

Feb. 5, 1999

Drop Teacher
paper for cards
synagogue -

Mark Donahue - lawyer for
Board of Kensington

District

BOA - Cathleen Friedman taking Ted's place.

Regis Jettens - taking Hal Propp's place!

Continued April 21st
10³⁰

Tour of Kensington

Map

train station

Circle House - Warner's house

Carriage house

Veyes Library

Victorian QA on ~~Circle~~ Carree Place + Fawcett

~~QA~~ on Shingle style Victorian 10545 St. Paul

3915 Buet - QA to 4-square exuberant

Colonial Rev. 3911 Buet

4-square simple

Streetscape w/ 1880's, 1905's Buet. St.

Bungalow w/ new construction

Prospect St ~~St~~ new construction

Washington St - view, including new construction
Street view, '90's on Carree Place

Street view Buelthorne

Buet. Small 2-story ~~car~~ ~~at~~ ~~the~~ ancillary structure at rear

w/ Small garage or auto house 3929 Buet

3923 Buet - parking to me side

3923 side yard garden

Shared driveway - parking + garden

garden + garage of 3924

~~garage~~ garden

Buet.
w/
Gardens
—

= Sobakawa
pillow

PROJECT SITE

MAP OF H.D.

Approach from Conn. Ave, ^{walking} driving up Baltimore
View of adj. property, with east sidelot = 3920
3920 Balt, looking west, over to 3924

Site of proposed construction, perspective view
including 3920 + 3924 adj. properties

Walking into site

Walking into site

Rear of yard: possible bldg site, looking beyond
to houses + yards on Prospect St

Shed for 3920 Balt + shed for property on Prospect
Property looking into lot, towards Prospect St

Property looking out of lot towards Balt St
3920 w/ adj. side yards.

Project Proposals

~~Site~~ Site plans for 3 different submissions

Perspective w/ # 1

Perspective w/ # 2 B

Perspective w/ # 3

Small houses in Kensington

H.D.

- ~~3700 Washington St. - 1940's~~
3710 Washington St - 1940's +
10202 Carroll Place - 1960's +
~~10310 Carroll Place - 1890 20' x 28' (560 sf)~~ (main block) ← has 1 story recent addition
10316 Fawcett St. - Col. Rev. 1920
10318 Fawcett St. - Col. Rev. 1960 25' x 30' (750 sf)
3906 Prospect St. - Col. Rev. 1950's w/garage
Prospect St - Bungalow 1920's ca. 900 sf
3919 Baltimore St - Col. Rev. 1920's

2 slides Takoma Park - Philadelphia Avenue Front yard Large setback

Spacing on Balt. Street

3924 + 3928 Balt.

W. sideyard of 3919 (across the street) Garden

3911, 3913,
3915
Balt.

14' spacing between 3913 (new house) + 3911

Model of Large house / small outbuilding

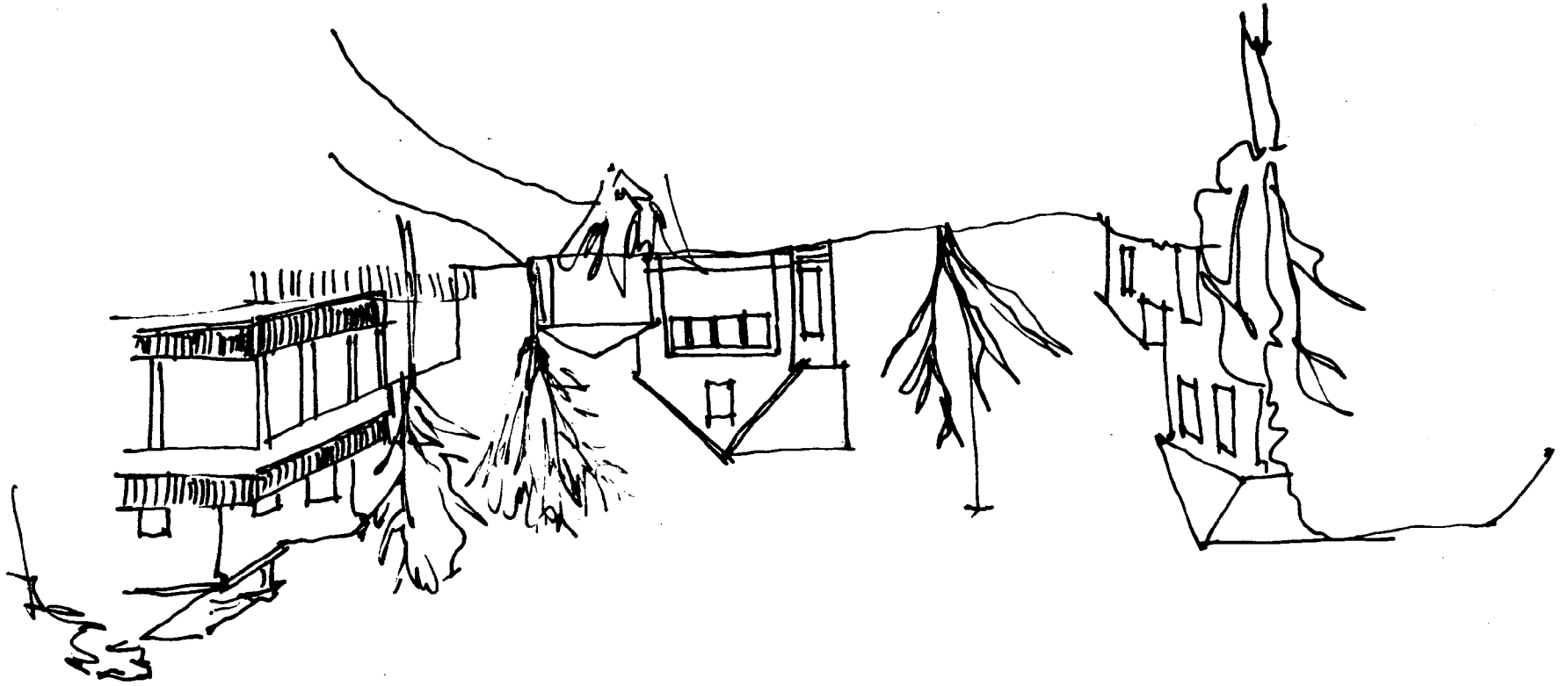
(on Carroll Place - Fawcett St)

House

Carriage house

Site - relationship

Approximately 20' high
22' wide



22' WIDE
Approximately 23' HIGH



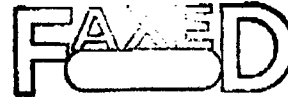


National Trust for Historic Preservation

1785 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 588-6000 / FAX (202) 588-6038 / TTY (202) 588-6200

March 10, 1998

Ms. Susan Turnbull
Chairman
Board of Appeals
100 Maryland Avenue
Rockville, Maryland 20853



Re: Case No. A-4771, Application of Ellison Corp. (Cary Hoobler, Agent)


Dear Chairman Turnbull:

On behalf of the National Trust for Historic Preservation, I am writing to support the Montgomery County Historic Preservation Commission's careful application of the Montgomery County historic preservation ordinance in the above-referenced case (No. A-4771), now under review by the Board of Appeals.

The Kensington Historic District is an excellent example of a turn-of-the-century Victorian garden suburb. The community not only is designated locally under the County's historic preservation ordinance, but also has been recognized nationally, through its listing as a historic district in the U.S. Department of the Interior's National Register of Historic Places. The designation of the district and its administration under the County's historic preservation ordinance reflect the decision of the County and its citizens that the District should be protected against development that would, in style, massing, or density, be incompatible with its historic character. I urge that the application of the County's historic preservation ordinance by the Board of Appeals—as was the case before the HPC—give thorough consideration to the effects the specific proposal will have on the immediate historic streetscape, and upon the integrity of the entire historic district.

Thank you for your consideration of these comments.

Sincerely,


Paul W. Edmondson
General Counsel

cc: Mr. George Kousoulas, Chairman, Montgomery County Historic Preservation Commission

The mission of the National Trust for Historic Preservation is to foster an appreciation of the diverse character and meaning of our American cultural heritage and to preserve and revitalize the livability of our communities by leading the nation in saving America's historic environments.

**National Trust for Historic Preservation**

1785 Massachusetts Avenue, N.W.

Washington, D.C. 20036

Tel. 202/588-6000 Fax. 202/588-6038

FACSIMILE COVER SHEET

TO: Mr. George Kousoulas, Chairman
Montgomery County HPC
c/o Robin Ziek
Fax. 301/563-~~34~~12

FROM: Paul W. Edmondson
General Counsel
National Trust for Historic Preservation
1785 Massachusetts Avenue, N.W.
Washington, D.C. 20036
Tel: 202/588-6105, Fax: 202/588-6082

DATE: March 10, 1998

PAGES: Cover plus 1

SUBJECT: Case No. A-4771, Board of Appeals

PLEASE DELIVER THIS FAX IMMEDIATELY — THANK YOU!

CONFIDENTIALITY NOTICE: The contents of this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for return of the original documents to us.



Feb 25

Nov. 26

Minutes in Hoobler.

Y E L L O W S T O N E



Hortle -

HPC approval on St. Paul St.

Corner lot across from Park.

Jurezinskiy - home + side yard

Sold to new family -

+ new house was never built.

9-1-94

Y E L L O W S T O N E

To Christopher: Transcripts of HPC in all relevant hearings

- ✓ (1) Sterling Hearing
- ✓ (2) Gary Haddock - HAWP
- ✓ (3) Preliminary
- (4) - HAWP.

Model
grading plan

Q: "Standing" to go to Court.

* Wed. BOA hearing - go + sit in.
Susan Turnbull, Chair (Dem.)

* Kensington Residents to come + speak.

HPC = "quasi-judicial body" (a court)
- They can't sue or be sued.

(BOA can't either)

* Mnt. City could sue. (could appeal.) (a committee of 3 attorneys look into this.) ...
Kensington will get admitted as a "party" ... "within sight or sound"

* Helen
HST Soc

(They want to participate) ... tell the BOA. So they can participate in the appeal
to present their own case..

Witnesses:

(1) Call Owen to see if she wants to participate.

See Item #14 → (2) ~~the~~ Collect info of all new homes approved in West. Dist.

(3) Call Emily - for schedule to prepare testimony

(4) Talk to Peter Kutz or try to find another witness about this issue...

DO

Value
property vs. lot
taking
HST Dist. integrity
Loss to entire district

3/2/98
1655
main

33A
County Code
HP

check about attorneys or Jeff Zymla

1400 1100
1400 1200
2800 2300

two separate districts.

✓ 1. Double check: Avery-Flaherty - Did it go to ^{NO} BOA or to the Circuit Court directly? YES.

2. "Takings" Issue. How to respond to that?

✓ Prospect St: Did this go to BOA first or then Circuit Court? Neither

4. Size of the District
- # of resources 204 Resources
- # of streets.
- Do slide of layout of District in entire Kensington boundaries.

check the HRC data.

204
187
17

5. Copies of slides... Every house on Belt or Small houses... + Need Slide of H.D.
(for submission to BOA.)

6. Check out J. Aborn's last HAWP for scale & whether this would change with 2 lots instead of 3.

7. Pull out info on other projects Abobler has brought to the HRC. - he's a businessman + of other new const. proj. in the H.D.

8. Separate administrative process from BOA -

9. Find NR person. MHT or NR. Do. - contact Marcia in Orlando come in?

10. Transcripts to Christopher... Nov - Feb -

= Lot title history? Emily
→ Measure distance between 3913 & 3911

make slide of p 48, 57

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

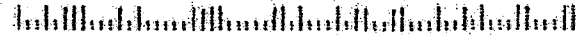
ATTORNEYS AT LAW

3 BETHESDA METRO CENTER, SUITE 800
BETHESDA, MARYLAND 20814-5329



MS. ROBIN ZIEK
PARK AND PLANNING COMMISSION
8787 GEORGIA AVENUE
SILVER SPRING MD 20910

20910>3769



WILKES, ARTIS, HEDRICK & LANE

CABLE ADDRESS: WILAN
FAX: 301-656-3978

CHARTERED

ATTORNEYS AT LAW

SUITE 800

3 BETHESDA METRO CENTER

BETHESDA, MARYLAND 20814-5329

(301) 654-7800

ANNAPOLIS, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND
WASHINGTON, D.C.

LARRY A. GORDON
(301) 215-6621

September 9, 1997

HAND DELIVERED

Ms. Susan Turnbull, Chairperson
Board of Appeals for Montgomery County
111 Maryland Avenue
Rockville, Maryland 20850

Re: Request for Continuance of Hearing in Appeal of
Cary L. Hoobler and Jeanie Ahearn, Case No. A-4771

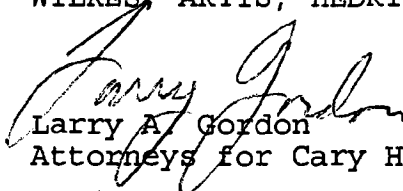
Dear Ms. Turnbull:

This letter is submitted at the request of Mr. Cary Hoobler to request a continuance in the presently scheduled September 17, 1997 Board of Appeals Hearing in this matter. Mr. Hoobler has recently met with members of the Historic Preservation Commission staff and is attempting to resolve the issues associated with this Appeal by working with staff. Accordingly, Mr. Hoobler requests that the hearing be rescheduled in approximately two months (i.e. - early November, 1997) to allow for sufficient time to engage in discussions with HPC staff and, if necessary, to bring this matter back before the HPC.

Additionally, by copy of this letter please be advised that Mr. Hoobler has retained Wilkes, Artis, Hedrick & Lane, Chartered, to represent him in this matter and that Larry Gordon and Pat Harris will serve as counsel to Mr. Hoobler in this appeal.

Very truly yours,

WILKES, ARTIS, HEDRICK & LANE


Larry A. Gordon
Attorneys for Cary Hoobler

LAG:cjs

cc: Ms. Irene Gurman
Christopher Hitchens, Esquire
Ms. Robin Ziek
Mr. Cary Hoobler
Patricia Harris, Esquire

added to
2-25-18 HAWP
City

RELATIVE HEIGHTS-STORY POLE FOR "C"



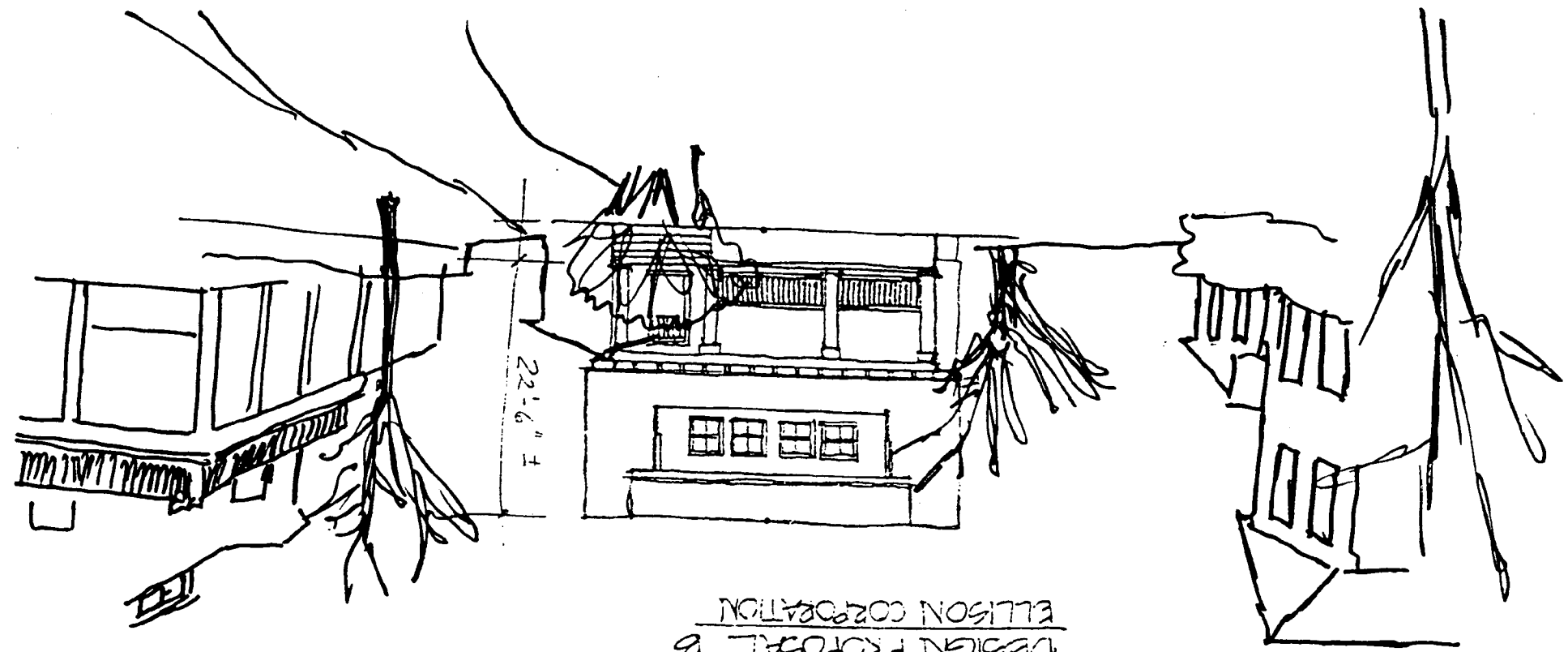
3920 BALT. ST.
HEIGHT - 28'9" plus foundation + band at 50' front setback

3922 BALT. ST.
HEIGHT - 26'2 1/2" plus foundation + band at 94.5' front setback

3924 BALT. ST.
HEIGHT - unknown - readily appears
substantially higher than others
w/ front setback at 50's

© 1997
15

FRONT ELEVATION
3922 BALTIMORE
KENNINGTON, MD.



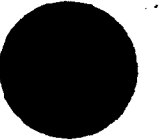
22'-6" F

DESIGN PROPOSAL 'B'
ELLISON CORPORATION
OCT 22 1997
STUDIO PARTNERSHIP ARCHITECTS
25 PINE AVENUE
TAKOMA PARK, MARYLAND 20912
301.279.0080
301.279.0082 FAX

FROM : Ellison Corporation
PHONE NO. : 301.593.1929
FROM STUDIO PARTNERSHIP 301.279.0082
OCT 23 1997 08:40PM '97
P. 3

RENDERING OF 1ST PROPOSAL
AS VIEWED FROM STREET

DRAWING BASED ON PHOTOS W/ STORYPOLE
W/ no reduction of existing grade



Kensington Historical Society
PO Box 453
Kensington, Md 20895

Barry Peoples, President
Kensington Historical Society
10030 Kensington Parkway
Kensington, MD 20895

Feb. 27, 1998

Susan Turnbull, Chairperson
Montgomery County Board of Appeals
100 Maryland Avenue
Rockville, MD 20850
301-217-6600

Re: A-4771
Work Permit at 3922 Baltimore Street in
Kensington's Historic District

Dear Susan Turnbull:

Kensington Historical Society requests intervener status in the above case.

The Kensington Historical Society (KHS) was formed almost twenty-two years ago for the purpose of safeguarding and promoting the rich heritage of the Town of Kensington. With over 150 members, the Society has worked hard over the years to preserve the "historic garden style" of our community. We want to preserve the quality of life afforded us as residents of an historically protected community. We as town residents and tax payors are strongly opposed to the attempt by this contract builder, evidencing no real understanding about the quality of our historic district, to come into our town and build a structure that is not allowed under the historic district development guidelines.

We ask that you uphold the decision by the Montgomery County Historic Preservation Commission (HPC) to deny this application. The integrity of our historic neighborhood must be protected - we certainly do not want harmful in-fill building to put us at risk of losing our historic designation. The KHS was instrumental in creating this historic district in Kensington and in having it placed on the National Register of Historic Places. As such we believe we have a special interest in this appeal and should be afforded the status of intervenor. We have continually supported our designation and we have unswervingly fought to preserve it. If we lose the historic designation, not only do we stand to lose the quality of life we enjoy and have worked hard to maintain, but we stand to lose financially. According to a Wall Street Journal article (attached) Kensington's home values have one of the best for potential appreciation due to the town's historic appeal.

Page 2 of 2

In a similar case the Assistant General Counsel for the National Trust for Historic Preservation, Mr. Paul W. Emondson, sent a letter (attached) to then Montgomery County Board of Appeals Chairperson Heimann, dated 21 September 1990, and said that, "The designation to the district and its administration under the county's historic preservation ordinance reflect the decision of the County and its citizens that this setting should not be despoiled by development that would, in style, massing, or density, be incompatible with the character of the district. I urge that the application of the ordinance by the Board of Appeals, as was the case before the HPC, give thorough consideration to the effects that these specific proposals will have on that historic setting, and upon the integrity of the historic district itself."

We would also ask that the Board of Appeals consider the following points:

- 1) The proposed construction dramatically changes the relationship of the adjacent homes to each other on this section of Baltimore Street. Currently there is an existing average of 87 feet (40'-170') of separation between homes. The proposed 20' of separation would equal a minimum of a 100% increase on massing and density.
- 2) The proposed building dramatically changes lot coverage from an average of 9% in this 1890-1910 district to 26% for the proposed new construction. The 26% proposed lot coverage would be a 188% increase in lot coverage for the immediate area. The proposed construction would crowd the surrounding primary resources which would greatly disrupt the massing and density of this historic street.
- 3) The proposed new construction is to be taller, 32' vs the existing 26'6" for the primary resource at 3920 Baltimore Street. That is a 20% increase in height alone.

The Society would also like to make clear our objection to any new or modified construction plan. We believe that the method for proposing a new or modified plan is clear and that the method is to go through the HPC. Any presentation of new or modified plans in this forum would be inappropriate and should be remanded back to the HPC as they are appointed by the county executive for their expertise in the review of plans in historic areas.

For all of the above reasons, we remain adamantly opposed to the proposed new construction in this case and request intervenor status.

Sincerely,



Barry Peoples
Pres. Kensington Historic

cc: HPC + Town of Kensington (Rob 2)

F A X



To: Robin Ziek
Company:
Fax number: +1 (301) 495-1307
Business phone:

From: Barbara Wagner
Fax number: +1 (301) 949 5016
Business phone:
Home phone:

Date & Time: 3/9/98 6:40:23 AM
Pages: 9
Re: Board of Appeals

Dear Robin,

Sorry I have been unable to telephone you. I am in orientation at Montgomery Hospice. (This has been my goal since I returned to school 9/94.)

Barry Peoples is taking this memo to the Board of Appeals today. I will arrive between 4:30 and 5:00 PM on the 11th. I will try to telephone you today.

Barbara

MEMORANDUM

Date: March 8, 1998
To: Board of Appeals of Montgomery County
From: Barbara H. Wagner, Chair of Kensington Local Advisory Panel
Reference: Docket No. A-4771

My name is Barbara H. Wagner and I am writing to you as the Chair of the Kensington Local Advisory Panel (LAP) to request intervener status for the LAP in the above case. I also request that if my responsibilities as a nurse for Montgomery Hospice Society preclude my attendance that Barry Peoples, the Kensington Historical Society's representative to the Kensington LAP, be allowed to summarize the LAP's statement.

The Local Advisory Panel is appointed by the Montgomery County Historic Preservation Commission in accordance with Section 24A-5 (d) "to assist and advise the commission in the performance of its functions."

The Kensington LAP has seven members. We are all residents of the Town of Kensington. Four of the seven are residents of the Kensington Historic District. In addition to being a resident of the District, Sean Scanlon is also Town Councilman and serves as liaison between the LAP and the Town of Kensington Council. Three of the seven residents do not live in the Historic District. All three are interested in history with Barry Peoples the current President of the Kensington Historical Society.

As the Kensington LAP, we will assist the Historic Preservation Commission by summarizing the creation and significance of the Kensington Historic District.

Kensington Historic District Predates Chapter 24A

Atlas Site #31/6

The Kensington Historic District predates the passage of Chapter 24A of the Montgomery County Code. The Kensington Historic District was identified as significant by the Maryland National Capital Park and Planning Commission

historian and included as Atlas Site #31/6 on the Commission's *Locational Atlas and Index of Historic Sites in Montgomery County* published in October 1976.

A formal District was envisioned by residents of the Town who noted the area's special significance. In 1977, these residents formed the Kensington Historical Society with one of its purposes the preservation of the Town of Kensington's historic character. In order to recognize and protect the area's special character, the Kensington Historical Society nominated the Town's historic area for inclusion on the United States Department of the Interior's National Register of Historic Places Inventory.

National Register of Historic Places

The Kensington Historic District was entered on the National Register of Historic Places Inventory on September 4, 1980 and its significance was described:

The district is significant primarily for the collection of late 19th and early 20th century houses which stand in a turn-of-the-century garden-like setting of curving streets, tall trees, and mature shrubbery. The houses, which exhibit the influence of Queen Anne, Shingle, Eastlake, and Colonial Revival styles, have a uniformity of scale, design, and construction materials, that combine with their juxtaposition and placement upon the gently sloping terrain to create a significant urban neighborhood which still retains much of its early 20th century environment.

The house at 3924 Baltimore Street was identified as significant in the National Register Nomination and described as designed by Washington architect "T. M. Medford, who designed the stuccoed hip roof structure with straight lines and simple decorative detailing."

Chapter 24A of the Montgomery County Code

In July 1979, Montgomery Council established permanent tools for protecting and preserving its historic and architectural heritage by adopting a functional *Master Plan for Historic Preservation* and enacting a Historic Preservation Ordinance, Chapter 24A of the Montgomery County Code. The Ordinance

requires that once designated on the *Master Plan for Historic Preservation*, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued if:

The proposal will not substantially alter the exterior features of an historic site, or historic resource within an historic district; or

The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site, or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the proposes of this chapter;

However, the Ordinance requires a permit be denied if the Commission finds

based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate or inconsistent with, or detrimental to the preservation, enhancement or ultimate protection of the historic site, or historic resource within an historic district, and to the purposes of this chapter.

Amendment to the Master Plan for Historic Preservation

On September 17, 1986, the Montgomery County Council approved and adopted an amendment to the Master Plan for Historic Preservation creating the Kensington Historic District with boundaries similar to those of the National Register District. The Amendment describes the significance of the Kensington Historic District:

The district is architecturally significant as a collection of late 19th and early 20th Century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's

original plan of subdivision conveys a strong sense of both time and place, that of a Victorian garden suburb.

Challenges to District Integrity

Since its creation as a Montgomery County Master Plan Historic District in 1986, there have been many challenges to the District's integrity and its continued preservation in the form of infill development much like the case before you today. With respect to another case of infill development, the Maryland Historical Trust, the State's lead agency for historic preservation was contacted by a group of Kensington residents. After reviewing the information provided, Mark R. Edwards, Deputy State Historic Preservation Officer, in a letter to the Chairman of the Montgomery County Historic Preservation Commission dated November 17, 1988, wrote:

. . . While the Trust has examined information provided to us by the Committee, we cannot ascertain the completeness of the data provided to us. . .

We do, however, have a sufficient understanding of the concept of the development to be able to assess its general effect within the context of the district listing on the National Register of Historic Places. . . .

In this location, there are Queen Anne and Foursquare houses with large yards and lawns set back from the street in a wooded, open setting. There is uniformity among the houses, a quality of openness and a rhythm to the streetscape, and a defined sense of time and place. These are the factors which were cited as the basis for significance in the National Register nomination for the district.

. . . .
. . . The historic streetscape of large wooded lots and the sense of time and place conveyed by this district would be changed by the introduction of greater density. . .

The Kensington Historic District previously has experienced some development that is incompatible with the characteristics that qualified the district for listing in the National Register. However that development has not been of sufficient magnitude to jeopardize continued listing. We are not in a position to judge whether the proposed development would alter that situation, but a significant trend in its direction certainly would. . . .

Vision of Kensington: A Long-Range Preservation Plan

In 1992, the Maryland-National Capital Park and Planning Commission on behalf of the Montgomery County Historic Preservation Commission studied four historic districts in the County – Kensington, Boyds, Clarksburg and Hyattstown – in order to determine an appropriate “Vision” for the areas and guide decision making for the future. The purpose of the study was to develop a methodology that would allow appropriate change by management of the historic district and by adherence to a “vision” or standard by which changes could be assessed. The resultant comprehensive report entitled, *Vision of Kensington: A Long-Range Preservation Plan* describes the Kensington Historic District both qualitatively and quantitatively and presents a long-range preservation plan for the Kensington Historic District. The report has been adopted by both the Montgomery County Historic Preservation Commission and the Council of the Town of Kensington.

The report described the Kensington Historic District:

The Kensington Historic District presents a well-preserved, turn-of-the century garden suburb. The district is distinguished by its open development pattern its rich variety of revival architecture, and its historic relationship to the railroad. The district is composed of two residential areas: to the east and to the west of Connecticut Avenue; and a commercial area along Howard Avenue. The residential areas are dominated by engaging free-standing Queen Anne style residences sited within large garden settings. The commercial area is characterized by the mixture of historic and modernized commercial establishments along Howard Avenue, and the industrial development surrounding railroad.

The study identified five distinct areas that comprise the Kensington Historic District. The case before you today is located in the area designated as the “Historic Residential Core.” This area

consists of most of the primary historic resources in the residential neighborhood. This includes historic resources built from 1890 to 1930 which exemplify the historic pattern of development characterized by expansive open spaces between adjacent homes.

In this area it is important to preserve these patterns of open space, front yard setbacks, building scale, architectural character, and the streetscape qualities.

"Vision" Criteria for New Construction

The report offered the following strategy regarding new construction in the Historic Residential Core:

Any additional residential development on vacant lots within this area should meet the characteristic pattern of historical development for the district. Based on the analysis of lot characteristics of primary resources in this area the following criteria are suggested for limiting new residential construction to the extent feasible:

- *A minimum of two lots, or 15,000 sf of lot area for construction of a single family dwelling. (based on the historic development pattern and lot sizes within the district)*
- *A maximum lot coverage of 10 percent (based on the pattern of lot coverage for primary resources)*
- *Minimum front yard setbacks of 35 feet based on the average setbacks of primary resources and side yard setbacks of 25 feet to maintain average building separation distances of approximately 50 feet.*

LAP Recommendation to Historic Preservation Commission

As stated above, the Kensington LAP was appointed by the Historic Preservation Commission to advise the Commission regarding the potential impact of historic work permit applications on the Kensington Historic District. In accordance with our mission, the Kensington LAP has met and carefully reviewed the applications submitted for the sideyard of 3920 Baltimore Street, also known in the application before the Board of Appeals as "3922" Baltimore Street. In this letter I have described the LAP's thought processes and the documents upon which we have based our recommendations. Regularly, the LAP has advised the Commission to adhere to the "Vision of Kensington" criteria for new construction presented above. To date, none of the applications presented by the

applicant has incorporated these criteria. The LAP's recommendation remains unchanged.

F A X

To: Robin Ziek
Company:
Fax number: +1 (301) 495-1307
Business phone:

From: Barbara Wagner
Fax number: +1 (301) 949 5016
Business phone:
Home phone:

Date & Time: 3/9/98 7:14:18 AM
Pages: 3
Re: 850 Square Foot House

Hi,
Thought you might like to see this article about our house in Garrett Park. It appeared in The Old House Journal in the November/December 1994 issue. I'm also faxing a floor plan from the sales brochure. It is the Woodbine. However, the sleeping porch had rotted off when we bought the house in May 1990.

In December 1990, when we completed the renovation we held a reception for the HPC and County Council to show the before pictures in the completed project.

We sold it April 30, 1997. It is located at 10912 Montrose Avenue, Garrett Park in the Historic District. It was sold to a single person who was delighted to find a small house "down county."

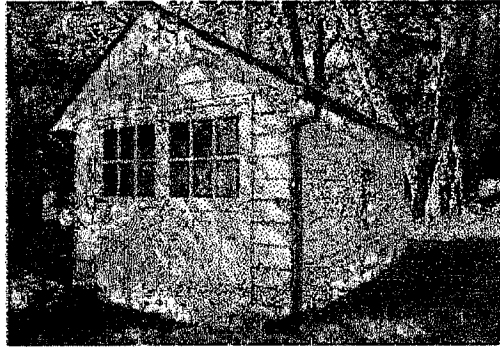
A Chevy House Road Trip

BY JAMES C. MASSEY AND SHIRLEY MAXWELL

THIS READING THE OLD HOUSE TURNS THE TABLE AND answers our question about "Chevy Houses" (see "An Architectural Rummage Sale" September/October 1993). Second-hand reports about a 1920s housing phenomenon — new homes that came complete with a new car in the driveway — piqued our interest, and we wanted to know more. Did any OHJ readers have direct experience with this novel merchandising approach?

Sure enough, the ink had hardly dried on the issue when, to our delight, Barbara and Jim Wagner confirmed the existence of Chevy houses. The Wagners kindly showed us around their two properties and an entire community of these small, 1920s cottages in Garrett Park, Maryland, a quiet, railroad suburb of Washington, D.C. The houses were developed by Maddux, Marshall, and Company and were promoted in a brochure entitled, "A Residential Park Development of Charm and Distinction." The brochure begins with an impressive mission statement: "Placing within [a family's] reach ownership of home, the pleasure of one's own car, and other elements of Human Happiness — such is the impelling idea in back of the development of beautiful, rustic Garrett Park, the suburb ideal."

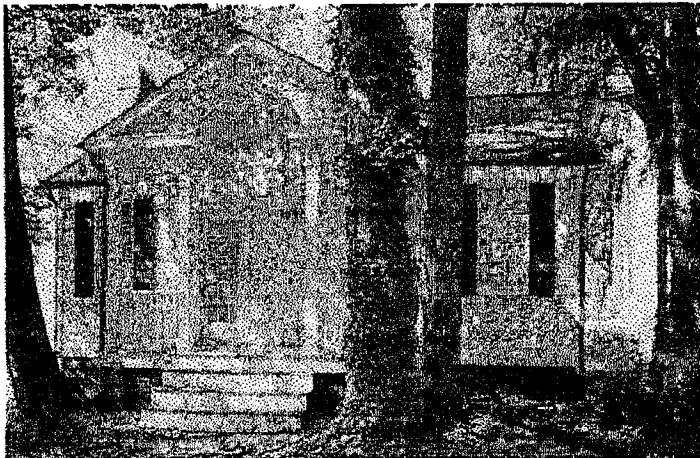
The Chevy House style might be described as a sort of Cape Cod with a prominent front porch —



Both the one-car garage and the Chevrolet auto that it housed were optional.

a modest, generically traditional, all-American approach. Three different models of these economical cottages — the Roseland, Sylvan, and Woodbine — were built with varying designs for their entry porches. All the models featured a living room, kitchen, single bathroom, a dining alcove with built-in benches and table (a breakfast nook-like feature that wasn't in the kitchen), a folding Murphy bed in the living room, and a built-in Atwater-Kent radio. The Chevrolet and the garage were both extras, but their cost could be included in the house mortgage, making one convenient monthly payment for the whole package. In fact, buyers had their choice of any Chevrolet model on the market — roadster, touring car, touring sport model, utility coupe, four-passenger coupe, or five-passenger sedan.

Today, Chevy houses are still sought after because their exterior designs "read" as well as more expensive houses. Although most have received substantial additions or alterations, it is surprising how many have survived with their basic features intact. The Chevrolet may be long-gone, but the charm of these picturesque frame cottages lingers.



The appeal of classic Cape Cod exteriors with pedimented porches have insured the survival of Chevy Houses, such as this 1927 Sylvan model.

Cost and Terms

(Insert sheet for prices and terms.)

Basic Unit. Every home consists of a Basic Unit, comprising house, lot, and radio, sold at a certain price.

Optional Additions. At the option of the purchaser (1) a garage, or (2) a garage and a Chevrolet car, may be included, the cost being added to the price of the Basic Unit. Choice is given of any Chevrolet car: Roadster, Touring, Touring Sport Model, Utility Coupe, 4-passenger Coupe, or 5-Passenger Sedan.

Cash and Monthly Payments. The cash and monthly payments are made as small as is consistent with sound business methods, every possible concession being made for the convenience and accommodation of the purchaser.

Low Cost. Never before in the real estate annals of Washington have such home values been offered—they are by far the lowest figures at which it has ever before been possible to purchase such homes.

Efficiency and Economy

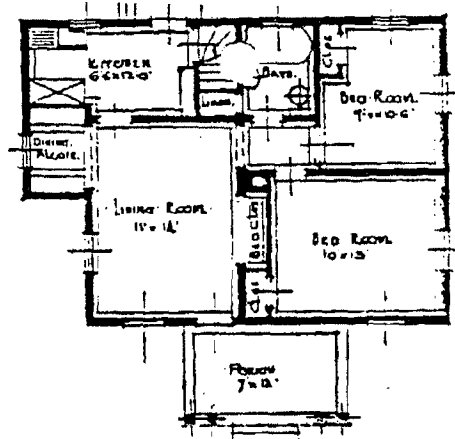
The building, purchasing, and other departments of Maddux, Marshall & Co. are under practical, experienced men of outstanding ability in their respective fields. All material, which is carefully inspected and tested upon delivery, is purchased by an expert staff that knows the market thoroughly and understands the business of buying economically, paying minimum prices for high class material, and taking advantage of all discounts. All engineering, carpenter, and other work is done under the exacting supervision of highly trained, well organized personnel, skilled in the handling of labor and in the use of assembling of materials, thus eliminating waste, inferior workmanship, lost motion, and delay.

Clients Get Advantage of Savings

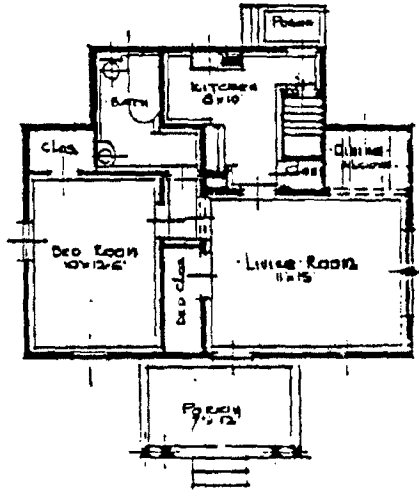
It is because of this splendid organization, economical management, and efficient administration that Maddux, Marshall and Co. can build homes at least 20% below the usual cost, and, therefore, sell them that much cheaper, it being their policy to share with their clients all savings the firm is able to make through economic purchases of material, efficient supervision of workmanship, and otherwise. *The Company prizes its reputation above all else. It is their most valuable asset. The reputation of Maddux, Marshall and Co. is back of the development of Garrett Park.*

Insert Sheet

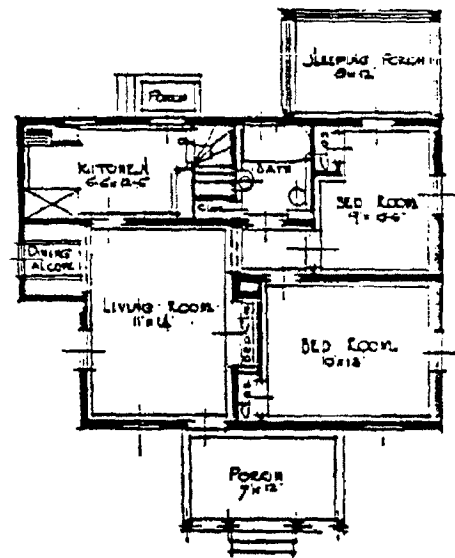
Due to variations from time to time in the cost of material and labor as well as because of other considerations, the prices of the homes in Garrett Park will increase or decrease accordingly, the purchaser always being given full benefit of any decrease in cost of building. Therefore, instead of incorporating in the body of this brochure, the prices of the homes and terms of payment, they are given on an inserted sheet which will be revised and brought up to date whenever necessary.



The Sylvan



The Roseland



The Woodbine

Bob Ritzmann (301)949-3423
3504 Kent Street
Kensington, MD 20895
August 19, 1997

Robin Zick,

Minutes of the May 27th, June 30th and July 28th Town Council Meetings and Work Sessions are attached. Item 7. (p. 2) of the May 27th Minutes states that Council accepted the Traceries report, A citizen wanted two items added under New Business so the minutes were not approved until the July 28th meeting. None of the additions had any affect on the May 12th Work Session minutes, and I'm forwarding the June 30th and July 28th minutes only so that you have the complete story. I see no problem in your saying that the Town Council accepted the Traceries report in their regular Work Session of May 12th.

I called Gwen Wilkes who will plan to attend the August 25th Town Council meeting to reinforce the importance of appearing at the Appeals Board Hearing on September 17th. I also called Barbara Wagner. She said she had not asked the NEC to renominate Barry Peoples, Jane Wilson and Sylvia Maza to appoint for a two year term. Technically, at this point the Kensington LAP is down to three members, Barbara Wagner, John Oppenheim and Frank O'Donne. I suggested Barbara write Gwen requesting that Barry Peoples, Jane Wilson and Sylvia Maza be appointed for terms ending June 30, 1999, and I will bring up the Town Council's replacement for their representative (Charlie Stuart) at Monday's Town Council meeting. Mayer Basle should write stating who that person is. *pu*

Speaking to Bob Ritzmann

8/18/97

LAP terms.

1 ~~1/2~~ years ~~to~~ to stagger appointments
2 years

Board has to reappoint LAP
members.

- Town can appoint a member (Charlie
Stuart)
- Historical Society can
appoint a member

= Minutes of ~~the~~ Kensington Town
Council show that
Kensington has formally
adopted the Traerres
report.
- date May 12, 1997

Item 7.

Voted to accept report @
work session.

Robin,

I think I have what I need -
thanks. I'd be happy to be called
and I will talk to Helen + Judy
+ town council members.

for the record;

Julia O'Malley
10019 Frederick Ave,
Kensington 20895
301-942-8933
KHS Preservation Committee

John Lossing - 301-949-0717 (H)
202-625-0260

APPEAL CHARGING ERROR
IN ADMINISTRATIVE RULING OR ACTION
Please note instructions on reverse side.
Attach additional sheets if required for answers.

Appeal is hereby made pursuant to Section 2-112 of the Montgomery County Code 1984, as amended, from the decision or other action of an official or agency of Montgomery County specified below which Appellant contends was erroneous.

Official or agency from whose ruling or action this appeal is made is the Historic Preservation Commission

Brief description of ruling or action from which this appeal is made (attach duplicate copy of ruling or document indicating such action): denial of building permit

Date of that ruling or action: 5/8/97

Brief description of what, in appellant's view, the ruling or action should have been: Granting of building permit.

Number of section, and subsection if any, of the Montgomery County Code 1994, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: Chapter 24 A

Error of fact, if any, involved in the ruling or action from which this appeal is made: Errant and misleading dimensions of structures, their condition, appurtenances & setting.

Error of law, if any, involved in the ruling or action from which this appeal is made: _____

Effectively take property use from owner without due process or compensation.

Question(s) of fact, if any, presented to the Board by this appeal: Use of statistics by

H.P.C. comparing aggregate land sizes to single lots & likewise coverage

Question(s) of law, if any, presented to the Board by this appeal: Does H.P.C. have right to deny use of lot to one owner and not another. Can criteria from sources other(*

Description of real property, if any, involved in this appeal: Lot 25, Block 11

Parcel _____, Subdivision Kensington Park, Street and Number 3922 Baltimore

Street _____, Town Kensington, Zone 20895

Appellant's present legal interest in above property, if any: 1 Owner (including joint ownership). _____ Lessee. _____ Contract to lease or rent. 2 Contract to purchase. _____ Other (describe)

Statement of appellant's interest, i.e., manner in which appellant is aggrieved by the ruling or action complained of (as property owner or otherwise): _____

(1) Loss of value of property and loss of right to use for its zoned use, i.e. best use

Further comments, if any: (2) loss of right to use lot as zoned and loss of opportunity to improve lot and gain compensation

**than Master Plan be used to deny permit.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Signature of Attorney _____ (1) [Signature] Signature of Appellant(s)

Address of Attorney _____ Signature of Apl 3920 Baltimore St President of Ellison Corp. 10907 Jarboe Ave, SS 20901

Address of Appellant(s) _____ Address of Apl. Kensington MD (301)681-1411

Telephone Number _____ Telephone Number (301)949-6357 Telephone Number _____

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301)217-6600

Case No. A-4771

APPEAL OF CAREY L. HOOBLER AND JEANIE AHEARN

SECOND NOTICE OF CHANGE OF DATE AND TIME OF HEARING

Notice is hereby given that a public hearing will be held by the Board of Appeals for Montgomery County, Maryland, in the Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, in the Second Floor Davidson Memorial Hearing Room, on the 17th day of December, 1997, at 1:30 p.m., or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 2-112 of the Montgomery County Code.

The appellants charge administrative error on the part of the Historic Preservation Commission in its denial of a Historic Area Work Permit leading to the denial of a building permit, dated May 8, 1997, contending that Section 24A of the Montgomery County Code 1994, as amended, was misinterpreted. In accordance with Chapter 2A, Administrative Procedures Act, a copy of the "charging document" (appeal) is attached to this notice.

The subject property is Lot 25, Block 11, Kensington Park Subdivision, located at 3922 Baltimore Avenue, Kensington, Maryland, in the R-60 Zone.

Second notices of change of date and time of hearing forwarded this 12th day of September, 1997 to:

Carey L. Hoobler
Jeanie Ahearn
Larry Gordon, Esquire
Charles W. Thompson, Jr., Esquire, County Attorney
A. Katherine Hart, Esquire, Senior Assistant County Attorney
Christopher Hitchens, Esq., Assistant County Attorney
George Kousoulas, Chairperson, Montgomery County
Historic Preservation Commission
Gwen Wright, Coordinator, Montgomery County
Historic Preservation Commission
Louise F. Shipley, Environmental Protection Manager,
Department of Permitting Services
Members, Board of Appeals
Rock Creek Coalition
Spanish Speaking People of Bethesda
Town of Kensington
Town of Kensington Citizens Association

County Board of Appeals

by: Tedi S. Osias
Tedi S. Osias
Executive Secretary to the Board

Robin

FYI

Amem

BOARD OF APPEALS
FOR
MONTGOMERY COUNTY, MARYLAND
(301) 217-6600

Docket No. A- 4771
Date Filed 6-6-97
Hearing Date 8-27-97 @ 9:30
Hearing Time _____

APPEAL CHARGING ERROR
IN ADMINISTRATIVE RULING OR ACTION
Please note instructions on reverse side.
Attach additional sheets if required for answers.

Appeal is hereby made pursuant to Section 2-112 of the Montgomery County Code 1984, as amended, from the decision or other action of an official or agency of Montgomery County specified below which Appellant contends was erroneous.

Official or agency from whose ruling or action this appeal is made is the Historic Preservation Commission

Brief description of ruling or action from which this appeal is made (attach duplicate copy of ruling or document indicating such action): denial of building permit

Date of that ruling or action: 5/8/97

Brief description of what, in appellant's view, the ruling or action should have been: Granting of building permit.

Number of section, and subsection if any, of the Montgomery County Code 1994, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: Chapter 24 A

Error of fact, if any, involved in the ruling or action from which this appeal is made: Errant and misleading dimensions of structures, their condition, appurtenances & setting.

Error of law, if any, involved in the ruling or action from which this appeal is made: _____

Effectively take property use from owner without due process or compensation.

Question(s) of fact, if any, presented to the Board by this appeal: Use of statistics by H.P.C. comparing aggregate land sizes to single lots & likewise coverage

Question(s) of law, if any, presented to the Board by this appeal: Does H.P.C. have right to deny use of lot to one owner and not another. Can criteria from sources other(*):

Description of real property, if any, involved in this appeal: Lot 25, Block 11
Parcel _____, Subdivision Kensington Park, Street and Number 3922 Baltimore Street, Town Kensington, Zone 20895

Appellant's present legal interest in above property, if any: 1 Owner (including joint ownership). _____ Lessee. _____ Contract to lease or rent. 2 Contract to purchase. _____ Other (describe)

Statement of appellant's interest, i.e., manner in which appellant is aggrieved by the ruling or action complained of (as property owner or otherwise): _____

(1) Loss of value of property and loss of right to use for its zoned use, i.e. best use

Further comments, if any: (2) loss of right to use lot as zoned and loss of opportunity to improve lot and gain compensation

****than Master Plan be used to deny permit.**
I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Signature of Attorney _____

(1) James Alcorn
Signature of Apl
3920 Baltimore St

(1) C. Hobler
Signature of Appellant(s)

Address of Attorney _____

Kensington MD
Address of Apl.

President of Ellison Corp.
10907 Jarboe Ave, SS 20901
Address of Appellant(s)
(301) 681-1411

Telephone Number _____

(301) 949-6357
Telephone Number

Telephone Number _____

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301)217-6600

Case No. A-4771

APPEAL OF CAREY L. HOOBLER AND JEANIE AHEARN

Notice is hereby given that a public hearing will be held by the Board of Appeals for Montgomery County, Maryland, in the Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, in the Second Floor Davidson Memorial Hearing Room, on the 27th day of August, 1997, at 9:30 a.m., or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 2-112 of the Montgomery County Code.

The appellants charge administrative error on the part of the Historic Preservation Commission in its denial of a Historic Area Work Permit leading to the denial of a building permit, dated May 8, 1997, contending that Section 24A of the Montgomery County Code 1994, as amended, was misinterpreted. In accordance with Chapter 2A, Administrative Procedures Act, a copy of the "charging document" (appeal) is attached to this notice.

The subject property is Lot 25, Block 11, Kensington Park Subdivision, located at 3922 Baltimore Avenue, Kensington, Maryland, in the R-60 Zone.

Notices forwarded this 16th day of June 1997 to:

Carey L. Hoobler
Jeanie Ahearn
Charles W. Thompson, Jr., Esquire, County Attorney
A. Katherine Hart, Esquire, Senior Assistant County Attorney
George Kousoulas, Chairperson, Montgomery County
Historic Preservation Commission
Gwen Wright, Coordinator, Montgomery County
Historic Preservation Commission
Louise F. Shipley, Environmental Protection Manager,
Department of Permitting Services
Members, Board of Appeals
Rock Creek Coalition
Spanish Speaking People of Bethesda
Town of Kensington
Town of Kensington Citizens Association

County Board of Appeals

by: Tedi S. Osias
Tedi S. Osias
Executive Secretary to the Board

301-942-2880

hope you can read Mrs. Robin

To: Robin Z

From: Barry

Feb. 27, 1998

Barry Peoples, President
Kensington Historical Society
10030 Kensington Parkway
Kensington, MD 20895

Susan Turnbull, Chairperson
Montgomery County Board of Appeals
100 Maryland Avenue
Rockville, MD 20850
301-217-6600

(← BOA case #)

Re: Case #~~31/6-970~~ A-4771
Work Permit at 3922 Baltimore Street in
Kensington's Historic District

Dear Susan Turnbull: # We request Intervener status in the above-cited case.

The Kensington Historical Society was formed almost twenty-two years ago for the purpose of safeguarding and promoting the rich heritage of the Town of Kensington. With over 150 members, the Society has worked hard over the years to preserve the "historic garden style" of our community. We want to preserve the quality of life afforded us as residents of a historically protected community. ^{(We are} town residents and tax payors ^{contract} strongly oppose the attempt by this outside builder, ^{with no concern for the quality of our historic community,} ^{to come into our Town and build a structure that is not allowed under the historic district development guidelines. Therefore, we request intervenor status in this case.}

We ask that you uphold the decision by the Montgomery County Historic Preservation Commission (HPC) to deny this application. The integrity of our historic neighborhood must be protected - we certainly do not want harmful in-fill building to put us at risk of losing our historic designation. If we lose the historic designation, not only do we stand to lose the quality of life we enjoy and have worked hard to maintain, but we stand to lose financially. According to a Wall Street Journal article (attached) Kensington's home values ^{have} ^{due} ^{the town's} appreciation ^{do} to its historic appeal.

In a similar case the Assistant General Counsel for the National Trust for Historic Preservation, Mr. Paul W. Emondson, sent a letter (attached) to then Montgomery County Board of Appeals Chairperson Heimann, dated 21 September 1990, and said that, "The designation to the district and its administration under the county's historic

We are town res + tax pay who strongly oppose the attempt by this Contract builder,

evidencing no real understanding about the quality of our hist. dist, to come into our town with a proposal to build a structure that is not allowed under the hist. dist. deve. guideline...
Therefore we request

Bring large-scale map of Kensington
w/ building footprints -

10
2 to M-NCPPC
"Local Vicinity Map
for Howard Ave"
Scale 1:1200.

Shift point to include entire (hd).

Great Figure Ground!

Dec 17.

Mindy Sept 265

✓ Barbara Wagner 703-648-8915

Barry Peoples 301-942-4820

Lynn Raufaste 949-4298

→ Sean Scanlan { (FAX) 202-822-0572
 202 479 3056 (H) 202-822-0584
 Helen Wilkes { FAX 202-484-1154 (H) 301-949-5146

Frank O'Donnell -

Carol Mitten - 212-524-
2344

Bob Ritzman - 949-3423

Julio O'Malley (301) 942-8933

(John Larsen, J. edbud.

IMPORTANT MESSAGE

FOR Robert

DATE 3/5 TIME 2:40 A.M.
P.M.

M Barbara Wagner

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX

MOBILE _____
AREA CODE NUMBER TIME TO CALL

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE

Re: Ballo St. BOA case
& mtg w/ Co Attorney.
no one available to meet -
Working on getting someone
to identify

SIGNED

[Handwritten signature]

Speaking to Peter Kurtz - 3/2/98

De-designation doesn't really happen

- Loss of integrity ... The Issue
- Landscape design / community planning -

(Character)

Send him copy of our report -

deed research...

1302 Edmondson Ave. 410-744-2681

Oak Hills 21228-4905

* - Coatsville - Ed Schull - he specializes in H.P. Has testified

Who was designer for Kennington? :

~~Charles Beveridge - Nat'l Olmsted Scholar~~

(NPS)

* Charles Barnbaum - Coord. of Hist. Landscapes
NPS. 202.343.9500

* Smithsonian Archives of Our Gardens
(202) 357.1926

Dec of Ent. Standard for Landscape Issues

Charles Barnbaum
NPS

Feb. 27, 1998

Barry Peoples, President
Kensington Historical Society
10030 Kensington Parkway
Kensington, MD 20895

Susan Turnbull, Chairperson
Montgomery County Board of Appeals
100 Maryland Ave.
Rockville, MD 20850
301-217-6600

Dear Susan Turnbull:

Since my last letter to you on Sept. 4, 1997, I have had direct conversations with Mrs. Ahern and Mr. Hoobler. Even with the Kensington Historical Society's willingness to invest our own time and funds, Mrs. Ahern and Mr. Hoobler are not willing to allow an appraiser access to the property to give the KHS necessary information to look at options for the owner(s). Mr. Hoobler even went so far as to state to me that it did not really matter what the HPC did because he understood the Board of Appeals does not care for the HPC and will rule in favor of the builder.

The Kensington Historical Society wholeheartedly supports the Historic Preservation Commission's denial recommendation for the garage demolition and new single family dwelling construction at 3922 Baltimore Street for the following reasons:

In a similar case the Assistant General Counsel for the National Trust for Historic Preservation, Mr. Paul W. Emondson, in a letter (attached) to then Montgomery County Board of Appeals Chairperson Heimann, dated 21 September 1990, wrote, "The designation to the district and its administration under the county's historic preservation ordinance reflect the decision of the County and its citizens that this setting should not be despoiled by development that would, in style, massing, or density, be incompatible with the character of the district. I urge that the application of the ordinance by the Board of Appeals, as was the case before the HPC, give thorough consideration to the effects that these specific proposals will have on the that historic setting, and upon the integrity of the historic district itself"

Specifics on massing and density for compatibility with the character of the historic street.

- 1) Relationship of the adjacent homes to each other on this section of Baltimore Street. Existing average of 87 feet (40'-170') of separation. The proposed 20' of separation would equal a minimum of a 100% increase on massing and density.
- 2) It dramatically changes lot coverage from an average of 9% in this 1890-1910 district to 26% for this proposed new construction. The 26% proposed lot coverage would be a 188% increase in lot coverage for the immediate area. The proposed construction would then be crowding the surrounding primary resources once again greatly disrupting the massing and density of this historic street.
- 3) The proposed new construction is to be taller, 32' vs the existing 26'6" for the primary resource at 3920 Balt. That a 20% increase in height alone.
- 4) It would require demolition of an historic out-building. This out-building is a charming yet neglected single car garage. This garage is very reflective of the turn of the century one car family that the owner is responsible to maintain in a historic district.

To allow any or all of these four very important components to be destroyed could jeopardize the historic district's integrity as a whole. The relationship among the district's components must be substantially unchanged since the period of significance for the district to retain it's integrity.

We have voluntarily and intentionally moved into Kensington as a historic district. We want the benefits and the beauty that a historic district provides through protection. As one very positive example, Kensington was one of only two towns named in the Wall Street Journal as the best areas for appreciation because of its' historic district designation (see attachment).

The reasons the Kensington Historic District was listed in the National Register for Historic Places an historic district are very clear and well covered by the HPC unanimous denial (8-0) ruling on this Case # 31/6-97D. The Master Plan for Historic Preservation as stated in the Amendment to the Master Plan and the National Register Bulletin #15, How to Apply the National Register Criteria for Evaluation, page 46 and the Vision of Kensington are all well sited by this HPC denial report.

Feb. 27, 1998

I can not believe the applicant has yet to present a plan that closely matches the Historic guidelines or that the property owner(s) will not allow others to look into options for the property in question. Instead the property owner(s) continues to use up both county and citizens time by presenting plans that ignore the suggested guide lines.

Sincerely!

A handwritten signature in cursive script that reads "Barry Peoples". The signature is written in dark ink and is positioned above the typed name.

Barry Peoples - President
Kensington Historic Society



National Trust for Historic Preservation

21 September 1990

Ms. Judith Heimann, Chairman
Montgomery County Board of Appeals
100 Maryland Avenue
Rockville, MD 20853

Dear Madame Chairman:

On behalf of the National Trust for Historic Preservation, I am writing to support the Montgomery County Historic Preservation Commission's careful application of the Montgomery County historic preservation ordinance in the Avery Flaherty cases. We have followed with close attention the developments in these two cases, and appreciate the care with which the HPC has faced the difficult questions it has had to consider in this matter.

The Kensington Historic District is one of the few surviving examples of a turn-of-the-century Victorian garden suburb. Key to the district's distinctive character is the parklike setting surrounding the Victorian-style houses located around the Circle Manor Nursing Home on Carroll Place. The designation of the district and its administration under the County's historic preservation ordinance reflect the decision of the County and its citizens that this setting should not be despoiled by development that would, in style, massing, or density, be incompatible with the character of the district. I urge that the application of that ordinance by the Board of Appeals, as was the case before the HPC, give thorough consideration to the effects that these specific proposals will have on that historic setting, and upon the integrity of the historic district itself.

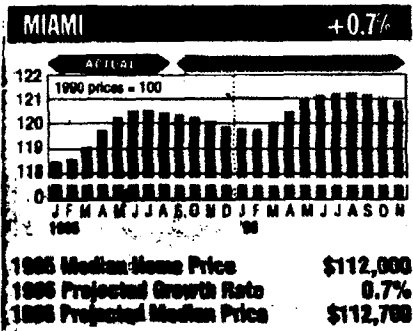
Sincerely yours,

Paul W. Edmondson
Assistant General Counsel

Wall Street Journal - Friday - Jan. 5, 1996 - Sec B Page 8

Douglas and Northrop, have decided to stay, staunching the bloodletting—but the real growth is in small entrepreneurial companies. The entertainment industry also is hot. Immigrant groups, particularly Hispanics and Asians, also are becoming home buyers as they establish roots in the region.

Quote: "Our biggest hope is the bootstrap companies—people feeding into the studios who have high-tech operations in their garages, doing post-production work."—Los Angeles relocation manager Ed Lubieniecki.

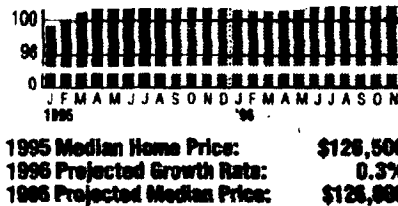


Forecast: Home prices rose an average of 5.4% annually as the area rebuilt after Hurricane Andrew, but the boom is fading. Though movie stars and corporate moguls have run up prices in beach-front resorts recently, expect prices overall to stabilize. This year, appreciation won't top 0.7%.

Background: After the 1992 hurricane, \$20 billion poured into Miami's economy, creating a suburban building craze. Of the 80,000 persons displaced by the storm, however, 15,000 moved north into Broward County. The frenzy of rebuilding is now past.

Though employment growth is down, the area is still attracting health care, high tech, banking and sports-related industries. Resident movie stars such as Sylvester Stallone, Cher and Madonna also have spurred a boomlet in the entertainment and fashion businesses. Properties in upscale areas such as Coconut Grove and Key Biscayne are still hot, but the tide is turning. Fort Lauderdale and Hialeah prices are in decline.

Quote: "People used to stand in line to

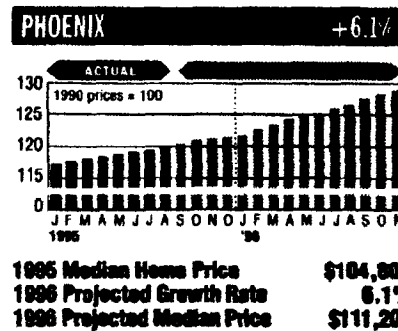


Forecast: Flat employment and slow sales will keep appreciation to a minimum throughout the metro area, though college towns such as Bryn Mawr and Haverford, Philadelphia's historic Main Line, and beach resorts such as Cape May, will continue to do well. For the past three years, home prices inched up only 0.5% annually; they'll go up only 0.3% this year.

Background: Workers willing to brave long commutes to New York for less-expensive housing are keeping the Philadelphia metro area suburbs alive. But the city of Philadelphia is hurting—no longer near bankruptcy, but still on shaky ground.

Defecting manufacturers such as Scott Paper and bank mergers may erode the city's attempts at recovery. But some stability has come to the Route 202 corridor as some back-office operations have located there. Health, pharmaceutical and chemical firms are still drawn to the brainpower of universities in the area, such as Princeton and the University of Pennsylvania (the city's largest employer).

Quote: "Despite everyone's best efforts, housing is not keeping up with inflation. It looks like we'll continue to be dead in jobs this year."—Professor Susan Wachter, University of Pennsylvania Wharton School of Real Estate in Philadelphia.

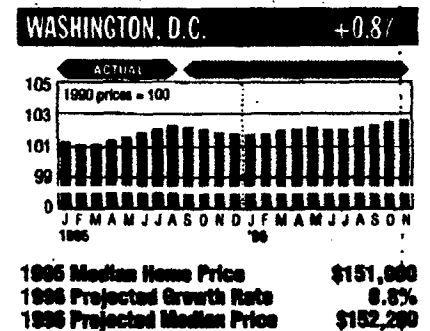


Forecast: Phoenix's explosion of growth in income and sales will continue to rocket.

The recession hit California hard, but home prices in San Francisco dropped less than half as much as they did in Los Angeles. That's because the economy is based on high-tech industry and banking rather than defense.

There's been little new construction during the past three years, pushing rents up more than 10% last year (though high home prices still make renting a bargain compared with ownership). Prices rose 5% last year on the few new homes that were built, and resales are selling in 90 days (it took seven months to sell an existing home in the trough of the recession). Homes on the Peninsula and Fremont are appreciating the fastest.

Quote: "The Bay Area is more like the Midwest than Los Angeles—it's not overbuilt, unemployment is below 6%, and there's good disposable income. Basically, the economy is strong."—Michael Evans, national director of real estate advisory services for Ernst & Young in San Francisco.



Forecast: Expect appreciation to slow a bit from the 1% annual growth of the past three years. Although employment growth has been steady since the recession, government cutbacks will likely curb it. Best bets are historic tourist towns such as Annapolis and Kensington, and newly built communities in Anne Arundel and Prince Georges counties in Maryland; older, working-class areas in Baltimore and Montgomery County will fare the worst.

Background: Defense cutbacks hurt the Washington area during the recession, but computer-based businesses in the northern Virginia suburbs, such as America Online, are taking up the slack. A spate of new-home building in the mid and upper brackets two years ago proved overly optimistic, however, leaving an oversupply that still hasn't been absorbed in the fanciest Virginia suburbs. But lower-priced new homes in entry-level Maryland bedroom communities like Bowie and Arnold are moving.

Because the government hasn't finished trimming jobs, middle-income workers are hesitant to commit to bigger mortgages. So aging, middle-class Maryland suburbs such as Hyattsville, Laurel, Silver Spring and Rockville are feeling the pinch. Meanwhile, the District of Columbia's economic and political troubles continue to drag down home prices there.

Quote: "In the suburbs, it seems as if there's a new home on every street-corner."—Market analyst Debbie Rosenstein in McLean, Va.

ABOUT THE FORECAST

In a local economy is doing or falling, people take their time when they decide to buy, so there tends to be a lag between a change in economic conditions and a change in prices.

Moreover, interest rate changes and natural disasters affect home prices, and can't be anticipated.

Q: How was the forecast created?

A: It is based on "repeat sales" indexes, which combine data on all houses that have sold more than once during the time period measured. The change in price from the first to the second sale of each house is the basic unit measured.

The two prices are combined with all others to define the trend for a typical house in that

market. Professors Karl Case of Wellesley College and Robert Shiller of Yale University pioneered this method in a series of academic papers starting in 1986.

One weakness in this model is that it doesn't take into account new-home prices, although new homes do tend to appreciate at the same rate as resales. But in rapidly heating or cooling markets, new-home prices can signal a change in overall price trends.

Q: Why isn't Texas covered?

A: All price data in the indexes come from recorded sales. But in Texas, sale prices aren't public information so there is no reliable measure of prices in the state.

HISTORIC PRESERVATION COMMISSION STAFF REPORT

ADDRESS: 3929 Prospect Street

MEETING DATE: January 29, 1992

RESOURCE: Kensington Historic District

REVIEW: HAWP/New Construction

HPC CASE NUMBER: 31/6-90E Revision

STAFF: Nancy Witherell, 1/22/92

The Historic Preservation Commission approved a proposal for new construction at 3929 Prospect Street (Lot 15) in June, 1990, following three previous submissions. The applicant returns to the Commission with a proposed revision to the approved Historic Area Work Permit. The new design has a more rectilinear footprint, and the style has been altered to a more formal, symmetrical, Georgian-style facade that features evenly spaced windows, a center entrance portico, and a hipped roof with a center gabled dormer and paired chimneys.

The hipped roof is approximately 2'9" lower in height and simpler in form than the gable roof previously approved. The changes to the footprint occur most visibly on the front facade, by the elimination of the wing projection to the left of the door. The footprint previously approved measured 1529 square feet with lot coverage of 10.28%. The revised proposal measures 1450 square feet, with lot coverage of 9.75%.

The adjacent house to the east is a late Queen Anne-style house, built in 1904, that illustrates the transition from the informal and asymmetrical massing typical of the Queen Anne style to the more conventionalized and symmetrical massing typical of the Colonial Revival style. The proposed new house is more similar to the formally massed houses immediately around the corner on Baltimore Street.

One of the concerns of the Kensington LAP during the 1990 hearings was the setback of the facade, since the nearby houses maintained a consistent distance from the street. The revised proposal places the front of the portico (measuring 5' by 10') on the building line in concert with the adjacent house on Prospect Street.

STAFF RECOMMENDATION

Given the reduction in height and footprint of the proposed house, and given the general appropriateness of a historical revival style for a house of this size and prominence in the historic district, staff recommends that the Commission approve the revision to the approved Historic Area Work Permit under one of the same criterion originally cited: 24A-8(b)(2): "The proposal is compatible in character and nature with the historical, archeological, architectural, or cultural features of the . . . historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter;" and criterion 24A-8(c): "It is

not the intent of this chapter to limit new construction . . . to any one period or architectural style."

In addition, the revised plans meet Standard #9 of the Secretary's Standards for Rehabilitation: "New . . . construction shall be . . . differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

All of the conditions of the Historic Area Work Permit concerning site construction and landscaping, filed by the applicant in September, 1990, and subsequently approved by the Commission (HPC Case No. 31/6-90P), remain in effect for the proposed revision currently before the Commission.

PUBLIC NOTICE: 1/16/92

TAX CREDIT ELIGIBLE: No

ADDITIONAL ATTACHMENTS:

1. Approved HAWP 31/6-90E
2. Approved HAWP 31/6-90P

APPLICANT: James B. Cooper

DATE: March 21, 1990

CASE NUMBER: 31/6-90E

TYPE OF REVIEW: HAWP

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3929 Prospect Street
Kensington

DISCUSSION:

The applicant, Frank P. Murray, is proposing construction of a new residence at 3929 Prospect Street in the Kensington Historic District. As you will recall, the Commission reviewed this proposal on a preliminary basis at its January 4, 1990 meeting. A proposal by the same applicant to construct a new residence at the same address was the subject of HPC Case No. 31/6-89K, which was denied by the Commission in August, 1989. As you may recall, the reasons, in summary, for denial of that application were as follows:

1. Proposed structure was overscaled in terms of height and square footage.
2. The lot coverage ratio (house to lot) was too high.
3. The proposed width was too great, and the setback line was positioned such that a "building wall" was created.
4. As proposed, there would have been a great deal of destruction of vegetation.
5. The proposed fence was inappropriate.
6. The proposed asphalt driveway was inappropriate.
7. The addition of a garage resulted in two garages on one lot.

As indicated in a December 22, 1989 staff report to the Commission, staff met twice with the applicant and his representatives during the fall of 1989. The goal of these meetings was to bring any new proposal(s) for construction at 3929 Prospect Street into better conformance with earlier concerns. To assist the applicant in developing a revised proposal, staff offered the following general recommendations, using the original proposal (March, 1989) and findings (August, 1989) as a reference:

1. Reduce height and footprint, and change massing in order to impose less on streetcape.
2. Reduce house to lot ratio to no more than 9%.
3. Reduce width and examine the possibility of alternate setback line(s).
4. Place and size structure so that a minimum of mature vegetation is destroyed.
5. Eliminate fence.
6. Install narrow gravel or stone driveway, instead of asphalt.
7. Eliminate garage.

In the proposal currently before the Commission, the applicant responded to many of these concerns, as well as concerns expressed by the Commission and the LAP at the preliminary consultation on January 4, 1990. The applicant has submitted two design alternatives, one which is very similar to that reviewed in January, and one which includes the addition of a small balustraded front porch, roof dormers, and decorative trim. Otherwise, the alternatives are alike (footprint, site plan, etc.). Please note that, in response to two of the primary concerns which were raised at the January 4th meeting (front porch/door orientation and setback from the street), the applicant has added a small front porch and street-facing door, and moved the proposed structure back on the lot. Also, in general response to the August, 1989 findings regarding the original proposal, the applicant has:

1. Reduced the height from 35' to 34' .
2. Reduced footprint from 1594 s.f. plus porches to 1529 s.f.
3. Reconfigured the massing, including removal of large porches.
4. Reduced lot coverage ratio from 14.91% (with porch) or 11.39% (w/o porch) to 10.28%.
5. Reduced overall width (including porch) from 54' to 43'.
6. Not changed the setback line.
7. Indicated that no more vegetation will be destroyed by new proposal, although it is not clear whether less will be destroyed.
8. Eliminated the fence.
9. Proposed gravel or stone for driveway.

10. Not eliminated the garage, but sold Lot 14 (existing structure) with an easement for the existing garage, so that there will be one garage per residence.

Staff recommends approval of design alternative "B" of the application, which differs from alternative "A" by virtue of its balustraded front porch, street-facing entrance door, roof dormers, and decorative gable trim. Staff finds that the applicant's response to the issues outlined above represents a good faith effort to bring the proposal into conformance with Chapter 24A and the Kensington Historic District Master Plan amendment, and that the proposal meets the following approval criteria: 24A-8(b)(1), and (2).

ATTACHMENTS

1. HAWP Application and Attachments
2. Photos
3. Site Plan
4. Landscape Plan
5. Elevations/Alternate "A"
6. Elevations/Alternate "B"
7. Excerpts from Applicant's Preliminary Revised Proposal (1/90)
8. Excerpts from Applicant's Original Proposal (3/89)

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WRITER'S DIRECT DIAL:

HAND DELIVERED

Ms. Susan Turnbull, Chairperson
Board of Appeals for Montgomery County
100 Maryland Avenue
Rockville, Maryland 20850

Re: Withdrawal as Counsel for Mr. Cary Hoobler in Appeal of Cary L. Hoobler
and Jeanie Ahearn, Case No. A-4771

Dear Ms. Turnbull:

This letter is to advise you and the members of the Board of Appeals that Larry Gordon, Pat Harris and Wilkes, Artis, Hedrick and Lane, Chartered, hereby withdraw as counsel for Mr. Cary Hoobler in the above-referenced matter. It is our understanding that Mr. Hoobler will be representing himself at your hearing on Wednesday, March 11, 1998.

Please be advised that our withdrawal is consensual with Mr. Hoobler and relates solely to the impact of unanticipated costs incurred by Mr. Hoobler as a result of his efforts to prepare and present alternative design proposals to the Historic Preservation Commission. We regret having to withdraw but, having discussed with Mr. Hoobler the considerable additional fees that could be incurred if we continued to represent him on appeal, we and Mr. Hoobler concur that this is the most appropriate action for us to take at this time. Accordingly, please be advised that our withdrawal has nothing at all to do with the appeal itself which we continue to believe is compelling and meritorious.

Very truly yours,

WILKES, ARTIS, HEDRICK & LANE

By: 

Larry A. Gordon

By: 

Patricia A. Harris

cc: Ms. Irene Gurman
Ms. Tedi Osisas
Christopher Hitchens, Esq.
Ms. Robin Ziek
Mr. Cary Hoobler
Ms. Jeanie Ahearn

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13875-001

BOARD OF APPEALS
for
MONTGOMERY COUNTY
100 Maryland Avenue
Rockville, Maryland 20850
(301) 217-6600

Case No. A-4771

Appeal of Carey L. Hoobler and Jeanie Ahearn

(Hearings held March 11, April 21, May 5 and May 6, 1998; record closed May 29, 1998)

OPINION OF THE BOARD

Effective date of Opinion: August 28, 1998

Case No. A-4771 is the administrative appeal of Carey L. Hoobler and Jeanie Ahearn. They charge administrative error on the part of the Historic Preservation Commission in its denial of an Historic Area Work Permit, resulting in the denial of a building permit dated May 8, 1997. They contend that the error resulted from a misinterpretation of Section 24A of the Montgomery County Code, 1994, as amended.

The subject property is Lot 25, Block 11, Kensington Park Subdivision, located at 3922 Baltimore Street, Kensington, Maryland, in the R-60 zone.

Decision of the Board: Appeal GRANTED.

Christopher Hitchens, Assistant County Attorney, represented the Historic Preservation Commission (HPC). He called several witnesses, including George Kousoulos, Chairman of the HPC; Gwen Marcus Wright, Historic Preservation Coordinator at the Maryland-National Capital Park and Planning Commission (M-NCPPC); Robin Ziek, staff to the HPC; and Emily Eig, an historic preservation consultant and a member of the HPC.

The appellants, Mr. Hoobler and Ms Ahearn, initially appeared on their own behalf, and later were represented by Martin Hutt, Esquire. Two neighbors testified in support of their appeal, including Walter Schmidt and Jack McCrory.

The Town of Kensington was granted intervenor status. Robert Ritzmann, a member of the Town Council, testified. A resident of the Town of Kensington, Lynn Raufaste, also testified. Many residents of the Town submitted letters in support of HPC's decision.

The Local Advisory Panel, the Kensington Land Trust and the Kensington Historical Society had requested intervenor status. The Board denied the request at its worksession on March 10, 1998. However, the Board accepted testimony from several representatives of the organizations, including Barry Peoples, President of the Kensington Historical Society, and Helen Wilkes, President of the Kensington Land Trust.

BACKGROUND

Carey L. Hoobler is the contract purchaser of the subject property, located at 3922 Baltimore Street. He is purchasing it from Jeanie Ahearn, who also owns the adjoining two lots. Her home occupies the lot immediately adjacent to the subject property, and Ms. Ahearn's other lot, on the far side of her home from 3922, is (vacant.) The subject property contains 8,600 square feet.

Parties also discussed the scope of the hearing with the Board. Mr. Hoobler had appealed the denial of an Historic Area Work Permit (HAWP), decided in April, 1997. He had preliminary consultations with HPC on an alternative plan following that decision, and he submitted a third proposal, all of which were denied. Both the County and the appellants agreed that the appeal would not be limited to the single denied HAWP in April. In the interest of expediency in resolving the issues, the Board determined it would consider any of the proposals considered in any fashion by HPC. At the same time, if Mr. Hoobler presented a design to the Board which he had never presented to HPC, the Board would not approve it without HPC's having an opportunity to review it.

COUNTY'S CASE

Witnesses explained that the HPC bases its decisions on the U.S. Secretary of the Interior's Guidelines and the Vision of Kensington, adopted by the County Council when it approved the Executive Regulations governing the HPC late in 1997. When evaluating proposals for development on vacant lots in the Historic District of Kensington, the HPC is guided by its understanding that the Kensington Historic District is an example of a Victorian Garden Suburb, in which homes are sited on more than one lot, frequently with a vacant lot used for a garden on at least one side, and sometimes on both sides. The primary characteristic of the environmental setting is open space. Homes sometimes straddled lot lines or came much closer to them than current zoning regulations would permit. However, many homes had generous open areas surrounding them.

Furthermore, many of the homes are substantial, with ancillary buildings such as carriage houses or garages set far back on their adjoining lots. The homes themselves observed large setbacks from the street, as well as from properties to the rear.

The "Vision of Kensington" contains guidelines for the development of the historic district which are based on a study of how the district was developed. The "Vision" addresses minimum lot size and setbacks which reflect the pattern which was created as the homes in the historic district were constructed. The guideline for the minimum lot size is 15,000 square feet, and the front yard setback should be 35 feet.

HPC uses other standards for evaluating new construction in Kensington, which are the same standards used in their review of any new construction in an historic area. The U.S. Secretary of the Interior's Standards address, among many subjects, the relationship between new construction and historic resources, and they support the principle that new construction should be clearly distinguishable from, and subordinate to, historic resources.

Using the combination of these standards, the HPC denied several proposals for a home at 3922 Baltimore Street. The first design, rejected in April, 1997, proposed a home which was equivalent in size to the adjacent home at 3920 owned by Ms. Ahearn. It was not set back farther from the street than Ms. Ahearn's home. Mr. Hoobler approached HPC staff about other proposals. He had a preliminary consultation with HPC in November, 1997, on a design which was set back further from the street. Instead of a 2.5 story home, the structure had two stories, but it also had a larger footprint than the April design. In February, he proposed another design, also rejected by HPC. It was set back much farther on the lot, completely behind Ms. Ahearn's home. It still looked like a residence, however.

According to George Kousoulas, Chairman of the HPC, the proposals were rejected because they failed to conform to HPC's vision of what was appropriate for the lot given its particular location within the historic district, applying both the "Vision of Kensington" and the Secretary of Interior's Guidelines. HPC wanted to see a structure which was on the order of 25% of the size of the adjacent house, with a footprint on the order of 700 to 900 square feet. HPC was looking for a structure which was set back significantly farther from the street than the adjacent house, and which did not look like a residential structure. The impression that the HPC wanted to achieve was of an ancillary structure, similar to a carriage house, which would have resembled the arrangement of structures on some of the other lots in the Historic District. HPC believed that it was possible to design a structure which would warrant its approval.

Of primary concern to the HPC when reviewing applications for Historic Area Work Permits in Kensington is the Historic Preservation Master Plan's inclusion of the "environmental appurtenances," which are the open lots, in the historic character of the district being designated. HPC emphasizes the open lots as one of the most significant defining characteristics of the Victorian Garden Suburb which describes the Kensington Historic District. It is Mr. Kousoulas' view that the open lots are specifically subject to review by the Historic Preservation Commission.

None of Mr. Hoobler's designs achieved this goal, according to Mr. Kousoulas. They were either too similar in size or setback to the adjoining residence, or, if they were small enough, they resembled a residence too much. The closest design, Plan "C", was a one and one-half story bungalow set back 90 feet from the front lot line, with a footprint of approximately 1,200 square feet. Its failing was that it was clearly a residence. HPC also found it to be too large.

In support of its decision that the structure had to be small, HPC found several structures in the Historic District which had footprints smaller than 1,000 square feet, in the 800 square foot range. HPC staff also presented a slide depicting exactly the configuration which the HPC is attempting to create at 3922. The example is located on Philadelphia Avenue in Takoma Park, also in an historic district. A small house is located at the rear of a lot with a garage in front of it, adjacent to a primary structure.

Furthermore, homes near the subject property have ancillary structures. The subject property has a garage, and HPC is attempting to preserve it with any design which it approves. Dr. Lossing's property, adjacent to the side, has a series of glass structures located along the back of the house. The structures were placed on the property prior to the designation of the Historic District in 1986.

Other residences have been constructed on vacant lots, both before and after the designation of the Historic District. Two are on Baltimore Street, one of which is directly across the street from the subject property.

In addition, large houses have been built "in the gap," in the vacant space between two large homes, in the Historic District. Mr. Kousoulas indicated that these homes are located in different portions of the Historic District. Also, there are small houses between larger houses in the district, but, again, not in this portion of it.

Gwen Marcus Wright stated that Robin Ziek was the M-NCPPC staff person responsible for the review of the proposals involving 3922 Baltimore Street, and that she is Ms. Ziek's supervisor. She is not only familiar with the instant case, but with other similar cases which have involved properties in the Kensington Historic District. Ms. Wright referred to two other properties which pertained to proposals to construct new homes on vacant lots. One of them involved designs by Avery/Flaherty builders for two vacant lots on Carroll Place. HPC denied the first proposal, which was appealed to Circuit Court where HPC's decision was affirmed. When the second proposal was denied by HPC, the County Council had modified the appeal process and the appeal came to the Board of Appeals which also affirmed HPC's denial (Case Nos. A-3031 and 3032). According to Ms. Wright, the primary issue in these cases was the sizing and massing of the proposed structure and the effect of the size and mass on the preservation and character of the historic district, which is the critical issue in the present case.

