



# **Historic Preservation Recommendations: Economic Incentives and Spot Blight / Demolition by Neglect**

June 11, 2023

**HERITAGE  
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June 11, 2023

Mr. Charles Johnston  
Director of Community Planning and Building  
City of Fredericksburg  
P.O. Box 7447  
Fredericksburg, VA 22404

Dear Mr. Johnston:

Heritage Arts of North Carolina LLC is pleased to present this report that reviews the City's current historic preservation economic development incentives and spot blight/demolition by neglect (DBN) provisions. It presents recommendations for strengthening the tools for even greater effectiveness.

I want to express my appreciation to you, Kate Schwartz, and City Attorney Kathleen Dooley for the assistance provided in assembling background information, coordinating meetings and surveys, and reviewing a draft of this report.

Thank you for the opportunity to work with you and your colleagues in boosting Fredericksburg's already strong preservation program.

Best regards,



Dan Becker  
Owner and Principal Consultant

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# City of Fredericksburg Historic Preservation Program Recommendations:

## Economic Incentives and Spot Blight/Demolition by Neglect

### INTRODUCTION

The City of Fredericksburg retained Heritage Arts of NC LLC to assist in reviewing and strengthening its historic preservation economic development tools and spot-blight/demolition-by-neglect (DBN) provisions. Historic preservation is one of only eight priority visions in the City’s 2036 Vision Statement: to be “A Proven Leader in Historic Preservation.” Taking this as a strong signal of the City’s commitment to preserving, protecting, and enhancing its historic resources in partnership with property owners and stakeholders, this report proposes a robust approach toward maximizing the effectiveness of existing and proposed procedures, incentives, and protection programs. By taking the suite of suggested improvements as a whole, the City can indeed become what it aspires to be, a leadership model for others.

### EVALUATION OF EXISTING PROGRAMS

City staff provided information on existing programs for consultant review. A Strengths-Weaknesses-Opportunities-Threats (SWOT) survey prepared by the consultant was distributed by staff to stakeholders. A follow-up discussion session with stakeholders was held to review and discuss conclusions gleaned from the SWOT surveys. State codes and City ordinances were reviewed. Research was conducted to explore incentive programs provided through the State of Virginia and a sampling of Virginia local governments and non-profit organizations.



## Economic Incentives

A common theme among all the existing incentives is that they are not often used. For example, data provided by the City Real Estate Assessor indicates that between July 2012 and December 2022, only 25 properties applied for the Rehabilitation Tax Exemption Program, “of which 11 were residential, and 14 were commercial. 2 properties cancelled their rehabs due to other project plans and 6 properties have expired due to no completion. 1 property is still in progress.”

The following key points were collected from the SWOT surveys:

- Rehabilitation Tax Exemption Program is a plus, but not well used.
  - » Property owners are not aware of the incentive;
  - » The incentive’s financial benefit is too low.
- Zero Interest Loan Program for downtown businesses is a plus, but the loan amounts are relatively low and it is currently unfunded.
- There are many broken links among internet sites describing local incentives.
- State and Federal historic rehabilitation tax credits are available for commercial properties, but are underutilized. The State rehabilitation tax credit for residential properties is also underutilized.
- There is a strong network of organizations to assist business owners through the Economic Development and Tourism Department, Economic Development Authority (EDA), and Main Street, but leveraging multiple programs for a project adds complexity that weakens their effectiveness.
- Local incentive programs for residential property owners are fewer, have low financial benefits, are not well known, and there is limited technical support to assist owners in applying.

Follow-up discussion offered additional insights:

- The EDA could increase promotion of the economic benefits of historic preservation; it is currently more focused on new development. A historic preservation Economic Impact Study would be useful to demonstrate how much preservation contributes to the local economy and provide empirical evidence for the value of strong incentive programs.
- The Main Street Façade Design Assistance Program provides free design services to downtown commercial property owners. The companion Façade Grant Program is



currently unfunded but is needed as an important component for follow-through on building façade improvements. Otherwise, the investment in the design program is wasted.

- The former Historic District Handbook contained helpful maintenance and incentive information for property owners. These items were removed from the Historic District Design Guidelines during the recent update to reduce its length; re-publication of these items as a stand-alone document should be a priority.
- Willing but inexperienced property owners would benefit from access to one-on-one support services that could help guide them through the process of identifying and leveraging incentive programs.

## Spot Blight/Demolition by Neglect (DBN)

There is a great deal of community concern regarding numerous historic properties showing signs of deterioration from a lack of maintenance. During the past 15-20 years, several significant historic structures have been lost to demolition for a variety of reasons.

The following key points were collected from the SWOT surveys:

- The fact that the City has programs to address these issues is a positive, but addressing them is a mostly regulatory approach.
  - » In the past there appeared to be a reluctance to enforce the codes.
  - » The codes did not reflect current best practices for historic structures.
- Economic hardship is not well addressed.
- Greater advantage could have been taken of the Virginia Existing Building Code, Chapter 9, Historic Buildings.
- There are inadequate resources devoted to programs to provide gap financing, incentives, and other assistance tools to prevent demolition by neglect (including spot-blight) of historic resources.
- Earlier intervention when buildings are deteriorating helps prevent more severe issues and conflict.
- It would help to foster a collaborative approach to working with property owners to address situations where a property is deteriorating. Some property owners feel threatened that the city is “out to get them.”

Follow-up discussion offered additional insights:

- Many of the current issues with building maintenance relate to personal circumstance rather than intentional neglect. There is a preference among stakeholders for assistance programs that can help



fellows citizens in difficult life situations while meeting City goals for preservation, versus relying only upon regulatory enforcement.

- There are no “on call” consultants that can provide planning and application guidance to help property owners navigate the complexity of multiple assistance programs.
- It would be useful to develop sample “tax credit” pro formas for small properties to illustrate how the incentives can be significantly helpful in project financing.

## ECONOMIC INCENTIVES RECOMMENDATIONS

This report addresses economic incentives first because they will be among the necessary tools to help both prevent and resolve situations of spot blight and DBN.



### Improvements in Program Information

Before property owners can take advantage of incentives, they must know about them. Utilization of the current suite of incentives is weakened by issues with providing public information.

- **Elevate Historic Preservation in the City website hierarchy.** Currently, the [Historic District](#) webpage is buried deep within the website hierarchy at the fifth level, positioned using an “organizational chart” framework. It is difficult for the newcomer to find. Explore ways to make entry to this page more apparent to a new user. Consider a new title for the page; the City’s historic preservation program is more than just the historic district. A search on “historic district” from the City website search tool yields two pages with the same title, one of which cannot be navigated to, but found only by keyword search.
- **Create a “one-stop shopping” clearinghouse web page for incentives that can support preservation.** A somewhat confusing mix of websites with economic development/tourism information makes it difficult to put all the pieces together:
  - » [www.fxbg.com](http://www.fxbg.com)
  - » [www.visitfred.com](http://www.visitfred.com)
  - » [www.fredericksburgdowntown.org](http://www.fredericksburgdowntown.org)
  - » [www.fredericksburgva.com](http://www.fredericksburgva.com)
  - » [www.fredericksburgva.gov](http://www.fredericksburgva.gov)

The clearinghouse page should be housed on the City’s primary webpage for its historic preservation program noted in the preceding bullet. Encourage the various incentive program webpages to link back to the clearinghouse as an additional resource.

