

- Class 1 historic resources (Historic Resources Inventory)
 - Includes resources recognized as nationally significant, or as locally significant if contributing to a local historic district; based on third-party (Pennsylvania Historical and Museum Commission (PHMC), National Park Service) evaluation of significance
 - Enjoy the strongest controls – demolition denial and full building envelope review

- Class 2 historic resources (Historic Resources Inventory)
 - Includes resources determined to be of local or higher significance if meets three or more of ten criteria listed in ordinance; based on local (Commissioner) evaluation of significance
 - Also includes contributing resources to districts determined eligible for the National Register of Historic Places; based on third-party (PHMC) evaluation
 - Full building envelope review, but no protection against demolition

- Local Historic Districts
 - Includes resources determined to be of local or higher significance if listing the area promotes the goals and objectives of the municipality’s comprehensive plan, and meets nationally standard designation criteria.
 - Contributing resources may also be listed as Class 1 historic resources, but the ordinance is silent on non-contributing resources in local historic districts.
 - Enjoys stronger controls – demolition denial but only alterations visible from public right-of-way
 - Properties within local historic districts are typically also listed on the Historic Resources Inventory so as to access the benefits of this listing. This leads to confusion about these tools.

In Lower Merion Township, properties located within local historic districts are regulated by the Historic Architectural Review Board (HARB), and properties not in local districts that are listed as Class 1 or Class 2 resources on the Historic Resources Inventory are regulated by the Historical Commission. The existence of dual preservation agencies leads to confusion.

According to PHMC, Pennsylvania municipalities are able to address the preservation of traditional neighborhoods through historic preservation regulations, historic district

regulations, zoning and subdivision regulations, conservation district regulations and traditional neighborhood regulations. Lower Merion has to date utilized the first two of these tools, and the third to a limited degree. The Township might consider utilizing the additional methods used by others.

Pennsylvania Act 167 specifically authorizes the creation and regulation of local historic districts, however there is no such specific authorizing language to create and regulate an inventory of dispersed historic resources. Section 603 of Pennsylvania’s Municipalities Planning Code (MPC) more vaguely states that “zoning ordinances shall provide for protection of natural and historic features and resources,” and section 605 provides for the “regulation, restriction or prohibition of uses and structures at, along or near places having unique historical, architectural, or patriotic interest of value.”

According to PHMC, this has been interpreted by Lower Merion Township and at least 49 other Pennsylvania municipalities as allowing the creation of an historical commission and an historic resources inventory. This interpretation has not been legally challenged in Pennsylvania courts to date.

Yet this specific lack of authorizing language in the MPC leads to a degree of uncertainty in Lower Merion regarding the ability of the Inventory to withstand a legal challenge. As a result, the Township is reluctant to designate new historic resources where owners have objected, despite there being no requirement for owner consent in the ordinance or one mandated by the Commonwealth.

When the Township originally created the historic preservation ordinance, several eligible buildings were removed from the final Inventory at the request of their owners, who cited public process shortcomings as one of their concerns. This one-time “opt out” period was provided to facilitate the broader goal of creation of the Inventory. The Township’s expressed intention was to re-evaluate these properties under the listing criteria at a later date, using a public process to add them back to the Inventory as appropriate. This list still exists, and this re-evaluation has recently begun again, resulting in proposed designations by the Historical Commission where owners are supportive.

The properties listed individually on the Inventory were identified as a result of three different inventories that were created using different techniques starting in the 1980s. There are whole neighborhoods that were excluded after initial surveys because they have *too many* historic resources and were considered better candidates for district listing. The apparent intention was for these neighborhood districts to be added later, but this has not happened in a systematic way.

The surveys that created the Inventory set 1913 as an upper bound date—the middle of the Township’s development heyday—so many historic buildings are not listed. The 50-year rule would suggest considering buildings built before 1959, a gap of 47 years. Despite these holes in the Inventory, public perception remains that an historic property is one that is listed on the Inventory—i.e. if it is not on the Inventory it is not historic.

Properties have not been uniformly documented at the time of designation, complicating evaluation of subsequent work, especially when that work is done without required permits.

The ordinance does not clearly allow for the protection of historic structures such as bridges, and objects such as stone walls, mile markers, entrance gateways, street signs, roadways, statues, cemetery headstones, etc. These are important threads in the historic fabric of Lower Merion.