The second of the cases involved a property on Washington Street, and a proposal for development presented by John Fleming. Two appeals to the Board of Appeals followed HPC's approval with conditions of the design. In both cases, the Board affirmed HPC's actions (Case No. A-4086). The Fleming cases are relevant to the present case, according to Ms. Wright, because in that case HPC restricted the new home to a lower height than the development standards of the R-60 zone permitted.

With respect to the standards HPC uses, Ms. Wright explained that when the County Council approved HPC's Executive Regulations in November, 1997, certain documents were specifically noted as guides for HPC's decisions. They included the criteria in Section 24A of the Montgomery County Code, any applicable master plan, whether it is an area master plan or the Master Plan for Historic Preservation, the Secretary of Interior's Standards and Guidelines, and certain special studies, including the Vision Plan for the Kensington Historic District.

The amendment to the Master Plan for Historic Preservation which created the Kensington Historic District was unique, according to Ms. Wright. It emphasized not only the architecture, but also the open space and the character of the spatial relationships among the buildings. It is the combination of the architecture and the spatial relationships which creates the Victorian garden suburb designated in the master plan.

The Vision of Kensington contains certain strategies for the preservation of the historic character of the area. One strategy recommends a minimum of two lots with a combined total of at least 15,000 square feet for a single family home, a maximum lot coverage of 10%, a minimum front yard setback of 35 feet, and minimum side yard setbacks of 25 feet. Another strategy suggests establishing historic and open space easements, while a third recommends the establishment of special protection for historic landmarks.

The "Vision" also categorizes areas within the historic district as the historic core and the peripheral residential area. In the latter area, the pattern that has been established is primarily one house on each fifty-foot lot, whereas in the core area, the development has followed a pattern of more open spacing between homes.

In Ms. Wright's view, Mr. Hoobler's proposal which was denied by HPC in April, 1997, did not meet the guidelines because it was too big for its lot. Further, it included the demolition of the "auto house" which is an historic structure.

Following the denial, Mr. Hoobler and HPC staff participated in an all day "charette" with the goal of discussing a solution that would be acceptable to staff and that would achieve preservation goals as well as the property owner's objectives. Mr. Hoobler's architect and attorney also attended the meeting, as did Ms. Wright, Ms. Ziek, Mr. Kousoulas and Mr. Hitchens. The charette produced designs with a footprint in the 800-900 square foot range, well set back on the lot. Demolition of the auto house was not required by the proposal. Staff emphasized simple facade features as well as small size to prevent competition between the new structure and the adjacent historic resource. ORL

One critical goal was to prevent the possibility that the new structure would overwhelm the existing structures. Ms. Wright tried to be clear that the home had to be designed so that it did not "negatively and detrimentally affect the streetscape of the historic district and the historic development pattern and those are some of the crucial things that make Kensington an historic district" (transcript, April 21, 1997, p. 24). However, Ms. Wright testified that Mr. Hoobler did not present to HPC any of the designs which were discussed during the charette. The initial consultation in November and the proposal presented in February were substantially larger than the charette designs.

Ms. Wright acknowledged that none of HPC's guidelines specifically call for new structures to resemble ancillary or secondary structures. The pattern in Kensington has been for ancillary or secondary structures to be located toward the rear of the lot, well set back from the street, while the main structure is located closer to the street. HPC focused on the new house resembling an ancillary structure as a way to prevent the new structure from overwhelming the historic resources on surrounding properties. The pattern in the historic core area of Kensington is established not only by the style, size and massing of the homes, but also by their environmental settings. The open spaces which separate the homes are an essential characteristic of the historic district, especially in the core area. HPC denied Mr. Hoobler's HWAP, according to Ms. Wright, because its size and massing were similar to the adjacent home, and its placement on the lot threatened the garden setting which is integral to the maintenance of the historic character of the area.

As part of her testimony, Robin Ziek presented slides depicting the appearance and character of Kensington, including its commercial areas as well as the residential development in both the core and peripheral historic sections. Ms. Ziek also clarified that when the County Council designates an historic district, some or all of the structures within the district may be specifically designated. If a structure is not singled out for mention in the master plan, but it is located within the boundaries of the designated district, it is protected by historic preservation procedures and requirements.

Emily Hoteling Eig is a member of the Historic Preservation Commission, and she participated as a consultant in the preparation of the Vision of Kensington. The goal of the creation of the Vision was to determine a practical way to protect historic districts, recognizing that the district is not static and that there must be strategies for incorporating change while protecting historic elements. She stated: "our whole goal in this entire study was to give the decision makers about Kensington and the historic district information that would help them determine what was appropriate change, what were the parameters of what would be appropriate in the future." (Transcript, April 21, 1998, p. 108)

The study resulting in the Vision collected specific data about the buildings and how they related to one another within the historic district. Consultants surveyed the district, noting certain information about each property, such as the size and placement of all structures on the property, as well as the landscaping. Attention was paid to properties, rather than to lots. The study analyzed buildings which were developed within a property under single ownership, rather than necessarily on single lots. The goal was to identify the "character-defining elements" of the district, so that new development in the district could mimic the rhythm of the buildings. The Vision was designed to create strategies for decision making, rather than rules.

Different periods of development became evident in the course of the study. The earliest construction occurred from 1890 to 1910, in the core of Kensington. Large houses normally occupied more than one lot. The second period extended from 1910 to 1930, and homes were normally smaller and located on a single lot. Buildings from both periods are designated as primary historic resources. Development after 1930 was typically smaller homes on single lots.

Carol Mitten was qualified as an expert in the field of appraisal of historic properties. Ms. Mitten did not appraise the subject property. However, she addressed how the property would have value if the current proposals for constructing a single family house there were denied, resulting in either a smaller house being built or no house being built. If no house were permitted, the property continues to have value because there are improvements on it, including a driveway and the auto house, and it can be used as a yard or a garden. Ms. Mitten also suggested that other types of structures might be possible, such as a reflecting pool, a gazebo or conservatory, a patio or deck. Even without any new structures on it, the property has value in conjunction with the adjacent home and its property.

The fact that the property is in single ownership is critical. When a takings claim is under consideration, according to Ms. Mitten, one of the standards is whether the property is to be evaluated alone or in conjunction with other properties. The "unit rule" applies to either unity of use or unity of ownership. Its unity of ownership with the adjacent lot creates additional value for the subject property. Ms. Mitten stated: "The test in inverse condemnation in terms of what is the overall diminution in value by a government action it's appropriate to consider that the owner of the affected property may own adjacent property as well." (Transcript, April 21, 1998, p. 121) Until Mr. Hoobler actually purchases the subject property, it remains in the ownership of Ms. Ahearn, together with the property on which her home sits.

Stephen Dennis was qualified as an expert in historic preservation law. He discussed the legal framework for historic preservation ordinances, and indicated that he developed a model historic preservation ordinance under a contract from the Department of Housing and Urban Development (HUD). Mr. Dennis' testimony focused on the composition and structure of the HPC and the general responsibilities and authority which historic preservation review groups have throughout the country. He stated, "It is a question of judgment for the commission to make using its assembled expertise, using the experience that commission members have built up during their terms in office to decide whether a specific proposal, and these are very fact specific determinations, whether a specific proposal for a project at a specific at a specific location is or is not appropriate and a proposal which might be appropriate in one location may turn out to be very inappropriate in a different location." (Transcript, April 21, 1998, p. 144)

Mr. Dennis testified that the environmental setting is an appropriate consideration for HPC. Also, size and massing are two of the factors which an historic preservation commission uses in determining if a proposal is appropriate for a particular location. The zoning provides the maximum development envelope for a property, but it is within the purview of an historic preservation commission to refuse to approve a proposal unless it is smaller than the maximum development permitted by the zoning. He concluded by noting that HPC's decisions in the subject case are appropriate because they have not told the applicant that no development is possible on the site. Rather, their decisions were based on determinations that the proposals were too large to be appropriate for the site.

TOWN OF KENSINGTON'S CASE

Robert Ritzmann, a member of the Town Council, testified that the Visions of Kensington report enhanced the town's efforts to stabilize and preserve its historic area. The Victorian garden setting is one of the elements of the historic character which has great importance to the town. To that end, the town does not wish to see a new home developed on every 50-foot lot, and the town has been active in cases involving the development of properties in the historic district for many years. In furtherance of preservation of the open development pattern, the Town adopted a ten-foot side yard setback requirement, larger than the County's requirement for the R-60 zone.

The Visions report has provided the Mayor and Council with standards by which to evaluate development proposals. It has been a valuable tool. The town has appeared at the HPC for every Kensington case, and has supported both the HPC and its staff.

The Town of Kensington officially adopted the Visions in May, 1997. It used it for guidance as soon as it was issued in 1992, but the town wanted to wait until HPC adopted it before it became a formal part of the Town's regulations.

Dr. John Lossing, who lives next door to the subject property, testified that he purchased the glass greenhouses which now reside on his property from the Gude family and had them moved to his property where he rebuilt them. The Gude family told him that the greenhouses were not new when they rebuilt them on their property during the Depression.

Dr. Lossing has a general interest in horticulture, and a specific interest in red bud trees. A very large red bud tree is located on the subject property. After considerable research, Dr. Lossing believes that it could be the largest red bud in the State of Maryland. He is distressed that the applicant has not proffered to preserve the tree if he develops the property. In fact, the first application placed the driveway right where the tree is. Subsequent plans indicate a cul-de-sac around the tree. Even so, if the house is built, the community will be prevented from seeing and enjoying the tree.

Dr. Lossing further testified that rules are different in historic districts. Property owners should understand that some development which might be permissible elsewhere may not be permissible in an historic district. Residents and owners in an historic district waive some of their rights with respect to development, according to Dr. Lossing.

Helen Wilkes, the back door neighbor to the subject property, testified as the president of the Kensington Land Trust. She is also a registered architect. Ms. Wilkes explained that the Kensington Land Trust was established to provide a mechanism for alternative economic solutions to development for property owners in Kensington. The land trust can receive donated conservation easements on open space. The land trust has offered to work with property owners to generate creative ways to preserve open space in the Town.

The land trust has hired an attorney to explore solutions for the subject property. The Kensington Historical Society has expressed its interest in being involved, and the owner has been invited to discuss alternatives. Ms. Wilkes explained that there is a great deal of interest in saving this particular piece of land. While she recognizes that she lacks the authority to prevent it, Ms. Wilkes believes it would be a grave mistake in terms of precedent for the Town of Kensington if this lot is developed. Ms. Wilkes and her husband have placed a covenant on their property, which expires when they no longer own the property. Ms. Wilkes emphasized that the character of Kensington is the result not only of the special houses but also the open space.

Barry Peoples testified as president of the Kensington Historical Society. He also serves as a member of the Local Advisory Panel (LAP) and is testifying on their behalf as well. The Kensington Historical Society (KHS) is one of the largest groups in Kensington, with 212 members. After the KHS agreed to provide funding to support an alternative solution to developing the subject property, Mr. Peoples approached Ms. Ahearn and Mr. Hoobler. They refused KHS' suggestion to have the property appraised, according to Mr. Peoples.

Lynn Raufaste, a long time resident of Kensington, and former member of the Board of Appeals, testified and presented the testimony, in letters, of two residents, Julie O'Malley and Barbara Wagner. Both oppose the appeal and believe that HPC properly denied the HAWP. Ms. Wagner is the president of the LAP. Her letter explained that the role of the LAP is to assist and advise the HPC. Kensington's LAP has seven members, four of whom reside in the historic district. The historic district is significant primarily because of its collection of late 19th and early 20th century houses which are located in garden-like settings with curving streets, tall trees and mature shrubbery. The overall effect is that of a Victorian garden suburb.

In response to a case in 1988, the Deputy Historic Preservation Officer for the State of Maryland stated in a letter to the HPC that "...The historic streetscape of large wooded lots and the sense of time and place conveyed by this district would be changed by an introduction of greater density." (Transcript, May 5, 1998, p. 14, also Exhibit No. 32)

Ms. Wagner explained that the LAP recommended to the HPC that Mr. Hoobler's proposals be denied because none of them has met the guidelines in the Visions of Kensington report.

Ms. Raufaste testified that Brainard Warner, the first significant Kensington land developer, envisioned a community of large homes on large lots. Many homes were built on more than one lot, some on as many as three and four lots. Some homes straddle lot lines. Homes were well set back from the street and other lot lines, and landscaped rolling green lawns continue to occupy the open spaces.

Those who live in the historic district are expected to follow the historic preservation guidelines, according to Ms. Raufaste. Mr. Hoobler's application for Lot 25, Block 11, the subject property, presented a two-and one-half story house with a footprint of 1,716 square feet, which is more than double what the guidelines recommended. If the existing garage is included, the footprint is 2,292 square feet, more than three times the recommended footprint. Ms. Raufaste asserted that professionals could design an architecturally acceptable home which would conform to the 10% lot coverage restriction. Furthermore, homes sales are increasing in Kensington, and Ms. Raufaste believes that there is a market for smaller homes. She concluded by noting that HPC's expertise was preservation, just as the Board's expertise is zoning. She urged the Board to defer to HPC's expertise in this case.

APPELLANTS' CASE

Mr. Hoobler testified about the proposals he has presented to HPC, among other matters. The first proposal was 32 feet tall to the ridge, two to three feet taller than adjoining homes. However, it was narrower. It was 24-feet wide, solid, with a six foot porch. Ms. Ahearn's home is 34'3" wide solid, with no porches, and Dr. Lossing's home is 40' wide solid, with an eight-foot wrap around porch. His proposal depicted a house which was 66' long, while Ms. Ahearn's home is 44 feet deep and Dr. Lossing's is 100 feet long, including porches, etc.

In terms of overall coverage, Mr. Hoobler's proposal has a footprint of 2,116 square feet, including the porches and the garage. Without the porches and garage, it has a footprint of 1,304 square feet. Ms. Ahearn's home has a footprint of 1,140 square feet, with porches it is 1,789. Dr. Lossing's home has a footprint of 1,834 square feet, without porches. With porches, it is 2,316 square feet. Coverage increases to 3,315 square feet with the other structures on the property.

In Mr. Hoobler's opinion, the first proposal conformed to R-60 zoning standards, exceeding the required setbacks. He had proposed setbacks of 50 feet from the front, 10 feet from each side, and 56 feet from the rear. The lot coverage was 24.5%. The garage was originally set two feet from the side and rear lot lines. The subject property has 8,600 square feet. Ms. Ahearn's lot on which her home is located is also 8,600, as is the lot on the far side of Ms. Ahearn's house lot. Part of her home straddles the far lot line.

In response to staff's concerns, Mr. Hoobler reversed the house on the lot to avoid the red bud tree, and offered to rebuild the auto house on Ms. Ahearn's lot. The auto house requires a great deal of renovation. Currently, it does not attach to the driveway. Even though it was noted on the Sanborn maps, it was not mentioned in the designation of the historic district. Mr. Hoobler believes that moving the auto house would be acceptable. He also noted that much of the infill development in Kensington has involved structures as large as the home he proposed.

After the HPC denial in April, Mr. Hoobler worked with HPC staff to arrive at a design which would be acceptable. Ms. Ziek suggested that he look at infill homes on Prospect Street and in Takoma Park. Staff urged him to design a smaller house. In addition, there were two conceptual options. One called for a house set back farther than the two existing resources, 70 feet from the street, while the other one would result in the home set back even farther and resembling an ancillary structure rather than a residence. He also contacted an arborist to evaluate the red bud tree. He was told that the tree was healthy.

Mr. Hoobler surveyed Kensington infill homes on fifty-foot lots and presented a photo montage of them. Some houses were one story, while others were two story. One of the homes is across the street from the subject property. In an attempt to address the advice he received from HPC staff, Mr. Hoobler developed proposals A and B.

According to Mr. Hoobler, the basic idea of House B was to have a smaller front portion, with an "addition" in the rear which would function as the main portion of the house. The appearance from the street would be a small house. Most of the bulk of the structure would not be visible from the street. It is proposed to be a one- and -one-half story house, with the second floor "tucked in underneath the roof dormer." It is 28 feet wide and its height is 22'6", with a footprint of 1,346 square feet. Both the front and back sections would be the same height. Mr. Hoobler was emulating the style of the infill homes constructed in Kensington between 1910 and 1930. It will set back 70 feet from the road, so that the adjoining homes could share the open space of the front yard and the rhythm of the streetscape would be maintained. The house would be 28 feet wide solid.

Staff recommended denial of proposal B, finding that the structure was still too large in relation to the other resources in the district. Staff was also leaning toward the new structure looking more like an ancillary structure than a residence. One of staff's concern was that the bungalow would easily be identified as infill construction. Proposals A and B were presented to HPC in November, 1997, as a preliminary consultation.

Following staff's response to proposal B, Mr. Hoobler postponed HPC's review of the plan and participated in the charette with HPC staff, Mr. Kousoulos, Mr. Hitchens, and his architect. The result of that exercise was what became proposal C, which Mr. Hoobler thought was a somewhat offbeat plan. It was a carriage house type structure with the entrance on the side. The footprint was 1,143 square feet, and it had one and one-half to two stories. The setback from the street was 94.50 feet, and the width was 26 feet. Proposal C was taller than proposal B, but it would be shorter than either house on the sides. Lot coverage would be 16.9%.

The auto house would be retained, but it would be moved forward on the lot 14 feet, taking it farther away from the red bud tree and connecting it to the macadam. Proposal C was presented in February, 1998. Moving the structure so far to the rear of the property was suggested by HPC staff, as was retaining the auto house. Placing the auto house in front of the house would necessitate a variance from the requirement that accessory structures must be located in the rear yard. Mr. Hoobler noted that it has been very difficult meeting HPC's criteria. He also indicated that proposal C was substantially equivalent to what was discussed at the charette.

While the footprint of proposal C was 1,143 square feet, the upper floor extended out over the first floor creating an effective footprint approximately 110 square feet more. Recesses on the first floor are filled out on the second floor, and that accounts for the difference. Lot coverage with the auto house is approximately 15.9%, 2.67% of which is created by the auto house.

Mr. Hoobler also offered information that he had presented to HPC at the February 25 meeting about Brainard Warner's plan for the lot which is the subject property. Mr. Warner's subdivision map indicates a lot which is 50 feet wide and 172.5 feet deep. He referenced testimony and discussion at HPC meetings on his proposals which place emphasis on the original subdivision plan and the intent of the plan. Both the signed subdivision plat and the language in the deed which sold Lot 25 as a single lot a few years after Lots 26 and 27 were sold jointly indicate that the lot was intended to be used as a single property. Lot 25 was sold separately after both of the adjoining properties had homes constructed on them. It could not have been intended as one of two side yards flanking the house which is now Ms. Ahearn's home, according to Mr. Hoobler. T. of t

Furthermore, the deed contains a covenant. It requires that the seller and any heirs or assigns must build a substantial brick, stone or frame house with a value no less than \$2,500. It relates to the initial valuation of Ms. Ahearn's house and property, \$3,500, which included the additional lot. Mr. Hoobler drew the conclusion that Mr. Warner anticipated that the house built on Lot 25 would be comparable to the house already built on the adjoining property.

In Mr. Hoobler's view, proposal C is too unusual a house to be built and sold unless a particular buyer had already contracted to buy it. When he developed the plan, he had a buyer who was happy with it. However, that buyer could not wait until the approval process was complete. Mr. Hoobler indicated that it was "too scary" a house to build with any comfort that he could sell it. He is also concerned about pushing a house so far back on the property.

Mr. Hoobler believes that proposal B provides a plan which is consistent with other infill development in Kensington's historic district. The closest example is across the street. It has a footprint of 1,176 square feet. With porches and decks, the footprint is 1,584, and the property contains 9,523 square feet. The width of the lot is 50 feet, but it is deeper than Lot 25. The house is 14 feet from the adjacent house, not the property line. It is 28 feet wide, 32 feet with the porch. Mr. Hoobler presented information showing that the size of the infill house across the street at 3913 is very similar in size and height to proposal B. Mr. Hoobler also used the home at 3948 Baltimore Street, which is 40 feet wide across the front, as an example of what has been approved.

Proposal B has a two car detached garage at the rear of the lot, and the auto house would be relocated onto one of Ms. Ahearn's lots. The lot coverage of 23.8% includes the new garage but not the auto house. Either proposal B or C could be shifted to the same setback as the adjacent homes, 48 feet, and then they would not threaten the red bud tree. Moving the auto house is necessary with either plan, in Mr. Hoobler's view. He indicated that he would be willing to modify the plan to eliminate the detached two-car garage, retaining the auto house and rehabilitating it to be usable as a garage or a shed. In that scenario, the lot coverage would be approximately 20.8%. Relocating the auto house to either Lot 26 or 27 results in lot coverage of 18.2%. Calculation of lot coverage on each of Ms. Ahearn's two lots indicates that Lot 27 has less than 1%, while Lot 26, with the house, has 17.3%, for an average of 10.35%. On Dr. Lossing's Lot 24, the lot coverage is 37.5%, and on Lot 23, it is 12.5%, for an average lot coverage of 25%.

Mr. Hoobler asked the Board to balance the needs of historic preservation with the ability to "use one's property reasonably." He has attempted to accommodate HPC's goals, but he feels that the criteria are applied in such a way that they result in the house disappearing.

Ms. Ahearn introduced letters in support from adjacent and nearby neighbors on Baltimore Street. Of the eight most affected neighbors, six support the issuance of the building permit. The letters were from Jack McCrory, Walter Schmidt, Mrs. Davidson, Mr. and Mrs. Reynolds, and Mr. and Mrs. Fisher. She also introduced a letter from a real estate agent. The letters stated that the neighbors recognized that Ms. Ahearn has a buildable lot and she should be able to receive the approvals to permit her to construct a residence. The neighbors believe that HPC is dealing unfairly with the proposals for Lot 25, and that it is unrealistic and unfair to constrain the size and location of the proposed designs to the degree HPC is. They further indicated that other owners have received approval for homes on infill lots, and Ms. Ahearn and Mr. Hoobler should not be treated differently.

Jack McCrory, who lives directly across Baltimore Street from Lot 25, testified that he and his wife would prefer to see the open spaces on Baltimore Street remain, but they do not think the government has the authority to deny a property owner the right to build a house there. While HPC has not flatly denied the proposed designs, Mr. McCrory believes that the lengthy, cumbersome and unfair process which has characterized this case so far is tantamount to a denial of permission to build a house.

Mr. McCrory specifically disagrees with HPC's goal of protecting historic resources by requiring new construction to be smaller, plainer, and set back from historic homes. He believes that the older homes can stand up well next to newer homes of similar proportions. There are examples on Baltimore Street to prove his point. He also questioned whether HPC's aesthetic judgment was superior to anyone else's. Again, he pointed out examples in Kensington's historic area which he believes demonstrate an unattractive outcome of HPC's decision-making. Additionally, Mr. McCrory believes that constructing small, plain houses on a street of larger homes will create a "hodge-podge look" which will be detrimental to the overall look of the neighborhood.

Mr. McCrory also pointed out that six of the eight closest neighbors favor a larger rather than a smaller infill house. Further, there are no carriage house ancillary structures on the west side of Baltimore Street. Requiring the new home to look like an ancillary structure would result in a look that has not existed historically in this area.

Walter Schmidt testified that his home, located at 3913 Baltimore Street, was approved by HPC. He moved in late 1987. His home has won an award for appearance, and he is offended when HPC and others have referred to it as a mistake. He does not believe that a new home on the street will be a "blight" or a "transgression."

People have come to his home to ask him who did the rehabilitation work. He believes that his home is an asset on Baltimore Street, and he believes that it fits in well with the other homes. Mr. Schmidt believes that the new home on Ms. Ahearn's property will as well. HPC should approve a design which is in conformity with the rest of the neighborhood.

Ms. Ahearn has a buildable lot and, in Mr. Schmidt's opinion, she should receive permission to build a house on it which conforms to the architecture on the street. A new home on Lot 25 will enhance property values, increase the tax base for the town and the County, and will encourage owners to complete the rehabilitation of the older homes.

REBUTTAL

In rebuttal, Robin Ziek testified that the Master Plan for the Kensington Historic District was adopted late in October, 1986. It contained no guidelines for new construction. Rather, it described the overall character of the historic district and pointed out what was important about the elements of that character.

HPC adopted the Secretary of Interior's Standards for the treatment of historic properties in March, 1987. They include ten general guidelines which are applied throughout the County. Later, specific guidelines have been incorporated for districts as they have been designated on the Master Plan for Historic Preservation.

The work permit application for the Schmidt's home on Baltimore Street was probably one of the first to be considered under the newly designated Kensington Historic District. The Vision of Kensington report was not completed until 1992. The goal of that study was to provide consistency and guidelines so that property owners applying for work permits could know what to expect from HPC.

Ms. Ziek also noted that covenants addressing the value of homes to be constructed on vacant lots became standard elements in Mr. Warner's sales contracts. The price for Lots 26 and 27 was originally \$3,500, and the price for Lot 25 in 1903 was \$500. The houses on each of the properties adjoining Lot 25 were constructed before Lot 25 was sold.

Closing statements were submitted in writing.

FINDINGS OF THE BOARD

The Board will address proposal B in its Findings. HPC denied proposal A, and while Mr. Hoobler appealed that denial, he has also presented proposal B to HPC and would like to be able to construct that design. The Board also heard extensive discussion of proposal C. However, Mr. Hoobler does not believe that it is a marketable design, without a specific buyer who has committed to purchasing it. Accordingly, he withdrew it from the Board's consideration.

As the Board understands the decision, HPC denied a HAWP for Proposals A and B because they failed to meet the guidelines of the Visions of Kensington study, they were too large and they overwhelmed the historic resources on both sides. HPC found that they threatened the historic character of the district. To achieve approval, the proposal would had to have been much smaller than either of the two adjacent historic resources, set much farther back on the lot, and resembled an ancillary structure rather than a residence.

HPC understands the master plan designating the Kensington Historic District to emphasize the Victorian garden suburb as the character of the district. Elements of the character include gardens frequently associated with large homes set graciously on their properties. In addition, many homes occupy more than one fifty-foot lot, sometimes spilling across lot lines onto the adjacent lot.

The problem arises when a property owner wants to construct a new home on one of the fifty-foot lots. That is the situation with this case. Ms. Ahearn owns three lots, 25, 26, and 27. Her home sits on Lot 26, with a porch extending a bit onto Lot 27. An "auto house" is located on Lot 25. She has entered into a contract with Mr. Hoobler to sell him Lot 25, assuming he can obtain permission to construct a home on it. On the other side of Lot 25, Dr. Lossing has a home and several ancillary structures, also on two lots.

Different parts of Kensington are designated by the Visions study as "core" or "peripheral" areas with respect to historic character. Baltimore Street and the subject property are in the core area. Guidelines for the review of new construction and the preservation of the historic nature of the core area, contained in the Visions report, call for a minimum of two lots and 15,000 square feet, side yard setbacks of 25 feet, and a front lot line setback of 35 feet. Maximum lot coverage is 10%. R-60 development standards, which apply in this part of Kensington, require a minimum lot size of 6,000 square feet, side yard setbacks no less than eight feet, with a total of 18 feet, a front setback of 25 feet, and maximum lot coverage of 35%.

The subject property contains 8,600 square feet. Proposal B has a height of 22'6", a front width of 28 feet, a depth of 62 feet, and a footprint of 1,346 square feet without porches or ancillary structures. With porches and the detached "auto house," the coverage is 1,614 square feet. Proposal B is shorter than either of the adjoining historic resources. As proposed, it would be set back 70 feet, compared to 48 feet for the houses on either side. It is six feet narrower than the house at 3920, and 12 feet narrower than the house at 3924. While it is longer than 3920, it is much shorter than 3924. Finally, with all structures, its total square footage is 175 square feet smaller than 3920. The size of the footprint at 3924 exceeds proposal B by 1,700 square feet.

The Board notes that lot coverage must be related to lot size to understand massing. Proposal B, with the auto house rather than the detached garage, has a lot coverage of approximately 16%. Lot coverage at 3920 for both lots together, is slightly more than 10%, and 25% at 3924.

The Board is granting the appeal, and permitting development of proposal B for several reasons. The Board certainly accepts that the development standards of a zone create the permissible envelope for development and the developer is not necessarily "entitled" to develop to the full extent of the envelope. Further, the Board understands that HPC sees the guidelines in the Visions document as providing more flexibility than the development standards contained in the Zoning Ordinance in that HPC feels it can stray from the strict application of the guidelines under the right circumstances. The Board believes that reasonable minds can disagree about how the guidelines can be applied in any particular case, and the Board would apply them differently in this case than HPC did.

At the same time, the Board is not comfortable applying the development standards contained in the Visions as though they were the equivalent of the R-60 standards adopted by the County Council in the Zoning Ordinance. The Board agrees with Mr. Hutt that the Visions were included in the Executive Regulations approved by the County Council to govern HPC. Zoning, however, can only be applied by legislative acts of the Council, and executive regulations do not take precedence over zoning regulations properly adopted by the Council.

Nonetheless, the Board accepts that, for the preservation of historic resources and historic districts, HPC can restrict proposals for new construction to a smaller size than the permissible zoning envelope. At this point, it is a matter of judgment in a fact-specific situation whether a particular proposal will threaten or preserve the character of a historic area.

The Board believes that proposal B accomplishes what HPC has stated as its goal which is the preservation of the historic district in general and the prominence of the historic resources on either side in particular. At the same time, it conforms to Section 24A-(8)(5) of the Code which guarantees property owners reasonable use of their land.

From the street, proposal B will be set back 22 feet more than either next door house, thus deferring to those resources and preserving the appearance of openness between them. It will also defer by being clearly narrower than either of them, and considerably shorter. From the front, proposal B appears to be a one and one-half story home. It gains the square footage necessary to be a house which is consistent with others in the neighborhood by the inclusion of a two-story portion in the rear.

The Board is not persuaded that a structure must be one-quarter the size of the adjoining resources, set back even farther, and resemble an ancillary structure in order to preserve the prominence of the historic resources. The Board agrees with several of the neighbors who believe the overall character and value of the nearby historic district is better served by having a home on the vacant lot which more closely conforms to the size and architecture of the surrounding homes, even if it is a bit smaller and farther set back. The Board believes that it is a matter of degree of how to achieve a deferential relationship between the new home and the historic ones.

Proposal B also achieves the preservation of the red bud tree, which may qualify for champion tree status in the State of Maryland. The Board is aware that moving the home farther forward on the lot provides more protection for the tree. However, the new home could then encroach more on the prominence of the next door resources. As proposed, the Board believes the house accomplishes both purposes.

One of the options proposed for the "auto house" is to relocate it on Lot 27, and another was to rehabilitate it and use it either together with, or instead of a detached two-car garage on Lot 25. The Board prefers the option of keeping it on Lot 25, relocating within the lot, and deleting the detached two-car garage from the plan. The Board notes that the auto house was not specifically included in the master plan amendment which designated the Kensington Historic District. Nonetheless, HPC and its staff have expressed concern about its preservation, and the Board is pleased that Mr. Hoobler will retain and restore it as part of proposal B.

The Board heard extensive testimony about the Kensington Land Trust and Ms. Ahearn's option to place a conservation easement on the property. The Board believes that such a decision is Ms. Ahearn's to make. The appellants have not based their case primarily on a takings claim, and the Board is not addressing any element of a takings claim. It is not within the purview of the Board to determine if Lot 25 does or does not have sufficient economic value if placed in a conservation easement. The Board has made its determination about the appeal and proposal B without evaluating a takings claim. Therefore, the issue of placing the property in a conservation easement is not relevant. While the Board is aware from statements at the hearing that many in Kensington would prefer to see no construction on Lot 25, the Board also understands that HPC has not taken this posture. The question remains which plan could be approved.

The guidelines in the Visions would preclude development on Lot 25 most directly because of lot size. The Board accepts that HPC recognized that it could not impose such an outcome, and was attempting to find a compromise by looking for a proposal which would permit development on the lot but which would not "show."

At the same time, the Board has made an interpretation of what "reasonable use of the property" means with respect to which proposal it can approve. Section 24A focuses on the need for new construction to be compatible with and not detrimental to the preservation of historic resources and historic districts. The Board finds that proposal B gives the property owner reasonable use of her land and does not threaten historic preservation in Kensington. Accordingly, the Board grants the appeal.

Resolution No. 12-1781 regarding establishment of Board of Appeals filing fees adopted by the Montgomery County Council on July 26, 1994, states, in part:

"Administrative Appeals

"...Individual Person*

\$ 150.00

*Refundable if appeal is granted"

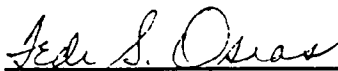
Therefore, the Board finds that appellant is entitled to a refund of his filing fee paid in the amount of One Hundred Fifty (\$ 150.00) Dollars.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled appeal.

On a motion by Louise L. Mayer, seconded by Wendell M. Holloway with Angelo Caputo and Susan W. Turnbull, Chair, in agreement, the Board adopted the foregoing resolution. Donna L. Barron dissented from the foregoing Resolution.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion book of the County Board of Appeals this 28th day of August, 1998.



Tedi S. Osias

Executive Secretary to the Board

Note: Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

SUBMISSIONS FOR NEW CONSTRUCTION AT SUBJECT PROPERTY

July 26, 1995:

Demolish existing Auto House

2-1/2 story structure 1,485 sf footprint approximately 33' high ff-ridge

1-car garage (12' x 22') 264 sf

Total = 1,749 sf building footprints (20.3% coverage)

Front yard setback: 48'

April 23, 1997:

Demolish existing Auto House

2-1/2 story structure 1,716 sf footprint 32' high ff-ridge

2-car garage (24' x 24') 576 sf

Total = 2292 sf building footprints (26.6% coverage)

Front yard setback: 50'

November 26, 1997:

Demolish or move existing Auto House

A: 2-story structure 1,536 sf footprint 24'-6" high ff-ridge

2-car garage (22' x 22') 484 sf footprint

New driveway

Total = 2,020 sf building footprints (23.4% coverage)

Front yard setback: 50'

B: 1-1/2 story structure 1,370 sf footprint 22'-6" high ff-ridge

2-car garage (22' x 22') 484 sf footprint

New driveway

Total = 1,854 sf building footprints (21.5% coverage)

Front yard setback: 70'

28' wide

February 25, 1998

Move forward on lot and rehabilitate Auto House (231 sf)

A: 2-story structure 1,143 sf footprint 26'-2-1/2" high ff-ridge

Parking structure (20' x 20') 400sf footprint

Total = 1,774 sf building footprints (20.5% coverage) [includes Auto House]

Front yard setback: 94.5'

B: 2-story structure 1,143 sf footprint 26'-2-1/2" high ff-ridge

Delete parking structure

Total = 1,374 sf building footprints (16% coverage)

Front yard setback: 94.5'

[includes Auto House]

1st fl 1143

2nd fl 1216

total 2359 #

APPEAL CHARGING ERROR
IN ADMINISTRATIVE RULING OR ACTION
Please note instructions on reverse side.
Attach additional sheets if required for answers.

Appeal is hereby made pursuant to Section 2-112 of the Montgomery County Code 1984, as amended, from the decision or other action of an official or agency of Montgomery County specified below which Appellant contends was erroneous.

Official or agency from whose ruling or action this appeal is made is the Historic Preservation Commission

Brief description of ruling or action from which this appeal is made (attach duplicate copy of ruling or document indicating such action): denial of building permit

Date of that ruling or action: 5/8/97

Brief description of what, in appellant's view, the ruling or action should have been: Granting of building permit.

Number of section, and subsection if any, of the Montgomery County Code 1994, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: Chapter 24 A

Error of fact, if any, involved in the ruling or action from which this appeal is made: Errant and misleading dimensions of structures, their condition, appurtenances & setting.

Error of law, if any, involved in the ruling or action from which this appeal is made: _____

~~Effectively take property use from owner without due process or compensation.~~

Question(s) of fact, if any, presented to the Board by this appeal: Use of statistics by H.P.C. comparing aggregate land sizes to single lots & likewise coverage
Question(s) of law, if any, presented to the Board by this appeal: Does H.P.C. have right to deny use of lot to one owner and not another. Can criteria from sources other (*

Description of real property, if any, involved in this appeal: Lot 25, Block 11
Parcel _____, Subdivision Kensington Park, Street and Number 3922 Baltimore
Street _____, Town Kensington, Zone 20895

Appellant's present legal interest in above property, if any: 1 Owner (including joint ownership). _____ Lessee. _____ Contract to lease or rent. 2 Contract to purchase. _____ Other (describe)

Statement of appellant's interest, i.e., manner in which appellant is aggrieved by the ruling or action complained of (as property owner or otherwise): _____

(1) Loss of value of property and loss of right to use for its zoned use, i.e. best use

Further comments, if any: (2) loss of right to use lot as zoned and loss of opportunity to improve lot and gain compensation

**than Master Plan be used to deny permit.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Signature of Attorney	<u>(1) [Signature]</u>	(1) <u>[Signature]</u> Signature of Appellant(s)
Address of Attorney	<u>3920 Baltimore St</u> Signature of Apl. <u>Kensington MD</u> Address of Apl. <u>(301) 949-6357</u>	<u>10907 Jarboe Ave, SS 20901</u> Address of Appellant(s) <u>(301) 681-1411</u>
Telephone Number	Telephone Number	Telephone Number

Rec'd 4/24/98

Mary
+
Robert ?

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301)217-6600

Case No. A-4771

APPEAL OF CAREY L. HOOBLER AND JEANIE AHEARN

NOTICE OF DATE AND TIME OF CONTINUATION HEARING

Notice is hereby given that a continuation of the public hearing held April 21, 1998, will be held by the Board of Appeals for Montgomery County, Maryland, in the Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, in the Second Floor Davidson Memorial Hearing Room, on the 5th day of May, 1998, at 10:30 a.m., or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 2-112 of the Montgomery County Code.

The appellants charge administrative error on the part of the Historic Preservation Commission in its denial of a Historic Area Work Permit leading to the denial of a building permit, dated May 8, 1997, contending that Section 24A of the Montgomery County Code 1994, as amended, was misinterpreted. In accordance with Chapter 2A, Administrative Procedures Act, a copy of the "charging document" (appeal) is attached to this notice.

The subject property is Lot 25, Block 11, Kensington Park Subdivision, located at 3922 Baltimore Avenue, Kensington, Maryland, in the R-60 Zone.

Notices of date and time of continuation hearing forwarded this 23rd day of April, 1998, to:

- Cary L. Hoobler
- Jeanie Ahearn
- Marty Hutt, Esquire
- Charles W. Thompson, Jr., Esquire, County Attorney
- A. Katherine Hart, Esquire, Senior Assistant County Attorney
- Christopher Hitchens, Esq., Assistant County Attorney
- George Kousoulas, Chairperson, Montgomery County
Historic Preservation Commission
- Gwen Wright, Coordinator, Montgomery County HPC
- Louise F. Shipley, Environmental Protection Manager,
Department of Permitting Services
- Members, Board of Appeals
- Rock Creek Coalition
- Town of Kensington
- Town of Kensington Citizens Association

County Board of Appeals

by: Tedi S. Osias
Tedi S. Osias
Executive Secretary to the Board

BEFORE THE COUNTY BOARD OF APPEALS
FOR MONTGOMERY COUNTY

APPEAL OF
CARY HOOBLER

*
* Case No. A-4771
*

PRE-HEARING SUBMISSION

Montgomery County, Maryland, submits the following information pursuant to the Administrative Procedures Act, Section 2A-7(a), Montgomery County Code 1984, as amended, in the proceeding before the Board of Appeals scheduled for September 17, 1997, at 10:30 a.m.

A. **DESCRIPTION OF CASE**

On April 23, 1997 the Historic Preservation Commission issued a decision denying the Historic Area Work Permit application of Cary Hoobler, Agent for the Ellison Corporation, Appellant. Appellant has appealed the denial of his Historic Area Work Permit application.

B. **SUPPORTING DOCUMENTS**

1. Chapter 24A of the Montgomery County Code (1994), as amended.
2. Temporary Montgomery County Executive Regulation on Historic Preservation Commission Rules, Guidelines, and Procedures, dated May 23, 1997.
3. Historic Preservation Commission Rules, Guidelines, and Procedures, Historic Preservation Commission, Comment Deadline June 30, 1997.
4. Amendment to the Master Plan for Historic Preservation designating the Kensington Historic District, dated July 7, 1986. (Includes the nomination form for the Kensington National Register Historic District.)
5. Kensington National Register Historic District entered in the National Register for Historic Places, September 4, 1980. [Nomination form included in item 4 above.]

6. March 5, 1987 minutes of the Historic Preservation Commission (HPC) - adoption of the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
7. Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (1979, revised 1992).
8. National Register Bulletin #15: How to Apply the National Register Criteria for Evaluation, published by the Department of the Interior.
9. Vision of Kensington: A Long-Range Preservation Plan, prepared by Traceries and PMA Associates, August, 1992.
10. Sanborn maps of Kensington: 1904, 1911, 1924.
11. Manual for State Historic Preservation Review Boards, National Park Service, U.S. Department of the Interior, 1992, pp. 32-33 re: "Historical Integrity".
12. Kensington Town Council formally adopts the Vision of Kensington, as the planning document for the Town. May 12, 1997.
13. Avery-Flaherty Properties, Inc. application, denial and appeal; including Avery-Flaherty Consolidated Civil Nos. 39657 & 39658, Opinion and Order of the Circuit Court, December 1, 1989.
14. New construction associated with 3927 Prospect Street (1989-1992 reviews):

3925 Prospect Street: a proposal to build a new house on a side lot with 50' road frontage...much debated, and eventually denied (8/21/89 re: 31/6/89K).

3927 Prospect Street: a proposal to build a new house on a side lot with 122.5' road frontage. This was eventually approved.
15. Staff report dated 7/19/95, of Preliminary Consultation for proposed new construction at Lot 25 - 3920 Baltimore Street, Kensington.
16. Minutes from HPC meeting 7/26/95, of Preliminary Consultation for proposed new construction at Lot 25 - 3920 Baltimore Street.
17. Appellant's application for Historic Area Work Permit and supporting documentation for construction on Lot 25 (with new address of 3922 Baltimore Street).
18. HPC Staff Report, dated April 16, 1997.

19. HPC minutes from the April 23, 1997 meeting.
20. Letters submitted to HPC for April 23, 1997 hearing.
21. Decision of the Historic Preservation Commission, dated May 8, 1997.
22. Correspondence from HPC to Robert Hubbard at the Department of Permitting Services, dated April 24, 1997, regarding Historic Area Work Permit Application.
23. Correspondence to Mrs. Ahearn [Owner of 3920 Baltimore Avenue] re: potential resale value of her property, from Mr. Frank O'Donnell.
24. Original slides of the subject property.¹
25. HPC minutes November 26, 1997

C. WITNESSES

Gwen Marcus Wright
Historic Preservation Coordinator
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Mrs. Wright is expected to testify concerning the July 7, 1986 Amendment to the Master Plan for Historic Preservation, designating the Kensington Historic District. She is also expect to testify as to the review of the application for a Historic Area Work Permit filed by Appellant and applicable standards for new construction within the historic districts.

Robin D. Ziek
Historic Preservation Planner
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Ms. Ziek is expected to testify as to the review of the application for a Historic Area Work Permit filed by Appellant, applicable standards for new construction within a historic

¹The original slides have been retained and may be viewed prior to the hearing on request.

district, and the slides of the subject property.

George Kousoulas, Chairman
Historic Preservation Commission of Montgomery County
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

(O) 656-1508
(H) 320-6979 ✓

Mr. Kousoulas is expected to testify as to the standards and method of review applied to the application for the Historic Area Work Permit filed by Appellant, the HPC's reasons for denial of the application, and the historical significance of the district designation.

Emily Hotaling Eig
Traceries
5420 Western Avenue
Chevy Chase, Maryland 20815

656-5283 (O) ✓

Ms. Eig is expect to testify regarding the historical significance of historic districts, the architectural significance of the historic site and of this historic district, the standards and method of review applied to the application for the Historic Area Work Permit filed by Appellant, and the HPC's reasons for denial of the application.

XXX

~~Robert Kurtz~~ or ~~Resné~~

Ed Schull - 410-744-2681

XXX is expected to testify regarding the criteria for listing historic districts in the National Register, the integrity "test" regarding designation, the possibilities of "delisting" due to loss of integrity, and new construction within the National Register Historic Districts.

Gwen - 563-3413

- Christopher Hitchens - 217-3619
- Steve Spurlock # 202-686-0012

Frank O'Donnell, Vice-President
Kensington Historical Society
10407 Fawcett Street
Kensington, MD 20895

Betsy Peoples 942-4820
Lynn Ruffalo
Julie O'Reilly ✓

Mr. O'Donnell is expected to testify regarding the Kensington Historical Society's concerns with the proposed new construction within the Kensington Historic District.

XXX
Kensington LAP
3915 Baltimore Street
Kensington, MD 20895

Jim Wagner
Antonio Wagner - 949-5016

XXX is expected to testify regarding the community's concerns about the proposed new construction within the Kensington Historic District.

XXX
Kensington Town Council
3710 Mitchell Street
Kensington, MD 20895

949-2424
Pat McCauley
George Beale = mayor

XXX is expected to testify regarding the Town of Kensington's concerns with the proposed new construction within the Kensington Historic District.

Helen Wilkes, Executive Director
Kensington Land Trust
3923 Prospect Street
Kensington, MD 20895

933.0859 ✓

Ms. Wilkes is expected to testify on the community efforts to develop a Land Trust which utilizes various tools for land preservation which are widely used throughout the state, providing options for property owner to land development.

Lattine @
Co. Mo. Md. US

Bob Christopher

John Lassiter
Helen Wilkes

Ms. Carol Mitten
Mitten and Reynolds
725 Independence Avenue, SE
Washington, DC

Ms. Mitten is a licensed Real Estate Appraiser, and is expected to testify about the relative value of historic properties, and the relative valuation of historic properties which are sold intact as opposed to subdivided, relating to the issue of "highest and best use."

D. REQUEST SUMMONS AND SUBPOENAS

None

E. ESTIMATE OF TIME

The County estimates that its portion of the case will take approximately one (1 hour.

Respectfully submitted,

CHARLES W. THOMPSON, JR.
COUNTY ATTORNEY

Senior Assistant County Attorney

Christopher Hitchins
Assistant County Attorney

101 Monroe Street, Third Floor
Rockville, Maryland 20850
(301)217-2600

NOTES ON THEMES:

PRIMARY THEME: THIS PROPOSAL IS TOO BIG FOR THIS LOT.

1. DEMOLITION OF PRIMARY HISTORIC RESOURCES

The existing garage (the original auto house - see Sanborn map) is a Primary Resource. The lawn area associated with 3920 Baltimore Street are also Primary Resources.

See the Master Plan map, which indicates this.

N.B.: Sec. 24A-2. Definitions: "Appurtenances and environmental setting": the entire parcel, as of the date on which the Historic Resource is designated on the Master Plan, and structures thereon, on which is located a historic resource....Appurtenances and environmental settings shall include, but not be limited to ...vegetation (including trees, gardens, lawns)...

"Historic District" - A group of historic resources..."

"Historic Resource" - a district,...including its appurtenances and environmental setting..."

2. VALUE OF THIS PROPERTY AND ADJACENT PROPERTIES:

Sec. 24A-1: Purpose: "to stabilize and improve the property values."

The district concept is broader than the designation of an individual lot, relating to the "highest and best use":

when the three parcels with the single house have a greater value than the value of three individual lots; and,

when the property value of the adjacent properties will be reduced because of the change in their environmental setting, with the loss of the adjacent open space.

3. POTENTIAL FOR DELISTING OF NATIONAL REGISTER PROPERTIES

Ramifications for all property owners within the National Register Historic district because decisions by individual property owners have effects on all of the other property owners.

Benefits of NR Listing:

- National Recognition of outstanding character of historic district;
- Review of impact of proposals that utilize federal funds;
- Eligible for federal programs such as new proposed Historic Homeownership Assistance. Act proposed by Rep. Clay Shaw and which will allow a 20% federal tax credit for rehabilitation costs.

N.B.: NR Listing or NR Eligibility or inclusion in locally designated Historic District often have similar benefits. But de-listing in NR opens possibility of de-listing on local level too.

4. We should try to avoid any confusion about the address:

The lot has it's own theoretical address. Every platted lot in the County has...it's a simple process to go into Development Review, and ask to have an address assigned to a platted lot, even when it is associated with an existing house as in this case.

Jeannie Ahearn is listed as owner of Lots 26 & 27 under one tax record. (01018977)
I also asked our Research staff to check the tax records, and staff (Nathan Pope) called me back to say that Lots 25, 26, 27 are all combined under one tax record.

I'm sure that Virginia Brown, who sold the property to Ms. Ahearn, had all three lots under one tax account. I couldn't find a tax record for Lot 25, to try to see if and when Lot 25 was broken away from the tax account of the other two lots.

NOTES ON SUPPORTING DOCUMENTS:

2, 3. Gwen said include both Temp. Regs and Permanent Regs. This probably shouldn't be an issue for this project, as everyone has already been over this one.

4,5. Mutually reinforcing: the National Register nomination was incorporated into the Master Plan Amendment, thus highlighting the importance of NR status to everyone.

See p. 4: defining the Historic District to include "all of the historic resources with their appurtenances and environmental setting."

See p. 3 of MHT Worksheet - Nomination Form for the National Register of Historic Places: the adjacent property at 3924 Baltimore Street is individually mentioned, and new construction at the side lot of 3920 Baltimore could enroach on this resource as well.

6. This was a discussion item under Marwood case. Here, too, it is the same case that the County has adopted Sec. Of Interior Standards for guidance. See page 4.

7. Note on introductory material that the Standards "are separate and different from that codified in 36 CFR 67" because they are not meant to be used in the Preservation Tax Incentives program, but "are intended to apply to a wide variety of resource types...and may be used as a guide by anyone planning work on historic properties."

We emphasize "Rehabilitation" as the treatment" - page 4.

8. I used NR Bulletin #15 for guidance in evaluation of the HAWP. This is appropriate since this is an NR district as well as a Master Plan site.
9. Vision: Planning document commissioned for and paid for by the HPC to provide objective standards for the evaluation of proposed changes and alterations within the Kensington Historic District. District-specific recommendations and guidance. Has been utilized by the Town of Kensington, and formally adopted by the Town Council (see Item #11).
10. Sanborn maps are a basic dating tool in the 19th/20th century. I can provide copies of the maps, but I don't have them on hand. They are important in terms of establishing the historic importance of the auto house. The maps also will indicate a time range when these appear in Kensington, as people move from the trolley to the private automobile.
11. This provides guidance to understand "Integrity", and to help evaluate proposal for changes/alterations within the historic district..
12. Town Council formally adopted it to clarify the Town's position in terms of reliance on this as a planning tool. They had always used it, but everyone is so sensitive now to the rules and formal procedures because of Chevy Chase and the HPC Regulations, etc.
13. A similar proposal in another section of the Historic District, where the character and quality of this part of the district was compromised by the proposed new construction. This went to the Courts and the HPC denial was upheld.

Interestingly enough, the three parcels were originally owned by one person.. The new owners, who bought the house on the center lot only, have subsequently purchased back the two side lots so that all three lots are again owned by the resident of the house on the center lot.

14. A similar proposal in the same section of the Historic District. The side lots associated with 3927 Prospect Street (3929, 3925) are adjacent to the Baltimore Street proposal through the backyards. The HPC approved construction on one side lot (3929) because that could be accomplished within the existing building pattern of the Historic District and would not compromise the qualities and character of the district. The HPC denied the proposed new construction on 3925 Prospect Street. The neighbors to that lot eventually bought the lot for a side lot.
15. The owner of 3920 Baltimore (the Appellant) came to the HPC with another builder in 1995 with a proposal for new construction on this side lot, Lot 25. I provide the Staff Report and (Item #16) the HPC Minutes to show that the owner was aware of the issues and concerns of the Town and Historic District Residents.

In addition, the HPC recommendations, that the proposed new construction was too large for that lot at that part of the Historic District have been ignored in the appeal case now

before the BOA.

16. HPC minutes show the guidance provided to Ms. Ahearn in terms of her proposal to build a new house on her side lot, which she has ignored.
19. P. 39 line 10: this comment refers to the proposed new construction associated with 3927 Prospect Street.
23. HPC received a copy of this letter, attesting to the value of the open land in terms of resale. Relates to the "highest and best use" argument.

①

MONTGOMERY COUNTY CODE
CHAPTER 24A
PRESERVATION OF HISTORIC RESOURCES

Sec. 24A-1. Purpose

It is the purpose of this chapter to provide for the identification, designation and regulation, for purposes of protection, preservation and continued use and enhancement of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural or cultural value in that portion of the county which is within the Maryland-Washington Regional District. Its further purpose is to preserve and enhance the quality of life in the county, safeguard the historical and cultural heritage of the county, strengthen the local economy, stabilize and improve property values in and around such historic areas, foster civic beauty, and to preserve such sites, structures and districts for the education, welfare, and continued utilization and pleasure of the citizens of the county, the state, and the United States of America.

Sec. 24A-2. Definitions

(a) For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them.

"Appurtenances and environmental setting" The entire parcel, as of the date on which the Historic Resource is designated on the Master Plan, and structures thereon, on which is located a historic resource, unless reduced by the District Council or the commission, and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

"Board" The county board of appeals of Montgomery County, Maryland.

"Commission" The historic preservation commission of Montgomery County, Maryland as described hereinafter.

"Demolition by neglect" The failure to provide ordinary and necessary maintenance and repair to an historic site or an historic resource within an historic district, whether by negligence or willful neglect, purpose or design, by the owner or any party in possession of such a site, which results in any of the following conditions:

(a) The deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist.

(b) The deterioration of exterior walls, roofs, chimneys, windows, the lack of adequate waterproofing, or deterioration of interior features or foundations which will or could result in permanent damage, injury or loss of the exterior features.

"Director" The director of the department of environmental protection of Montgomery County, Maryland or his designee.

"Exterior features" The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials, and the type or style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

"Historic District" A group of historic resources which are significant as a cohesive unit and contribute to the historical, architectural, archeological or cultural values within the Maryland-Washington Regional District and which has been so designated in the master plan for historic preservation.

"Historic resource" A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archeology or culture. This includes, but is not limited to, all properties on the "Locational Atlas and Index of Historic Sites in Montgomery County".

"Historic site" Any individual historic resource that is significant and contributes to the historical, architectural, archeological or cultural values within the Maryland-Washington Regional District and which has been so designated in the master plan for historic preservation.

"Permit" An historic area work permit issued by the director authorizing work on an historic site or an historic resource located within an historic district.

"Planning Board" The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

Sec. 24A-3. Master Plan for historic preservation criteria for designation of historic sites or districts.

(a) As part of the general plan for the physical development of that portion of the county within the Maryland-Washington Regional District, there shall be prepared, adopted and approved a master plan for historic preservation which shall constitute an amendment to the general plan for the Maryland-Washington Regional District. Such plan shall designate historic sites and historic districts and describe their boundaries; it shall propose means for the integration of historic preservation into the planning process; and it shall suggest other measures to advance the goals of historic preservation.

(b) In considering historic resources for designation as historic sites or historic districts, the planning board shall apply the following criteria:

1. Historical and cultural significance. The historic resource:
 - a. Has character, interest, or value as part of the development, heritage or cultural characteristics of the county, state, or nation;
 - b. Is the site of a significant historic event;
 - c. Is identified with a person or a group of persons who influenced society; or
 - d. Exemplifies the cultural, economic, social, political or historic heritage of the county and its communities; or

2. Architectural and design significance. The historic resource:

- a. Embodies the distinctive characteristics of a type, period or method of construction;
- b. Represents the work of a master;
- c. Possesses high artistic values;
- d. Represents a significant and distinguishable entity whose components may lack individual distinction; or
- e. Represents an established and familiar visual feature of the neighborhood, community, or county due to its singular physical characteristic or landscape (ordinance No. 9-4 (1)).

Sec. 24A-4. Historic Preservation Commission - Generally

(a) Created. There is hereby created a commission to be known as the "historic preservation commission of Montgomery County, Maryland."

(b) Membership. The commission shall consist of 9 members appointed by the county executive with the confirmation of the county council. Each member must be a resident of the county. The 4 fields of history, architecture, preservation and urban design shall be represented by a minimum of 1 member qualified by special interest, knowledge or training. The remaining members of the commission shall, to the extent possible, be selected to represent the geographical, social, economic and cultural concerns of the residents of the county.

(c) Officers. The county executive shall appoint the chairman and vice-chairman of the commission, who shall serve at his pleasure, but such appointments occurring after the commission's first year of operation shall be made after due consideration has been given to the recommendation of the commission.

(d) Term. The terms of the members of the commission shall be for a three-year period and members shall continue to serve until their successors are appointed and qualified.

(e) Vacancy. Any vacancy in the membership of the commission caused by the expiration of a term by resignation or death, or by a superseding incapacity to discharge duties, by a removal for cause, or by any other cause creating such vacancy, shall be filled for a new term, or for the remainder of the term for which there is a vacancy as the case may be, in the same manner as provided herein for the nomination and appointment of the initial members of the commission.

(f) Removal for cause. A member may be removed for cause from the commission by the county executive.

(g) Compensation. The members of the commission shall serve without compensation but they may be reimbursed for actual expenses incurred in performance of their duties, provided such expenses are permitted by the budget and approved by the chief county administrative officer.

(h) **Regulations.** The commission must adopt, under method (2) of section 2A-15 of this Code, rules, guidelines and regulations that are necessary for the proper transaction of the business of the commission. This includes provisions governing contested cases before the Commission.

1. **Meetings.** The commission shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. Such meetings shall be open to the public.

2. **Staff.** There may be appointed and assigned to the commission such employees, and the chief administrative officer shall make available to the commission, such services and facilities of the county as are necessary or appropriate for the proper performance of its duties, and the county attorney shall serve as counsel to the commission.

Sec. 24A-5. Same - Powers and Duties

The commission has the following powers and duties:

(a) To research historic resources and to recommend to the planning board that certain of them be designated as historic sites or historic districts on the master plan for historic preservation and, hence, be subject to the provisions of this chapter.

(b) To recommend to the Planning Board, as needed, any update to the inventory of historic resources which is contained in the "Locational Atlas and Index of Historic Sites in Montgomery County".

(c) To act upon applications for historic area work permits and other matters referred to it for action pursuant to the provisions of this chapter.

(d) To appoint members to local advisory panels to assist and advise the commission in the performance of its functions.

(e) To recommend programs and legislation to the council and the planning board to encourage historic preservation in the Maryland-Washington Regional District.

(f) To review any legislation and proposals affecting historic preservation, including preparation of master plans, and to make recommendations on such legislation and proposals to appropriate authorities.

(g) To serve as a clearinghouse for information on historic preservation for county government, individuals, citizens' associations, historical societies and local advisory committees; to provide information and educational materials for the public; to undertake activities to advance the goals of historic preservation in the county.

(h) To employ or hire consultants or other temporary personnel, consistent with county contract provisions, as deemed necessary to assist the commission in the accomplishment of its functions; such consultants or other personnel shall be compensated as may be provided for in the county budget.

(i) To administer any revolving funds or grant programs to assist in historic preservation.

(j) To advise the planning board, in the event of subdivision of land containing an historic resource, on the appurtenances and environmental setting necessary to preserve it.

(k) To delineate the extent of appurtenances and environmental setting associated with a historic site or resource.

Sec. 24A-6. Historic Area Work Permits - Generally

(a) Required. An historic area work permit for work on public or private property containing an historic resource must be issued pursuant to the provisions of this chapter before:

1. Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any historic site or any historic resource located within an historic district;
2. Performing any grading, excavating, construction, or substantially modifying, changing or altering the environmental setting of an historic site or an historic resource located within an historic district;
3. Erecting or causing to be erected any sign or advertisement (with the exception of those signs which temporarily advertise for sale an historic site or an historic resource located within an historic district, or which for a temporary period advertise a political viewpoint) on the exterior or on the environmental setting of any historic site or any historic resource located within an historic district.

(b) Exceptions. Nothing in this section shall be construed to require the issuance of an historic area work permit for any ordinary maintenance, repair of exterior features, any customary farming operations or any landscaping, which will have no material effect on [an] historic resource located within an historic district, of which such features are a part. For the purposes of clarification of this section, the commission shall develop and publish guidelines regarding what activities constitute ordinary maintenance and shall send a copy of these guidelines by registered mail to all owners of historic resources designated on the master plan.

(c) Disclosure Requirements

1. Applicants for permits to demolish or substantially alter the exterior features of any historic site, or historic resource located within an historic district, are required to disclose its identification as such in writing on any application there for.
2. Any person who shall undertake any work as stated in (a) of this section without first obtaining an historic area work permit shall be subject to the penalties established in section 24A-11.

(d) Advice of Commission prior to application. The commission shall adopt procedures to encourage owners of historic resources to seek the advice of the commission prior to filing an application for an historic area work permit, on the appurtenances and environmental setting appropriate to the resource, construction methods and materials, financial information concerning historic preservation, or any other matter under this chapter affecting the issuance of a permit.

24A-7. Same - Application procedures: Appeals.

(a) Applications. Applications for issuance of an historic area work permit shall be filed with the director. The application shall be in such form and contain such information as may be required to provide information as shall be necessary for the commission to evaluate and act upon such applications in accordance with the provisions of this chapter.

(b) Referral of Application. Upon the filing of a completed application, within 3 days the director shall forward the application and all attachments to the commission for its review.

(c) Public Appearance. Upon receipt of the application, the commission shall schedule a public appearance at a commission meeting at which time it will consider the application.

(d) Notice. After scheduling of a public appearance, the commission shall forward notice of the public appearance to those citizens or organizations which the commission feels may have an interest in the proceedings.

Upon being advised by the commission of the scheduling of a public appearance, the director shall forward the application and all attachments to the planning board for its review and comments which, if any, are to be made to the commission prior to the public appearance.

(e) Conduct of Commission Meeting. At the public appearance, the procedure will be informal and formal rules of evidence will not be applicable. Interested persons will be encouraged to comment and minutes of the proceedings will be kept.

(f) Action by the commission.

(1) Within 45 days after the filing of an application or, in the event the record is left open by the commission within 15 days after the close of the record, the commission shall make its decision public.

(2) The commission may instruct the director to:

a. Issue the permit; or

b. Issue the permit subject to such conditions as are necessary to insure conformity with the provisions and purposes of this chapter; or

c. Deny the permit.

(3) In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial.

(4) If, after a public appearance, the commission finds that denial of the permit applied for will result in the denial of reasonable use of the property, or impose undue hardship on the owner, and within a period of 120 days after said finding no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the commission must then instruct the director to issue a permit with, if applicable, such reasonable conditions which will further the intent and purposes of this chapter.

(5) Failure of the commission to act on an application within the time periods provided in the provisions of this subsection shall require that the application be deemed granted. By his written consent, the applicant may extend the time period for commission action.

(g) Miscellaneous Provisions.

(1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the commission. Properties subject to deeds of easement held by other historic preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.

(2) Any permit issued by the director may be subject to such conditions imposed by the commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archeological or cultural value.

(3) In the event that there is a conflict between the permit and the requirements of the building code, the permit would control provided that all health and safety requirements are met.

(4) The director is responsible for the enforcement of this chapter.

(h) Appeal. In the event that any party is aggrieved by a decision of the commission, within 30 days from the date on which the commission's decision is made public, such party aggrieved may appeal to the Board of Appeals which will review the commission's decision de novo. The Board of Appeals has full and exclusive authority hear and decide all appeals taken from decisions of the Commission in the administration of this chapter. The Board of Appeals has the authority to affirm, modify or reverse the order or decision of the Commission.

(1) Appeals from decision of the County Board of Appeals shall be in accordance with Section 2-114 of this Code.

24A-8. Same - Criteria for issuance.

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate or inconsistent with, or detrimental to the preservation, enhancement or ultimate protection of the historic site, or historic resource within an historic district, and to the purposes of this chapter.

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

1. The proposal will not substantially alter the exterior features of an historic site, or historic resource within an historic district; or

2. The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site, or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
3. The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site, or historic resource located within an historic district, in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or
4. The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
5. The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or
6. In balancing the interests of the public in preserving the historic site, or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

(c) It is not the intent of this chapter to limit new construction, alteration or repairs to any one period or architectural style.

(d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district.

24A-9. Demolition by Neglect.

In the event of a case of demolition by neglect of an historic resource on public or private property, the following provisions shall apply:

(a) If the historic resource has been designated on the Master Plan as an historic site, or an historic resource within an historic district, the director shall issue a written notice to all persons of record with any right, title or interest in the subject property, or person occupying said premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within 30 days of the receipt of such notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property, or any person of record with any right, title or interest therein may within 10 days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in such notice.

In the event a public hearing is requested it shall be held by the commission upon 30 days written notice mailed to all persons of record with any right, title or interest in the subject property and to all citizens and organizations which the director feels may have an interest in the proceedings.

1. After a public hearing on the issue of necessity of improvements to prevent demolition by neglect, if the commission finds that such improvements are necessary, it shall instruct the director to issue a final notice to be mailed to the record owners and all parties of record with any right, title or interest in the subject property advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The owners shall institute corrective action to comply with the final notice within 30 days of receipt of the revised notice.

2. In the event the corrective action specified in the final notice is not instituted within the time allotted, the director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and the expenses incurred by the director for such work, labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment.

3. Failure to comply with the original or final notice shall constitute a violation of this chapter for each day that said violation continues and shall be punishable as set forth in Section 24A-11.

4. In the event that the commission finds that, notwithstanding the necessity for such improvements, action provided in paragraphs (1) and (2) of this subsection would impose a substantial hardship on any or all persons with any right, title or interest in the subject property, then the commission shall seek alternative methods to preserve the historic site, or historic resource located within an historic district. If none are confirmed within a reasonable time, the director shall not proceed in accordance with paragraphs (1) and (2).

(b) If the historic resource is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to said Atlas, published by the Maryland-National Capital Park and Planning Commission, the director shall advise the planning board which, after receiving the recommendation of the commission, shall conduct a public hearing to determine whether the historic resource will be designated as an historic site or historic district in the master plan for historic preservation.

1. Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, no further action will be taken.

2. Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the planning board shall initiate an amendment to the master plan for historic preservation pursuant to the provisions of Article 28 of the Annotated Code of Maryland.

(a) In the event that said amendment is adopted and the historic resource is placed on the master plan for historic preservation as an historic site, or an historic resource within an historic district, the director shall give written notice to all persons with any right, title, or interest in the subject property of the conditions of deterioration and shall specify the items of repair or maintenance necessary to stabilize the condition of the historic resource and prevent further deterioration.

(b) Such notice shall provide that such stabilization work shall commence

within 30 days of receipt of the notice and shall be completed within a reasonable time thereafter.

(c) In the event that stabilization action is not instituted within the time allotted, or not completed within a reasonable time thereafter, the director may institute, perform and complete the necessary stabilization work and the expenses incurred by the director for such work, labor or materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment.

24A-10. Moratorium on Alteration or Demolition

(a) Application for Permits for Historic Resources on Locational Atlas. Any applicant for a permit to demolish or substantially alter the exterior features of any historic resource which is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to said atlas, published by the Maryland- National Capital Park and Planning Commission, but which is not designated as an historic site or historic district on the master plan for historic preservation shall be required to disclose said fact on the application.

(b) Referral to the Planning Board. Upon receipt of such application, the director shall promptly forward the same to the planning board to make a finding, after a public hearing, as to the significance of the historic resources and to determine whether in its opinion, after due consideration has been given to the recommendations of the commission, it will be designated as an historic site, or an historic resource within an historic district, listed in the master plan for historic preservation. The Planning Board's public hearing on an application to demolish or substantially alter any historic resource listed in the locational atlas satisfies the requirements of Section 33A-6 of the Code for a public hearing on a preliminary draft amendment to the Historic Preservation Master Plan if all notice requirements of that Section are met.

(c) Determination by the Planning Board.

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, the director shall forthwith issue the permit.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the director shall withhold issuance of the permit once for a maximum period of 195 days from the date the application for demolition is filed. If, as a result of the master plan process, the property is designated an historic site or an historic resource within an historic district, the application shall be governed by the procedures established in Section 24A-7.

If after a public appearance as provided for in Section 24A-7, the commission determines that failure to grant the permit applied for will have the effect of denying the property owner of all reasonable use of his property or causing him to suffer undue hardship, then the commission must instruct the director to issue the permit subject to such conditions, if any, as are found to be necessary to insure conformity with the purposes and requirements of this chapter.

(d) Time Limits for Planning Board Action

(1) Within 60 days after the filing of an application, or within 15 days after the closing of the record following a public hearing, whichever occurs later, the planning board shall render its findings and determinations with respect to an application.

(2) Failure to adhere to the limits specified in Section 24A-10 shall cause the permit to issue by operation of law, except in the event of a finding and further proceedings as provided in subsection (C)(2) of this section.

Sec. 24A-11. Violations and penalties.

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No.9-4 - 1; 1983 L.M.C. ch.22, 28.)

Sec. 24A-12. Severability

The provisions of this chapter are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, section, word or part had not been included therein, and if the person or circumstance to which the chapter or part thereof is inapplicable had been specifically exempted therefrom.

Sec. 24A-13. Historic Preservation Easement Program.

(a) There is a county easement program to preserve historic resources in Montgomery County. The commission must administer the program in accordance with this section.

(b) (1) An owner of an historic resource may offer the county a preservation easement to protect or conserve interior or exterior features of the historic resource and its environmental setting or appurtenances by making application to the commission.

(2) Upon receipt of an application, the commission must immediately forward the application for review and comment to:

(A) the planning board if the historic resource is located within the Maryland-Washington Regional District; and

(B) the appropriate agency of a municipality if the historic resource is located within a municipality.

Review and comment under this paragraph must be made within 45 days and should include an evaluation of the proposal using the criteria specified in this section as well as identification of competing or supporting land use priorities or other relevant factors

or issues. Recommendations may include proposed easement terms and conditions.

(3) The commission must review the application to determine if acceptance of the preservation easement would further the county's historic preservation goals. In making its determination, the commission should consider, among other relevant factors:

- (A) the relative significance of the historic structure;
- (B) the structural condition;
- (C) the owner's planned or completed preservation efforts;
- (D) the existing zoning and nature of the surrounding neighborhood; and
- (E) whether an easement will promote the long-term survival of the historic resource.

(c) If the historic resource is designated as an historic site in the county master plan for historic preservation, either as an individual site or located within an historic district, the county may acquire an easement upon positive recommendation of the commission and approval of the county executive. If the historic resource is not designated as an historic site in the master plan, the additional approval of the county council is required prior to any acceptance by the county. The commission must forward any comments received under subsection (b)(2) to the county executive and the county council, as appropriate.

(d) A preservation easement under this section should be granted in perpetuity and include appropriate terms and conditions that:

- (1) restrict changes and alterations;
- (2) require maintenance, repairs, and administration;
- (3) authorize public access;
- (4) provide a right of governmental inspection;
- (5) provide for a right of assignment to the Maryland Historical Trust or other appropriate agency or entity; and
- (6) establish enforcement remedies.

(e) The county may hold a preservation easement jointly with the Maryland Historical Trust.

(f) A preservation easement must be recorded by the grantor among the land records of the county at the grantor's cost. The grantor must notify the supervisor of assessments and the Office of the Public Tax Advocate of the recordation of the preservation easement.

(g) A preservation easement may be extinguished by judicial proceeding if an unexpected change in the conditions applicable to the property, such as casualty, make it impossible

or impractical to continue to use it for preservation purposes. The terms of an easement related to extinguishment should identify appropriate changes in condition, provide that the county share in any proceeds from a subsequent sale or exchange of the property after the easement is extinguished, and be in accordance with any applicable executive regulations. The sharing in proceeds may include the recapture of property taxes saved by the grantor or its successor in interest, either in part or in full, as a result of the easement.

(h) The commission may enter into a cooperative agreement with the Maryland Historical Trust or other appropriate agencies or entities for technical assistance in administering the historic easement program. This may include assistance in property evaluation, negotiation, and inspection.

(i) (1) The easement program authorized under this section is in addition to, and does not supersede or otherwise affect, any other county or municipal program or policy requiring the donation of a preservation easement as a condition of financial assistance. It must operate in conjunction with other county or municipal easement programs.

(2) The grant of an easement under this section does not eliminate or otherwise alter any county or municipal regulatory requirement applicable to the historic resource, including any requirement to obtain an historic area work permit.

(j) The county executive, with the advice of the commission, may adopt regulations under method (2) to administer the historic preservation easement.

To assist the County in its administration of the historic preservation easement program, the supervisor of assessments is requested to maintain records of both the assessment of the property as restricted under this program by easement and the assessment that would apply if the property was not subject to an easement.

Adopted July 24, 1979
Cited Montgomery County 1984
Revised 1987, 1989

| 2



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject	HISTORIC PRESERVATION COMMISSION: RULES, GUIDELINES, AND PROCEDURES	Number 27-97T
Originating Department	HISTORIC PRESERVATION COMMISSION	Effective Date May 23, 1997

TEMPORARY MONTGOMERY COUNTY EXECUTIVE REGULATION
ON
HISTORIC PRESERVATION COMMISSION
RULES, GUIDELINES, AND PROCEDURES

Issued by: County Executive
Regulation No. 27-97T

Authority Code Section: 24A-4(h)

Council Review: Method (T) Under Code Section 2A-15

Effective Date: May 23, 1997

SUMMARY: This regulation establishes rules, guidelines, and procedures that are necessary for the proper transaction of the business of the Historic Preservation Commission.

ADDRESS: Written comments on this regulation should be sent Gwen Wright, Historic Preservation Commission, 8787 Georgia Avenue, Silver Spring, Maryland, 20910 (301-495-4570). Additional information and copies of the regulation are available from the same office.

GENERAL PROCEDURES FOR MEETINGS

- (a) All meetings of the Commission shall be public. However, the Commission may, at its discretion, hold closed sessions subject to the State Government Article, Annotated Code of Maryland Section 10-501 et. seq.
- (b) Regular meetings generally shall be held on the second and fourth Wednesday



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of each month at 7:30 p.m. at a site to be determined and to be announced in a newspaper of general circulation in the county approximately two (2) weeks prior to the meeting.

- (c) Special and/or emergency meetings may be called by the Chairman upon the appropriate notification of each Commissioner.
- (d) A quorum shall consist of five (5) members of the Commission. No decision will be made in the absence of a quorum.
- (e) The agenda for each meeting shall be established under the Chairman's direction and mailed to each Commissioner approximately two (2) weeks prior to the meeting date.
- (f) Questions put to a vote shall be decided by a majority. A tie vote shall result in the defeat of the motion. Proxy voting will not be allowed.
- (g) It shall be the duty of the Commission's staff to keep a true and accurate record of all proceedings at all meetings and public appearances and/or hearings. This may include summary minutes or verbatim transcripts of all meetings. All meeting records shall be distributed to Commission members for their approval and shall be maintained by the staff.
- (h) In all matters not provided for in these regulations, the latest published edition of Roberts Rules of Order governs. Failure to use Roberts Rules of Order shall not invalidate any procedure or action taken by the Commission, that is otherwise valid.



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HISTORIC AREA WORK PERMITS

Section 1.0 Purpose

This regulation is established for the proper transaction of the business of the Montgomery County Historic Preservation Commission (Commission), pursuant to Section 24A-4(h) of the Montgomery County Code (1994), as amended. As required by Section 24A-7(c), upon receipt of a completed application for the issuance of an Historic Area Work Permit, the Commission must schedule a public appearance at a Commission meeting, at which time it will consider the application. This regulation shall govern the receipt, processing, hearing, and final disposition of all applications for the issuance of an Historic Area Work Permit.

Section 1.1 Definitions

For the purposes of this regulation, the following words and phrases have the meaning assigned to them below, except where otherwise indicated in this regulation.

- (a) Local Advisory Panel (LAP) - A group of individuals appointed by the Commission to assist and advise the Commission in the performance of its functions.
- (b) Applicant - Any person that files an application for the issuance of an historic area work permit. The applicant must be the owner, contract purchaser, or authorized agent of the subject historic site or historic resource within an historic district.



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- (c) Application - A request for the issuance of an historic area work permit for work as described in Sections 24A-6(a)(1)-(3). The application shall be in such form and contain such information as may be required to provide information as shall be necessary for the Commission to evaluate and act upon such application in accordance with the provisions of Chapter 24A.
- (d) Party - Any person identifying himself to the Commission in the official record as having an interest in the outcome of an application being considered.
- (e) Person - Any individual business entity, whether incorporated or not, association, or any other group of individuals, however organized.
- (f) Ordinary Maintenance - Work on an historic site or an historic resource within a historic district which does not alter **in any way** the exterior features of the subject property, including the architectural style, design, and general arrangement of the exterior, **as well as** the nature, texture, details, and dimensions of building materials, windows, doors, siding, etc. This definition applies, whenever appropriate, to the appurtenances and environmental setting of an historic site or resource, as well as to the building, structure, or object itself.

Section 1.2 Submission of Application

- (a) Filing - Applications must be filed with the director as required by Section 24A-7(a), with the exceptions noted in 24A-6(b) and with the definition of Ordinary Maintenance found in Section 1.1 (f) above.



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- (b) Scheduling - In order to be considered at a regularly scheduled public appearance, applications shall be filed with the director three (3) weeks prior to the meeting date for which it is to be scheduled.
- (c) Completeness - Upon receipt by the director, each application will be evaluated for completeness. Those judged to be complete, based upon the submission requirements specified by the Commission and listed on the application, will be promptly forwarded to the Commission. Any application deemed incomplete by the director or by the Commission's staff will not be accepted for filing. Incomplete applications shall be promptly returned to the applicant, either by return mail or by hand if the applicant is present at the time of the determination.
- (d) Application Date - Complete applications shall be deemed filed upon receipt by the director.

Section 1.3 Notice of Public Appearance

- (a) Publication - Before an application may be considered at a public appearance, the Commission must publish notice of the public appearance approximately fourteen (14) calendar days prior to the date of the public appearance in a newspaper of general circulation within the county. The notice must specify the name and address of the applicant, the address of the property, and the fact that an application is pending for work upon the property. The notice must also specify the date, time and place of the public appearance.



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- (b) Notification by Mail - Approximately fourteen (14) calendar days before the public appearance on an application, the Commission shall mail notice of the date, time, and place of the public appearance to the applicant, any existing LAP (if the property is located within a master plan historic district with an LAP), and, as specified by the applicant at the time of filing, adjoining and confronting property owners, and other interested parties.
- (c) Emergency Applications Added to Agenda - At the Chairman's discretion, emergency applications may be added to the agenda of a public appearance. It shall be the responsibility of the applicant to hand deliver notices of the emergency application to all adjacent and confronting property owners, LAPs, and other interested parties. The applicant shall obtain written verification that such notices were received and shall present these verifications to the Commission's staff prior to the public appearance.

Section 1.4 Public Appearances

- (a) Time and Place - A public appearance before the Commission shall be held at the date, time, and place designated in the notice, except for public appearances which are continued. However, where circumstances require a change in the date, time, or place of the public appearance after notice has already been given, the Commission shall make reasonable efforts to notify the public of the change.
- (b) Official Record



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- (1) In General - The Commission shall prepare, maintain, and supervise the custody of an official record for each application. The official record shall include the application, exhibits, and minutes or transcript of the public appearance. The official record shall be opened upon the filing of a completed application with the director. Documentary evidence may be received in the form of copies, excerpts, photographic reproductions, models, or by incorporation by reference.
 - (2) Inspection of Official Record - Subject to the provisions of the Maryland Public Information Act, and upon reasonable notice, any person shall have the right to review the official record at reasonable hours at the Commission's office. Any person may, at his own expense, request a copy of the written transcript of any public appearance.
- (c) Ex Parte Communication
- (1) This rule applies to any ex parte or private communication, written or oral, received by a Commissioners if:
 - a. The communication related to an application before the Commission;
 - b. All appellate rights regarding the application have not been exhausted; and
 - c. The Commission is required by law to make an administrative



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decision on the matter based on the record.

- (2) This rule does not apply to:
 - a. Legal or technical advice rendered at the request of the Commission; or
 - b. Any communication about the status or procedure of a pending application.
- (3) If a Commissioner receives an oral ex parte or private communication, that Commissioner shall reduce the substance of the communication to writing within reasonable time after receipt of the communication and include it in the official record.
- (4) The Commission shall include the ex parte or private communication in the official record and may:
 - a. Consider the communication as a basis for its decision after giving all parties an opportunity to respond to the communication; or
 - b. Decide the matter if the Commission expressly finds that it has not considered the communication as a basis for its decision.
- (d) Evidence - The Commission may admit and give appropriate weight to evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs, including hearsay evidence which appears to be reliable in nature. It shall give effect to the rules of privilege recognized by law. Evidence must be competent, material, and



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relevant to all matters at issue. The Commission may exclude incompetent, unreliable, irrelevant or unduly repetitious evidence, or produce evidence at its own request. The Commission may take official notice of commonly cognizable facts, facts within each Commissioner's particular realm of professional expertise, and documents or matters of public record.

- (e) Cross-Examination - Every party has the right of reasonable cross-examination of witnesses who testify, and may submit rebuttal evidence. Repetitious questions and examination on irrelevant matters is not permitted. Cross-examination is subject to reasonable regulation by the Commission including the designation of specific persons to conduct cross-examination on behalf of other parties.
- (f) Right to Counsel - In any case governed by these procedures, all parties have the right to be represented by themselves or by an attorney of their choice.
- (g) Powers of the Commission in Conducting a Public Appearance - In addition to any of the powers granted to the Commission by Chapter 24A, the Commission is empowered to, at their discretion:
 - (1) Administer oaths and affirmations;
 - (2) Rule upon motions and offers of proof, receive relevant and probative evidence, exclude incompetent, irrelevant, immaterial or unduly repetitious evidence, and give effect to the rules of privilege recognized by law;



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- (3) Regulate the course of a public appearance and allow the official record in a public appearance to remain open;
 - (4) Dispose of procedural requests or similar matters, including requests for a continuance;
 - (5) Call, examine, and cross-examine witnesses and obtain and introduce into the official record documentary or other evidence;
 - (6) Request the parties at any time during the public appearance to state their respective positions or theory concerning any issues in the application;
 - (7) Take any action authorized by law or necessary to a fair disposition of an application;
 - (8) Accept evidence by stipulation of facts;
 - (9) Schedule, suspend, or continue a public appearance to a date and time certain with notification as provided for in this regulation;
 - (10) Designate a spokesperson for any group of parties either supporting or opposing an application who shall conduct any opening, direct examination, cross-examination, closing or testimony in general.
- (h) Public Appearance Conduct and Procedure
- (1) Unless otherwise provided by law:
 - a. A quorum of the Commission must be present to conduct a public appearance or hearing.