- **Clarify historic preservation eligibility for incentives.** Several incentive programs that would be applicable to historic resources make no mention of historic preservation eligibility.
  - » **Explicitly link C-PACE Program to historic resources.** Historic commercial properties would be eligible to participate in the innovative [C-PACE financing program](#) for green energy improvements. Its program description should specifically reference that green improvements to historic buildings are eligible, and links to the C-PACE program information should be included on the preservation incentives clearinghouse webpage.
  - » **Explicitly link InvestFXBG Loan Program to historic resources.** Program Goal 4 for the [InvestFXBG Loan Program](#) should specifically mention that it can be leveraged for historic preservation. (“Stimulate the redevelopment of underutilized and/or deteriorated commercial and industrial properties.”)
  - » **Explicitly link FXBG Film Incentives Program to historic resources.** Nothing in the program description promotes the City’s picturesque historic settings that are sustained by historic preservation.
- **Prioritize repair and maintenance of the Main Street program website.** [[fredericksburgdowntown.org](http://fredericksburgdowntown.org), accessed 5/6/2023] The website is virtually unusable for identifying and reviewing incentives. It presently contains a multitude of broken links and automatic redirects to empty Wayback Machine web archive pages, including most page links found at [Property Owner Resources](#) relevant to this report’s economic incentives topic. Users are unable to learn details about economic incentive programs, whether they are still available, or how to apply.
- **Consider sponsoring a preservation economic impact study focused on Fredericksburg.** Such a study would look at the broad impacts of preservation in the local economy — not just tourism and tax credits, but assessing overall economic activity generated by preservation activities. The study would be expected to provide important empirical data to support greater investment in preservation funding, financial tools, and incentives.
- **Provide additional resources for historic preservation public information and technical support services.** The number of design review cases in an active program like Fredericksburg is a high workload for a staff of one preservation specialist in a small planning department, especially where they are also involved in city-wide planning activities. Consider bolstering the City’s capacity to:
  - » support its citizens by promoting the availability of incentive programs,
  - » create preservation pro formas for rehabilitation and repair projects, and
  - » assist citizens in understanding and applying for the various incentives.
 This might be accomplished through part-time staffing of qualified individuals, or under a services contract in partnership with Historic Fredericksburg Foundation, Inc. (HFFI) or a cultural resources firm.



## Improvements to Existing Fredericksburg Incentives

- **Change Rehabilitation Tax “Credit” Program to allow (up to) 50% exemption of rehab costs, as permitted by state statute.** The current Rehabilitation Tax Credit Program is a [City program](#) for partial exemption from the real estate tax increase that results from rehabilitation of a qualifying residential building in the Old and Historic Fredericksburg District (HFD) or listed in the National Register of Historic Places. A companion program for commercial buildings is also available city-wide, including historic resources. As noted earlier, the program is not well utilized. The degree to which that is due to lack of awareness or due to a weak incentive structure cannot be determined in the scope of this report. What can be said is that the benefits conferred are not substantial in the scope of a rehabilitation pro forma — owners may not find them worth the effort of application.
  - » The name for this program should be changed to Rehabilitation Tax **Exemption** Program to accurately describe it and not conflict with any property tax credit program Fredericksburg might create under the authority of Virginia statute [§ 58.1-3220.01](#).
  - » A simple theoretical example for a **small residential project** will illustrate the low value of the incentive as it is currently structured:

Tax Rate = \$0.89 per \$100 of assessed value (FY 2023-24)

Pre-rehab assessed value	\$100,000	Tax Bill:	\$890
Post-rehab value, \$50K project	\$150,000	Tax Bill:	\$1,335 (+\$445/year)

Current Rehabilitation Tax “Credit” Program — Small Residential Project (7-year period)			
Year 1 savings at 100% of increase	\$445	Tax Bill:	\$890
Year 2 savings at 100% of increase	\$445	Tax Bill:	\$890
Year 3 savings at 83% of increase	\$370	Tax Bill:	\$965
Year 4 savings at 66% of increase	\$294	Tax Bill:	\$1,041
Year 5 savings at 49% of increase	\$218	Tax Bill:	\$1,117
Year 6 savings at 32% of increase	\$142	Tax Bill:	\$1,193
Year 7 savings at 16% of increase	\$71	Tax Bill:	\$1,264
Year 8 tax bill at 100% of tax rate			\$1,335
Total owner tax savings over 7 years	\$1,985	4% of \$50,000 project investment	
Temporarily foregone city revenue	\$1,985	(recaptured in next 4.5 years at new full rate)	





Total tax savings that represent 4% of a \$50,000 investment in the property — an average of 0.57%/year — will not even protect the property owner from low annual inflation during that time frame, much less higher inflation as is currently being experienced. It is recognized that this simplistic model does not account for modest increases in value from the four-year reassessment cycle or changes in the tax rate as set by City Council each year. Regardless, the model illustrates that the incentive is not a strong inducement for investment.

- » The current ordinance does not take advantage of the **maximum benefit permitted by [state statute](#) under the framework for exempting the increase in value**. The City is permitted to exempt up to 100% of the assessed property value increase for a period of up to 15 years. Using our previous example, the maximum exemption:

Pre-rehab assessed value	\$100,000	Tax Bill:	\$890
Post-rehab value, \$50K project	\$150,000	Tax Bill:	\$1,335 (+\$445/year)

Rehab Tax "Credit" — Small Residential Project (no declining savings, max. 15 year period)			
Annual savings at 100% of tax increase	\$445	Tax Bill:	\$890
Owner tax savings over 15 years	\$6,675	(13% of \$50,000 project investment)	
Temporarily foregone city revenue	\$6,675	(recaptured in next 15-years at new full rate)	

While this exemption is about three-and-a-third times better for an investor on a total dollar basis, the benefit still averages only 0.87% per year on a \$50,000 investment over the term of the exemption: once again, not a particularly compelling incentive.

However, [state statute](#) authorizes the City to choose a different framework for the incentive: **the City may exempt an amount up to 50% of the cost of the rehabilitation**, but "[i]n no event, however, shall such partial exemption result in totally exempting the value of the structure." This exemption can also be taken for up to a 15-year period.

Pre-rehab assessed value	\$100,000	Tax Bill:	\$890
Post-rehab value, \$50K project	\$150,000	Tax Bill:	\$1,335 (+\$445/year)
50% exemption (\$25,000 amortized over 15 years):			~\$1,667/per year



Because state statute does not allow total exemption, in this scenario, the maximum annual exemption would be \$1,334 and the annual tax payment would be \$1.00.

Rehab Tax “Exemption” – Small Residential Project (50% rehab costs, max. 15 year period)			
Annual savings at 100% of increase	\$1,334	Tax Bill:	\$1
Owner tax savings at 100%, 15 years	\$20,010	40% of \$50,000 project investment	
Temporarily foregone City revenue	\$13,335	(15 years x \$889, recaptured in next 10 years at new full rate)	

**For a small residential investor, this is now a significant incentive to repair a property.** The City has foregone revenue for 15 years, but begins earning it back in year 16, breaks even after the next 10 years ( $10 \times \$1,335 = \$13,335$ ), and in year 26 after the substantial rehabilitation was completed begins to see a net benefit to the tax base from the owner’s investment. During the 25-year period, however, the historic resource has been stabilized and is a positive contributor to the City’s vision and economic vitality.

**One last example for rehabilitation of a larger commercial property.**

10-year recapture:

Pre-rehab assessed value     \$1,000,000     Tax Bill:     \$8,900  
 Post-rehab value, \$500K rehab \$1,500,000     Tax Bill: \$13,350 = \$4,450/year increase.  
 \$250,000 exemption @50% amortized over 10 years: \$25,000 per year.

However, because state statute does not allow total exemption, the maximum annual exemption would be \$13,349, and the annual tax payment would be \$1.00.