Another issue of concern is that a “pre-emptive” application to demolish or substantially alter a property may be filed while the process to designate that property is in its early stages, such as during HARB and Historical Commission deliberations. However, permits cannot be filed once the Board of Commissioners has acted to advertise a potential designation, until the question of designation has been resolved.

Finally, PHMC has requested that the Township prepare a “context statement” to allow the state to evaluate the significance of potential National Register Historic Districts. A context statement would provide a township-wide framework within which individual neighborhood districts could be more holistically understood. PHMC may continue to reject designating future National Register Historic Districts until an approved context statement is in place.

Issue—incentives

Nationally, preservation incentives typically take the form of technical, promotional, developmental and financial assistance. Lower Merion Township currently offers technical assistance through its staff, preservation consultant, and advisory boards, and development incentives.

The Township’s development incentives include reductions of bulk/area/setback requirements and use incentives to Inventory-listed properties, but these have not been used as widely as hoped. In some cases, neighbors have opposed a property being listed because of concern about uses these incentives might encourage, especially bed-and-breakfasts and home offices. Owners of properties listed on the Historic Resource Inventory may take advantage of these development incentives, provided that they first provide a guarantee of “permanent protection of the historical integrity of the subject resource(s), such as the establishment of conservation easement(s) or appropriate covenants in a form acceptable to the Township Solicitor.”

Whether these covenants may be established with a qualified third-party organization, or must be established with the Township, is not defined. It is also not clear that the Township’s covenant dovetails with best practices for preservation façade easements.

HARB briefs and planned (Fall 2010) homeowner workshops help homeowners better understand historic property rehabilitation. However, historic property owners often request assistance with finding qualified contractors with experience working on older buildings, but no such list exists in Lower Merion. The Township has planned to hold historic homeowner workshops, funded by PHMC, for Spring 2010.

The Township has stated a priority of retaining a mixture of residential housing opportunities for all economic levels as well as affordable housing. However there is no accommodation for or definition of economic hardship in the ordinance. Furthermore, Community Development Block Grant (CDBG) funding has not yet been earmarked to specifically assist with preservation of historic properties of lower-income homeowners, although this program allows such allocation.

Federal financial incentives for appropriate rehabilitation are available for commercial properties listed on the National Register, and the creation of state incentives for locally listed commercial and residential properties is currently under consideration. Better education and advocacy around these opportunities would provide preservation incentives at no cost to the Township. Good financial incentives have proven to encourage property owners to seek historic designation in other communities.

Although local tax credits for certified rehabilitation activities on listed properties may be unavailable for homeowners, based on current interpretations of Pennsylvania's constitution, tax credits and/or abatements have been successfully utilized to incentivize commercial development. The current version of PA House Bill 42 (included in *Appendix 9*) would provide for a commercial tax credit, and a homeowner grant program, to support certified rehabilitation activities.

As far as promotional incentives are concerned, aside from annual Township historic preservation awards the prestige of owning a listed historic property is not highlighted. That a property is listed on the Inventory is physically invisible, often discovered for the first time through by its realtor at selling time or when an owner submits a building permit application. Many municipalities have adopted historic plaque programs to inform about this honor and responsibility in a more positive manner. In addition the Township regularly sends out "welcome packets" to new homeowners, however no mention is made in these packets of historic listing, its benefits and constraints.

Issue—administration

When Pennsylvania's Municipalities Planning Code was revised in 2000, it included a provision for historic preservation planning. An Historic Preservation Plan allows municipalities to identify historic resources, consider issues and opportunities with those resources, consider their management, and develop policies and strategies for their use, preservation and protection. Despite being at the forefront in much of its preservation work, guided by a great deal of survey and planning work over the last 30 years, Lower Merion does not yet have an adopted preservation plan (an historic preservation update of the Township's comprehensive plan could serve this purpose). A preservation plan is among the requirements for the ongoing Certified Local Government grants received by the Township to fund the historic preservation consultant, so the lack of this plan could threaten an important funding source.

Another issue potentially confusing Pennsylvania municipalities stems from recent changes in the state's Uniform Construction Code (UCC) describing permitting processes. A new requirement that restricts the permit process to 15 days might be interpreted by some as

affecting the regulation of alterations to historic resources. However, according to PHMC the Township code-defined permitting process supersedes the process described in the UCC.

Rather than referring to the existing preservation ordinance in other sections of the code, new ordinances often restate some elements of the preservation ordinance without defining terms uniformly. Within the preservation ordinance, some terms such as “historic resource,” “alteration,” and “economic hardship” are not clearly defined. Where definitions are provided, these are described in a variety of places within Township Code; there is not one discrete location where definitions relevant to preservation are provided.