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b. All public appearances and hearings shall be de novo before the Commission.

c. The members of the Commission shall be subject to disqualification for conflict of interest as defined by Section 410 of the Montgomery County Charter, and Chapter 19A of the Montgomery County Code. Suggestions for disqualification of any Commissioner may be made on petition of any party. A motion for disqualification shall be resolved by the Commissioner whose disqualification is sought.

- (2) The Commission may establish, in advance or at the public appearance, reasonable time limitations and registration requirements for witnesses and speakers, so that all may have an opportunity to be heard.
- (3) All exhibits accepted shall be held or referenced in the official record. Those exhibits whose admission is rejected shall either be returned to the offering party or retained in the official record with appropriate notations reflecting that the material was rejected as an exhibit.
- (4) Rulings on motions, petitions, and objections made during the course of a public appearance shall be ruled on as received or as soon thereafter as practicable.
- (5) The ordinary, but not mandatory, order or procedure for the conduct of a public appearance and the presentation of evidence is as follows, subject to waiver or such reasonable changes as may be ordered by the



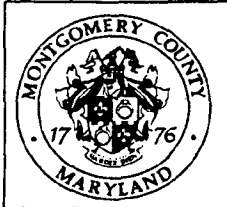
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Commission or by law:

- a. Disposition of all outstanding preliminary motions and preliminary matters.
 - b. Presentation by Commission staff.
 - c. Opening statement and presentation of factual case of the applicant.
 - d. Presentation of factual case and statements of other parties.
 - e. Presentation of rebuttal evidence of the applicant.
 - f. Closing arguments of the applicant.
 - g. Closing arguments of other parties opposing the application.
 - h. At the end of each presentation, any party, upon recognition by the chair, may briefly cross-examine any speaker.
- (6) During regularly scheduled public appearances, the Commission may review applications on an expedited basis - that is without presentations by staff, applicant, or other parties - if there are not parties opposing the application.
- (7) Unless otherwise determined by the Commission, the record shall remain open until the final decision is made. Once the record is closed, no additional information will be received except for good cause shown and a showing that it is material.
- (i) Failure to Appear - Upon the failure of an applicant to appear at a public appearance, and upon finding that such party had timely legal or actual notice



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of the appearance, the Commission may receive evidence and decide the case as if all parties were present.

Section 1.5 Criteria for Approval

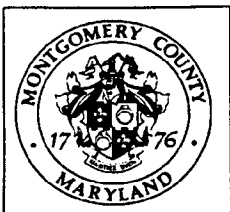
(a) The Commission shall be guided in their review of Historic Area Work Permit applications by:

- (1) The criteria in Section 24A-8.
- (2) The Secretary of the Interior's Standards and Guidelines for Rehabilitation.
- (3) Pertinent guidance in applicable master plans, sector plans, or functional master plans.
- (4) Pertinent guidance in historic site or historic district-specific studies. This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.

(b) Where guidance in an applicable master plan, sector plan, or functional master plan is inconsistent with the Secretary of the Interior's Standards and Guidelines for Rehabilitation, the master plan guidance shall take precedence.

Section 1.6 Decisions

(a) Content - All decisions of the Commission, except rulings on preliminary matters or on motions or objections, must be based on the evidence contained in the official record. Written decisions - containing findings of fact, conclusions of law, and an appropriate decision and order - will be issued on



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all denials. In all cases, each decision will conclude with instructions to the director to:

- (1) Issue the permit as described in the application, including amendments to the application that may have occurred subsequent to its initial filing;
 - (2) Issue the permit subject to the conditions stipulated in the decision; or
 - (3) Deny the permit.
- (b) Voting Requirements - Every decision must have the concurrence of a majority of the voting members of the Commission. Members of the Commission absent during a public appearance may vote upon a matter upon written certification that they have reviewed the verbatim transcript of the appearance, and reviewed the evidence contained in the official record.
- (c) Notification of Decision - All decisions of the Commission must be made public and mailed to the applicant.

PRELIMINARY CONSULTATIONS

Section 2.0 Purpose

Section 24A-6(d) encourages owners of historic properties to seek advice from the Commission prior to filing an application for an Historic Area Work Permit.

Informal consultations, to obtain input and advice from the Commission on potential future Historic Area Work Permit applications, may be scheduled as part of the regular agenda of a Commission meeting.



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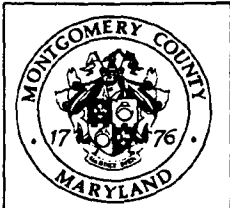
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Section 2.1 Submission of Preliminary Consultation

- (a) Filing - Preliminary Consultation requests may be filed directly with Commission staff. Requesting a Preliminary Consultation is at the discretion of the applicant.
- (b) Scheduling - In order to be considered at a regularly scheduled public appearance, requests shall be filed with staff three (3) weeks prior to the meeting date for which it is to be scheduled.
- (c) Completeness - Upon receipt by staff, each request will be evaluated for sufficiency. Requests for Preliminary Consultations do not need to contain finished plans and specifications; however, there must be sufficient information submitted to adequately communicate the scope and nature of the proposed work. Those requests judged by staff to be sufficient, will be promptly scheduled for discussion before the Commission.

Section 2.2 Notice of Public Appearance

- (a) Publication - Before a Preliminary Consultation may be considered at a public appearance, the Commission must publish notice of the public appearance approximately fourteen (14) calendar days prior to the date of the public appearance in a newspaper of general circulation within the county. The notice must specify the name and address of the applicant and the address of the property. The notice must also specify the date, time and place of the public appearance.



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- (b) Notification by Mail - Approximately fourteen (14) calendar days before the public appearance on a Preliminary Consultation, the Commission may - at its discretion - mail notice of the date, time, and place of the public appearance to the applicant, any existing LAP (if the property is located within a master plan historic district with an LAP), adjoining and confronting property owners, and other interested parties.

Section 2.3 Public Appearances

- (a) Time and Place - A public appearance before the Commission shall be held at the date, time, and place designated in the notice, except for public appearances which are continued. However, where circumstances require a change in the date, time, or place of the public appearance after notice has already been given, the Commission shall make reasonable efforts to notify the public of the change.
- (b) Public Appearance Conduct and Procedure for Preliminary Consultations
- (1) The Commission may establish, in advance or at the public appearance, reasonable time limitations and registration requirements for witnesses and speakers, so that all may have an opportunity to be heard.
 - (2) The ordinary, but not mandatory, order or procedure for the conduct of a public appearance on Preliminary Consultations is as follows:
 - a. Presentation by Commission staff.
 - b. Opening statement and presentation of proposal by the applicant.



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c. Statements of other parties.

d. Commission Guidance, as set forth in Section 2.5 below.

Section 2.4 Criteria to Guide Discussion

(a) The Commission shall be guided in their discussion of Preliminary Consultation requests by:

- (1) The criteria in Section 24A-8.
- (2) The Secretary of the Interior's Standards and Guidelines for Rehabilitation.
- (3) Pertinent guidance in applicable master plans, sector plans, or functional master plans.
- (4) Pertinent guidance in historic site or historic district-specific studies. This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.

(b) Where guidance in an applicable master plan, sector plan, or functional master plan is inconsistent with the Secretary of the Interior's Standards and Guidelines for Rehabilitation, the master plan guidance shall take precedence.

Section 2.5 Commission Guidance

- (a) No vote shall be taken or formal decision made on any Preliminary Consultation.
- (b) Each Commissioner shall have an opportunity to address a proposal made in a Preliminary Consultation and to offer their individual comments and advice.



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- (c) An effort will be made to communicate the Commission's consensus on the proposal and to give the applicant clear direction in regard to filing an Historic Area Work Permit application.

MASTER PLAN DESIGNATIONS

Section 3.0 Purpose

Section 24A-5(a), empowers the Commission to research historic resources and to recommend to the Planning Board that certain of them be designated as historic sites or historic districts on the Master Plan for Historic Preservation. Under 24A-5(b), the Commission may also recommend to the Planning Board, as needed, any update to the inventory of historic resources which is contained in the Locational Atlas and Index of Historic Sites. These recommendations are, by law, advisory in nature and do not constitute administrative decisions. This regulation is established to provide a process for formulation of these advisory recommendations.

Section 3.1 Master Plan Designations

- (a) The Commission may review all nominations for designation on the Master Plan for Historic Preservation to determine that adequate research and information is included for the Commission to evaluate such nominations.
- (b) The Commission may schedule a public appearance on each proposed nomination. Such appearance may be scheduled during the Commission's regular agenda or at a special meeting.



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- (c) If scheduled, the public appearance shall be publicized to the extent possible as follows:
- (1) Notice to affected property owners mailed at least three (3) weeks prior to the date of the appearance.
 - (2) Notice to citizens or organizations which have registered with the Commission and have requested notices of public appearances mailed at least three (3) weeks prior to the date of the appearance.
- (d) If a public appearance is scheduled, the order of business at the appearance shall be as follows:
- (1) Introduction of the nomination by staff.
 - (2) Questions by Commission of staff.
 - (3) Comment by affected property owners.
 - (4) Public comment.
 - (5) Consideration by Commission.
- (e) The conduct of business at a scheduled appearance shall reflect the following:
- (1) Preliminary action. Upon convening the meeting, the presiding officer shall give a brief explanation of the purpose of the appearance and shall cause to be presented any information or data which is required before public discussion and comments begin.
 - (2) Information from public. Each member of the public who wishes to speak should, after recognition by the presiding officer, come forth and



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state the following information:

- a. Name
 - b. Home address
 - c. Person or organization he/she represents, or that he/she is speaking as a private citizen.
- (3) The Commission may establish, in advance or at the appearance, reasonable time limitations and registration requirements for speakers so that all may have an opportunity to be heard.
- (4) Questions. Any member of the Commission, upon recognition of the Chair, may briefly question any speaker. Members and speakers shall be requested not to debate over these questions.
- (f) If no public appearance is conducted on a nomination, the Commission may formulate their recommendation at a worksession, open to the public. It shall be the Chairman's discretion as to whether any public comment will be received during such a worksession.
- (g) Recommendation. At the close of either the public appearance - if one is scheduled - or a worksession, the Commission may formulate its recommendation on each proposed nomination. This recommendation may be put to a vote and decided by a majority of Commissioners. This recommendation will be forwarded to the Planning Board, County Executive, and County Council in a timely fashion.



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- (h) Criteria. In formulating a recommendation on designation, the Commission shall utilize the criteria listed in 24A-3(b).

Section 3.2 Update of and Addition to Locational Atlas

- (a) The Commission may review all nominations for additions to the Locational Atlas and Index of Historic Sites to determine that adequate research and information is included for the Commission to evaluate such nominations.
- (b) The Commission may schedule a public appearance on each proposed nomination. Such appearance may be scheduled during the Commission's regular agenda or at a special meeting.
- (c) If scheduled, the public appearance shall be publicized to the extent possible as follows:
- (1) Notice to affected property owners mailed at least one (1) week prior to the date of the appearance.
 - (2) Notice to citizens or organizations which have registered with the Commission and have requested notices of public appearances mailed at least one (1) week prior to the date of the appearance.
- (d) If a public appearance is scheduled, the order of business at the appearance shall be as follows:
- (1) Introduction of the nomination by staff.
 - (2) Questions by Commission of staff.
 - (3) Comment by affected property owners.

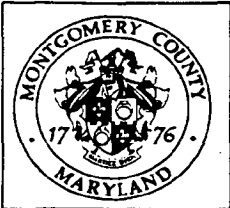


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- (4) Public comment.
- (5) Consideration by Commission.
- (e) The conduct of business at a scheduled appearance shall reflect the following:
 - (1) Preliminary action. Upon convening the meeting, the presiding officer shall give a brief explanation of the purpose of the appearance and shall cause to be presented any information or data which is required before public discussion and comments begin.
 - (2) Information from public. Each member of the public who wishes to speak should, after recognition by the presiding officer, come forth and state the following information:
 - a. Name
 - b. Home address
 - c. Person or organization he/she represents, or that he/she is speaking as a private citizen.
 - (3) The Commission may establish, in advance or at the appearance, reasonable time limitations and registration requirements for speakers so that all may have an opportunity to be heard.
 - (4) Questions. Any member of the Commission, upon recognition of the Chair, may briefly question any speaker. Members and speakers shall be requested not to debate over these questions.
- (f) Recommendation. At the close of the public appearance, the Commission may



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formulate its recommendation on each proposed nomination. This recommendation may be put to a vote and decided by a majority of Commissioners. This recommendation will be forwarded to the Planning Board in a timely fashion.

- (g) Criteria. In formulating a recommendation, the Commission shall utilize the criteria listed in 24A-3(b).

EFFECTIVE DATE

This Temporary Regulation takes effect on the date that the County Council receives a copy of the Regulation and will remain in effect for 90 days.

Handwritten signature of Douglas M. Duncan in cursive.

Douglas M. Duncan
County Executive

APPROVED AS TO FORM AND LEGALITY:
OFFICE OF COUNTY ATTORNEY

BY Handwritten signature of the County Attorney.
DATE 5.22.97

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HISTORIC PRESERVATION COMMISSION RULES, GUIDELINES, AND PROCEDURES

HISTORIC PRESERVATION COMMISSION

Issued by: County Executive
Regulation No.

Authority Code Section: 24A-4(h)
Supersedes:

Council Review: Method (2) Under Code Section 2A-15
Register Vol. , No.

Comment Deadline: June 30, 1997
Effective Date:

SUMMARY: This regulation establishes rules, guidelines, and procedures that are necessary for the proper transaction of the business of the Historic Preservation Commission.

ADDRESS: Written comments on this regulation should be sent Gwen Wright, Historic Preservation Commission, 8787 Georgia Avenue, Silver Spring, Maryland, 20910 (301-495-4570). Additional information and copies of the regulation are available from the same office.

GENERAL PROCEDURES FOR MEETINGS

- (a) All meetings of the Commission shall be public. However, the Commission may, at its discretion, hold closed sessions subject to the State Government



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Article, Annotated Code of Maryland Section 10-501 et.seq.

- (b) Regular meetings generally shall be held on the second and fourth Wednesday of each month at 7:30 p.m. at a site to be determined and to be announced in a newspaper of general circulation in the county approximately two (2) weeks prior to the meeting.
- (c) Special and/or emergency meetings may be called by the Chairman upon the appropriate notification of each Commissioner.
- (d) A quorum shall consist of five (5) members of the Commission. No decision will be made in the absence of a quorum.
- (e) The agenda for each meeting shall be established under the Chairman's direction and mailed to each Commissioner approximately two (2) weeks prior to the meeting date.
- (f) Questions put to a vote shall be decided by a majority. A tie vote shall result in the defeat of the motion. Proxy voting will not be allowed.
- (g) It shall be the duty of the Commission's staff to keep a true and accurate record of all proceedings at all meetings and public appearances and/or hearings. This may include summary minutes or verbatim transcripts of all meetings. All meeting records shall be distributed to Commission members for their approval and shall be maintained by the staff.
- (h) In all matters not provided for in these regulations, the latest published edition of Roberts Rules of Order governs. Failure to use Roberts Rules of Order



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shall not invalidate any procedure or action taken by the Commission, that is otherwise valid.

HISTORIC AREA WORK PERMITS

Section 1.0 Purpose

This regulation is established for the proper transaction of the business of the Montgomery County Historic Preservation Commission (Commission), pursuant to Section 24A-4(h) of the Montgomery County Code (1994), as amended. As required by Section 24A-7(c), upon receipt of a completed application for the issuance of an Historic Area Work Permit, the Commission must schedule a public appearance at a Commission meeting, at which time it will consider the application. This regulation shall govern the receipt, processing, hearing, and final disposition of all applications for the issuance of an Historic Area Work Permit.

Section 1.1 Definitions

For the purposes of this regulation, the following words and phrases have the meaning assigned to them below, except where otherwise indicated in this regulation.

- (a) Local Advisory Panel (LAP) - A group of individuals appointed by the Commission to assist and advise the Commission in the performance of its functions.
- (b) Applicant - Any person that files an application for the issuance of an historic area work permit. The applicant must be the owner, contract purchaser, or



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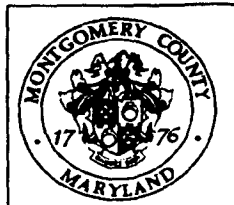
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authorized agent of the subject historic site or historic resource within an historic district.

- (c) Application - A request for the issuance of an historic area work permit for work as described in Sections 24A-6(a)(1)-(3). The application shall be in such form and contain such information as may be required to provide information as shall be necessary for the Commission to evaluate and act upon such application in accordance with the provisions of Chapter 24A.
- (d) Party - Any person identifying himself to the Commission in the official record as having an interest in the outcome of an application being considered.
- (e) Person - Any individual business entity, whether incorporated or not, association, or any other group of individuals, however organized.
- (f) Ordinary Maintenance - Work on an historic site or an historic resource within a historic district which does not alter in any way the exterior features of the subject property, including the architectural style, design, and general arrangement of the exterior, as well as the nature, texture, details, and dimensions of building materials, windows, doors, siding, etc. This definition applies, whenever appropriate, to the appurtenances and environmental setting of an historic site or resource, as well as to the building, structure, or object itself.

Section 1.2 Submission of Application

- (a) Filing - Applications must be filed with the director as required by Section



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24A-7(a), with the exceptions noted in 24A-6(b) and with the definition of Ordinary Maintenance found in Section 1.1 (f) above.

- (b) Scheduling - In order to be considered at a regularly scheduled public appearance, applications shall be filed with the director three (3) weeks prior to the meeting date for which it is to be scheduled.
- (c) Completeness - Upon receipt by the director, each application will be evaluated for completeness. Those judged to be complete, based upon the submission requirements specified by the Commission and listed on the application, will be promptly forwarded to the Commission. Any application deemed incomplete by the director or by the Commission's staff will not be accepted for filing. Incomplete applications shall be promptly returned to the applicant, either by return mail or by hand if the applicant is present at the time of the determination.
- (d) Application Date - Complete applications shall be deemed filed upon receipt by the director.

Section 1.3 Notice of Public Appearance

- (a) Publication - Before an application may be considered at a public appearance, the Commission must publish notice of the public appearance approximately fourteen (14) calendar days prior to the date of the public appearance in a newspaper of general circulation within the county. The notice must specify the name and address of the applicant, the address of the property, and the fact



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that an application is pending for work upon the property. The notice must also specify the date, time and place of the public appearance.

- (b) Notification by Mail - Approximately fourteen (14) calendar days before the public appearance on an application, the Commission shall mail notice of the date, time, and place of the public appearance to the applicant, any existing LAP (if the property is located within a master plan historic district with an LAP), and, as specified by the applicant at the time of filing, adjoining and confronting property owners, and other interested parties.
- (c) Emergency Applications Added to Agenda - At the Chairman's discretion, emergency applications may be added to the agenda of a public appearance. It shall be the responsibility of the applicant to hand deliver notices of the emergency application to all adjacent and confronting property owners, LAPs, and other interested parties. The applicant shall obtain written verification that such notices were received and shall present these verifications to the Commission's staff prior to the public appearance.

Section 1.4 Public Appearances

- (a) Time and Place - A public appearance before the Commission shall be held at the date, time, and place designated in the notice, except for public appearances which are continued. However, where circumstances require a change in the date, time, or place of the public appearance after notice has already been given, the Commission shall make reasonable efforts to notify the



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public of the change.

(b) Official Record

- (1) In General - The Commission shall prepare, maintain, and supervise the custody of an official record for each application. The official record shall include the application, exhibits, and minutes or transcript of the public appearance. The official record shall be opened upon the filing of a completed application with the director. Documentary evidence may be received in the form of copies, excerpts, photographic reproductions, models, or by incorporation by reference.
- (2) Inspection of Official Record - Subject to the provisions of the Maryland Public Information Act, and upon reasonable notice, any person shall have the right to review the official record at reasonable hours at the Commission's office. Any person may, at his own expense, request a copy of the written transcript of any public appearance.

(c) Ex Parte Communication

- (1) This rule applies to any ex parte or private communication, written or oral, received by a Commissioners if:
 - a. The communication related to an application before the Commission;
 - b. All appellate rights regarding the application have not been



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exhausted; and

c. The Commission is required by law to make an administrative decision on the matter based on the record.

(2) This rule does not apply to:

a. Legal or technical advice rendered at the request of the Commission; or

b. Any communication about the status or procedure of a pending application.

(3) If a Commissioner receives an oral ex parte or private communication, that Commissioner shall reduce the substance of the communication to writing within reasonable time after receipt of the communication and include it in the official record.

(4) The Commission shall include the ex parte or private communication in the official record and may:

a. Consider the communication as a basis for its decision after giving all parties an opportunity to respond to the communication; or

b. Decide the matter if the Commission expressly finds that it has not considered the communication as a basis for its decision.

(d) Evidence - The Commission may admit and give appropriate weight to evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs, including hearsay evidence



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which appears to be reliable in nature. It shall give effect to the rules of privilege recognized by law. Evidence must be competent, material, and relevant to all matters at issue. The Commission may exclude incompetent, unreliable, irrelevant or unduly repetitious evidence, or produce evidence at its own request. The Commission may take official notice of commonly cognizable facts, facts within each Commissioner's particular realm of professional expertise, and documents or matters of public record.

- (e) Cross-Examination - Every party has the right of reasonable cross-examination of witnesses who testify, and may submit rebuttal evidence. Repetitious questions and examination on irrelevant matters is not permitted. Cross-examination is subject to reasonable regulation by the Commission including the designation of specific persons to conduct cross-examination on behalf of other parties.
- (f) Right to Counsel - In any case governed by these procedures, all parties have the right to be represented by themselves or by an attorney of their choice.
- (g) Powers of the Commission in Conducting a Public Appearance - In addition to any of the powers granted to the Commission by Chapter 24A, the Commission is empowered to, at their discretion:
 - (1) Administer oaths and affirmations;
 - (2) Rule upon motions and offers of proof, receive relevant and probative evidence, exclude incompetent, irrelevant, immaterial or unduly



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repetitious evidence, and give effect to the rules of privilege recognized by law;

- (3) Regulate the course of a public appearance and allow the official record in a public appearance to remain open;
 - (4) Dispose of procedural requests or similar matters, including requests for a continuance;
 - (5) Call, examine, and cross-examine witnesses and obtain and introduce into the official record documentary or other evidence;
 - (6) Request the parties at any time during the public appearance to state their respective positions or theory concerning any issues in the application;
 - (7) Take any action authorized by law or necessary to a fair disposition of an application;
 - (8) Accept evidence by stipulation of facts;
 - (9) Schedule, suspend, or continue a public appearance to a date and time certain with notification as provided for in this regulation;
 - (10) Designate a spokesperson for any group of parties either supporting or opposing an application who shall conduct any opening, direct examination, cross-examination, closing or testimony in general.
- (h) Public Appearance Conduct and Procedure
- (1) Unless otherwise provided by law:



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- a. A quorum of the Commission must be present to conduct a public appearance or hearing.
 - b. All public appearances and hearings shall be de novo before the Commission.
 - c. The members of the Commission shall be subject to disqualification for conflict of interest as defined by Section 410 of the Montgomery County Charter, and Chapter 19A of the Montgomery County Code. Suggestions for disqualification of any Commissioner may be made on petition of any party. A motion for disqualification shall be resolved by the Commissioner whose disqualification is sought.
- (2) The Commission may establish, in advance or at the public appearance, reasonable time limitations and registration requirements for witnesses and speakers, so that all may have an opportunity to be heard.
 - (3) All exhibits accepted shall be held or referenced in the official record. Those exhibits whose admission is rejected shall either be returned to the offering party or retained in the official record with appropriate notations reflecting that the material was rejected as an exhibit.
 - (4) Rulings on motions, petitions, and objections made during the course of a public appearance shall be ruled on as received or as soon thereafter as practicable.
 - (5) The ordinary, but not mandatory, order or procedure for the conduct of



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a public appearance and the presentation of evidence is as follows, subject to waiver or such reasonable changes as may be ordered by the Commission or by law:

- a. Disposition of all outstanding preliminary motions and preliminary matters.
 - b. Presentation by Commission staff.
 - c. Opening statement and presentation of factual case of the applicant.
 - d. Presentation of factual case and statements of other parties.
 - e. Presentation of rebuttal evidence of the applicant.
 - f. Closing arguments of the applicant.
 - g. Closing arguments of other parties opposing the application.
 - h. At the end of each presentation, any party, upon recognition by the chair, may briefly cross-examine any speaker.
- (6) During regularly scheduled public appearances, the Commission may review applications on an expedited basis - that is without presentations by staff, applicant, or other parties - if there are not parties opposing the application.
- (7) Unless otherwise determined by the Commission, the record shall remain open until the final decision is made. Once the record is closed, no additional information will be received except for good cause shown and a showing that it is material.



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- (i) Failure to Appear - Upon the failure of an applicant to appear at a public appearance, and upon finding that such party had timely legal or actual notice of the appearance, the Commission may receive evidence and decide the case as if all parties were present.

Section 1.5 Criteria for Approval

- (a) The Commission shall be guided in their review of Historic Area Work Permit applications by:
- (1) The criteria in Section 24A-8.
 - (2) The Secretary of the Interior's Standards and Guidelines for Rehabilitation.
 - (3) Pertinent guidance in applicable master plans, sector plans, or functional master plans.
 - (4) Pertinent guidance in historic site or historic district-specific studies. This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.
- (b) Where guidance in an applicable master plan, sector plan, or functional master plan is inconsistent with the Secretary of the Interior's Standards and Guidelines for Rehabilitation, the master plan guidance shall take precedence.

Section 1.6 Decisions

- (a) Content - All decisions of the Commission, except rulings on preliminary matters or on motions or objections, must be based on the evidence contained



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in the official record. Written decisions - containing findings of fact, conclusions of law, and an appropriate decision and order - will be issued on all denials. In all cases, each decision will conclude with instructions to the director to:

- (1) Issue the permit as described in the application, including amendments to the application that may have occurred subsequent to its initial filing;
 - (2) Issue the permit subject to the conditions stipulated in the decision; or
 - (3) Deny the permit.
- (b) Voting Requirements - Every decision must have the concurrence of a majority of the voting members of the Commission. Members of the Commission absent during a public appearance may vote upon a matter upon written certification that they have reviewed the verbatim transcript of the appearance, and reviewed the evidence contained in the official record.
- (c) Notification of Decision - All decisions of the Commission must be made public and mailed to the applicant.

PRELIMINARY CONSULTATIONS

Section 2.0 Purpose

Section 24A-6(d) encourages owners of historic properties to seek advice from the Commission prior to filing an application for an Historic Area Work Permit.

Informal consultations, to obtain input and advice from the Commission on potential



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future Historic Area Work Permit applications, may be scheduled as part of the regular agenda of a Commission meeting.

Section 2.1 Submission of Preliminary Consultation

- (a) Filing - Preliminary Consultation requests may be filed directly with Commission staff. Requesting a Preliminary Consultation is at the discretion of the applicant.
- (b) Scheduling - In order to be considered at a regularly scheduled public appearance, requests shall be filed with staff three (3) weeks prior to the meeting date for which it is to be scheduled.
- (c) Completeness - Upon receipt by staff, each request will be evaluated for sufficiency. Requests for Preliminary Consultations do not need to contain finished plans and specifications; however, there must be sufficient information submitted to adequately communicate the scope and nature of the proposed work. Those requests judged by staff to be sufficient, will be promptly scheduled for discussion before the Commission.

Section 2.2 Notice of Public Appearance

- (a) Publication - Before a Preliminary Consultation may be considered at a public appearance, the Commission must publish notice of the public appearance approximately fourteen (14) calendar days prior to the date of the public appearance in a newspaper of general circulation within the county. The notice must specify the name and address of the applicant and the address of the



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property. The notice must also specify the date, time and place of the public appearance.

- (b) Notification by Mail - Approximately fourteen (14) calendar days before the public appearance on a Preliminary Consultation, the Commission may - at its discretion - mail notice of the date, time, and place of the public appearance to the applicant, any existing LAP (if the property is located within a master plan historic district with an LAP), adjoining and confronting property owners, and other interested parties.

Section 2.3 Public Appearances

- (a) Time and Place - A public appearance before the Commission shall be held at the date, time, and place designated in the notice, except for public appearances which are continued. However, where circumstances require a change in the date, time, or place of the public appearance after notice has already been given, the Commission shall make reasonable efforts to notify the public of the change.
- (b) Public Appearance Conduct and Procedure for Preliminary Consultations
- (1) The Commission may establish, in advance or at the public appearance, reasonable time limitations and registration requirements for witnesses and speakers, so that all may have an opportunity to be heard.
 - (2) The ordinary, but not mandatory, order or procedure for the conduct of a public appearance on Preliminary Consultations is as follows:



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- a. Presentation by Commission staff.
- b. Opening statement and presentation of proposal by the applicant.
- c. Statements of other parties.
- d. Commission Guidance, as set forth in Section 2.5 below.

Section 2.4 Criteria to Guide Discussion

- (a) The Commission shall be guided in their discussion of Preliminary Consultation requests by:
 - (1) The criteria in Section 24A-8.
 - (2) The Secretary of the Interior's Standards and Guidelines for Rehabilitation.
 - (3) Pertinent guidance in applicable master plans, sector plans, or functional master plans.
 - (4) Pertinent guidance in historic site or historic district-specific studies.
This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.
- (b) Where guidance in an applicable master plan, sector plan, or functional master plan is inconsistent with the Secretary of the Interior's Standards and Guidelines for Rehabilitation, the master plan guidance shall take precedence.

Section 2.5 Commission Guidance

- (a) No vote shall be taken or formal decision made on any Preliminary Consultation.



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- (b) Each Commissioner shall have an opportunity to address a proposal made in a Preliminary Consultation and to offer their individual comments and advice.
- (c) An effort will be made to communicate the Commission's consensus on the proposal and to give the applicant clear direction in regard to filing an Historic Area Work Permit application.

MASTER PLAN DESIGNATIONS

Section 3.0 Purpose

Section 24A-5(a), empowers the Commission to research historic resources and to recommend to the Planning Board that certain of them be designated as historic sites or historic districts on the Master Plan for Historic Preservation. Under 24A-5(b), the Commission may also recommend to the Planning Board, as needed, any update to the inventory of historic resources which is contained in the Locational Atlas and Index of Historic Sites. These recommendations are, by law, advisory in nature and do not constitute administrative decisions. This regulation is established to provide a process for formulation of these advisory recommendations.

Section 3.1 Master Plan Designations

- (a) The Commission may review all nominations for designation on the Master Plan for Historic Preservation to determine that adequate research and information is included for the Commission to evaluate such nominations.
- (b) The Commission may schedule a public appearance on each proposed



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nomination. Such appearance may be scheduled during the Commission's regular agenda or at a special meeting.

- (c) If scheduled, the public appearance shall be publicized to the extent possible as follows:
- (1) Notice to affected property owners mailed at least three (3) weeks prior to the date of the appearance.
 - (2) Notice to citizens or organizations which have registered with the Commission and have requested notices of public appearances mailed at least three (3) weeks prior to the date of the appearance.
- (d) If a public appearance is scheduled, the order of business at the appearance shall be as follows:
- (1) Introduction of the nomination by staff.
 - (2) Questions by Commission of staff.
 - (3) Comment by affected property owners.
 - (4) Public comment.
 - (5) Consideration by Commission.
- (e) The conduct of business at a scheduled appearance shall reflect the following:
- (1) Preliminary action. Upon convening the meeting, the presiding officer shall give a brief explanation of the purpose of the appearance and shall cause to be presented any information or data which is required before public discussion and comments begin.



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- (2) Information from public. Each member of the public who wishes to speak should, after recognition by the presiding officer, come forth and state the following information:
 - a. Name
 - b. Home address
 - c. Person or organization he/she represents, or that he/she is speaking as a private citizen.
- (3) The Commission may establish, in advance or at the appearance, reasonable time limitations and registration requirements for speakers so that all may have an opportunity to be heard.
- (4) Questions. Any member of the Commission, upon recognition of the Chair, may briefly question any speaker. Members and speakers shall be requested not to debate over these questions.
- (f) If no public appearance is conducted on a nomination, the Commission may formulate their recommendation at a worksession, open to the public. It shall be the Chairman's discretion as to whether any public comment will be received during such a worksession.
- (g) Recommendation. At the close of either the public appearance - if one is scheduled - or a worksession, the Commission may formulate its recommendation on each proposed nomination. This recommendation may be put to a vote and decided by a majority of Commissioners. This



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recommendation will be forwarded to the Planning Board, County Executive, and County Council in a timely fashion.

- (h) Criteria. In formulating a recommendation on designation, the Commission shall utilize the criteria listed in 24A-3(b).

Section 3.2 Update of and Addition to Locational Atlas

- (a) The Commission may review all nominations for additions to the Locational Atlas and Index of Historic Sites to determine that adequate research and information is included for the Commission to evaluate such nominations.
- (b) The Commission may schedule a public appearance on each proposed nomination. Such appearance may be scheduled during the Commission's regular agenda or at a special meeting.
- (c) If scheduled, the public appearance shall be publicized to the extent possible as follows:
- (1) Notice to affected property owners mailed at least one (1) week prior to the date of the appearance.
 - (2) Notice to citizens or organizations which have registered with the Commission and have requested notices of public appearances mailed at least one (1) week prior to the date of the appearance.
- (d) If a public appearance is scheduled, the order of business at the appearance shall be as follows:
- (1) Introduction of the nomination by staff.



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- (2) Questions by Commission of staff.
 - (3) Comment by affected property owners.
 - (4) Public comment.
 - (5) Consideration by Commission.
- (e) The conduct of business at a scheduled appearance shall reflect the following:
- (1) Preliminary action. Upon convening the meeting, the presiding officer shall give a brief explanation of the purpose of the appearance and shall cause to be presented any information or data which is required before public discussion and comments begin.
 - (2) Information from public. Each member of the public who wishes to speak should, after recognition by the presiding officer, come forth and state the following information:
 - a. Name
 - b. Home address
 - c. Person or organization he/she represents, or that he/she is speaking as a private citizen.
 - (3) The Commission may establish, in advance or at the appearance, reasonable time limitations and registration requirements for speakers so that all may have an opportunity to be heard.
 - (4) Questions. Any member of the Commission, upon recognition of the Chair, may briefly question any speaker. Members and speakers shall



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be requested not to debate over these questions.

- (f) Recommendation. At the close of the public appearance, the Commission may formulate its recommendation on each proposed nomination. This recommendation may be put to a vote and decided by a majority of Commissioners. This recommendation will be forwarded to the Planning Board in a timely fashion.
- (g) Criteria. In formulating a recommendation, the Commission shall utilize the criteria listed in 24A-3(b).

Douglas M. Duncan
County Executive

6

Meeting 3-87
Approved 3-19-87

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

March 5, 1987

M I N U T E S

Commissioners

Philip Cantelon, Chairman
Adoria Brock
Nina Clarke
Steve Karr
Eileen McGuckian
Paul Mok

Guests

Robert Reinhardt-Garrett Pk.

Absent

Jack Holl
Jeff Miskin
Cyril O'Brien

Staff

Bobbi Hahn

Chairman Philip Cantelon called the meeting to order at 7:30 p.m.

I. Evaluation for Master Plan Recommendations

The first site to be evaluated by the Commission of the Samuel Williams House (#19/23) Route 118, Germantown. Mrs. Hahn, giving the staff presentation, reported that William Williams received a patent for the land on which the subject house stands in 1747. The current house was built by Zachariah Williams for his son, Samuel between 1858 and 1865. It remained in the Williams family until 1937. Its primary importance is for its association with the Williams family which were early settlers in the Germantown area. The house has been vacant for some time and has been greatly altered by its continued deterioration. Although at one time access to the house and barn were from Route 118, presently it is more accessible off Clopper Road.

MOTION: Ms. McGuckian moved that the Williams house not be recommended to the Planning Board for placement on the Master Plan for Historic Preservation because it is too altered. Mrs. Clarke seconded the motion which passed unanimously.

The second site to be evaluated was the Old Culver Farm (#31/1) at 1851 Middlebridge Drive, Layhill. The house was built between 1879 and 1894 by Catherine Whelan. Most of the numerous alterations to the house including the brick and stone facing, the enlargement of the windows on the front facade, and the addition portico with columns were done following purchase of the property by Helen Saul in 1946. The large frame barn, a picture of which is included in the research form, appears to be have been demolished.

MOTION: Mr. Karr moved that the old Culver Farm not be recommended to the Planning Board for placement on the Historic Preservation Master Plan because it is too altered. Ms. McGuckian seconded the motion which passed unanimously.

Mrs. Hahn told the Commission that pursuant to their instructions, she had secured additional information on the Richter barn located at 15000 Hoyle's Mill Road, Boyds, on the property of the Richter Farmhouse (19/15). She showed pictures of the board and batten barn plus the frame wagon shed. Mrs. Westfall, the owner of the property, indicated that the barn and other outbuildings appeared to predate the house which was constructed in 1910. It is believed that the barn was constructed by the same person who built the Leamen barn in old Germantown. That barn retains its 19th century foundation but was substantially rebuilt in the 1970s following a fire. Mrs. Westfall indicated that her family had not used the barn or other outbuildings since the early 1960s and did not have any intention of using them. Mrs. Hahn said that as a policy it was her opinion that the Commission should designate single outbuildings only when the building itself has some extraordinary merit which these did not seem to her to have. Following the Commission discussion of the barn, it was decided that Mrs. Hahn should contact Mrs. Westfall about photographically documenting the details of the barn before it deteriorated any further.

MOTION: Ms. McGuckian moved to remove from the table the consideration of the Richter Farm for Master Plan placement. The motion carried unanimously.

MOTION: Ms. McGuckian moved that the Richter Farm not be recommended for placement on the Master Plan as it does not meet any of the criteria of the ordinance. Mr. Karr seconded the motion which passed unanimously.

II. Determinations of Substantial Alteration

1. The first application to be considered was that of Robert Reinhardt and Karen Anderson for alterations to 10706 Kenilworth Avenue Garrett Park Atlas historic district. Mr. Reinhardt said

that following the February 19, 1987, meeting with the HPC at which the Commission determined that his proposed alterations would substantially alter his house, it was his understanding that his plans could go in one of two directions: either keep the main block of the house intact and build his additions to the rear, or design his additions so that the roofline of the main block of the house was straight across and reduce the size of the front gable dormer. He then presented to the Commission a new plan no. 4 which in his opinion as an architect was a plan to keep the whole house of a piece where the addition did not appear a clear and separate addition. This was a separate plan from the plan no. 3 dated 2/28/87 which had accompanied his present application.

Mr. Cantelon stated that he preferred plan no. 3 with the addition to the rear because the alterations did not intrude on the original house. Mrs. Brock echoed that statement saying that she felt that plan no. 3 clearly followed the Secretary of the Interior's Standards and Guidelines for Rehabilitation. Ms. McGuckian was in agreement with these statements. Mr. Reinhardt said that he had some problems with plan no. 3 because the addition towered over the main block of the house although it would be recessed somewhat on the lot. Mr. Karr said that he thought some of the problems that Mr. Reinhardt might be having with the plan involved the banks of windows shown on the elevation drawings. He suggested that some modification be made to those windows. Mr. Mok stated that as an architect plan no. 4 looked better but he supported plan no. 3 from the perspective of the Historic Preservation Commission because it retained the architectural integrity of the historic house.

MOTION: Ms. McGuckian moved that plan No.3 dated 2/28/87 for alterations to the house at 10706 Kennilworth Avenue, Garrett Park Atlas historic district not be considered substantial alteration because it was in keeping with the Secretary of the Interior's Guideline no. 2 and that in every elevation the original building is evident and separate from the additions. There was no requirement to change the materials on the original section of the house, however, if those materials are changed the siding should be wood. The siding on the additions is left to the discretion of the owner. The owner also has the discretion to modify the new addition and the garage after consultation with the staff. Finally, the Commission recommends that the north chimney be faced with brick. Mr. Karr seconded the motion which passed unanimously. The Commission thanked Mr. Reinhardt for his patience and his willingness to work with the Commission in finding an agreeable design for his addition.

2. The second application to be considered was that Diane and Mark Svendsen for alterations to 512 New York Avenue, Takoma Park Atlas historic district. The application was to steepen the roof pitch, revise the front dormer, add a rear dormer, extend the side bay extension, and replace one double-hung window on the north elevation with a casement window. The roof shingles are to fiberglass to match those existing on the house; roof overhangs, brackets, detailing, cedar sidewall shingles, and double-hung windows and trimmings are to match existing. Mr. Karr said that this addition was typical of the bungalow style.

MOTION: Mr. Karr moved that the application of Diane and Mark Svendsen not be considered substantial alteration to this resource in the Takoma Park historic district because it is compatible with the bungalow style. Ms. McGuckian seconded the motion which passed unanimously.

III. The Secretary of the Interior's Standards for Rehabilitation

The Commission discussed adopting the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as the Historic Preservation Commission's standards. Ms. McGuckian stated that she thought this was a good place for applicants, the HPC, and LACs to start when considering alterations and additions to historic resources. Mrs. Brock suggested that some indication should be made that these were for resources within the historic districts as well as for individual sites. The Commission had previously refrained from adopting these or any other standards because it had felt that the Commission would write its own standards. As this has not yet taken place, the Secretary of the Interior's Standards were good general standards to use. Mrs. Hahn reported that it was her understanding that the Commission may receive CLG money in the upcoming fiscal year to hire someone to compile existing design guidelines and standards.

MOTION: Ms. McGuckian moved that the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings be adopted for use by applicants, LACs, and HPC. Mrs. Brock seconded the motion which passed unanimously.

IV. Approval of the February 19, 1987, HPC minutes

MOTION: Ms. McGuckian moved that the February 19 minutes be approved as corrected. Mr. Mok seconded the motion. Those voting for the motion were Mr. Cantelon, Mr. Mok, and Ms. McGuckian. Those abstaining were Mrs. Brock, Mrs. Clarke, and Mr. Karr. The motion carried.

V. Commission Staff Items

1. The Commission embarked on a discussion of Silver Spring as a development and preservation project. Mr. Cantelon introduced the subject with a chronology of action to date and Mrs. Hahn outlined the issues to be considered. Lloyd Moore, a developer who proposes to construct a major development which would include the Silver Spring theatre and shopping center, has been invited to make a presentation to the March 19 HPC meeting. In the discussion which followed several Commissioners voiced the opinion that the Commission should take a responsible road between the conflicting views of the development and preservation communities. Richard Striner of the Art Deco Society will be asked to address the Commission at the subsequent meeting. Mrs. Hahn stressed that the March 19th appearance by Mr. Moore was at the Commission's invitation and no action is being sought or should be taken by the Commission at that time. Mr. Moore has invited the Commissioners to take a tour of the Silver Theatre on Wednesday, March 18th. After some discussion the Commission decided that 6:30 p.m. on March 17th would be more convenient as it would be just prior to an 8:00 p.m. lecture by Richard Longstreth at Grace Church, on shopping center architecture.

The Commission then discussed the possibility of hiring someone to do a National Register nomination form for the theatre and shopping center and for the proposed historic district. There was some discussions about the NR eligibility of the entire block in addition to the shopping center and theatre.

MOTION: Ms. McGuckian moved that a maximum of \$500 be spent to hire someone to produce the National Register nomination for the Silver Theatre and Shopping Center. Mr. Mok seconded the motion which passed unanimously.

MOTION: Ms. McGuckian moved that if at all possible the Commission should proceed to consolidate existing research on the rest of the proposed historic district and produce a more comprehensive Maryland Historical Trust inventory form. Mr. Mok seconded the motion which passed unanimously.

2. Mrs. Hahn showed the Commission the site plan for a nursing home which was proposed adjacent to Master Plan Historic site # 34/8, the Julius Marlow house on Musgrove Road off Route 29. After carefully studying the proposal the Commission recommended that the developer be required to install adequate mature evergreen and tree buffering between the new building and the historic site.

3. Mrs. Hahn asked the Commission to consider adopting a redefinition of substantial alteration more in line with the

criteria for the historic area work permit. The Commission agreed that this would be acceptable and asked Mrs. Hahn to draft such a definition.

4. Mrs. Hahn reminded the Commission that they should be careful to avoid representing the Commission independently. She asked them to coordinate any presentations on behalf of the Commission with her office.

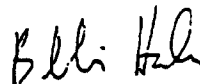
5. Dr. & Mrs. Bullard, owners of Master Plan Historic Site Clifton, 17107 New Hampshire Avenue, Ashton, have invited the Commission to tour the house on Sunday, March 15, at 4:00 p.m. This property is close to a proposed rezoning application for a 700 acre tract from R-2 zone to C-1 zone. Several commissioners indicated their interest in touring Clifton.

6. Mrs. Hahn asked if the Commission wished to support a proposal by the Montgomery County Planning Board to alter legislation covering permit requirements for removal of trees. The amendment to the existing law was to prohibit stripping areas and clearing them of all foliage prior to the approval of a plan of subdivision or site plan. The Commission supported this legislation.

7. Mrs. Hahn stated that she had received calls from several residents of Spencerville concerning road improvements to Spencerville Road which they felt would affect the Atlas historic district. Mrs. Hahn asked if the Commission would like to evaluate the Spencerville Historic district at this time and comment on the proposed widening. The Commission indicated that it would.

8. Mr. Cantelon asked staff to submit an update on the attendance record to the Commissioners. There being no further business, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,



Bobbi Hahn

7.

The Secretary of the Interior is responsible for establishing professional standards and providing advice on the preservation and protection of all cultural resources listed on or eligible for the National Register of Historic Places.

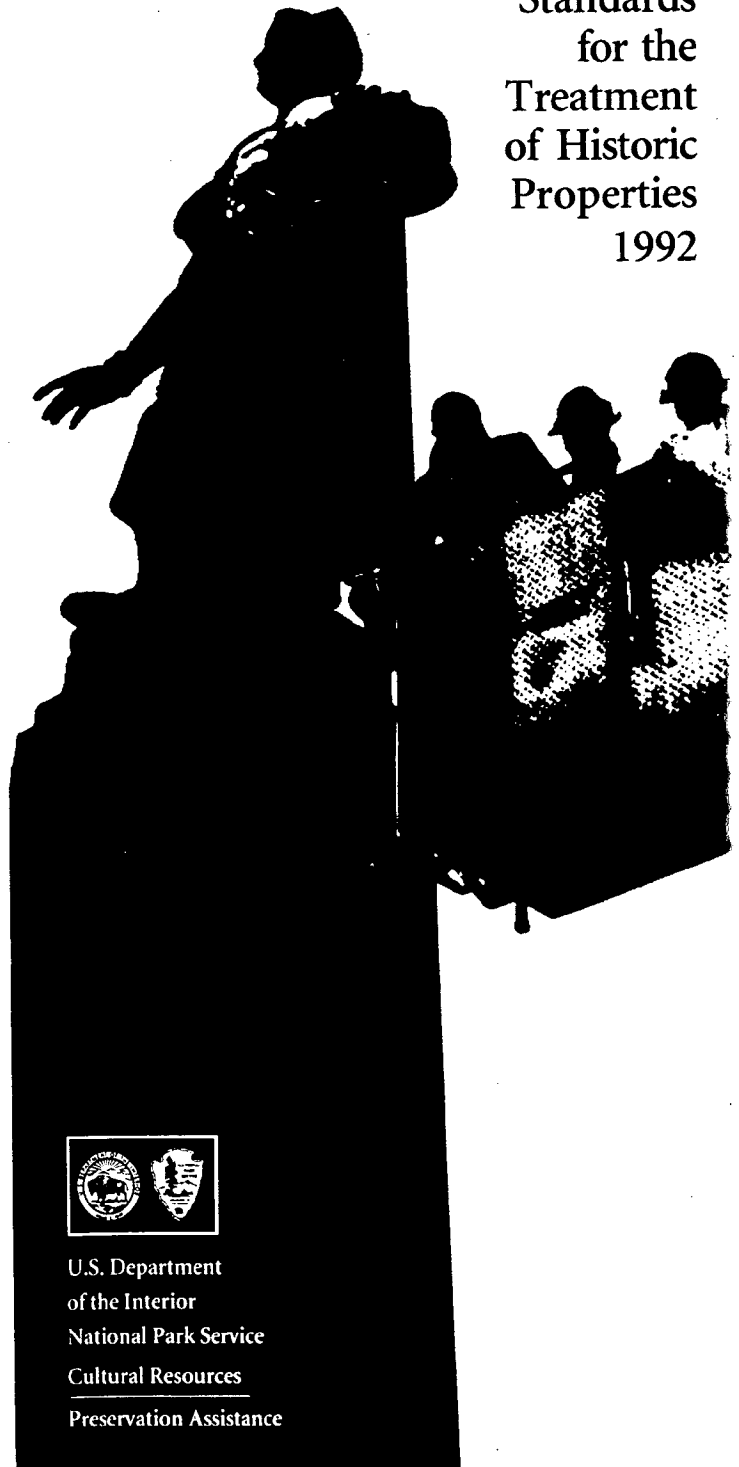


*Mt. Auburn Cemetery, Cambridge, Massachusetts.
Photo: Charles A. Birnbaum.*

The Secretary of the Interior's Standards for the Treatment of Historic Properties, initially developed in 1975 and revised in 1983 and 1992, are intended to be applied to a wide variety of resource types, including buildings, sites, structures, objects, and districts. The Standards are not codified as program regulations and may be used as a guide by anyone planning work on historic properties. *Note: this 1992 revision of the Standards replaces the Federal Register Notice, Vol. 48, N. 190, September, 1983.*

A slightly modified version of the Standards for Rehabilitation was codified in 36 CFR 67, and focuses on "certified historic structures" as defined by the IRS Code of 1986. These regulations are used in the Preservation Tax Incentives program. The 1992 Standards in this leaflet do not replace the Tax Incentives regulations; 37 CFR 67 should continue to be used when property owners are seeking certification for Federal tax benefits.

The Secretary of the Interior's Standards for the Treatment of Historic Properties 1992



U.S. Department
of the Interior
National Park Service
Cultural Resources
Preservation Assistance

TREATMENTS

There are Standards for four distinct, but inter-related, approaches to the treatment of historic properties — Preservation, Rehabilitation, Restoration, and Reconstruction. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. (Protection and Stabilization have now been consolidated under this treatment.) Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character. Restoration is undertaken to depict a property at a particular period of

time in its history, while removing evidence of other periods. Reconstruction re-creates vanished or non-surviving portions of a property for interpretive purposes.

In summary, the simplification and sharpened focus of these revised sets of treatment Standards is intended to assist users in making sound historic preservation decisions. Choosing an appropriate treatment for a historic property, whether preservation, rehabilitation, restoration, or reconstruction is critical. This choice always depends on a variety of factors, including the property's historical significance, physical condition, proposed use, and intended interpretation.



Alamo Square Historic District, San Francisco, California. Photo: Charles A. Birnbaum.

PRESERVATION

is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

STANDARDS FOR PRESERVATION

1. A property shall be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property shall be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property shall be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. The existing condition of historic features shall be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material shall match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

PRESERVATION AS A TREATMENT.

When the property's distinctive materials, features, and spaces are essentially intact and thus convey the historic significance without extensive repair or replacement; when depiction at a particular period of time is not appropriate; and when a continuing or new use does not require additions or extensive alterations, Preservation may be considered as a treatment. Prior to undertaking work, a documentation plan for Preservation should be developed.

REHABILITATION

is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

STANDARDS FOR REHABILITATION

1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match

REHABILITATION AS A TREATMENT.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment. Prior to undertaking work, a documentation plan for Rehabilitation should be developed.

the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible.

Treatments that cause damage to historic materials shall not be used.

8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

RESTORATION

is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

STANDARDS FOR RESTORATION

1. A property shall be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period shall be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period shall not be undertaken.
3. Each property shall be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

RESTORATION AS A TREATMENT.

When the property's design, architectural, or historical significance during a particular period of time outweighs the potential loss of extant materials, features, spaces, and finishes that characterize other historical periods; when there is substantial physical and documentary evidence for the work; and when contemporary alterations and additions are not planned, Restoration may be considered as a treatment. Prior to undertaking work, a particular period of time, i.e., the restoration period, should be selected and justified, and a documentation plan for Restoration developed.

Victorian wood-frame house. Work in progress. National Park Service files.

4. Materials, features, spaces, and finishes that characterize other historical periods shall be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period shall be preserved.
6. Deteriorated features from the restoration period shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period shall be substantiated by documentary and physical evidence. A false sense of history shall not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
9. Archeological resources affected by a project shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
10. Designs that were never executed historically shall not be constructed.



RECONSTRUCTION

is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

STANDARDS FOR RECONSTRUCTION

1. Reconstruction shall be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.

2. Reconstruction of a landscape, building, structure, or object in its historic location shall be preceded by a thorough archaeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.

RECONSTRUCTION AS A TREATMENT.

When a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction, Reconstruction may be considered as a treatment. Prior to undertaking work, a documentation plan for Reconstruction should be developed.

3. Reconstruction shall include measures to preserve any remaining historic materials, features, and spatial relationships.

4. Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property shall re-create the appearance of the non-surviving historic property in materials, design, color, and texture.

5. A reconstruction shall be clearly identified as a contemporary re-creation.

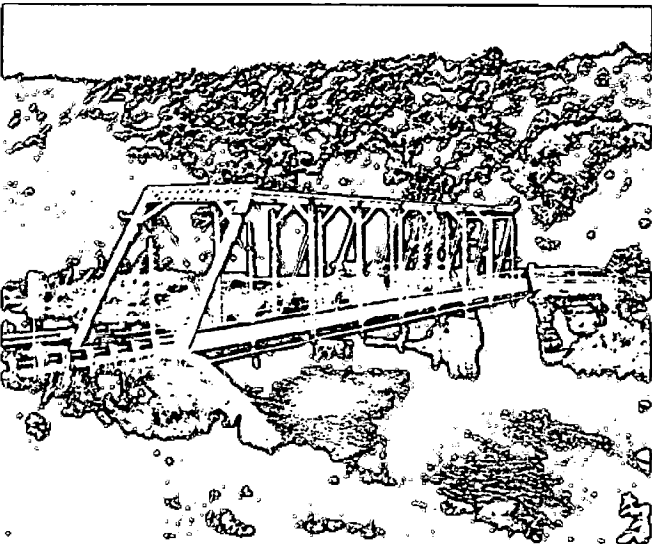
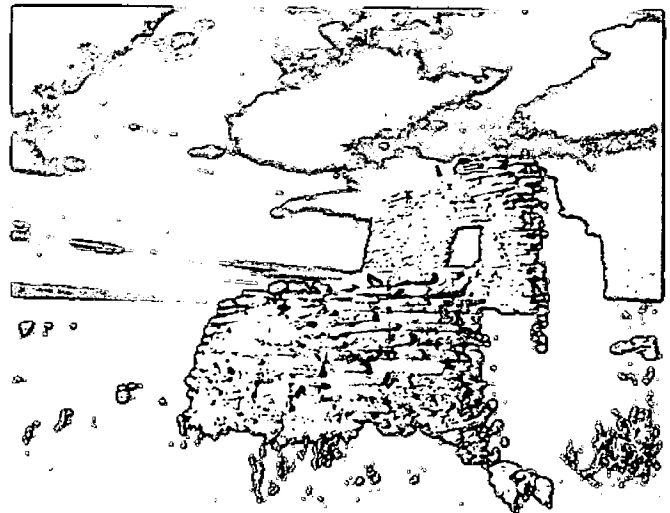
6. Designs that were never executed historically shall not be constructed.

NATIONAL REGISTER BULLETIN

Technical information on comprehensive planning, survey of cultural resources, and registration in the National Register of Historic Places.

U.S. Department of the Interior
National Park Service
Interagency Resources Division

How to Apply the National Register Criteria for Evaluation



I. INTRODUCTION

The National Register is the nation's inventory of historic places and the national repository of documentation on the variety of historic property types, significance, abundance, condition, ownership, needs, and other information. It is the beginning of a national census of historic properties. The National Register Criteria for Evaluation define the scope of the National Register of Historic Places; they identify the range of resources and kinds of significance that will qualify properties for listing in the National Register. The Criteria are written broadly to recognize the wide variety of historic properties associated with our prehistory and history.

Decisions concerning the significance, historic integrity, documentation, and treatment of properties can be made reliably only when the resource is evaluated within its historic context. The historic context serves as the framework within which the National Register Criteria are applied to specific properties or property types. (See *Part V* for a brief discussion of historic contexts.

Detailed guidance for developing and applying historic contexts is contained in *National Register Bulletin 16: Guidelines for Completing National Register of Historic Places Registration Forms.*)

The guidelines provided here are intended to help you understand the National Park Service's use of the Criteria for Evaluation and how they apply to properties under consideration for listing in the National Register. Examples are provided throughout, illustrating specific circumstances in which properties are and are not eligible for the National Register. This bulletin should be used by anyone who is:

- Preparing to nominate a property to the National Register,
- Seeking a determination of a property's eligibility,
- Evaluating the comparable significance of a property to those listed in the National Register, or
- Expecting to nominate a property as a National Historic Landmark

in addition to nominating it to the National Register.

This bulletin also contains a summary of the National Historic Landmarks Criteria for Evaluation (see *Part IX*). National Historic Landmarks are those districts, sites, buildings, structures, and objects designated by the Secretary of the Interior as possessing national significance in American history, architecture, archeology, engineering, and culture. Although National Register documentation includes a recommendation about whether a property is significant at the local, State, or national level, the only official designation of national significance is as a result of National Historic Landmark designation by the Secretary of the Interior, National Monument designation by the President of the United States, or establishment as a unit of the National Park System by Congress. These properties are automatically listed in the National Register.

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III. HOW TO USE THIS BULLETIN TO EVALUATE A PROPERTY

For a property to qualify for the National Register it must meet one of the National Register Criteria for Evaluation by:

- Being associated with an important historic context *and*
- Retaining historic integrity of those features necessary to convey its significance.

Information about the property based on physical examination and documentary research is necessary to evaluate a property's eligibility for the National Register. Evaluation of a property is most efficiently made when following this sequence:

1. **Categorize the property** (Part IV). A property must be classified as a district, site, building, structure, or object for inclusion in the National Register.

2. **Determine which prehistoric or historic context(s) the property represents** (Part V). A property must possess significance in American history, architecture, archeology, engineering, or culture when evaluated within the historic context of a relevant geographic area.

3. **Determine whether the property is significant under the National Register Criteria** (Part VI). This is done by identifying the links to important events or persons, design or construction features, or information potential that make the property important.

4. **Determine if the property represents a type usually excluded from the National Register**

(Part VII). If so, determine if it meets any of the Criteria Considerations.

5. **Determine whether the property retains integrity** (Part VIII). Evaluate the aspects of location, design, setting, workmanship, materials, feeling, and association that the property must retain to convey its historic significance.

If, after completing these steps, the property appears to qualify for the National Register, the next step is to prepare a written nomination. (Refer to *National Register Bulletin 16: Guidelines for Completing the National Register of Historic Places Registration Forms.*)

IV. HOW TO DEFINE CATEGORIES OF HISTORIC PROPERTIES

The National Register of Historic Places includes significant properties, classified as buildings, sites, districts, structures, or objects. It is not used to list intangible values, except in so far as they are associated with or reflected by historic properties. The National Register does not list cultural events, or skilled or talented individuals, as is done in some countries. Rather, the National Register is oriented to recognizing physically concrete properties that are relatively fixed in location.

For purposes of National Register nominations, small groups of properties are listed under a single category, using the primary resource. For example, a city hall and fountain would be categorized by the city hall (building), a farmhouse with two out-buildings would be categorized by the farmhouse (building), and a city park with a gazebo would be categorized by the park (site). Properties with large acreage or a number of resources are usually considered districts. Common sense and reason should dictate the selection of categories.

BUILDING

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Buildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must

be considered, and its significant features must be identified.

If a building has lost its basic structural elements, it is usually considered a "ruin" and is categorized as a site.

Examples of buildings include:

*administration building
carriage house
church
city or town hall
courthouse
detached kitchen, barn, or privy
dormitory
fort
garage
hotel
house
library
mill building
office building
post office
school
shed
social hall
stable
store
theater
train station*

STRUCTURE

The term "structure" is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter.

Structures nominated to the National Register must include all of the extant basic structural elements. Parts of structures can not be considered eligible if the whole structure remains. For example, a truss bridge is composed of the metal or wooden truss, the abutments, and supporting piers, all of which, if extant, must be

included when considering the property for eligibility.

If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a "ruin" and is categorized as a site.

Examples of structures include:

*aircraft
apiary
automobile
bandstand
boats and ships
bridge
cairn
canal
carousel
corncrib
dam
earthwork
fence
gazebo
grain elevator
highway
irrigation system
kiln
lighthouse
railroad grade
silo
trolley car
tunnel
windmill*

OBJECT

The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Small objects not designed for a specific location are normally not eligible. Such works include transportable sculpture, furniture, and other decorative arts that, unlike a fixed outdoor sculpture, do not possess association with a specific place.

Objects should be in a setting appropriate to their significant historic use, roles, or character. Objects relocated to a museum are inappropriate for listing in the National Register.

Examples of objects include:

*boundary marker
fountain
milepost
monument
sculpture
statuary*

SITE

A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events. However, when the location of a prehistoric or historic event cannot be conclusively determined because no other cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate.

A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of

the natural feature is well documented through scholarly research. Generally, though, the National Register excludes from the definition of "site" natural waterways or bodies of water that served as determinants in the location of communities or were significant in the locality's subsequent economic development. While they may have been "avenues of exploration," the features most appropriate to document this significance are the properties built in association with the waterways.

Examples of sites include:

*battlefield
campsite
cemeteries significant for information potential or historic association
ceremonial site
designed landscape
habitation site
natural feature (such as a rock formation) having cultural significance
petroglyph
rock carving
rock shelter
ruins of a building or structure
shipwreck
trail
village site*

DISTRICT

A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

CONCENTRATION, LINKAGE, & CONTINUITY OF FEATURES

A district derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. For example, a district can reflect one principal activity, such as a mill or a ranch, or it can encompass several interrelated activities, such as an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A district can also be a grouping of archeological sites related primarily by their common components; these types of districts

often will not visually represent a specific historic environment.

SIGNIFICANCE

A district must be significant, as well as being an identifiable entity. It must be important for historical, architectural, archeological, engineering, or cultural values. Therefore, districts that are significant will usually meet the last portion of Criterion C plus Criterion A, Criterion B, other portions of Criterion C, or Criterion D.

TYPES OF FEATURES

A district can comprise both features that lack individual distinction and individually distinctive features that serve as focal points. It may even be considered eligible if all of the components lack individual distinction, provided that the grouping achieves significance as a whole within its historic context. In either case, the majority of the components that add to the district's historic character, even if they are individually undistinguished, must possess integrity, as must the district as a whole.

A district can contain buildings, structures, sites, objects, or open spaces that do not contribute to the significance of the district. The number of noncontributing properties a district can contain yet still convey its sense of time and place and historical development depends on how these properties affect the district's integrity. In archeological districts, the primary factor to be considered is the effect of any disturbances on the information potential of the district as a whole.

VIII. HOW TO EVALUATE THE INTEGRITY OF A PROPERTY

INTRODUCTION

Integrity is the ability of a property to convey its significance. To be listed in the National Register of Historic Places, a property must not only be shown to be significant under the National Register criteria, but it also must have integrity. The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance.

Historic properties either retain integrity (that is, convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity.

To retain historic integrity a property will always possess several, and usually most, of the aspects. The retention of specific aspects of integrity is paramount for a property to convey its significance. Determining *which* of these aspects are most important to a particular property requires knowing why, where, and when the property is significant. The following sections define the seven aspects and explain how they combine to produce integrity.

SEVEN ASPECTS OF INTEGRITY

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association

UNDERSTANDING THE ASPECTS OF INTEGRITY

LOCATION

Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in rare cases, the relationship between a property and its historic associations is destroyed if the property is moved. (See Criteria Consideration B in *Part VII: How to Apply the Criteria Considerations*, for the conditions under which a moved property can be eligible.)

DESIGN

Design is the combination of elements that create the form, plan, space, structure, and style of a property. It results from conscious decisions made during the original conception and planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture, and landscape architecture. Design includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials.

A property's design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and colors of surface materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in a designed landscape.

Design can also apply to districts, whether they are important primarily for historic association, architectural value, information potential, or a combination thereof. For districts significant primarily for historic association or architectural value, design concerns more than just the individual buildings or structures located within the boundaries. It also applies to the way in which buildings, sites, or structures are related: for example, spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archeological sites.

SETTING

Setting is the physical environment of a historic property.

Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the *character* of the place in which the property played its historical role. It involves *how*, not just *where*, the property is situated and its relationship to surrounding features and open space.

Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve. In addition, the way in which a property is positioned in its environment can reflect the designer's concept of nature and aesthetic preferences.

The physical features that constitute the setting of a historic property can be either natural or manmade, including such elements as:

- Topographic features (a gorge or the crest of a hill);
- Vegetation;
- Simple manmade features (paths or fences); and
- Relationships between buildings and other features or open space.

These features and their relationships should be examined not only within the exact boundaries of the property, but also between the property and its *surroundings*. This is particularly important for districts.

MATERIALS

Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The choice and combination of materials reveals the preferences of those who created the property and indicate the availability of particular types of materials and technologies. Indigenous materials are often the focus of regional building traditions and thereby help define an area's sense of time and place.

A property must retain the key exterior materials dating from the period of its historic significance. If the property has been rehabilitated, the historic materials and significant features must have been preserved. The property must also be an actual historic resource, not a recreation; a

recent structure fabricated to look historic is not eligible. Likewise, a property whose historic features and materials have been lost and then reconstructed is usually not eligible. (See Criteria Consideration E in *Part VII: How to Apply the Criteria Considerations* for the conditions under which a reconstructed property can be eligible.)

WORKMANSHIP

Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. It is the evidence of artisans' labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole or to its individual components. It can be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. It can be based on common traditions or innovative period techniques.

Workmanship is important because it can furnish evidence of the technology of a craft, illustrate the aesthetic principles of a historic or prehistoric period, and reveal individual, local, regional, or national applications of both technological practices and aesthetic principles. Examples of workmanship in historic buildings include tooling, carving, painting, graining, turning, and joinery. Examples of workmanship in prehistoric contexts include Paleo-Indian clovis projectile points, Archaic period beveled adzes, Hopewellian birdstone pipes, copper earspools and worked bone pendants, and Iroquoian effigy pipes.

FEELING

Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district retaining original design, materials, workmanship, and setting will relate the feeling of agricultural life in the 19th century. A grouping of prehistoric petroglyphs, unmarred by graffiti and intrusions and located on its original isolated bluff, can evoke a sense of tribal spiritual life.

ASSOCIATION

Association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character. For example, a Revolutionary War battlefield whose natural and manmade elements have remained intact since the 18th century will retain its quality of association with the battle.

Because feeling and association depend on individual perceptions, their retention *alone* is never sufficient to support eligibility of a property for the National Register.

ASSESSING INTEGRITY IN PROPERTIES

Integrity is based on significance: why, where, and when a property is important. Only after significance is fully established can you proceed to the issue of integrity.

The steps in assessing integrity are:

- Define the essential physical features that must be present for a property to represent its significance.
- Determine whether the essential physical features are visible enough to convey their significance.
- Determine whether the property needs to be compared with similar properties. And,
- Determine, based on the significance and essential physical features, which aspects of integrity are particularly vital to the property being nominated and if they are present.

Ultimately, the question of integrity is answered by whether or not the property retains the identity for which it is significant.

DEFINING THE ESSENTIAL PHYSICAL FEATURES

All properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics. The property must retain, however, the essential physical features that enable it to convey its historic identity. The essential physical features are those features that define both *why* a property is significant (Applicable Criteria and Areas of Significance) and *when* it was significant (Periods of Significance). They are the features without which a property can no longer be identified as, for instance, a late 19th century dairy barn or an early 20th century commercial district.

CRITERIA A AND B

A property that is significant for its historic association is eligible if it retains the essential physical features that made up its character or appearance during the period of its association with the important event, historical pattern, or person(s). If the property is a site (such as a treaty site) where there are no material cultural remains, the setting must be intact.

Archeological sites eligible under Criteria A and B must be in overall good condition with excellent preservation of features, artifacts, and spatial relationships to the extent that these remains are able to convey important associations with events or persons.

CRITERION C

A property important for illustrating a particular architectural style or construction technique must retain most of the physical features that constitute that style or technique. A property that has lost some historic materials or details can be eligible *if* it retains the majority of the features that illustrate its style in terms of the massing, spatial relationships, proportion, pattern of windows and doors, texture of materials, and ornamentation. The property is not eligible, however, if it retains some basic features conveying massing but has lost the majority of the features that once characterized its style.

Archeological sites eligible under Criterion C must be in overall good

condition with excellent preservation of features, artifacts, and spatial relationships to the extent that these remains are able to illustrate a site type, time period, method of construction, or work of a master.

CRITERION D

For properties eligible under Criterion D, including archeological sites and standing structures studied for their information potential, less attention is given to their overall condition, than if they were being considered under Criteria A, B, or C. Archeological sites, in particular, do not exist today exactly as they were formed. There are always cultural and natural processes that alter the deposited materials and their spatial relationships.

For properties eligible under Criterion D, integrity is based upon the property's potential to yield specific data that addresses important research questions, such as those identified in the historic context documentation in the Statewide Comprehensive Preservation Plan or in the research design for projects meeting the *Secretary of the Interior's Standards for Archeological Documentation*.

INTERIORS

Some historic buildings are virtually defined by their exteriors, and their contribution to the built environment can be appreciated even if their interiors are not accessible. Examples of this would include early examples of steel-framed skyscraper construction. The great advance in American technology and engineering made by these buildings can be read from the outside. The change in American popular taste during the 19th century, from the symmetry and simplicity of architectural styles based on classical precedents, to the expressions of High Victorian styles, with their combination of textures, colors, and asymmetrical forms, is readily apparent from the exteriors of these buildings.

Other buildings "are" interiors. The Cleveland Arcade, that soaring 19th century glass-covered shopping area, can only be appreciated from the inside. Other buildings in this category would be the great covered train sheds of the 19th century.

In some cases the loss of an interior will disqualify properties from listing

in the National Register—a historic concert hall noted for the beauty of its auditorium and its fine acoustic qualities would be the type of property that if it were to lose its interior, it would lose its value as a historic resource. In other cases, the overarching significance of a property's exterior can overcome the adverse effect of the loss of an interior.

In borderline cases particular attention is paid to the significance of the property and the remaining historic features.

HISTORIC DISTRICTS

For a district to retain integrity as a whole, the majority of the components that make up the district's historic character must possess integrity even if they are individually undistinguished. In addition, the relationships among the district's components must be substantially unchanged since the period of significance.

When evaluating the impact of intrusions upon the district's integrity, take into consideration the relative number, size, scale, design, and location of the components that do not contribute to the significance. A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.

A component of a district cannot contribute to the significance if:

- it has been substantially altered since the period of the district's significance *or*
- it does not share the historic associations of the district.

VISIBILITY OF PHYSICAL FEATURES

Properties eligible under Criteria A, B, and C must not only retain their essential physical features, but the features must be visible enough to convey their significance. This means that even if a property is physically intact, its integrity is questionable if its significant features are concealed under modern construction. Archeological properties are often the exception to this; by nature they usually do not require visible features to convey their significance.

NON-HISTORIC EXTERIORS

If the historic *exterior* building material is covered by non-historic material (such as modern siding), the property can still be eligible if the significant form, features, and detailing are not obscured. If a property's exterior is covered by a non-historic false-front or curtain wall, the property will not qualify under Criteria A, B, or C, because it does not retain the visual quality necessary to convey historic or architectural significance. Such a property also cannot be considered a contributing element in a historic district, because it does not add to the district's sense of time and place. If the false front, curtain wall, or non-historic siding is removed and the original building materials are intact, then the property's integrity can be re-evaluated.

PROPERTY CONTAINED WITHIN ANOTHER PROPERTY

Some properties contain an earlier structure that formed the nucleus for later construction. The exterior property, if not eligible in its own right, can qualify on the basis of the interior property *only if* the interior property can yield significant information about a specific construction technique or material, such as rammed earth or tabby. The interior property *cannot* be used as the basis for eligibility if it has been so altered that it no longer contains the features that could provide important information, or if the presence of important information cannot be demonstrated.

SUNKEN VESSELS

A sunken vessel can be eligible under Criterion C as embodying the distinctive characteristics of a method of construction if it is structurally intact. A *deteriorated* sunken vessel, no longer structurally intact, can be eligible under Criterion D if the remains of either the vessel or its contents are capable of yielding significant information. For further information, refer to *National Register Bulletin 20: Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places*.

NATURAL FEATURES

A natural feature that is associated with a historic event or trend, such as a rock formation that served as a trail marker during westward expansion, must retain its historic appearance, unobscured by modern construction or landfill. Otherwise it is not eligible, even though it remains intact.

COMPARING SIMILAR PROPERTIES

For some properties, comparison with similar properties should be considered during the evaluation of integrity. Such comparison may be important in deciding what physical features are essential to properties of that type. In instances where it has not been determined what physical features a property must possess in order for it to reflect the significance of a historic context, comparison with similar properties should be undertaken during the evaluation of integrity. This situation arises when scholarly work has not been done on a particular property type or when surviving examples of a property type are extremely rare. (See *Comparing Related Properties in Part V: How to Evaluate a Property within its Historic Context*.)

RARE EXAMPLES OF A PROPERTY TYPE

Comparative information is particularly important to consider when evaluating the integrity of a property that is a rare surviving example of its type. The property must have the essential physical features that enable it to convey its historic character or information. The rarity and poor condition, however, of other extant examples of the type may justify accepting a greater degree of alteration or fewer features, provided that enough of the property survives for it to be a significant resource.

Eligible

- A one-room schoolhouse that has had all original exterior siding replaced and a replacement roof that does not exactly replicate the original roof profile can be eligible if the other extant rare examples have received an even greater degree of alteration, such as the subdivision of the original one-room plan.

Not Eligible

- A mill site contains information on how site patterning reflects historic functional requirements, but parts of the site have been destroyed. The site is not eligible for its information potential if a comparison of other mill sites reveals more intact properties with complete information.

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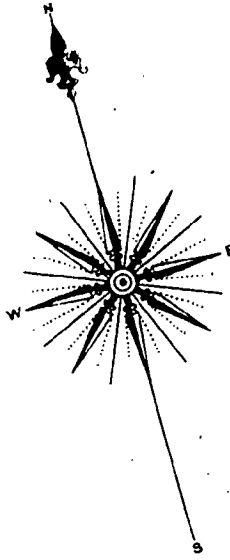
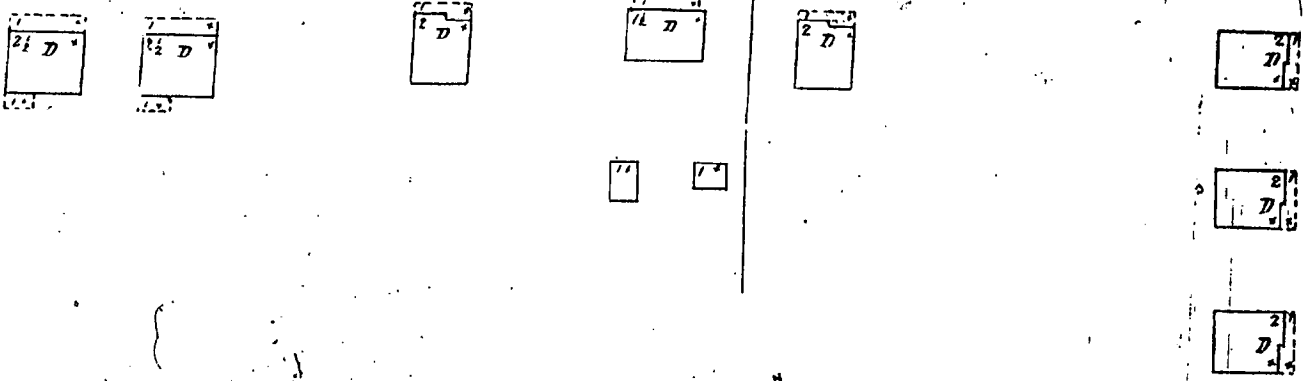
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	1924		yes	10	
Hancock	1908		yes	10	
	1915		yes	10	
	1923		yes	10	
	1923 [rev. 1934]		no	10	
Havre De Grace	1885		yes	10	
	1894		yes	10	
	1899		yes	10	
	1904		yes	10	
	1910		yes	10	
	1921		yes	10	
	1930		yes	10	
1930 [rev. 1962]		no	10		
Hillandale Fire District	1950	3	no	14	
" " "	1950	3	no	16	
Hurlock	1914		yes	10	
	1923		yes	10	
	1923 [rev. 1932]		no	10	
Hyattsville	1906		no	10	
	1911		yes	10	
	1922		yes	10	
	1933		no	10	
	1939	2	no	14	
	1939	2	no	16	
1939	2	no	16		
* Kensington	* 1904		yes	10	
	* 1911		yes	10	
	* 1924		yes	10	
	1924 [rev. 1933]		no	10	
	1950	3	no	14	
	1950	3	no	16	
Kensington Fire District	1950	3	no	14	
" " "	1950	3	no	16	
Kitzmillerville	1912		no	10	
	1923		no	10	
La Plata	1924		yes	10	
	1924 [rev. 1933]		no	10	
Landover	1939	4	no	16	

OCT. 1904

106 107 108 109 110 111 112 113

WARNER

118 119 120 121 122 123 124 125 126



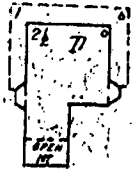
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21 22 23 24 25 26 27 28

BALTIMORE

36 37 38 39 40 41 42 43 44



W. HILL & CO.
100 N. BROAD ST.
PHILADELPHIA, PA.

W. HILL & CO.
100 N. BROAD ST.
PHILADELPHIA, PA.

W. HILL & CO.
100 N. BROAD ST.
PHILADELPHIA, PA.

Scale of Feet

0 10 20 30 40 50 60 70 80 90 100

45'
310
309
308
307
306
305
304
303
60'
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1911

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WARNER

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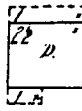
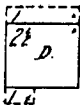
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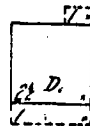
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BALTIMORE

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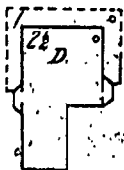
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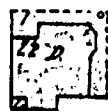
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LEWIS W. TRAY
SOLE ENGR.
PUMP.



11
(5)



WING MILLER
TRAY

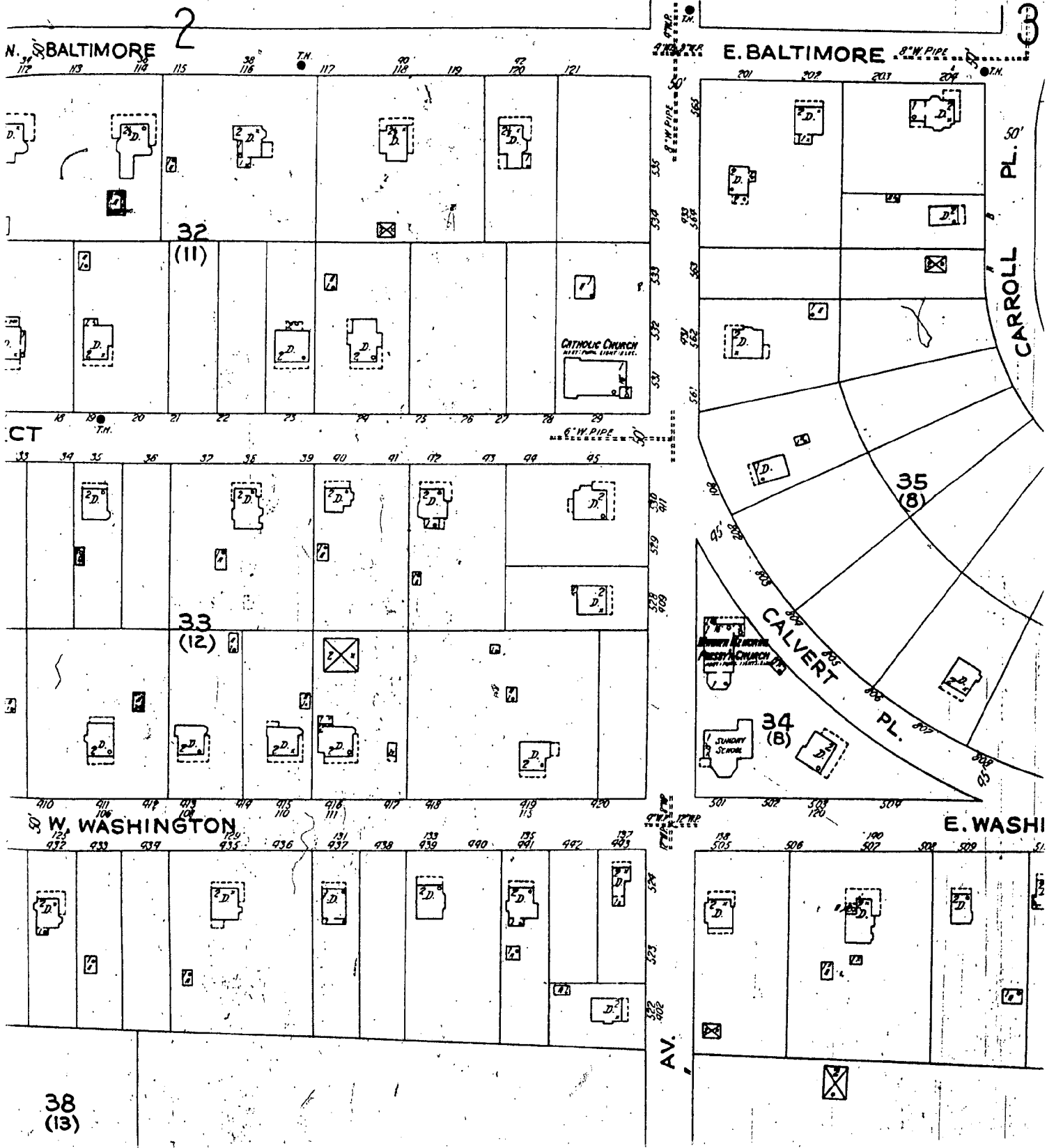


WING MILLER
TRAY



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1924



N. BALTIMORE

E. BALTIMORE

CT

W WASHINGTON

E. WASHI

AV.