Rehab Tax “Exemption” – Commercial Project (50% rehab costs, 10 year period)			
Annual savings at 100% of increase	\$13,349	Tax Bill:	\$1
Owner tax savings at 100%, 10 years	\$133,490	53% of \$250,000 project investment	
Temporarily foregone City revenue	\$88,990	(10 years x \$8,899; recaptured in 6.7 years at new full rate)	

**For a larger commercial investor, this is now a significant incentive to rehabilitate a property.** The City has foregone revenue for 10 years, but begins earning it back in year 11, breaks even after 6.7 years ( $6.7 \times \$13,350 = \$89,000$ ), and in year 17 after the substantial



rehabilitation was completed begins to see a net benefit to the tax base from the owner's investment. During the 16-year period, however, the historic resource has been stabilized and is a positive contributor to the City's vision and economic vitality.

- » These simple examples illustrate the benefit of changing the program to the 50% of rehabilitation expenses framework to meet the goal of incentivizing investment in historic properties. **It is up to the city to decide how strong to make the incentive.** Shorter exemption periods will reduce the benefit to owners and increase the City's tax base sooner. This report cannot recommend the balance that the City wishes to strike, but more aggressive incentives will encourage more owners to participate and will yield stronger historic preservation results.
- » When the temporarily foregone revenue is compared to the total property tax revenue received by the City on all of its assessed properties (\$50,737,977 as reported in the City's 2022 Annual Comprehensive Financial Report), **the annual percentage of revenue foregone will be very low**; however, the percentage will vary depending upon how successful the incentive becomes. More projects will forego more present revenue; however, over time the City will recoup the exempted taxes and then begin reaping the additional revenue from the increase in the properties' appraised value due to the project improvements.
- » If there are revenue concerns, **an ordinance could be structured to allow different exemption periods and rates to meet different needs.** Routine rehabilitation projects might see a lesser incentive (but still much stronger than the current incentive). In spot blight/DBN economic hardship cases, it would be desirable to provide the strongest exemption benefit possible in support of a preservation plan that provides effective tools to reduce or eliminate a personal or economic hardship.
- **Heavily promote pairing the City tax exemption program with the State and Federal Rehabilitation Tax Credit Programs.** A maximum City exemption program paired with the [State and Federal tax credit programs](#) would together yield one of the strongest local historic preservation financial incentives in the United States. Pairing the two programs would further incentivize rehabilitation investments within the City at no additional cost by having the State and Federal programs do some of the heavy lifting.
  - » Using our simple example for residential properties listed in the National Register, the State tax credit would add a 25% income tax benefit to the 40% Fredericksburg property tax exemption, for a total offsetting benefit to the property owner up to 65%. The owner's increase in property value of \$50,000 from the rehabilitation investment would have a net cost of only \$17,500 (35%).
  - » For our income-producing property example (commercial or rental residential), also listed in the National Register, the combined state and federal tax credit of 45% added to the 53% Fredericksburg property tax exemption would yield a total offsetting benefit

of 98% to the property owner. The property owner's increase in property value of \$500,000 from the rehabilitation investment would potentially have a net cost of only \$10,000 (2%).

- **Reinvigorate Zero Interest Loan Program and expand its eligibility to the HFD and National Register properties.** This revolving loan program managed by Fredericksburg Main Street was capitalized at \$50,000 some years ago with a grant from Virginia Main Street matched by the EDA. No current information was able to be accessed online about its status, program details, loan criteria, or repayment terms. If all the funds have been loaned and none of the funds have "revolved" back to the fund through repayments, additional funds should be sought to recapitalize the program.

No matter the Zero Interest program's current status, ready availability of reserve funds in a loan program is a critically important incentive and enforcement tool. It is a way for the City Council to acknowledge the City's 2036 Vision support for the historic preservation program in a planned way. It removes much of the "drama" when a preservation crisis presents itself. It avoids scrambling the adopted budget to find funds, and takes the Council off the political hot seat because it has already anticipated the need and does not necessarily have to make a difficult decision in the face of public concern when budgetary capacity is strained. The fund will also be available to support the City's adopted spot blight policy should properties be determined to have reached that level of deterioration and the City chooses to undertake repairs.

- **Substantially capitalize the Zero Interest Loan Program.** With expansion of the eligibility criteria, management of the fund should be placed with the City administration. Recapitalization could be accomplished both by pursuing external grants and through internal funding. For example, the loan program could be capitalized as a reserve fund incrementally over a period of five years through the Capital Improvements Plan (CIP).

## Additional Incentive Opportunities

The following programs would require staff resources for grant submittals, program design and development, partnership building, and program operation as well as in some cases requiring sources of additional program funding. But they would bring additional dollars to the community to meet historic preservation goals as well as other community goals.

- **Leverage the Virginia Removal or Rehabilitation of Derelict Structures Fund for qualifying deteriorated historic properties.** Managed by the Virginia Department of Housing and Community Development, this fund supports multiple grant programs. It is capitalized by appropriations of the General Assembly, and has also received funds from the federal American Rescue Plan Act of 2021.

- **Leverage the Virginia Industrial Revitalization Fund (IRF) Program for qualifying deteriorated historic properties.** This [state program](#) is a subset of the Derelict Structures Fund and is targeted toward industrial and commercial properties. Applications are now being accepted.
- **Leverage the Virginia Mixed Use on Main Street (MUMS) Program for qualifying deteriorated historic properties.** This [state program](#) is also a subset of the IRF Program and is targeted toward communities that actively participate in the Virginia Main Street (VMS) program. Pre-application is required. Applications are currently being accepted on a rolling basis until December 31, 2023. In addition to fully commercial properties, mixed use properties are supported as long as at least 30% of the square footage is devoted to commercial use.
- **Leverage the Virginia Acquire, Renovate, Sell (ARS) Program to rehabilitate historic residential properties for affordable homeownership.** This [state program](#) provides up to \$45K funding for soft costs and rehabilitation on a minimum \$200,000 purchase by the provider. ARS funds are retained by the provider upon sale of the home at fair market value to recycle as program income to reinvest in further affordable housing efforts.

## SPOT BLIGHT / DEMOLITION BY NEGLECT RECOMMENDATIONS

The best solution to the problems of spot blight and demolition by neglect is to avoid letting the buildings fall into disrepair in the first place. By having a strong incentive program and providing access to knowledgeable technical support services, willing owners will be more likely to invest in their properties and keep them maintained. However, in the event of an uncooperative owner, it is sometimes necessary to apply regulatory enforcement procedures to resolving the issue.



Early intervention is the key when a property is beginning to show deterioration. The City is fortunate to have a full-time Property Maintenance Inspector, as well as a Building Official and a Senior Historic Resources Planner dedicated to preserving structures, in order to pursue property maintenance issues. The City is also fortunate to have a strong historic preservation organization in HFFI to partner with in monitoring the community's historic resources.

“Hardship” is a word that comes up often in this arena. Economic hardship is fraught with legal and constitutional considerations too complex to delve into within this report; there is a whole body of literature surrounding hardship. But for our purposes, it is important to distinguish between two types of hardship encountered in property ownership:

- personal hardship, and
- real estate economic hardship.

Personal hardship relates to the capacity of individuals and organizations to manage property that they own. It may be due to a lack of personal financial resources, age, health, and/or other limitations. It is a hardship of personal circumstance. A property owner can have a personal hardship that is not a real estate economic hardship. It is also possible for both hardships to be present on a single property in its current ownership.