Since historic preservation regulations are located within several discrete chapters of the Township’s code, there is some confusion about what can and cannot be reviewed by the Historical Commission. For instance, although the Historic Resource Overlay District code is located in Chapter 155, the key term of “demolition”—the trigger for all building permits in Lower Merion—is described in “Chapter 62: Building Construction” as “including the removal, stripping, concealing or destruction of any significant exterior architectural features, ..., including new construction or reconstruction... .” This crucial definition is sometimes missed. Whether windows and roofs are “significant exterior architectural features” is not clear, nor is the review process for emergency repairs, such as an actively leaking roof.

The designation process contains several steps to ensure public awareness and notice. However, the current practice of separate deliberations for *public consideration of the listing* in the ordinance and the *legal action to update the ordinance* leads to confusion and the danger of backtracking. There is no requirement for separation of these actions in the ordinance.

Different, sometimes contradictory, ordinances and codes apply to certain projects, often without a clear guide as to which predominates. Projects that depend on approvals from multiple agencies, such as Zoning and the Board of Commissioners, sometimes receive contradictory rulings. Where there are multi-agency reviews, the process seems confusing for everyone involved including property owners, Township staff, the Historical Commission/HARB and even the Board of Commissioners. If, for example, a building is in both in a historic and a Mixed Use Special Transit (MUST) district, which regulation takes precedence?

Neither the Township’s preservation consultant nor Historical Commission/HARB members are typically present at the decision-making meetings of the Board of Commissioners, and different planning department staff members sometimes attend these meetings. This requires planning staff to then represent the often-nuanced recommendations of advisory committees that they might not have been present for, and eliminates the opportunity for Commissioners to ask questions of the Township’s preservation professionals.

Chapter 88 of Lower Merion’s building code states that the Historical Commission may make and alter “Rules and Regulations,” subject to the approval of the Board of Commissioners, to clarify procedures and terms. No such document yet exists.

The historic preservation consultant is very talented, but the lack of dedicated historic preservation staff hinders the Township’s preservation efforts. This eliminates one opportunity to make the review process simpler through in-house reviews of simpler projects.

Survey of Municipal Preservation Practices

According to the Pennsylvania Historical and Museum Commission (PHMC), 90 municipalities now have the ability to create **local historic districts**. There is currently no tracking of Pennsylvania municipalities that have created provisions to protect **individual historic resources**. However, a review of a selection of individual municipalities' codes revealed several with preservation protections beyond local historic district listing.

Of the 2,563 municipalities in Pennsylvania, 212 have their codes available online—typically the state's larger municipalities. A search of these municipalities' codes for the word "historic" revealed that 193, or 91%, of them in some way consider historic resources in their codes. These codes were evaluated, and relevant excerpts collected into the attached *Appendix 12*.

Best practices recommendations for preservation planning, demolition delay/denial, incentives, funding, and alternative planning approaches to preservation, were evaluated as well, several of which are included here in appendices. These include publications from the National Trust for Historic Preservation, the Lancaster and Montgomery County Planning Commissions, the Getty Conservancy Institute, the Preservation Alliance for Greater Philadelphia, and the Pennsylvania Historical and Museum Commission.

Most of the Pennsylvania municipalities surveyed require historic resource impact studies for development – requiring documentation but no restrictions on alterations to historic resources. Most also offered specific protections through local historic district listing. However, several Pennsylvania municipalities have adopted provisions to identify and protect individual historic resources. A thorough review of these codes found the following:

- 15 municipalities have defined two or three designation classifications.
- 10 have provisions to update their historic resources inventories written into their codes.
- 11 define and act upon "demolition by neglect," typically by issuing violations and fines, or by undertaking remedial work repaid by property owners and through property liens.
- 9 municipalities consider economic or financial hardship when reviewing proposed projects, and detail hardship submission requirements.
- 15 have integrated their preservation protections throughout their codes, typically using a consistent definition of historic resource, and describing how to consider them in each zoning district.
- 7 municipalities have adopted traditional neighborhood district overlay zoning.
- At least 3 have their Historical Commission and HARB connected.
- Lancaster, Chester and Montgomery Counties are all said to have and maintain historic resource inventories, although Montgomery County has not updated theirs in many years. However many municipalities referred to the Pennsylvania historic resources inventory, which does not exist as it was absorbed into the National Register of Historic Places when that was originally created.
- No incentives for historic preservation beyond density and use-related incentives were found in Pennsylvania.