CARROLL PL.

CALVERT PL.

32 (11)

33 (12)

35 (8)

34 (8)

38 (13)

CATHOLIC CHURCH

LAUNDRY STORE

1958

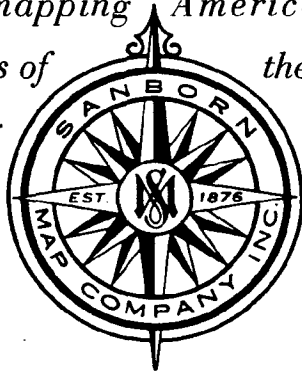


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WARNER
FREEMAN PL.
BALTIMORE
PROSPECT
WASHINGTON
CONNECTICUT AV.
ARMORY AV.
CONNECTICUT AV.
E BALTIMORE
E WASHINGTON

CHARTS *of* CHANGE

D.A. Sanborn began mapping America's cities building by building for the purposes of the fire-insurance industry. More than a century later, his company's œuvre yields the broad themes and the details of a nation's urbanization.



By KIM KEISTER

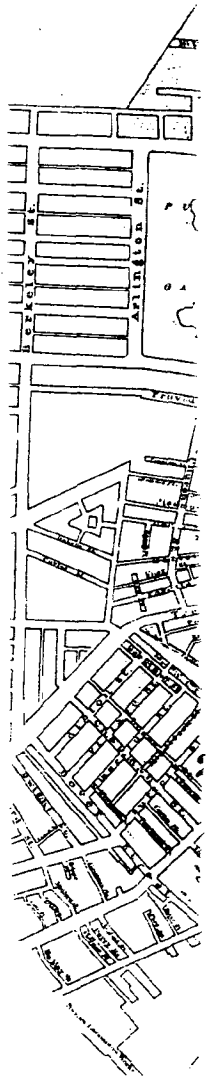
With the ubiquity of an urban deity, the Sanborn Map Company watched over America's transformation from an agrarian society into a nation of cities. Exploring and methodically revisiting more than 12,000 mature municipalities and towns freshly carved into the landscape, the company's legion of surveyors documented in meticulous detail the structural evidence of urbanization—building by building, block by block, neighborhood by neighborhood, community by community. Sanborn cartographers, like the mapmakers who charted the far-reaching expeditions of the age of discovery, translated the discoveries of the firm's urban explorers into graphic records. The late-nineteenth-century collaboration of surveyor and cartographer produced surprising artistry encoded with the dimensions, materials, uses, and occupancy of the built environment.

Ubiquity implies omniscience, and indeed, at one time, fire-insurance companies, which provided the sole rationale for producing the maps, relied upon them with almost blind faith. "Our maps," the Sanborn Company declared in the introduction to its 1905 *Surveyor's Manual for the Exclusive Use and Guidance of Employees*, "are made for the purpose of showing at a glance the character of the fire-insurance risks of all buildings. [Fire-insurance functionaries] depend on the accuracy of our publications . . . incurring large finan-

cial risks without making personal examinations of the properties."

But although newer ratings systems and technology have made Sanborn maps obsolete within the fire-insurance industry, Sanborn maps continue to impart knowledge about the urban environment's history to those who weren't alive to witness it. Historians contemplate the maps for the broad themes of the modern American city, from its birth shortly after the Civil War to its maturity on the eve of the Second World War. Preservationists learn in the maps' fine detail the physical evolution of buildings and neighborhoods. Stated simply, the Sanborn maps survive as a guide to American urbanization that is unrivaled by other cartography and, for that matter, by few documentary resources of any kind.

The largest public collection of Sanborn fire-insurance maps occupies a vast windowless chamber in the basement quarters of the Geography and Map Division of the Library of Congress in Washington, D.C. Filling endless rows of metal shelving, sets of maps are organized alphabetically by state, and within each state, alphabetically by municipality, and within each municipality, by year. The collection includes the Sanborn Company's copyright deposits between 1884 and the 1930s and a 1967 transfer of maps from the U.S. Bureau of the Census corresponding to the



READING THE MAPS

A Sanborn map detail interpreted with a key provides a wealth of information about the YMCA building at 27 and 29 (renumbered since the previous map as indicated by the numerals in parentheses) West Main Street in downtown Staunton, Virginia, in 1909. A circa 1890 illustration of the YMCA building provides graphic translation of the Sanborn map. The block on which the YMCA is located is elevated twenty-six feet as indicated by the figure in the circle at the bottom left. The street is forty feet wide as indicated by the figure at the left, where the solid circle and note indicate a double fire hydrant and fire-alarm box. Water is supplied to the buildings through private, four-inch pipes, as indicated by the note.

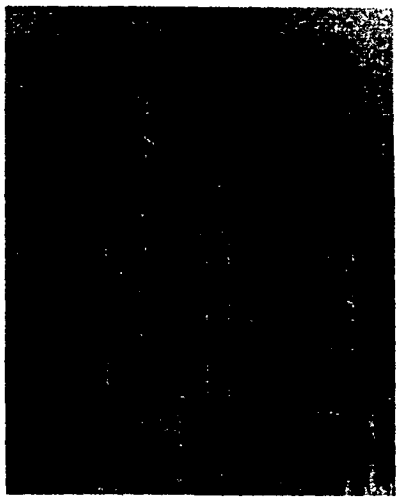
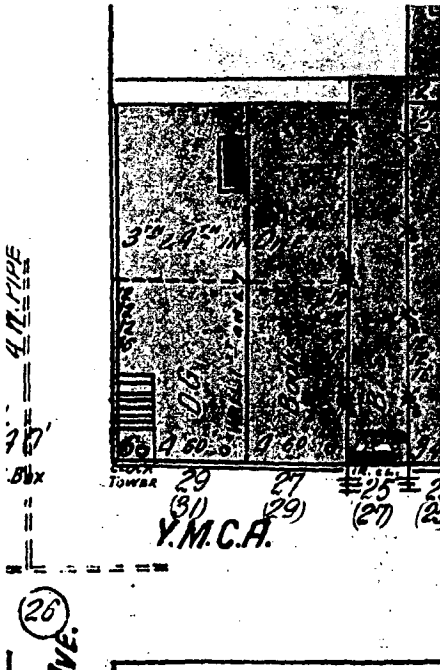
The building is constructed of brick as indicated by the pink color. The exterior walls are sixteen inches thick on the first floor and twelve inches thick on the floors above. The first floor of the building is divided by a brick wall as noted. A dry-goods company occupies number 29 as indicated by the D.G. and a bookstore occupies number 27 as indicated by the note. The main parts of the building contain four stories as indicated by the figures in the southwest corners of each section and are sixty feet high from the street level to the roof level as indicated by the figures in the center. The exception is the labeled clock tower, which contains six stories, as indicated.

A framed partition divides space on the third and fourth floors into front and rear sections, the rear half of which is two stories high, as indicated by the note. (Previous editions of the map noted that the two-story space served as a gymnasium.) All of the roofs have metal covering as indicated by the open circles in the southeast corner of each section.

The building's stairwell is marked in the southwest corner of the building, as is its basement heater in the north-central portion. There are no windows in the first story of the east wall, but windows exist in all stories above. This is indicated by the symbols along the wall. The four strokes of the

KEY

	Fire proof construction. (OR FIRE RESISTIVE CONSTR.)		Window opening in first story.
	Adobe building.		Window openings in second and third stories.
	Stone building.		Window openings in second and fourth stories.
	Concrete, lime, cinder or cement brick		Windows with wired glass.
	Hollow concrete or cement block construction		Windows with iron or tin clad shutters.
	Concrete or reinforced concrete construction		Window openings tenth to twenty-second stories.
	Tile building.		Open elevator.
	Brick building with frame cornice.		Frame enclosed elevator.
	" " " " stone front. " " " " cement brick		" " " " with traps.
	Brick veneered building. (DIVIDED BY FRAME PARTITION)		" " " " self closing traps.
	" " and frame building.		Concrete block enclosed elevator with traps.
	Frame building, brick lined.		Tile enclosed elevator with self closing traps.
	" " metal clad.		Brick enclosed elev. with wired glass door.
	Iron building.		Ground elevation.
	Tenant building occupied by various manufacturing or occupancies		Vertical steam boiler.
	Frame building covered with asbestos		Gasoline tank.
	Brick building with brick or metal cornice		Automatic fire alarm.
	Fire wall 6 inches above roof		Independent electric plant.
	Wall without opening and size in inches.		Automatic sprinklers.
	Wall with openings on floors as designated.		Automatic chemical sprinklers.
	Opening with single iron or tin clad door.		Automatic sprinklers in part of building only. (NOTE UNDER SYMBOL INDICATES PROTECTED PORTION OF BUILDING)
	" " double iron " " doors.		Not sprinklered.
	" " standard fire doors.		Outside vertical pipe on fire escape.
	Openings with wired glass doors.		Fire alarm box.
	Drive or passage way		Single hydrant.
	Stable.		Double " (36) Under page number refers to corresponding page of previous edition.
	Auto. House or private garage.		Triple " (36) Under page number refers to corresponding page of previous edition.
	Solid brick with interior walls of C.B. or C.B. and brick mixed.		Quadruple hydrant of the High Pressure Fire Service
	Mixed construction of C.B. and brick with one wall of solid brick.		Fire alarm box of the High Pressure Fire Service
	Mixed construction of C.B. and brick with one wall faced with 4" brick.		Water pipes of the High Pressure Fire Service and hydrants of the High Pressure Fire Service as shown on key map.
	Mixed construction of C.B. and brick throughout.		Water pipes and size in inches.
	4" W. PIPE (PRIVATE) Water pipes of private supply		House numbers shown nearest to buildings are official or actually up on buildings.
	6" W. PIPE Water pipes of private supply		Old house numbers shown furthest from buildings.



symbol indicate four stories, and the three dots on the inside end of the strokes indicate windows on the second, third, and fourth only.

What the company liked to call the "hand-picked" quality of its products captivates contemporary viewers who are accustomed to the sameness of mass production.

1930s, 1940s, and 1950s. Only the company's private archive is more complete.

The Library of Congress collection is built upon twenty-one-by-twenty-five-inch sheets of paper, some 700,000 maps in all. An index sheet introduces each set in elaborate hand-drawn letters identifying the town, state, and year (and, of course, the manufacturer). A typical index sheet includes an overview of the entire municipality mapped in the set, an index of streets and prominent local sites, a legend, and such sundry data as population, economy, and prevailing wind direction.

Typically, bird's-eye views of communities, drawn at a scale of one inch equaling fifty feet, depict one- to ten-square-block sections and an outline of each building. The company instructed its surveyors to investigate every built-up part of a community. "Information is generally available at the Court House, or . . . some real estate agent may have the necessary data," the *Surveyor's Manual* advised. "[However] if records are not easily obtainable do not waste too much time, but proceed to measure up the territory with tapeline, and plot sheets from notes so secured." Only a few loose sheets are needed to complete smaller towns. Larger cities, however, require bound volumes containing approximately 100 plates each. (By 1924 New York City's five boroughs required forty-eight bound volumes.)

The maps' most obvious characteristic is their coloration. Five tints distinguish each building's exterior material—olive for adobe, blue for stone, pink for brick, yellow for wood, and gray for metal. Representing building footprints, small rectangles are painted in the five pastels to form mosaics of such diverse patterns that they seem to exhaust every mathematical possibility.

The coded colors belong to an intricate iconography that also incorporates initials and numerals: an assortment of lines, circles, squares, and x's; and anomalous symbols found nowhere else. D.A. Sanborn, the company's founder, copyrighted his system, but the format and symbolism remain largely unmodified from those devised in 1850 by a committee assem-

bled by George T. Hope, an officer of the Jefferson Insurance Company of New York, to map New York City. When translated with the help of the legend, the codes impart property sizes, shapes, heights, construction materials, uses, and occupants; locations of windows, doors, porches, and additions; and types and materials of roofs. The maps also indicate the widths and names of streets as well as house and block numbers. The locations of fire walls and sprinkler systems, water mains—including their dimensions—fire-alarm boxes, and hydrants remind us of the maps' intended use by the fire-insurance industry.

What the company liked to call the "hand-picked" quality of its products captivates contemporary viewers who are accustomed to the sameness of mass production. Although founded upon a late-nineteenth-century surge in cartography brought on by the advancement from engraving to lithography, the Sanborn Company boasted in 1926 that "the making of our maps is still one of the ancient crafts in which the soul of the craftsman finds

inspiration and expression." Anonymous cartographers—hundreds of them during peak production—drew and lettered the maps, which were printed as line art. But because orders of any single sheet rarely exceeded twenty, it was more economical to employ artists using waxed-paper stencils to paint the maps with watercolors than to print each color.

When the expense and impracticality of redrawing and reproducing entire sets of maps became unmanageable, the Sanborn Company conceived production shortcuts. Around 1920 a loose-leaf atlas format replaced bound volumes, making it possible to replace outdated plates without reprinting an entire volume. Following World War II Sanborn experimented with reduced scales of an inch equaling 100 and even 200 feet.

The most conspicuous modification of Sanborn maps was the production of revised areas on patches, which were distributed to customers for application on previously published comprehensive editions. The "slips," as the company called the patches, eliminated the need to redraw and reprint entire

The Library of Congress has the largest—but by no means only—collection of Sanborn fire-insurance maps. Original and duplicated Sanborn maps can be located in thousands of state, local, and university libraries, state historic preservation offices, and local government offices, historical societies, and preservation organizations. Many of the smaller collections resulted from an effort by the Library of Congress between 1955 and 1978 to cull from its collection 288,093 duplicate sheets and 432 duplicate atlases and present them to libraries in states corresponding to the maps' locations.

Researchers can determine whether the Sanborn Company charted a specific city by consulting an index published by the Library of Congress of its Sanborn map collection under the title *Fire Insurance Maps in the Library of Congress: Plans of North American Cities and Towns* produced by the Sanborn Map Company. The index lists mapped cities, dates of coverage, and the number of sheets covering each city. The book is out of print, but microfilm copies can be purchased by contacting the Library of Congress, Photoduplication Service, Washington, D.C. 20540, (202) 707-5640.

Reproductions of Sanborn maps are available in a variety of formats and subject to publishing agreements. Contact:

- ♦ Library of Congress, Photoduplication Service, address above;
- ♦ Chadwyck-Healey, Inc., 1101 King Street, Alexandria, Virginia 22314, (703) 683-4890 or (800) 752-0515;
- ♦ Sanborn Mapping and Geographic Information Service, 629 Fifth Avenue, Pelham, New York 10803, (914) 738-1649.

SANBORN MAP COLLECTION - UNIVERSITY OF MD.

	<u>Date</u>	<u>Vol. #</u>	<u>Hard Copy?</u>	<u>Reel #</u>	<u>Note</u>
Pampstead	1911		yes	10	
	1924		yes	10	
Hancock	1908		yes	10	
	1915		yes	10	
	1923		yes	10	
	1923 [rev. 1934]		no	10	
Havre De Grace	1885		yes	10	
	1894		yes	10	
	1899		yes	10	
	1904		yes	10	
	1910		yes	10	
	1921		yes	10	
	1930 [rev. 1962]		yes	10	
Hillandale Fire District	1950	3	no	14	
" " "	1950	3	no	16	
Hurlock	1914		yes	10	
	1923		yes	10	
	1923 [rev. 1932]		no	10	
Hyattsville	1906		no	10	
	1911		yes	10	
	1922		yes	10	
	1933		no	10	
	1939	2	no	14	
	1939	2	no	16	
* Kensington	1904 ✓		yes	10	
	* 1911 ✓		yes	10	
	* 1924		yes	10	
	1924 [rev. 1933]		no	10	
	1950	3	no	14	
	1950	3	no	16	
Kensington Fire District	1950	3	no	14	
" " "	1950	3	no	16	
Kitzmillerville	1912		no	10	
	1923		no	10	
La Plata	1924		yes	10	
	1924 [rev. 1933]		no	10	
Landover	1939	4	no	16	

Silver Spring

Sanborn Map Collection

Marylandia Department
McKeldin Library
University of Maryland

M-F 10-5


DONES BILLS
Dines


<u>Town</u>	<u>Date</u>	<u>Vol. #</u>	<u>Hard Copy?</u>	<u>Microfilm Reel #</u>	<u>Note</u>
Aberdeen	1904		yes	1	
	1910		yes	1	
	1916		yes	1	
	1920		yes	1	
	1926		yes	1	
	1926 [rev. 1950]			no	1
Anacostia	1904 [rev. 1916]	2	no	13	
Annapolis	1885		yes	1	
	1891		no	1	
	1897		no	1	
	1903		no	1	
	1908		no	1	a few sheets
	1913		yes	1	
	1921		yes	1	
	1930 [rev. 1959]			no	1
Baltimore	1879	1	no	17	
	1880	2	no	17	
	1890	1, 2, 3	yes	1	
	1901	1, 2	yes	2	
	1902	3, 4	yes	2	
	1914	1, 2	yes	2	
	1914	3, 4, 5, 6	part	3	
	1915	7	yes	3	
	1936	5	no	3	
	1936	5A	no	4	
	1928	6, 7, 8	yes	4	
	[1928]	12	no	4	
	1929	9	no	4	
	[1929]	13	no	4	
	1929	10	no	4	
	[1929]	14	no	4	
	1929	11	no	4	
	[1929]	15	no	4	
	1914	1 [rev. 1951]	no	5	
	1914	2 [rev. 1951]	no	5	
	1914	3 [rev. 1951]	no	5	
	1914	4 [rev. 1951]	no	5	
	1936	5 [rev. 1951]	no	5	
	1936	5A [rev. 1950]	no	5	
	1928	6 [rev. 1951]	no	6	
	1928	7 [rev. 1951]	no	6	
	1928	8 [rev. 1951]	no	6	
	1928	12	no	6	
	1929	9 [rev. 1951]	no	6	
	1929	13 [rev. 1951]	no	6	
	1929	10 [rev. 1951]	yes	6	

Figure 4

LOCAL KENSINGTON HISTORIC DISTRICT #31/6

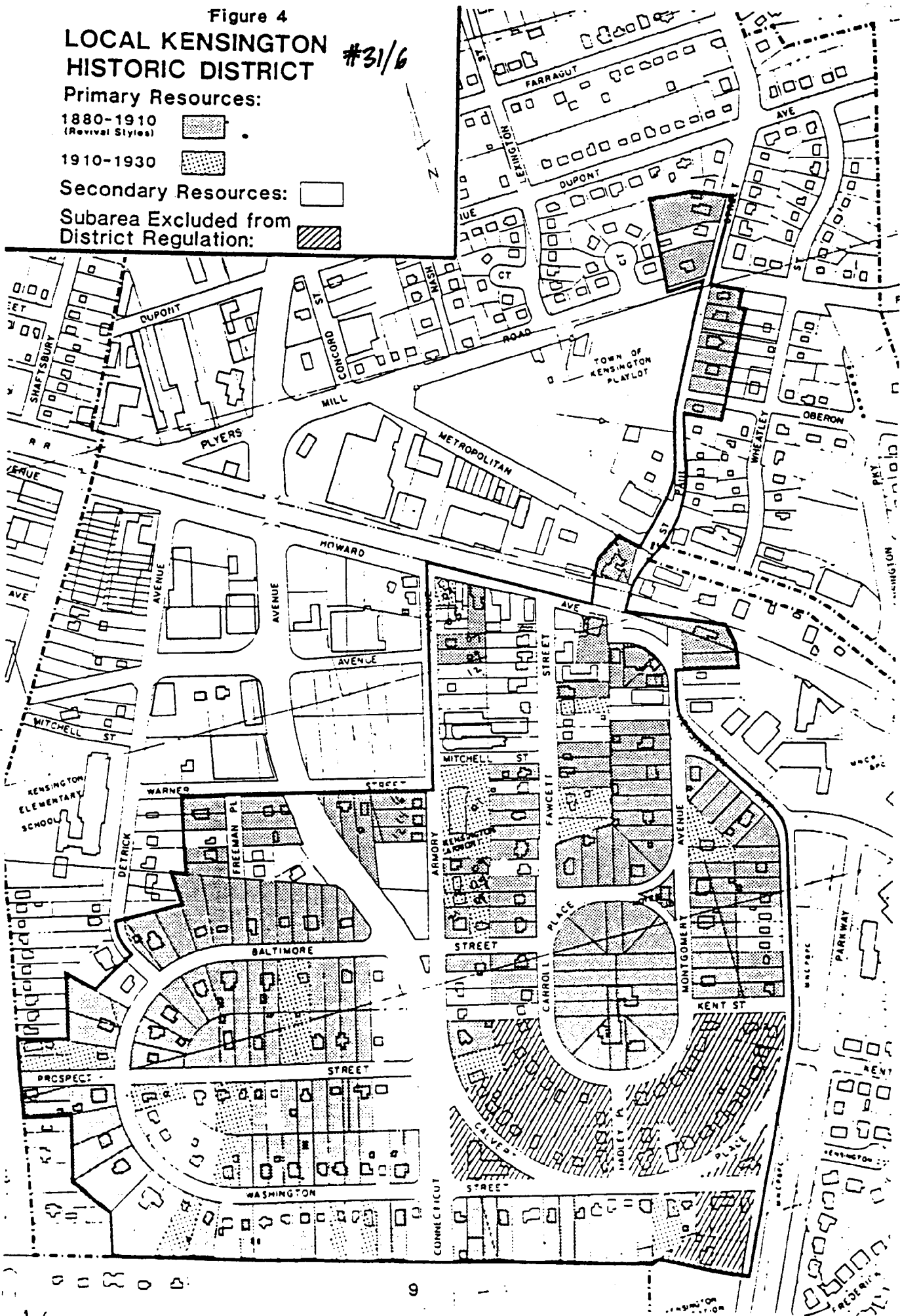
Primary Resources:

1880-1910 (Revival Styles) 

1910-1930 

Secondary Resources: 

Subarea Excluded from District Regulation: 



31/6

|

9

4

APPROVED AND ADOPTED AMENDMENT
TO THE
MASTER PLAN FOR HISTORIC PRESERVATION;

KENSINGTON HISTORIC DISTRICT
ATLAS #31/6

October 1986

An amendment to the Sector Plan for the Town of Kensington and Vicinity, May 1978; being also an amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District and to the Master Plan of Highways within Montgomery County, Maryland.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, MD 20907

1741 Governor Oden Bowie Drive
Upper Marlboro, MD 20772-3090

ABSTRACT

TITLE: Approved and Adopted Amendment to the Master Plan for
Historic Preservation: Kensington Historic District

AUTHOR: The Maryland-National Capital Park and Planning
Commission

SUBJECT: Approved and Adopted Amendment to the Master Plan for
Historic Preservation: Kensington Historic District

DATE OF ADOPTION: September 17, 1986

PLANNING AGENCY: The Maryland-National Capital Park and
Planning Commission

SOURCE OF COPIES: The Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue, Silver Spring, MD 20907

SERIES NUMBER: 8069862506

NUMBER OF PAGES: 16

ABSTRACT: This document contains the text, with supporting
maps, for an amendment to the Master Plan for
Historic Preservation and to the 1978 Sector Plan
for the Town of Kensington and Vicinity designating
a historic district in Kensington, Maryland to be
protected under the County's Historic Preservation
Ordinance, Chapter 24A of the County's Code.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

The Maryland-National Capital Park and Planning Commission is a bi-county agency created by the General Assembly of Maryland in 1927. The Commission's geographic authority extends to the great majority of Montgomery and Prince George's Counties; the Maryland-Washington Regional District (M-NCPPC planning jurisdiction) comprises 1,001 square miles, while the Metropolitan District (parks) comprises 919 square miles, in the two Counties.

The Commission has three major functions:

- (1) The preparation, adoption, and from time to time amendment or extension of the General Plan for the physical development of the Maryland-Washington Regional District;
- (2) The acquisition, development, operation, and maintenance of a public park system; and
- (3) In Prince George's County only, the operation of the entire County public recreation program.

The Commission operates in each county through a Planning Board appointed by and responsible to the county government. All local plans, recommendations on zoning amendments, administration of subdivision regulations, and general administration of parks are responsibilities of the Planning Boards.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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INTRODUCTION

In July 1979, the County established permanent tools for protecting and preserving its historic and architectural heritage by adopting a functional Master Plan for Historic Preservation and enacting a Historic Preservation Ordinance, which is Chapter 24A of the Montgomery County Code.

The Montgomery County Historic Preservation Commission was created with the enactment of the County's Historic Preservation Ordinance and was charged with the responsibility of researching and evaluating historic resources according to criteria specified in the Ordinance. The Preservation Commission then recommends those worthy of preservation to the Montgomery County Planning Board for inclusion in the Master Plan for Historic Preservation and protection under the Ordinance.

THE AMENDMENT PROCESS

Upon receiving a recommendation from the Historic Preservation Commission, the Planning Board holds a public hearing to make its determination using the same criteria, considering the purposes of the Ordinance, and balancing the importance of the historic resource with other public interests.

Like the Master Plan itself, these amendments would not attempt to specifically delineate the appurtenances and environmental setting for each resource. As a general rule, the resource would be recommended for placement with its original or existing property boundaries or, in the event of subdivision, at least the minimum size lot permitted by the zone in which the resource occurs, unless the Planning Board, upon the advice of the Historic Preservation Commission, finds that a larger area is essential to preserve the integrity of the site. The Master Plan Amendment will, however, indicate where the environmental setting is subject to refinement in the event of development. Where applicable, the amendment will describe an appropriate setting and specify those features of the site and their location relative to the resource that the setting is intended to protect. It is anticipated that for a majority of the sites designated, the appropriate point at which to refine the environmental setting will be when the property is subdivided. Designation of the entire parcel at the time of placement on the Master Plan will therefore allow the maximum flexibility to preserve the site while retaining the ability to be responsive to development plans which recognize important features of the resource.

Once designated on the Master Plan for Historic Preservation, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued. The Ordinance also empowers the County's Department of Environmental Protection and the Historic Preservation Commission to prevent the demolition of historic buildings through neglect.

It is the intent of the Master Plan and Ordinance to provide a system for evaluating, protecting and enhancing Montgomery County's heritage for the benefit of present and future residents. The accompanying challenge is to weave protection of this heritage into the County's planning program so as to maximize community support for preservation and minimize infringement on private property rights.

THE AMENDMENT
KENSINGTON HISTORIC DISTRICT
Atlas #31/6

The purpose of the following amendment is to designate the Kensington Historic District as delineated in Figure 3 on the Master Plan for Historic Preservation thereby extending to the area the protection of the Historic Preservation Ordinance, Chapter 24A of the Montgomery County Code.

Finding of Historical & Architectural Significance

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

The district is architecturally significant as a collection of late 19th and early 20th Century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb.

Ordinance Criteria & District Guideline Values

The Kensington Historic District specifically meets criteria: 1a and 2a of the Ordinance which states:

"1. Historical and Cultural Significance:

The historic resource:

- a. has character, interest or value as part of the development, heritage or cultural characteristics of the County, State or nation.

2. Architectural and Design Significance:

The historic resource:

- a. embodies the distinctive characteristics of a type, period or method of construction."

District Boundaries

The Kensington Historic District is wholly located within the Town of Kensington. The district includes residential sections along both sides of Connecticut Avenue, the commercial area along Howard Avenue, and also incorporates a northern annex of period structures along the east side of St. Paul Street. The general outline of the district is shown in Figure 3. However, the district also specifically excludes properties within a sub-area as shown in Figure 4, leaving only the right-of-ways in that subarea as part of the Kensington Historic District.

IMPLEMENTATION

Historic Area Work Permit Process

As noted earlier, once designated on the Master Plan, significant changes to resources within a historic district must be reviewed by the Historic Preservation Commission and a historic area work permit issued under Sections 24A-6, 7, and 8 of the Historic Preservation Ordinance.

The Historic Preservation Commission has developed Guidelines to assist individuals wishing to nominate potential Districts and individual property owners within designated Districts. The general philosophy of these Guidelines is that Historic Districts are living and working areas where special attention is paid to protecting those qualities which make them significant resources for the County. They must not become areas where protective concerns override all other activities. For example, in rural districts, not only can vernacular architecture and important settings be protected, but working farms can be sustained to

provide close to market produce, and rural villages retained to provide local small-scale goods and services.

According to the Guidelines, a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources--that is visually contributing but non-historic structures or vacant land within the Kensington District--the Ordinance requires the Preservation Commission to be lenient in its judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District.

Local Advisory Committees

The Guidelines encourage the establishment of local advisory committees for District supervision where appropriate, e.g., local municipalities may wish to appoint such committees for Historic Districts lying within their jurisdiction. The committees' work can include development of local design review guidelines which set a standard for physical changes which can be made in the District. They also monitor design activities in their Districts for the County Commission. Local guidelines may be based on the Design Guidelines Handbook, and are subject to the approval of the Commission.

Preservation Incentives

Appendix A of the Master Plan for Historic Preservation outlines a number of federal and state incentives for designated historic properties including tax credits, tax benefits possible through the granting of easements on historic properties and outright grant or low interest loan programs.

In addition to these federal and state incentives, the Montgomery County Council passed legislation in September 1984 to provide for a tax credit against County real property taxes in order to encourage the restoration and preservation of privately owned structures located in the County. The credit applies to properties designated on the Master Plan for Historic Preservation either individually or as recognized resources within a designated Historic District. (Chapter 52, Art. VI.)

The Montgomery County Historic Preservation Commission, together with the County's Department of Finance, administers the tax credit. Information concerning the eligibility requirements and application procedures for the credit is available through the Preservation Commission at 251-2799.

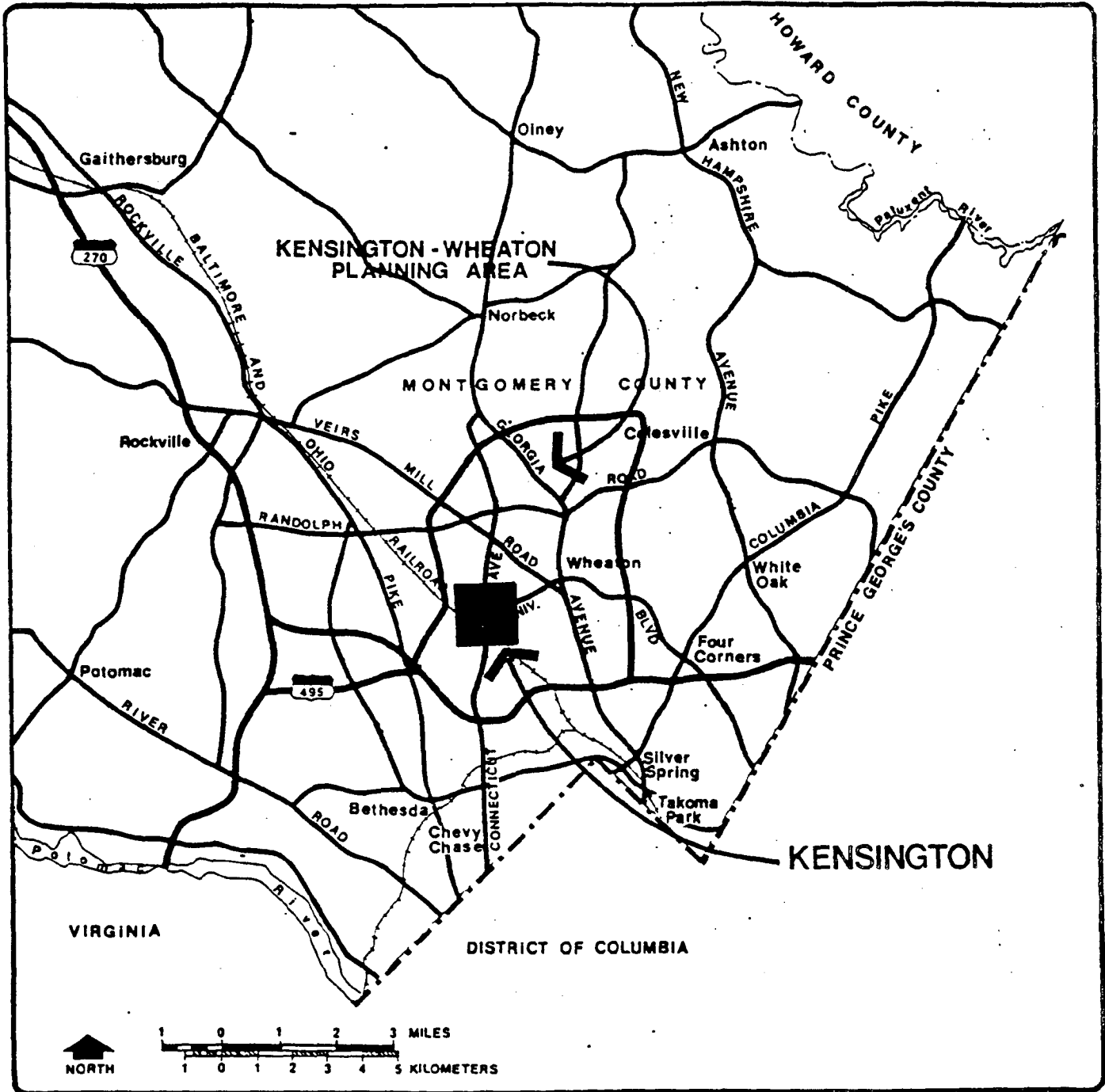
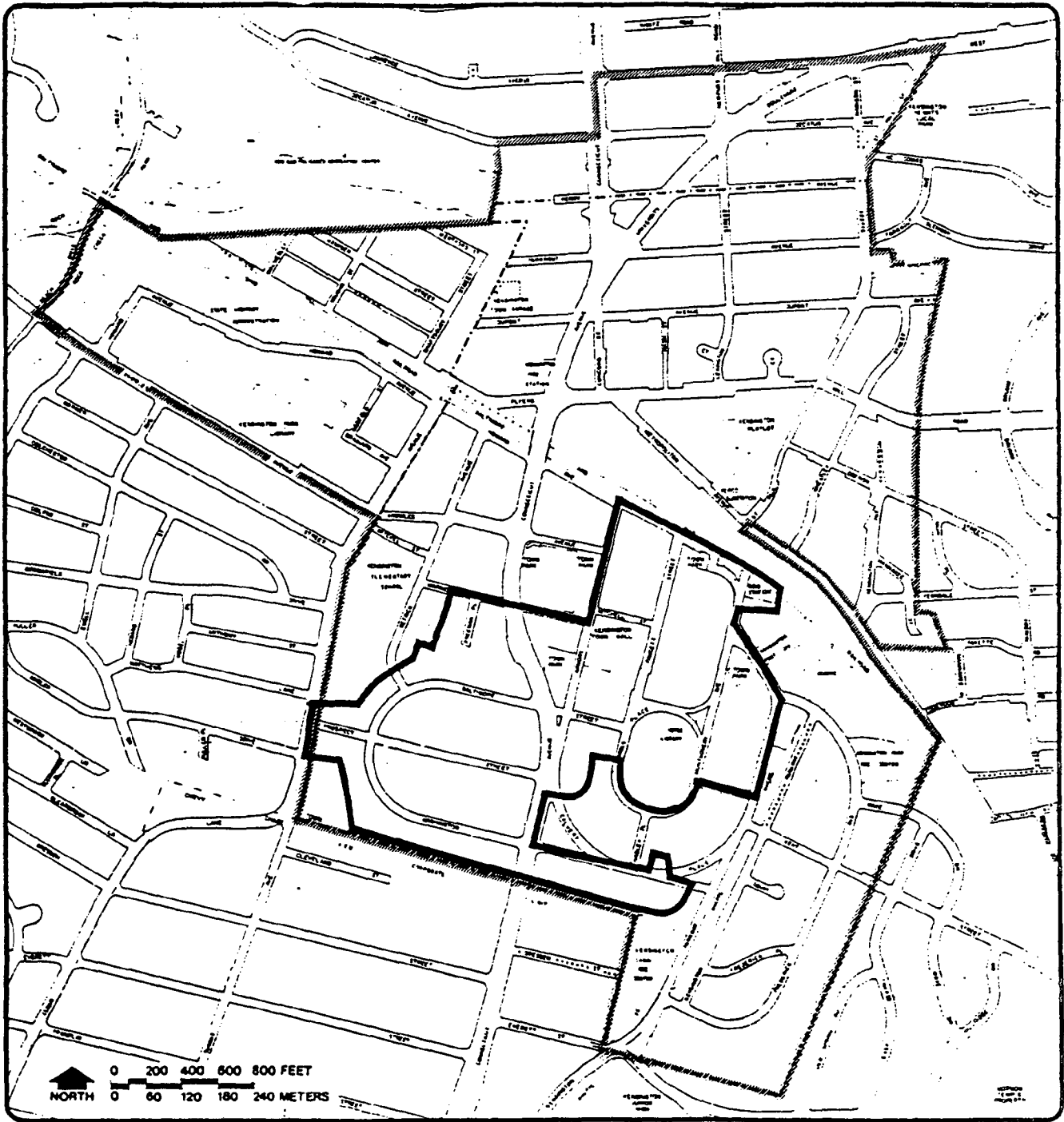


Figure 1

KENSINGTON VICINITY MAP



- NATIONAL REGISTER HISTORIC DISTRICT BOUNDARY
- - - SECTOR PLAN BOUNDARY
- · · TOWN OF KENSINGTON BOUNDARY


Figure 2


KENSINGTON


Figure 3

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles) 

1910-1930 

Secondary Resources: 

Source: Montgomery County Historic Preservation Commission

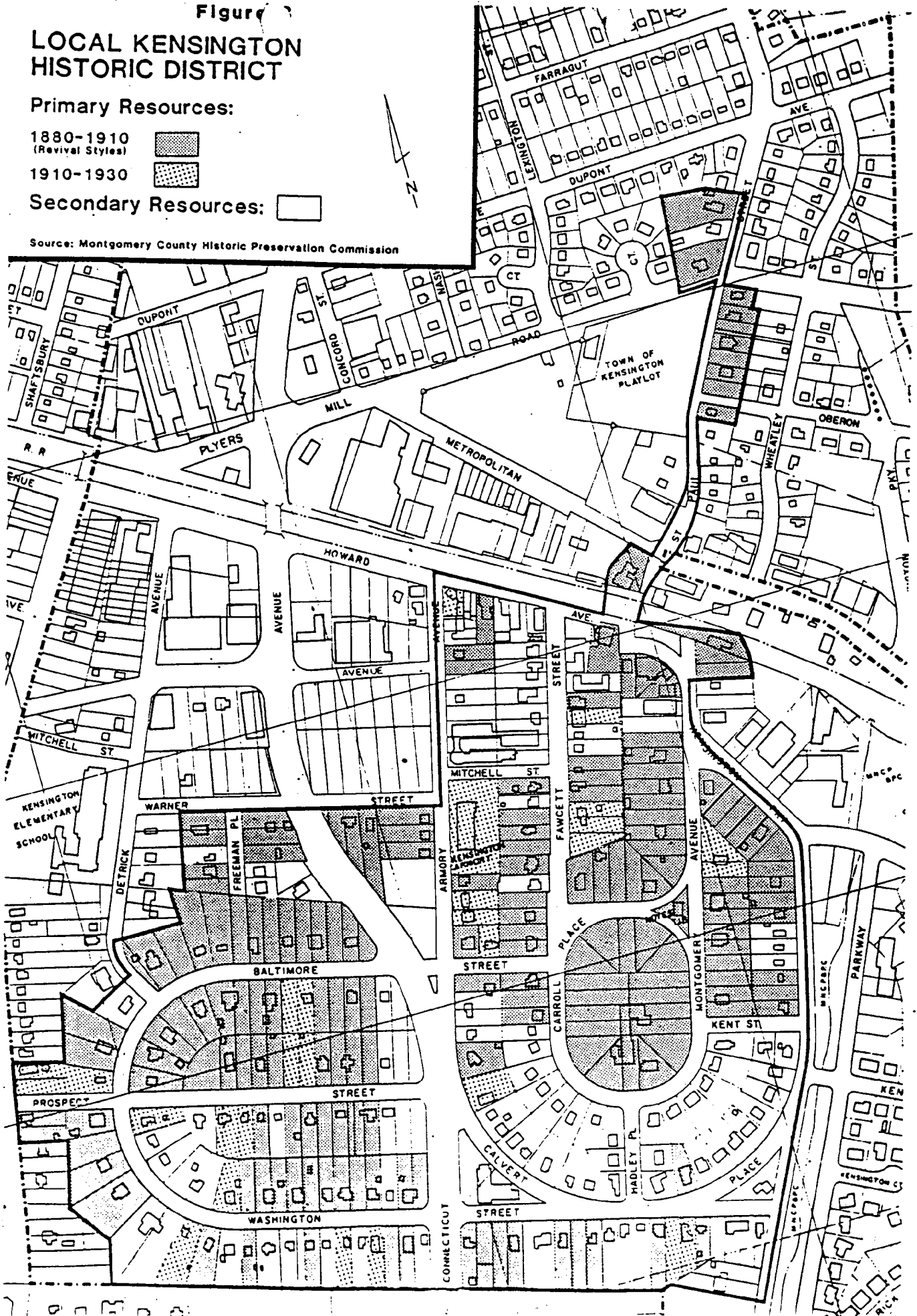


Figure
**LOCAL KENSINGTON
 HISTORIC DISTRICT**

Primary Resources:

1880-1910
 (Revival Styles)



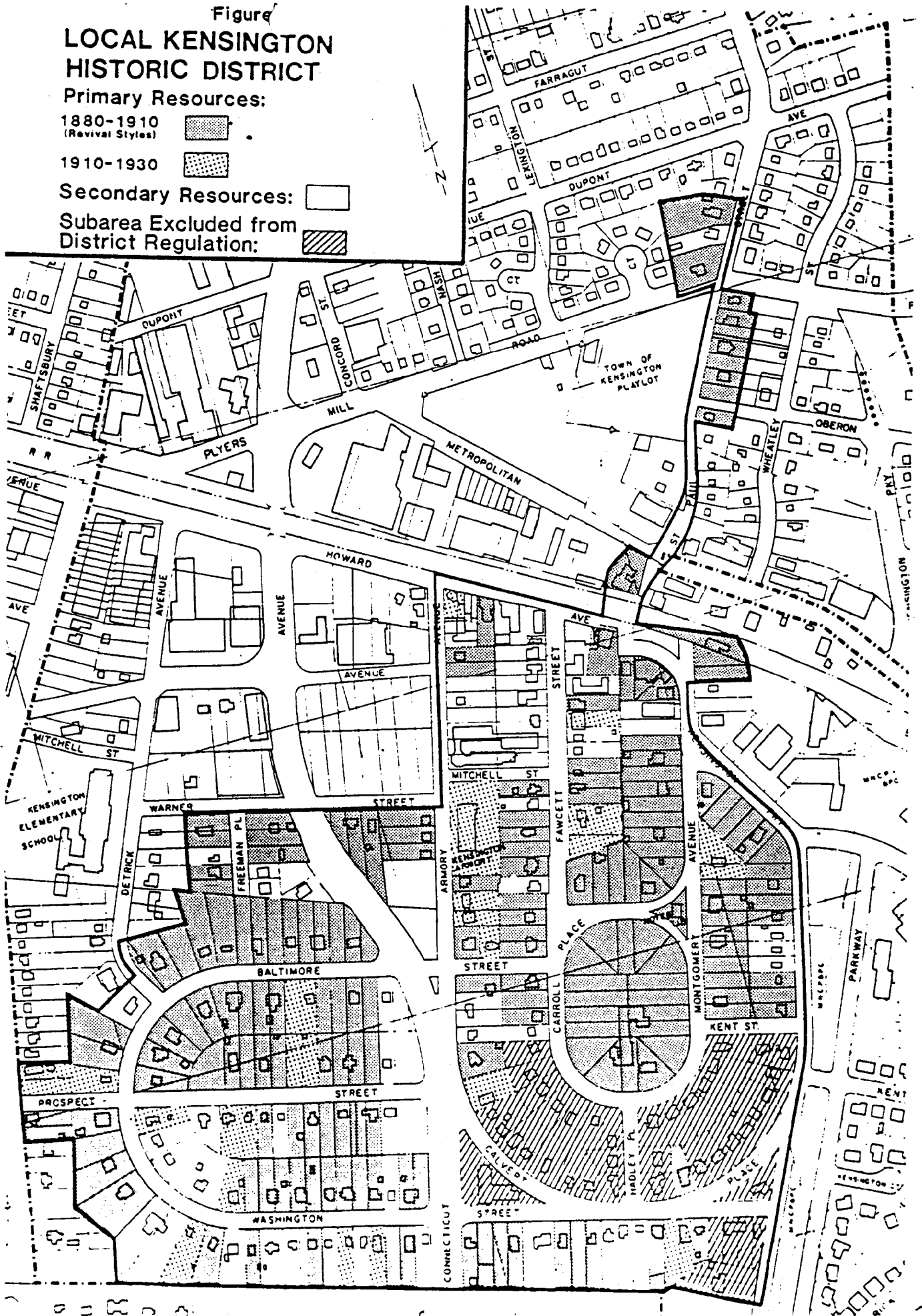
1910-1930



Secondary Resources:



**Subarea Excluded from
 District Regulation:**



Listing of Properties Within the
Proposed Kensington Master Plan Historic District

<u>Street Name</u>	<u>Street Numbers</u>
Armory Avenue	10301 - 10421
Baltimore Street	3806 - 3951
Calvert Place	3709 & 3819
Carroll Place	10216 - 10234
Connecticut Avenue	10205 - 10211, 10308
Fawcett Street	10300 - 10426
Freeman Place	10310 - 10316
Howard Avenue	3716 - 3794
Kensington Parkway	10200 - 10312 - even house numbers only
Mitchell Street	3710
Montgomery Avenue	10213 - 10420
Prospect Street	3906 - 4011
St. Paul Street	10500 & 10531 - 10549, 10600, 10606, and 10608
Warner Street	3810, 3812, 3820 and 3824
Washington Street	3948 - 3904, 3820 - 3708

Resolution No. 10-2064
Introduced: July 7, 1986
Adopted: July 7, 1986

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

SUBJECT: Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County, Maryland re: Kensington Historic District

Background

1. On February 11, 1986, the Montgomery County Planning Board transmitted to the Montgomery County Council a Final Draft Amendment to the Historic Preservation Master Plan to designate an Historic District in Kensington.
2. On April 18, 1986, the Montgomery County Council held a public hearing regarding the Final Draft Amendment to the Master Plan for Historic Preservation for a Kensington Historic District.
3. On June 24, 1986, the Planning, Housing and Economic Development Committee reviewed the Final Draft Master Plan Amendment and the testimony given at the public hearing.
4. It was the position of the Planning, Housing and Economic Development Committee that part of Kensington should be designated a historic district.
5. On July 7, 1986, the Montgomery County Council reviewed the Final Draft Amendment to the Historic Preservation Master Plan, and the recommendations of the Planning, Housing and Economic Development Committee.

Action

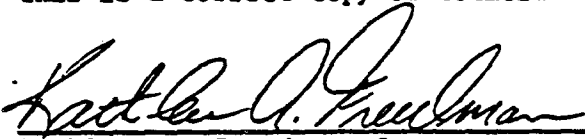
For these reasons, the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Final Draft Amendment to the Historic Preservation Master Plan, dated August 1985, is approved designating a Kensington Historic District (#31/6).

Resolution No. 10-2064

The Kensington Historic District is wholly located within the Town of Kensington. The district includes residential sections along both sides of Connecticut Avenue, the commercial area along Howard Avenue, and also incorporates a northern annex of period structures along the east side of St. Paul Street. The general outline of the District is shown in Figure A. However, the district also specifically excludes the properties within the heavy outlines in Figure B, leaving only the right-of-ways in that sub-area as part of the Kensington Historic District.

This is a correct copy of Council Action.



Kathleen A. Freedman, Secretary
County Council

Attachments: Figures A and B

B738/5

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB No: 86-42
M-NCPPC No: 86-27

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of Article 28 of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend, and add to a General Plan for the Physical Development of the Maryland-Washington Regional District; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission held a public hearing on December 2, 1985, on a preliminary draft amendment to the Master Plan for Historic Preservation, being also a proposed amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District and Master Plan of Highways; and

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, at a meeting held December 2, 1985, approved and forwarded to the Montgomery County Council the Final Draft Amendment: Bethesda CBD Historic Sites, and recommended that said amendment be approved by the County Council; and

WHEREAS, the Montgomery County Council, sitting as the District Council for that portion of the Maryland-Washington Regional District lying within Montgomery County, on July 7, 1986, approved the designation of the Kensington Historic District, #31/6 as identified in the amendment, attached hereto and made a part of, for inclusion in the Master plan for Historic Preservation;

NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Board and The Maryland-National Capital Park and Planning Commission do hereby adopt said amendment to the Master Plan for Historic Preservation, together with the General Plan for the Physical Development of the Maryland-Washington Regional District and the Master Plan of Highways as approved by the Montgomery County Council in Resolution 10-2064, and

BE IT FURTHER RESOLVED that as to Resolution NO. 10-2064, this adoption be effective July 8, 1986 nunc. pro tunc, and


BE IT FURTHER RESOLVED, that this amendment be reflected on copies of the aforesaid plan and that such amendment shall be certified by The Maryland-National Capital Park and Planning Commission, and filed with the Clerk of the Circuit Court of each of Montgomery and Prince George's Counties, as required by law.

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Krahnke, seconded by Commissioner Heimann, with Commissioners Keeney, Krahnke, Heimann, and Christeller voting in favor of the motion at a regular meeting held on Monday, August 11, 1986, in Silver Spring, Maryland. Commissioner Granke was temporarily absent.


Thomas H. Countee, Jr.
Executive Director

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner Granke, seconded by Commissioner Krahnke, with Commissioners Rhoads, Botts, Dabney, Jr., Yewell, Christeller, and Heimann voting unanimously in favor, and Commissioners Keeney and Keller, Jr., being absent, at its regular meeting held September 17, 1986, in Silver Spring, Maryland.


Thomas H. Countee, Jr.
Executive Director

5

MARYLAND HISTORICAL TRUST WORKSHEET

NOMINATION FORM for the NATIONAL REGISTER OF HISTORIC PLACES, NATIONAL PARKS SERVICE

SEE INSTRUCTIONS

1. NAME

COMMON: Kensington Historic District

AND/OR HISTORIC: Same

2. LOCATION

STREET AND NUMBER: Bounded on the north by Wheaton, on the northwest by Ken-Gar, on the

CITY OR TOWN: northeast by Forest Glen, on the south by North Chevy Chase, on the

STATE: southwest by Chevy Chase View. COUNTY: Montgomery

3. CLASSIFICATION

CATEGORY (Check One)	OWNERSHIP	STATUS	ACCESSIBLE TO THE PUBLIC
<input checked="" type="checkbox"/> District <input type="checkbox"/> Building <input type="checkbox"/> Site <input type="checkbox"/> Structure <input type="checkbox"/> Object	<input type="checkbox"/> Public <input type="checkbox"/> Private <input checked="" type="checkbox"/> Both	Public Acquisitions: <input type="checkbox"/> In Process <input type="checkbox"/> Being Considered	Yes: <input type="checkbox"/> Restricted <input type="checkbox"/> Unrestricted <input checked="" type="checkbox"/> NX Both
PRESENT USE (Check One or More as Appropriate)			
<input type="checkbox"/> Agricultural <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Educational <input checked="" type="checkbox"/> Entertainment	<input checked="" type="checkbox"/> Government <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Military <input checked="" type="checkbox"/> Museum	<input checked="" type="checkbox"/> Park <input checked="" type="checkbox"/> Private Residence <input checked="" type="checkbox"/> Religious <input checked="" type="checkbox"/> Scientific	<input checked="" type="checkbox"/> Transportation <input checked="" type="checkbox"/> Other (Specify) Cultural <input type="checkbox"/> Comments

4. OWNER OF PROPERTY

OWNER'S NAME: Multiple Public and Private Ownership

STREET AND NUMBER: Town of Kensington

CITY OR TOWN: Kensington STATE: Maryland 20795

5. LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC.: Montgomery County Courthouse

STREET AND NUMBER: South Washington Street

CITY OR TOWN: Rockville STATE: Maryland 20850

Title Reference of Current Deed (Book & Pg. #): Plat Book B, Plat #4, Liber JA 23

6. REPRESENTATION IN EXISTING SURVEYS

TITLE OF SURVEY: Locational Atlas & Index of Historic Sites in Montgomery County, Maryland

DATE OF SURVEY: October 1976 Federal State County Local

DEPOSITORY FOR SURVEY RECORDS: Maryland National Capital Park & Planning Commission

STREET AND NUMBER: 8787 Georgia Avenue

CITY OR TOWN: Silver Spring STATE: Maryland 20910

Folio #2.

ACHS SUMMARY FORM

1. Name Town of Kensington.

2. Planning Area/Site Number 31/6

3. MNCPPC Atlas Reference Map 21, F-4

4. Address N/A.

5. Classification Summary

Category District.
 Ownership Public and Private.
 Public Acquisition
 Status Occupied.
 Accessible Private, restricted; public unrestricted.
 Present use Municipality, etc.
 Previous Survey Recording Federal State x County x Local
 MNCPPC Historical Sites Inventory, 1976

6. Date Town platted in 1890.

7. Original Owner N/A.

8. Apparent Condition

a. Excellent.

c. Original boundaries.

b. Altered; modernized, etc.

9. Description

Kensington was platted in 1890 as a Victorian summer colony by Brainard H. Warner, a wealthy Washingtonian. The town consists of 304 acres and contains a library, schools, small industries, town hall, churches, a World War II memorial, residences, and a well-known complex of antique shops. The original railroad station and home of the town's founder are extant, although the latter is a nursing home. The town also contains some original "catalog" type Victorian homes. The train, the street car, and then the automobile afforded easy commuting, but despite the urbanization, Kensington remains a tightly-knit community with great emphasis on preservation by citizens.

10. Significance

Kensington is important, not only for its section of Victorian architecture but also because it contains the first public library in the county. The town was located on the east-west market route into Prince George's County, and when the train began its north-south run, it became an important mail and passenger stop. Brainard Warner's press building, where he published the first Republican newspaper in the county, is extant as well as the library he gave to the town. An old National Guard Armory has undergone adaptive use as a town hall. Kensington was for many years known as Knowles Station as the train stopped on the former Knowles Family farm. Warner changed the name to Kensington after visiting London's Kensington. The small Victorian enclave adjacent to Warner's home is practically untouched by modern times.

11. Date researched June 1978. Preservation Committee, Kensington Historical Society

12. Compiler Mayvis Fitzsimons 3. Date Compiled Oct. 4, 78 14. Designation Approval

15. 304 acres

7. DESCRIPTION

CONDITION	(Check One)					
	<input checked="" type="checkbox"/> Excellent	<input type="checkbox"/> Good	<input type="checkbox"/> Fair	<input type="checkbox"/> Deteriorated	<input type="checkbox"/> Ruins	<input type="checkbox"/> Unexposed
	(Check One)			(Check One)		
	<input checked="" type="checkbox"/> Altered	<input type="checkbox"/> Uncluttered	<input type="checkbox"/> Moved	<input type="checkbox"/> Original Site		

DESCRIBE THE PRESENT AND ORIGINAL (if known) PHYSICAL APPEARANCE

Kensington originated as an agricultural community alongside the Bladensburg Turnpike. The turnpike was a market road between Old Georgetown Road (the north/south route through Montgomery County) and Bladensburg, a port on the Anacostia River in neighboring Prince George's County. The farmers in Kensington and surrounding areas carried their tobacco to Bladensburg where it would be exchanged for goods arriving on British ships.

When the railroad line was built in 1873 from Washington D. C. to Western Maryland, it crossed the market road. The little crossroads settlement then became known as Knowles Station, after the Knowles family who conveyed land to the railroad company. In 1890, Brainard Warner, a government clerk in Washington, D. C. during the Civil War, invested in real estate at Knowles Station and developed the community into a Gay Nineties summer retreat. He changed the name to Kensington after visiting the Kensington in England. In 1894, the town became incorporated, with a mayor and council.

Connecticut Avenue divides the town. The main businesses lie south of the railroad, with small industries on the north. Kensington is comprised of the first public library in Montgomery County and a 1927 Armory which now serves as municipal offices and meeting hall. Two museums (a Victorian parlor and a toy museum) are also in the Armory. A World War II memorial, and the railroad station, built in 1893, are other historical attractions. The town consists of 304 acres. The population is approximately 2,200. Very little land has been annexed to the town since 1890. The architecture is a mixture, ranging from the altered farmhouses, to country Victorian, to modern.

The Warner home, now the Carroll Manor Nursing Home is sited on a circular lot near the southern border of the town. Its style was Queen Anne with subdued interior trim. An owl motif in the mantel and door trim is still visible and is of interest as it is the motif of the library which Mr. Warner built and donated to the town. A large barn with twin cupolas is extant. This property is at 10231 Carroll Place.

10226 Carroll Place, built ca. 1894, is also a Queen Anne design. It has a three-sided porch with a corner entrance. Seven steps lead to a triangular pediment, which has moulding of a foliate design in its tympanum. A balustrade, with turned balusters, runs the entire length of the porch. The newel posts are capped with carved wooden spheres. The architrave at the porch roof is comprised of curved brackets supported by colonettes. At the entry are double doors with double lights.

There is a turret on the southeast side of the house. It is decorated with scalloped shingles, which cover the space between the second and third floor windows. This large turret has a hexagonal pyramidal roof which is topped with a weathervane. Adjacent to the turret is a dormer with double windows and a triangular pediment with the foliate motif in the tympanum. A smaller turret is located midway on the east side of the

SEE INSTRUCTIONS

7. Description - Con't.

house; it has three twelve-pane windows.

Most of the windows, with lightly turned lintels are double-hung, sash, with single panes in the upper and lower sections. The west side of the house contains unique verticle windows; three on the second floor are stained glass, while the three directly below on the first floor are plain glass. There are three roundels on the east, west and north ends, with a spoke pattern. The east end also contains one arched verticle window. Two other gable dormers are duplicates of the one on the south side of the house. Gutters are built into the wood eaves on both floors. On the west side there is a two-story bay window. A hip roof and two chimneys, with rows of brick forming a molded cornice at the top, are additional features of this house. Another striking feature is the second-story window treatment on the south side; double windows project as a semi-rhombic bay. The original carriage house is on the grounds.

On the interior, a large entry hall is off a vestibule. There are front and back stairs, the former being paneled, with large and elaborately turned newel posts (which were stored away, but are presently being re-installed). Three sets of over-sized, sliding doors are to be found at the living room, dining room, and the library entry. Ornamental medallions surround the ceiling light-fixtures and the cornice mouldings have a foliate motif. There are four fireplaces with decorative trim in the form of flowers, leaves, cherubs, and animals. The hearths contain ceramic tile.

10304 Kensington Parkway is another good example of the Queen Anne style. This house has a brick ground story and timber and shingle, first through third floors. A large porch surrounds most of the three sides of the first floor with a stick style balustrade and newel posts, and a straight entablature above slightly turned colonettes. A pediment, with a foliate motif in the tympanum, is over the porch door. There is a three-story turret on the northwest corner, the top story having recessed rectangular windows. The turret has a hexagonal pyramidal roof topped by a finial.

The house has a hip roof with three dormers, each containing two small rectangular windows. The front dormer has a stick style tympanum over a small two-story bay, broken by the porch roof. The other two have tympanums of shingle siding, and rest over a two-story bay.

The windows have plain lintels, are double hung, single-pane with glazing in the upper and lower parts on the first and second floors.

The facade composition is simple and well balanced. Clapboard siding, other than scalloped shingles at the second floor base and on the third floor turret, gives the house a horizontal scale. All first and second story windows have shutters. One chimney has a molded brick cornice at the tope and the other is straight-topped. The first-floor gutters are built into the wood eaves. It is believed that this house was a "catalog" house, and has a twin at 10400 Montgomery Avenue.

7. Description - Con't.

10213 Montgomery Avenue is a typical Georgian Revival style. This symmetrical house, with two chimneys on each side, has a rectangular plan. The main, or west entrance, has a central, trabeated door with two side lights and a glass transom. Over the entry, supported by two fluted pilasters, is a swan's neck pediment with a rosette in the center of each volute. Miniature rosettes are also in the capitals of the pilasters. An acorn motif is at the center. Further ornamentation is a row of dentils in the entablature.

The house, of clapboard, with a brick basement wall, has a hip roof and four dormers, the largest being on the west front. There are three separate porches, the side porches having tapering Tuscan columns set on square wooden plinths. The house also has two, two-story bay windows on either side. The windows are double-hung sash with six-over-six lights, and have plain lintels. The eaves have classic cornices.

The interior of the house has its original pine flooring, and both a front and back stairs. The coping of the front stairs is curved around the newel post. A motif of bull's eye molding is carried out on the window and door cornices. The fireplace mantel in the living room is supported by fluted pilasters with plain capitals; the library fireplace is paneled; and the dining room fireplace, which is the most decorative, has dentils in the mantel trim, with supports of detached Ionic colonettes. The hearths contain ceramic tile. The house was built ca. 1892; the architect was Edward Woltz of Washington, D. C.

3924 Baltimore Street was in the same family from its erection in 1901 until 1977, when it was purchased by its second owner. The eldest daughter was a doctor and had her office built on the right portion of the wrap-around porch. The house was designed by T. M. Medford of Washington, D. C., and built by A. C. Warthen of Kensington.

Exterior details are simple on this Victorian Georgian style. The first-story porch has square columns, stick balustrade and wooden modillions in the cornice. The house was stuccoed over its original clapboard ca. 1924. Giving the house a country villa appearance was a second-story porch, a duplicate of the first-story porch. (A portion remains, above the doctor's former office.) The back wing is original and contains a pantry and kitchen designed to accommodate a wood-burning stove for cooking.

Three dormers are built into the hip roof. The dormers, with jerkin head roofs, contain double windows. A chimney, containing a molded cornice, is at the very center of the roof. The back, two-story section has a rather plain chimney. All windows, other than the dormer windows, are double-hung, sash, with single pane, top and bottom; some windows have six lights over four. The second floor windows are shuttered. The transomed, front double door is symmetrically located and has glass in its upper portion.

The details on the interior of this house belie the simple exterior. The molding and carved woodwork have not been altered or painted. Four fireplaces, also unaltered, are grouped around the great center chimney. The two, in the entry hall and back parlor, have rather plain mantels, but the other two, in the dining room and front parlor, have ceramic tile hearths and lavishly ornate mantels and overmantels. The decorative trim consists of astragal, egg and dart, shell and foliate carvings; and pilasters with Ionic capitals, and colonettes, also with the Ionic order.

7. Description - Con't.

Set high into the tall and wide trabeated entry into the parlor and dining room are hand-carved screens with a rising sun as the basic motif. This is repeated over a former window (now a door leading into the former medical office). There are both back and front stairs, the latter having fluted newel posts, one serving as a support member, and extending upward to the second story.

The second floor has four rooms, one being a cedar-paneled darkroom with a red stained glass window (the original owner was an amateur turn-of-the-century photographer who captured many of the Kensington structures on film). Another room on the second floor, one with a southern exposure, has a wall comprised primarily of windows, which were formerly part of ceiling skylights, replaced by a roof. The third floor contains three rooms. Three-quarter round, turned beading, to protect some of the plaster corners is extant in the house.

10320 Fawcett Street is believed to have been built in the 1880's, and is probably typical of the town's "farm" type architecture before Warner's development. The house is "T" shaped in plan; the three ends of the "T" are gables. There are two chimneys, one located at the central intersection of the two gables, and the other located to the far right side of the facade. The latter chimney is diagonally placed. Except for shingles in each of the large pedimented gables, the house is of German clapboard. In the pediment of each gable is a strip of subdued trim, surrounding the shingles, with small rosettes at each end and at the apex.

The windows are double hung sash with two lights over two. They are separated by a large verticle mullion, and there are shutters by each window. The lintels are lightly carved, and the sills have small wooden consoles. A porch runs around the front and down to one-half of each side. On the right portion only is a balustrade with sawn art balusters. The porch posts are plain, square stock with slightly ornate brackets at the cornice, which also has wooden modillions. A shed addition is at the rear of the house.

A former side porch is now a bathroom which is entered by the old exterior door, the window in the upper portion of the door having been painted over.

The rooms in this house have tall ceilings. The diagonally-placed fireplace in the former parlor has fluted pilasters with plain capitals and mantel. A small carved ornament on the entablature resembles a Victorian stencil design in that the leaves on the foliate are heart-shaped. The entry into the parlor and from the parlor to an adjoining room is very wide post and lintel, and both show evidence of having wide double doors. Bull's eye molding is apparent throughout on both doors and windows, and this motif is on the second fireplace, which has paneled pilasters. A single turn stairway has a carved newel post and on the stairway wall is a stained glass window - with twelve small sections surrounding a large square.

10314 Fawcett Street is a New England Dutch Colonial gambrel roof architectural style. The unique aspect of this house is that it is a cross-gambrel, with gambrels protruding from each side of the ridge line.

7. Description - Con't.

The northern gambrel facade contains a vent port and double windows (double hung, sash, one-over-one) and a stained glass window. The southern gambrel section contains a vent port and two windows; the lower story contains French doors leading to a garden.

The front facade has the entry right of center, and to the left, two windows (double-hung, nine-over-nine), are at first-story level. Two windows (double-hung, six-over-six) and a vent port are in the second story.

The house is of clapboard, with a huge foundation/basement wall of ashlar. For many years, the basement floor was of soil. Formerly, the house contained two kitchens, but the main kitchen has been remodeled as a dining room, with the former summer kitchen utilized as the present kitchen. The pantry is still used as a pantry. However, the wall between the former dining room and parlor was removed, making one large living room.

The entrance hall has a double-turn stairway with newel posts containing egg and dart carving and capped with wooden-shaped urns. The cornices of the doors and windows throughout the house have a carved circular molding in the corners. Two plaster corners in the second story hall are protected by a three-quarter round bead. In the attic, the wooden water tank, which was once serviced by a windmill, is intact.

There are two chimneys; one is a new addition on the south living room wall, replacing a former window. The other is the original, centrally placed, with the fireplace in the library. It has a small Klimsch type flower/foliate decoration, two carved consoles under the mantel, and pilasters with plain capitals.

7. Description - Con't.

STREET NUMBERS INCLUDED WITHIN THE DISTRICT:

<u>NAME</u>	<u>NUMBER</u>
Armory Avenue	10301 - 10428
Baltimore Street	3806 - 3951
Calvert Place	3700 - 3819
Carroll Place	10202 - 10234
Concord Street	10605 only
Connecticut Avenue	10115 - 10808
Detrick Avenue	10304 - 10530
Dupont Avenue	3415 - 3845
Farragut Avenue	3500 - 3809
Fawcett Street	10300 - 10426
Ferndale Street	3400 - 3406
Frederick Avenue	10000 - 10217
Frederick Place	3502 - 3510
Freeman Place	10310 - 10316
Hadley Place	10100 - 10109
Howard Avenue	3706 - 3960
Kensington Court	3500 - 3507
Kensington Parkway	10001 - 10431
Kent Street	3404 - 3602
Knowles Avenue	3800 - 4000
Lexington Court	10602 - 10608
Lexington Street	10600 - 10722
Mannakee Street	10409 - 10423
Metropolitan Avenue	10400 - 10594
Mitchell Street	3710 only (Town Office)
Montgomery Avenue	10203 - 10420
Nash Place	10600 - 10611
Oberon Street	3410 - 3501
Perry Avenue	3506 - 3706 (Even # only)
Plyers Mill Court	3509 - 3519
Plyers Mill Road	3400 - 3923
Prospect Street	3906 - 4011
St. Paul Street	10500 - 10718 (Odd # to 10707)
Summit Avenue	10207 - 10535 (Odd # only)
University Blvd. West	3740 - 3745
Wake Drive	3414 - 3423
Warner Street	3810 - 3910
Washington Street	3700 - 3948
Wheatley Street	10500 - 10616

SEE INSTRUCTIONS

8. SIGNIFICANCE

PERIOD (Check One or More as Appropriate)

<input type="checkbox"/> Pre-Columbian	<input type="checkbox"/> 16th Century	<input type="checkbox"/> 18th Century	<input checked="" type="checkbox"/> 20th Century
<input type="checkbox"/> 15th Century	<input type="checkbox"/> 17th Century	<input checked="" type="checkbox"/> 19th Century	

SPECIFIC DATE(S) (If Applicable and Known)

AREAS OF SIGNIFICANCE (Check One or More as Appropriate)

<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Education	<input type="checkbox"/> Political	<input checked="" type="checkbox"/> Urban Planning
<input type="checkbox"/> Prehistoric	<input type="checkbox"/> Engineering	<input type="checkbox"/> Religion/Philosophy	<input checked="" type="checkbox"/> Other (Specify)
<input type="checkbox"/> Historic	<input type="checkbox"/> Industry	<input type="checkbox"/> Science	<u>Local History</u>
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Invention	<input type="checkbox"/> Sculpture	_____
<input checked="" type="checkbox"/> Architecture	<input type="checkbox"/> Landscape Architecture	<input type="checkbox"/> Social/Humanitarian	_____
<input type="checkbox"/> Art	<input type="checkbox"/> Literature	<input type="checkbox"/> Theater	_____
<input checked="" type="checkbox"/> Commerce	<input type="checkbox"/> Military	<input checked="" type="checkbox"/> Transportation	_____
<input type="checkbox"/> Communications	<input type="checkbox"/> Music		_____
<input type="checkbox"/> Conservation			_____

STATEMENT OF SIGNIFICANCE

Despite the threats of urban sprawl, the town of Kensington has maintained its small town atmosphere and character. Also, despite the architectural changes by modernization, the town still has its small late-Victorian era enclave which was grouped around the first public library in the Greater Washington Area.

Although pre-1890's and modern styles of architecture are represented in the residential and older commercial sections of the town, the predominant impression is one of the turn-of-the-century—large homes with porches, towers, turrets, subdued Gingerbread trim, brick sidewalks, and picket fences.

Many of the social organizations in Kensington date back to its early years and have provided a continuity and stability. The library, a social center along with the churches, is now a children's library. The first co-op nursery school was formed in Kensington and still exists. The Woman's Club, founded in 1899, was one of the first in Maryland, and has remained a strong force and consciousness-raiser. The town government, formed in 1894, contributes to the cohesiveness of the residential body and allows participation by the citizens.

Several of the commercial buildings predate the incorporation of the town, and Kensington is presently known for its "Antique Row." Architectural reminders of yesteryear are present—the old ice cream parlor now a boutique, an old press building/newspaper office now a physician's office, a former general store currently a small department store; and one of Montgomery County's five remaining railroad stations is in Kensington. Other buildings, ranging from a 1927 National Guard Armory to an outgrown modern post office, have undergone adaptive use. The Kensington townspeople take pride in their past. The town has a photographic record, second only to that of the county seat. The Woman's Club matched a grant, given by the Maryland Bicentennial Commission, to the county historical society to initiate an oral history program. Thus, many Kensington residents have been orally taped for their memories of life in the past.

Originally, Kensington was part of a land grant conveyed to Col. William Joseph in 1689. Col. Joseph was a state official, and land records show the grant was called "Joseph's Park" for years. Then, Daniel Carroll of the famous Maryland Carroll family, just before his

9. MAJOR BIBLIOGRAPHICAL REFERENCES

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 MacMaster, Richard K. and Hiegert, Ray E. A Grateful Remembrance, The Story of Montgomery County, Md. (Rockville, Md., 1976).
Records of the Columbia Historical Soc. "Letters of the Late Brainard H. Warner." Vol. 31-32, 1930.
 Townsend, Wilson L. The Montgomery County Story, "Knowles Station and the Town of Kensington." (Montgomery Co. Historical Soc., 1963)

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY			O R	LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES		
CORNER	LATITUDE	LONGITUDE		LATITUDE	LONGITUDE	
	Degrees Minutes Seconds	Degrees Minutes Seconds		Degrees Minutes Seconds	Degrees Minutes Seconds	
NW	° ' "	° ' "		° ' "	° ' "	
NE	° ' "	° ' "		° ' "	° ' "	
SE	° ' "	° ' "		° ' "	° ' "	
SW	° ' "	° ' "		° ' "	° ' "	

APPROXIMATE ACREAGE OF NOMINATED PROPERTY:

Acreage Justification:

304

11. FORM PREPARED BY

NAME AND TITLE: Preservation Committee		DATE July 1, 1978
ORGANIZATION Kensington Historical Society, Inc.		
STREET AND NUMBER: Post Office Box 425		
CITY OR TOWN: Kensington	STATE Maryland 20795	

12. State Liaison Officer Review: (Office Use Only)

Significance of this property is:
 National State Local

 Signature

SEE INSTRUCTIONS

8. Statement of Significance - Con't.

death in 1751, acquired about half of "Joseph's Park" due to a mortgage foreclosure.

An 1865 cadastral map shows about five landholders, the Knowles family being a prominent one. At the time of the Centennial of America, Kensington had a population of seventy. However, with the advent of the railroad, in 1873, which provided a north-south transportation line, and the Bladensburg Turnpike, a market road which provided an east-west linkage, the little crossroads became known as Knowles Station. An 1879 cadastral map shows the railroad track running through the Knowles farm, and the map also shows a post office.

By 1880, the town had two general stores, both of which are extant. Both the post office and the waiting room for train travelers were probably housed in one of the stores. The Knowles property, part of which had already been sold to the railroad company, was sold for development, with a resubdivision occurring eleven years later. A second development was recorded in 1888, north of the railroad, so that by 1890, the portion south of the rail line was not as developed as that on the north. At this point, Brainard H. Warner came on the scene.

Brainard Warner came to Washington, D. C., in 1863 to work as a clerk in a Civil War hospital. Constance Green, in her history of Washington, describes Warner as "an unknown country boy who came to work as a government clerk and who found undreamed-of riches in real estate." He was only sixteen, but letters written to his father back in Pennsylvania show a keen power of observation and maturity. When he set his sights on Knowles Station in 1890, he was wealthy and had also invested in real estate enterprises in Takoma Park, Forest Glen, and in the Chautauqua at Glen Echo.

At Knowles Station, Warner purchased about 125 acres which included the site for his own home. He then acquired additional land which allowed him access to the railroad, and in November 1890, he filed a plat map under the name of Kensington Park, allegedly because he was so impressed with the Kensington in England after a trip abroad. He then invited his friends to build homes, as a summer retreat. For his own home, he purchased an old farm house from Spencer Jones, remodeled it, and landscaped the grounds to blend with the circular siting. At that time, the two large turrets were probably added. Warner's main home was a red brick mansion at 2100 Massachusetts Avenue in the "millionaire" section, near DuPont Circle in Washington, D. C., but he summered in Kensington, and for years his Queen Anne style country home was the scene of much social and political activity. Warner was President of the powerful D. C. Board of Trade, founder and first President of the Washington Loan and Trust Co. and founder of the first Republican newspaper, published in Kensington. He had many friends in Washington, D. C., one being the Editor of the Washington Star, Crosby Noyes. Noyes and Warner conceived the idea of the library, with Warner donating the land and Noyes stocking the shelves with books left over from the Star's book review section. Mr. Warner also donated the land for the Presbyterian Church. Today the church, called the Warner Memorial Presbyterian, and the library, known as the Noyes Library, commemorate the memory of Warner's father and his friend,

8. Statement of Significance - Con't.

Crosby Noyes. Another contribution to the town by Mr. Warner was the Town Hall; however, it was destroyed by fire in 1899.

Kensington was also known as the "windmill village." A visitor described the town as follows:

"I recall very vividly my first visit to Kensington in 1892. The Town impressed me as looking like a cemetery, white-washed tree-boxes all over the place and board walks running up and down the hills. The B. & O. R.R. had at that time only a single track and there were very few houses -- few and far between and they stood in the blazing sun. The so-called streets were dirt roads. The only lights were coal oil lamps, as there was no gas, electricity, telephones, water, or sewers. Every house had its own well and water was pumped into the houses by windmills, whose tall towers gave the impression of a town in the oil regions of the west."

In 1893, Kensington received its railroad station. In 1895, the street car line was extended from Chevy Chase. Thus, even before the advent of the automobile, Kensington became a year-round residential area with its excellent commuting routes. In the early 1900's, a promotional brochure stated:

Kensington forms the terminus of one of the most charming automobile trips out of Washington. The autoist can traverse the entire length of Connecticut Ave. which ends in the heart of Kensington and can then take the splendid road to Wheaton, Maryland.

President Wilson is said to have driven out to enjoy the country air. Mrs. Calvin Coolidge and Alexander Graham Bell were visitors at the Anna Rhinehart School for the Deaf, which occupied one of the large Victorian homes, and which pioneered in lip-reading methods.

Between 1908 and 1920, a large portion of the remaining undeveloped land in Kensington was converted to new residences. The architecture became a mixture, as Frank Lloyd Wright's "prairie school" design and bungalows were the rage in America. The larger homes were of the Georgian style with Cape Cods scattered about.

Prior to World War II, Kensington's emphasis on education resulted in a new Junior High School, after a hotly debated lower county contest. A two-story brick elementary school had been erected in 1917. In 1927, the state placed an Armory in Kensington on land which was the site of two frame schools.

A World War II memorial can be seen at one of the main entrances to Kensington. Despite the post war development and the building of communities adjacent to the Kensington border, the town has retained its cultural ties to the past. The town center is the present Town Hall (the old Armory) which houses the mayor's office, meeting rooms, a Victorian parlor, a children's museum and a large hall for exhibitions and activities. The Kensington Historical Society was formed in 1977 with historic preservation as one of its main goals.

ENTRIES IN THE NATIONAL REGISTER

STATE MARYLAND

Date Entered SEP 4 1980

<u>Name</u>	<u>Location</u>
Kensington Historic District	Kensington Montgomery County

Also Notified

Honorable Charles McC. Mathias, Jr.
 Honorable Paul S. Sarbanes
 Honorable Michael D. Barnes

For further information, please call the National Register at (202)343-6401.

COPY OF CONGRESSIONAL NOTIFICATION

MANUAL FOR STATE HISTORIC PRESERVATION REVIEW BOARDS

**Patrick W. Andrus
Michael J. Auer
Caroline R. Bedinger
Susan L. Henry
Stephen A. Morris
John W. Renaud**

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
INTERAGENCY RESOURCES DIVISION**

1992

any other historic property: descriptive information giving a specific analysis of the site or district and how this is known; contextual information which indicates how this site or district fits into current knowledge of a region's prehistory or history; and explicit boundaries and reasons for their delineation based on the known extent of the resource.

Like other types of historic properties, archeological properties may be eligible under more than one criterion. It is important to keep this in mind when reviewing archeological nominations, as the nomination form should refer to all aspects of the significance of the property, and provide support for each if the archeological site is nominated for more than one criteria or area of significance. For example, in justifying the eligibility of a site or district under criterion D, the criterion most often applied to archeological properties, the text of the nomination form should demonstrate what data are contained in the site and explain how that information is used to answer specific research questions. The importance of the information to be gained should be established by discussing the site or district in the context of current knowledge of the region's history or prehistory. For sites consisting largely of buried deposits, demonstration of potential to yield important information may involve subsurface testing. The necessity for, and scope of, subsurface testing must be decided on a property specific basis.

If a group of related archeological properties is spatially discrete, and the space between the elements is not related to the significance of the district, and visual continuity is not a factor in the significance, then it may be appropriate to select a discontinuous boundary. The discontinuous boundary, composed of two or more definable significant areas separated by nonsignificant areas is used when the deposits are related to each other through cultural affiliation, period of use, or site type.

11. Are there special criteria or considerations for nominating objects to the National Register?

Of the categories of resources eligible for the National Register, objects have often been the most controversial. They are a kind of resource different enough to raise questions about what types of objects are eligible and how the National Register criteria apply. Integrity of location and setting is especially important in determining what objects qualify for the Register. Objects that are part of collections are not eligible for listing on the grounds that the required "integrity of

location, setting, feeling and association" is not present in a museum type of arrangement. Small objects not designed for a specific location are normally not eligible. Such works include transportable sculpture, furniture, and other decorative arts that, unlike a fixed outdoor sculpture do not possess association with a specific place. Objects currently listed in the National Register include boundary markers, monuments, statues, mileposts, and fountains.

12. What are the criteria for listing vernacular architecture?

Vernacular architecture is important because it reflects significant patterns of life in particular regions. Criterion C, which includes historic resources "that embody the distinctive characteristics of a type, period, or method of construction, or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction," is often applied to regional types, periods, and styles of vernacular resources. Such native resources are increasingly recognized as vital parts of the variety of American culture, especially as they become more scarce. Vernacular resources may convey a sense of historically common, but now rare or nonexistent, lifestyles or design patterns. Frequently the historic patterns and architectural features associated with vernacular construction reflect a major component of an area's culture. Such resources might be modest in scale and simple in design and craftsmanship, yet are as legitimately historic as any other Register listing.

Historical Integrity

13. How important is the integrity of the property when considering a nomination?

Integrity is the ability of a property to convey its significance. Historic properties either retain integrity, or they do not. Within the concept of integrity, the National Register criteria recognize seven aspects or qualities that, in various combinations, define integrity. Integrity is a quality that applies to location, design, setting, materials, workmanship, feeling and association. It refers to the clarity of a property's historic identity.

In terms of architectural design, integrity means that a building must still possess the attributes of mass, scale,

decoration, etc., from its Period of Significance, that is from either (1) the period in which it was conceived and built, or (2) the period in which it was adapted to a later style which has validity in its own right as an expression of historical character or development. The question of whether or not a building possesses integrity is a question of degree of alteration. For a building to possess integrity, its principal features must be sufficiently intact for its historic identity to be apparent.

A building that is significant for historic association must retain sufficient physical integrity to convey that association. The building should thus substantially retain the physical character or appearance it had at the time of its association with the significant event or person. In the case of a historic site which may not possess any historic buildings (for example, battlefields, traditional cultural properties, treaty sites, fords, and so forth), the site's continuing ability to communicate its historic associations with an event or person frequently depends on the retention of the appropriate natural setting.