Real estate economic hardship relates to the fundamental value of the property and whether the costs necessary to utilize, maintain, and repair it exceed its market value. At its most basic level, it means that the expense of maintaining or repairing the property is greater than the ability of the property to generate income or beneficial use to pay for those expenses or support those uses. Real estate economic hardship is a financial determination based upon factual data analysis of property valuation as appraised and at sale, return on investment, current utility, and a host of other economic considerations. It is possible for a property to have economic hardship for an owner who does not have personal hardship. It is constitutionally problematic for government to force such an owner into expenditures that exceed the return on value of a property.

When tailoring programs to address spot blight and DBN, it is critical to keep these two different types of hardship in mind. The tools one designs to abate the root causes that have resulted in a deteriorating historic resource will necessarily be different depending upon the circumstances that surround that particular case. Careful analysis of factual data related to the owner and property is necessary to distinguish between the two types of hardship. It will allow selection of the right tools to resolve the issue in service to the City's community goals for historic preservation.

In most cases the intent is to assist a willing owner and fellow citizen who is suffering personal hardship by guiding them to take advantage of the many financial incentives available to them. Regulatory enforcement solutions and fines should be reserved for unwilling owners.

The City Code includes regulatory procedures for abating building deterioration adopted by reference under the authority of the Virginia Existing Building Maintenance Code that provide it with the tools necessary to require repairs. These code provisions are supplemented by the City's 2022 update to its Spot Blight Policy.

In accord with the City's 2036 Vision Statement to be "A Proven Leader in Historic Preservation," and as noted on page 125 of the HFD Design Guidelines, any Building Official demolition order should be an absolute last resort reserved only for situations of imminent collapse or endangerment of the public or adjacent property that cannot be cured by boarding the building and fencing the property to protect the public. If a property is deteriorated or at risk, the goal of an effective preservation program is to keep the building standing until personal circumstance, economic conditions, and/or suitable uses present themselves for the building to earn its own way.

- **Partner with HFFI and neighborhood associations to monitor historic resources for signs of deterioration.** Early intervention is where the success in preventing spot blight and DBN of historic resources occurs — before the problems become serious. The foundational concept for this partnership is "neighbors looking out for neighbors." In Raleigh, NC, two neighborhood associations monitor their neighborhoods and send friendly letters to owners of properties that are showing early signs of deterioration. They inform the owners of the City's ordinances and, as neighbors, suggest that they may want to make repairs to avoid the inconvenience of enforcement by the City and offer assistance with identifying and using financial incentives. The letters provide a suggested timeframe for repairs to begin. If that timeframe passes without action, and a follow-up contact fails, the association refers the property to the City preservation commission for review. Raleigh's experience has been that in almost every case, the owner made repairs and no further enforcement action needed to be taken. A current process outline is available on the [Raleigh Historic Development Commission website](#) and sample form letters are available by contacting Raleigh preservation staff.
- **Consider adding additional language from the 2018 Virginia Maintenance Code to City Code Chapter 18, Article IV, Existing Building Maintenance Code.** Enforcement of a formal ordinance is required as a last resort when dealing with an uncooperative owner. The City Code currently cites the state building maintenance code by reference. Including specific language from the state code will provide more transparency to citizens regarding expectations for building maintenance. Quoting [Chapter 3 General Requirements](#) of the Virginia Maintenance Code in the City Code will provide greater clarity to the public as to the expected standards of maintenance when demolition by neglect is suspected.
- **Adopt specific criteria for determining inordinate hardship for historic district certificates of appropriateness requesting demolition, removal, or relocation.** The list of evidentiary criteria contained in § 72-23.1.D.(3)(a)[7] are minimal, non-specific, and in one case, flawed, relative to best practices developed in recent years for determining economic hardship. The ordinance does not contain any guidance as to what evidence the ARB requires in order to make its determination "...that rehabilitation of the building or structure is impractical." It is critical that such evidentiary requirements be defined. Upon



appeal to the courts, a determination based upon the criteria presently listed in the ordinance would not be strongly defensible because they are so open to interpretation. **Appendix 1 contains a suggested list of criteria** to choose among that should be incorporated into this section of the code.

One of the existing criteria in particular should be struck from the ordinance and design guidelines: “that the building or structure is inappropriate for the proposed use desired by the owner.” This is a gaping loophole that gives control of the determination of hardship to the owner. An unwilling owner would only need to state for the record that they desire to use the building for a function totally incompatible with the architectural, structural, and spatial arrangement of the building. While the owner’s proposed use may be infeasible, there will certainly be other uses that would be feasible. It is not the building’s fault that the building must pay the price of demolition when an owner claims an inappropriate use; the owner is free to sell the property and acquire a more suitable building. For economic hardship to truly exist in this scenario, the owner would have to prove that there is NO viable use for the property that would allow a reasonable return or beneficial use on an investment. The burden of proof rests with the owner.

- **Consider adding an option for lien waivers to the Spot Blight Policy when it is invoked for historic structures.** Virginia Code § [15.2-906](#) allows the City to make repairs, secure the building, and place a lien on the property for the costs. Should the property eventually be sold to satisfy the lien, and the lien exceeds 50% of the value of the property, under Virginia Code § [58.1-3220.01](#) the City could choose to provide a local tax credit (within limits described in the statute). When the City is seeking a potential new owner to undertake substantial repairs, a lien waiver would be available as part of the financial incentives toolkit. If liens exceed 50% of assessed value, the owner would be eligible for these local real property tax credits to be taken over a maximum period of 10 years.
- **Adopt a local ordinance for repair of Derelict Buildings determined to be historic.** In tandem with the City’s Spot Blight Policy as revised by City Council on March 22, 2022, the City could by ordinance provide additional incentive for rehabilitation of historic structures (as defined by the City) through permit fee reductions and real estate tax abatement under authority of Virginia Code § [15.2-907.1](#), paragraphs 7 & 8. (It could also be applied city-wide if desired, but that would dilute its effectiveness targeted to historic resources.) Paragraph 8 provides an enhanced period of tax abatement from the Rehabilitation Tax Exemption Program by scheduling a longer period over which to abate the taxes; it provides a minimum 15-year period of abatement for Fair Market Value of “renovation” improvements. Being able to offer this tax abatement would aid the City in assisting the property owner with rehabilitating the building, or in the alternative, finding a willing buyer that will rehabilitate the building.





- **Take advantage of the Virginia Existing Building Code.** Applying contemporary construction code standards to historic buildings can be problematic for preserving character defining features. It also adds additional cost to repairs and rehabilitation. The Existing Building Code is one of three components of the Virginia Uniform Statewide Building Code (USBC). It has been designed to address these concerns while preserving life safety requirements. City UDO Zoning Code sections 72-34.1.D.(3) and 72-34.1.F.(4) reference the Virginia USBC. While that language would be inclusive of the Existing Building Code, it is recommended that the [2018 Existing Building Code](#) be explicitly referenced in those code sections and wherever the City Code cites the USBC in relation to historic resources.



# APPENDIX 1.

## Criteria for Determination of Inordinate Hardship

1. Form of ownership or operation of the property (sole proprietorship, for-profit corporation or non-profit corporation, limited partnership, joint venture, etc.) or legal possession, custody, and control;
2. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance, and any terms of financing between buyer and seller;
3. The annual gross and net income, if any, from the property for the previous 3 years;
4. Itemized operating and maintenance expenses for the previous 3 years, including proof that adequate and competent management procedures were followed;
5. Past capital expenditures during ownership of current owner;
6. Depreciation deduction and annual cash flow before and after debt service, if any, for the previous 3 years;
7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous 3 years;
8. Real estate taxes for the previous 3 years and assessed value of the property according to the 2 most recent assessed valuations;
9. All appraisals obtained within the previous 3 years by the owner or applicant in connection with the purchase, financing or ownership of the property;
10. Any state or federal income tax returns on or relating to the property for the previous 3 years;
11. Any listing of the property for sale or lease within the previous 3 years, price asked and any offers received, the name of any real estate broker or firm engaged to sell or lease the property, and any advertisements placed for the sale or rent of the property;
12. A report from a licensed engineer or architect with experience in rehabilitation of historic structures as to the structural soundness of any structures on the property and their suitability for rehabilitation;
13. An estimate of the cost of the required construction, alteration, repair, demolition, or removal required by the order;
14. The estimated market value of the property in its current condition and such value after completion of the required construction, alteration, repair, or removals;



15. A report from an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation of historic structures as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
16. An analysis of common costs expended in both rehabilitation and comparable new construction (including costs of demolition) immaterial to which type of project is undertaken;
17. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.