Of the Pennsylvania townships surveyed, the codes of a handful of **first class townships** may offer solutions to some of the issues described here. Upper Moreland Township's code includes multiple designation classes, clear processes and definitions, a plaque program, and a

possible model for Historical Commission composition. Upper Dublin also offers clear definitions, guidance on enforcement, and can deny demolition to all listed properties even though, like Lower Merion, it employs multiple classes. Marple Township adopted the most comprehensive definition of “historic resource” seen in this survey, and can also deny demolition to any listed property; properties are listed here without classification. The preservation ordinances of these three townships are included in *Appendix 2*, and each is discussed below

Upper Moreland Township utilizes 3 designation classes, provides clear definitions of key terms, and delineates important processes such as class upgrades and demolition review within its zoning code. Their three designation classes include Class 1 (National Landmarks or on the National Register), Class 2 (eligible for the National Register), and Class 3 (on the local historic resource inventory created by the Township). Resources that qualify as Class 1 or 2 may be added without owner consent, although the properties of owners who object to being listed on the local inventory (i.e., Class 3) will not be listed.

Upper Moreland specifically describes the procedure for changing the status of an historic resource, stating that if a Class 2 or 3 resource is determined eligible for or listed on the National Register its status SHALL be changed in the inventory. Despite this language, the change is considered final only upon the approval of the Board of Commissioners.

Upper Moreland simply defines demolition as “the complete dismantling, removal, or destruction of an historic resource;” the definition of “historic resource” is also included in the code. Although its historic resources inventory, created with the assistance of the Upper Moreland Historical Society, is quite small (32 properties), several elements Upper Moreland’s Historic Resource Overlay code are relevant here. This ordinance was passed in 2001.

Upper Moreland details several important aspects of its demolition review process in a manner that might prove helpful to Lower Merion. The Township lists required submissions to demonstrate financial hardship – which must be proven in order to demolish a Class 1 building. An applicant must also submit a site plan and architectural drawings of the proposed new buildings. The Township delineates documentation requirements if a Class 1 building demolition is approved. If an applicant wishes to pursue alternatives to demolition, the Historical Commission is required to submit a list of recommendations and alternatives to demolition to the applicant and Township officials/staff.

Historic resources are defined in Upper Moreland using the most commonly used list of descriptors, i.e. buildings, sites, structures, and objects. However, each of these terms in turn is well defined within the Township’s code. Cultural landscapes, for instance, may be considered historic resources under the definition of “site.”

Upper Moreland makes available attractive plaques to all of its listed properties at a nominal cost to owners, publicly marking each “landmark” as a special place.

The Upper Moreland Township Historical Commission is composed of 15 members, recommended to include one registered architect, one member of the Planning Agency, one

member of the Board of Commissioners, one attorney, two members of the local historical association, and two with a demonstrated interest in relevant preservation areas.

Upper Dublin Township, another Montgomery County First Class township, through a 2006 ordinance, utilizes two designation classes (both of which can be denied demolition), provides clear definitions of key terms, and requires that violations to *any* property on the Inventory be remedied by restoration to appearance prior to violation.

Upper Dublin defines demolition as “the razing or destruction, whether entirely or in significant part, of the exterior of a building, structure or site. The removal of 75% or more of the square footage of the exterior walls of a building will be considered ‘significant.’” Upper Dublin’s Historical Commission may recommend denial of a demolition application for both Class 2 and Class 1 resources, unless financial hardship can be proven. Class 2 properties can also be demolished if a reasonable alternative cannot be proven. Upper Dublin’s inventory contains eight Class 1 and 760 Class 2 resources and is regulated by a Historical Commission.

Upper Dublin also provides a special requirement that a property demolished in violation of the codes provisions shall be required to restore it, or to reimburse the Township for doing so plus a 10% administrative cost.

The **Marple Township** Historic Sites list was adopted in 1991 as part of their Comprehensive Plan Update, based on a Delaware County survey first created in the 1970s and updated in the 1980s. The Township’s Historic Resource Protection Ordinance was adopted in 2006. Updated periodically, the initial list of 50 properties did not provide for owners to opt out, although subsequent additions require owner permission. This First Class township in Delaware County does not utilize designation classes, instead treats all resources in the same manner. Marple Township employs the same broad “demolition” definition as Lower Merion, covering complete loss but also alteration. “Demolition” of *any* listed property may be denied after submission of required documentation, including proof of financial hardship. The general public can file objections on demolition permit applications, although these objections have no clear effect. Another interesting feature is that demolition permit approvals are good for only six months, unless the Board agrees to extend that time period.