Severe structural deterioration can affect eligibility of a property for listing in the National Register. If there is strong justification for the property's historical integrity despite its deterioration, it may be nominated and listed with the expectation that this recognition may spur efforts to save and improve the property. It is important that evaluation of such a case address the condition of a deteriorated property and that photos used during evaluation accurately depict its condition. If the building has lost its structural integrity it may be determined that the building is beyond the point of rehabilitation and therefore beyond the point of making a lasting contribution to the community, State, or nation. In such an instance, the property would not be listed in the National Register. Even though a property may have no buildings retaining integrity, the property may have archeological remains that could make it eligible for the National Register.

In the case of districts, integrity means the physical integrity of the buildings, structures, or features that make up the district as well as the historic, spatial, and visual relationships of the components. Some buildings or features may individually have been more altered over time than others. In order to possess integrity a district must, on balance, still communicate its historic identity.

The quality of integrity in an archeological property means that the cultural material remains are relatively undisturbed, thus retaining the potential to yield important information, communicate historic associations, or exemplify artistic or construction techniques. Many factors may affect the integrity of an archeological property, including both man-made and natural disturbances such as modern construction, quarrying, cultivation, erosion, or even previous archeological investigations.

Refer to National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation, for an extended discussion of integrity.

14. How important are intrusions when considering a district for nomination to the National Register? How many are too many?

There is no easy formula or standard rule concerning the number of intrusions that renders a district ineligible for National Register listing. The primary means of judging district intrusions is to determine their impact upon the area's architectural, historic, or archeological integrity. Factors to be considered in this judgment include the relative size, scale, design, and location of the questionable property, or, in the case of an archeological district, the seriousness of any ground-disturbing activities. Any proposed district must convey a sense of time and place through the collective significance of its buildings or features. In the case of a historic or architectural district, if there are too many scattered non-contributing features, or if the one or two present have a dominating visual impact and so interrupt the sense of historical period or architectural style, then the district's integrity may be lost or seriously damaged.

15. Where should boundaries be drawn?

Once the significance of a historic property has been identified, the boundaries should be carefully drawn to include all the aspects or qualities that contribute to its significance. Boundaries should not be drawn to include buffer zones, nor should they exclude features that are intrinsic to the resource. For example, all buildings/features of a historic complex should be included. Visual qualities such as integrity of setting or historic sight lines related to the significance of the property should be considered integral parts of the resource.



REGULAR MEETING OF MAYOR AND COUNCIL, KENSINGTON, MARYLAND
MAY 27, 1997 8:00 P.M.

The meeting was Called to Order with Mayor Stuart, Council Members Basle, Dedes, Ritzmann and Wagner present. The Pledge of Allegiance was followed by unanimous approval of the April Minutes as printed.

WORKSESSION OF MAYOR AND COUNCIL: May 12, 1997, 7:30 p.m.

- The Mayor and Council Members Basle, Dedes, Ritzmann and Wagner and Administrator McAuley were present and the following issues were addressed:
 1. Phil Spottiswood, Merrill Lynch, presented an analysis of the Town's and Town Pension's investment portfolios for the Council's review;
 2. Proposed Connecticut Ave./Washington St. light: The Mayor and Council agreed that a letter be sent to the State Highway Administration requesting that it explore the feasibility of a traffic light at Connecticut Ave. and Washington St. stressing pedestrian and vehicular safety. The letter will be supported by petitions, church and synagogue letters, Pickard Study, and will also ask for a 30 MPH limit within the Town;
 3. Proposed Graffiti Ordinance: Council Member Ritzmann stressed the Town should be focusing on the perpetrator instead of the victim of this type vandalism. The Town will ensure that the County's ordinance has been adopted and will ask the County to enforce the law;
 4. Council Member Wagner asked that the section of the Introduction of the Proposed 97/98 Budget which read "with each line item considered a general classification required to maintain its budget amount unless amended by Council" be eliminated due, in part, to the increased cost of this detailing of the audit. Currently, the auditors are required to ensure that the Town remains within budget in each general category and do review all Town minutes for amendments to the budget. The Council voted unanimously to accept this amendment to the Introduction of the 97/98 Budget;

5. The Council reviewed the updates to the project list. Items discussed included incomplete landscaping at American Self Storage, the new street name signs, and street paving update.;
6. The Candidates' Forum was scheduled for 7:00 on May 27, prior to the Town Meeting.
7. Council voted to accept the report "Vision of Kensington, a Long-Range Preservation Plan" prepared by Tracerics and PMA Associates in August of 1992.
8. Council Member Ritzmann recommended that the Town testify at the June 12th Planning Board meeting and the June 17th County Council Public Hearing on the Amended County Sign Ordinance. The Council requested that the Sign Committee review the referenced amendment to the Montgomery County Ordinance and recommend action the Town should take on the proposed amendment.

STAFF REPORT: Town Administrator McAuley

- A review of the county inventory of licensed vehicles in the Town resulted in an increase of 31. The Town receives revenues of approximately \$78,000 per annum for all vehicles registered in the Town.
- Ms. McAuley met with a Board Member of Montgomery County Art in Public Places concerning potential projects the group would consider for the Town. Ideas included sculpture in the Howard Ave. Park and a mural on the facade of a building facing the north side of the RR Tracks.
- Eight street trees are scheduled to be planted this spring as part of the continuous planting program.
- On May 12, Ms. McAuley, Don Little, Architect, Dave Furman, construction manager, met with Larry Stubbs, Farragut Builders to develop a final punch list for Phase II of the Armory Renovation. This group also met on May 19 to review change orders and their dollar amount.

MAYOR'S REPORT: Mayor Stuart

- Commercial Revitalization: at the May 21st Commercial Revitalization Committee Meeting, the committee chose the Washington Globe street light dependent on the ability to shield the light from the apartment residents of the Whitlow Building. The group also approved the dimpled sidewalk and keeping the benches that are currently installed on Howard Ave. and Fawcett St. There was considerable discussion on the type of street tree for the avenue. There was concern that the proposed honey locust

will shed considerable vegetation on the sidewalks. A zelcova tree was suggested in its place and this will be investigated further before a final decision is made.

- The Mayor and Administrator met with the Cambridge Group, developers of the town houses on Plyers Mill Rd. The group will apply for eight permits for houses within the Town limits or whose property is partially in Town. They will provide the Town with an updated landscaping plan within the next week.
- Metropolitan Ave.: The Mayor has met with staff at MNPPC who are willing to assist the Town in the design for the upgrading of streetscape along this road.

BUILDING INSPECTOR'S REPORT: Building Inspector Bruch

- There were no building permits issued in May.

UNFINISHED BUSINESS:

- Anthony Segreti has requested a variance for a proposed new house on Lot 19, Block 4, R.B. Detrick's Subdivison, Kensington, Maryland. The variance would be for a side setback of eight feet on the Northeast corner of the house. The motivation for this request is to locate the new house far away from a Southern Magnolia situated near the southern property line. There will be a public hearing on the variance at the June Town Meeting. The Town has a variance procedure that will be followed.
- Council voted unanimously to approve the 97/98 Town Budget as presented.
- Sign Committee: the committee reviewed the proposed new Montgomery County sign ordinance and recommended that the area of signs in industrial and commercial zoned areas not be increased and that signs facing residential zones and Historic Preservation areas be limited to 0.5 sq. ft. per linear feet of frontage, containing only the name of business, and not be illuminated, including neon.
- Two Citizens whose homes are adjacent to North Kensington Parkway staked the Town Lot on that street for evergreens to be planted. The Town is considering this landscaping but might be fencing in the area prior to any planting.
- Paving on St. Paul Street will be coordinated with the gas main replacement by Washington Gas.

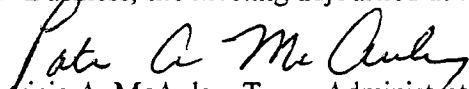
NEW BUSINESS

- It was suggested that the Town designate a handicap parking space in the vicinity of Howard Ave. and Fawcett St.

- Council Member Ritzmann introduced an amendment to Section 8-710 Storage of Motor vehicles, paragraph (a) to add (3) inoperable and (4) has not moved under its own power for two years. Seconded and passed unanimously.

There being no further New Business, the meeting adjourned at 9:30 p.m.

Respectfully submitted,


Patricia A. McAuley, Town Administrator

Financial report:

April Balance:	\$687,597
May revenues:	62,588
May expenses:	<u><53,932></u>
May Balance	\$696,253

The next regular Town Meeting is June 30, 1997, 8:00.

AGENDA TOPICS FOR JUNE 30 TOWN MEETING

Presentation of proposed replacement windows for Kensington Community Center

Public Hearing for variance of a side setback of 8' for a new home at Lot 19, Block 4, R.B. Detrick's Subdivision, 10300 block of Connecticut Ave.

ANNOUNCEMENTS

- There has been incidents of persons stealing plants and bushes from Clum Kennedy Gardens. Both Montgomery County Police and Park Police have been notified and persons found guilty of these thefts will be prosecuted to the full extent of the law.
- Volunteers are needed for the Labor Day Parade and Festival. Persons are needed to help with the lineup, information booth, crowd control and more. Please call Louise Myers at 301-949-2424.



Montgomery County Government

February 3, 1989

Paul V. Flaherty
10801 Connecticut Avenue
Kensington, Maryland 20895

Dear Mr. Flaherty:

At their meeting of February 2, 1989, the Montgomery County Historic Preservation Commission voted to deny your application for a Historic Area Work Permit at 10232 Carroll Place in the Kensington Historic District (Lot 17, Block 2, Kensington Park Subdivision).

Attached please find a written copy of the findings, as well as the reasons for denial of your application. In accordance with Chapter 24A of the Montgomery County Code, if you are aggrieved by this decision, you may appeal to the Circuit Court within thirty (30) days from the date on which the Commission's decision was made public (February 2, 1989).

In the meantime, if you have any further questions or comments, please feel free to contact our staff specialist at 217-3625. Thank you very much for your patience in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Steven Karr by JSC".

Steven Karr, Chairman
Montgomery County
Historic Preservation
Commission

Attachment

SK:gk:0993E



Montgomery County Government

February 2, 1989

FINDING OF MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

RE: Application of Paul V. Flaherty for new construction at 10232 Carroll Place (Lot 17, Block 2), Kensington Historic District

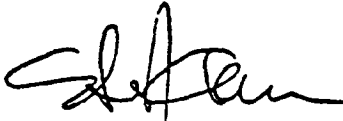
At its January 19, 1989 meeting, the Montgomery County Historic Preservation Commission considered the above application for the issuance of an Historic Area Work Permit pursuant to the provisions of Chapter 24A of the Montgomery County Code (1984), as amended. The Kensington Local Advisory Committee ("the LAC"), a regional committee of local residents established to assist the Montgomery County Historic Preservation Commission, has recommended to the Commission that the above Historic Area Work Permit Application be denied because "the proposed development clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental affect on the established open character of the streetscape. Therefore, the LAC opposes the proposed development because it does not meet the compatibility criteria set forth in the Historic Preservation Ordinance."

Following careful review of the testimony, and all evidence and exhibits submitted in the record, the Historic Preservation Commission finds that the work for which the Historic Area Work Permit is sought would be inappropriate, inconsistent with, and detrimental to the preservation, enhancement, and ultimate protection of the Kensington Historic District. More specifically, the Commission finds that the proposed construction and resulting increase in density would comprise a substantial intrusion on the overall character of the Kensington Historic District and its environmental setting. The character of the Kensington Historic District (as set forth in the Master Plan for Historic Preservation), and especially its core area, within which the above work is proposed, is defined by large lots and a curvilinear street pattern, highlighted by late nineteenth century residential structures. The existing structures within the core of the Historic District share a uniformity of scale, setback, and spacing which contributes to the cohesiveness of the district. This uniformity conveys a strong sense of both time and place, which has remained largely unaltered since the time of the original development of the neighborhood. The Commission finds that the issuance of a work permit in the above application would seriously impair this significant historic setting.

Historic Preservation Commission

51 Monroe Street, Rockville, Maryland 20850, 301/279-8097

Based on these findings, the Montgomery County Historic Preservation Commission, by a vote of 5-2 (with one abstention), denies the application of Paul V. Flaherty to construct a new home at 10232 Carroll Place, (lot 17, Block 2), Kensington Historic District.



Steven Karr, Chairman
Montgomery County Historic Preservation Commission

2/2/89

Date

SK:JC:bc

0984E

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

AVERY-FLAHERTY PROPERTIES, INC. :

v. :

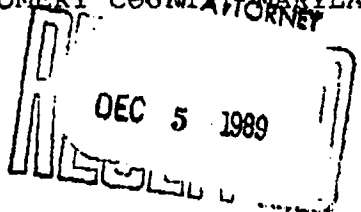
MONTGOMERY COUNTY HISTORIC
PRESERVATION COMMISSION :

and :

PAUL V. FLAHERTY, JR. :

v. :

MONTGOMERY COUNTY HISTORIC
PRESERVATION COMMISSION :



Consolidated Civil Nos.
39657 & 39658

OPINION AND ORDER

The matter before this Court is an appeal from the denial by the Montgomery County Historic Preservation Commission of an application from Avery-Flaherty Properties, Inc., for an historic area work permit for construction at 10234 Montgomery Avenue in Kensington Park and of an application from Paul V. Flaherty for an historic area work permit for construction at 10232 Carroll Place in Kensington Park. This Court had previously heard arguments in the above captioned matters and remanded the cases back to the Commission to set forth a factual basis for its decision. After reviewing the findings of fact from the Commission and the memoranda filed by the parties, the Court affirms the decision of the Montgomery County Historic Preservation Commission.

The applicable test in reviewing an administrative decision is whether reasoning minds could reasonably reach the


- 2 -

same conclusion by direct proof or by permissible inferences from the facts and the record before the agency. State Commission v. Washington County Community Action Council, Inc., 59 Md. App. 451, 455 (1984); Peppin v. Woodside Delicatessen, 67 Md. App. 39 (1986). If the conclusion reached by the Respondent is based on substantial evidence, the Court has no authority to reject the conclusion. Commissioner of Baltimore City Police Department v. Carson, 34 Md. 487, 508 (1977); cert. denied, 280 Md. 728 (1977).

Upon review of the findings of fact by the Commission, the Court concludes that there is sufficient evidence on which the Commission denied the applications of the appellants. The Court cannot now substitute its opinion.

Therefore, it is this 1st day of December, 1989, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the decisions of the Montgomery County Historic Preservation Commission be, and are hereby, AFFIRMED.


PAUL H. WEINSTEIN, JUDGE
Circuit Court for Montgomery
County, Maryland

Copies mailed to:

Susan W. Carter, Esquire
Jody S. Kline, Esquire
200-B Monroe Street
Rockville, Maryland 20850

A. Katherine Hart, Esquire
Edward Lattner, Esquire
County Attorney's Office
101 Monroe Street
Rockville, Maryland 20850

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

AVERY-FLAHERTY PROPERTIES, INC.	:	
v.	:	
MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION	:	
and	:	Consolidated Civil
PAUL V. FLAHERTY, JR.	:	Nos. 39657 & 39658
v.	:	
MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION	:	

SUBSTITUTED
MEMORANDUM OF LAW OF APPELLEE,
MONTGOMERY COUNTY, MARYLAND

Appellee, Montgomery County, Maryland, by its undersigned attorneys and pursuant to Rule B12 of the Maryland Rules of Procedure, hereby submits the following Memorandum of Law in support of its position.

STATEMENT OF THE CASE

In a decision dated February 2, 1989, (Ex. 34),¹ the Montgomery County Historic Preservation Commission ("the Commission"), denied the application of appellant Avery-Flaherty

¹All exhibits referred to are contained in the record on appeal.

Properties, Inc., for an historic area work permit (HAWP) for new construction at 10234 Montgomery Avenue (Lot 15, Block 2) in Kensington Park. On that same day, the Commission also denied the companion application of appellant Paul V. Flaherty for an HAWP for new construction at 10232 Carroll Place (Lot 17, Block 2) in Kensington Park (Ex. 35). From these decisions, appellants have noted an appeal to this Court.

QUESTIONS PRESENTED

- I. Does a Single Denial of Appellant's Applications for HAWPs Amount to a "Taking"?
- II. Are the Commission's Decisions so Devoid of Factual Findings that they Require a Remand?
- III. Were Appellants Denied Due Process when the November 17, 1988, Hearing was Continued Until December 15, 1988?
- IV. Are the Commission's Decisions Fairly Debatable, Supported by Substantial Evidence, and in Accordance with the Ordinance?
- V. Is Appellants' Interpretation of the Ordinance Relevant?

STATEMENT OF FACTS

Appellant, Avery-Flaherty Properties, Inc., entered into a contract dated August 13, 1987, to purchase a parcel of property within the Kensington Historic District consisting of Lots 15, 16, and 17, Block 2, Kensington Park subdivision, from Elizabeth and Jack Jones for a total purchase price of \$435,000.00. (Ex. 30). This parcel is located at the corner of

Before The Montgomery County Historic Preservation
Commission

Application of Avery-Flaherty Properties, Inc.

Before the Historic Preservation Commission is the application of Avery-Flaherty Properties, Inc. for an Historic Area Work Permit for new construction at 10234 Montgomery Avenue (Lot 15, Block 2), Kensington Park Subdivision, Kensington, Maryland.

PROCEDURAL HISTORY

The Historic Preservation Commission (the "Commission") received the application on October 7, 1988 (Exhibit 15).

Prior to the Commission's review of the application, the Kensington Local Advisory Committee (the "LAC") reviewed the application on October 4, 1988. In its advisory comments to the Commission, the LAC recommended denial of the application because of its "incompatibility with the openness of the streetscape" (Exhibits 11 and 14). On November 14, 1988, the applicant revised his plans in response to the LAC's comments (Exhibit 19).

The application was filed jointly with another application for an Historic Area Work Permit for new construction at 10232 Carroll Place (Lot 17, Block 2, Kensington Park Subdivision), filed by Paul V. Flaherty, Jr. Therefore, both Historic Area Work Permit applications were considered at the same time by the LAC and by this Commission.

A public hearing on the applicant's revised plans was held by this Commission on December 15, 1988. The hearing commenced at approximately 7:30 p.m. and ended at approximately 12:30 a.m. the following morning.

The applicant appeared, represented by counsel, and presented several witnesses and exhibits for the Commission's consideration. Many Kensington residents appeared in opposition to the application. Although the opposition did not formally enlist the services of an attorney, they were represented by counsel (two attorneys who are also residents of Kensington).

Following the hearing, the record was left open until January 19, 1989, allowing the parties to submit additional evidence and closing arguments.

BACKGROUND

It is the purpose of Chapter 24A of the Montgomery County Code, "Preservation of Historic Resources," to provide for the identification, designation and regulation, for purposes of protection, preservation, and continued use and enhancement of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural, or cultural value in that portion of Montgomery County within the Maryland--Washington Regional District. Its further purpose is to

preserve and enhance the quality of life in the County, safeguard the historical and cultural heritage of the County, strengthen the local economy, stabilize and improve property values in and around historic areas, foster civic beauty, and to preserve such sites, structures, and districts for the education, welfare, and continued utilization and pleasure of the citizens of the County, the State of Maryland and the United States of America.

The following terms are defined in Section 24A-2 of the Code:

Historic district: A group of historic resources which are significant as a cohesive unit and contribute to the historical, architectural, archeological or cultural values within the Maryland--Washington Regional District and which has been so designated in the Master Plan for Historic Preservation.

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.

Appurtenances and environmental setting: The entire parcel, as of the date on which the historic resource is designated on the master plan, and structures thereon, on which is located an historic resource, unless reduced by the commission, and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

On July 7, 1986, the Montgomery County Council, sitting as the District Council, approved a resolution designating the Kensington Historic District (#31/6) as an amendment to the Master Plan for Historic Preservation. The amendment was adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC), effective July 8, 1986.

It is the responsibility of the Montgomery County Historic Preservation Commission to preserve designated historic districts and historic resources in the county through powers specified in the Historic Preservation Ordinance. One of the primary methods of fulfilling this responsibility is through the historic area work permit review process.

It is the responsibility of an applicant for an historic area work permit to provide "information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the commission" Section 24A-7(g)(1). The plan submitted must meet at least one of the criteria set forth in Section 24A-8(b).

The Kensington Master Plan Amendment states:

According to [Section III of the Commission's Guidelines for Historic Districts,] a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources -- that is visually contributing but non-historic structures or vacant land within the Kensington District -- the Ordinance requires the Preservation Commission to be lenient in its judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District. [Emphasis added]

EVIDENCE

The Kensington Master Plan Amendment states that 12 properties in the immediate vicinity of the proposed new construction at Lot 15 are designated as primary resources. These primary resources include 10226 Carroll Place, 10231 Carroll Place, 10234 Carroll Place, 10300 Fawcett Street, 10302 Fawcett Street, 10213 Montgomery Avenue, 10221 Montgomery Avenue, 10225 Montgomery Avenue, 10303 Montgomery Avenue, 10304 Montgomery Avenue, 10308 Montgomery Avenue and the Noyes Library located at the corner of Carroll Place and Montgomery Avenue. Thus Lot 15 is located in a primary resource area within the historic district.

The following exhibits and testimony were presented at the hearings. Susan Carter, an attorney representing the applicant, Avery-Flaherty Properties, Inc., (as well as Paul V. Flaherty, Jr., the applicant, for a related Historic Area Work Permit for new construction on Lot 17, Block 2) stated her clients' desire to submit proposals for both lots at the same time. According to Ms. Carter, her clients wanted the Commission to review both proposals at the same time to see how they related to one another (Exhibit 27, p. 20).

Andrew Dempster and Donald Little, representing the Kensington LAC, submitted for the Commission's consideration "An Analysis of the Proposed Development on Carroll Place" (Exhibit 27A). The LAC analysis stated that the area immediately surrounding the proposed new construction on Lot 17 was a "site of a contiguous grouping of buildings which continue to exist with the same mutual relationships as when they were first combined soon after the plan for Kensington was adopted in 1890." The analysis went on to say that fundamental to this portion of the historic district is the streetscape, and that a clear pattern of development has been established and maintained for almost 100 years. The LAC analysis also indicated that the primary resources in the vicinity of the proposed development existed on two and three lot sites that have historically been held under individual ownership.

Mr. Little stated that any construction on Lot 15 and Lot 17 should take a secondary nature to the surrounding primary resource area. He testified that the proposed structure for Lot 15 did not defer to the historic building on Lot 16, and that the proposed structure was too massive and would detract from the existing house on Lot 16 (Exhibit 27, p.9).

Mr. Little further testified that the average street frontage relative to individual houses in this area of the historic district is 150 feet. He also stated that the average distance between houses is 118 feet (Exhibit 27, p. 18).

Mr. Little also stated that the proposed stylistic elements were not consistent with the existing Victorian style structures in the immediate vicinity. The proposed elements, in the opinion of the LAC, were borrowed from many different styles and were combined in a manner that was inappropriate within the district.

The LAC analysis stated that the streetscape would be significantly altered in that the proposed structure would be situated forward of the existing setback line along Montgomery Avenue. Also, the LAC analysis indicated that the proposed footprint would be greater than other structures on that side of Montgomery Avenue, thereby overwhelming the existing resources. It was also stated that the proposed near-ground level porch would be out of character with others in the district. The LAC analysis reveals that porches within the district are raised two to three steps above the ground. Lastly, the LAC analysis expressed concern as to the siting of the proposed structure which would block the view from Montgomery Avenue to the historic oval central space.

Travis and Jeanne Price, the applicant's architects, testified that they looked at many different possible locations and configurations for houses on Lot 15 and Lot 17. The architects stated that, in an effort to mitigate the negative impact of the new construction on the district, they attempted to break up the mass of the proposed house by adding dormers. They also indicated that they had moved the house toward the rear of the lot as far as possible. Mr. and Mrs. Price stated that the intention of the proposed design was not to imitate the adjacent house but rather to draw from the entire neighborhood and include various images from within the architecture (Exhibit 27, p. 30 ff).

The applicant, represented by Mr. Paul Flaherty, identified himself as vice president of Avery-Flaherty Properties, Inc. He testified that he was aware at the time of purchase that the subject lot was in a historic district and that it would be subject to review by the Historic Preservation Commission. He also indicated that he had been informed by Maryland-National Capital Park and Planning Commission that the proposed lot was buildable (Exhibit 27, p. 88ff).

Mr. Flaherty further testified that he believed the fair market value of Lot 15 is between \$175,000 and \$200,000. (Mr. Flaherty did not include in his testimony any documentation of lot sales at comparable prices in the Kensington Historic District.) Although initially not willing to respond in public to the question as to how much he paid for the parcel located at 10234 Carroll Place (comprised of Lots 15, 16, and 17), Mr. Flaherty agreed later in his testimony to submit records in support of his argument that he would suffer "extreme hardship and loss" (Exhibit 27, p. 88ff), if denied the requested permit.

The Commission questioned Mr. Flaherty as to whether a smaller house could be constructed on Lot 15 which would not cause economic hardship. Mr. Flaherty stated that he did not think it was "reasonable and/or prudent to construct a two bedroom house on that location" (Exhibit 27, p. 105ff).

James Sharpe, a resident of Kensington and an attorney representing the opposition requested that the June 2, 1988 testimony of Judith Robinson, a professional architectural historian, be re-entered into the record (Exhibit 27, p. 150).

Ms. Robinson's statement included an analysis of the area immediately surrounding Lot 15 and Lot 17 in the Kensington Historic District. Ms. Robinson states in her testimony that "Warner's distinctive curvilinear physical plan for the town of Kensington has remained basically intact since it was first platted and incorporated in the early 1890s. Viewed from the air, Kensington takes on the shape of two connecting ovals intersecting each other at a 90-degree angle. Warner's own residence at a key position in one of the ovals, on Carroll Place (10231 Carroll Place), served -- and continues to serve -- as an anchor and nucleus for the town" (Exhibit 5).

Ms. Robinson further stated in her written testimony that the "overriding impression is of a turn-of-the-century garden suburb with widely spaced houses set on expansive lots among mature trees and pleasant vistas. No other single grouping of structures or streetscapes is so important to the history and visual quality of the Kensington Historic District" (Exhibit 5).

In addition, many area residents and concerned citizens presented verbal and written testimony in opposition to the construction proposal. Their testimony was entered into the record, and is found in Exhibits 23B, 27D, 27F, 27H, 29, 31, and 32.

FINDINGS

The Kensington Master Plan Amendment details the findings of historical and architectural significance that resulted in the placement of the historic district on the Master Plan.

The town of Kensington began as a small crossroad settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, setbacks and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb. [Emphasis Added]

The proposal will severely affect 12 historic resources located in the immediate vicinity of Lot 15, all of which are indicated as primary resources in the historic district, according to the Master Plan. The Noyes Library and the houses in this immediate area are superb examples of late 19th and early 20th century architecture found throughout the Kensington Historic District. Amply surrounded by informal yards and mature picturesque trees, these dwellings comprise a virtually intact and unaltered core streetscape area in the district. It is this Victorian garden setting that earned Kensington its placement on the Master Plan for Historic Preservation, as well as listing in the National Register of Historic Places.

The Commission finds any structure with the size and massing as that proposed for Lot 15 would significantly impair the existing streetscape of the core area of the historic district. "Streetscape" is the street views created by the interrelationship of structures, appurtenances, and environmental setting. As shown in the testimony of the LAC and Judith Robinson, the existing streetscape alternates rhythmically between residential structures and spacious yards. This existing rhythm in the core area surrounding Carroll Place would be significantly altered and virtually destroyed with the introduction of a structure of the size and massing that has been proposed in this application.

The Commission finds that the streetscape would be further altered in an adverse manner because, as proposed, the structure would be situated forward of the existing setback line along Montgomery Avenue.

The Commission finds that the design of the proposed structure would be incompatible with the surrounding historic houses. It concurs with the LAC that the proposed structure is too large and would overpower the existing historic resources, especially the historic house on Lot 16. Further, the proposed near-ground level porch would be out of character with others in the immediately adjacent area and in the district as a whole.

The Commission finds that the stylistic elements of the proposed structure are not consistent with the existing range of turn-of-the-century styles in the immediate vicinity. The proposed elements are borrowed from many different architectural styles and are combined in a manner that is not cohesive, compatible and complementary to the other styles in the district. This free combination of architectural styles is unprecedented not only in the surrounding area, but also in the entire historic district. Elsewhere it might be fashionable; here it is simply inappropriate.

The Commission finds that the percentage of coverage of the proposed house ("footprint") to its site, which has traditionally served as the open space and environmental setting for the house at 10234 Carroll Place, an identified historic resource, is such that the resulting relationship of house to "yard" would be significantly different from the existing relationship of houses to "yards" in this area of the historic district. This change would be especially apparent along Montgomery Avenue, the gateway into the garden-like setting of the core historic area. Therefore, the proposed house is incompatible with the character of the district.

Further, the Commission finds that the proposed construction would dramatically alter the existing sylvan setting of the historic house located on Lot 16, reducing the amount of garden/open space around the structure. This garden-like setting of historic resources within the district is an important feature referenced in the Master Plan.

The Commission finds that the siting of the proposed structure on Lot 15 would block the view from other historic resources along Montgomery Avenue to the oval central open space, the heart of the historic district.

Although the applicant addressed some of the concerns raised by the LAC by revising portions of the plans prior to the Commission meeting, the Commission finds that the changes did not respond well to the LAC's concerns, which the Commission shares. For example, the footprint of the proposed house was merely reconfigured rather than reduced.

The Commission was not persuaded by the testimony of Nancy Noyes, a consultant hired by the applicant. For the most part, the Commission found her arguments to be contradictory and unsupported.

The applicant has argued that if the proposal is not approved, he would suffer extreme hardship and loss (Section 24A-8(b)(5)). The Commission finds for the following reasons that it is unpersuaded by the evidence submitted by the applicant on this issue. It therefore must find that no extreme hardship or economic loss has occurred. The applicant has failed to prove that the denial of this single proposal will result in a "taking" of his property under the Fifth Amendment to the United States Constitution.

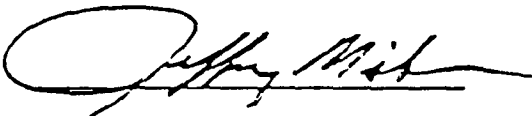
First, the Commission notes that the applicant bears the burden of proof on this issue and all other questions of fact (Section 24A-7(g)(1)). Second, the Commission's decision does not deny the applicant all reasonable use of the property. The Commission has simply determined that this particular proposal would seriously impair the architectural value of the surrounding resources, as well as the character of the historic district as a whole. The applicant is free to submit another application, or return to discuss possible alternatives for the development of this lot (Section 24A-6(d)).

Finally, the Commission finds that the applicant has failed to prove that the denial of this application would cause him to suffer undue economic hardship. The applicant has testified that the high cost of the lot dictates the size of the house that is built upon it. Documentation provided by the applicant (Exhibit 30) reveals that Lot 15 was purchased for \$78,850.00 in May 1988. At the hearing, Mr. Flaherty testified that the lot was worth \$175,000 to \$200,000. The applicant also testified at the hearing, without documentation, that the total cost for Lot 15 is \$97,304.07. If the applicant is correct in his estimate of the lot's present value, the vacant lot could be sold for a handsome profit. Mr. Flaherty's testimony that he must sell the undeveloped lot for \$200,000 to make himself whole, simply does not fit the figures he provided. The Commission is not suggesting that the applicant sell his lot as undeveloped land (although it certainly is an option).

However, the Commission finds that the applicant has not met his burden of proof on the hardship issue. The evidence presented as to the alleged economic hardship to the applicant is found not to be convincing.

Based on these facts and findings, and having heard and carefully considered all of the testimony and exhibits contained in the record, it is the decision of the Montgomery County Historic Preservation Commission that the application by Avery-Flaherty Properties, Inc. for an Historic Area Work Permit for new construction at 10234 Montgomery Avenue (Lot 15, Block 2), Kensington Park Subdivision, is denied.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-7(h) of the Montgomery County Code, an appeal may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.



Jeffrey Miskin, Chairperson
Montgomery County Historic Preservation Commission

JBC:av
1001E/ASci



Montgomery County Government

OFFICE OF THE COUNTY ATTORNEY

Executive Office Building
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850-2589

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301/217-2600
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TDD 301/217-2499

September 4, 1991

Barbara H. Wagner, Chairperson
Historic Preservation Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Avery-Flaherty Appeal

Dear Ms. Wagner:

Thank you for your letter of August 30, 1991 commending Assistant County Attorney Edward B. Lattner for his efforts on behalf of the Commission in the Avery-Flaherty appeal. I was aware of the difficult issues involved in this case and the diligent efforts he expended to secure a successful outcome.

Our Office is pleased that the decisions were not overturned on appeal. Your letter of commendation will be placed in Mr. Lattner's personnel file.

Very truly yours,

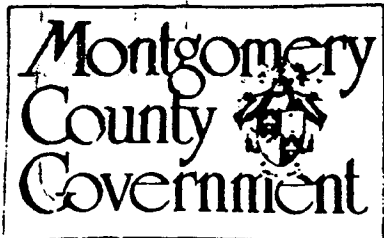
A handwritten signature in cursive script that reads "Joyce R. Stern".

Joyce R. Stern
County Attorney

JRS:ban
0489.JRS

cc: Edward B. Lattner
Assistant County Attorney

Lot 13 Lot 15
3925 + 3929
Prospect
St.



RAPID MEMO

TO: Mr. Patterson

FROM: Alison Vawter, PAA

SUBJECT: Dr. Cantelon's motion

MESSAGE

Enclosed is the body of Dr. Cantelon's motion, as per your request.

Please call if I can assist you further.

SIGNED

A handwritten signature in cursive script, appearing to read "Alison".

DATE

8-21-89

REPLY

SIGNED

DATE

THIS COPY FOR PERSON ADDRESSED

IT IS THE PURPOSE OF SECTION 24A OF THE MONTGOMERY COUNTY CODE, "PRESERVATION OF HISTORIC RESOURCES," TO PROVIDE FOR THE IDENTIFICATION, DESIGNATION, AND REGULATION, FOR PURPOSES OF PROTECTION, PRESERVATION, AND CONTINUED USE AND ENHANCEMENT OF THOSE SITES, STRUCTURES WITH THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, AND DISTRICTS OF HISTORICAL, ARCHEOLOGICAL, ARCHITECTURAL, OR CULTURAL VALUE IN THAT PORTION OF MONTGOMERY COUNTY WITHIN THE MARYLAND-WASHINGTON REGIONAL DISTRICT. ITS FURTHER PURPOSE IS TO PRESERVE AND ENHANCE THE QUALITY OF LIFE IN THE COUNTY, SAFEGUARD THE HISTORICAL AND CULTURAL HERITAGE OF THE COUNTY, STRENGTHEN THE LOCAL ECONOMY, STABILIZE AND IMPROVE PROPERTY VALUES IN AND AROUND HISTORIC AREAS, FOSTER CIVIC BEAUTY, AND TO PRESERVE SUCH SITES, STRUCTURES, AND DISTRICTS FOR THE EDUCATION, WELFARE, AND CONTINUED UTILIZATION AND PLEASURE OF THE CITIZENS OF THE COUNTY, THE STATE OF MARYLAND, AND THE UNITED STATES OF AMERICA.

IT IS THE RESPONSIBILITY OF THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION TO PRESERVE DESIGNATED HISTORIC DISTRICTS AND HISTORIC SITES IN THE COUNTY BY MEANS PROVIDED IN THE HISTORIC PRESERVATION ORDINANCE. ONE OF THE PRIMARY METHODS OF FULFILLING THIS RESPONSIBILITY IS THROUGH THE HISTORIC AREA WORK PERMIT PROCESS.

IT IS THE RESPONSIBILITY OF AN APPLICANT FOR AN HISTORIC AREA WORK PERMIT TO PROVIDE "INFORMATION SUFFICIENT TO SUPPORT THE APPLICATION AND THE BURDEN OF PERSUASION ON ALL QUESTIONS OF FACT WHICH ARE TO BE DETERMINED BY THE COMMISSION." [SEC. 24A-7(g)(1)] THE PLAN SUBMITTED MUST MEET AT LEAST ONE OF THE CRITERIA SET FORTH IN SECTION 24A-8(b). "IN THE CASE OF AN APPLICATION FOR WORK ON AN HISTORIC RESOURCE LOCATED WITHIN AN HISTORIC DISTRICT, THE COMMISSION SHALL BE LENIENT IN ITS JUDGMENT OF PLANS FOR STRUCTURES OF LITTLE HISTORICAL OR DESIGN SIGNIFICANCE OR FOR PLANS INVOLVING NEW CONSTRUCTION, UNLESS SUCH PLANS WOULD SERIOUSLY IMPAIR THE HISTORIC OR ARCHITECTURAL VALUE OF SURROUNDING HISTORIC RESOURCES OR WOULD IMPAIR THE CHARACTER OF THE HISTORIC DISTRICT." [SEC. 24A-8(d)]

THE HISTORIC PRESERVATION COMMISSION IS BOUND ONLY BY THE ORDINANCE IN MAKING ITS DETERMINATION AND NOT BY ANY OTHER COUNTY OR ZONING REQUIREMENTS WHICH MAY EXIST.

THE COMMISSION HAS CAREFULLY STUDIED THE MATERIAL PRESENTED BY STAFF, APPLICANT, AND SPEAKERS AND HAS INSPECTED THE PROPERTY IN QUESTION AND OBSERVED THE WAYS IN WHICH IT RELATES TO ITS ENVIRONMENTAL SETTING AND TO THE HISTORIC DISTRICT.

FINDING OF FACT: THE CURRENT KENSINGTON HISTORIC DISTRICT IS PART OF THE TOWN OF KENSINGTON WHICH WAS CREATED IN THE LATE 19TH CENTURY ACCORDING TO THE IDEALS OF THE VICTORIAN SUBURBAN GARDEN COMMUNITY, WITH HOUSES SITED ON AMPLE SIZED LOTS AND A CURVILINEAR STREET PATTERN. THE HISTORIC DISTRICT IS A CONCENTRATION OF LATE 19TH AND EARLY 20TH CENTURY RESIDENTIAL STRUCTURES EXHIBITING A VARIETY OF ARCHITECTURAL STYLES POPULAR DURING THE VICTORIAN PERIOD, INCLUDING QUEEN ANNE, SHINGLE, EASTLAKE, AND COLONIAL REVIVAL. THE HOUSES SIT IN A PARK-LIKE SETTING AND SHARE A UNIFORMITY OF SCALE, SET BACK, AND CONSTRUCTION MATERIALS THAT CONTRIBUTE TO THE COHESIVENESS OF THE DISTRICT'S STREETSAPES. THIS UNIFORMITY, COUPLED WITH THE DOMINANT DESIGN INHERENT IN WARNER'S ORIGINAL PLAN OF SUBDIVISION, CONVEYS A STRONG SENSE OF BOTH TIME AND PLACE, THAT OF A VICTORIAN GARDEN SUBURB.

THE APPLICANT PROPOSES NEW CONSTRUCTION IN AN AREA WHICH HAS SURVIVED AS ONE OF THE MOST INTACT AND UNALTERED STREETSAPES IN THE KENSINGTON HISTORIC DISTRICT. WITH FEW INTRUSIONS, THE NORTH SIDE OF PROSPECT STREET CAN BE CHARACTERIZED AS A "VICTORIAN GARDEN SETTING," WITH MATURE PICTURESQUE TREES AND LARGE, WELL-SPACED RESIDENCES CONSTRUCTED NEAR THE TURN OF THE CENTURY. IT IS THIS GARDEN SETTING AND STREETSAPES THAT EARNED KENSINGTON ITS PLACEMENT ON THE MASTER PLAN FOR HISTORIC PRESERVATION AND THE NATIONAL REGISTER OF HISTORIC PLACES.

THEREFORE, THE COMMISSION BELIEVES THAT UNDER THE CRITERIA IT MUST CONSIDER AS SET FORTH IN SECTION 24A-8(a) OF THE MONTGOMERY COUNTY CODE, THE ALTERATION FOR WHICH THE PERMIT IS SOUGHT WOULD BE INAPPROPRIATE FOR, INCONSISTENT WITH, AND DETRIMENTAL TO THE PRESERVATION, ENHANCEMENT, OR ULTIMATE PROTECTION OF THE HISTORIC DISTRICT AND TO THE PURPOSES OF THE ORDINANCE FOR THE FOLLOWING REASONS:

LOT 13

1. THE PROPOSED STRUCTURE IS OVERSCALED FOR THE EXISTING STREETScape. ITS HEIGHT AND SQUARE FOOTAGE ARE NOT COMPATIBLE WITH AND WOULD SUBSTANTIALLY ALTER THE CHARACTER AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.

2. THE LOT COVERAGE OF THE PROPOSED HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, IS SUCH THAT THE RESULTING RELATIONSHIP OF HOUSE TO "YARD" WOULD BE SIGNIFICANTLY DIFFERENT FROM THE EXISTING RELATIONSHIP OF HOUSES TO "YARDS" IN THIS AREA OF THE HISTORIC DISTRICT AND IS THEREFORE INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICT. DEVELOPMENT WHICH WOULD RESULT IN THE COVERAGE OF NO MORE THAN 9% OF LOT 13 WOULD BE MORE IN KEEPING WITH THE EXISTING BALANCE OF THE HISTORIC DISTRICT.

3. THE PLACEMENT OF THE HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, INTRUDES INTO THE EXISTING RHYTHM OF THE STREETScape AND IS THEREFORE INAPPROPRIATE TO AND INCOMPATIBLE WITH THE CHARACTER AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.

4. THE WIDTH OF THE PROPOSED HOUSE AND ITS PLACEMENT WITH RESPECT TO THE FRONT PROPERTY LINE IS SUCH THAT IT WOULD CREATE A NEW RHYTHM OF HOUSES TO YARDS, SIGNIFICANTLY ALTERING THE TRADITIONAL RELATIONSHIPS OF THE HISTORIC DISTRICT. IN EFFECT, THE PROPOSAL WOULD CREATE A PRONOUNCED BUILDING "WALL" ALONG THE STREET, THEREBY CREATING AN URBAN SETTING INCOMPATIBLE WITH THE SUBURBAN HISTORICAL FEATURES AND CHARACTER OF THE DISTRICT.

5. THE PROPOSAL WILL DESTROY THE MAJORITY OF MATURE VEGETATION AND DRAMATICALLY ALTER THE SYLVAN SETTING CHARACTERISTIC OF THE HISTORIC DISTRICT AND IS, THEREFORE, INCOMPATIBLE WITH THE HISTORICAL ENVIRONMENTAL SETTING OF THE DISTRICT.

6. THE PROPOSED FENCE IS NOT APPROPRIATE TO THE EXISTING STREETScape.

7. THE PROPOSAL WILL SUBSTANTIALLY ALTER THE GARDEN-LIKE ENVIRONMENTAL SETTINGS OF THE ABUTTING PROPERTIES, 3923 AND 3927 PROSPECT STREET, WHICH ARE IDENTIFIED PRIMARY RESOURCES IN THE DISTRICT AND, THEREFORE, IS INCONSISTENT WITH THE PURPOSE OF THE ORDINANCE.

8. THE LOCATION OF AND MATERIALS USED FOR THE PROPOSED DRIVEWAY IS INAPPROPRIATE TO AND WILL IMPAIR THE ENVIRONMENTAL SETTING OF 3927 PROSPECT STREET, AN IDENTIFIED PRIMARY RESOURCE IN THE HISTORIC DISTRICT, BY REMOVING MATURE VEGETATION AND A PORTION OF THE EXISTING SIDE YARD.

LOT 15

1. THE PROPOSED STRUCTURE IS OVERSCALED FOR THE EXISTING STREETScape. ITS HEIGHT AND SQUARE FOOTAGE ARE NOT COMPATIBLE WITH AND WOULD SUBSTANTIALLY ALTER THE EXTERIOR FEATURES, CHARACTERISTICS, AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.

2. THE LOT COVERAGE OF THE PROPOSED HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, IS SUCH THAT THE RELATIONSHIP OF HOUSE TO "YARD" THAT WOULD RESULT WILL SIGNIFICANTLY DIFFER FROM THE EXISTING RELATIONSHIPS OF HOUSES TO "YARDS" WITHIN THIS AREA OF THE HISTORIC DISTRICT. DEVELOPMENT WHICH WILL RESULT IN COVERAGE OF NO MORE THAN 9% OF LOT 15 WOULD BE MORE IN KEEPING WITH THE HISTORICAL ENVIRONMENTAL SETTING OF THE DISTRICT.

3. THE PLACEMENT OF THE HOUSE ON THE SITE INTRUDES INTO THE EXISTING RHYTHM OF THE STREETScape AND IS THEREFORE INAPPROPRIATE TO AND INCOMPATIBLE WITH THE CHARACTER AND NATURE OF THIS SECTION THE HISTORIC DISTRICT.

4. THE WIDTH OF THE PROPOSED HOUSE AND ITS PLACEMENT WITH RESPECT TO THE FRONT PROPERTY LINE IS SUCH THAT IT WILL CREATE A NEW RHYTHM OF HOUSES TO YARDS, THEREBY SIGNIFICANTLY ALTERING THE ENVIRONMENTAL SETTING OF THE DISTRICT. THE PROPOSAL WILL CREATE A "WALL" ALONG THE STREET MORE SUITABLE TO AN URBAN SETTING THAN THE PARK-LIKE SUBURBAN ENVIRONMENT PRESENT IN THIS DISTRICT.

5. THE PROPOSED FENCE IS INAPPROPRIATE TO THE EXISTING STREETScape.

6. THE LOCATION OF TWO GARAGES ON ONE PROPERTY IS INAPPROPRIATE TO THE HISTORIC DISTRICT.

7. THE PROPOSED PAVED DRIVEWAY IS INAPPROPRIATE TO THE SETTING AND THE EXISTING GRAVEL DRIVEWAY SHOULD BE RETAINED.

IN ADDITION, THE APPLICANT HAS ARGUED THAT A DENIAL OF ONE OR BOTH PROPOSALS WILL DENY HIM A REASONABLE USE OF THE PROPERTY AND HE WILL SUFFER UNDUE ECONOMIC HARDSHIP UNDER SECTION 24A-7(g)(1). THIS ARGUMENT IS REJECTED. FIRST, THE COMMISSION NOTES THAT THE APPLICANT BEARS THE BURDEN OF PROOF ON THIS AND ALL QUESTIONS OF FACT. THE APPLICANT HAS FAILED TO PROVIDE CONVINCING EVIDENCE THAT A DENIAL OF THIS APPLICATION WILL CAUSE HIM TO SUFFER UNDUE ECONOMIC HARDSHIP. BOLD ASSERTIONS THAT THE APPLICANT WILL "LOSE MONEY" IF AN APPLICATION OR APPLICATIONS ARE DENIED CANNOT SUBSTITUTE FOR CONVINCING DOCUMENTARY EVIDENCE. THE COMMISSION FINDS THAT THE APPLICANT HAS NOT MET HIS BURDEN OF PROOF OR PERSUASION ON THIS ISSUE.

SECOND, THE COMMISSION'S DECISION DOES NOT DENY ALL REASONABLE USE OF EITHER PROPERTY. THE COMMISSION HAS DETERMINED THAT THESE PARTICULAR PROPOSALS ARE INCOMPATIBLE IN CHARACTER AND NATURE WITH THE SURROUNDING RESOURCES AND THE HISTORIC DISTRICT AND INVITES THE APPLICANT TO SUBMIT OTHER ALTERNATIVE DEVELOPMENT PLANS.

FOR THE ABOVE REASONS, THE COMMISSION HAS DETERMINED THAT THESE PROPOSALS BE DENIED AND THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION BE INSTRUCTED NOT TO ISSUE THE PERMITS.

HISTDRIC PRESERVATIDN COMMISSION STAFF REPORT

PREPARED BY: Jared B. Cooper

DATE: June 8, 1989

CASE NUMBER: #31/6 - 89J

TYPE DF REVIEW: HAWP

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street
(Lot 13, Block 11)

DISCUSSION:

The applicant is proposing construction of a new residence and garage on a vacant lot on Prospect Street in the Kensington Historic District. The 50' lot is situated between two existing late 19th century dwellings located respectively at 3923 and 3927 Prospect Street. The proposal, and the attendant issues, is similar in some ways to the Avery-Flaherty applications for infill development elsewhere in Kensington. Like the Avery Flaherty application, this proposal has been reviewed with a fairly high degree of scrutiny at the LAC level. As indicated in the attached LAC comments, there was a great deal of concern over the impact of the proposed infill development on the integrity of the neighborhood. Unfortunately, since the Commission is being asked to make a decision on this application prior to any court rulings on the Avery-Flaherty application, the same basic issue of legal buildability vs. preservation issues remains to be resolved. However, until such time as County law deals more specifically with this issue, we must proceed as best we can.

STAFF RECOMMENDATION:

Staff is not particularly concerned over the design of the proposed structure. Staff, however, feels that at least on the North Side of Prospect Street, there exists an open, verdant ambience which could be significantly impacted by infill construction - particularly in a situation like this, where a relatively narrow, tree-filled lot is situated between two pre-existing resources.

At this juncture, staff has not formulated a complete recommendation, and will reserve such. However, staff would like to encourage the Commission to work with the applicant toward a solution which might allow some type of construction on the lot without creating a harsh intrusion. For example, it might be possible to set the house back somewhat on the lot. This would permit retention of some of the front trees, and would also help to preserve the existing spatial rhythm of the streetscape. Staff would further suggest that the applicant be encouraged to concentrate on development of Lot 15 (HPC Case #31/6 - 89K), where potential negative impact on the historic district might be less severe. If the issue of economic hardship should come up, it could be noted that undeveloped lots, particularly in an area like Kensington, often have great value, and evidence shows that very large sums have been offered for this lot and others, with the sole intent of preserving them as open space.

The applicant, LAC, neighborhood residents, and respective legal counsel will be in attendance at Thursday's meeting. In the meantime, please make a special effort to field inspect the site, perhaps with a special view toward comparing this part of the district to other parts where infill construction has been either denied or permitted.

ATTACHMENTS:

1. HAWP Application
2. LAC Comments
3. Elevation Drawings (Garage Elevations to be presented at the meeting)
4. Photos of Lot and Neighboring Structures
5. Proposed Streetscape
6. Original 1890 Kensington Plat
7. Tree Survey(This will be presented at the meeting. Staff requested applicant to provide more details).
8. Letter from Jane Allan (Counsel to residents at 3923 Prospect Street)
(All attachments have not been included in packet)
9. Letter from John B. Armstrong
10. Testimony Presented by Helen Wilkes (neighbor at 3923 Prospect Street)

JBC:av
1110E

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Laura McGrath

DATE: May 15, 1991

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary
Consultation

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street

TAX CREDIT ELIGIBLE: N/A

DISCUSSION:

The applicant is purchaser of 3925 Prospect Street (Lot 13) (contingent on HPC approval of an application) and is interested in exploring with the Commission alternatives for new construction here. The lot has been identified as a first-tier primary resource (1880-1910) in the Master Plan.

The applicant has submitted the attached house plan for the Commission's consideration and comment. It is a neo-Victorian, 2-story house with a front turret and garage. The house measures 35'8" wide by 45' long and is approximately 32' in height. The lot itself measures 50' X 172'. The applicant has also submitted a possible site plan showing the footprint of the house with a setback equal to that of 3927 Prospect Street (Lot 14).

Lot 13 is in between 3927 and 3923 Prospect Street. Both of these houses are primary resources, built in 1904 in the Queen Anne style. The entire north side of Prospect Street is considered one of the most intact and unaltered streetscapes in the historic district. There is a definite rhythm established through the alternation of house and green space. This green space, although defined as legally separate lots, has been viewed and characterized by the community and the Commission as side "yard" space to each house. In fact, the Master Plan Amendment for the Kensington Historic District specifically refers to its significance as a Victorian garden suburb with a park-like setting. Directly across the street from the property is a 1 1/2-story Bungalow.

As background, a proposal for new construction on this lot was denied by the Commission in 1989. A copy of this decision and elevations of the original house proposed are attached. Commissioners, especially new Commissioners, are encouraged to read this decision and visit the site. In summary, the proposed house was denied for the following reasons:

- The proposed structure would have seriously impaired the extant streetscape along the north side of Prospect Street through intrusion on the rhythm of the streetscape and by obscuring the views of the existing historic structures and their "gardens".
- The proposed structure was overscaled for the district, and Prospect Street in particular. Its proposed height and square footage would have substantially altered the character and nature of this section of the Historic District.

- The coverage of the proposed house on its site, which traditionally served as open space, was such that the resulting relationship of house to "yard" would have been significantly different from the existing relationships of houses to "yards" in the district.
- The placement of the house on the site would have disrupted the existing rhythm of house to yard on this streetscape. The width and front setback would have combined to create a pronounced building "wall" along the street, creating an urban setting.
- The proposed construction would have had a direct, negative impact on the natural environment, dramatically altering the existing sylvan setting.

STAFF RECOMMENDATION:

As the consideration of new construction on this lot consumed much of the Commission's time in 1989, it is important that the applicant understand the many issues involved. To that end, the Kensington LAP, as well as individuals interested in this case, have been invited to participate in the discussion of this preliminary proposal.

Staff finds that the proposed house is similar in size, scale, and massing to that which was denied by the Commission in 1989. Its proposed siting on the lot is also comparable. Staff recommends, therefore, that the applicant review the Commission's 1989 decision and, after hearing comments from the Commission and other participants at the May 22 meeting, consider alternatives that preserve and enhance the significant characteristics of the property and of this part of the Historic District.

One alternative would be a house that appears as a "background" building. It could resemble a garden or carriage house, sited in a way to make it appear as an accessory building to adjacent properties. This siting would include pushing it further to the rear of the lot and preserving its natural features, especially at the front of the lot.

SENT TO LAP: May 6, 1991 COMMENTS RECEIVED? NO
 SENT TO APPLICANT: May 15, 1991

ATTACHMENTS:

1. Proposed Elevations and Site Plan
2. Photos
3. 1989 Commission Decision

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Nancy Witherell

DATE: November 13, 1991

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary
Consultation

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: Lot 13,
Prospect Street

TAX CREDIT ELIGIBLE: N/A

DISCUSSION:

A proposal for construction on this lot by the current applicant (the Murray family) was reviewed and denied by the Commission in 1989. On May 22, 1991, a potential purchaser of this lot came before the HPC for a preliminary consultation, although no HAWP was filed by this potential purchaser. The owners of this lot have now requested a preliminary consultation with the Commission on a revised proposal for new construction on Lot 13 at 3925 Prospect Street. Copies of the 1989 denial decision and the May, 1991 staff report on this property are attached.

The lot is located in the Kensington Historic District. It measures 50' x 172' and is situated between two primary contributing historic structures built in 1904 in the Queen Anne style. The north side of the street is characterized by large houses with porches, and open side yards in a park-like setting. In this instance, the apparent side yard between the adjacent houses on Lot 14 (to the west) and Lot 12 (to the east) is the subject buildable lot. The south side of the street is characterized by smaller, more closely built houses, in some instances of a later date.

The Commission denied the 1989 proposal for new construction on Lot 13 because the scale, massing, and footprint of the new house would have adversely affected the rhythm and scale of the streetscape, as well as the wooded, garden-like quality of the lot.

At the May, 1991 meeting on a proposed house for this lot, the staff recommended as a possible alternative to the neo-Victorian house proposed by the potential purchaser a small house designed as a "background" building. The house would be set back substantially from the building line and would read as an accessory building, such as a carriage house to the Queen Anne-style houses on either side. The Chairperson responded by telling the applicant that the Commission had not found that no structure could be built on the lot, but that the 1989 decision should be studied closely.

The owner's current proposal is designed to respond to those comments. It is set back 38 feet behind the building line (the front line of the porches of the adjacent houses). Its footprint is 730 square feet (841 square feet including the porch). The dimensions of the proposed house are 27.2 feet across the front facade, and 30.7 feet from front to rear, although a portion of the rear section of the house is reduced in width to 18.6 feet. The width of the proposed facade is similar to that of the adjacent houses; the depth and height are much reduced.

The footprint of the house would occupy 8.46% of the lot, less than the lot coverage of the adjacent houses and slightly less than the average lot coverage for the north side of Prospect Street as stated in testimony in opposition to the construction during the 1989 deliberations.

The house is designed in a style reminiscent of a carriage house: board and batten siding, a standing seam roof, a cupola on the roof ridge, and dormers and a fenestration pattern meant to reflect the character of an ancillary building. The rear section, of brick, is designed with an articulated chimney but is otherwise meant to be a subsidiary element of the new house. This rear section would not be visible from public view.

The house is sited to avoid the removal of the row of trees along the property line to the east (Lot 12). The porch would have a shallow foundation so as minimize the possibility of damage to the tree roots. The property owner should elaborate on the proposed method for protection of the trees. However, the removal of several trees on the site is anticipated, including two in the area of the proposed porch that measure 13.5" and 15" in caliper. In addition, many of the smaller trees and bushes at the front of the lot would be removed for the construction phase and should be replaced following completion of the house. The boxwoods on the proposed site of the house would be transplanted elsewhere on the site.

The applicant proposes a separate garage, approached by an asphalt driveway, to be constructed at the rear of the lot, behind the house. Although not drawn on these preliminary plans, it would be designed to appear as much as possible as a garden structure. The footprint of the proposed garage is an additional 200 square feet.

STAFF RECOMMENDATION:

Staff commends the applicant for responding to the suggested alternative scheme proposed by staff during the May, 1991 meeting. However, given the small size of the lot, staff remains concerned with the size of the footprint of the proposed house, believing a smaller house would be more compatible with the setting, the adjacent houses, and the architectural and streetscape character of the Kensington Historic District. The house on Lot 14 is only five feet from the side property line; the house on Lot 12 is eight feet from the side property line. The proposed 38-foot setback of the new house is designed to minimize the close proximity of the house on Lot 14; nevertheless the new driveway would emphasize that proximity. Staff recommends that the applicant again revise the design with an eye toward further reducing the size of the footprint by approximately 100 square feet. Staff proposes that the reduction in footprint come from the width rather than the depth of the proposed house.

Staff finds the placement of the house on the site to be well considered. Set back ninety feet from the sidewalk, the house would not appear intrusive from the street and would not, in staff's judgment, adversely affect the environmental and architectural character of the Kensington Historic District. The house would be sited appropriately among the large trees on the lot. Staff recommends that the applicant consider alternatives to the garage; the construction of a more open structure for parking would contribute to the reduction of massing and lot coverage on this lot.

SENT TO LAP: November 4 and 13, 1991
SENT TO APPLICANT: November 13, 1991

LAP COMMENTS RECEIVED: No

ATTACHMENTS:

1. Proposed elevations and site plan
2. Photographs
3. May 1991 staff report
4. 1989 Commission decision

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Nancy Witherell

DATE: January 8, 1992

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary
Consultation

SITE/DISTRICT NAME: Kensington

ADDRESS: Lot 13, Prospect Street

TAX CREDIT ELIGIBLE: No

STAFF DISCUSSION

The applicants, the Murray family, appeared before the Historic Preservation Commission on November 20, 1991, for a preliminary consultation on proposed new construction on Lot 13 on Prospect Street in the Kensington Historic District. At that meeting, many substantive and thoughtful comments were made by the applicant, the Kensington Local Advisory Panel, a representative of the Mayor of Kensington, the Kensington Historical Society, and neighbors and other interested parties. Following this testimony, each Commission member made comments and recommendations on the record.

The speakers included those who believed that nothing should be built on this lot because any construction would adversely alter the historic character of streetscape and the open space, and those who believed that the applicant had made a first step toward a design that might be acceptable for this site.

The recommendations of the Kensington LAP were summarized in the last paragraph of its written testimony:

We recommend that additional consideration be given to reducing the overall scale of the proposed structure, through reductions in both height and width, with the intent of achieving the "accessory building" feel required to minimize the negative impact of new construction on the character of the Historic District. Further, we recommend that the applicant consider rethinking the proposed asphalt driveway, and develop a detailed construction staging plan to gauge and ensure the retention of the maximum possible amount of vegetation.

The Mayor of Kensington and the Kensington Historical Society spoke against any construction on this site, citing the need to preserve the garden-like character of the streetscape. Interested parties spoke on both sides of the issue.

Three commissioners spoke against construction on this site as being inconsistent with the character of the open space comprised of lots left vacant since the original platting of Kensington. The historic district designation describes the garden-like character of the neighborhood and the generous

rhythm of house-to-open space found in many blocks, including the north side of Prospect Street.

Five commission members made recommendations on how the design could be improved so that it could be found to be consistent with the character of the historic district. These recommendations echoed those of the Kensington LAP and included lowering the height of the house to 1 1/2 to 2 stories, reducing the size of the footprint, making it less vertical in massing, removing the porch, getting away from the carriage house analogy, rotating the structure so that the narrow end faces the street, possibly moving the front door to the street elevation, and designing the house to look more like a bungalow. Recommendations also included removing the garage and choosing a different site and material for the driveway.

The staff finds that the applicants have responded commendably to the recommendations of the Commission members. The preliminary plans now before the Commission propose a house much improved in massing, design, and siting. A comparison of the previous and present Prospect Street elevation studies illustrates the beneficial effect of reducing the height and rotating the plan so that the narrow end is toward the street. The two-story porch found by most Commission members to be too formal has been removed in favor of a modest inset entranceway on the front facade. The new roof profile presented to the street has the gable forms typical of late Queen Anne-style houses (as seen in the two adjacent houses) and also the two-planned gable face typical of 1 1/2-story houses in informal styles such as the bungalowoid.

In style, the house remains a contemporary reading of a vernacular building--board-and-batten walls and a metal standing seam roof are contemplated, with sash and casement windows irregularly placed on all facades. The brick chimney has been moved to the ridge beam of the roof. The footprint has been reduced by approximately 60 square feet. The staff previously recommended a reduction of about 100 square feet. Commission members also recommended reducing the size by eliminating the porch (110 square feet of 841 square feet). The new house is 788 square feet (or 748 square feet, as shown on the plan, excluding the porch). The house would be smaller than 20' by 40'. The narrow width of the house allows for 15' to 16' side yards; the setback from the building line has decreased by several feet as a result of the projection of the front bay.

The garage has been removed from the plans, as has the long driveway extending to the rear of the lot. Instead, a gravel driveway--a parking pad--is proposed for the front right corner of the lot, parallel to the driveway of the adjacent house on Lot 12 but separated from it by a mature tree.

STAFF RECOMMENDATION

The staff finds the proposal generally to be consistent with the character of the Kensington Historic District because of the deep setback, small footprint and massing of the house, and retention of mature trees and foliage on the lot. The staff recommends that the applicant provide the following information when applying for a Historic Area Work Permit: a report from an arborist addressing concerns raised by Commission members and others over the effects of potential construction activity and excavation on the site, particularly to the boxwoods and the mature trees; a detailed tree survey and landscape plan;

information on the potential storage of construction materials on the site, as recommended by the Kensington LAP; and detailed information on proposed building materials and design elements, as well as possible vegetation to be introduced to the site.

SENT TO LAP: 1/3/92
SENT TO APPLICANT: 1/8/92

LAP COMMENTS RECEIVED: None

ATTACHMENTS:

1. Plans and photographs
2. Plans and staff report of November 20 meeting
3. Kensington LAP report of November 20 meeting

HISTORIC PRESERVATION COMMISSION STAFF REPORT

ADDRESS: 3929 Prospect Street MEETING DATE: January 29, 1992
RESOURCE: Kensington Historic District REVIEW: HAWP/New Construction
HPC CASE NUMBER: 31/6-90E Revision STAFF: Nancy Witherell, 1/22/92

The Historic Preservation Commission approved a proposal for new construction at 3929 Prospect Street (Lot 15) in June, 1990, following three previous submissions. The applicant returns to the Commission with a proposed revision to the approved Historic Area Work Permit. The new design has a more rectangular footprint, and the style has been altered to a more formal, symmetrical, Georgian-style facade that features evenly spaced windows, a center entrance portico, and a hipped roof with a center gabled dormer and paired chimneys.

The hipped roof is approximately 2'9" lower in height and simpler in form than the gable roof previously approved. The changes to the footprint occur most visibly on the front facade, by the elimination of the wing projection to the left of the door. The footprint previously approved measured 1529 square feet with lot coverage of 10.28%. The revised proposal measures 1450 square feet, with lot coverage of 9.75%.

The adjacent house to the east is a late Queen Anne-style house, built in 1904, that illustrates the transition from the informal and asymmetrical massing typical of the Queen Anne style to the more conventionalized and symmetrical massing typical of the Colonial Revival style. The proposed new house is more similar to the formally massed houses immediately around the corner on Baltimore Street.

One of the concerns of the Kensington LAP during the 1990 hearings was the setback of the facade, since the nearby houses maintained a consistent distance from the street. The revised proposal places the front of the portico (measuring 5' by 10') on the building line in concert with the adjacent house on Prospect Street.

STAFF RECOMMENDATION

Given the reduction in height and footprint of the proposed house, and given the general appropriateness of a historical revival style for a house of this size and prominence in the historic district, staff recommends that the Commission approve the revision to the approved Historic Area Work Permit under one of the same criterion originally cited: 24A-8(b)(2): "The proposal is compatible in character and nature with the historical, archeological, architectural, or cultural features of the . . . historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter;" and criterion 24A-8(c): "It is

not the intent of this chapter to limit new construction . . . to any one period or architectural style."

In addition, the revised plans meet Standard #9 of the Secretary's Standards for Rehabilitation: "New . . . construction shall be . . . differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

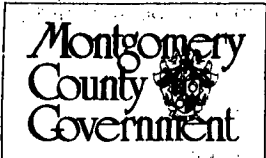
All of the conditions of the Historic Area Work Permit concerning site construction and landscaping, filed by the applicant in September, 1990, and subsequently approved by the Commission (HPC Case No. 31/6-90P), remain in effect for the proposed revision currently before the Commission.

PUBLIC NOTICE: 1/16/92

TAX CREDIT ELIGIBLE: No

ADDITIONAL ATTACHMENTS:

1. Approved HAWP 31/6-90E
2. Approved HAWP 31/6-90P



Historic Preservation Commission
 51 Monroe Street, Suite 1001, Rockville, Maryland 20850
 217-3625

APPLICATION FOR HISTORIC AREA WORK PERMIT

TAX ACCOUNT # _____

NAME OF PROPERTY OWNER _____ TELEPHONE NO. _____
 (Contract/Purchaser) (Include Area Code)

ADDRESS _____ CITY _____ STATE _____ ZIP _____

CONTRACTOR _____ TELEPHONE NO. _____
 CONTRACTOR REGISTRATION NUMBER _____

PLANS PREPARED BY _____ TELEPHONE NO. _____
 (Include Area Code)
 REGISTRATION NUMBER _____

LOCATION OF BUILDING/PREMISE

House Number 3929 Street Prospect St

Town/City Kensington Election District 13

Nearest Cross Street Washington/Baltimore

Lot _____ Block _____ Subdivision _____

Liber _____ Folio _____ Parcel _____

1A. TYPE OF PERMIT ACTION: (circle one)

Construct	Extend/Add	Alter/Renovate	Repair	Circle One: A/C	Slab	Room Addition
Wreck/Raze	Move	Install	Revocable	Porch	Deck	Fireplace
			Revision	Fence/Wall (complete Section 4)	Shed	Solar
					Woodburning Stove	

1B. CONSTRUCTION COSTS ESTIMATE \$ _____

1C. IF THIS IS A REVISION OF A PREVIOUSLY APPROVED ACTIVE PERMIT SEE PERMIT # _____

1D. INDICATE NAME OF ELECTRIC UTILITY COMPANY _____

1E. IS THIS PROPERTY A HISTORICAL SITE? _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTENS/OADITIONS

2A. TYPE OF SEWAGE DISPOSAL

01 () WSSC	02 () Septic
03 () Other _____	

2B. TYPE OF WATER SUPPLY

01 () WSSC	02 () Well
03 () Other _____	

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

4A. HEIGHT _____ feet _____ inches

4B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/Property line _____
- Entirely on land of owner _____
- On public right of way/easement _____ (Revocable Letter Required).

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

1-8-92
Date

Signature of owner or authorized agent (agent must have signature notarized on back) _____

APPROVED X For Chairperson, Historic Preservation Commission

DISAPPROVED _____ Signature Albert B. Randall Date 4.1.92

APPLICATION/PERMIT NO: 9201090065 FILING FEE: \$ _____

DATE FILED: _____ PERMIT FEE: \$ _____

DATE ISSUED: _____ BALANCE \$ _____

OWNERSHIP CODE: _____ RECEIPT NO: _____ FEE WAIVED: _____

SEE REVERSE SIDE FOR INSTRUCTIONS

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: Lot 25, 3920 Baltimore Avenue

Meeting Date: 7/26/95

Resource: Kensington Historic District (31/6)

Review: PRELIMINARY
CONSULTATION

Case Number: Not applicable

Tax Credit: No

Public Notice: 7/12/95

Report Date: 7/19/95

Applicant: R. Sterling Mehring

Staff: Robin D. Ziek

PROPOSAL: New single family dwelling

RECOMMEND: Do not
proceed to
HAWP

BACKGROUND

The Kensington Historic District was established in July, 1986 when the County Council adopted an amendment to the Montgomery County Master Plan for Historic Preservation. As stated in the Amendment (p.2),

"The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb."

The purpose of the designation and the role of the HPC is clearly described in the Introduction to the Amendment (p.1):

"Once designated on the Master Plan for Historic Preservation, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued. The Ordinance also empowers the County's Department of Environmental Protection and the Historic Preservation Commission to prevent the demolition of historic buildings through neglect.

It is the intent of the Master Plan and Ordinance to provide a system for evaluating, protecting and enhancing Montgomery County's heritage for the benefit of present and future residents. The accompanying challenge is to weave protection of this heritage into the County's

planning program so as to maximize community support for preservation and minimize infringement on private property rights."

A brief synopsis of the history of Kensington as presented in the adopted amendment follows:

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890 Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

PROJECT PROPOSAL

The proposal before you is to build a single-family dwelling of 2970 s.f. (footprint @ 1485 s.f.) on a single lot measuring 50' x 172.5'. This is considered "in-fill" housing and staff will discuss below the implications of such construction at this site.

Site Description

Lot 25, Block 11 is currently part of a grouping of three lots (25, 26, 27) which provide the environmental setting for the House at 3920 Baltimore Street, and constitutes the west side yard for this house; Lot 27 provides the east side yard. Each of the three lots measures 50' x 172.5' (8,625 s.f.). The driveway is located on Lot 25, and leads to an original "auto house" which is clad in wood shingles similar to those on the house. The original doors are stored inside the garage, and the building has shifted off of its foundations and is need of maintenance work. The lot is relatively flat, and gently rises from the street to the rear yard area. There are some shrubs on this property, and trees to the rear.

The house at 3920 Baltimore Street has been identified as a Primary Resource (1910-1930) in the Master Plan. It is a centered gable I-House with a rear ell, and several additions

to the rear and east side. There is some evidence that the house may actually be of an earlier date than 1910, such as the use of fishscale shingles in the side gables as original cladding (evident on the west gable end where the wood shingles are failing). Staff will look into the construction date further, but clearly there is no question that this resource is a Primary Resource within the Kensington Historic District.

Site Location with the Historic District

The dwelling at 3920 Baltimore Street sits on Lot 26 between its flanking side lots which provide a garden setting for the house. With three exceptions (3913, 3941 and 3948 Baltimore Street), all of the other houses on Baltimore Street in this portion between Connecticut and Prospect are Primary Resources dating to 1880-1930.

3920 Baltimore Street is flanked by two large homes sitting on multiple lots. The home to the east, 3914 Baltimore Street, is a Queen Anne Cottage (Primary Resource 1880-1910) sitting on three lots. The house to the west at 3924 Baltimore Street is a large Georgian Revival Cottage (1880-1910) with a hipped roof, sitting on two lots.

The streetscape on Baltimore Street was established with a building pattern where the earliest purchasers typically bought 2 or more platted lots and built only one dwelling on the property (1880-1910). The earliest homes are typically either the Queen Anne style - large homes of irregular shape - or the Georgian Revival Cottage style - large symmetrical homes with hipped roofs. These individual homes sit within a generous landscape where neighbors are close by, but are not typically on adjacent lots. The suburban setting was landscaped, treed, and spacious in contrast to the urban development of Washington, D.C.

The next period of development on this street (1910-1930) included the development of three Colonial Revival style homes on lots purchased from existing homeowners. These dwellings are characterized by their modest scale, massing, and size in contrast with the earlier constructed dwellings.

Finally, there are two recently constructed buildings in this block - 3913 and 3948 Baltimore Street. The proposal for 3948 Baltimore Street came before the HPC prior to the actual date that the designation of the Historic District took effect, and was considered solely from the perspective of "substantial alteration." This level of review is not comparable to the review which is given to any proposals within an established historic district, and does not provide guidance in terms of precedence.

The project at 3913 was approved by the HPC in August 1987, and is of concern to staff as a possible precedence for in-fill construction in the Historic District. However, staff feels that this new construction illustrates the potential concerns with in-fill construction, and illustrates the potential for the loss of the environmental setting for the historic district as a whole, and for individual resources within the district on their own.

The map on Circle 7 provides a quick reference to the pattern of development which led to the existing conditions on Baltimore Street today. There are twenty buildings on Baltimore Street between Connecticut Avenue and Prospect Street, and thirty-four platted lots. The lots are of varying sizes because of the curving street plan. Therefore, the 20 lots which are located in the straight section of Baltimore Street were platted at 50' x 172.5'. The individual lots in the curving section of Baltimore are trapezoidal in shape measuring approximately 70' at the street and ca. 50' at the street edge. Therefore, the lots have differing square footage.

The development pattern generally shows that houses in the straight portion of Baltimore Street occurred on multiple lots, while houses within the curving portion of the street, where the individual lots have more square footage, appear sometimes on single lots and sometimes on multiple lots.

The pattern of openness in this community has also been expressed by an evaluation of the distances between houses, which is presented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan prepared by Traceries and PMA Associates, figure 34 (See Circle 8). The pattern for the entire historic district is illustrated by the evaluation of front yard setback and building separation for Block #11 which includes the south side of Baltimore Street (where 3920 Baltimore is located) and the north side of Prospect Street. In this particular evaluation, the average distance between buildings is 87.3', ranging from 40' to 170'. This block illustrates the point that the overall character of the streetscape is established through a building pattern in the Kensington Historic District which is achieved through a combination of large setback (typically 40') and open space created by the distance between buildings. The intervening open space provides the garden setting for the entire district, as well as views across yards which provides the opportunity for long views through the community; this helps to tie the different blocks together.

The existing development of the Kensington Historic District can also be characterized by the percentage of lot coverage. As presented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan prepared by Traceries and PMA Associates, table on page 47 (Circle 9), the average lot is .42 acres (18,295 s.f.) and the average lot coverage is 9%. The proposed development is on a lot size of only 8,625 s.f. or 47% of the average lot size. The new construction would have a lot coverage of 20.3%, or 2.25 times the average lot coverage.

PROJECT DESCRIPTION

The applicant proposes to build a two-story single-family dwelling on Lot 25. The applicant proposes the removal of the existing driveway and garage, and the construction of a new driveway to be shared by the new house on Lot 25 and the existing house on Lot 26. The house which is being proposed has a footprint of approximately 1485 s.f. and would be a total of 2970 s.f. A single-car garage is also proposed for the rear with a footprint of 264 s.f. The total lot coverage would be 20.3%.

The new house would be set 48' back from the street, with a side setback of 10' on the west side, and 12.4' from the east boundary. The proposed house would be approximately 22.4' from the house on Lot 26, and approximately 15'-20' from the house at 3924 Baltimore Street.

The proposed new house is in a "neo-style", which includes an irregular massing which is reminiscent of the Victorian Queen Anne houses, but has gable detailing and trim which is more reminiscent of the Colonial Revival style. The proposed structure would utilize a steep roof pitch and windows with 4/1 light. The garage is proposed in the same neo-styling. The applicant has indicated that this particular house design was drawn up for another location and is proposed for this site as well.

STAFF DISCUSSION

Staff has some concerns with various aspects of this proposal, which include: encroachment on environmental setting of the Historic District and the individual resources within the district, the proposed demolition of a historic outbuilding, and the incompatibility of the proposed development with existing patterns of development. This includes the loss of

open space, the proposed percentage of lot coverage, and the proposed use of a 19th century style of architecture in the 20th century when there is a pattern of development in the 20th century which is part of the historic district development.

In the determination of environmental setting for an individual site, the HPC considers boundaries of a sufficient size which will provide the maintenance of the historic setting. In a rural site, such as a farm complex, for example, the environmental setting may be set at several acres to achieve the historic feeling. The determination of the boundaries of a suburban historic district is the equivalent of the environmental setting for an individual site. The boundaries are chosen to encompass the historic resources in their individual environmental settings which provide the sense and feel of a "district". In other words, the district is an accumulation of individual sites, none of which need to have "individual distinction, provided that the grouping achieves significance as a whole within its historic context." (page 5 of Bulletin #15.) The basic importance of a district is the fact that it is a "unified entity, even if it is often composed of a wide variety of resources." (page 5 of Bulletin #15.)

The studies on Kensington which quantified open space, lot coverage, existing rhythm of development all provide measurable ways to evaluate the effect of proposed changes and alterations to the historic district.

The issue of **environmental setting** is central to the designation of any historic site or district because it is key in the retention of **integrity** of the district. It may be helpful to quote from the National Register Bulletin #15, page 46 which discusses the evaluation of integrity of historic districts:

"For a district to retain integrity as a whole, the majority of the components that make up the district's historic character must possess integrity even if they are individually undistinguished. In addition, the relationships among the district's components must be substantially unchanged since the period of significance.

When evaluating the impact of intrusions upon the district's integrity, take into consideration the relative number, size, scale, design, and location of the components that do not contribute to the significance. **A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.**

A component of a district cannot contribute to the significance if:

- o if has been substantially altered since the period of the district's significance or
- o it does not share the historic associations of the district."

Further assistance in staff's evaluation of this proposal is provided by the National Register Bulletin #30 which provides guidelines for the evaluation of rural historic landscapes. While Kensington is clearly a suburban rather than rural historic district, the description on page 23 of Bulletin #30 concerning threats to integrity is helpful:

"Integrity may also be lost due to the cumulative effect of relocated and lost historic buildings and structures, interruptions in the natural succession of vegetation, and the disappearance of small-scale features that defined historic land uses."

In the case of this particular proposal, several elements within the historic district of Kensington are proposed for demolition: the open space, the relationship of adjacent homes to each other and to the landscape, and the historic outbuilding or "auto house".

The small garage was an important element in all of the suburbs around Washington. While Kensington first developed around the railroad mode of transportation, the suburban development around Washington really expanded dramatically with the introduction of the low-cost automobile. At that point, every house added an "auto house", which is best illustrated in the Sanborne insurance maps. This particular garage may have been added after the construction of the original house at 3920 Baltimore Street, but is clearly a historic outbuilding which provides physical evidence of the historic development of Kensington. There are several small garages of this scale still in Kensington, but a brief survey of Baltimore Street illustrates that many of these key outbuildings have already been lost.

STAFF RECOMMENDATION

Staff recommends that the HPC find that the proposed new construction within the Kensington Historic District would be detrimental to the integrity of the Historic District. The proposal would not be compatible with the existing patterns of development including rhythm of building to open space, or the environmental setting of the District. This is based on the fact that the proposed new construction would substantially exceed existing average lot coverage, would be substantially below existing average distances between dwellings, that this represents a cumulative loss of integrity for the Historic District as a whole through the above non-conformance with existing development patterns and with the demolition of an existing historic outbuilding.

Staff acknowledges that the seller is willing to forego development on Lot 27 if the construction on Lot 25 is permitted. However, staff recommends that diminution to the Historic District as a whole would be threatened by the incompatible development on Lot 25 which is not addressed by the easement proposal for Lot 27.

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: Lot 25, 3920 Baltimore Avenue

Meeting Date: 7/26/95

Resource: Kensington Historic District (31/6)

Review: PRELIMINARY
CONSULTATION

Case Number: Not applicable

Tax Credit: No

Public Notice: 7/12/95

Report Date: 7/19/95

Applicant: R. Sterling Mehring

Staff: Robin D. Ziek

PROPOSAL: New single family dwelling

RECOMMEND: Do not
proceed to
HAWP

BACKGROUND

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community support for preservation and minimize infringement on private property rights."

A brief synopsis of the history of Kensington as presented in the adopted amendment follows:

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890 Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

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PROJECT PROPOSAL

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The streetscape on Baltimore Street was established with a building pattern where the earliest purchasers typically bought 2 or more platted lots and built only one dwelling on the property (1880-1910). The earliest homes are typically either the Queen Anne style - large homes of irregular shape - or the Georgian Revival Cottage style - large symmetrical homes with hipped roofs. These individual homes sit within a generous landscape where neighbors are close by, but are not typically on adjacent lots. The suburban setting was landscaped, treed, and spacious in contrast to the urban development of Washington, D.C.

The next period of development on this street (1910-1930) included the development of three Colonial Revival style homes on lots purchased from existing homeowners. These dwellings are characterized by their modest scale, massing, and size in contrast with the earlier constructed dwellings.

Finally, there are two recently constructed buildings in this block - 3913 and 3948 Baltimore Street. The proposal for 3948 Baltimore Street came before the HPC prior to the actual date that the designation of the Historic District took effect, and was considered solely from the perspective of "substantial alteration." This level of review is not comparable to the review which is given to any proposals within an established historic district, and does not provide guidance in terms of precedence.

The project at 3913 was approved by the HPC in August 1987, and is of concern to staff as a possible precedence for in-fill construction in the Historic District. However, staff feels that this new construction illustrates the potential concerns with in-fill construction, and illustrates the potential for the loss of the environmental setting for the historic district as a whole, and for individual resources within the district on their own.

The map on Circle 7 provides a quick reference to the pattern of development which led to the existing conditions on Baltimore Street today. There are twenty buildings on Baltimore Street between Connecticut Avenue and Prospect Street, and thirty-four platted lots. The lots are of varying sizes because of the curving street plan. Therefore, the 20 lots which are located in the straight section of Baltimore Street were platted at 50' x 172.5'. The individual lots in the curving section of Baltimore are trapezoidal in shape measuring approximately 70' at the street and ca. 50' at the street edge. Therefore, the lots have differing square footage.