## APPENDIX 2.

### Economic Development “Strengths-Weaknesses-Opportunities-Threats” Survey Responses

#### STRENGTHS

- City Rehab Tax Exemption - Residential/Commercial/Industrial:
  - a. Since older/smaller buildings are generally assessed at a lower rate, this tax abatement supports repairing and reinvigorating existing built resources.
  - b. Minimal paperwork & fees required to take advantage of the program.
  - c. Does not apply to new construction/demolition of existing "contributing" resources & limits expansion to 15% of extant footprint - thus, targets the older, smaller buildings that have been allowed to deteriorate.
  - d. Inspection required for building permits anyhow; thus, the program does not place much additional burden on City staff.
  - e. Revenue loss to City coffers is relatively low; contributes positively to City Comp & Pres Plan goals.
- Zero Interest Loan Program - Commercial/Industrial:
  - a. Quick turnaround/"easy money" access for small-scale improvements makes "good business sense" for commercial tenants/renters charged with keeping their rented spaces in "good order."
  - b. While loan is financially limited, it is a GREAT HELP to small-businesses/property owners who might perceive the need to follow Historic District guidelines as an added hassle/challenge. It rewards their effort, regardless of whether it is used for a simple paint job or to repair/replace in-kind rotten or decayed material.
  - c. Product of an outside entity; program's function is not dependent on City staff.
  - d. Contributes positively to City Comp & Pres Plan goals .
- Facade Design Assistance - Commercial/Industrial:
  - a. Supports (or supported? Is this still available? Links broken online) historically sensitive rehabilitation of commercial storefronts, which reinforces tourism, economic vitality, and maintains historic character.
  - b. Program work done through outside entity (Economic Development Authority or Main Street?); thus, it is not an additional burden on City planning staff.
  - c. Design work done by historic tax credit-experienced firm and external entity; thus, it is not an additional burden on City planning staff.
- State & Federal Historic Tax Credits - Residential/Commercial/Industrial:
  - a. Supports the sensitive repair and maintenance of historic character in modifications to historic assets of all building sizes, uses, and types.
  - b. Reinforces good preservation practice(s) that support regular work for area tradespeople/craftsmanship & the economic vitality of historic assets.



- c. Encourages high-quality repairs & sensitive rehabilitations in accordance with national/professional preservation standards.
- d. Furthers City Council/Comprehensive Plan goals to be like other "leaders" in preservation.
- e. Program work done by SHPO; thus, no additional burden on City planning staff.
- Facade Easement Program:
  - a. Supports conservation of FXBG's historic character through its only non-profit preservation advocacy organization (HFFI).
  - b. Program work done by external entity; does not place additional burden on City planning staff.
  - c. Program listed as an asset and tool of City's preservation program in 2021 Preservation Plan/Comprehensive Plan; contributes positively to City preservation goals.
- There are two city-based or city-sponsored incentives specific to preservation of historic properties including a tax exemption program and a loan program.
- I believe preserving the historic buildings is a very important part of Fredericksburg. Everyone has different ideas about how to do this and pass these beliefs and understandings to people. The best part of our city is the history. Visitors come from many miles to view our downtown. Why? Because of the history. The best strength we have is to be proud of our city and show it every day.
- It would provide aid that could help save historic homes & other historic buildings from potential loss.
- It would protect the integrity of the neighborhood as a whole.
- It could prevent the demolition or deterioration of a building that is, in effect, being "demolished" because of neglect or because the owner is unable or unwilling to take corrective action.
- I would like to see the City expand the incentives for Historical Preservation.
- The property tax abatement is a well-known typology for historic preservation work, so property owners pursuing larger rehabs have some comfort and understanding with this type of program. The documentation required meshes well with the state and federal tax credit programs. The City's program can be an easy incentive to add in to a package of programs that might be used for a larger project.
- There is a strong network in place to support business owners especially, through the Economic Development Department, EDA, and Main Street. This network and their efforts support historic preservation of commercial buildings in the Historic District even if historic preservation isn't necessarily the primary goal.

## **WEAKNESSES**

- City Rehab Tax Exemption - Residential/Commercial/Industrial:
  - a. Financial savings are relatively small, particularly for residential property owners - do we know what the total average/median savings for each property type?
  - b. Is this being measured/promoted? How has/is the effectiveness of this tool being quantified & is that data shared publicly?



- c. Doesn't promote the retention of historic built features/character beyond "don't tear it down" outside the historic district.
- Zero Interest Loan Program - Commercial/Industrial:
  - a. Little information available on web to educate potential users (broken links); has/is the effectiveness of this tool being quantified & is that data shared publicly?
  - b. Limited investment - alone this cash might cover small-scale improvements (\$2,500-5k = a paint job for a storefront? Rehab a few historic windows/replace rotted trimwork/ add bigger gutters?).
  - c. Product of an outside entity; program's function does not depend on City staff.
- Facade Design Assistance - Commercial/Industrial:
  - a. Little information available on web to educate potential users (broken links); is the effectiveness of this tool being quantified & is that data shared publicly?
  - b. Facade improvement study from 2012 is helpful tool, not often referenced - includes sensitive "restoration" designs and targeted modest repairs in keeping with historic character without a "faux historic" look.
  - c. Product of an outside entity; program's function is not dependent on City staff & relies on entity/individuals who generally lack Preservation training/experience.
- State & Federal Historic Tax Credits (HTC):
  - a. Steep learning curve for FXBG area: our low rate of HTC usage reinforces the unknown and negative perception of the credit process being "too much hassle"/providing a low return on investment.
  - b. Educational HTC workshops are held infrequently here (just 2 in the last 10 years?) & generally geared towards the novice - without higher-level educational support, local investors/developers/property owners will continue to avoid the program.
  - c. The HTC process takes additional project planning time/expertise/general awareness of professional preservation practice(s) - all negatively reinforced when City's preservation programs/policies are made to sound "quick and easy" with less attention on maintaining good preservation practice(s) in keeping with national/SOI standards.
- Facade easement donation:
  - a. Relies on an outside entity, yet while it is not DIRECTLY dependent on any City staff people/policy, the functional existence of this program relies on the consistent enforcement of Historic District guidelines, ordinances, etc. & the mutual understanding/acceptance of the value which HFFI's interest/role has in maintaining such eased properties.
  - b. Planning goals supporting new development and adding density with new construction in the Historic District (as opposed to adaptive re-use) would see this program as a hindrance.
  - c. Since the greatest financial benefit of this program is largely limited to the initial donor/owner, easement donation does not appeal to subsequent owners that use City's historic assets as income properties from which to exclusively draw a profit (particularly those who derive their sole living income from such work or seek to temporarily exploit assets for maximum profit in shortest time period).