Marple Township broadly defines an historic resource as “any building, site, structure, road, bridge, market, fence, sign, tree, hedgerow, site, district, passage, object or vista” that meets designation criteria.

Several **Pennsylvania Boroughs and Second Class townships** have also adopted preservation approaches that could prove helpful to Lower Merion. Examples for consideration include clear definitions, inventory upgrade and update processes, demolition denial, and integration of historic and other zoning codes. A searchable database of ordinance excerpts is included in *Appendix 12*.

The Chester County Townships of Birmingham, East Bradford and Willistown and Norristown Borough include resources in local historic districts as a class on their Inventory, making the relationship between individually and district-listed resources clear.

In addition to Marple Township, other municipalities with multiple designation classes that describe a process for updating their inventory include Birmingham, Kennett, North Coventry, West Brandywine, West Whiteland, and Willistown in Chester County; Concord in Delaware County; and Horsham in Montgomery County. Birmingham provides for properties already on the inventory that qualify for a higher classification to be upgraded with owner notice, but not requiring their consent.

Horsham Township's inventory includes a third class containing resources identified by Council as historic resources, of which the owners have elected to not allow listing at a higher classification. This identifies eligible properties, but provides few restrictions.

Among the municipalities that mandate regular inventory updates, Concord and North Coventry Townships requires them at least once per year, and Horsham at least once every seven years. Instead of requiring updates on a schedule, West Brandywine simply states that any such updates must conform to the procedural requirements in place for any amendment to their Zoning Map.

Several municipalities allow for the denial of demolition: Birmingham (any resource on the Inventory), Concord (Classes 1 and 2 if an economically viable reuse is found, but not Class 3, local historic district resources), Kennett (any), North Coventry (any, if structurally sound and an economically viable reuse found), West Brandywine (Class 1 only, although Class 1 can include resources determined by the Board of Supervisors to be of "similar historical significance" to other Class 1's-typical listed on/eligible for National Register); and West Whiteland (Class 1 unless in the public interest, sale impracticable, other potential uses foreclosed).

Kennett Township defines a Class 2 resource as one that is documented to be at least 50 years old and potentially qualifies for Class 1 listing. Kennett Township also fully defines "demolition by neglect" adding that "demolition by neglect shall not be used as an automatic excuse by the applicant as justification for an active demolition application." Kennett also provides for the denial of demolition of any property on its Inventory.

One final, very important issue that other Pennsylvania municipalities can offer guidance on is the integration of historic resource regulations and definitions throughout other zoning and building codes. Municipalities that define "historic structure" or its equivalent and use that definition throughout its many codes include New Hope, Concord, East Bradford, Kennett, Lower Makefield, Mount Joy, North Coventry, Upper Uwchlan and Warwick. A close linkage of historic and open space preservation may be found in the codes of Lower Salford, Montgomery, Pocopson, and several others. And several municipalities, such as the townships of East Bradford, Springettsbury and West Lampeter, create zoning districts with special provisions for historic properties. Lower Merion Township has begun to adopt a similar approach by describing special provisions in its Open Space Preservation Plan. Toward crafting similar provisions, Lower Providence, Trappe and Pennsburg Townships worked with the Montgomery County Planning Commission to create Village-Commercial and Residential districts with historic components.

Some **Pennsylvania counties** undertook surveys to assist their municipalities in identifying and protecting historic resources. Montgomery County worked with local historical societies to

publish its *Inventory of Historic and Cultural Resources* in 1975, which includes short descriptions of over 650 county sites and structures. A more formal historic survey of 18 municipalities took place in 1986. Neither this survey nor others conducted in 1999 and 2003 included Lower Merion. Montgomery County reports that it does not maintain a comprehensive list of county history resources, although some of its municipalities reference such a list in their definitions. Montgomery County has no staff dedicated to historic preservation.