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The pattern of openness in this community has also been expressed by an evaluation of the distances between houses, which is presented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan prepared by Tracerics and PMA Associates, figure 34 (See Circle 8). The pattern for the entire historic district is illustrated by the evaluation of front yard setback and building separation for Block #11 which includes the south side of Baltimore Street (where 3920 Baltimore is located) and the north side of Prospect Street. In this particular evaluation, the average distance between buildings is 87.3', ranging from 40' to 170'. This block illustrates the point that the overall character of the streetscape is established through a building pattern in the Kensington Historic District which is achieved through a combination of large setback (typically 40') and open space created by the distance between buildings. The intervening open space provides the garden setting for the entire district, as well as views across yards which provides the opportunity for long views through the community; this helps to tie the different blocks together.

The existing development of the Kensington Historic District can also be characterized by the percentage of lot coverage. As presented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan prepared by Tracerics and PMA Associates, table on page 47 (Circle 9), the average lot is .42 acres (18,295 s.f.) and the average lot coverage is 9%. The proposed development is on a lot size of only 8,625 s.f. or 47% of the average lot size. The new construction would have a lot coverage of 20.3%, or 2.25 times the average lot coverage.

PROJECT DESCRIPTION

The applicant proposes to build a two-story single-family dwelling on Lot 25. The applicant proposes the removal of the existing driveway and garage, and the construction of a new driveway to be shared by the new house on Lot 25 and the existing house on Lot 26. The house which is being proposed has a footprint of approximately 1485 s.f. and would be a total of 2970 s.f. A single-car garage is also proposed for the rear with a footprint of 264 s.f. The total lot coverage would be 20.3%.

The new house would be set 48' back from the street, with a side setback of 10' on the west side, and 12.4' from the east boundary. The proposed house would be approximately 22.4' from the house on Lot 26, and approximately 15'-20' from the house at 3924 Baltimore Street.

The proposed new house is in a "neo-style", which includes an irregular massing which is reminiscent of the Victorian Queen Anne houses, but has gable detailing and trim which is more reminiscent of the Colonial Revival style. The proposed structure would utilize a steep roof pitch and windows with 4/1 light. The garage is proposed in the same neo-styling. The applicant has indicated that this particular house design was drawn up for another location and is proposed for this site as well.

STAFF DISCUSSION

Staff has some concerns with various aspects of this proposal, which include: encroachment on environmental setting of the Historic District and the individual resources within the district, the proposed demolition of a historic outbuilding, and the incompatibility of

the proposed development with existing patterns of development. This includes the loss of open space, the proposed percentage of lot coverage, and the proposed use of a 19th century style of architecture in the 20th century when there is a pattern of development in the 20th century which is part of the historic district development.

In the determination of environmental setting for an individual site, the HPC considers boundaries of a sufficient size which will provide the maintenance of the historic setting. In a rural site, such as a farm complex, for example, the environmental setting may be set at several acres to achieve the historic feeling. The determination of the boundaries of a suburban historic district is the equivalent of the environmental setting for an individual site. The boundaries are chosen to encompass the historic resources in their individual environmental settings which provide the sense and feel of a "district". In other words, the district is an accumulation of individual sites, none of which need to have "individual distinction, provided that the grouping achieves significance as a whole within its historic context." (page 5 of Bulletin #15.) The basic importance of a district is the fact that it is a "unified entity, even if it is often composed of a wide variety of resources." (page 5 of Bulletin #15.)

The studies on Kensington which quantified open space, lot coverage, existing rhythm of development all provide measurable ways to evaluate the effect of proposed changes and alterations to the historic district.

The issue of **environmental setting** is central to the designation of any historic site or district because it is key in the retention of **integrity** of the district. It may be helpful to quote from the National Register Bulletin #15, page 46 which discusses the evaluation of integrity of historic districts:

"For a district to retain integrity as a whole, the majority of the components that make up the district's historic character must possess integrity even if they are individually undistinguished. In addition, the relationships among the district's components must be substantially unchanged since the period of significance.

When evaluating the impact of intrusions upon the district's integrity, take into considerations the relative number, size, scale, design, and location of the components that do not contribute to the significance. **A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.**

A component of a district cannot contribute to the significance if:

- o if has been substantially altered since the period of the district's significance or
- o it does not share the historic associations of the district."

Further assistance in staff's evaluation of this proposal is provided by the National Register Bulletin #30 which provides guidelines for the evaluation of rural historic landscapes.

While Kensington is clearly a suburban rather than rural historic district, the description on page 23 of Bulletin #30 concerning threats to integrity is helpful:

"Integrity may also be lost due to the cumulative effect of relocated and lost historic buildings and structures, interruptions in the natural succession of vegetation, and the disappearance of small-scale features that defined historic land uses."

In the case of this particular proposal, several elements within the historic district of Kensington are proposed for demolition: the open space, the relationship of adjacent homes to each other and to the landscape, and the historic outbuilding or "auto house".

The small garage was an important element in all of the suburbs around Washington. While Kensington first developed around the railroad mode of transportation, the suburban development around Washington really expanded dramatically with the introduction of the low-cost automobile. At that point, every house added an "auto house", which is best illustrated in the Sanborne insurance maps. This particular garage may have been added after the construction of the original house at 3920 Baltimore Street, but is clearly a historic outbuilding which provides physical evidence of the historic development of Kensington. There are several small garages of this scale still in Kensington, but a brief survey of Baltimore Street illustrates that many of these key outbuildings have already been lost.

STAFF RECOMMENDATION

Staff recommends that the HPC find that the proposed new construction within the Kensington Historic District would be detrimental to the integrity of the Historic District. The proposal would not be compatible with the existing patterns of development including rhythm of building to open space, or the environmental setting of the District. This is based on the fact that the proposed new construction would substantially exceed existing average lot coverage, would be substantially below existing average distances between dwellings, that this represents a cumulative loss of integrity for the Historic District as a whole through the above non-conformance with existing development patterns and with the demolition of an existing historic outbuilding.

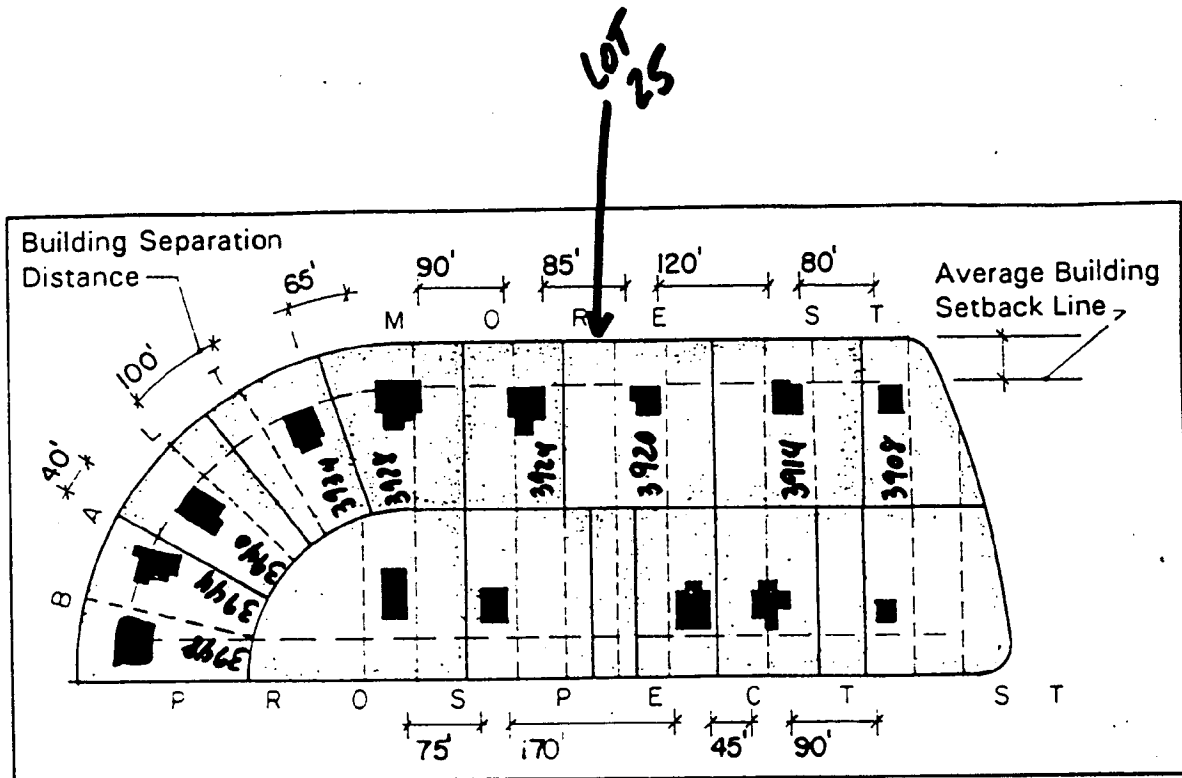
Staff acknowledges that the seller is willing to forego development on Lot 27 if the construction on Lot 25 is permitted. However, staff recommends that diminution to the Historic District as a whole would be threatened by the incompatible development on Lot 25 which is not addressed by the easement proposal for Lot 27.



LEGEND

Relationships of Front Yard Setback and Building Separation

The front yard "setback" is the distance a building is set away or back from the property line on the street or road which it fronts. The front yard setback determines how prominent a building is in the streetscape of a community. When many buildings are involved, a pattern can be established which helps to define the character of the streetscape through the width of sidewalks, the amount of green space (lawn or vegetation area) between street and building, the apparent scale of the buildings in relation to pedestrians, and other subtle qualities of the community. In combination with setbacks, building separation distances establish the openness or visual porosity of the streetscape. Buildings which are separated allow for view and landscape elements in the interstitial space. These relationships are illustrated in the map titled Kensington Historic District Vacant Land and Open Space(Figure 34).



Pattern of Building Setbacks and Separation Distances for Block #11



Lot Coverage Patterns

Lot coverage is the ratio of the building footprint area to the overall lot area, and it reflects the density of development on a given parcel of land. Lot coverage was identified using planimeter take-offs of the building footprint area from the County's topography maps and compared with lot areas to determine percent of coverage as given in the table Kensington Historic District Lot Characteristics. Analysis of lot coverage in Kensington reveals that the density of development is greater for the overall district than in the areas where the primary resources are located. This is related to the inclusion of the commercial district for the calculation, as well as the use of fewer lots per dwelling for post-1930s' construction. The lower lot coverage figures for primary resources reflects the pattern of using multiple lots for the older primary resource dwellings.

Kensington Historic District Lot Characteristics				
Category		Entire District	All Primary Resource Properties	1890 - 1910 Properties
Lot Area	Maximum	3.3 acres	3.3 acres	3.3 acres
	Average	0.40 acres	0.38 acres	0.42 acres
	Minimum	0.15 acres	0.15 acres	0.18 acres
Lot Coverage	Maximum	25%	25%	25%
	Average	15%	10%	9%
	Minimum	5%	5%	5%
Front Yard Setback	Maximum	65 ft	65 ft	65 ft
	Average	33 ft	35 ft	38 ft
	Minimum	0 ft	20 ft	20 ft
Building Separation	Maximum	170 ft	170 ft	170 ft
	Average	40 ft	55 ft	75 ft
	Minimum	15 ft	20 ft	50 ft

9

Historic Preservation Commission
c/o Gwen Marcus
8787 Georgia Ave
Silver Spring, Md. 20910

Dear Commissioners:

I am requesting an opportunity to discuss our proposed project in the Kensington Historic District and to seek your guidance prior to formally applying for Historic Area Work Permit. I understand the next meeting I can participate in will be July 26, 1995.

It is my intention to build a house that will be a compliment to the street. I have sought to do this by studying the features and characteristics of the existing houses in the District. Ms. Marcus has supplied me helpful information on precedent architecture in Kensington. I feel the plans I am submitting for your comment is a sensitive response what is most frequently found when you look at existing architectural styles, roof form, building material, symmetrical and directional expression, and important exterior features.

I understand that style and features of new construction is not the only issue that may be of concern to the Commission. I recognize the appearance of this house should not try to overpower its neighbors. Therefore the body of this house is only 26' wide at the front, it is 30' wide including the porch. To further reduce the prominence of this house my plan is to hold the house well back from the established setback of the existing homes on the street.

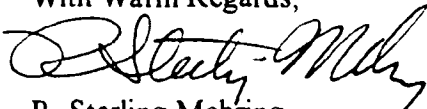
Another issue, but one where sensitivity and good intentions can do little to mitigate, is that of development of vacant lots in the district. I recognize there is a desire to maintain the spacing between resource properties, even when these spaces are made up of valuable, approved, and recorded lots that conform to existing zoning laws. There is, of course, established precedent for H.P.C. approval of developments like mine, 3913 (lot 6 bk10) and 3948 Baltimore St. (lot 16 bk11) both in 1987. I would like to state two points where the H.P.C. and the community may find it serves the long term interests of preservation to approve my plan.

1) If an acceptable plan is approved for a house of no less than 2600 SF the current owner of record of lots 25, 26, & 27 will sign for recordation a covenant or easement benefiting the H.P.C. that will perpetually prohibit the development or separation of lot 27.

2) The seller of lot 25 is selling this valuable property in order to raise funds needed to finish the restoration of the resource property at 3920 Baltimore St which could use the investment.

I look forward to meeting with you the 26th of July.

With Warm Regards,



R. Sterling Mehring
301-585-2600

10

Front Yard Set Backs
Source: Long Range
Preservation Plan



PROJECT DESCRIPTION

We will be requesting a HAWP for:

1) **Removing** the existing driveway and a 12' wide structure which is described as a garage or shed.

The existing condition is highly deteriorated and is probably beyond repair. Specifically, the bottom plates on the front wall, the front east side wall, and the rear west side wall are off the footing and progressively collapsing. The roof is leaking and sagging. There is severe damage from rot or termites in the It does appear to be original or significant

2) **To build a Single Family Residence** on lot 25 Block 11 Kensington Park according to the attached plans (delivered to you 3/32:1' scale).

- Elevation #1
- 2645 SF, 4 Bedroom 2 & 1/2 Baths
- 1 Car Detached Garage, with 14' shared driveway with 3920 Baltimore St.
- Porch Roof - Standing seam tin roof
- Windows - 2 over 1 or 4 over 1, true divided light, wood sashes
- Frequent use of doubled windows
- Siding - painted clapboards - "Omniwood" A processed product I prefer over wood siding for its superior paint holding characteristics. Wood corner boards
- Shutters - mounted on operable hinges.
- Half light door with side lights

CHANGES NOT YET INCORPERATED INTO THE PLANS

- Delete Wood Boxed Column, Now Turned porch posts - Tuscan
- Side and rear porch to be narrowed 18" to make an overall width of 30' in the rear.
- Plan as shown will be reversed to allow porches to face driveway

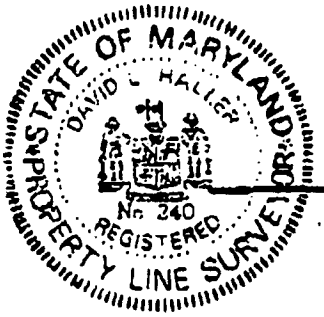
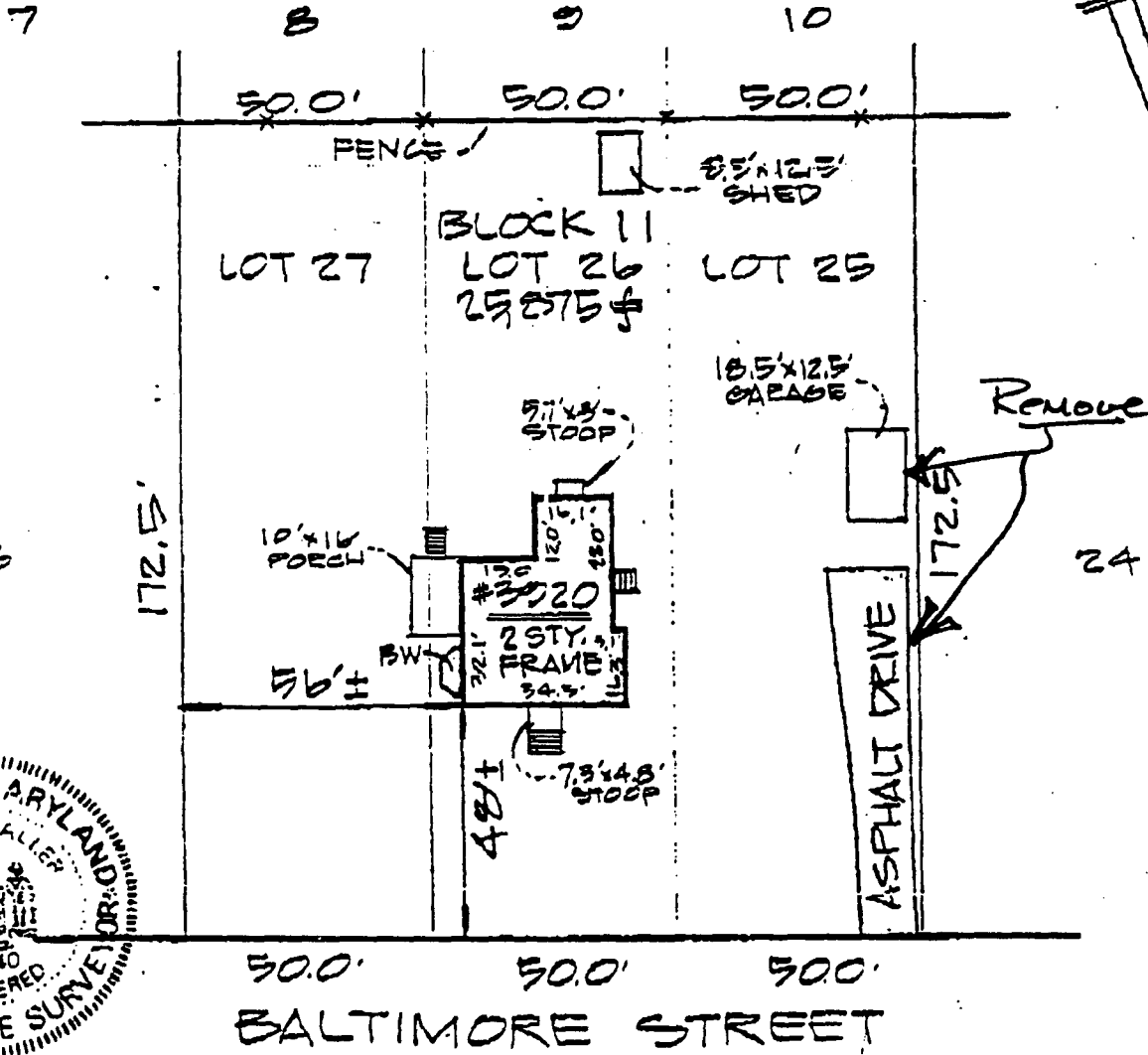
R. STERLING MEHRING
2505 FOREST GLEN RD.
SILVER SPRING, MD. 20910
301-585-2600/ fax 301-608-2527

12

ASE No 33

NOTE: This location for title purposes only - not to be used for determining property lines. Property corner markers NOT guaranteed by this location

HOUSE LOCATION
LOTS 25, 26 & 27 BLOCK 11
KENSINGTON PARK
MONTGOMERY COUNTY, MD.



CERTIFICATE

HEREBY CERTIFY THAT THE POSITION OF ALL THE LISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN CAREFULLY ESTABLISHED BY A TRANSIT-TAPE SURVEY AND UNLESS OTHERWISE SHOWN THERE ARE NO ENCROACHMENTS

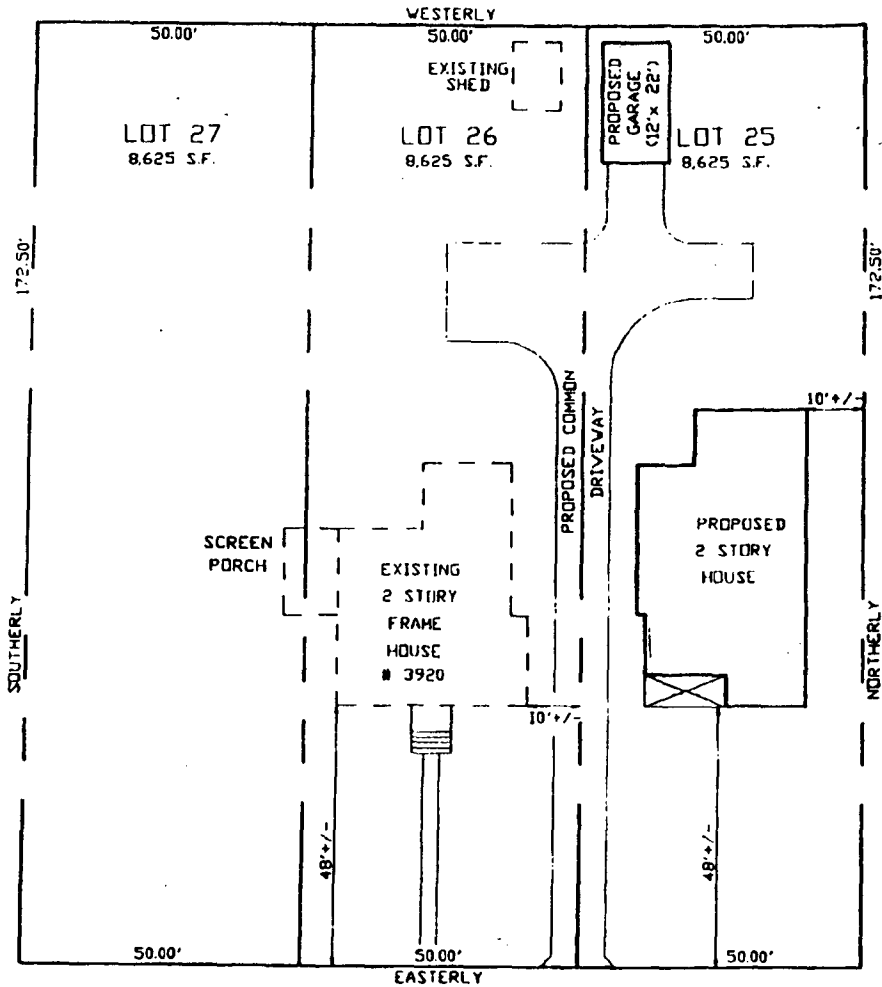
David L. Haller
DAVID L. HALLER
MARYLAND R.P.L.S. NO. 240

REFERENCES	
PLAT BK	B
PLAT NO	4
LIBER	
FOLIO	

ALLEN ASSOCIATES	
P.O. BOX 6263 SILVER SPRING, MARYLAND 20906 301-871-2154	
DATE OF SURVEY	SCALE 1" = 40'
WALL CHECK	DRAWN BY BA
MSE LOC. 6-25-85	JOB NO. 851188
BOUNDARY	

This location for title purposes only - not to be used for determining property lines. Property corner markers NOT guaranteed by this location. Property shown hereon is not a flood plain per existing records unless otherwise indicated. A.L. Information, if shown, was obtained from M.N.C.P. & P.C.

14



SECTION

2

CONTRACT PURCHASER

STERLING MCHRING
2505 FOREST GLEN ROAD
SILVER SPRING, MD. 20910
(301) 585-2600

BALTIMORE STREET

PLAT BOOK B, PLAT 4

**SITE PLAN
KENSINGTON PARK
LOTS 25, 26 & 27
BLOCK 11**

SITUATED ON BALTIMORE STREET
WHEATON ELECTION DISTRICT No. 13
MONTGOMERY COUNTY, MARYLAND



ADVANTAGE ENGINEERING, INC.

SURVEYORS * ENGINEERS
LAND PLANNING CONSULTANTS

100 THOMAS JEFFERSON BL. SUITE 200
PAPERSVILLE, MD 21158
(301) 927-9154

SCALE: 1" = 20' DATE: JULY 1995 JOB NUMBER:

51

MONTGOMERY DEVELOPMENT PARTNERS

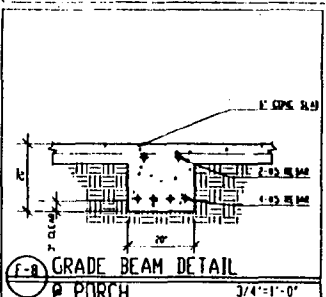
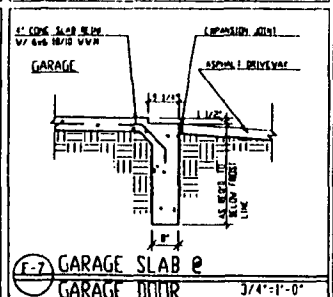
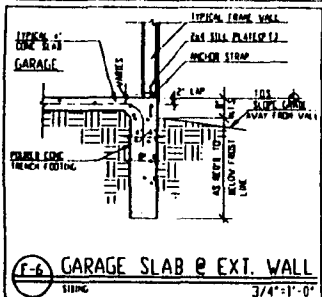
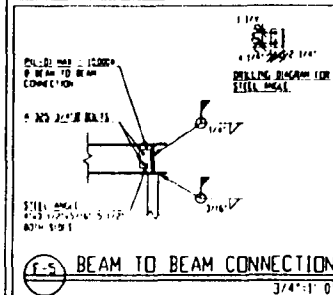
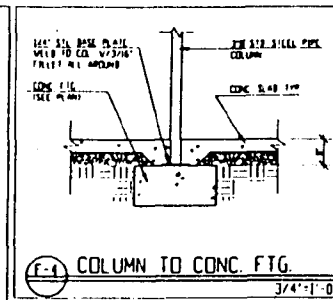
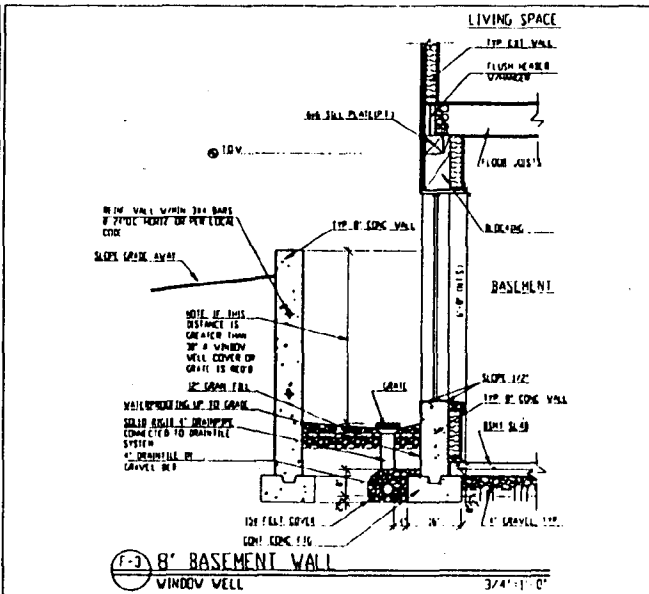
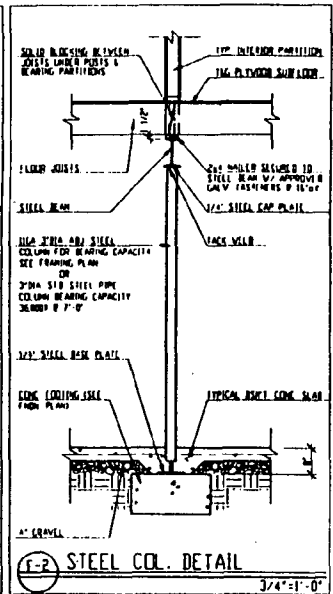
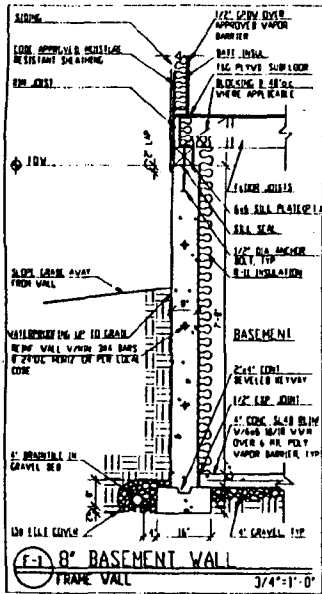
Sterling Mehring

2505 Forest Glen Rd.
Silver Spring, MD
20910

Phone (301) 585 - 2600
Fax (301) 608 - 2527

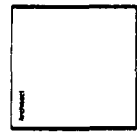
PROJECT

Lot 25 Block 11
Kensington, 33 A-11
3922 Baltimore Street
Kensington, Maryland

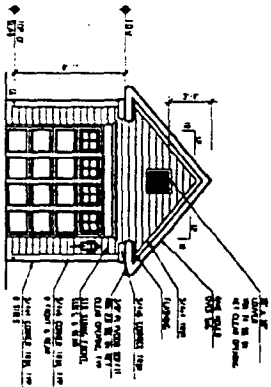


Refer to Foundation Plans for referencing of applicable details for this project. Substitution or use of details not referenced to plans is prohibited.

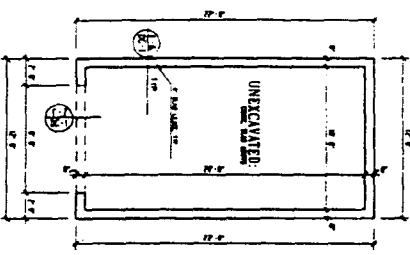
Project Number: **THE KENSINGTON**



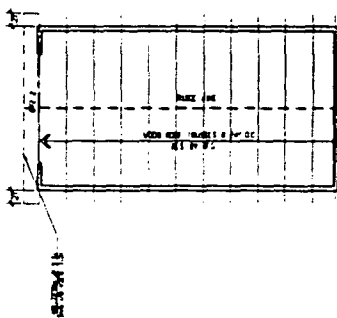
SUTTON, SULLENDY, YANTIS ARCHITECTS



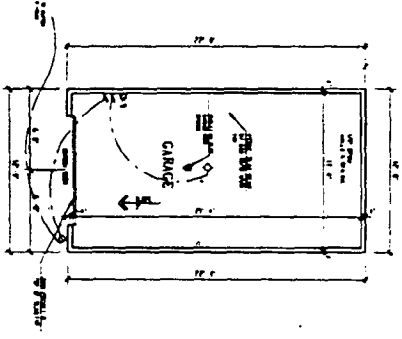
GARAGE FRONT ELEVATION
1/4" = 1'-0"



GARAGE FOUNDATION PLAN
1/4" = 1'-0"



GARAGE ROOF PLAN
1/4" = 1'-0"



GARAGE FLOOR PLAN
1/4" = 1'-0"

1

SUTTON
SULLENBERGER
YANTIS
ARCHITECTS

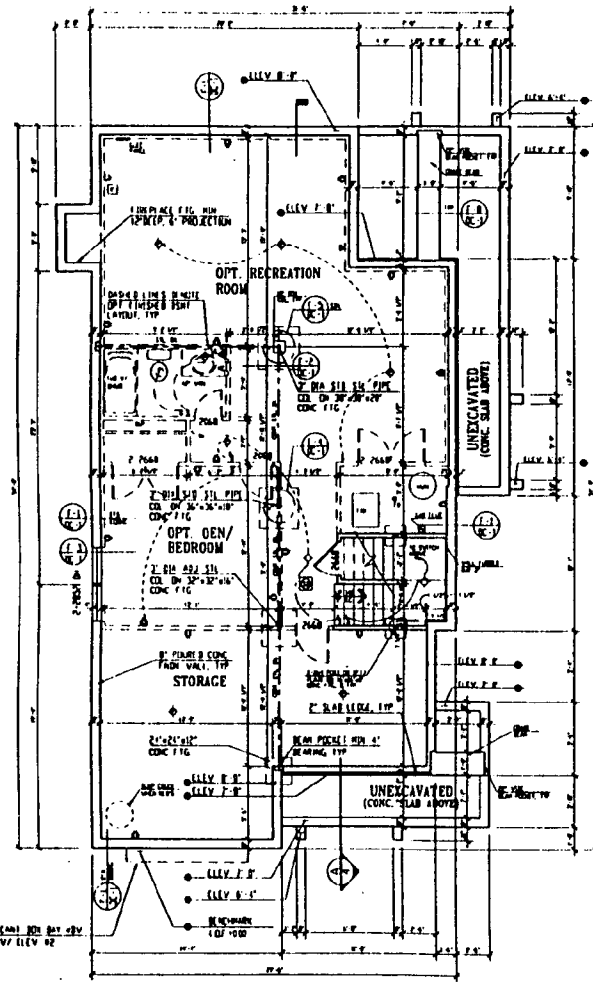


Project Number: 7484 G
THE KENSINGTON

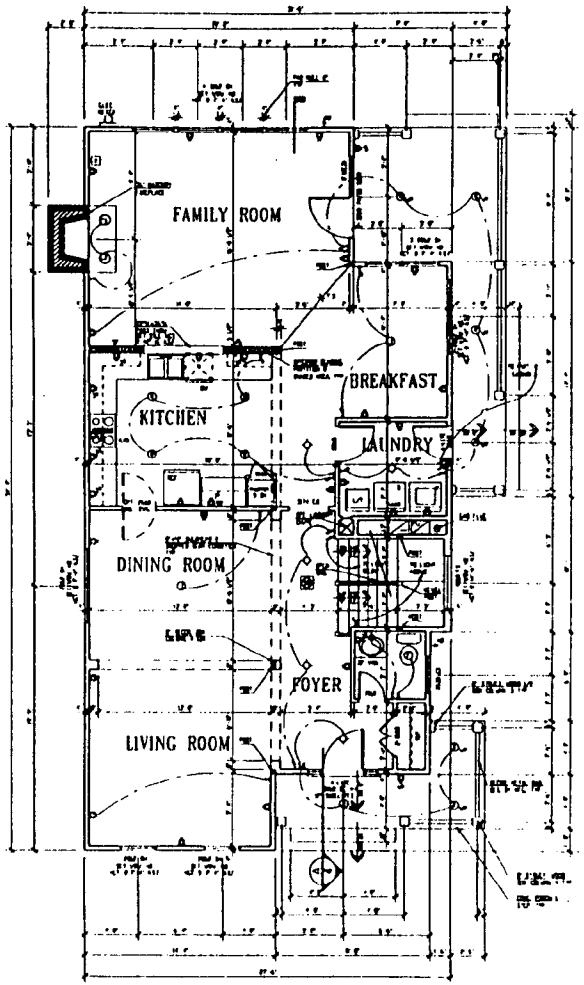
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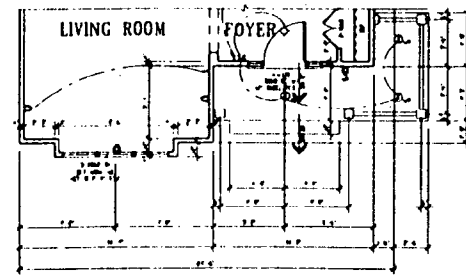
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FOUNDATION/BASEMENT PLAN
SEE SHEET FOR ELEV. 2.0 W/ ELEV. #2
 1/4" = 1'-0"

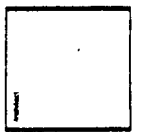


LOWER FLOOR PLAN
W/ ELEVATION #1
SEE SHEET FOR ELEV. 2.0 W/ ELEV. #2
 1/4" = 1'-0"



PARTIAL LOWER FLOOR PLAN
W/ ELEVATION #2
SEE SHEET FOR ELEV. 2.0 W/ ELEV. #2
 1/4" = 1'-0"

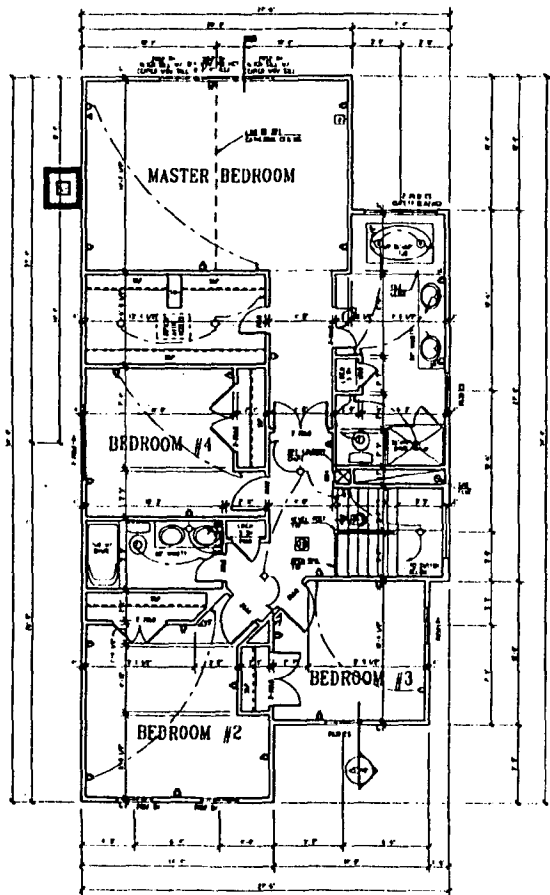
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THE KENSINGTON



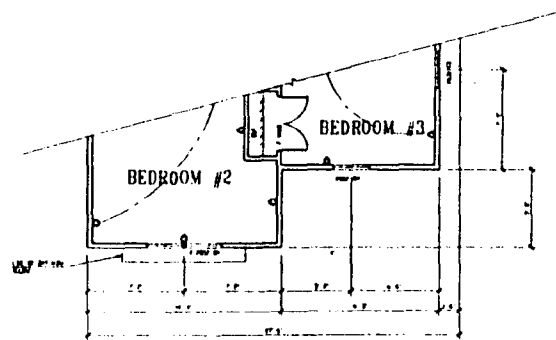
**SUTTON
 SULLENBLY
 YANTIS**
 ARCHITECTS

2

19



UPPER FLOOR PLAN
W / ELEVATION #1
1/4" = 1'-0"



UPPER FLOOR PLAN
W / ELEVATION #2
1/4" = 1'-0"

THE KENSINGTON



SUTTON
SULLENDER
&
YANTIS
ARCHITECTS

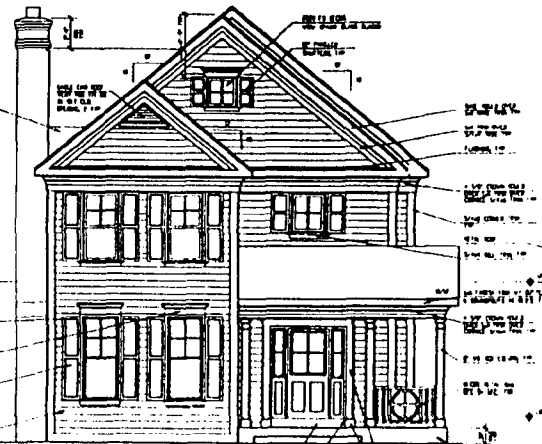
3

21



REAR ELEVATION

1/4"=1'-0"



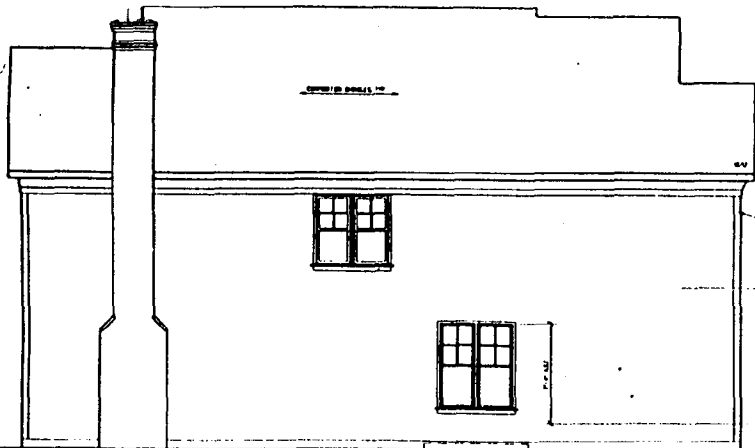
FRONT ELEVATION #1

1/4"=1'-0"



FRONT ELEVATION #2

1/4"=1'-0"



LEFT SIDE ELEVATION

1/4"=1'-0"



RIGHT SIDE ELEVATION

SHOWN W/ ELEVATION #1

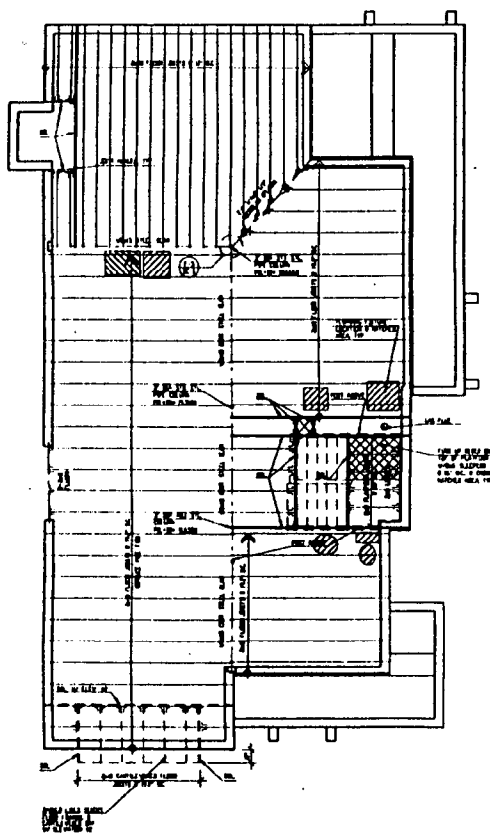
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THE KENSINGTON

Architects



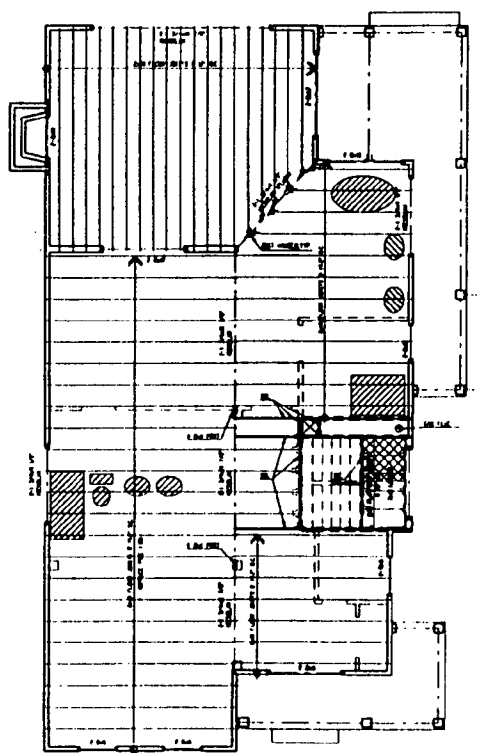
SUTTON,
SULLENBLY
& YANTIS
ARCHITECTS

Sheet C



LOWER FLOOR FRAMING PLAN

1/4"=1'-0"



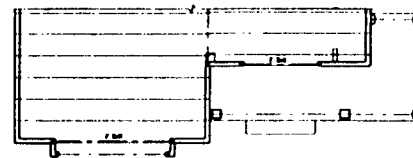
UPPER FLOOR FRAMING PLAN
W/ ELEVATION #1

1/4"=1'-0"

WIND DRIFT	
LIVE LOAD	
SLIPPER BEAMS	
SLIPPER BEAMS	
SLIPPER BEAMS	

ADJUSTABLE STEEL COLUMNS

- ALL ADJUSTABLE STEEL COLUMNS SHALL BE AS SHOWN IN SECTION 2.0 AND SHALL BE PROVIDED WITH AN ADJUSTABLE STEEL COLUMN CAP AND BASE.
- ALL ADJUSTABLE STEEL COLUMNS SHALL BE PROVIDED WITH AN ADJUSTABLE STEEL COLUMN CAP AND BASE.
- ALL ADJUSTABLE STEEL COLUMNS SHALL BE PROVIDED WITH AN ADJUSTABLE STEEL COLUMN CAP AND BASE.
- ALL ADJUSTABLE STEEL COLUMNS SHALL BE PROVIDED WITH AN ADJUSTABLE STEEL COLUMN CAP AND BASE.



PART UPPER FLOOR FRAMING PLAN
W/ ELEVATION #2

1/4"=1'-0"

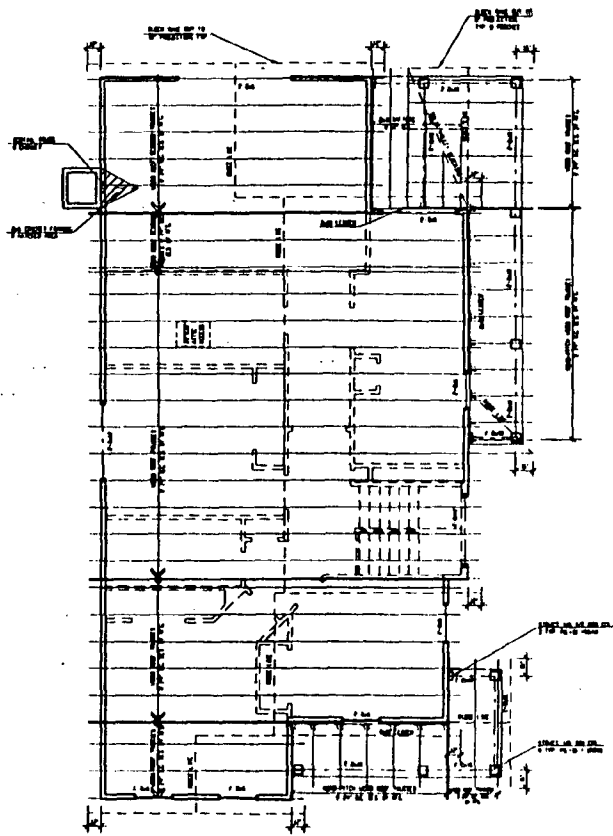
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THE KENSINGTON



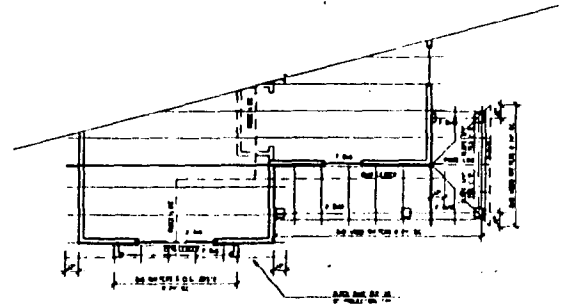
SUTTON
SULLENDA
YANTIS
ARCHITECTS

23



ROOF FRAMING PLAN
W / ELEVATION #1
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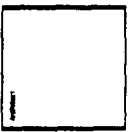
MEMO DATA	
COLS	
TRUSS	
4" X 8" @ 24" O.C.	38' 0"
6" X 8" @ 24" O.C.	18' 0"
TOTAL TRUSS LENS	56' 0"
MEMO DATA	
4" X 8" @ 24" O.C.	38' 0"
6" X 8" @ 24" O.C.	18' 0"
TOTAL TRUSS LENS	56' 0"



PARTIAL ROOF FRAMING PLAN
W / ELEVATION #2
1/4" = 1'-0"

DATE	BY	REV.

Project Number: 2304-17
THE KENSINGTON



**SUTTON
SULLENB
YANTIS**
ARCHITECTS

3922 BALTIMORE ST., KENSINGTON

ADJOINERS LIST

Legal Description	Name	Address
Lots 28,29,30 Block 11	Craig and Pat Reynolds	3914 Baltimore St. Kensington, Md. 20895
Lot 6 Block 10	Walter E. Schmitt & Kathryn D. Hoyle	3913 Baltimore St. Kensington, Md. 20895
Lots 7 & 8 Block 10	James and Barbara Wagner	3915 Baltimore St. Kensington, Md. 20895
Lots 9 & P10 Block 10	Seaborn and J. W. McCrory	3919 Baltimore St. Kensington, Md. 20895
Lots 26, 27 Block 11	Jeanie L. Ahearn	3920 Baltimore St. Kensington, Md. 20895
Lots P10, 11, 12 Block 10	Thomas F. and M.J. Fisher	3923 Baltimore St. Kensington, Md. 20895
Lots 23 & 24 Block 11	John H. and J.B. Lossing	3924 Baltimore St. Kensington, Md. 20895
Lots 6 & 7 Block 11	Lawrence I. and M.M. Ott	3911 Prospect St. Kensington, Md. 20895
Lots 8, 9, P10 Block 11	John H. and V.G. O'Neill	3915 Prospect St. Kensington, Md. 20895
Lots P10, 11, 12 Block 11	Charles C. and H.C. Wilkes	3923 Prospect St. Kensington, Md. 20895

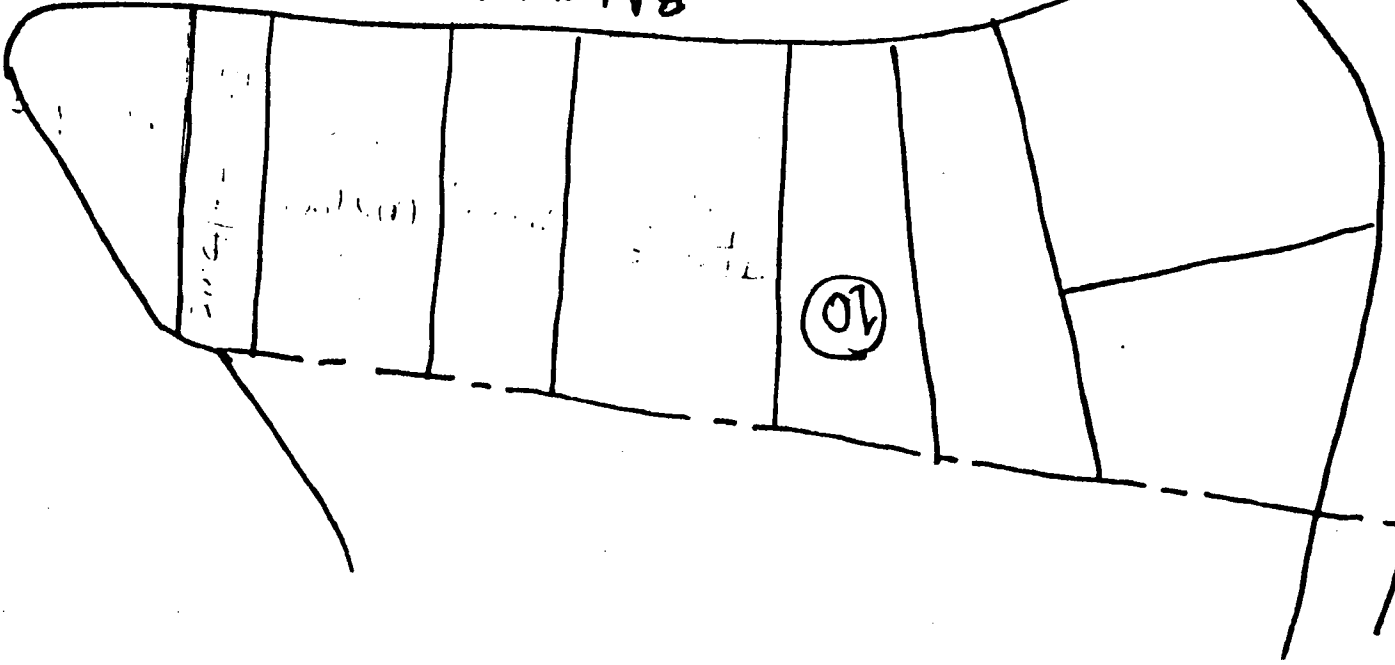
24

32

PROSPECT ST



BALTIMORE ST



Ownership

3922 BALTIMORE ST., KENSINGTON

EXHIBITS

26

3922 BALTIMORE ST., KENSINGTON
PHOTOS - Lot 25

Lot From Street



View from Lot



3922 BALTIMORE ST., KENSINGTON

PHOTOS - Lot 25

Front of Lot-Looking East



Front of Lot-Looking West



28

3922 BALTIMORE ST. KENSINGTON
PHOTOS - garage



29

3922 BALTIMORE ST., KENSINGTON

PHOTOS - garage+

Side



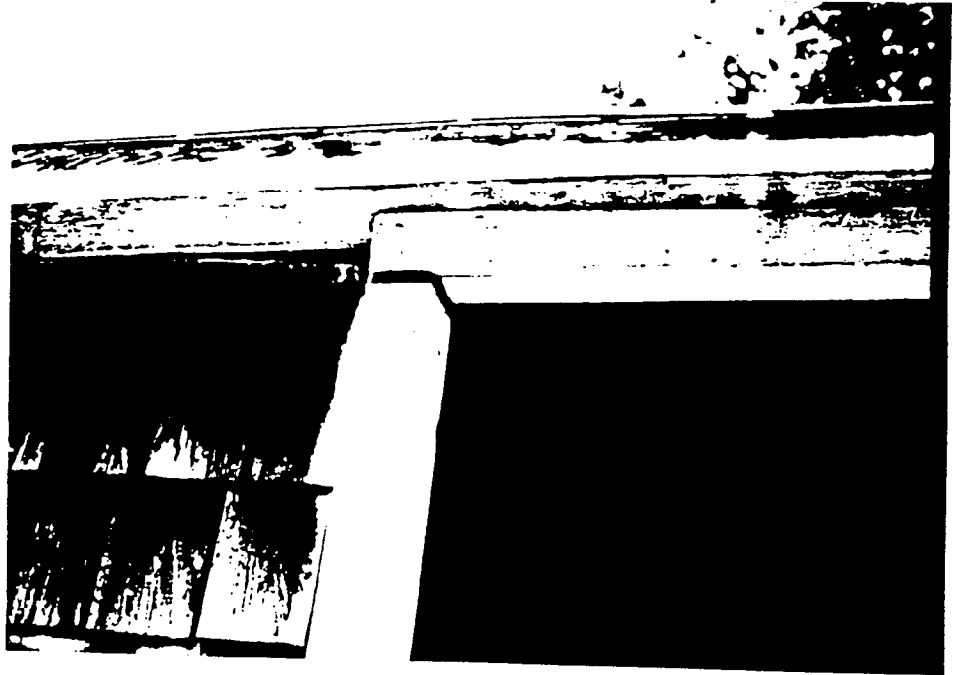
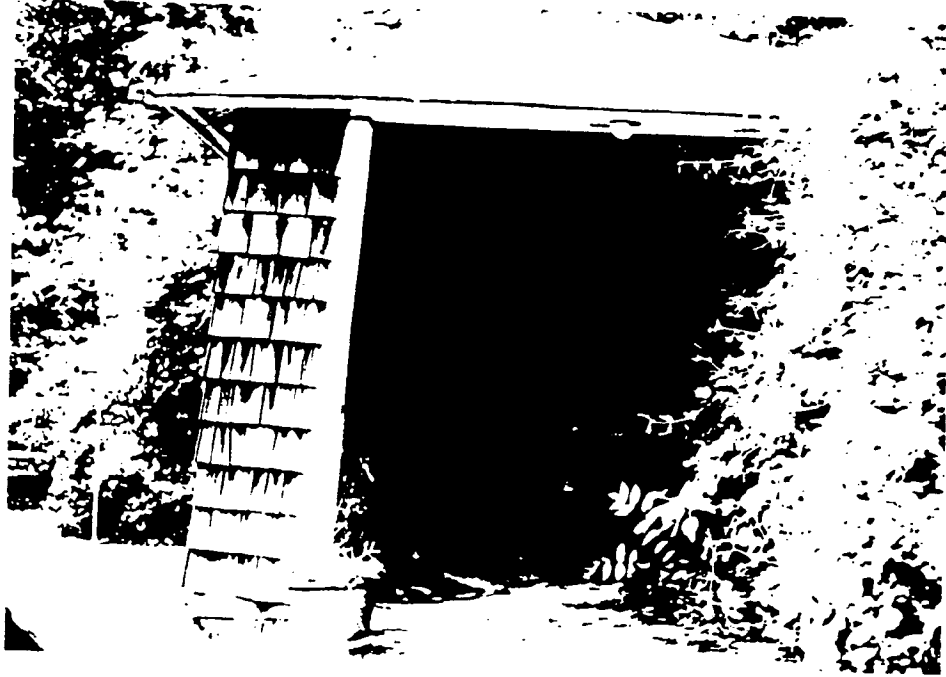
Rear



30

3922 BALTIMORE ST., KENSINGTON

PHOTOS - garage+



31

3922 BALTIMORE ST., KENSINGTON

PHOTOS - 3920 Baltimore St.

House From
Front of Lot 25



House From
Lot 25



32

3922 BALTIMORE ST., KENSINGTON

PHOTOS - 3920 Baltimore St.

Front View



House From
Lot 27





H4

34

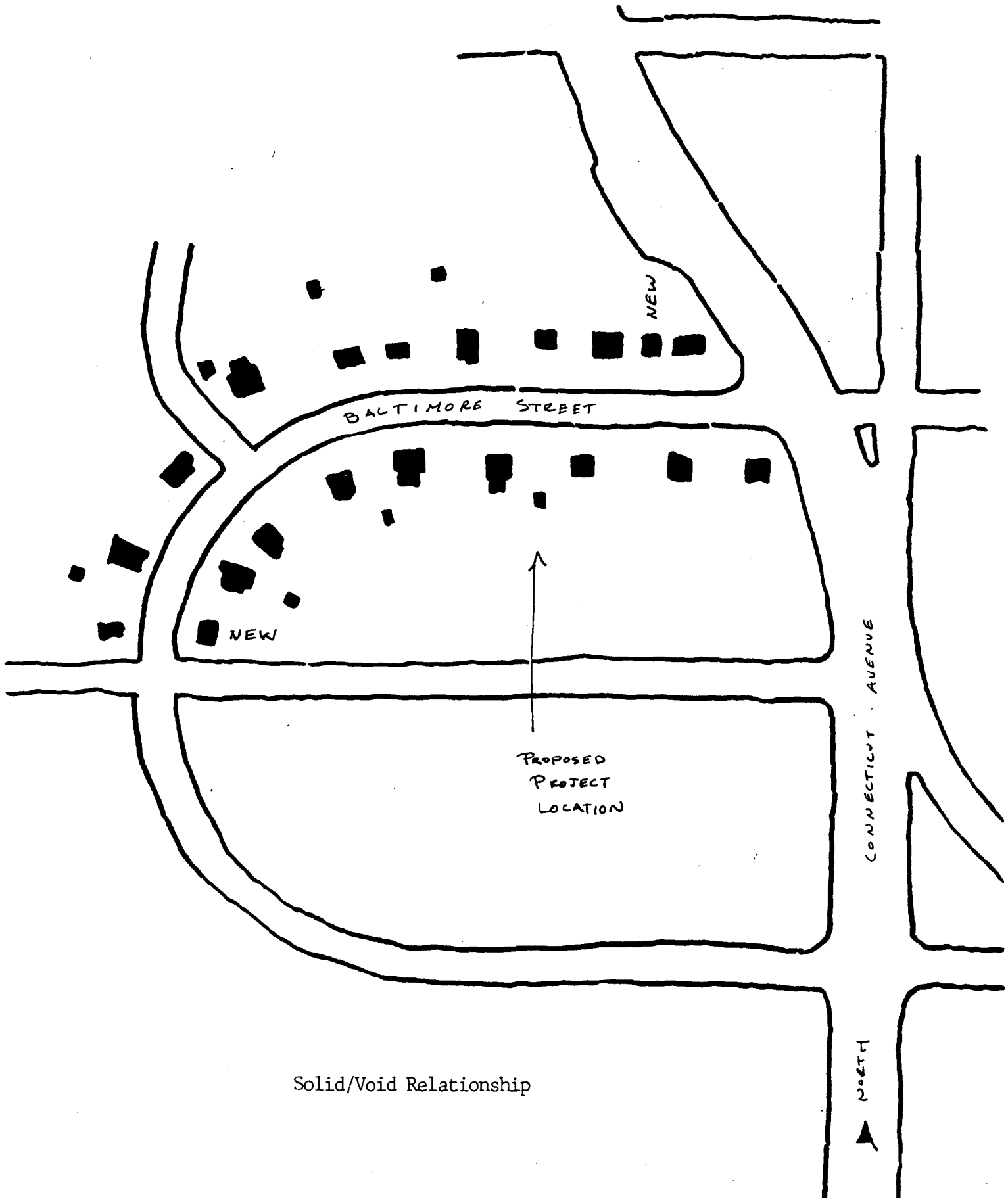
DIST.	CURRENT TO
4	6-1-83
13	6-1-83

SCALE 1" = 200'

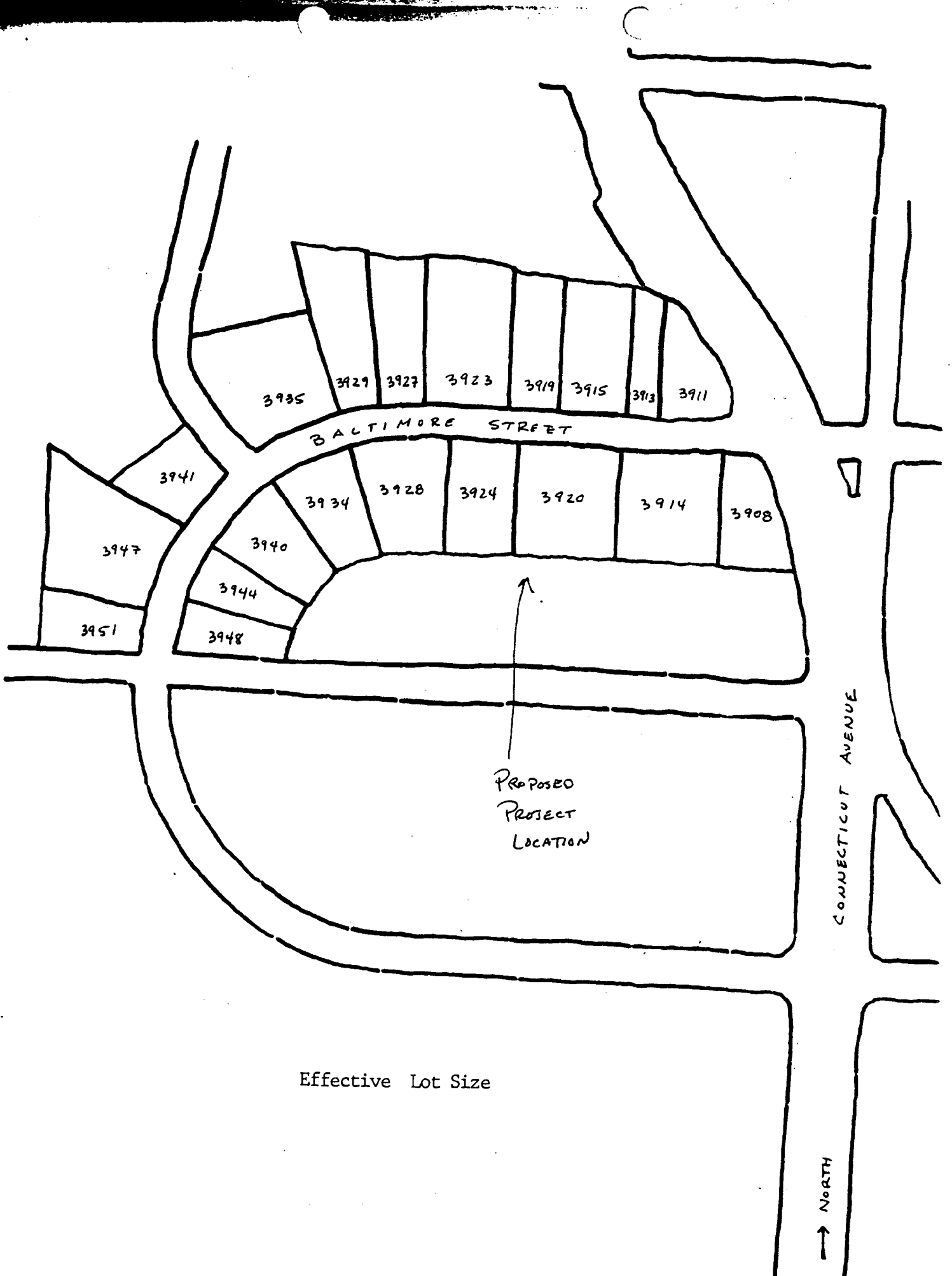


Map HP 34

W.S.S.C. 213NW 4

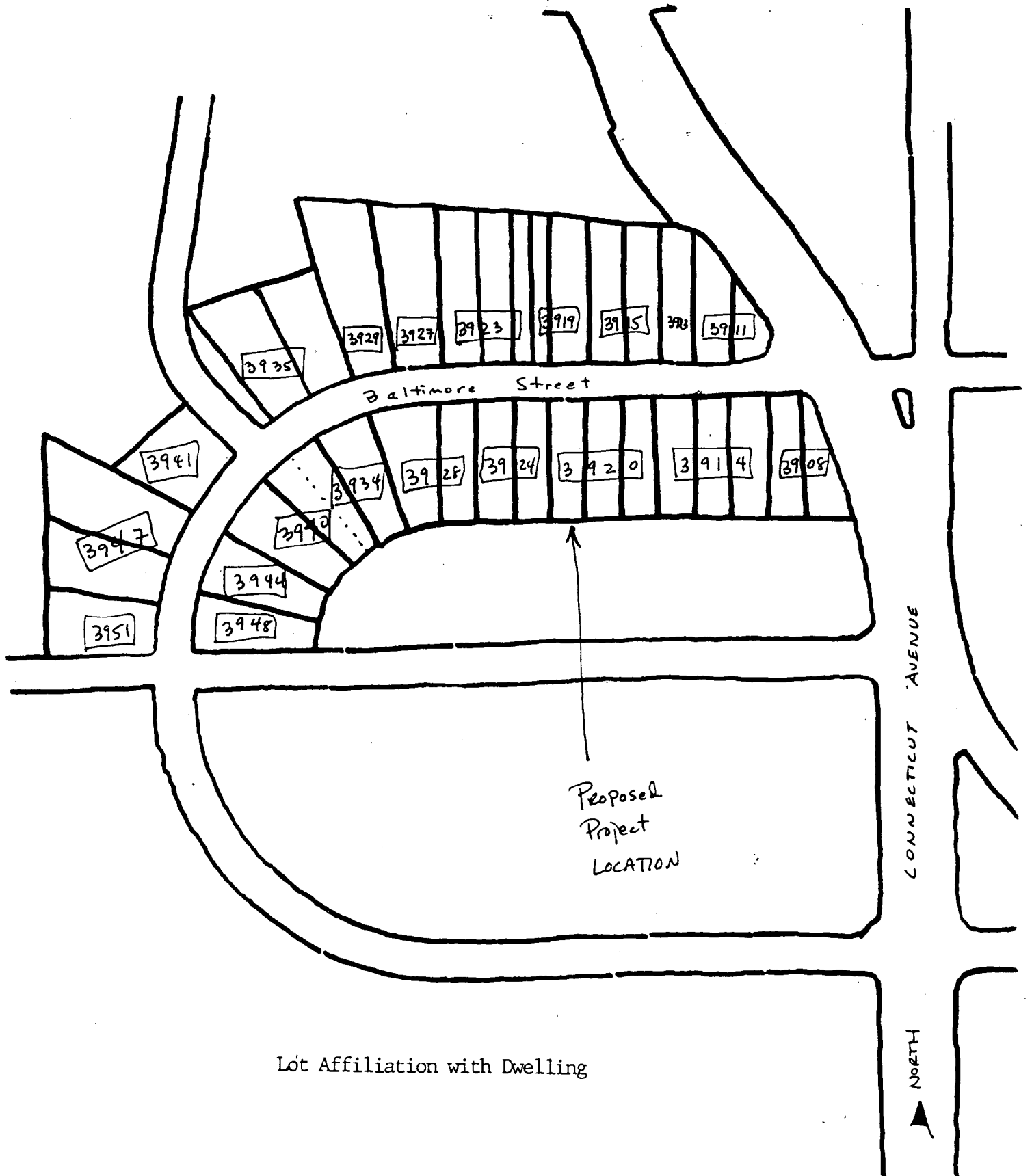


Solid/Void Relationship

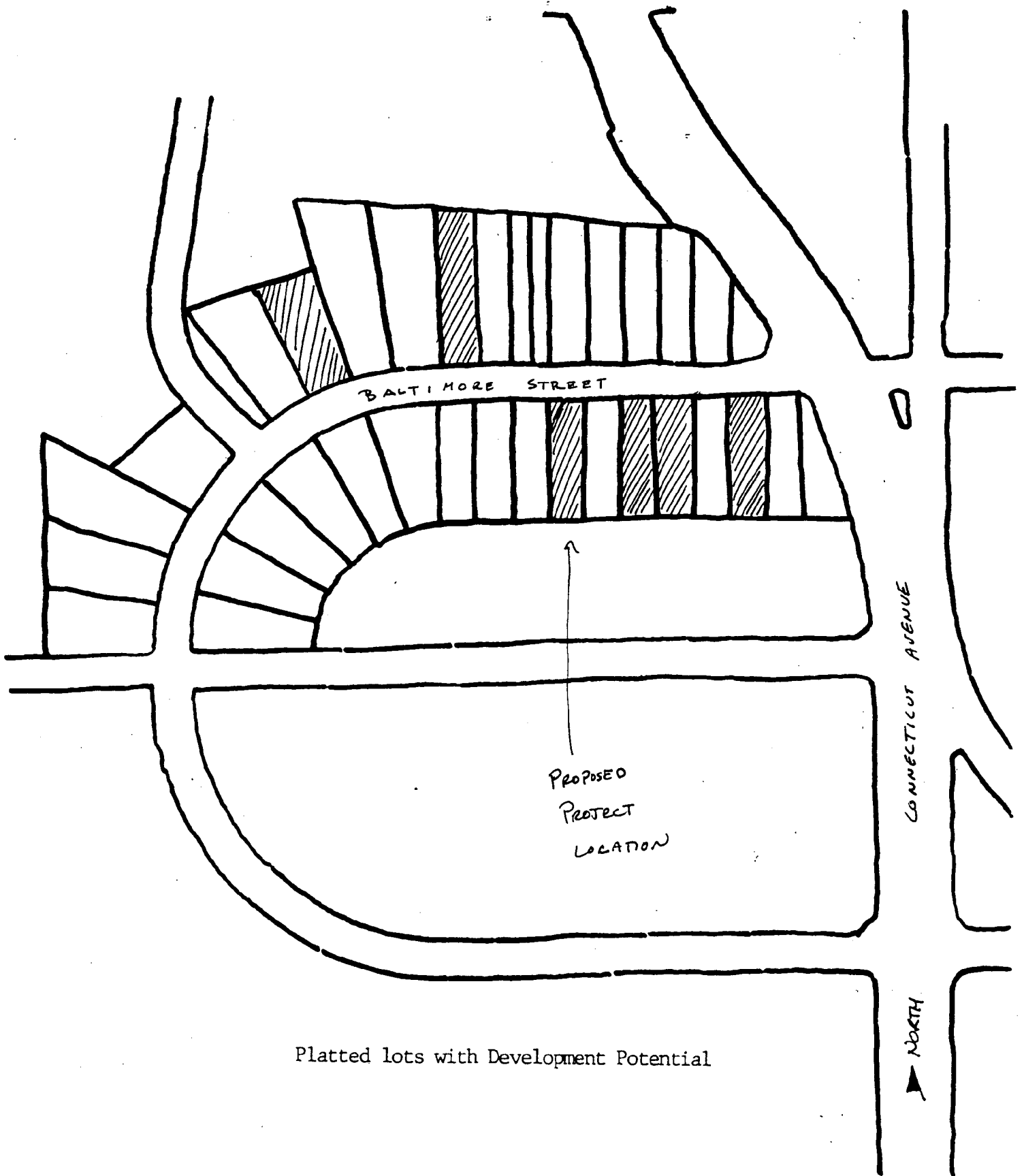


Effective Lot Size

↑ NORTH



Lot Affiliation with Dwelling



Platted lots with Development Potential

▲ NORTH

1 some of the other Commissions present with what our findings
2 are.

3 MR. FREISHTAT: Thank you.

4 CHAIRMAN BOOTH: Thank you. Next item on the
5 agenda is a Preliminary Consultation for Sterling Mehring
6 for new construction at 3922 Baltimore Street in Kensington,
7 in the Kensington Historic District. This is a Preliminary
8 Consultation. And Robin do we have a Staff Report?

9 MS. ZIEK: Yes, we do. I wanted to check with you
10 that you've received -- we've got some handouts and I wanted
11 to make sure everybody has them. The Kensington LAP meeting
12 minutes, July 24th, everybody's got a copy? The Kensington
13 Historical Society has written a letter July 21st signed by
14 the President, Mr. Ralfust (ph). There's testimony to be
15 presented by Barbara Wagner that I want to make sure
16 everyone has a copy.

17 And finally, I'm appending to my Staff Report four
18 drawings which are basic graphic presentations of my
19 analysis of the street and the streetscape in the -- sort of
20 the physical environment on Baltimore Street, and so,
21 everybody has that. My report basically discusses the
22 issues of in-fill -- new construction or in-fill housing
23 within the historic district -- the Kensington Historic
24 District. I have drawn on a lot of reference material just
25 to summarize the Montgomery County Master Plan, the

1 amendment, whereby the Kensington Historic District was
2 adopted.

3 I've included a short synopsis on the history and
4 some of the discussion there, the architectural
5 characteristics and the general law -- the district
6 characteristics -- why there was actually a district
7 established rather than simply individual artifacts or
8 houses designated -- this house. In other words, it's the
9 district that was designated.

10 I've also included information from a report done
11 by an Historic Preservation group in 1992 -- Traceries.
12 They're a professional group located downtown Washington and
13 they did an analysis called "Vision of Kensington: a Long-
14 Range Preservation Plan."

15 In addition, I drew on information that's
16 published by the National Register -- various bulletins in
17 which they discussed the evaluation of the integrity of
18 historic districts, the evaluation of environmental
19 settings. In other words, the National Register deals with
20 these issues all the time in terms of designation of
21 districts -- what are the qualities that allow somebody to
22 setup boundaries around a group or groupings of buildings on
23 a street or streets and call it a district.

24 So, that's what I've done I have looked at the
25 specific block, Baltimore Street, in depth because visually

1 that's what will be affected. As a whole, of course, the
2 whole district will be affected. It's the whole issues of
3 precedence and certainly these decisions affect future
4 decisions. But in my analysis, I've only looked at
5 Baltimore Street.

6 I have some slides that I can show just to give
7 the general character of Baltimore Street. I think it would
8 be a good time to just run through this now.

9 CHAIRMAN BOOTH: Yeah. I think we'd like to see
10 the slides. I would suggest to Staff that we try to trim
11 the Report if we can.

12 MS. ZIEK: Sure.

13 CHAIRMAN BOOTH: In light of the fact that this is
14 a Preliminary Consultation and in light of the fact of the
15 delayed hour, but I think just for us all to get a sense of
16 the location. I think most of us are familiar with it, but
17 it'd be nice to see the slides.

18 MS. ZIEK: Okay, I will do that. This is the
19 entrance of Baltimore Street -- Connecticut Avenue is to my
20 back here, and so we're coming into a street with a mature
21 garden setting. This is the property, the 3920 which where
22 the owner is proposing to sell off one of the -- the side
23 lot to the right of this house.

24 This house is actually a Victorian -- it's sort of
25 called a Victorian cottage. It has been Colonial Revivaled.

1 It originally had a front porch along the whole front of the
2 house, I was able to determine that from the Sanborne maps.
3 So we're seeing a resource that has been -- gone through
4 some alterations. This is the side of the house. The three
5 sections, as you can see on the side, also show up on the
6 Sanborne map.

7 So there's apparently some alterations at the roof
8 level, but not at the footprint for those three little --
9 the front portion of the house, the middle little portion,
10 the lower portion and then that higher portion is an
11 original element of the house. This is a distance view
12 showing the side lot on the left with its tree cover.

13 This is a view of the side lot to the right, sort
14 of looking past a mature tree -- I think it's a holly, I'm
15 sorry, I'm not that specific about that one -- evergreen
16 you're looking at. This is the driveway which is on the
17 lot, which is proposed for development. The garage at the
18 rear, I was able to trace through the Sanborne maps, it does
19 not appear on the 1911 and does appear on the '24 Sanborne
20 map.

21 And that would be consistent with the development
22 of the -- the more readily -- the more readily accessibility
23 of the automobile. You're looking across the proposed lot
24 for development to the neighbors property. This is just
25 another view of the house -- up in the gable and you can see

1 the fishscale shingles.

2 Just another view of the house. There's been some
3 alterations going on here. It will be very interesting to
4 try to figure out what exactly. You can see some of the
5 siding. The later cedar shingles have been taken off here
6 and the original clapboard siding is still there, so this
7 also helps to identify this as original plus the window.
8 Going around the rear of the building that little sun porch
9 is a later addition, I don't have a date on that.

10 This is just a close up of that. This is a little
11 shed on the Lot 26 which is the lot where the house is
12 sitting, and it's a shed at the very rear of the property.
13 This is a garage. It's not in great shape by any means.
14 This shows the siding on the rear of the garage which
15 matches the siding that you saw in that -- on the house
16 where the clapboard had been taken off.

17 Just to show the typical kind of -- I thought I'd
18 just show very briefly down the street, not every house at
19 all -- but there are the Queen Anne's with their side lots,
20 the generous slate roof. There is a very interesting house
21 called -- that's been identified as a Georgian Revival, it's
22 like in the first decade of the 20th Century. There's a
23 couple of them that have this wonderful pop-up dormer,
24 they're of great houses so that's of sequence.

25 And there's the regular Revival homes that are in

1 the second primary period, the 1910 to 1930. Another
2 Revival house. And this is a new -- there is new
3 construction on this block. That house is actually 3913,
4 directly across the street -- sort of catty-corner across
5 the street from the subject property. And this house is
6 around the curve at the corner of Prospect and Baltimore,
7 also another -- a new house.

8 This house is the one that was built -- who got
9 its approvals prior to the district actually being in place.
10 So this project was reviewed simply as substantial
11 alteration which is a considerably different level of review
12 than is now required under law. The side lots are very
13 prominent feature with their gardens -- developed gardens
14 open space and extensive greenery. There's another side
15 lot. And that's my slides. I'm here for any questions,
16 I'll be happy to respond to.

17 CHAIRMAN BOOTH: Okay. Any questions from the
18 Commission for Staff? All right, thank you Robin. I'd like
19 to call the applicant forward. Good evening.

20 MR. MEHRING: Good evening.

21 CHAIRMAN BOOTH: It's been a long night, thank you
22 for waiting. We'd like to have you to just address your
23 proposal and if you would, the Staff comments.

24 MR. MEHRING: Okay, thank you. For the record, my
25 name is Sterling Mehring. I'm the applicant and contract

1 owner of the lot. I appreciate -- the Commission has had a
2 lot longer night than I have, and I'm not repeating anything
3 I've given to you in writing. Just two modifications, one
4 is from the Staff Report. Robin indicates the proposed
5 house is about 2970 square feet and I indicated on my
6 application my proposed house is 2642 square feet.

7 I think the discrepancy comes in that I was just
8 counting square footage of finished floor space in the
9 house, 1321 square feet of footprint plus about 160 feet of
10 porch have been -- on the account that she took that
11 footprint and doubled it and came up with her figure. One
12 other modification about the car house. I initially thought
13 it was an insignificant and much later addition, and Robin
14 has given me some information which caused me to change my
15 mind.

16 I based my conclusions on it by -- it appeared to
17 be kind of built out of salvaged material. There were lots
18 -- lots of the siding was of lengths of like 4-feet. It
19 look like it was taken off the original house and when some
20 modifications were done and kind of put together, they were
21 sort of jerry-rigged kind of construction methods using door
22 hinges as sort of quasi-joist hangers and things like that.

23 I thought it was something that somebody had
24 slapped up, but she indicates and appears to be -- to be
25 something much older and probably more interesting.

1 Therefore, we would like to -- I would like to modify my
2 plan and proposal by saying we will relocate the car house
3 to another location, perhaps on Lot 27 or another location
4 that Staff tells -- indicates would be appropriate.

5 And not only to relocate it, but to bring it back
6 to more of its original condition without the added shingles
7 and to get it back up on its footing and square and true and
8 hopefully get the garage doors working again. Okay, one
9 other thing I wanted to mention or comment on was the issue
10 in the Staff Report about substantial -- that this proposal
11 substantially exceeds its existing lot coverage.

12 I don't know, maybe this is a common place
13 observation, but that apparently is based on -- the
14 conclusion is based on the premiss that a lot is to be
15 defined as contiguous properties that happen to be owned by
16 a single person. Whereas, if you look at a lot as a
17 legitimately recorded and a developable piece of property as
18 each individual, one that's an individual lot, my footprint
19 really doesn't present an unusual lot coverage relative to
20 other development in Kensington or on this block.

21 So it seems like to me of sort of a circular
22 argument. I mean, either lots or lots that are potentially
23 developable or they're not. If they are -- I mean, if we
24 take the primacy, we bunch them all together and then take
25 the lot -- percentage of lot coverage, then yeah, the

1 conclusion is built into the premiss.

2 I know the Commission has a hard job. One of the
3 challenges it says in the statement of the intent for this
4 -- the Commission, that it maximize Community support for
5 preservation and minimize the infringement of private
6 property rights. It seems like the arsenal available to the
7 Commission to meet this challenge is somewhat limited.

8 We tried -- I'm sure that one of the options is
9 not to purchase the property for the benefit of the rest
10 community or for the residents of the County, but if where,
11 I'd be happy to suspend my contract and by signing my
12 interest to whatever organization would like to purchase the
13 lot for what it's worth. But assuming that's not a
14 possibility, I was hoping by offering some mitigating
15 factors, we might be able to find some common ground between
16 these two concerns.

17 One thing I tried to do is suggest that we, and I
18 negotiated this in my contract with the seller, was to
19 record a covenant perpetuate prohibiting the development of
20 the lot on the opposite side of the house, the Lot 27, which
21 the sellers agreed to. I tried to minimize the impacts of
22 the house that I suggested by keeping the height low these
23 are the -- Dr. Lossing's house to the -- I guess that to the
24 -- no, as you face the lot to the right and the house of the
25 seller on the left.

1 Secondly, I tried to sort of defer this house to
2 the research homes around it by giving a greater setback and
3 to try to design it with a narrow presentation on the
4 street. I will skip the rest that I had to say.