- d. In the last decade, City staff has publicly divorced its ARB review process from that of HFFI's easement program, yet both entities' have the same goals and follow the same guidelines based on national/professional preservation standards to evaluate proposed work. This separation and limited discourse has created division among those working in support of the City's preservation goals in the most fertile place for beneficial growth.
- e. The current COA application form has a question & check box (Yes or No): "Does any organization hold a preservation easement or similar interest in your property?" This is helpful to alert new property owners/their representatives who may (or may not yet be aware of HFFI's interest in the property). Could this be tweaked to identify the easement/interest holder(s) & ensure their receipt of a full copy of the COA application? Little/no advance notice inhibits HFFI/other interest holder's ability to provide support/helpful communication.
- f. A few preservation easements in the City are also held by the State Historic Preservation Office (SHPO). In the past, HFFI has facilitated coordination with that agency for the properties on which it also holds a restriction. Does staff have a policy for coordinating directly with SHPO representatives for other eased properties?
  - Lack of promotion and education of existing incentives and grant opportunities.
  - think the only weakness we have would be a better education for historic home owners regarding tax breaks for repairs. The home owner might be unaware of these programs until their historic home has fallen into disrepair. Early detection of problems and education could have prevented years of deterioration.
  - I would like to see more flexibility in the guidelines to encourage Historical Preservation.
  - The City only has one economic development tool specific to preservation and its value is limited. The conditions on the property tax abatement program and its relatively low value make it a seldom used program. To most property owners, the value is not high enough to merit shaping a project to its conditions. The lack of incentive programs means that the City really only has "sticks" to offer and no "carrots." This creates a negative environment that isn't conducive to creating partnerships and enhancing the historic area.
  - The City previously had some tools in place that could be grouped to provide great value. For example, Main Street provides the design assistance program and many property/business owners then used facade improvement grants from the EDA to implement the designs received. However, the facade improvement grants have since been discontinued and no similar program has taken its place. The EDA appears to have stepped away from smaller-scale projects and no other organization (or the City) is filling this gap.

## OPPORTUNITIES

- City Rehab Tax Exemption - Residential/Commercial/Industrial:
  - a. Potential for greater impact if promoted regularly through multiple channels, particularly with homeowners/smaller investors in the development community.
  - b. While a relatively small return on a rehab/investment, the savings can be amplified when combined with state & federal historic tax credits.
  - c. Could be tweaked to create a local historic tax credit? (Baltimore has one: <https://chap.baltimorecity.gov/tax-credit-faq> & as does Montgomery County, MD: <https://montgomeryplanning.org/planning/historic/tax-credit-program/>).



- Zero Interest Loan Program - Commercial/Industrial:
  - a. Potential for greater impact if promoted across multiple channels.
  - b. If measuring the effectiveness of this (and other incentives) is not happening in house, perhaps the data can be made publicly available? Could past recipients/projects be listed/promoted online to raise awareness?
  - c. Could it be expanded to build upon phased/planned projects with a preservation focus as a way to cover greater expenditures or support a larger rehab effort?
  - d. Potential to market/target specific "common" preservation issues (i.e. slate roof repair, facade window(s), gutter & drainage improvement projects).
  - e. Could City staff or loan providers alert HFFI to proposals that include good preservation practices to assist/ recognize those applicants?
  - f. Can it be expanded to help low-income or fixed-income residential property owners? Reinvesting in historic houses around town also increases the economic value of FXBG's historic residential areas.
- Facade Design Assistance - Commercial/Industrial:
  - a. Potential for greater impact if promoted; data made accessible online and/or particular buildings or blocks targeted for "restoration."
  - b. Facade improvement study from 2012 is still relevant
- State & Federal Historic Tax Credits:
  - a. With one of the lowest rates of usage in the state, FXBG the only way is up; promotion across multiple channels would be helpful
  - b. Example historic tax credit "projects" have been presented at past workshops, but City could facilitate its usage with one of its many historic assets & lead by example.
  - c. Make the expanded NRHP-eligible district legit with Cost Share survey \$ from SHPO (as expanded district includes most all residential and commercial areas surrounding the early-19th century core of the community).
  - d. Collaborate with financial entities in the community for educational sessions to promote diverse application of methods/techniques that further the credits' usage to capitalize on the proven economic benefits of this great preservation tool.
- Facade easement donation:
  - a. The City's recognition of HFFI's easement program in 2021 Preservation Plan/Comp Plan illustrates its significant role in the locality and shared goals of both entities.
  - b. HFFI recently raised sufficient funds for a paid preservation professional to update/maintain its easement program & recently posted a position description to make that hire.
  - c. When consistently upheld, the Historic District guidelines outline a preservation ethos that makes this incentive more attractive & reinforces those owners who wish to preserve the historic fabric of existing assets.
  - d. Increased development pressure(s) and rising cost of living provide opportunities to support future easement donations. A citywide Economic Impact Study of Historic Preservation would further acknowledge the value such easements, and the retention of FXBG's historic fabric, holds in our community.





- e. With greater attention to detail in the review of COA applications and consistent application of the Historic District guidelines as written for eased properties, the community's two strongest partners for historic preservation are not likely to reinforce their shared purpose/goals.
- The biggest opportunities, I think, lie in incentives. First, the City should establish technical assistance to aid homeowners, not only for demolition-by-neglect but across the board. Similarly introducing tax incentives could help make this a positive rather than antagonistic program.
  - Promotion and education of existing incentives that protect and enhance our historic assets.
  - Promotion and education of grant opportunities that could also provide financial support for historic property owners throughout the city and not just in the historic district.
  - It's education. The historic home owner needs to be aware of the consequences of letting things go. Early detection of problem areas need to be addressed before becoming major maintenance issues. Also, I feel the new Visitors Center needs to have old and new pictures on the walls of our buildings and the history of the buildings.
  - There needs to be more education explaining the grants, tax credits, and loan program available for properties in the FHD.
  - Increase the Real Estate and BPOL tax credits to incentivize Historical Preservation..
  - This is a great opportunity to implement policy and guidelines that will encourage the expensive task of restoring old properties and buildings. Implementing a plan that would increase density over and above existing regulations. Example: if a property was allowed 10 residential units allow 12-13 to help incentivize the economic undertaking of the project.
  - New economic development tools for preservation would help to strengthen those existing networks of partners. Multiple resources could be combined to create even better tools/ more funding for business/property owners and these organizations can back each other up in terms of communication.
  - The City is also home to many professionals that can provide expertise in historic preservation projects (historians, consultants who work with tax credits, architects and design professionals, tradespeople, etc.). Greater economic incentives can greatly enhance the number and types of rehab projects and create work for all of these important specialists. Property developers understandably push the limits of new development projects, additions, rehabs, etc. in order to maximize profit/capacity/use. Strong incentives can help close the gap between what the ARB or preservationists want to see and the highest and best use that someone else sees.
  - The ability to direct property owners to economic incentives would be invaluable in encouraging routine/preventive maintenance as well. There is a real need for smaller scale assistance (\$1K-\$10K), especially for home owners. These projects fall well below the threshold for tax credits, but can still be a crippling expense for many.