Lancaster County maintains a Historic Sites Register, begun in 1972 and updated in 1984 by the Historic Preservation Trust of Lancaster County that is referred to by several county municipalities. Since that time, several municipalities have continued the task of updating their inventories with historic resource surveys. Lancaster County staff includes a Historic Preservation Specialist and a Director for Long Range and Heritage Planning on staff. As a result, Lancaster County is able to assist its municipalities in preservation planning. In May 2009 the Lancaster County Planning Commission published *Historic Preservation Guidelines*, a menu of components that can be used in preparation/improvement of local preservation ordinances. This helpful toolbox is included in *Appendix 8*.

Looking **outside of Pennsylvania** reveals preservation incentives and protections that might be considered here, especially where financial and promotional incentives are concerned.

More than half of American states, 30 as of March 2009, have adopted state **historic preservation tax incentives**. These typically provide a significant tax credit as a percentage of the amount expended on certified rehabilitation work on qualifying buildings. In most cases these credits take a form similar to the federal income tax credit for historic rehabilitation. See *Appendix 3* for a review of state tax incentive programs.

Pennsylvania's House Bill 42, included in *Appendix 9*, would provide a 25% tax credit for monies expended toward qualified rehabilitation of historic commercial buildings, and grants for rehabilitation of historic residential buildings. After passing the House in June 2009, the bill was rejected by the Senate in November, owing to funding concerns (despite there being an accommodation for its dormancy if not funded). In order to qualify, a building must be located on the National Register of Historic Places, must contribute to a National Register Historic District, or must be included within a local historic district. As currently written, this would not include individually-listed local historic properties.

Promotional incentives via historic plaque programs have proven both popular and effective in publically celebrating that a property has been designated historic. Applications and plaque examples from several programs are included in *Appendix 4*. Financial incentives in other cities and states, including permit fee waivers, sales tax waivers, revolving funds and loan programs, grants, and rehabilitation tax credits are detailed in the Getty Conservancy Institute's report included in *Appendix 3*. A key finding in this report was that "government agencies can leverage public resources by partnering with local organizations to create historic preservation incentives."

Nationally some municipalities, acknowledging that it is almost impossible to identify all resources that should be protected under a historic preservation ordinance in advance, have

adopted **demolition review ordinances** in addition to creating historic districts and inventories. These ordinances typically trigger review of a filed demolition permit application for properties over a certain age, and based on a clear “substantial destruction” definition of demolition. Detailed processes, often given 3-6 months, usually involve a determination of significance by the historical commission based on existing criteria. Enforcement of violations has been found to be extremely important with this approach. See the National Trust’s “Protecting Potential Landmarks Through Demolition Review” in *Appendix 7* for more detail on this approach and several examples of existing ordinances.

Possible Actions

A review of the issues and findings in this report indicate numerous courses of action that could potentially improve Lower Merion's historic preservation practices. Some issues may be addressed through relatively simple clarifications, some through changes in the Township's preservation ordinance, and others after more in depth planning and budgeting considerations.

An update to the historic preservation section of Lower Merion Township's Comprehensive Plan could help to evaluate and guide changes to historic preservation ordinances and practices, and could serve as a Preservation Plan for the Township. Many of the actions listed here could also be accomplished through the work of public-private-nonprofit partnerships.

The Conservancy provides this list of possibilities to the Township, the state and the preservation community as a basis for discussion and action. As this list of possible actions is not recommendations, the numbering here does not indicate priority but is included to facilitate discussion.

Evaluate and define relevant terms:

1. **Reference terms** consistently throughout Township codes. Examples of key terms as defined by other municipalities may be found in *Appendix 10*.
2. **Consider broadening Class 1** criteria to include resources determined by the Historical Commission to be of local, not just national, significance based on accepted criteria.
3. **More broadly define "historic resource"** to include historic objects and landscapes.
4. **Consider redefining "demolition"** to mean a significant percentage of destruction, with additional terms to represent alterations, additions, etc.

Describe processes relevant to historic preservation regulations:

5. **Prepare "Rules and Regulations,"** a Township-crafted adjunct to preservation ordinances, to clarify the township's historic preservation processes and terms. See the Philadelphia Historical Commission's Rules & Regulations in *Appendix 11*.
6. **Determine and clearly define process to upgrade** qualifying properties from Class 2 to Class 1.
7. **Determine and clearly define a process to update** (adding/deleting/upgrading/correcting) the Inventory at specified regular intervals, after an initial substantial update to include qualified properties built before 1959 (50 years ago and earlier).