5 CHAIRMAN BOOTH: Okay. Thank you. Are there any
6 questions from the Commissioners for Mr. Mehring at this
7 time -- figuring, of course, we'll hear from the community
8 members and then we'll do as we would normally would in a
9 Preliminary Consultation. Mr. Mehring just so you
10 understand the purpose of a Preliminary Consultation is for
11 you to get a general idea of the position, the leanings of
12 the Commissioners, unfortunately, it's of the Commissioner
13 as present, but it's to hopefully give you some guidance
14 that may help you in drafting a formal and a final
15 application.

16 Okay, with that said, I'd like to call up Dr.
17 Shulman on behalf of the Kensington LAP. And Dr. Shulman if
18 you could -- we do have a copy of the report, so if you
19 could just summarize for us, thank you.

20 MR. SHULMAN: Thank you. My name is Ray Shulman,
21 10221 Montgomery Avenue representing the Kensington LAP. As
22 I indicated in the very brief report, the Staff Report --
23 our very brief minutes of the LAP meeting, the Staff Report
24 of the HPC was outstanding. The ten individuals
25 representing the Kensington LAP were unanimous in endorsing

1 that Staff Report enthusiastically.

2 There is not much to add except to mention that
3 there are fourteen other lots in that section of Baltimore
4 Street that are not developed and they should be called
5 parcels of land rather than lots. And that this would be a
6 precedent that would be a severe threat to the integrity of
7 the historic district in what is not an almost intact area.
8 That's all I have to report.

9 CHAIRMAN BOOTH: Thank you Dr. Shulman. I then
10 would like to call Barry Peoples on behalf of the Kensington
11 Historical Society.

12 MR. PEOPLES: Thank you. I'm Barry Peoples. I
13 live at 10030 Kensington Parkway and I'm presenting a letter
14 from the Board. On July 17th, the Board met and was
15 unanimously concerned about the Lot 25, Block 26 being --
16 will result in a house much smaller footprint and change the
17 streetscape of the entire area, and would be concern one.
18 Concern two, is that there's a -- it is controlled by a
19 seven year covenant that does not expire until July 12,
20 1996.

21 Concern three would be that there is a substantial
22 offer that has been made for this lot that would preserve it
23 as a side lot. And point four is that the original intent
24 of the builder was to have the lots preserved as side open
25 spaces and as were depicted in the Staff's photography very

1 well.

2 CHAIRMAN BOOTH: That's it.

3 MR. PEOPLES: That's it.

4 CHAIRMAN BOOTH: Okay. Thank you very much. John
5 Lossing. Good evening Mr. Lossing, and please identify
6 yourself for the record.

7 MR. LOSSING: Thank you. I'm Dr. John Lossing. I
8 thank the Commission for the opportunity to testify
9 regarding the proposed development. My address is 3924
10 Baltimore Street and the adjacent property owner to the west
11 of the proposed in-fill construction. Besides being the
12 adjacent property owner, I'd like you to know that I served
13 on the Kensington LIC when it was called the LIC, in the
14 capacity of secretary and also I was the tree committee, the
15 one man tree committee of our LIC.

16 I was the guy that was sent around town to look at
17 the trees that were allegedly dead or for removal. I wanted
18 to simply focus on the issue of the proposed demolition or
19 removal of trees on the subject property, which I think is a
20 major issue. I'm aware that this is a preliminary proposal,
21 and I commend Mr. Mehring for coming to the Commission for
22 preliminary advice and consultation with regard to his
23 submission.

24 I would hope that he and also the Commission would
25 take into account the location of valuable trees on the

1 property. I made an overhead transparency, which actually
2 would dovetail in. I will give the Commission copies of
3 this, but I'll summarize the conclusion. I am concerned
4 about the location of this shared driveway because in order
5 to site the driveway, it would require the removal of these
6 two huge mature holly trees, that were shown in the picture,
7 that nearly dwarf the house itself on the property.

8 The driveway would then go back and then it runs
9 into, not what I would call a specimen class redbud as sort
10 of universe class redbud, which is comprised of seven
11 different trunks. It's an enormous redbud tree. It might
12 be the biggest in the area and some of the trunks are more
13 than 8".

14 The is vast tree that is -- that does show up when
15 you look back towards the lot as this enormous big tree and
16 I'm concern about not just the viability but the idea that
17 that redbud would have to be removed if this particular
18 situation of the driveway were affected. Finally, at the
19 back of the lot where the proposed new garage would be,
20 would require the removal of four black walnut trees that
21 are 6" in size.

22 We value our trees in the town of Kensington. I'm
23 sorry to say that we've lost quite a few trees especially on
24 this street. When you saw the nice slide looking up the
25 street, it is a little gardeny, but it's also a little

1 gappy. And we've lost a couple of catalpas on street, and
2 we've lost several maples because it just got to be old
3 trees.

4 We value these trees and we hope the subsequent
5 deliberations at this preliminary evaluation, that efforts
6 will be made to preserve all of these trees including the
7 two hollies, the universe class redbud and these four black
8 walnuts towards the back of the lot. Otherwise, I would
9 simply seek to emphasize the statements made by other
10 individuals. I've lived in the historic district 17 years,
11 and I'm happy to be there.

12 The appearance when you drive up a street at this
13 time -- as you did drive up the street is one of all old
14 houses. There's a single in-fill that sort of sneaked in
15 that has a history behind the sneaking in of a -- but it's
16 not very much in evidence because it is dwarfed by the large
17 subject referenced houses on either side.

18 On the other hand on the opposite side, which is
19 the side of the proposed structure, there is no development
20 whatsoever all the way up to the corner. It's not visible
21 because of the arching of the street and this would have the
22 effect of spoiling the Victorian appearance of the
23 neighborhood as we will document later with a video
24 demonstration of a ride up our street, in the event there's
25 a subsequent submission. Thank you very much.

1 CHAIRMAN BOOTH: Thank you. I'd like to as Ms.
2 Barbara Wagner to come forward. Good evening, Ms. Wagner
3 and please introduce yourself for the record.

4 MS. WAGNER: Hi, my name is Barbara Wagner and I
5 live at 3915 Baltimore Street. I'm across the street from
6 the subject of the Preliminary Consultation. First of all,
7 I want to congratulate Staff on the excellent Staff Report,
8 it's the finest that I've read and I've read a great number
9 of them sense I use to be a Commissioner.

10 I'm also very pleased to see that the Vision of
11 Kensington, a Long-Range Preservation Plan is ready and that
12 it's now quotable and that you have an opportunity to see
13 what lot coverage is in the historic district and what the
14 distance and how the houses are spaces in the district. I
15 disagree with Mr. Mehring, not every lot is a developable
16 lot in Kensington, my house is placed smack-dab in the
17 middle of two.

18 So those distances are real. There are of the
19 buildable lots along Baltimore Street, there are not very
20 many. When 3913 was built, it did sneak in. I'm not sure
21 that as a brand new historic distance, we understood what
22 the ramifications of in-fill development were and I don't
23 think we understood how the Historic Preservation Ordinance
24 should work to protect the district.

25 I've passed around -- well, I submitted xerox

1 photographs of a before and after of my house looking down
2 the street, but the color photographs show much more clearly
3 the impact of the in-fill development. I use to be able to
4 see 3911 Baltimore Street, which is another primary resource
5 in the district. It's not on view from my house any longer.

6 The district has been spoiled. The streetscape
7 rhythm has been interrupted and the historical development
8 pattern has been changed. Our block will be permanently
9 changed and not retrievable if anymore development takes
10 place. Thank you.

11 CHAIRMAN BOOTH: Thank you. I'd like to call Jill
12 McCrory up to the speakers table.

13 MS. ZIEK: I'd like to just let the HPC know if
14 you're interested in these addresses -- the drawing that I
15 have, effective lot size, has the -- page two of the handout
16 that I gave out this evening has the addresses along the
17 street. It might be helpful.

18 CHAIRMAN BOOTH: That's Circle 2 of the handout of
19 tonight.

20 MS. ZIEK: It's not -- yeah. Yes.

21 CHAIRMAN BOOTH: Okay. We've got it.

22 MS. MCCRORY: Ready?

23 CHAIRMAN BOOTH: Yes, thank you Ms. McCrory.

24 MS. MCCRORY: Thank you. I am Jill McCrory. I
25 live with my husband Jack, directly across the street from

1 the property in question. And since we are all throwing
2 around credentials tonight, I also work from the National
3 Association of Home Builders, so you probably know where I
4 lie.

5 CHAIRMAN BOOTH: You're not an arborist are you?

6 MS. MCCRORY: I'm not an arborist. I have not
7 been on the tree committee and I have not served on any
8 Historic Commission here in the County. I would hope that
9 we could come to an amicable solution to this. I would hope
10 that the Commission would take a look and consider not only
11 the Staff's wonderful report, but the impact that this would
12 have on the neighbor in question who is involved and the
13 property that's adjacent to the lot.

14 I would hope that rather than just dismissing
15 this, that it could be discussed and considered. And I'm
16 concerned of the one statement that was made that the
17 property owner was offered a substantial amount of money for
18 lot, I think that would be wonderful if someone wants to
19 make a park out of that, if that would equal whatever is
20 being offered for the development of the lot.

21 So I guess my main point is that it would just be
22 considered fully rather than just being dismissed right off
23 the top. Thank you.

24 CHAIRMAN BOOTH: Okay. Thank you. Next I would
25 have Walter Schmitt and Kathryn Hoyle. Good evening and

1 please identify yourself for the record.

2 MR. SCHMITT: Yes, I'm Walter Schmitt and this is
3 my wife Kathyrn. We are the notorious owners of the sneak-
4 in in-fill house. And I just happen to think of when we
5 moved into our home, how proud we were of our home. And the
6 greatest compliment that we received by no less than about
7 two dozen people, was to have our doorbell rung continuously
8 and having them ask "who did your rehab?"

9 We could not think of a finer compliment, and we
10 think our house looks very nice, very attractive, and we
11 think it adds to the community. So, so much for the being
12 notorious. We are very much in favor of the new home that
13 Mr. Mehring wishes to build for four reasons.

14 Number one, the design of his home does compliment
15 the neighborhood and would enhance the property values of
16 this neighborhood. Two, the lot size and square footage of
17 the proposed home is of the legal size and would not detract
18 from the historical district. Three, the use of a common
19 driveway would preserve the open space concept. And four,
20 the sale of the lot would create capital with which to
21 rehabilitate the home that was shown originally in your
22 slides.

23 It's our experience that the construction of a new
24 home is equally desirable at our community as the
25 rehabilitation or restoration of an older home. First of

1 all, a new home must be completed in a certain amount of
2 time, obviously you can't go to settlement until it's
3 completed. An adjacent resident to our home has been under
4 restoration since 1988, it is still under restoration and I
5 don't when it will be finished.

6 We are still having to look at brick shingle tar
7 paper facade. We are still hearing the sounds of the
8 electric saws and power tools, which can be annoying on a
9 Saturday afternoon or Sunday late in the day when my wife
10 and myself like to sit out on the porch and enjoy our
11 dinner.

12 A new home has a time constraint and would be
13 completed. There is discussion about the open spaces. I
14 would invite you to come and look at what we bought as far
15 as open spaces at our home originally. I assume it was
16 approved by this Commission or another Commission. We don't
17 have open spaces anymore.

18 We have 6-foot high board fences running the whole
19 length of our property. The proposed plan by Mr. Mehring
20 shows no fences whatsoever and does not detract from the
21 open space concept. This Commission approved a commercial
22 day care center adjacent to our rear property line. I dare
23 say that the people that are speaking in opposition to the
24 Mehring home, if that were to be determined to be a
25 commercial day care center, would have extreme objection and

1 perhaps I would join them.

2 And as to the consideration of property values, I
3 think that home would add to the property values on that
4 street. There are a number of homes on that street right
5 now that are in desperate need of repair. There just simply
6 not taken care of. The commercial day care center resulted
7 in the devaluation of our property. We feel that the
8 Mehring home will restore that value and would speak in his
9 behalf. Thank you very much.

10 CHAIRMAN BOOTH: Thank you. I would next call
11 Helen Wilkes. Good evening Ms. Wilkes.

12 MS. WILKES: Good evening. I'm Helen Wilkes. I
13 live at 3923 Prospect Street, which is behind the subject
14 property and adjacent to it. Well I have many very strong
15 feelings about this would be a negative impact on the
16 historic district of this in-fill development proposed, I'm
17 going to brief in my comments.

18 I would like to point out that this diagram
19 entitled front yard setbacks, there's perhaps no clearer
20 documentation of how severe that impact would be. I think
21 there's no better example of the anomaly, the aberration
22 that is presented by the proposed in-fill than this
23 document. You stick that house in there and you see what an
24 aberration it is.

25 As an adjacent property owner and as an architect,

1 I want to just make one point. The in-fill precedent across
2 the street from the subject property is somewhat of a
3 different example. The subject property here tonight sits
4 on a hill, it inhabits its parcel of three lots, was built
5 to that parcel of three lots, when you in-fill next to it,
6 you are cutting off as it words, right arm because it was
7 built to three lots.

8 And the open space to the right of it and the open
9 space to the left of it, were considered in the original
10 design. And the way one approaches the house, it sits on a
11 promontory and one ascends to that house and so that house
12 is very much married to the land it is on.

13 There are some examples of houses like that still
14 intact in Kensington and that is a very prominent example of
15 such a house. So, I would like the Commission to regard it
16 in those terms. The setback, compared to the setbacks on
17 the other side of the street, those setbacks are closer to
18 the street and the houses tend to be closer together.

19 On the subject side, the houses are fanned out.
20 They're spaced farther apart and it's different pattern of
21 development. This would be a severe aberration of that
22 pattern. I would like to also make a second point as in
23 capacity as President of the Kensington Land Trust that
24 there is room here for discussion about the value of an
25 easement.

1 I think the property owner may have been aware of
2 the fact that the possibility for an easement existed. And
3 an easement to my mind is the perfect compromise in this
4 case, the community wins and the owner wins. Well, I can't
5 promise anything, an easement can potentially reduce the
6 impact of the difference between the sale value of a
7 buildable lot and a non-buildable lot, which is of course
8 what any adjacent property owner who wishes to retain it as
9 a side yard lot would offer.

10 They will not offer a buildable lot price, they
11 will offer a non-buildable lot price because that's what
12 they want it for, a side yard lot, a non-buildable lot. I
13 would be very happy to pass on any information, to hold a
14 meeting with the owners or the builder -- potential builder,
15 to talk about the ramifications and I will bring in members
16 from the Maryland Historical Trust and/or the Maryland
17 Environmental Trust who are very much interested in this
18 issue of open space in Kensington and in helping us retain
19 our open space.

20 There are options there to keep that property open
21 and I very much hope that the Commission will consider that.
22 Thank you.

23 CHAIRMAN BOOTH: Thank you. And I'd like to have
24 Mr. John O'Neill please come forward. Good evening, Mr.
25 O'Neill.

1 MR. O'NEILL: Good evening. My name is John
2 O'Neill. I'm a resident at 3915 Prospect Street which is
3 adjacent to the present property which includes Lot 25 which
4 is the subject of this preliminary discussion. I'm not an
5 architect. I'm not an historical expert. But in my
6 profession, we have precedence and about the time that the
7 present owner of this property purchased it, there was a
8 fairly vocal and protracted dispute with respect to another
9 in-fill lot between the property own by the Wilkes and the
10 property owned by the Sherman Pressers.

11 Over a period of some years, that discussion
12 continued before this Commission and a decision was made and
13 finally all of the proposals were denied. Unfortunately,
14 there doesn't appear to be precedent one can just look to
15 and keep this from occuring over and over again.

16 The report by the Staff was excellent. It says
17 more articulately than I can, why that particular area, the
18 historic district is a jewel in Kensington and would be
19 adversely affected by in-fill housing. Our property, which
20 is behind would be affected because our view, if you will of
21 the garden that is Kensington, would be turned into one of a
22 garage and a massive house and beautiful trees and greenery
23 would be replaced by a driveway and by this large house
24 which would completely change the view, which is Historic
25 Kensington.

1 The present property owner bought this knowing
2 that in-fill housing was not going to be approved in
3 Kensington if this precedent were to be followed. And
4 indeed there was a covenant running with the land to
5 preclude such in-fill housing for a certain period of time
6 that Mrs. Brown insisted at that the time of the sale.

7 The ephemeral offer of not developing Lot 27 is
8 simply that since part of the present structure is located
9 on Lot 27 and it wouldn't be developable. Given the
10 lateness of the hour, I simply note that we believe that the
11 Staff Report and Mrs. Wilkes statement are indeed what this
12 Commission should take into account.

13 And that if you are going to preserve Kensington
14 Park as a historic district with the garden surrounding the
15 environment and the streetscape, that this proposal cannot
16 be accepted. Thank you very much.

17 CHAIRMAN BOOTH: Thank you. Mr. Mehring, would
18 like to come back? It seems how it's been tonight, we will
19 give you a few minutes to respond.

20 MR. MEHRING: Oh, I've just -- just about the
21 covenant issue, Mrs. Brown did negotiate a covenant with Ms.
22 Ahern when she purchased the property. In May of this year,
23 she signed a statement -- what was it called, a Release and
24 Termination of Covenants on the 8th of May, 1995. So we
25 were aware of that issue and I wanted to be sure of it.

1 before I enter into a contract. I understand how people
2 feel.

3 I don't completely disagree with most people's
4 comments, but I guess what I would like to know from the
5 Commission and reason for wanting to have a consultation,
6 was the Staff Report seems to argue for no development on
7 this site, and I was just wondering is there a preliminary
8 opinion from the Commission as to whether they would affirm
9 these findings?

10 CHAIRMAN BOOTH: Okay. I hate to interrupt you
11 Mr. Mehring, but we did just get a speakers form handed up
12 from Mr. Ritzmann. I'd like to give Mr. Ritzmann a few
13 minutes just to speak his peace. I would mention though at
14 this point, Mr. Ritzmann, you will be the last speaker other
15 than allowing Mr. Mehring a chance to respond, but please
16 come forward and we'll hear from you.

17 MR. RITZMANN: Mr. Robert Ritzmann and I live at
18 3504 Kent Street in Kensington, which is not in the historic
19 district but just adjacent to the historic district. I'm
20 also a member of Warner Memorial Presbyterian Church.
21 Virginia Brown for many years was a member of Warner
22 Memorial Presbyterian Church.

23 I've known Virginia Brown for long time. I've
24 visited her in the Bethesda Rehabilitation Center for a
25 month when she was recovering from knee surgery. At that

1 time, she was wheelchair bound and she was not competent. I
2 think she's recovered from some of that. Ms. Brown is
3 extremely and I mean extremely hard of hearing she wears
4 bilateral hearing aids.

5 Upon hearing of someone telling of this
6 restrictive covenant, I was told that I should contact an
7 attorney in Warner Memorial that had drawn up the covenant.
8 I called him to find out when it started, he said "he didn't
9 remember" and I said "okay, that's fine, I'll get it from
10 Rockville." And he also said if anyone discusses removal of
11 the covenant, that he wants to know about it.

12 And I said "I think someone has already discussed
13 it with her." And the applicant -- or the person who has
14 made the contract with Mr. Mehring, Jane Ahern and the
15 realtor that had sold the Virginia Brown property had
16 invited Ms. Brown out for lunch and at the end of that time,
17 Ms. Brown agreed with that.

18 The attorney told me that he was still Virginia
19 Brown's attorney had power of attorney on Virginia and that
20 he was very upset about this that she hadn't been consulted.
21 He since consulted with Virginia Brown. It took him an hour
22 and a half to talk with her. Virginia Brown said that she
23 understood that what she was signing was permission to sell
24 the lot to the neighbor, Dr. Lossing, and put in a shared
25 driveway.

1 I think this is a legal issue which is probably
2 not the subject of this hearing tonight. But, I think that
3 it is a potentially open legal issue that must be settled
4 before you go into a final hearing on this. The attorney
5 could not -- there was just not enough time for him to
6 contact Ms. Brown and get a statement for her. But I just
7 wanted to clarify that.

8 CHAIRMAN BOOTH: Okay. Thank you, Mr. Ritzmann.
9 Mr. Mehring, you're back on. And as is stated, this is sort
10 of an opportunity for the Commission to kind of give you
11 some guidance and let you know sort of where we might be
12 heading. As I said, it unfortunate that you've got five
13 Commissioners as opposed to nine. I mean when you come back
14 with a real application, you could see four other
15 Commissioners who may totally disagree with the five who are
16 here.

17 That being said, I guess I'll start at my far
18 right. Martha, if you'd like to start.

19 MS. LANIGAN: I agree with the Staff Report.

20 MS. BIENENFELD: I agree with the Staff Report and
21 I'm also concerned about this legal problem of the covenant.
22 In a sense, it seems like this should not have come to us at
23 this point, but should have been the issue of the covenant
24 or to whom Mrs. Brown believed she would sign the property,
25 should be made more clear.

1 CHAIRMAN BOOTH: Susan.

2 MS. SODERBERG: I agree with the Staff Report
3 also. I think that in lieu of the intent of the original
4 developer as well as the environmental atmosphere of a group
5 of houses a community from this period of time, it would be
6 absolutely ridiculous to put a house in between those two
7 houses.

8 If you ask for some suggestions on how to do that,
9 if you wanted to be in keeping with the time and the intent
10 of the original developer, this house would have to take the
11 form of a carriage house and be placed at the rear of the
12 property. And that is the only way I would approve anything
13 that would go in between those two houses.

14 And in respect to the house put in at 3913 having
15 been called a precedent for this type of building, I think
16 we need to distinguish between precedence and mistakes. And
17 if we do not distinguish between precedence and mistakes,
18 then we will not learn from our mistakes, and 3913 was
19 definitely a mistake.

20 CHAIRMAN BOOTH: Bert.

21 MR. RANDALL: You go first.

22 CHAIRMAN BOOTH: That's my prerogative as Chair.

23 MR. RANDALL: Yeah, that's right. I think Susan
24 has captured my thoughts on that as well. While I wouldn't
25 say that there is nothing that potentially could be built,

1 if something might be approvable and we're talking
2 hypotheticals because we don't have anything in front of us
3 -- it would seem to me that it would be something that would
4 be indeed set quite a ways back and be some accessory type
5 building -- something that would be the oak of a carriage
6 house or something compatible with the structures, but
7 having the appearance of being an accessory type structure.

8 And so I wouldn't say that absolutely nothing
9 could go there, but that would be the kind of thing that I
10 would at least be willing to look at to decide what if
11 anything of that nature might be appropriate.

12 CHAIRMAN BOOTH: I would probably concur with
13 Commissioner Randall's observation. I wouldn't say that
14 this is a lot that can never be built on. I would certainly
15 agree with the speakers who have said that putting something
16 on this lot would harm the historic district. Mr. Mehring
17 the bottom line is, I think it's a bad idea. I'd really
18 rather not seem something go in there.

19 I'm not going to say that I would ever totally
20 vote down every proposal that would ever come forward. I
21 know that back on the other side of Connecticut a few years
22 ago, there were some issues and there was a lot of talk
23 about in-fill and in particular about trying to design an
24 acceptable carriage house, and whether in fact something
25 like that would be acceptable.

1 As to precedence, I know that over on Prospect
2 Street as Mr. O'Neill mentioned there was a situation and it
3 eventually was worked out between neighbors I believe which
4 sort of alleviated the entire problem. I just think it's a
5 bad idea.

6 MR. MEHRING: Which do you mean, to develop the
7 lot or the --

8 CHAIRMAN BOOTH: Well, to certainly develop a lot
9 with the house you proposed. I think it's a bad idea to
10 develop the lot. That doesn't say, as I confer with
11 Commissioner Randall, that I can never say I would vote
12 against everything or anything that would ever come forward
13 to be proposed, I'm not saying that. It just -- this
14 district was designed with the open space in mind, that's
15 the heart of it. As they say, that's essence of the
16 Kensington Historic District.

17 If 3913 slipped in somehow and the occupants are
18 happy with it, so be it. I might agree with Commissioner
19 Soderberg in her remarks, that's not precedence, that's a
20 mistake. But, it's there and I'm glad the occupants enjoy
21 it and get a lot of use out of it. I guess, it's just --
22 it's a terrible idea to build this house on that lot in this
23 district.

24 MR. MEHRING: A lot was mentioned, I mean, at
25 several times it was mentioned that the original intent of

1 the -- or the intention of the developer, is there -- I
2 mean, that seems to be -- I've heard that before. Is there
3 some literature on this or some background?

4 CHAIRMAN BOOTH: I do believe there is. I'm sure
5 Ms. Wilkes or Ms. Wagner probably could pinpoint you and
6 direct you to the exact source of that information regarding
7 the founding of Kensington and the original idea as to why
8 they built houses on the one lot with bordering lots on
9 either side. I mean, that was sort of the design and the
10 looping drives and I'm sure that they can fill you in better
11 on the actual background of those particular items.

12 MR. MEHRING: Depends, some people's opinions are
13 based on the intention of the developer and if you could
14 direct me to it. What was the intention of the original
15 developer?

16 CHAIRMAN BOOTH: It was to have open space. Ms.
17 Soderberg.

18 MS. SODERBERG: To create a garden like atmosphere
19 and to provide -- also provide room for the outbuildings at
20 this time. In the 1880's and 1890's, every house had
21 outbuildings and vegetable gardens with them, and they would
22 need this extra space -- the extra lot on either side in
23 order to do this. Also, it accommodates the winding roads,
24 the lanes that are curved. When you have a curved lane, you
25 have to have wedge shaped lots at some places and in order

1 to do this, you need to have the bigger lots to make it
2 compatible.

3 MR. MEHRING: I'm asking because I've done some
4 research on this, and if I was able to present evidence that
5 some development was done and building done with the purpose
6 of building a house, having a nice yard, but also for
7 investment. Since this contrary view seems to inform your
8 opinions, would that make any difference to you?

9 CHAIRMAN BOOTH: It certainly would be something
10 we'd take under consideration.

11 MR. RANDALL: Let me toss aside. I guess to me
12 and maybe this is heresy to the people of Kensington, and
13 I'm not all that interested in what somebody maybe thought
14 about a long time ago, what's more important to me is what's
15 there. What we see is indeed what we're trying to preserve
16 and whether somebody thought "gee, I'll set all things up,
17 and then people can buy three and then they can sell on to
18 their kid and one to their friend."

19 It didn't develop that way. And the history that
20 we have is what we see there right now and that's what we're
21 trying to preserve. So, I don't know how the other
22 Commissioners would feel, but I don't think I would be -- my
23 views of it would be altered really by that kind of
24 historical fact.

25 MR. MEHRING: Thank you for your time.

17

Very u to approved
HPC project 3/6-92 F
10535 St. Paul St.

Never Buy It



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
250 HUNGERFORD DRIVE, ROCKVILLE, MARYLAND 20850
301-217-6370

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/495-4570

APPLICATION FOR
HISTORIC AREA WORK PERMIT

Contact Person: Carey Hoobler
Daytime Phone No.: 681-1411

Tax Account No.: 13 15 3186525
Name of Property Owner: ELLISON CORP. (contract) Daytime Phone No.: 301 681 1411
Address: 10907 Jarboe Ave Silver Spring MD 20901
Street Number City State Zip Code
Contractor: AS ABOVE Phone No.: AS ABOVE
Contractor Registration No.: 2657
Agent for Owner: see above Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 3922 Street: Baltimore Street
Town/City: Kensington Nearest Cross Street: Conn. Ave
Lot: 25 Block: 11 Subdivision: Kensington Park
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE: Construct Extend Alter/Renovate A/C Slab Room Addition Porch Deck Shed
 Move Install Wreck/Raze Solar Fireplace Woodburning Stove Single Family
 Revision Repair Revocable Fence/Wall (complete Section 4) Other: _____
1B. Construction cost estimate: \$ 275K
1C. If this is a revision of a previously approved active permit, see Permit # NO

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____
2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches
3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:
 On party line/property line Entirely on land of owner On public right-of-way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

C. Hoobler
Signature of owner or authorized agent

3/17/97
Date

Approved: _____ For Chairperson, Historic Preservation Commission
Disapproved: X Signature: [Signature] Date: 4/24/97
Application/Permit No.: 9703190066 Date Filed: _____ Date Issued: _____

SEE REVERSE SIDE FOR INSTRUCTIONS

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. **WRITTEN DESCRIPTION OF PROJECT**

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

LOT 25 BIK II is a recorded + platted lot. Lot is vacant of structure except detached one car garage accessed by asphalt driveway. Lot is generally void of trees or any landscaping. The garage is frame and finished in similar materials to residence at 3920 Balt. St. Garage condition is poor and it is delapidated and structurally unsound. The nearby houses are predominately frame construction in colonial revival + victorian styles mostly from roughly the 1870-1930 period. Quite varied in size, massing, condition, and integrity. And, with later development, the age range is under 10 years to over 110. The streetscape is relaxed and pleasant and varied in both upkeep of house and yard.

b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

The new house will be frame construction complimentary in size, ~~massing~~ style + massing to the existing houses. The house is not a static replication of any particular house or style but to fit in the flow + pattern of the houses built over the years on the street. Use of sitting porch and practical roof lines are to provide a friendly livable house in the relaxed genre of the streets existing houses.

2. **SITE PLAN**

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- the scale, north arrow, and date;
- dimensions of all existing and proposed structures; and
- site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **PLANS AND ELEVATIONS**

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- Schematic construction plans*, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **MATERIALS SPECIFICATIONS**

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **PHOTOGRAPHS**

- Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **TREE SURVEY**

If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

For All projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question. You can obtain this information from the Department of Assessments and Taxation, 51 Monroe Street, Rockville, (301/279-1355).

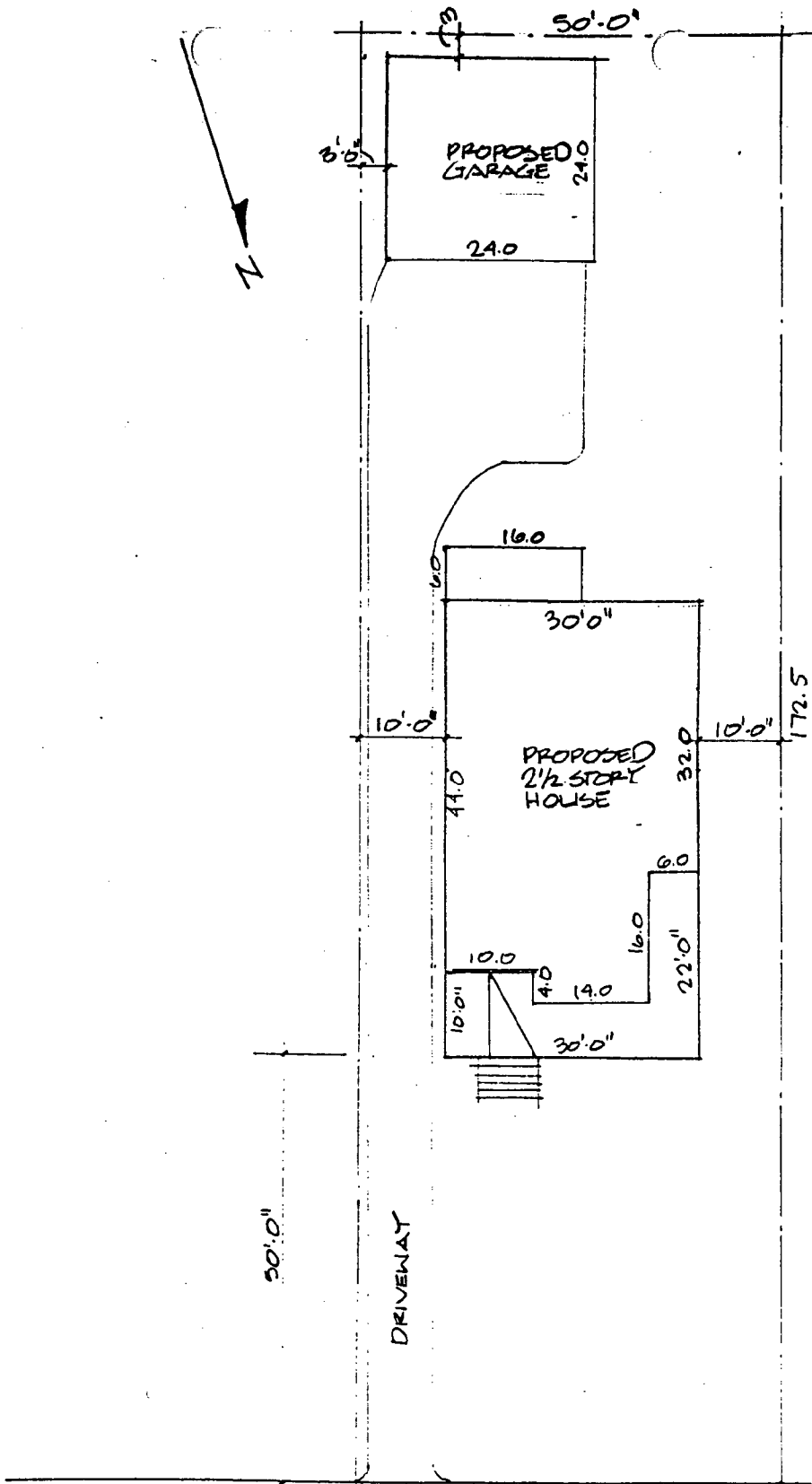
PLEASE PRINT (IN BLUE OR BLACK INK) OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.
PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE, AS THIS WILL BE PHOTOCOPIED DIRECTLY ONTO MAILING LABELS.



21

3922 Baltimore St. Kens. (Lot 25 blk 1)
Adjacent and Confronting Property Owners

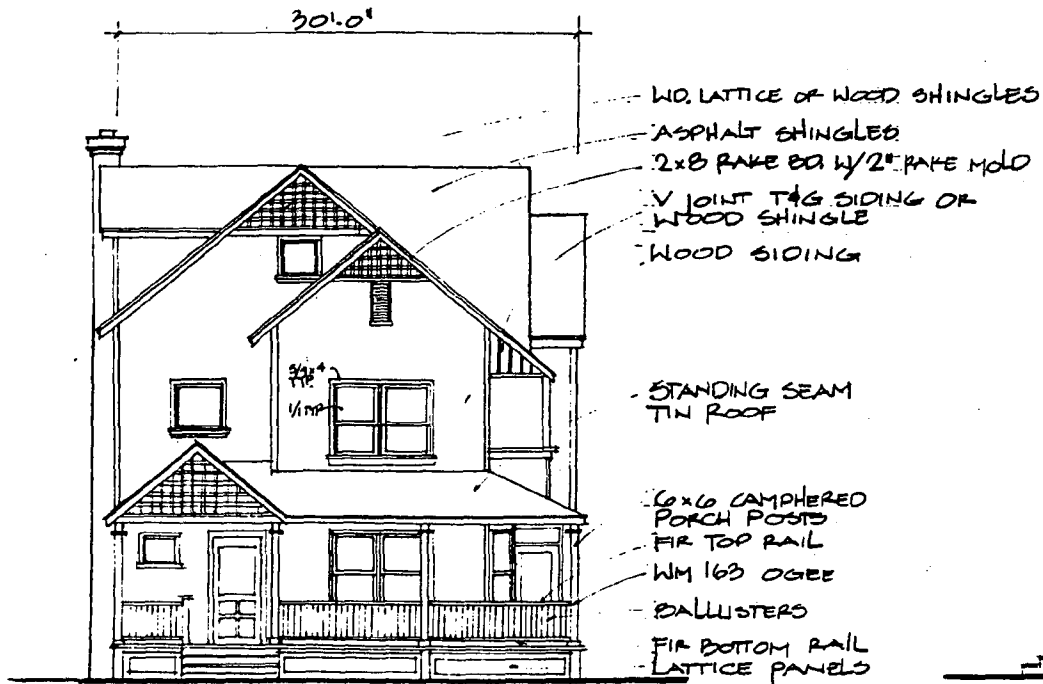
side	LOT 26 BLK 11	3920 Balt. St., Kens. MD 20895 Jeanie L. Ahearn
rear	LOT 10 BLK 11	3923 Prospect St., Kens. MD 20895 Chas. C. + H.C. Wilkes
		3915 Prospect St., Kens. MD 20895 John H. + V.G. O'Neill
side	LOT 24 BLK 11	3924 Balt. St., Kens. MD 20895 John H. + J.B. Lossing
front	LOT 9 BLK 10	3919 Balt. St., Kens. MD 20895 Seaborn + J.W. McCrory



SITE PLAN

1" = 20'-0"

20



FRONT ELEVATION - SCHEME "A"
 1/8" = 1'-0"



SIDE ELEVATION - SCHEME "A"
 1/8" = 1'-0"



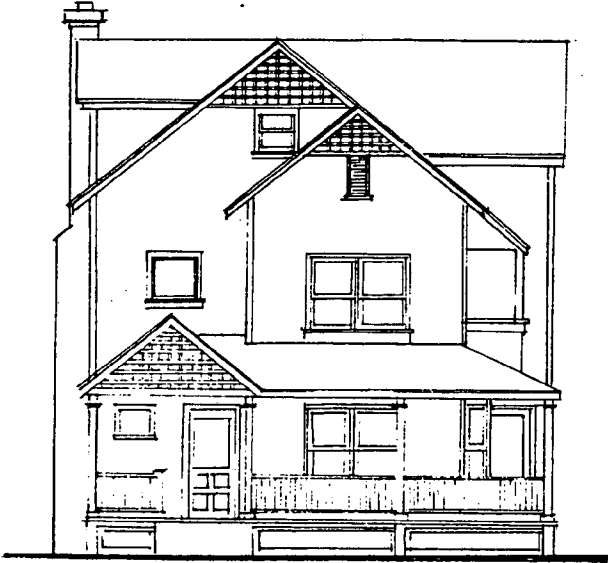
REAR ELEVATION - SCHEME "A"
1/8" = 1'-0" (SCHEME "B" SIM.)



SIDE ELEVATION - SCHEME "A" & "B"
1/8" = 1'-0"

3922 BALTIMORE STREET

22



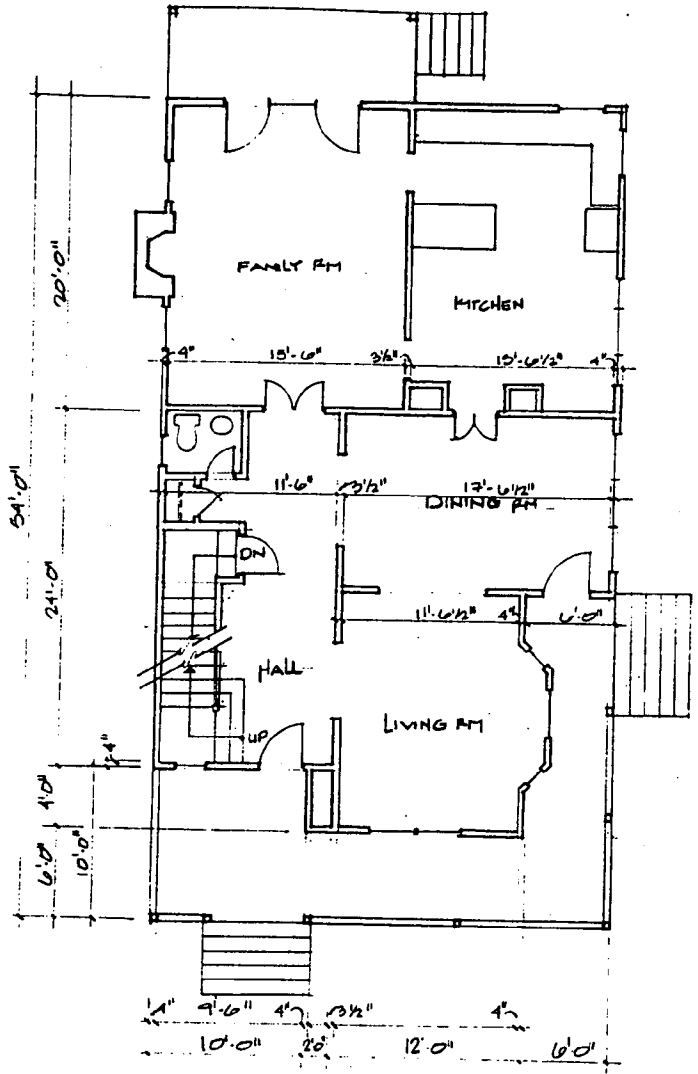
FRONT ELEVATION SCHEME "B"
1/8" = 1'-0"

3922 BALTIMORE STREET

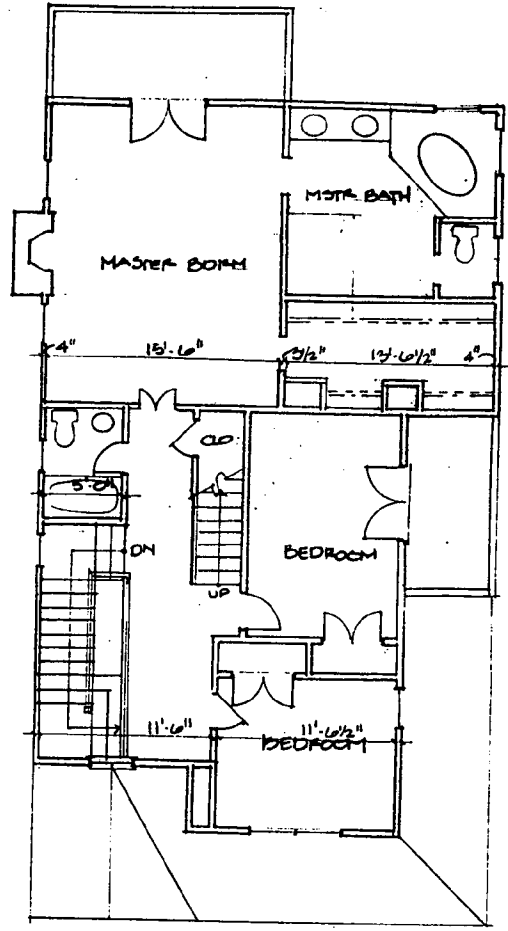


SIDE ELEVATION - SCHEME "B"
1/8" = 1'-0"

23

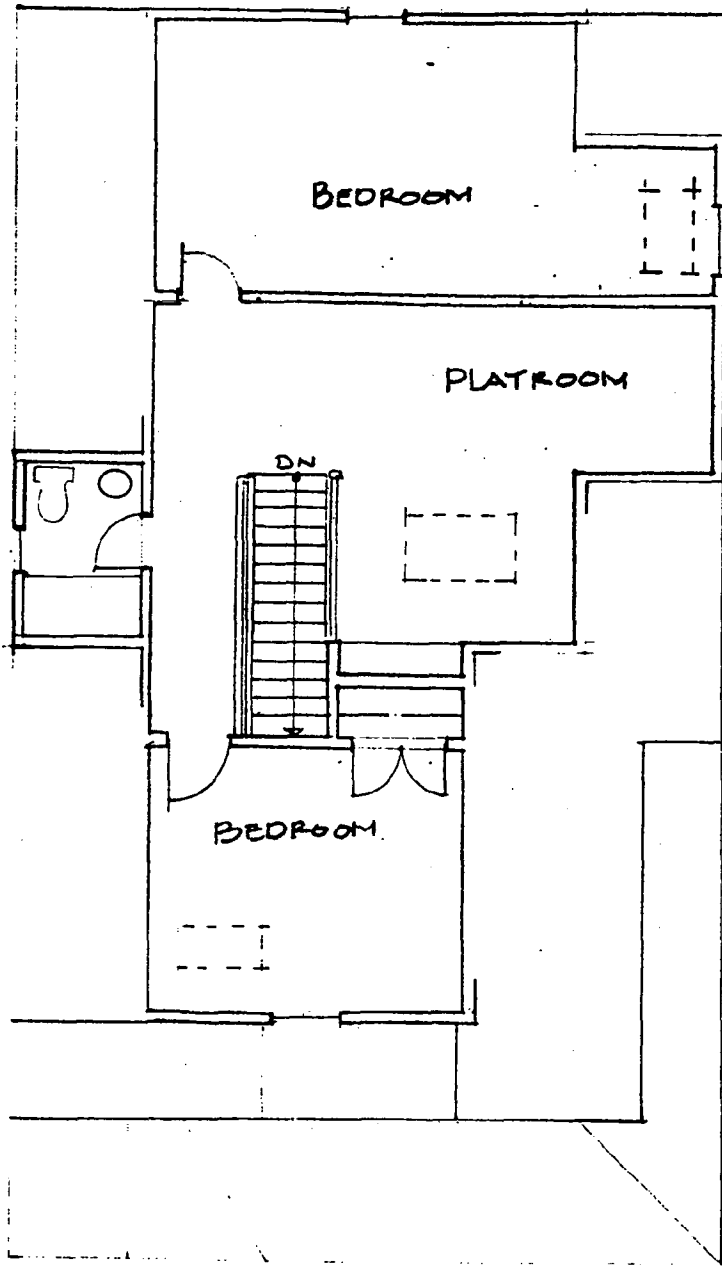


FIRST FLOOR PLAN
 1/8" = 1'-0"



SECOND FLOOR PLAN
 1/8" = 1'-0"

24

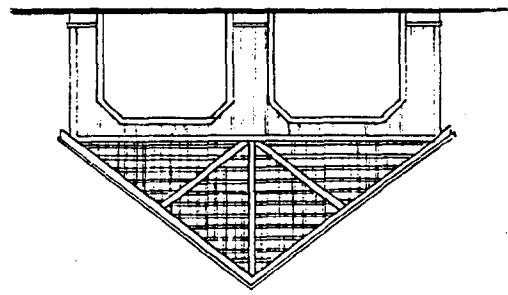


THIRD FLOOR PLAN
1/8" = 1'-0"

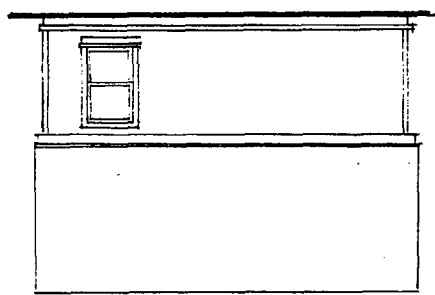
25

9922 BALTIMORE STREET

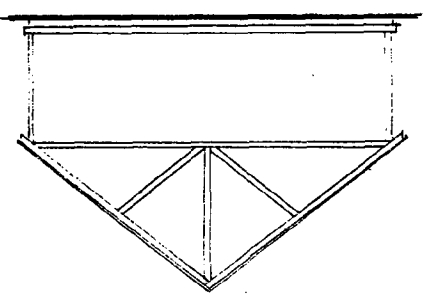
FRONT ELEVATION - GARAGE
1/8" = 1'-0"



SIDE ELEVATION - GARAGE
1/8" = 1'-0"



REAR ELEVATION - GARAGE
1/8" = 1'-0"



Lot Coverage Patterns

Lot coverage is the ratio of the building footprint area to the overall lot area, and it reflects the density of development on a given parcel of land. Lot coverage was identified using planimeter take-offs of the building footprint area from the County's topography maps and compared with lot areas to determine percent of coverage as given in the table Kensington Historic District Lot Characteristics. Analysis of lot coverage in Kensington reveals that the density of development is greater for the overall district than in the areas where the primary resources are located. This is related to the inclusion of the commercial district for the calculation, as well as the use of fewer lots per dwelling for post-1930s' construction. The lower lot coverage figures for primary resources reflects the pattern of using multiple lots for the older primary resource dwellings.



Kensington Historic District Lot Characteristics

Category		Entire District	All Primary Resource Properties	1890 - 1910 Properties
Lot Area	Maximum	3.3 acres	3.3 acres	3.3 acres
	Average	0.40 acres	0.38 acres	0.42 acres
	Minimum	0.15 acres	0.15 acres	0.18 acres
Lot Coverage	Maximum	25%	25%	25%
	Average	15%	10%	9%
	Minimum	5%	5%	5%
Front Yard Setback	Maximum	65 ft	65 ft	65 ft
	Average	33 ft	35 ft	38 ft
	Minimum	0 ft	20 ft	20 ft
Building Separation	Maximum	170 ft	170 ft	170 ft
	Average	40 ft	55 ft	75 ft
	Minimum	15 ft	20 ft	50 ft

3922 Balt. Proposed house on lot 25

← .20 acres

*← 26 1/2%
24 1/2% w/ 20' x 20' garage*

← 50ft

← 20ft

Provided by applicant

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: 3922 Baltimore Street
(Lot 25, Block 11)

Meeting Date: 4/23/97

Resource: Kensington Historic District

Review: **HAWP**

Case Number: 31/6-97D

Tax Credit: No

Public Notice: 4/9/97

Report Date: 4/16/97

Applicant: Ellison Corporation (Cary Hoobler)

Staff: Robin D. Ziek

PROPOSAL: Garage demolition;
New house construction

RECOMMENDATIONS: **DENIAL**

RESOURCE SUMMARY

RESOURCE: Kensington Historic District, Primary Resource (1910-1930)

PROJECT DESCRIPTION: Demolish existing garage and driveway, and construct new single-family dwelling.

BACKGROUND

Kensington has a long history, as presented in the adopted Master Plan amendment:

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890 Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern:

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

①

The Kensington Historic District was established in July, 1986 when the County Council adopted an amendment to the Montgomery County Master Plan for Historic Preservation. As stated in the Amendment (p.2),

"The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb."

The purpose of the designation and the role of the HPC is clearly described in the Introduction to the Amendment (p.1):

"Once designated on the Master Plan for Historic Preservation, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued. The Ordinance also empowers the County's Department of Environmental Protection and the Historic Preservation Commission to prevent the demolition of historic buildings through neglect.

It is the intent of the Master Plan and Ordinance to provide a system for evaluating, protecting and enhancing Montgomery County's heritage for the benefit of present and future residents."

One of the key issues which is addressed above and which staff considered in the evaluation of this proposal is the issue of "integrity." The nomination to the Master Plan addresses this issue, but it may be helpful to quote from the National Register Bulletin #15, How to Apply the National Register Criteria for Evaluation, page 46 which provides a definition of integrity of historic districts and discusses the implications of new construction within a historic district:

"For a district to retain integrity as a whole, the majority of the components that make up the district's historic character must possess integrity even if they are individually undistinguished. In addition, the **relationships among the district's components must be substantially unchanged since the period of significance.**

When evaluating the impact of intrusions upon the district's integrity, take into consideration the relative number, size, scale, design, and location of the components that do not contribute to the significance. **A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.**

A component of a district cannot contribute to the significance if:

- o if has been substantially altered since the period of the district's significance or
- o it does not share the historic associations of the district."

PROJECT DESCRIPTION

Proposal

Lot 25, Block 11 is located on the West side of Connecticut Avenue (See Circle 8). The applicant proposes to demolish an existing garage or "auto house" which matches the appearance of the house at 3920 Baltimore Street; both are clad in cedar shingles and stained a dark brown. With demolition of the driveway and garage, one assumes that the occupant of the Primary Resource at 3920 Baltimore Street will now park on the street.

The applicant proposes to construct a new frame 2-1/2 story single-family house (1,716 sf footprint) and a two-car garage (576 sf footprint) on Lot 25. This is currently the sideyard to 3920 Baltimore Street, and this proposal is considered "in-fill" housing (discussed below). The house which is being proposed has a first-floor footprint of ca. 1,716 sf and would have a total living area of well over 3,000 sf (including the attic living space and exclusive of any basement area). The house is proposed to be 32' high from finished first floor to the ridgeline of the roof. The 2-car garage proposed for the rear has a footprint of 231 sf. The total lot coverage would be 26.6%.

The new house would be set 50' back from the street, with a side setback of 10' on each side. The proposed house would be approximately 20' from the house on Lot 26 (3920 Baltimore Street), and approximately 20' from the house at 3924 Baltimore Street.

The proposed new house is in a vernacular Victorian style, with irregular massing. The applicant has submitted two variations in the elevations. The proposed structure would utilize a steep roof pitch with cross-gables. The use of decorative lattice or wood shingles is proposed in the gable ends. The windows are proposed to be 1/1 light. The house would be constructed low to the ground, with only four steps up to the front wrap-around porch. There would be a second-story porch on the west side, and a second-story deck at the rear. The chimney appears to be brick, but is not labeled and this should be clarified. The house is proposed to be sided with wood, and utilize asphalt shingles on the main roofs and standing-seam metal on the porch roof.

Project Location

Lot 25, Block 11 is currently part of a grouping of three lots (25, 26, 27) which provide the environmental setting for the house at 3920 Baltimore Street, and constitutes the **west sideyard** for this house; Lot 27 provides the east sideyard (See Circle 9). Each of the three lots measures 50' x 172.5' (8,625 sf). The driveway is located on Lot 25, and leads to an **original garage** which is clad in wood shingles similar to those on the house. The garage is a small (12.5' x 18.5', or 231 sf) single-car frame structure with the gable end perpendicular to the street. The original doors are stored inside the garage, and the building has shifted off of its foundations and is in need of maintenance work. The lot is relatively flat, and gently rises from the street to the rear yard area. There are some shrubs on this property, and trees to the rear.

The house at 3920 Baltimore Street has been identified as a Primary Resource (1910-1930) in the Master Plan . It is a center gable I-House (1,440 sf footprint) with a rear ell, and small additions to the rear and east side. Originally, there was a front porch on the house, but this was removed some time in the past, and there is a small stoop now to provide access to the front door. The house is approximately 26'-6" high from the finished first floor to the ridge line of the roof. The owner of the house has mentioned (HAWP 31/6-92E) that the house was actually constructed in the 1880's, and this earlier date is evidenced by the use of fishscale shingles in the side gables as original cladding (evident on the west gable end where

the wood shingles are failing), indicating that the wood shingles are an overlay cladding material. The Kensington Master Plan notes two distinct periods for construction of Primary Resources (1880-1910, 1910-1930), and there is no question that this resource is a Primary Resource within the Kensington Historic District.

The dwelling at 3920 Baltimore Street sits on Lot 26 between its flanking side lots. These provide the garden setting for the house which was typical in this Victorian garden suburb. With three exceptions (3913, 3941 and 3948 Baltimore Street), all of the other houses on Baltimore Street in this portion between Connecticut and Prospect are Primary Resources dated between 1880-1930 (see Circle 10). 3920 Baltimore Street is flanked by two large homes sitting on multiple lots. The home to the east, 3914 Baltimore Street, is a Queen Anne Cottage (Primary Resource 1880-1910) sitting on three lots. The house to the west at 3924 Baltimore Street is a large Georgian Revival Cottage (1880-1910) with a hipped roof, sitting on two lots.

The streetscape on Baltimore Street was established with a building pattern where the earliest purchasers typically bought 2 or more platted lots and built only one dwelling on the property (1880-1910). The earliest homes are typically either the Queen Anne style (large homes of irregular shape), or the Georgian Revival Cottage style (large symmetrical homes with hipped roofs). These individual homes sit within a generous landscape where neighbors are close by, but are not typically on adjacent lots. The suburban setting was landscaped, treed, and spacious in contrast to the urban environment of Washington, D.C., and this was one of the selling features of the suburban development. (See Circle 11).

The second period of development on this street (1910-1930) included the development of three Colonial Revival style homes on lots purchased from existing homeowners. These dwellings are characterized by their modest scale, massing, and size in contrast with the earlier constructed dwellings.

Finally, there are two recently constructed buildings in this block - 3913 and 3948 Baltimore Street. The proposal for 3948 Baltimore Street was brought to the HPC for consideration prior to the actual date of historic district designation, so that it was reviewed as an Atlas site and was considered solely from the perspective of "substantial alteration." This level of review is not comparable to the review which is given to any proposals within an established historic district, and does not provide guidance in terms of precedence.

The project at 3913 was approved by the HPC in August 1987, shortly after the historic district was designated. Staff notes that this new construction illustrates the concerns with in-fill construction and, therefore, illustrates the potential for the loss of the environmental setting for the historic district as a whole, and for individual resources within the district on their own. (See Circle 12).

STAFF DISCUSSION

Staff has strong concerns with various aspects of this proposal, which include: **encroachment on the environmental setting** of the historic district as a whole, and on the individual resources within the historic district; the proposed **demolition** of a historic outbuilding; and the **incompatibility** of the proposed development with existing patterns of development. This includes the loss of open space, the proposed percentage of property coverage, and the proposed non-conformance with the development pattern of this part of the historic district.

The map on Circle 11 provides a quick reference to the pattern of development which produced the existing conditions on Baltimore Street today. There are twenty buildings on Baltimore Street between Connecticut Avenue and Prospect Street, and thirty-four platted lots.

The lots are of varying sizes because of the curving street plan. The 20 lots which are located in the straight section of Baltimore Street were platted at 50' x'172.5. The individual lots in the curving section of Baltimore are trapezoidal in shape measuring approximately 70' at the street and ca. 50' at the street edge. Therefore, the lots have differing square footage.

The development pattern generally shows that houses in the straight portion of Baltimore Street occurred on multiple lots, while houses within the curving portion of the street, where the individual lots have more square footage, appear sometimes on single lots and sometimes on multiple lots.

The 1992 study Vision of Kensington: A Long-Range Preservation Plan prepared by Traceries and PMA Associates, figure 34 (See Circle 13) analyzed the pattern of openness in Kensington through an evaluation of the distances between houses. The pattern for the **entire Kensington Historic District** is illustrated by the evaluation of frontyard setback and building separation for the portion of Baltimore Street where 3920 Baltimore is located.

In this particular evaluation, the average distance between buildings is 87.3', ranging from 40' to 170'. This block illustrates the point that the overall character of the streetscape in the Kensington Historic District is established through a building pattern which is a combination of large setback (typically 40') and open space created by the distance between buildings. **The intervening open space provides the garden setting for the entire district**, as well as views across yards which provides the opportunity for long views through the community; this helps to tie the different blocks together.

The existing development of the Kensington Historic District can also be characterized by the percentage of property coverage (with single and multiple lots). This is an objective method for understanding the percentage of built-over land in contrast to open space. The greater the percentage of open space, the more opportunity for landscape development such as is characteristic of this garden suburb historic district. As presented in the Vision of Kensington, table on page 47 (See Circle 14), the average property size of Primary Resources 1890-1910 is .42 acres (18,295 sf) and the average property coverage (including multiple recorded lots) of Primary Resources 1890-1910 in this district is 9%.

In marked contrast, the proposed development utilizes a single lot with only 8,625 sf or 47% of the average property size of Primary Resources. The proposed new construction (house and garage, or 2,292 sf) would provide for a coverage of 26.6%, or **almost 3 times the average coverage** for Primary Resources. [Please note that the average coverage for the entire historic district is only 15%.]

In addition, the environmental setting for the Primary Resource at 3920 Baltimore Street would be reduced from 6.5% coverage to 9.7%. And the distance between the houses on the west side of the Primary Resource would be reduced from ca. 85' to ca. 20'. This would effectively reduce the environmental setting of both 3920 and 3924 Baltimore Street. In marked contrast, the distance between 3920 and 3914 Baltimore Street would remain 120' at this time, with a resulting disruption of the rhythm of structure to open space.

The evaluation of Kensington in the Vision of Kensington quantifies open space, lot coverage, and existing rhythm of development to provide measurable ways to evaluate the effect of proposed changes and alterations to the historic district. That study does this by measuring and comparing the distance between houses in the historic district, and by comparing the amount of construction v. open space on the property of individual owners (single and multiple lots) in the historic district. Through such evaluation, one can arrive at an appreciation of the environmental setting of this particular historic district where the houses were generously spaced, and the percentage of green space to constructed sites is very high.

The issue of **environmental setting** is central to the designation of any historic site or district because it is key to the retention of **integrity** of the district. The proposed new construction is considered "in-fill" because it is built on what was historically open space. In other words, in-fill housing fills in the space between existing structures. In the Kensington Historic District, the potential loss of integrity due to the loss of the open space component is significant, even in terms of retaining the nomination to the National Register. As noted in the National Park Services' Manual for State Historic Preservation Review Boards (p.32),

"Integrity is the ability of a property to convey its significance. Historic properties either retain integrity, or they do not."

Loss of an important component of a historic district, such as open space, can result in a loss of integrity for the district (See Circle 15). The Manual also notes (p. 33),

"There is no easy formula or standard rule concerning the number of intrusions that renders a district ineligible for National Register listing...Any proposed district must convey a sense of time and place through the collective significance of its buildings or features...if there are too many scattered non-contributing features...then the district's integrity may be lost or seriously damaged."

Further assistance in staff's evaluation of this proposal is provided by the National Register Bulletin #30 which provides guidelines for the evaluation of rural historic landscapes. While Kensington is clearly a suburban rather than rural historic district, the description on page 23 of Bulletin #30 concerning threats to integrity is helpful:

"Integrity may also be lost due to the cumulative effect of relocated and **lost historic buildings and structures**, interruptions in the natural succession of vegetation, and the **disappearance of small-scale features that defined historic land uses.**"

In the case of this particular proposal, several elements within the historic district of Kensington are proposed for **demolition**: the open space, the relationship of adjacent homes to each other and to the landscape, and the historic outbuilding or "auto house".

The small garage was an important element in all of the suburbs around Washington. While Kensington first developed around the railroad mode of transportation, the suburban development around Washington really expanded dramatically with the introduction of the low-cost automobile. At that point, every house added an "auto house", which is best illustrated in the Sanborne insurance maps. This particular garage may have been added after the construction of the original house at 3920 Baltimore Street, but it is an outbuilding which provides physical evidence of the historic development of Kensington. There are several small garages of this scale still in Kensington, but a brief survey of Baltimore Street illustrates that many of these key outbuildings have already been lost.

Staff is concerned that this small garage is in poor condition, and may be undergoing demolition-through-neglect due to lack of any maintenance measures in the recent years. Staff is very concerned about rewarding deferred maintenance by permitting a request for demolition. It would serve as a signal to other owners of historic properties that demolition can be accomplished by allowing a structure to fall into disrepair by inaction. In essence, approving this demolition request could be viewed as sanctioning demolition-by-neglect.

Finally, in evaluating the design of the applicant's proposal, staff would note that the proposed new house would be higher and bigger than the existing historic resource at 3920 Baltimore Street. Staff is concerned that a building of this size would "crowd" the existing historic resources on either side, further diminishing the environmental setting of the historic district.

STAFF RECOMMENDATION

In formulating a recommendation, staff has considered a number of factors: 1) the impact on the integrity of the Historic District; 2) the impact on a historic resource (the garage) in the district; and 3) the impact on the existing Primary Resource at 3920 Baltimore Street, which would lose its sideyard, its driveway, and its garage.

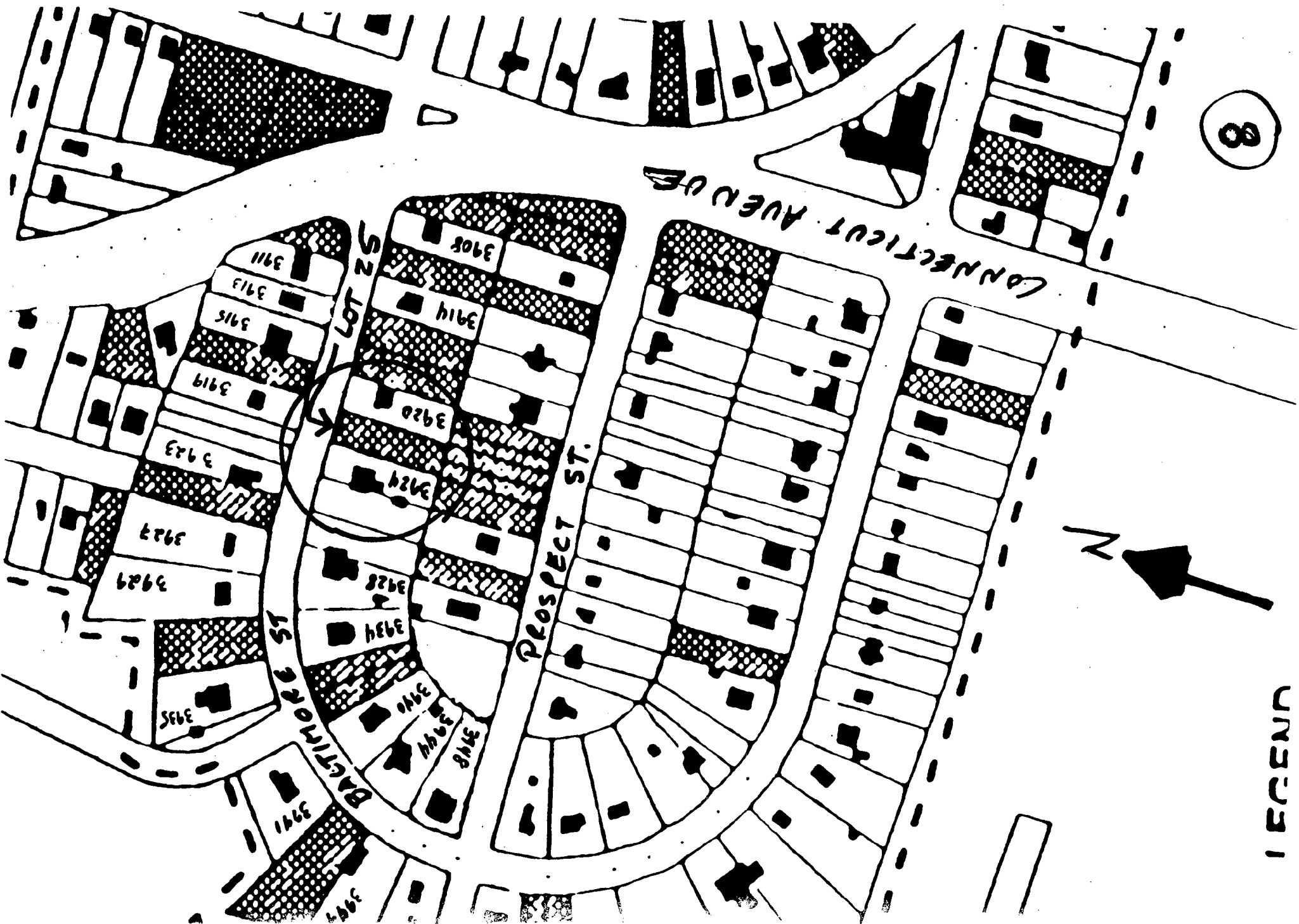
Staff recommends a determination that the proposed new construction within the Kensington Historic District would be detrimental to the integrity of the Historic District for the reasons developed in this report. The proposal would not be compatible with the existing patterns of development including rhythm of building to open space, or the environmental setting of the District. This is based on the fact that the proposed new construction would substantially exceed existing average property coverage, would be substantially below existing average distances between dwellings, that the proposed new construction would dominate the existing historic resources through height and size, and that this represents a cumulative loss of integrity for the Historic District as a whole through the above non-conformance with existing development patterns and with the demolition of an existing historic outbuilding.

Given these factors, it is staff's recommendation that the Commission **deny** the applicant's request to demolish the garage at 3920 Baltimore Street, and build the proposed new house and garage on Lot 25. Staff's recommendation is consistent with the purposes of Chapter 24A-8(a):

The Commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate or inconsistent with, or detrimental to the preservation, enhancement or ultimate protection of the historic site, or historic resource within an historic district, and to the purposes of this chapter.

and with Standard 2:

The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.



8



UNION ST.

CONNECTICUT AVENUE

PROSPECT ST.

BAYTOWN ST.

UNION ST.

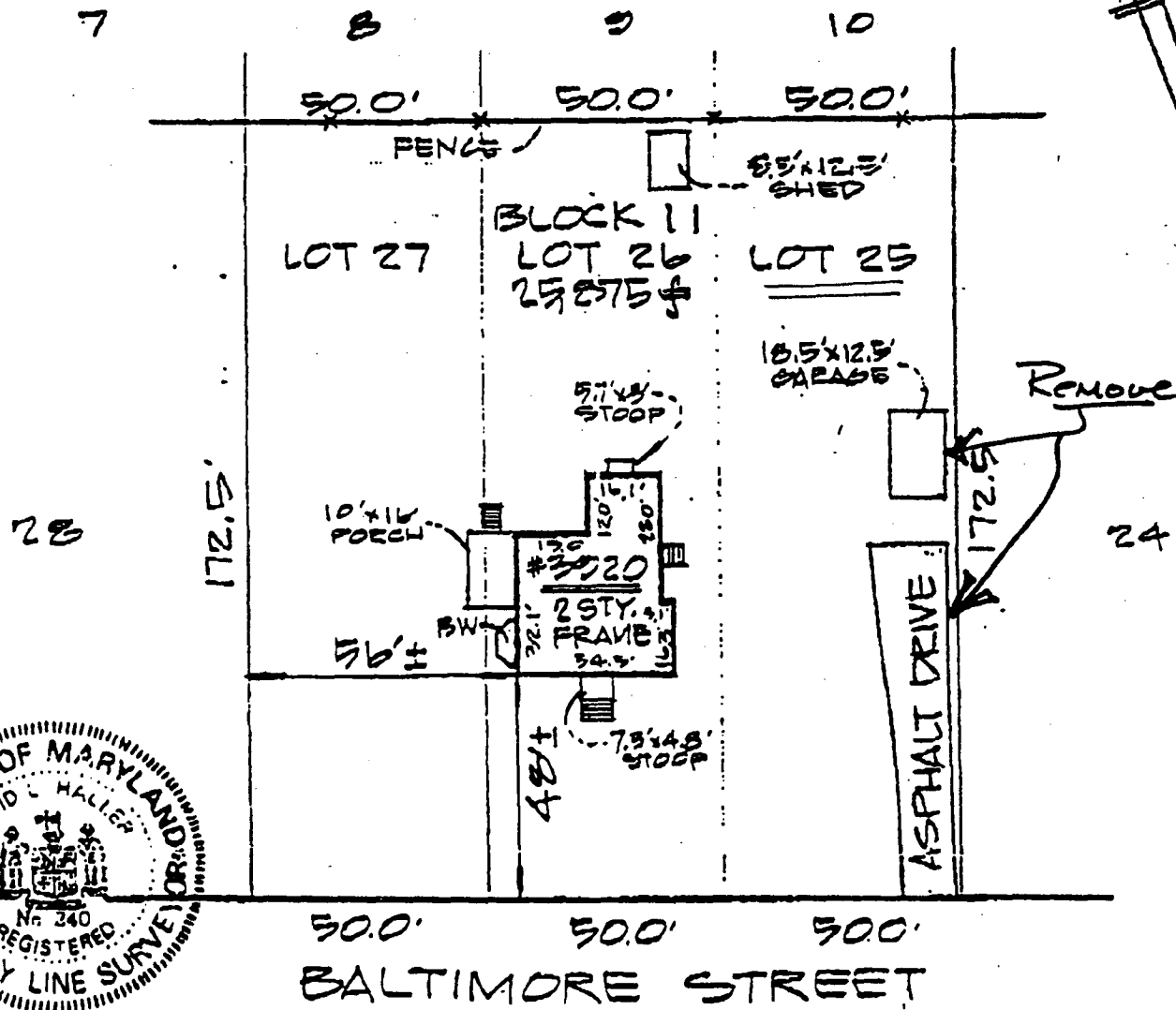
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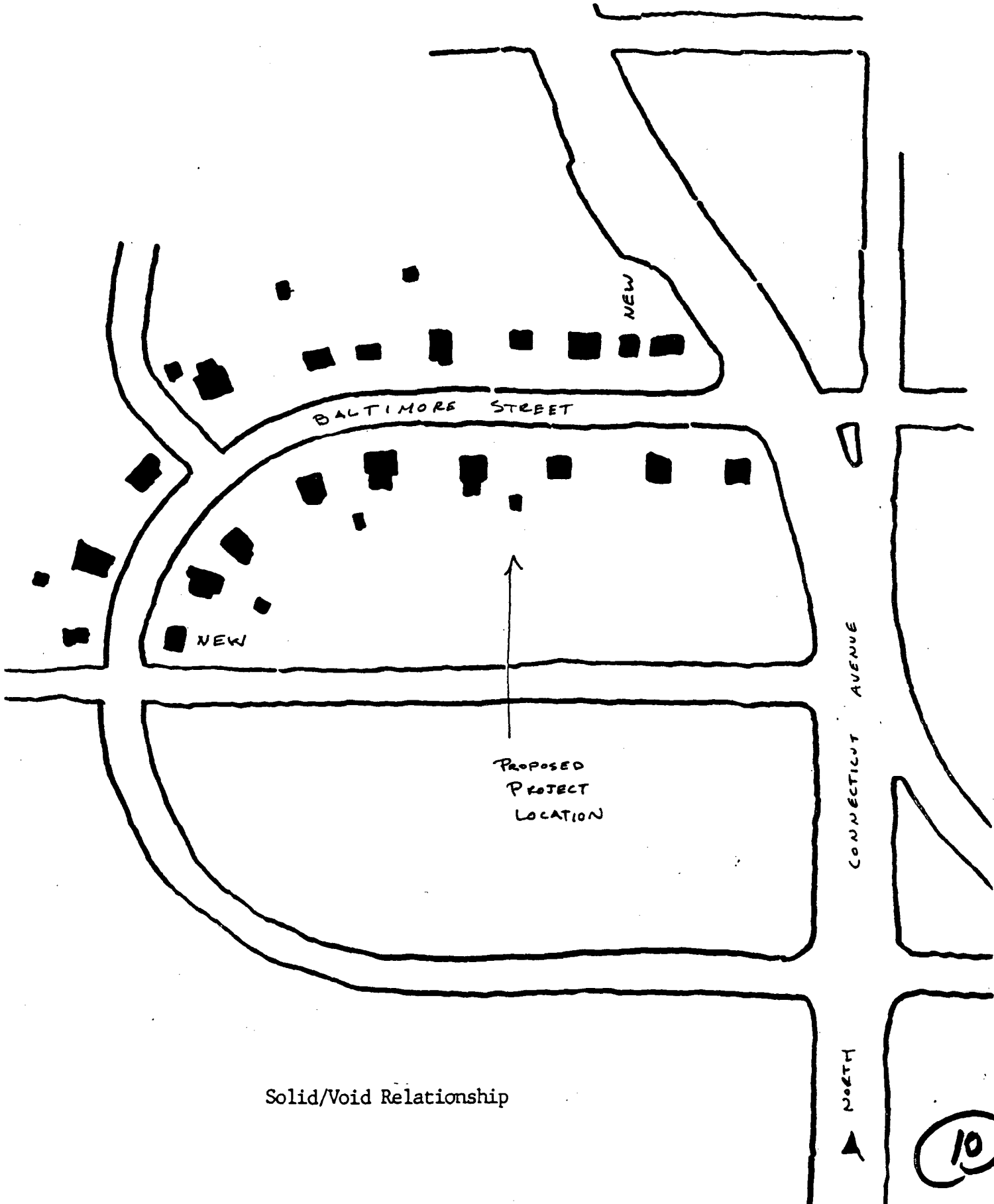
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HOUSE LOCATION
LOTS 25, 26 & 27 BLOCK 11
KENSINGTON PARK
MONTGOMERY COUNTY, MD.

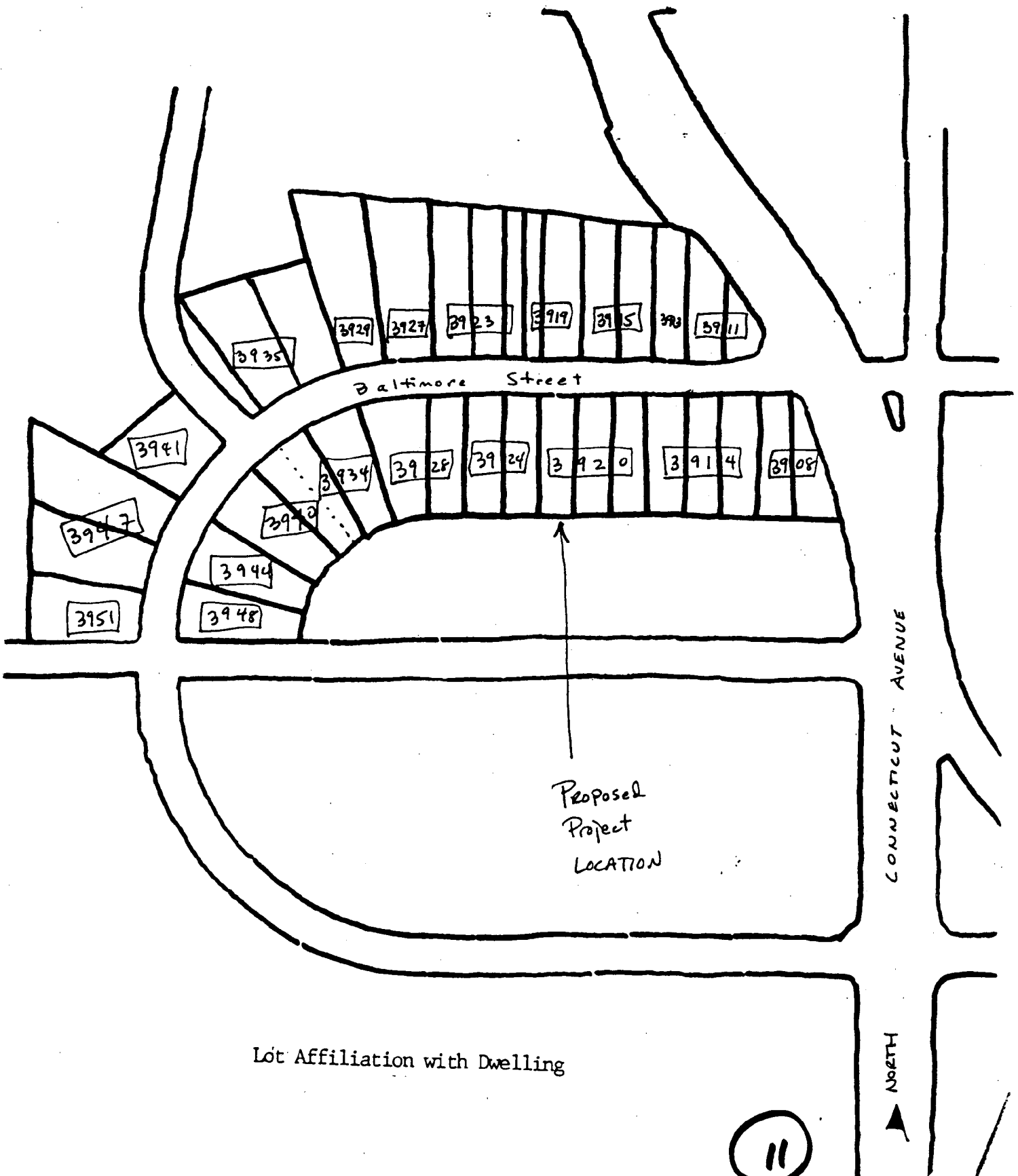


CERTIFICATE I HEREBY CERTIFY THAT THE POSITION OF ALL THE IMPROVEMENTS ON THE ABOVE DESCRIBED HAS BEEN CAREFULLY ESTABLISHED BY A TAPE SURVEY AND UNLESS OTHERWISE SHOWN HEREON IS NOT TO BE USED FOR DETERMINING PROPERTY LINES. PROPERTY CORNER MARKERS NOT GUARANTEED BY THIS LOCATION. IF SHOWN, WAS OBTAINED FROM M.N.C.P. & P.C.	REFERENCES PLAT BK B PLAT NO 4	ALLEN ASSOCIATES P.O. BOX 8263 SILVER SPRING, MARYLAND 20906 301-871-2154	
	LIBER FOLIO	DATE OF SURVEY WALL CHECK M&E LOC. 6-23-82 BOUNDARY	SCALE: 1" = 40' DRAWN BY: BA JOB NO: 851188

David L. Haller
 DAVID L. HALLER
 MARYLAND R.P.L.S. NO. 240

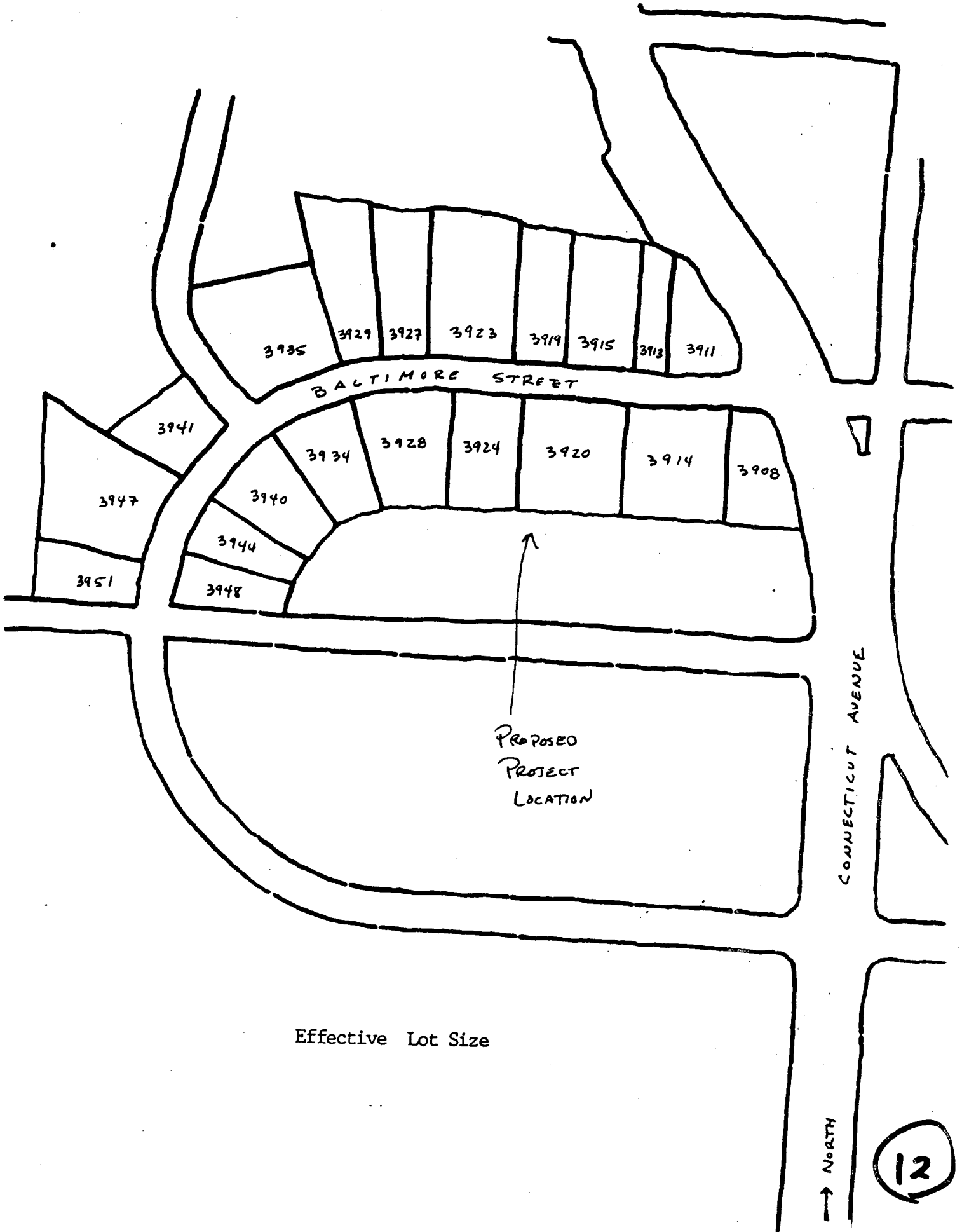


Solid/Void Relationship



Lot Affiliation with Dwelling

11



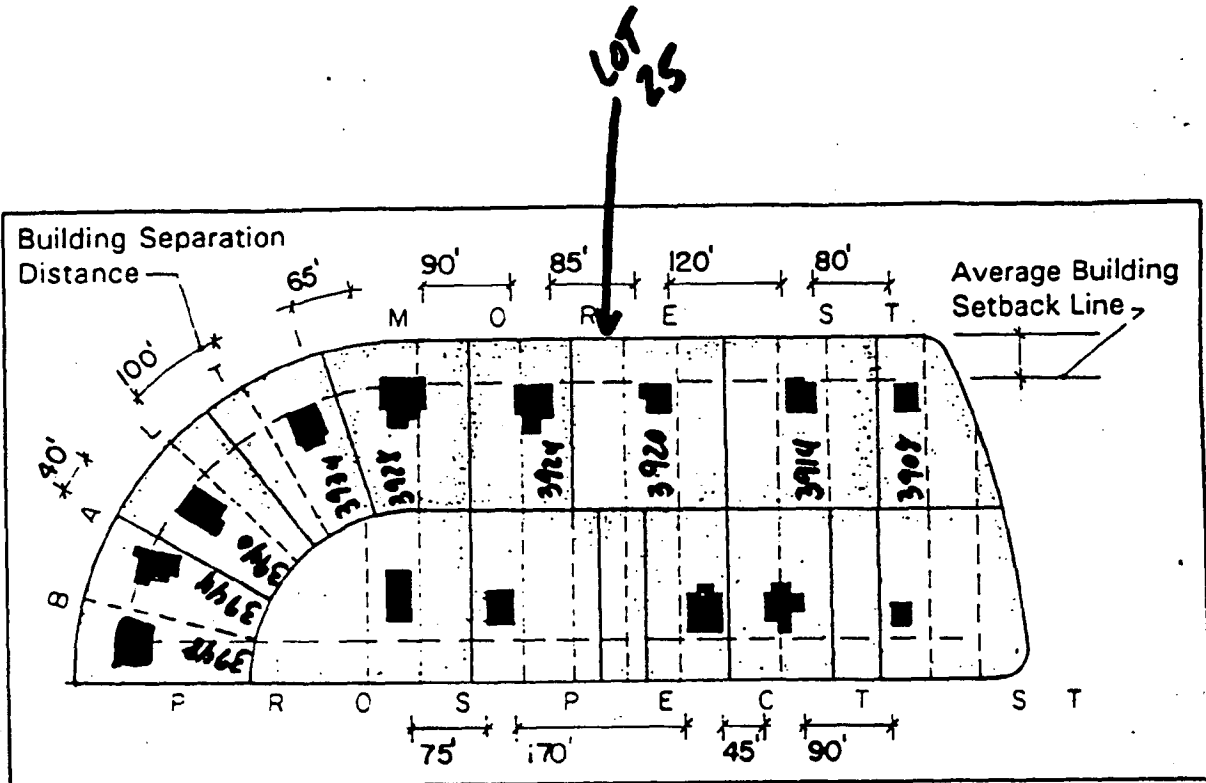
Effective Lot Size

NORTH
↑

12

Relationships of Front Yard Setback and Building Separation

The front yard "setback" is the distance a building is set away or back from the property line on the street or road which it fronts. The front yard setback determines how prominent a building is in the streetscape of a community. When many buildings are involved, a pattern can be established which helps to define the character of the streetscape through the width of sidewalks, the amount of green space (lawn or vegetation area) between street and building, the apparent scale of the buildings in relation to pedestrians, and other subtle qualities of the community. In combination with setbacks, building separation distances establish the openness or visual porosity of the streetscape. Buildings which are separated allow for view and landscape elements in the interstitial space. These relationships are illustrated in the map titled Kensington Historic District Vacant Land and Open Space(Figure 34).