## THREATS

- City Rehab Tax Exemption - Residential/Commercial/Industrial:
  - a. Little awareness of the program, particularly outside of the development community.
  - b. Financial savings are small in the grand scheme of things; Does this incentive outweigh the economic benefit(s) of a large expansion or demolition+new build?
  - c. Might actually support the erosion of historic fabric/character in the expanded NRHP-eligible district and other historic areas in the City.
  - d. Requirement for inspection before rehab work commences necessitates early engagement for property owner; how many find out too late, do we know?
- Zero Interest Loan Program - Commercial/Industrial:
  - a. Limited to small-scale improvements. Does this support high-quality repairs and lasting upgrades to preserve historic built features or the cost of producing sensitive design solutions?
  - b. Limited to commercial/industrial properties - can it be used for historic rental units/residential space?
  - c. Lack of awareness: how often is this program used/by who? How are its economic benefits measured?
- Facade Design Assistance - Commercial/Industrial:
  - a. Little information available on web about this incentive; is it still offered? This is a program offered through the Economic Development Authority, right? Seems dependent on Main Street program's website, which is full of broken links and outdated info.
  - b. Facade improvement study from 2012 is not often mentioned/highlighted.
- State & Federal Historic Tax Credits:
  - a. Few financial professionals in community aware of the ins & outs of the program.
  - b. Generally regarded as "too much hassle" in the development community with little direct experience to inform such determinations.
  - c. Limited to the Old & Historic District and individually eligible historic assets... But is it? The expanded district has been repeatedly determined NRHP-eligible by the state historic preservation office.
- Facade easement donation:
  - a. HFFI has not had the funds to support a consistent and proactive Easement Program in the past. Many of the easements held by the organization stem from a period during which it purchased historic assets in town, rehabilitated them, and then re-sold the property with restrictive covenants. HFFI's website maintains accurate information about the program, yet all acquisitions within the past 20 years have been outside of the City of FXBG. Thus, it does not appear to be an effective tool in the City at present, but continues to support preservation and historic property owners in the surrounding area.
  - b. There is a financial return on this donation, but is it an "incentive" in the City? (Yes, if a local government is committed to upholding preservation policies/best practices. No, if the perception is that the community is ripe for significant expansion and new

development without equal dedication to maintaining its historic fabric/architectural character).

- c. Some property owners/tenants/their representatives simply do not want to coordinate with the easement holder, nor do they want to follow the Historic District guidelines as written. Without some coordination and greater adherence to the district guidelines as written, ARB meetings and staff recommendations can fuel political struggles that negatively impact all parties (with the potential for lasting harm to the community, at large).
- Any incentives need to be carefully developed to avoid preferential treatment or inadvertently encouraging homeowners to neglect properties. Luckily, there are lots of examples to draw from. For instance, some cities have programs to help the elderly keep their properties through tax benefits. A revolving fund - without interest in the case of emergencies and/or financial need - would also be beneficial.
  - Although preservation of the city's historic and cultural resources is a stated goal of the comprehensive plan, looking at the EDA's website, social media, and advertisement video, they barely refer to it. I think it's important to get everyone (including preservation stakeholders) on the same page.
  - The biggest threat to our historic downtown area is the unwillingness of historic home owners to preserve and take care of their historic building. The absolute last resort is to demolish historic buildings. The challenge is to properly explain to the home owner about maintaining their historic building with understanding and care. It's important for them and us. When you purchase a home in the historic Fredericksburg area you take on a responsibility to preserve its history.
  - Buildings continually fall into despair due to the Strict guidelines.
  - It is very expensive to restore the old buildings. Every credit and incentive available should be promoted and advertised.
  - The Building department should have a simple procedure to grant variances to code compliance.
  - The existing buildings are not in compliance Bringing them up half way is better than letting them deteriorate forever.
  - Many of Fredericksburg's property developers seem disinclined to make use of economic incentives. Some view the restrictions that come with them as not worth the savings and prefer to move forward with projects as desired.



## APPENDIX 3.

### Demolition by Neglect “Strengths-Weaknesses-Opportunities-Threats” Survey Responses

#### STRENGTHS

- Fredericksburg has lots of knowledge built up from years of experience. We have Staff able to help guide property owners.
- It's unfortunate to get to the point of demolition of a neglected historic building. After years of neglect, a building poses a threat to surrounding buildings and to public safety. The best outcome is to save the building from demolition. This is a procedure to hopefully educate the home owner to take care of the property before it gets to that point. The homeowner has a responsibility with owning a historic building. This program give us the leverage to educate the home owner.
- The City has stated in Goal 6 of Chapter 8 of the Comprehensive Plan that they:
  - » Will strengthen property maintenance inspection, enforcement, and staffing.
  - » Implement disincentives and penalties for property owners who willfully and knowingly engage in demolition by neglect.
- The fact that Fredericksburg Codes and Policies do exist (and have for many years) to deter Demolition by Neglect and now, spot-blight problems is a huge strength. The Historic District Guidelines, page 125, is a positive step in the right direction.
- It is helpful that the spot blight policy is clearly enforceable and rooted in state enabling legislation. Dealing with blighted properties and maintenance violations can be a process fraught with defensive personalities and complicated family and financial situations. It's important that the City can look to the policy to provide a clear course of action that is applied fairly and consistently.
- The City has also created several strong code-based links between the Historic District policies and property maintenance enforcement. These channels for reporting and communication help to move enforcement and coordination away from being dependent on the personalities and strengths of individual City employees, and instead become standard operating procedure.
- City staff (specifically the Historic Resources Planner, the Property Maintenance Inspector, and the Building Official) do work closely together to determine the course of action/needs for each individual building and ensure Historic District/ARB review processes are not overlooked. However, having the weight of a code violation behind enforcement instead of (or paired with) a zoning violation can be helpful in pursuing compliance.



## WEAKNESSES

- The ordinance as written focuses almost only on punitive intervention. Considering the legal landscape in Virginia, much of this may be challenging to uphold in court and perhaps sends a bad message to the City community about the way property issues are handled.
- The only weakness I see with the spot-blight and demolition-by-neglect is that the building has gotten to this point. It is very difficult to get the home owner to understand our position with historic buildings. We do not like to see them demolished. We and the home owner need to be on the same team and save the historic building and preserve history.
- They barely ever put Goal 6 into actual action. They seem to try to avoid confrontation at all costs and would rather acquiesce to property owners and developers who own a lot in the city than actually follow their own goals and guidelines. Several examples exist around the city where properties sat in poor condition for years, decades even, and then the ARB is forced to allow replacement materials in order to prevent the building from further disuse and disrepair which could lead to vacancy. A current case (replacement of slate roof on a Caroline Street commercial property with asphalt shingles) articulates this well. City staff has tried to give the property owner opportunity after opportunity to make things right for over four months after it was brought to their attention by an outside party. They continue to sit on it without any sort of action. Another property at the corner of Caroline Street and Amelia Street is another example of a building in grave disrepair being left vacant with caution tape wrapped around its porch for as long as I can remember! These small infractions that are left unchecked ultimately lead to the worst possibility for a historic resource you are asking about here: the blatant allowing demolition by neglect.
- The biggest weakness is that the codes, policies and guidelines are not being consistently and evenly applied by City Staff. The Historic District Guidelines are used only as a guide and are not looked at as being a requirement for city business. Lip service is paid to these codes, policies and guidelines. There is inconsistent enforcement of violations. Building maintenance issues are often ignored. Special treatment is made for individuals well known to City Officials.
  - » In fact, in 2012, our ARB chairwoman resigned because the circa 1700s house at 1407 Caroline Street was torn down. The permit was issued on a Friday and on Saturday the building was demolished. The ARB was never notified! Later, in 2015, a duplex at 401 Sophia Street was torn down. The older section's removal was not endorsed or approved by the ARB at all. How could this happen? The demolition permit was not subject to ARB approval because the structures had been deemed unsafe by a Fredericksburg Building Maintenance Code official.
  - » This past year, in the case of 1107 Princess Anne Street Reference COA FY22-0046, Fredericksburg's ARB did not follow guidance as prescribed in the Fredericksburg, Virginia Unified Development Ordinance 72-23.1 Certificates of Appropriateness in that: As outlined in Paragraph D (3) Demolition, removal, or relocation. The ARB did not consider each of the following criteria as found in paragraphs (a) 1-7. This code section does not say that the ARB may ignore any one or more of these criteria. In fact, it dictates "the ARB shall consider the following criteria:" The ARB did so minimally on criteria 1-6. However, it did not consider criteria 7, Inordinate hardship. The actual memorandum dated May 4, 2022, to the ARB, by city staff notes this exact deficiency by saying: "The applicant has not made a case for inordinate hardship."