8. **Determine and clearly define whether noncontributing resources** in local historic districts qualify for Class 2 listing on the Inventory.
9. **Place currently qualifying resources on the Inventory** as Class 1 resources, in accordance with procedures and due process described in the current ordinance.
10. **Cross-reference all relevant historic preservation-related chapters** in Township building and zoning codes.
11. **Consider combining the public hearings** for designation and for listing on the Inventory to ensure due process with greater efficiency.
12. **Clearly state the current practice that precludes demolition** or alteration of structures while formally under consideration for historic designation, i.e. once the Board of Commissioners has affirmatively decided to advertise the related ordinance update.

Provide financial incentives for maintenance of historic properties:

13. **Grant permit fee waivers** for work on historic properties.
14. **Consider using revolving fund/loan programs and grants**—either by the Township or through some public-nonprofit partnership—to support qualified rehabilitation activities.
15. **Allocate/target a percentage of CDBG funding** for eligible homeowners with historic homes. See the HUD-produced “Guide to Using Community Development Block Grant Funds for Historic Preservation” in *Appendix 5*.
16. Seek **funding to support incentive programs** through a percentage set-aside of demolition fees, grant funding, or other means as determined by the Commissioners.

Broaden non-financial incentives for maintenance of historic properties:

17. **Create an Historic Property Plaque program**, distributed by Historical Commission at nominal cost to owners to all on Inventory to take advantage of the biggest carrot the Inventory currently brings—prestige. See examples of Historic Property Plaque Programs in *Appendix 4*.
18. **“Market” benefits of historic property ownership** through civic association, realtor, and homeowner education. This could include the creation of a new historic homeowner packet, workshops, improved contractor information, etc.

In addition to the issues listed above, the historic preservation element of the **comprehensive plan could include:**

19. **Consider new preservation planning tools**—such as conservation districts, traditional neighborhood zoning, village commercial zoning. See *Appendix 8* for more information about using these as historic preservation tools.
20. **Reconstitute the Historical Commission and HARB** to secure necessary expertise, and ensure better consistency between these agencies and the Board of Commissioners. *Solutions could include expanding the groups to include additional members; requiring that agencies be composed of an architect, historian, preservationist, and perhaps members of the Board of Commissioners and Planning Commission; and calling for the presence of a Historical Commission and/or HARB member at Board of Commissioner meetings. Consider combining the two agencies.*
21. **Create and submit a “context statement”** for railroad suburbs to facilitate listing of National Register Historic Districts, as requested by PHMC.
22. **Add a preservation planner** to Township staff.
23. **Reinforce the use of the Historic Resources Inventory** as a means to preserve dispersed historic resources, and historic district listing as a means to preserve neighborhoods. Also needs another sentence.
24. **Consider utilizing CDBG** (Community Development Block Grant) **and CLG** (Certified Local Government) grants to secure funding for **preservation planning**.

Undertake a comprehensive historic resources survey:

25. **Identify historic resources**, including potential districts and individual historic properties, through a comprehensive historic resources survey. The 1990 historic resources survey maps and documents, and subsequent surveys, could be used as a starting point.
26. **Integrate this survey** with the Township’s powerful GIS system.
27. **Consider utilizing CDBG** (Community Development Block Grant) **and CLG** (Certified Local Government) grants to secure funding for this survey work. It may be considered eligible for preservation planning funds, although the survey itself could follow a separate Township preservation plan.

Possible state-level actions:

28. **Actively support state efforts to create financial preservation incentives** through tools such as Pennsylvania House Bill 42, which would provide rehabilitation grants for historic homeowners and tax credits for work on historic commercial properties. Seek the inclusion of individually listed local historic properties in the proposed legislation, in addition to National Register and local district-listed properties, as currently written. See *Appendix 3* for a description of other state tax incentive programs, and *Appendix 9* for the text and the Fiscal Note of PA House Bill 42.
29. **Evaluate state support of other financial incentives** including sales tax waivers, and historic property tax rebate
29. **Evaluate state enabling legislation to institute a demolition review law**, at least until a comprehensive survey is complete. This would preclude the demolition of *any* building or structure over a certain age, or any building or structure identified for protection for a specific period of time, to allow for a determination of historical or architectural merit. See *Appendix 7* for more information about demolition review laws.
30. **Advocate for clarification of Pennsylvania’s Municipal Planning Code**, adopting language to *authorize* municipalities to create and regulate historic resource inventories.
31. **Determine effect of recent Pennsylvania Uniform Building Code changes** on preservation and planning goals, and advocate for adjustments if necessary.

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