- » Additionally, the City's own structural engineer outlined in detail the work required for renovation of the building. Is the City Building Official a structural engineer? Why did he then oppose the (city hired) structural engineer's recommendation for renovation? Why was the recommendation of the City Building Official used to approve the demolition of this historic structure? Thus the ARB has not consistently demanded specific data to support their decisions.
- The City does not have a specific demolition-by-neglect ordinance which makes it nearly impossible to address property neglect that doesn't fit neatly into the property maintenance code. The maintenance code doesn't necessarily reflect best practices for historic structures.
- The standards for demolition in the Historic District do include a provision for economic hardship, and it does specifically state that poor condition that is the result of neglect is not a valid reason for a hardship claim; however, the hardship section does not include clear guidance on what constitutes a hardship, the documentation required for a claim, or how it would be evaluated. In general, demolition is seldom approved by the ARB, but there is no clear relief valve for property owners. This also crosses over into the economic incentives discussion, but even when pursuing enforcement, there are very few resources to which a property owner can be directed for assistance with maintenance/repair/rehab.
- Spot blight also has a negative connotation that sometimes leads to a fear of demolition. In recent years, the policy/designation has not been used to hasten demolition, but the term "blighted" carries that meaning. In some cases, I think there has been hesitance to use it for fear of creating an appearance of prioritizing demolition.

## **OPPORTUNITIES**

- Education with regards to the understanding of what can happen to a building that has been neglected. Assistance in finding qualified contractors to make repairs and refurbish historic buildings. Let the home owner be aware of financial assistance programs available to them for repairs and rehab. The most beautiful part of Fredericksburg is our Historic Downtown Area. Let's be proud of it and preserve it.
- Follow-through with the policies!!! Warn property owners. And if the problems persist, fine them in a timely manner. Better promotion of preservation and the acceptance by more city staff of its importance in so many areas of an economically successful historically and culturally significant community is key! I believe this can best be achieved through cross-training. Ms. Schwartz did attempt to do a little of this with the Planning Commission and the ARB with NAPC training last year, but only one Planning Commission member showed. These opportunities need to be better promoted and enforced with not just the volunteers for the city but city staff themselves.
- Virginia Existing Building Code, Chapter 9, Historic Buildings: This is an important resource that aids practical rehabilitation of historic buildings while ensuring that safety remains paramount. City Officials are not taking full advantage of the principles outlined in this chapter and including portions of it in their ordinances.
- There should be a City endorsed revised ordinance, listing the potential mitigation measures to be taken before any demolition is approved, and the code language about "temporarily closing adjacent property if necessary for public safety", be included and



referenced. Then the ARB could make a timely decision about demolition, provided the public is not truly in danger.

- There should also be programs to provide gap financing, incentives, and other assistance to prevent demolition by neglect (including spot-blight) of historic resources. However, it is important, in the event of an uncooperative owner, to be able to evenly apply strong regulatory procedures to resolve the issue.
- If residents and property owners know that enforcement will be consistent and predictable, then hopefully this will encourage more proactive/preventive maintenance of historic structures. There are potentially some opportunities for clearer communication as well. Both in terms of maintenance expectations and in ensuring that members of the public understand what the requirements are and how they are enforced.
- Neglected properties devalue (both literally and figuratively) the effort that many other residents, business owners, and property owners put into our Historic District to enhance it as a place to live and a place for tourists and the broader community to visit.

## THREATS

- Eliminate the threat of the homeowner feeling that the city is out to get them. We must work together with the understanding that we want the property saved as much as they do. Respect them and work with them. These codes and policies are put in place to hopefully save the property unless it has become unsafe for public safety. The only way to effectively enforce these codes is to have this program in place.
- Frankly, there are city staff, in particular the city manager, who I feel focuses too much on new development and does not focus enough on the rich built environment that is already at their disposal to help in achieving other goals in the comprehensive plan. There seems to be a short sightedness when it comes to the benefits of preservation.
- Also, general lack of enforcement of the regulations we already have set forth. Building inspectors need to be better educated on issues for historic buildings and as a whole, the city needs to better stay on top of the small infractions that build up to big infractions.
- Inordinate Hardship: The ordinance does not contain any guidance as to what evidence the ARB requires in order to make its determination. It is critical that such evidentiary requirements define economic hardship guidelines.
- The confluence of property values and long-term property owners have created some of the most difficult neglect situations in the city. Some owners have had property in the family since before the creation of the Historic District, and even many years before that. In some cases, taxes and maintenance costs have dramatically increased while the owner is on a fixed income. In at least one case, old relationships with Council members or others have made the City reticent to pursue aggressive enforcement.
- Additionally, as stated above, aggressive enforcement can be challenging without also having resources or economic incentives to offer to property owners.
- While the policies are clear and enforceable, the actual enforcement process can take a very, very long time. The process of multiple notices, unpaid tax enforcement, potentially multiple court dates, and court-enforced compliance periods has in some cases taken years. The public doesn't know or see this and often assumes that no action has been taken. That leads to an overall lack of confidence.





## MEMORANDUM

TO: Timothy J. Baroody, City Manager  
FROM: Kate Schwartz, Senior Historic Resources Planner  
DATE: September 7, 2023  
RE: Transmittal of Historic Preservation Recommendations Report by Dan Becker

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In September 2022, the City hired historic preservation consultant Dan Becker to assist the City in reviewing and strengthening its historic preservation economic development tools and spot blight/demolition-by-neglect provisions. The City first worked with Mr. Becker during the 2021 updates of the Historic District Design Guidelines and Historic Preservation chapter of the Comprehensive Plan. The Historic Fredericksburg Foundation, Inc. hired Mr. Becker as a third-party reviewer of the documents and he provided valuable insight and edits during that process. Mr. Becker also works extensively with the National Alliance of Preservation Commissions (NAPC) providing training for local review boards and historic resource commissions. He was an instructor for a training workshop held for the ARB through NAPC in April 2022. Mr. Becker's recommendations draw on 45 years of continuing education and experience in the fields of architectural design, historic preservation, non-profit management, and land use planning.

The process for this project and the creation of this report included extensive review of all City policies, codes, web links, reports, and other relevant background information. Following that, staff assisted in the distribution of a Strengths-Weaknesses-Opportunities-Threats survey to stakeholders (including HFFI, UMW, Main Street, City staff, ARB, local development community) and then held a follow-up discussion session with stakeholders. The final report takes into account this thorough review and lays out a series of recommendations for improvements to existing programs/provisions or new opportunities. The report addresses economic incentives first and then spot blight/demolition by neglect.

The report makes a number of fine-grained recommendations including:

- Increasing the value of the rehabilitation tax exemption program
- Improving web links and explicitly connecting preservation to existing incentive programs and provide technical support services to citizens using these programs
- Funding a grant or loan program for repairs
- Adopting specific criteria for determining "inordinate hardship"

I look forward to presenting a more thorough overview of the report and seeking feedback on next steps during the September 12 City Council work session.

#### ATTACHMENTS:

Historic Preservation Recommendations: Economic Incentives and Spot Blight/Demolition by Neglect Report, Dan Becker, Heritage Arts, June 11, 2023