Pattern of Building Setbacks and Separation Distances for Block #11

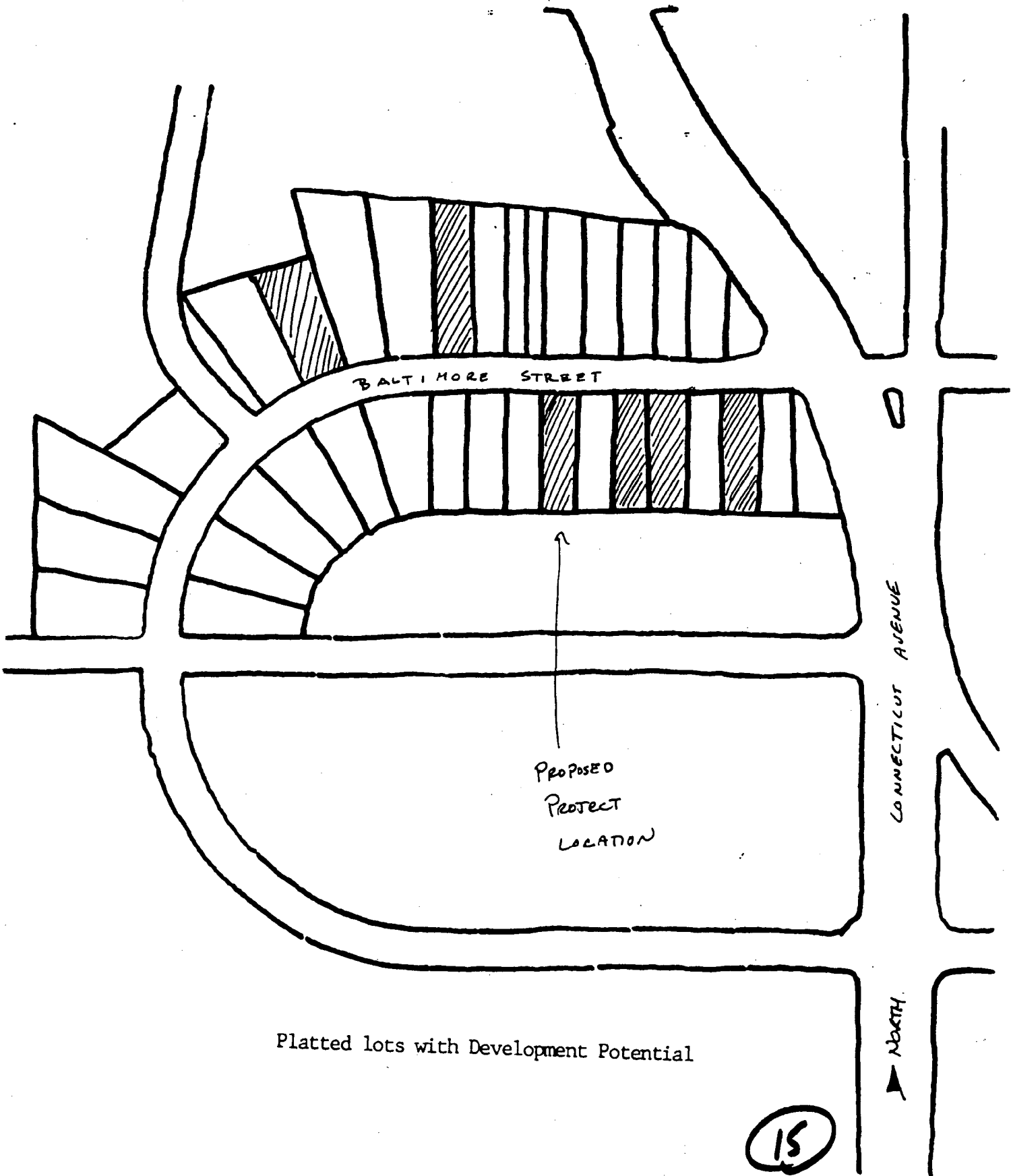
Lot Coverage Patterns

Lot coverage is the ratio of the building footprint area to the overall lot area, and it reflects the density of development on a given parcel of land. Lot coverage was identified using planimeter take-offs of the building footprint area from the County's topography maps and compared with lot areas to determine percent of coverage as given in the table Kensington Historic District Lot Characteristics. Analysis of lot coverage in Kensington reveals that the density of development is greater for the overall district than in the areas where the primary resources are located. This is related to the inclusion of the commercial district for the calculation, as well as the use of fewer lots per dwelling for post-1930s' construction. The lower lot coverage figures for primary resources reflects the pattern of using multiple lots for the older primary resource dwellings.



Kensington Historic District Lot Characteristics

Category		Entire District	All Primary Resource Properties	1890 - 1910 Properties
Lot Area	Maximum	3.3 acres	3.3 acres	3.3 acres
	Average	0.40 acres	0.38 acres	0.42 acres ←
	Minimum	0.15 acres	0.15 acres	0.18 acres
Lot Coverage	Maximum	25%	25%	25%
	Average	15%	10%	9% ←
	Minimum	5%	5%	5%
Front Yard Setback	Maximum	65 ft	65 ft	65 ft
	Average	33 ft	35 ft	38 ft ←
	Minimum	0 ft	20 ft	20 ft
Building Separation	Maximum	170 ft	170 ft	170 ft
	Average	40 ft	55 ft	75 ft ←
	Minimum	15 ft	20 ft	50 ft



BALTIMORE STREET

CONNECTICUT AVENUE

PROPOSED
PROTECT
LOCATION

▲ NORTH

Platted lots with Development Potential

15

Contact Person Carey Hoobler
Daytime Phone No.: 681-1411

Tax Account No.: 13 15 3186525

Name of Property Owner: ELLISON CORP. (contract) Daytime Phone No.: 301 681 1411

Address: 10907 Jarboe Ave Silver Spring MD 20901
Street Number City State Zip Code

Contractor: AS ABOVE Phone No.: AS ABOVE

Contractor Registration No.: 2657

Agent for Owner: see above Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 3922 Street: Baltimore Street

Town/City: Kensington Nearest Cross Street: Loan Ave

Lot: 25 Block: 11 Subdivision: Kensington Park

Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct
- Extend
- Alter/Renovate
- Move
- Install
- Wreck/Raze
- Revision
- Repair
- Revocable

CHECK ALL APPLICABLE:

- A/C
- Slab
- Room Addition
- Porch
- Deck
- Shed
- Solar
- Fireplace
- Woodburning Stove
- Single Family
- Fence/Wall (complete Section 4)
- Other: _____

1B. Construction cost estimate: \$ 275K

1C. If this is a revision of a previously approved active permit, see Permit # ND

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line
- Entirely on land of owner
- On public right-of-way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

[Signature]
Signature of owner or authorized agent

3/17/97
Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: 9703190066 Date Filed: _____ Date Issued: _____

16

REQUIREMENTS FOR HISTORIC PRESERVATION COMMISSION
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.



HISTORIC PRESERVATION COMMISSION

0784-002100

1. WRITTEN DESCRIPTION OF PROJECT

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

LOT 25 BIK 11 is a recorded + platted lot. Lot is vacant of structure except detached one car garage accessed by asphalt driveway. Lot is generally void of trees or any landscaping. The garage is frame and finished in similar materials to residence at 3920 Balt. St. Garage condition is poor and it is delapidated and structurally unsound. The nearby houses are predominately frame construction in colonial revival + victorian styles mostly from roughly the 1890-1930 period. Quite varied in size, massing, condition, and integrity. And, with later development, the age range is under 10 years to over 110. The streetscape is relaxed and pleasant and varied in both upkeep of house and yard.

b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

The new house will be frame construction complimentary in size, ~~massing~~ style + massing to the existing houses. The house is not a static replication of any particular house or style but to fit in the flow + pattern of the houses built over the years on the street. Use of sitting porches and practical roof lines are to provide a friendly livable house in the relaxed genre of the streets existing houses.

2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- a. **Schematic construction plans**, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. **Elevations (facades)**, with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

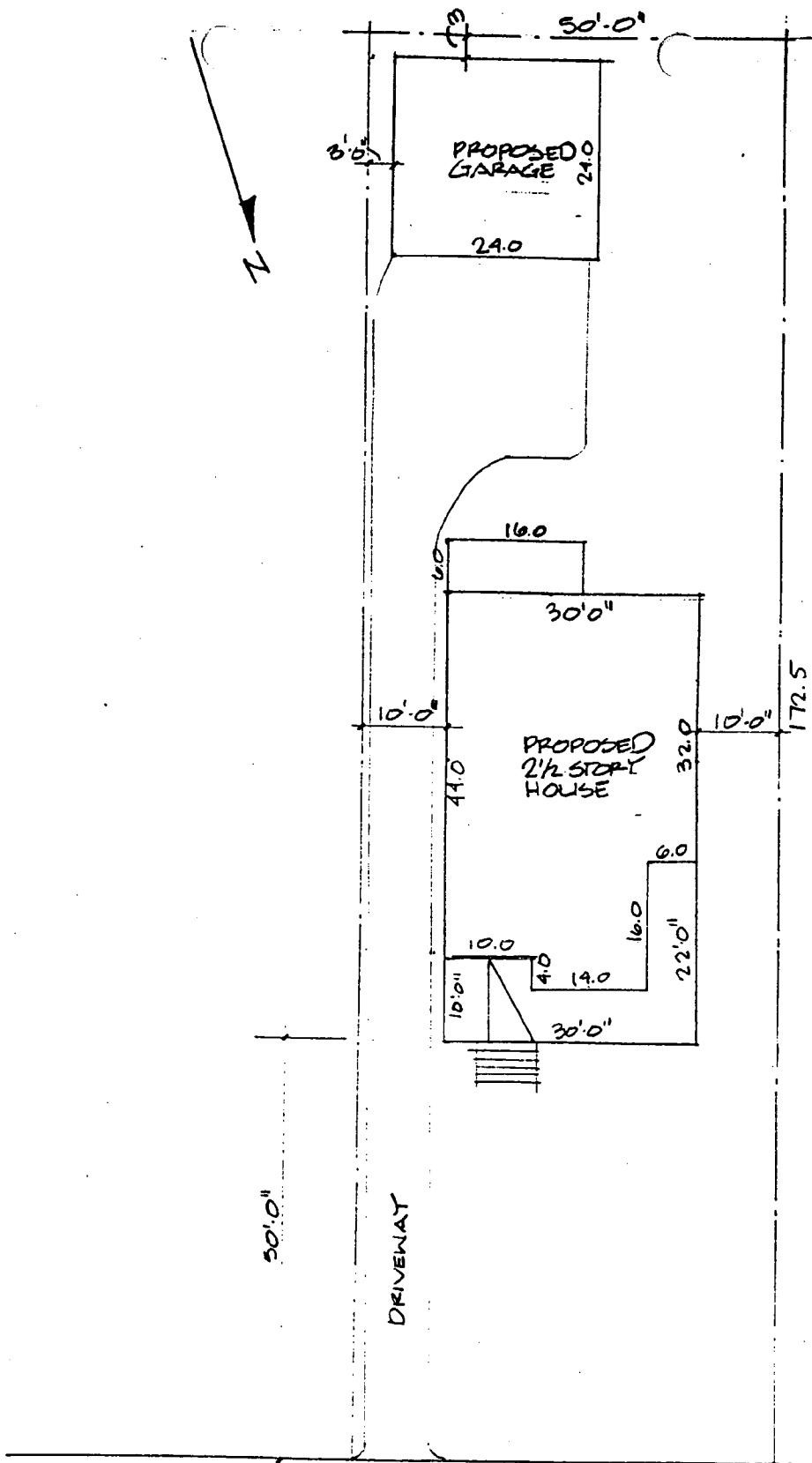
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21

3922 Baltimore St. Kens. (Lot 25 blk 1)
Adjacent and Confronting Property Owners

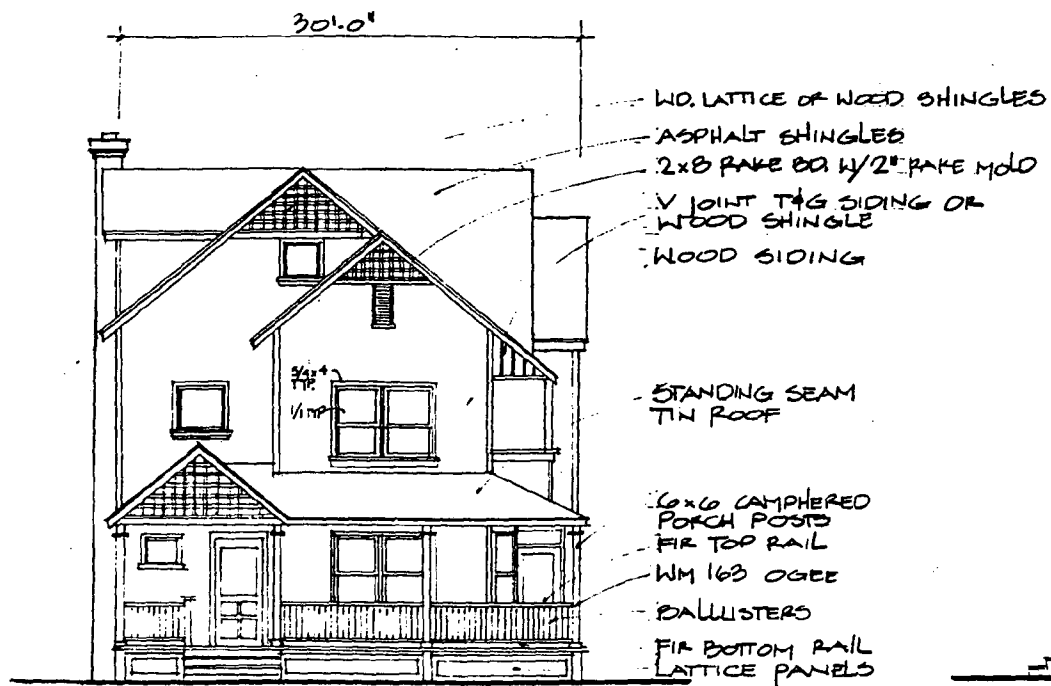
side	LOT 26 BLK 11	3920 Balt. St., Kens. MD 20895 Jeanie L. Ahearn
rear	LOT 10 BLK 11	3923 Prospect St., Kens. MD 20895 Chas. C. + H.C. Wilkes
		3915 Prospect St., Kens. MD 20895 John H. + V.G. O'Neill
side	LOT 24 BLK 11	3924 Balt. St., Kens. MD 20895 John H. + J.B. Lossing
front	LOT 9 BLK 10	3919 Balt. St., Kens. MD 20895 Seaborn + J.W. McCrory



SITE PLAN

1" = 20'-0"

20



FRONT ELEVATION - SCHEME "A"

1/8" = 1'-0"



SIDE ELEVATION - SCHEME "A"

1/8" = 1'-0"



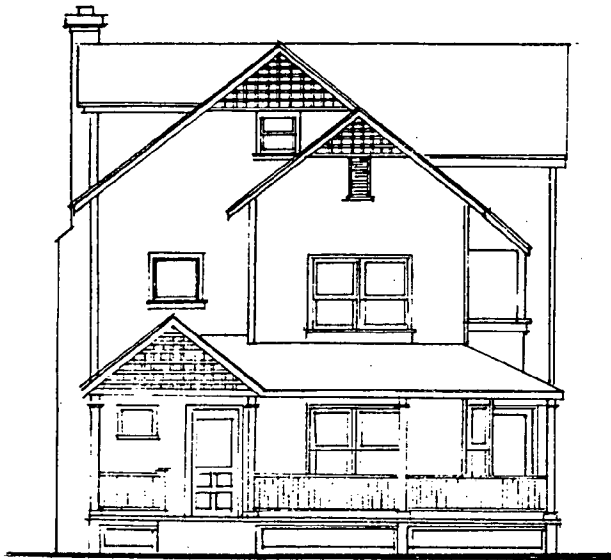
REAR ELEVATION - SCHEME "A"
1/8" = 1'-0" (SCHEME "B" SIM.)



SIDE ELEVATION - SCHEME "A" & "B"
1/8" = 1'-0"

3922 BALTIMORE STREET

22



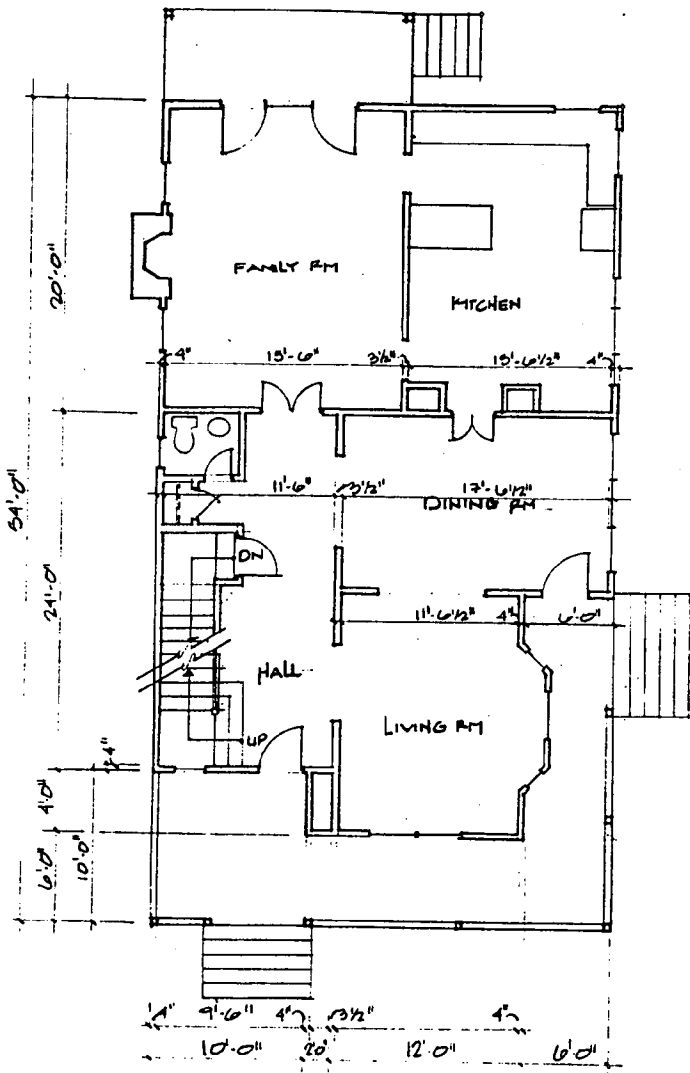
FRONT ELEVATION SCHEME "B"
1/8" = 1'-0"

3922 BALTIMORE STREET

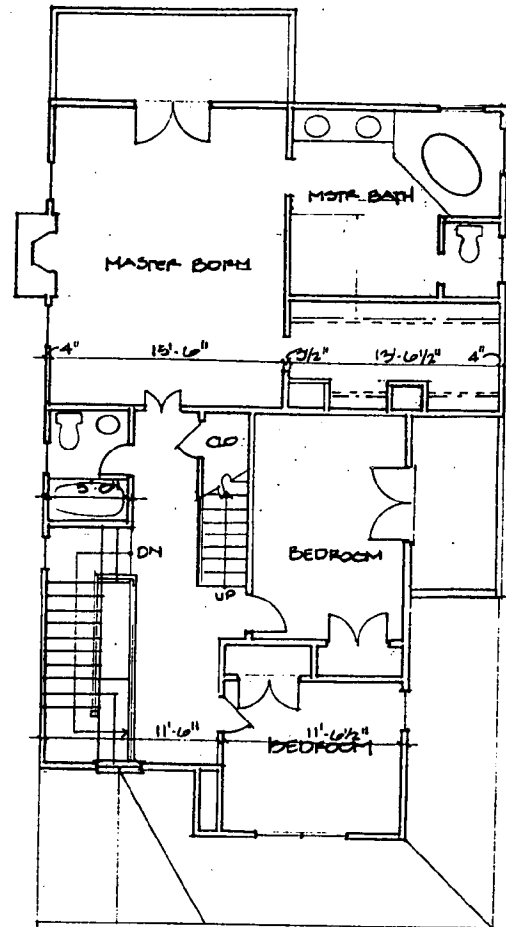


SIDE ELEVATION - SCHEME "B"
1/8" = 1'-0"

23

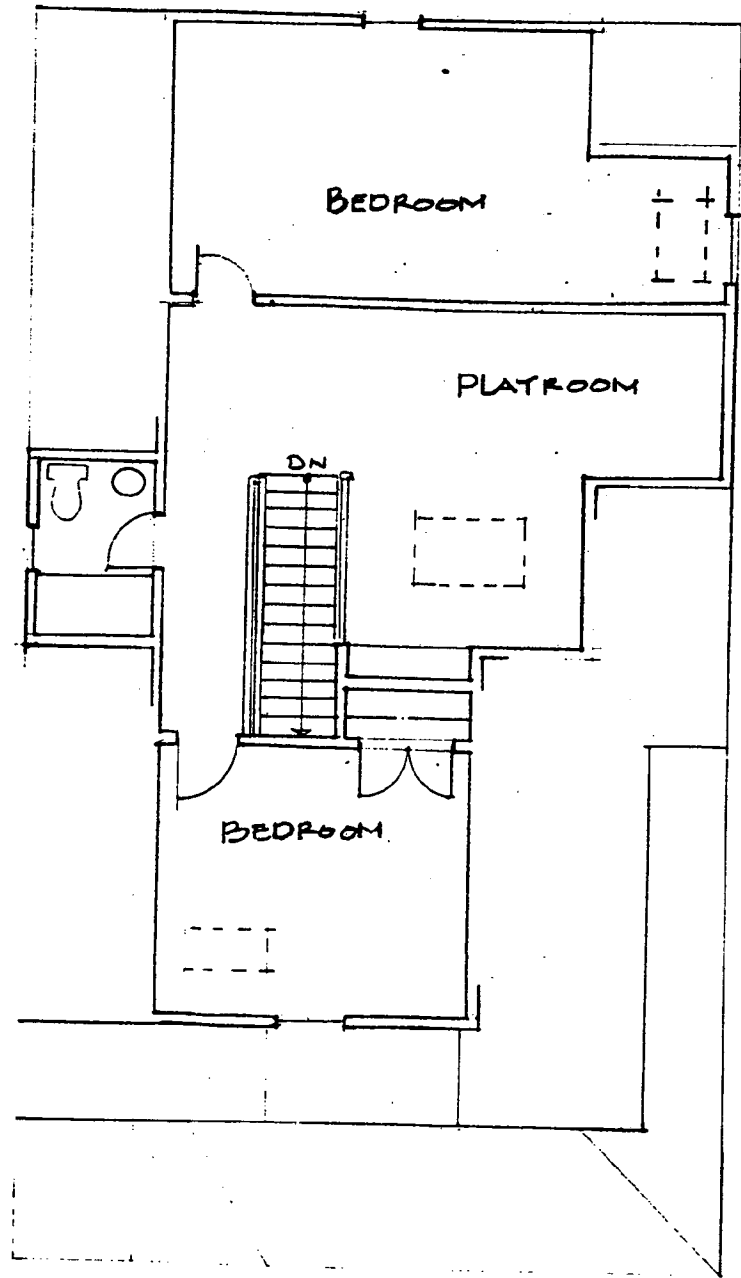


FIRST FLOOR PLAN
 1/8" = 1'-0"



SECOND FLOOR PLAN
 1/8" = 1'-0"

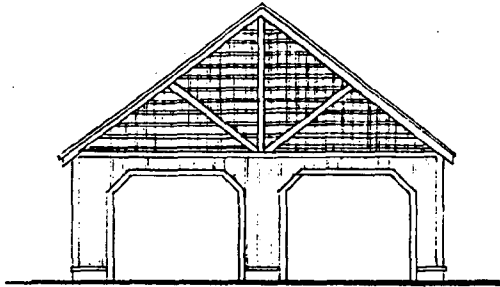
24



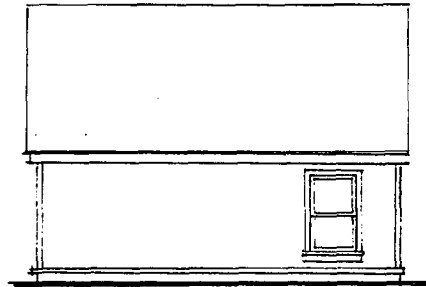
THIRD FLOOR PLAN
1/8" = 1'-0"

25

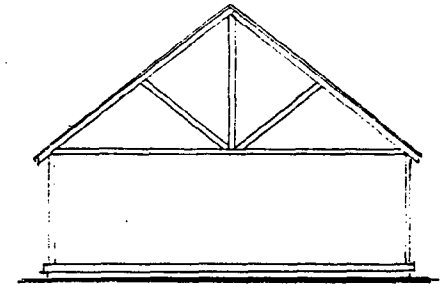
3922 BALTIMORE STREET



FRONT ELEVATION - GARAGE
1/8" = 1'-0"



SIDE ELEVATION - GARAGE
1/8" = 1'-0"



REAR ELEVATION - GARAGE
1/8" = 1'-0"

92

Lot Coverage Patterns

Lot coverage is the ratio of the building footprint area to the overall lot area, and it reflects the density of development on a given parcel of land. Lot coverage was identified using planimeter take-offs of the building footprint area from the County's topography maps and compared with lot areas to determine percent of coverage as given in the table Kensington Historic District Lot Characteristics. Analysis of lot coverage in Kensington reveals that the density of development is greater for the overall district than in the areas where the primary resources are located. This is related to the inclusion of the commercial district for the calculation, as well as the use of fewer lots per dwelling for post-1930s' construction. The lower lot coverage figures for primary resources reflects the pattern of using multiple lots for the older primary resource dwellings.



Kensington Historic District Lot Characteristics

Category		Entire District	All Primary Resource Properties	1890 - 1910 Properties
Lot Area	Maximum	3.3 acres	3.3 acres	3.3 acres
	Average	0.40 acres	0.38 acres	0.42 acres
	Minimum	0.15 acres	0.15 acres	0.18 acres
Lot Coverage	Maximum	25%	25%	25%
	Average	15%	10%	9%
	Minimum	5%	5%	5%
Front Yard Setback	Maximum	65 ft	65 ft	65 ft
	Average	33 ft	35 ft	38 ft
	Minimum	0 ft	20 ft	20 ft
Building Separation	Maximum	170 ft	170 ft	170 ft
	Average	40 ft	55 ft	75 ft
	Minimum	15 ft	20 ft	50 ft



3922 Balt. Proposed house on Lot 25

← .20 acres

← 26 1/2%
24 1/2% w/ 20' x 20' garage

← 50ft

← 20ft

Provided by applicant

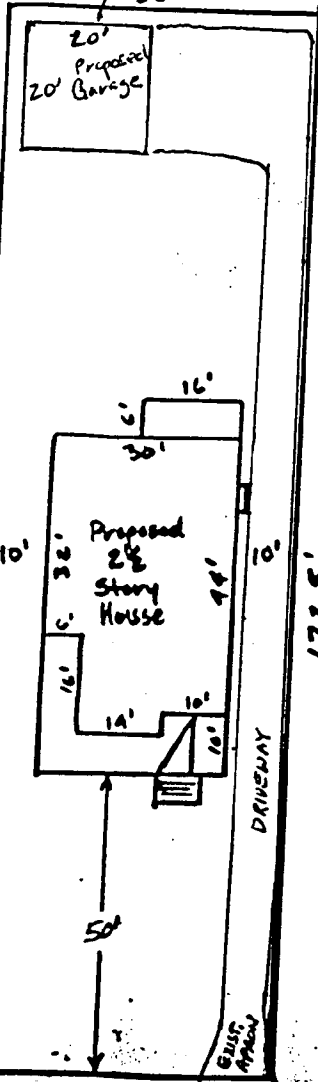
FOR THE
PROPOSED
REVISION
TO APPLICATION

Reverse A

20' x 20' side lead
reuse exist apron

MIN 3' rear side

50'



LOT SIZE
 $50 \times 172.5 = 8,625 \text{ sq ft}$
or
.20 acres

LOT COVERAGE
 $1,716 \text{ sq ft house} + 400 \text{ sq ft garage}$
 $= 2,116 \text{ sq ft}$
 $2,116 \text{ sq ft} \div 8,625 \text{ sq ft} = 24.4\%$

FRONT YARD SETBACK
50'

BLDG SEPARATION
20'

Provided by Applicant

3922 LOT 25

Memorandum

Date: April 19, 1997
To: Montgomery County Historic Preservation Commission
From: Kensington Local Advisory Panel
Subject: Case Number 31/6-97D

The Kensington Local Advisory Panel (LAP) met this morning to review the Historic Area Work Permit Application HPC Case Number 31/6-97D for demolition of the existing garage and driveway and construction of a new single family dwelling at 3922 Baltimore Street, Lot 25, Block 11, Kensington Park Subdivision in the Kensington Historic District. The LAP believes the proposal would be detrimental to the integrity of the Kensington Historic District, and unanimously and enthusiastically supports staff's recommendation to DENY this HAWP.

The Panel based its decision upon the issues identified in staff's well-documented and well-supported 4/16/97 report to the Historic Preservation Commission. The LAP agrees with staff that the proposed new construction is incompatible with the existing patterns of development as documented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan: The proposal substantially exceeds existing average property coverage, and its height and size would dominate the existing historic resources. The proposal would interrupt the existing rhythm of building to open space thereby damaging the environmental setting of the adjoining primary historic resources and the Kensington Historic District as a whole.

The LAP agrees with staff that demolition of the historic "auto house" would set a dangerous precedent in the District endangering its integrity. Finally, the Panel suggests the HPC direct the Department of Environmental Protection to initiate an investigation of possible "demolition by neglect" of the "auto house" by the property owner.

HISTORIC PRESERVATION COMMISSION

of

MONTGOMERY COUNTY

**8787 Georgia Avenue
Silver Spring, Maryland 20910**

301-495-4570

Case No: 31/6-97D Received March 17, 1997

Public Appearance: April 23, 1997

Before the Montgomery County Historic Preservation Commission

Application of Ellison Corporation (Cary Hoobler, Agent)

RE: New Construction at 3922 Baltimore Street (Lot 25, Block 11)
Kensington Historic District

DECISION AND OPINION OF THE COMMISSION

Decision of the Commission: DENY the Applicant's proposal to demolish an existing garage, and construct a new house and garage on the west side lot for 3920 Baltimore Street.

Commission Motion: At the April 23, 1997 meeting of the Historic Preservation Commission, Commissioner Lanigan presented a motion to deny this application for the demolition of the existing auto house and the construction of the proposed new house and garage. Commissioner Soderberg seconded the motion. Commissioners Kousoulas, Trumble, Eig, Bienenfeld, Hondowicz, Lanigan, Soderberg and Spurlock voted in favor of the motion. The motion was passed 8 - 0.

DEFINITIONS:

The following terms are defined in Section 24A-2 of the Code:

Appurtenances and environmental setting: The entire parcel, as of the date on which the historic resource is designated on the Master Plan, and structures thereon, on which is located a historic resource, unless reduced by the District Council or the commission, and

to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

Board: The county board of appeals of Montgomery County, Maryland.

Director: The director of the department of permitting services of Montgomery County, Maryland or his designee.

Exterior features: The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials and the type or style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archeology or culture. This includes, but is not limited to, all properties on the "Locational Atlas and Index of Historic Sites in Montgomery County".

Historic site: Any individual historic resource that is significant and contributes to the historical, architectural, archeological or cultural values within the Maryland-Washington Regional District and which has been so designated in the Master Plan for Historic Preservation.

Permit: An historic area work permit issued by the director authorizing work on an historic site or an historic resource located within an historic district.

BACKGROUND:

Historical Context

The Kensington Historic District was listed in the National Register for Historic Places in 1980. The local historic district was designated in 1986 on the Master Plan for Historic Preservation because, as stated in the Amendment to the Master Plan,

"The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb."

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

Character and Integrity of Kensington Historic District

The purpose of the Historic District designation and the role of the Historic Preservation Commission (HPC) is described in the Introduction to the Amendment (p.1):

"Once designated on the Master Plan for Historic Preservation, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued. The Ordinance also empowers the County's Department of Environmental Protection and the Historic Preservation Commission to prevent the demolition of historic buildings through neglect.

It is the intent of the Master Plan and Ordinance to provide a system for evaluating, protecting and enhancing Montgomery County's heritage for the benefit of present and future residents."

One of the key issues in a historic district designation is the issue of "integrity." The nomination to the Master Plan addresses this issue, as does the National Register Bulletin #15, How to Apply the National Register Criteria for Evaluation, page 46 which provides a definition of integrity of historic districts and discusses the implications of new construction within a historic district:

"For a district to retain integrity as a whole, the majority of the components that make up the district's historic character must possess integrity even if they are individually undistinguished. In addition, the **relationships among**

the district's components must be substantially unchanged since the period of significance. (emphasis added)

When evaluating the impact of intrusions upon the district's integrity, take into consideration the relative number, size, scale, design, and location of the components that do not contribute to the significance. **A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.** (emphasis added)

A component of a district cannot contribute to the significance if:

- o if has been substantially altered since the period of the district's significance or
- o it does not share the historic associations of the district."

The HPC commissioned a study in 1992 to analyze the character and integrity of the Kensington Historic District. The purpose of this study was to provide objective means to understand the existing character of the historic area and to evaluate the effect of proposed changes and alterations to the historic district. The document, entitled Vision of Kensington: A Long-Range Preservation Plan, was prepared for the HPC by Tracerics and PMA Associates. This study analyzed open space, property coverage, and existing rhythm of development in order to understand the growth pattern of Kensington, and provided recommendations for future development which would follow the existing patterns.

Through this detailed type of evaluation, there is a full understanding of the environmental setting of this particular historic district - including information on how the houses were spaced and the percentage of green space to constructed sites. It is clear from the Vision of Kensington document that a character-defining feature of the Kensington Historic District is the generous spacing between house and the very low percentage of property coverage which existing buildings exhibit.

Character of Baltimore Street

Baltimore Street is a significant area within the Kensington Victorian garden suburb, with a high level of integrity and few intrusive elements: all but three of the dwellings are Primary Resources dating between 1880-1930. In fact, the development pattern for the **entire** Kensington Historic District is illustrated in the Vision of Kensington study by the evaluation of frontyard setback and building separation for the portion of Baltimore Street where the present proposal would be built. The Primary Resources on Baltimore Street are typically built on property consisting of 2 or 3 platted lots, or on 1 lot which is trapezoidal in shape. The property sizes are typically around 18,000 sf., with a 9% property coverage for Primary Resources.

The streetscape on Baltimore Street was established with a building pattern where the earliest purchasers typically bought 2 or more platted lots and built only one dwelling on the property (1880-1910). The earliest homes are typically either the Queen Anne style (large homes of irregular shape), or the Georgian Revival Cottage style (large symmetrical homes with hipped roofs). These individual homes sit within a generous landscape where neighbors are close by, but are not typically on adjacent lots. The suburban setting was landscaped, treed, and spacious in contrast to the urban environment of Washington, D.C., and this was one of the selling features of the suburban development.

The second period of development on this street (1910-1930) included the construction of 3 Colonial Revival style homes on lots purchased from existing homeowners. These dwellings are characterized by their modest scale, massing, and size which contrasts with the earlier constructed dwellings which are typically much larger structures.

DESCRIPTION OF PROPOSAL:

Site Description

Lot 25, Block 11 is currently part of a grouping of three lots (25, 26, 27) which provide the environmental setting for the house at 3920 Baltimore Street which is a Primary Resource within the Kensington Historic District. Lot 25 is the west sideyard for this house; Lot 27 is the east sideyard. Each of the three lots measures 50' x 172.5' (8,625 sf).

The house at 3920 Baltimore Street (Lot 26) is a center gable I-House, with a rear ell and small additions to the rear and east side (1,440 sf footprint). Originally, there was a porch on the front facade, but this was removed some time in the past. Today, there is a small stoop to provide access to the front door. The house is approximately 26'-6" high from the finished first floor to the ridgeline of the roof.

The dwelling was constructed during the first period of significance (1880-1910); the footprint of the house is shown on the 1904 Sanborn Map. The matching garage, or auto house, was not shown on the 1911 Sanborn Map, but it is included on the 1924 Sanborn Map. This is within the second period of significance (1910-1930) for the Kensington Historic District.

The driveway is located on Lot 25, and leads to an original garage which is clad in wood shingles similar to those on the house. At the rear where some of the shingles have been removed, the original lap wood siding is apparent. The garage is a small (12.5' x 18.5', or 231 sf) single-car frame structure with the gable end perpendicular to the street. The original doors are stored inside the garage, and the building has shifted off of its foundations and is need of maintenance work. The lot is relatively flat, and gently rises from the street to the rear yard area. There are some shrubs to the front of the property, and trees to the rear.

The dwelling at 3920 Baltimore Street sits on Lot 26 between its flanking side lots.

These provide the garden setting for the house which was typical in this Victorian garden suburb. 3920 Baltimore Street is flanked by two large homes sitting on multiple lots. The home to the east, 3914 Baltimore Street, is a Queen Anne Cottage (Primary Resource 1880-1910) sitting on three lots. The house to the west at 3924 Baltimore Street is a large Georgian Revival Cottage (1880-1910) with a hipped roof, sitting on two lots.

New Construction Proposal

The applicant proposes to demolish the existing garage or "auto house" which matches the Primary Resource at 3920 Baltimore Street. After the demolition of the existing driveway and garage, the applicant proposes to construct a new frame 2-1/2 story single-family house (1,716 sf footprint) and a two-car garage (576 sf footprint) on Lot 25. The new house would have a first-floor footprint of ca. 1,716 sf and would have a total living area of well over 3,000 sf. (This includes the porches on the first floor and the attic living space; it is exclusive of any basement area.) The house is proposed to be 32' high from finished first floor to the ridgeline of the roof. The 2-car garage proposed for the rear has a footprint of 231 sf. The total property coverage would be ca. 26.6%.

The new house would be set 50' back from the street, with a side setback of 10' on each side. The proposed house would be approximately 20' from the house on Lot 26 (3920 Baltimore Street), and approximately 20' from the house at 3924 Baltimore Street.

The proposed new house is in a vernacular Victorian style, with irregular massing. The applicant has submitted two variations in the elevations. The proposed structure would utilize a steep roof pitch with cross-gables. The use of decorative lattice or wood shingles is proposed in the gable ends. The windows are proposed to be 1/1 light. The house would be constructed low to the ground, with only four steps up to the front wrap-around porch. There would be a second-story porch on the west side, and a second-story deck at the rear. The house is proposed to be sided with wood, and utilize asphalt shingles on the main roofs and standing-seam metal on the porch roof.

EVIDENCE IN THE RECORD:

On March 17, 1997, Cary Hoobler of the Ellison Corporation submitted an application for a Historic Area Work Permit (HAWP) at 3922 Baltimore Avenue, Kensington, to demolish the existing garage or auto house and construct a new single-family dwelling and garage.

A written staff recommendation on this case was prepared and sent to the HPC on April 16, 1997. At the April 23, 1997 HPC meeting, staff person Robin D. Ziek showed 35MM slides of the site and presented an oral report on the staff recommendation. The written staff report was entered into the record at the meeting, citing information from Vision of Kensington, National Register Bulletin #15, How to Apply the National Register Criteria for Evaluation, and the National Park Service Manual for State Historic Preservation Review Boards.

Staff recommended denial of the demolition and new construction as it was not consistent with, and was detrimental to, the preservation or ultimate protection of the environmental setting of the Kensington Historic District, a district designated on the Montgomery County Master Plan for Historic Preservation.

Staff's specific concerns about the proposed demolition and new construction that constituted reasons for denial included: **encroachment on the environmental setting** of the historic district as a whole, and on the individual resources within the historic district; the proposed **demolition** of a historic outbuilding; and the **incompatibility** of the proposed development with existing patterns of development. This includes the loss of open space, the proposed percentage of property coverage, and the proposed non-conformance with the development pattern of this part of the historic district.

Staff pointed out that there are twenty buildings on Baltimore Street between Connecticut Avenue and Prospect Street, and thirty-four platted lots. The lots are of varying sizes because of the curving street plan designed in the 19th century by Brainard Warner. The 20 lots which are located in the straight section of Baltimore Street were platted at 50' x 172.5'. The individual lots in the curving section of Baltimore are trapezoidal in shape measuring ca. 70' at the street and ca. 50' at the street edge. Therefore, the lots have differing square footage. **The development pattern generally shows that houses in the straight portion of Baltimore Street occurred on multiple lots**, while houses within the curving portion of the street, where the individual lots have more square footage, appear sometimes on single lots and sometimes on multiple lots.

On this block, the average distance between buildings is 87.3', ranging from 40' to 170'. The overall character of the streetscape is established through a building pattern which is a combination of large setback (typically 40') and open space created by the distance between buildings. **The intervening open space provides the garden setting for the entire district**, as well as views across yards which provides the opportunity for long views through the community; this helps to tie the different blocks together.

The existing development of the Kensington Historic District can also be characterized by the percentage of property coverage (with single and multiple lots). This is an objective method for understanding the percentage of built-over land in contrast to open space. The greater the percentage of open space, the more opportunity for landscape development such as is characteristic of this garden suburb. As presented in Vision of Kensington (table on page 47), the average property size of Primary Resources 1890-1910 is .42 acres (18,295 sf) and the average property coverage (including multiple recorded lots) of Primary Resources 1890-1910 in this district is 9%.

In marked contrast, staff noted that the proposed development utilizes a single lot with only 8,625 sf. The proposed new construction (house and garage, or 2,292 sf) would provide for a coverage of 26.6%, or **almost 3 times the average coverage** for Primary Resources. The average coverage for the entire historic district is only 15%.

In addition, the environmental setting for the Primary Resource at 3920 Baltimore Street would be reduced from 6.5% coverage to 9.7%. And the distance between the houses on the west side of the Primary Resource would be reduced from ca. 85' to ca. 20'. This would effectively reduce the environmental setting of both 3920 and 3924 Baltimore Street. In marked contrast, the distance between 3920 and 3914 Baltimore Street would remain 120' at this time, with a resulting disruption of the rhythm of structure to open space.

The issue of **environmental setting** is central to the designation of any historic site or district because it is key to the retention of **integrity** of the district. The proposed new construction is considered "in-fill" because it is built on what was historically open space. In other words, in-fill housing fills in the space between existing structures. In the Kensington Historic District, the potential loss of integrity due to the loss of the open space component is significant, even in terms of retaining the nomination to the National Register. As noted in the National Park Services' Manual for State Historic Preservation Review Boards (p.32),

"Integrity is the ability of a property to convey its significance. Historic properties either retain integrity, or they do not."

Loss of an important component of a historic district, such as open space, can result in a loss of integrity for the district. The Manual also notes (p. 33),

"There is no easy formula or standard rule concerning the number of intrusions that renders a district ineligible for National Register listing...Any proposed district must convey a sense of time and place through the collective significance of its buildings or features...if there are too many scattered non-contributing features...then the district's integrity may be lost or seriously damaged."

Staff discussed that, in the case of this particular proposal, the historic outbuilding or "auto house" is proposed for **demolition**. The small garage was an important element in all of the suburbs around Washington. While Kensington first developed around the railroad, the suburban development around Washington expanded dramatically with the introduction of the low-cost automobile. At that point, everyone added an "auto house", which is best illustrated in the Sanborne insurance maps. The garage in question was added after the house at 3920 Baltimore Street was in place and, although only a small outbuilding, provides physical evidence of the historic development of Kensington. There are several small garages of this scale still in Kensington, but a brief survey of Baltimore Street illustrates that many of these key outbuildings have already been lost.

The HPC's consistent policy has been to preserve historic structures rather than endorse their demolition. In support of that policy, the County and the State both have enacted tax credit programs to assist with maintenance costs for the exterior and structural costs undertaken to preserve designated historic sites and resources within designated historic districts.

Finally, in evaluating the design of the applicant's proposal, staff noted that the proposed new house would be higher and bigger than the existing historic resource at 3920 Baltimore Street. Staff is concerned that a building of this size would "crowd" the existing historic resources on either side, further diminishing the environmental setting of the historic district.

The applicant, Cary Hoobler, came forward to testify. He expressed his appreciation of the historic district, noting that the HPC had approved a similar design for new construction on another street in the district which he had submitted in the past. He expressed his belief that the new house was appropriate and would complement the historic district aesthetically. And he noted that the size of the house might seem smaller than staff had presented if one did not count the first floor porches in the footprint. He noted that there are large historic structures already on the street, and this new house would be somewhat comparable. Mr. Hoobler also noted that the small garage has been in poor condition for many years, probably well before the present owner bought the property. He also volunteered to move the garage to another location, and flip the project plan to save a large tree (a redbud).

Several neighbors and other Kensington residents came forward to testify on this project. Some expressed their concern over people's rights to do what they wish with their property. The majority, however, expressed support for the staff report and supported denial of this proposal based on concerns for existing trees, existing spacing between dwellings, and concern for existing structures, i.e., the small garage. The Kensington Local Advisory Panel, Historical Society, and Town Council were all represented and all endorsed a denial for this proposed project.

The owner testified that she was a real estate agent, but, at the time of her purchase of this property, she did not really understand the implications of purchasing within a historic district. In addition, she stated that she wasn't required to sign a statement, as is now required, that she had consulted the Master Plan for her area prior to signing her contract.

Commissioner Trumble asked staff if the garage would also be considered a Primary Resource as is the residence. Staff responded that the environmental setting of any historic resource includes the ancillary buildings as well as mature trees and driveways.

Commissioner Trumble questioned the status of the Vision of Kensington planning document. Staff informed him that it was not part of the law, but was a study commissioned by the HPC to provide qualifiable information to assist the HPC with project evaluation.

Commissioner Trumble also asked for staff comments on the proposal to move the garage. Staff noted that moving historic structures is only done as a last resort. In fact, relocation of a historic building can be a reason to actually de-list a structure which has been listed in the National Register of Historic Places. Staff also noted that the HPC has approved of proposals to move resources in the past, but only under compelling circumstances such as when a new road is proposed through the building site.

Commissioner Soderberg expressed concern for the preservation of the small garage.

Commissioner Hondowicz expressed concern for the environmental setting of the district, while expressing his general support of opportunities for new construction.

Commissioner Lanigan stated her support of the recommendations stated in the staff report.

Commissioner Eig supported the recommendations stated in the staff report, and also noted that the applicant had not applied for the removal of any mature trees on the property - although one citizen had testified that the application would actually require removal of a large redbud tree.

Commissioner Kousoulas noted that the environmental setting is an integral part of the historic district, and that this project proposal did not meet the criteria due to its size in relation to the lot and other construction in this part of the historic district. He noted that the HPC has approved of new construction in the Kensington Historic District, as recently as March 26th. But this was in a different location in the district where the proposed project was felt to be appropriate to the site and to the overall development patterns of the historic district.

CRITERIA FOR APPROVAL AND FINDINGS OF THE COMMISSION:

The criteria which the Commission must use in determining whether to deny a Historic Area Work Permit application are found in Section 24A-8(a) of the Ordinance.

Section 24A-8(a) provides that:

The Commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate or inconsistent with, or detrimental to the preservation enhancement or ultimate protection of the historic site, or historic resource within an historic district, and to the purposes of this chapter.

In analyzing whether the criteria for issuance of a Historic Area Work Permit have been met, the Commission also evaluates the evidence in the record in light of generally accepted principles of historic preservation, including the Secretary of the Interior's Standards for Rehabilitation and Guidelines, adopted by the Commission on February 5, 1987. In particular Standards #1, #2, #3, #4, #6, and #9 are applicable in this case, with Standards #2, and 6 being particularly important:

Standard 1: A property shall be used for its historic purpose or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

Standard 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard 3: Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

Standard 4: Changes to a property that have acquired historic significance in their own right will be retained and preserved.

Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Based on this, the Commission finds that:

1. Lot 25, block 11 is a sidelot to a Primary Resource within the Kensington Historic District, with an existing ancillary structure on it that is also a historic resource within the district, as designated on the Montgomery County Master Plan for Historic Preservation.
2. The proposal to demolish the original "auto house" or garage constitutes a change within the district that significantly changes the character of the Kensington Historic District by reducing the range or variety of historic structures and the relationship of primary structure to ancillary outbuildings. The structure is in poor condition due to deferred maintenance. However, the HPC's policy has been to encourage repair/stabilization of historic structures in situ through the application of the county and state tax credit program to assist with the necessary expenditures.
3. The environmental setting of a historic district or historic site comes under the protection of the Historic Preservation Ordinance, Chapter 24A, and is of equal concern to the HPC as the individual structures within the district. In a district, the cumulative effect of many properties constitutes the historic environment rather than any one particular element. The HPC is therefore required to protect the integrity of the historic district as a whole in considering project proposals at individual addresses within the district.

4. Kensington is characterized by individual residences on large parcels of land which are often the result of accumulation of two or three smaller platted lots. The result is a building pattern with large sideyards and generous setbacks from the road, providing opportunities for large garden areas around the dwellings.

5. The proposed project does not meet the existing building pattern in the historic district in terms of having too much property coverage, thereby diminishing the garden setting in the district, and in terms of disrupting the typical patterns of distances between houses.

6. The proposed new house is of a substantial size, and would be both larger and higher than the existing historic house associated with the property. The new project would both crowd and overshadow the historic structures on either side.

CONCLUSION:

The Commission was guided in its decision by Chapter 24A and by the Secretary of the Interior's Standards for Rehabilitation.

Based on the evidence in the record and the Commission's findings, as required by Section 24A-8(a) of the Montgomery County Code, 1984, as amended, the Commission must **deny** the application of the Ellison Corporation (Cary Hoobler, Agent) for a Historic Area Work Permit to demolish an existing garage and construct a new house and garage at 3922 Baltimore Street in the Kensington Historic District.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-7(h) of the Montgomery County Code, an appeal may be filed within thirty (30) days with the Board of Appeals, which will review the Commission's decision de novo. The Board of Appeals has full and exclusive authority to hear and decide all appeals taken from the decision of the Commission. The Board of Appeals has the authority to affirm, modify, or reverse the order or decision of the Commission.



George Kousoulas, Chairperson
Montgomery County
Historic Preservation Commission

5-8-97
Date

Memorandum

Date: April 19, 1997
To: Montgomery County Historic Preservation Commission
From: Kensington Local Advisory Panel
Subject: Case Number 31/6-97D

The Kensington Local Advisory Panel (LAP) met this morning to review the Historic Area Work Permit Application HPC Case Number 31/6-97D for demolition of the existing garage and driveway and construction of a new single family dwelling at 3922 Baltimore Street, Lot 25, Block 11, Kensington Park Subdivision in the Kensington Historic District. The LAP believes the proposal would be detrimental to the integrity of the Kensington Historic District, and unanimously and enthusiastically supports staff's recommendation to DENY this HAWP.

The Panel based its decision upon the issues identified in staff's well-documented and well-supported 4/16/97 report to the Historic Preservation Commission. The LAP agrees with staff that the proposed new construction is incompatible with the existing patterns of development as documented in the 1992 study Vision of Kensington: A Long-Range Preservation Plan: The proposal substantially exceeds existing average property coverage, and its height and size would dominate the existing historic resources. The proposal would interrupt the existing rhythm of building to open space thereby damaging the environmental setting of the adjoining primary historic resources and the Kensington Historic District as a whole.

The LAP agrees with staff that demolition of the historic "auto house" would set a dangerous precedent in the District endangering its integrity. Finally, the Panel suggests the HPC direct the Department of Environmental Protection to initiate an investigation of possible "demolition by neglect" of the "auto house" by the property owner.

Statement of
Council Member Robert W. Ritzmann
Town of Kensington
3710 Mitchell Street
Kensington, Maryland 20895
before
Montgomery County Historic Preservation Commission
on
HPC Case No. 31/6-97D
Wednesday
April 23, 1997

I am Robert W. Ritzmann, a member of the Council of the Town of Kensington, 3710 Mitchell Street, Kensington, Maryland. Last Monday, April 21st, the Mayor and Council met in a special session, discussed the application before you, and authorized me to represent them at this hearing.

We believe that your staff has prepared an excellent report on this application. We strongly support the report and its recommendation that this Historic Area Work Permit be denied.

The Kensington Historic District is the keystone of our Town, and the property in question is an important Primary Resource in presenting our Victorian garden setting, a key element of our Historic District. To permit elimination of the side lot of this historic house by demolition of the side driveway and its "auto house", and construction of a residence which substantially exceeds the lot coverage of properties in the area, would have a major deleterious impact on this section of the Kensington Historic District. We very much support preservation of the integrity of our historic district.

You are, I know, familiar with the revitalization effort under way in the commercial area of our Historic District. This rather extensive effort, being done in cooperation with the Montgomery County Department of Housing and Community Affairs, is a demonstration of our interest in preserving Kensington and its historic heritage. To permit erosion of our historic garden setting by granting this Historic Area Work Permit would seriously detract from restoring the community setting of the early 1890's that our residents, merchants, and visitors wish to enjoy today.

We are also concerned with neglect of the "auto house". If allowed to continue, it will self demolish, an event we do not want to happen. The "auto house" is complimentary and part of the significance of the property, and should not be allowed to fall into disrepair. We believe stabilization of the "auto house" should be done with some priority in order to protect its integrity.

To conclude, The Town of Kensington Mayor and Council supports and concurs with your staff's report and its recommendation of denial of the requested Historic Area Work Permit.

Robert W. Ritzmann
Council Member
Town of Kensington

→ Redbud + 5 Blade walnuts @ Rene
7 lot

DESCRIPTION OF THE LOT 25 SPECIMEN REDBUD, 3922 BALTIMORE ST.
COMPARISON WITH REDBUD TREES IN THE AREA

Introduction

The undersigned served as Secretary of the Kensington LAC from 1988 to 1990. Because of an interest in horticulture he was the designated "Tree Person" for the Kensington LAC, and was assigned to review applications affecting trees in the Kensington Historic District including the physical assessment of the various trees in question or dispute. This interest in horticulture and in historic preservation necessitated the preparation of this report.

A proposed development with house and driveway on Lot 25, adjacent to the house at 3922 Baltimore Street, is likely to have an adverse impact on a huge specimen redbud tree on lot 25, called the "Lot 25 Redbud."

Illustration One shows the location of the tree with estimated drip line on lot 25.

Picture One and Picture Two shows the appearance of the tree photographed from the north and from the west.

Description of Tree

The Subject Tree on lot 25 adjacent to the house at 3922 Baltimore Street is an Eastern Redbud, (*Cercis canadensis*). It can be described as being comprised of a single ground level common trunk, which has a diameter of 36 inches. From this trunk 8 sub-trunks, or branches arise, with diameters at 36 inches high of 20 inches, 13 inches, 12 inches, 10 inches, 9 inches, eight inches, seven inches and 3 inches. By 48 inches high it has 13 branches. The tree spreads 35 feet in the East-West direction and 20 feet in the North-South Direction. It is about 30 feet tall. It overhangs nearly to the midline of lot 25 from the east. The common trunk appears to straddle the property line between the lot on which the house described as "3922 Baltimore St." rests, and lot 25 upon which the proposed new house and driveway would be built.

Comparison with other Redbuds in Kensington Historic District

There are only eight Eastern Redbud trees in the Kensington Historic District. The biggest tree in Kensington is on and largely overhangs lot 25 next to the house at 3922 Baltimore Street. This is the largest redbud tree found in the Kensington Historic District. It is about 4 times larger than the next largest tree found at 3951 Baltimore Street, and it is much larger than most of the other redbud trees in the Kensington Historic District. Illustration Two shows the locations and relative sizes of the all eight redbud trees in the Kensington Historic district.

Comparison with Other Redbud Trees in the Area

Redbud trees were also surveyed throughout in the Garrett Park Historic District, throughout Rock Creek Park, and along Connecticut Avenue between Kensington and the District Line.

The "Lot 25 Redbud Tree" is also larger than any redbud tree found in the Garrett Park Historic District, all throughout Rock Creek Park, and South of Kensington on Connecticut Ave to the District Line. The "Lot 25 Redbud Tree" is not the biggest redbud tree in the USA, which is in Tennessee, (source, "American Forests List of Big Trees") but it certainly the largest, or one of the largest in this area. The information below documents the remarkable nature of this tree.

Scoring Convention

Redbuds arise bush-like from a ground level common trunk and may have one or many parallel sub-trunks. I gave a score to observed redbud trees which is based on a, the number of parallel trunks, and b, the size of the parallel trunks. A score of "8" is given to the Lot 25 Redbud, which has eight parallel sub-trunks, with total additive diameter of 82 inches. A tree with a score of "1" could be 8 sub-trunks each with a 1 inch diameter or a single trunk with an eight inch diameter. A score of "1" is also given to smaller trees including saplings identified in the area.

Other Redbud Trees in Kensington Historic District: Data

<u>Location or address</u>	<u>Score</u>
"Lot 25 Redbud Tree"	8
3915 Prospect	2
3935 Baltimore	3
Detrick/Baltimore Corner	3
3915 Baltimore	3
3929 Washington	3
3814 Washington	3
Noyes Library	1

Redbud Trees visible along Rock Creek Parkway/Beech Drive

Starting at Virginia Avenue and Driving North, by miles, there are only 15 Redbud trees, with the following locations in miles north of Virginia Avenue. Fourteen were found along this route.

<u>Miles</u>	<u>Score</u>
0.3	Score 5
0.4	Score 3
1.3	Score 2
1.3	Score 3
3.5	Score 2

3.5	Score 2
3.5	Score 2
3.9	Score 3
4.2	Score 2
5.9	Score 4
5.9	Score 3
8.4	Score 3
9.1	Score 2
9.1	Score 2

Garrett Park Historic District

Four Redbuds were found, two with scores = 3, and two with scores = 2.

Connecticut Ave.

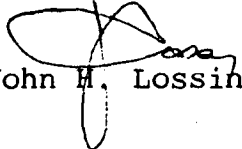
All Redbuds visible from the road were noted and scored. Only four were found. Two on the grounds of the Chevy Chase Country Club were Score 6. One on the grounds of Howard Hughes Institute was a score of 1. Another south near Bradley Street was a score of 2.

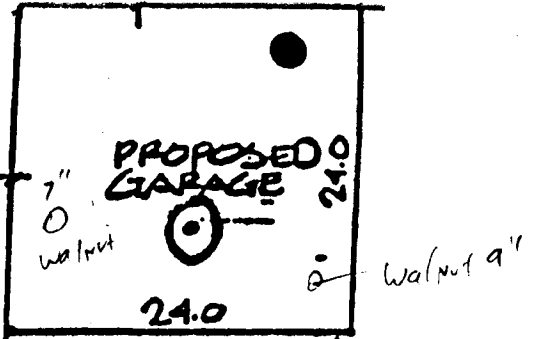
Summary

We urge the Historic Preservation Commission to preserve the safety of the "Lot 25 Redbud Tree" which is the largest redbud tree in the Kensington Historic District, and the largest findable tree in surrounding areas in an informal survey.

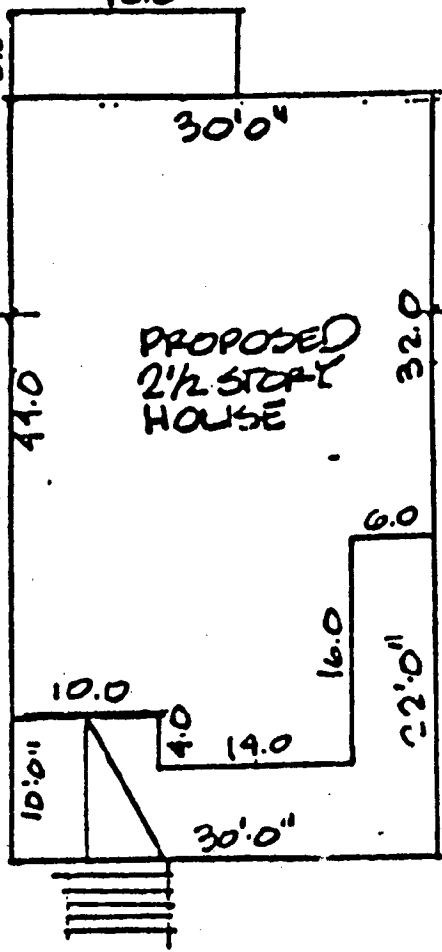
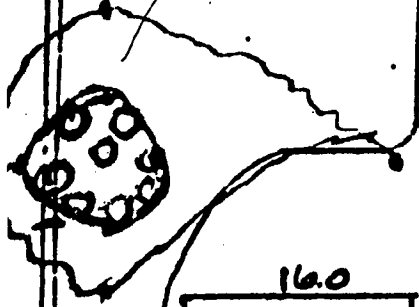
This huge redbud tree significantly contributes to the historic vista of Baltimore Street. We urge the Historic Preservation Commission to preserve the historic visual access of this tree from all vantage points, and to assure that it shall not be blocked from view by any inappropriate in-fill structure.

Respectfully submitted,


John H. Lossing



Lot 25 Redbud



10'-0"

10'-0"

172.5

JAY

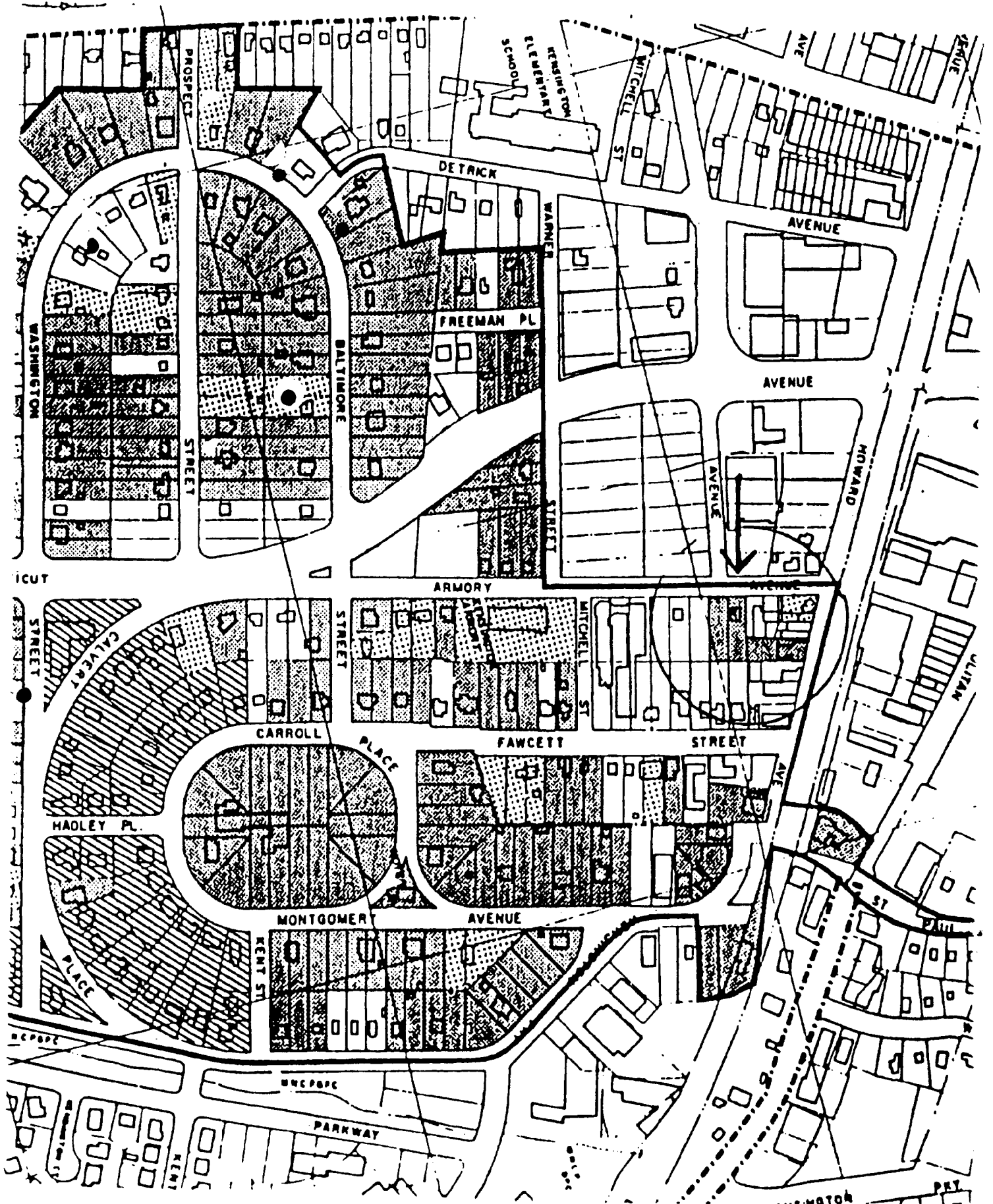
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8 Red bud Trees
Kensington Historic District

Illustration Two
North



April 22, 1997

To whom It May Concern:

My name is Ruth Ness. I first met Virginia Brown when we joined Warner Church forty some years ago and she was one of our children's Sunday School Teacher. She asked me to be her Realtor when she decided to sell her house in Kensington. Legally I realize that the restriction is a mute point since Mrs Ahearn has owned the property more that seven years. However, I have heard that there is some question about Miss Brown's wishes for her property, I would like to review the actions that were taken at that time and at a later time.

Since Miss Brown did not wish to sell any part(s) of the property to her neighbor, it was decided to put a five year restriction against division of the lots for building a separate dwelling. The contract owner stated that the covenant was written so that it could easily be voided and that he could sell part of the property to a neighbor or build on it.

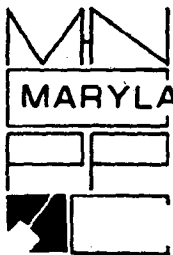
To avoid this possibility, Mrs. Ahearn intervned and purchased the contract from the contract owner at an additional cost of \$25,000 and increased the restriction to seven years and made it binding.

During March of 1995, I went with Mrs Ahearn to visit Miss Brown. We discussed the possibility of releasing the restriction, in order to obtain resources to continue the renovation of the house. Miss Brown was fully competent and I am sure she understood all that we were saying. She even said that she considered it to be Mrs Ahearn's property and that she had no interest in interfering with anything that she wished to do with the it. Miss Brown did indicate that she would like to see the improvements and changes that had been made to the house that I had told her about previously. We told her more than once that we wanted her to think it over and that we would get back to her and to discuss it with her attorney or any other individual if she wished. She said "I can make the decision!"

On May 8th Mrs. Ahearn, my husband Bob and I took Virginia to visit the Baltimore Street property. By this time Virginia was wheelchair bound making it difficult for her to get out. She was very pleased with what had been done to the house, and I know she enjoyed the opportunity to see it. We discussed the options for the property again and she said again that it was Mrs. Ahearn's property and that could do with it what she wished. She had no reservation about giving her permission. When we returned to the Presbyterian Home on Military Road, we visited the in-house notary to have the release document notarized. The notary was very cautious and he questioned Miss Brown in many ways to make sure that she understood what she was signing and was in agreement with it. When we left her she said that she was very happy to have done this.

A handwritten signature in cursive script, appearing to read "Ruth Ness". The signature is written in black ink on a white background.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760



DATE: 4/24/97

MEMORANDUM

TO: Robert Hubbard, Chief
Division of Development Services and Regulation
Department of Environmental Protection (DEP)

FROM: Gwen Marcus, ^{RM}Historic Preservation Coordinator
Design, Zoning, and Preservation Division
M-NCPPC

SUBJECT: Historic Area Work Permit

The Montgomery Historic Preservation Commission has reviewed the attached application for a Historic Area Work Permit. The application was:

_____ Approved

~~_____ Denied~~

_____ Approved with Conditions: _____

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERANCE TO THE APPROVED HISTORIC AREA WORK PERMIT(HAWP).

Applicant: Ellison Corporation (Cory Hubbard)

Address: 10907 Tarboe Avenue, Silver Spring, MD 20901

***THE APPLICANT MUST ARRANGE FOR A FIELD INSPECTION BY CALLING DEP/FIELD SERVICES (217-6240) FIVE DAYS PRIOR TO COMMENCEMENT OF WORK AND WITHIN TWO WEEKS FOLLOWING COMPLETION OF WORK.



*Frank O'Donnell
10407 Fawcett Street
Kensington, MD 20895*

July 2, 1997

Ms. Jeanie Ahearn
3920 Baltimore Street
Kensington, MD 20895

Dear Ms. Ahearn:

It has come to my attention that you fear a "loss of value of property" from a recent ruling by the Montgomery County Historic Preservation Commission regarding potential development of 3922 Baltimore Street. (I believe it is Docket # A-4771 before the County Board of Appeals.)

I thought you might be heartened to know that keeping intact a multi-lot property in the Kensington Historic District doesn't always appear to translate into a financial loss.

My own experience in Kensington may be a case in point. In 1993, my wife and I made an offer to purchase a house for sale at 3808 Washington Street in the Historic District. You may recall that at the time the property in question consisted of the lot containing the house and an unimproved side lot (now 3806 Washington Street).

We offered to purchase both lots and keep them intact. Our buying broker made a generous initial offer and was instructed by us to offer considerably more should the seller agree to serious negotiations.

Unfortunately, our offer was dismissed out of hand. The sellers insisted on selling the lots separately, presumably believing they would make more money that way. (We were not interested in buying the house without the side lot because we believed -- correctly -- that development on that lot would diminish the quality and value of the original house.)

As it turns out, the sellers were wrong. The lots ultimately were sold separately, but for no more than we were willing to pay for them intact. Indeed, the sellers probably lost money in the long run because of long delays in concluding the sale of the side lot.

From this anecdote I would conclude that some multi-lot properties in the Kensington Historic District carry considerable value -- perhaps as much or more than if side lots are sold off separately. The pending sale of the multi-lot property at 10225 Montgomery Avenue (for a reported \$669,000) tends to support my belief.

I hope this story will prove encouraging should the Board of Appeals affirm the HPC ruling.

Cordially,

A handwritten signature in black ink, appearing to read "Frank O'Donnell". The signature is fluid and cursive, with a large initial "F" and "O".

Frank O'Donnell

cc: Barbara Wagner, chair, Kensington LAP
Barry Peoples, president Kensington Historic Society
Gwen Wright, Montgomery County Historic Preservation Commission
Montgomery County Board of Appeals

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

FAX TRANSMITTAL SHEET

**Historic Preservation Section
Department of Park & Planning**

Telephone Number: (301) 563-3400

Fax Number: (301) 563-3412

TO: Sean Scanlon FAX NUMBER: 202-484-1154

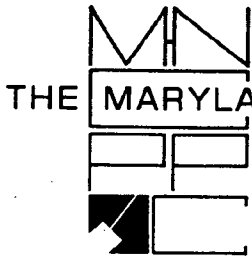
FROM: Robin Ziek

DATE: 3/5/98

NUMBER OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 6

NOTE: Thanks, Sean -

Call if you have any questions -
Robin



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

FAX TRANSMITTAL SHEET

**Historic Preservation Section
Department of Park & Planning**

Telephone Number: (301) 495-4570

Fax Number: (301) 495-1307

TO: Christopher Hitchens FAX NUMBER: 301-217-2118

FROM: Robin Ziek PHONE NUMBER: 301-495-4570

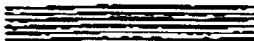
DATE: June 19, 1997

NUMBER OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 2

NOTE:

Kensington Appeal

TRACERIES



5420 WESTERN AVENUE CHEVY CHASE, MARYLAND 20815 (301) 656-5283 FAX (301) 656-5420

21

EMILY HOTALING EIG

Architectural historian and principal of Traceries.

As an architectural historian, Ms. Eig combines knowledge of late 19th and 20th century buildings with a thorough understanding of historic preservation issues. Her expertise includes extensive knowledge of federal, Maryland, Virginia, and District of Columbia preservation laws and regulations, as well as hands-on experience with the restoration and rehabilitation of historic architecture. She regularly assists architects and preservation technicians with the interpretation and analysis of historic buildings through an understanding of historic and contemporary documents, construction techniques, and building materials. Her special focus is the integration of computer technology into historic documentation, evaluation, planning and management.

Ms. Eig meets professional qualifications prescribed by the Secretary of the Interior (36 CFR 61 - Appendix A). She has been accepted as an expert witness before the District of Columbia Historic Preservation Review Board and the Montgomery County Historic Preservation Commission; D.C. Mayor's Agent for Historic Preservation; D.C. Zoning Commission; D.C. Board of Zoning Adjustment; Superior Court of the District of Columbia; the National Capital Planning Commission; and the U.S. Commission of Fine Arts. She currently serves as a member of the Montgomery County Historic Preservation Commission.

RESEARCH AND PRESERVATION PLANNING

Project Architectural Historian and Preservation Consultant for numerous major historic rehabilitations in Washington, D.C. In these roles, she directed research; prepared formal historic documentation including Historic Structures Reports and Historic American Buildings Survey documentation; advised on local and federal preservation reviews including Section 106 Memorandum of Agreements; and offered guidance on design compatibility of major new additions to historic buildings, as well as on historic rehabilitations.

- . Square 456 (Compass Development; Florance, Esocoff, Eischbaum and King, 1993-
- . Interstate Commerce Commission and Department of Labor Buildings (GSA; RTKL, 1995-96)
- . Department of the Interior Modernization (GSA; Shalom Baranes Associates, 1993-5)
- . Warder-Totten House and Addition (Eligate Partnership; Moore/Poe Architects, 1995-
- . Sheridan Garage (Keener Management; Shalom Baranes Associates, Architects, 1993-
- . Washington City Post Office (U.S. Postal Service/Postal Square Associates [Gerald D. Hines Interests, Managing Partner]; Shalom Baranes Associates, Architects), 1985-92
- . Warner Theatre and Office Building (The Kaempfer Company; Pei Cobb Freed & Partners with Shalom Baranes Associates, Architects), 1986-92
- . Atlantic Building (The Clover Companies; Shalom Baranes Associates, Architects), 1987-90
- . 1250 24th Street, N.W. (The Kaempfer Company; Don Hisaka Architects), 1984-85

DOCUMENTATION

Ms. Eig holds particular expertise in late 19th and 20th century residential, commercial, religious and institutional buildings, as well as in the history of city planning. Work in the Metropolitan Washington area has provided the opportunity to study a variety of building types from that period (notably single family residences, apartment buildings, public buildings, banks, office buildings, movie theaters, post offices, warehouses, garages, carriage houses and stables, and churches) as well as to develop expertise in the history of urban neighborhoods.

Authored numerous documents, including Historic Structures Reports, Historic American Building Survey documentation, Maryland Historical Trust Historic Property Inventory Forms, General Services Administration Building Preservation Plans, and National Register of Historic Places nominations. This work includes innovative use of computer databases to provide recordation, comparative analysis, evaluation, and management of building elements.

Historic Structures Reports:

- . Washington City Post Office
- . Woodrow Wilson House
- . Warner Theatre

HABS documentation

- . Buckingham Apartments, Building #12
- . Warner Theatre
- . Tivoli Theatre
- . Atlantic Building
- . Woodrow Wilson House

National Register

Historic District Documentation

- . Foggy Bottom
- . Mount Pleasant
- . Kalorama Triangle
- . Sheridan Kalorama
- . Old Woodley Park
- . Blagden Alley/Naylor Court
- . Greater Fourteenth Street

National Register of Historic Places

(a sampling of D.C. properties):

- . Hillandale Mansion and Gatehouse,
Reservoir Road, N.W.
- . Lothrop Mansion,
2000 Connecticut Avenue, N.W.
- . Sweeney-Plowman Houses
2521-2523 K Street, N.W.
- . Michler Place
18th and F Streets, N.W.
- . Fuller House
2317 Ashmead Place, N.W.
- . Union Trust Company
15th and H Streets, N.W.
- . Sun Building
1317 F Street, N.W.
- . 14 apartment buildings
including the Cairo, the Kennedy-
Warren, the Ponce de Leon,
the Wyoming, the Bachelor,
the Lafayette, and the Canterbury

National Register Multiple Property Documentation

"Apartment Buildings of Washington, D.C. - 1879-1945"

Annapolis Historic District Intensive Architectural Survey

Directed initial phase of the intensive survey of the Annapolis Historic District, a joint project of the Maryland Historical Trust, City of Annapolis Planning and Zoning Department, and the Annapolis Historic District Commission. Traceries is now completing the fourth phase of this multi-year project and has prepared nearly 200 MHT Historic Property Inventory Forms.

PRESERVATION PLANNING

Recent work is focusing in the development of planning documents supported by systematic analysis of on-site and archival data.

- . University of Maryland at Baltimore. Historic Preservation Plan with Kann & Associates, 1995-
- . City of Virginia Beach. Preservation Plan with PMA Associates, 1994-95
- . Maryland-National Capital Planning Commission.
 - Four Long-Range Plans: Clarksburg, Hyattstown, Kensington and Boyds, 1992.
- . Arlington County. Section 106 Documentation/Evaluation for Quincy Street Extension, 1992.

SURVEY DATA MANAGEMENT

Ms. Eig has extensive expertise in the design, implementation and administration of architectural surveys and the design and use of computer-aided survey methodology. She devotes considerable effort to introducing and improving the potential of computers as an aid to field survey methodology, analysis, and evaluation.

D.C. Building Type Surveys

- . Transportation Planning Study: Phase I (1993-94); Phase II (1996)
- . Apartment Buildings Survey - Directed inventory and survey of over 3,000 apartment buildings, constructed 1870-1945, for D.C. Division of Historic Preservation in conjunction with D.C. Preservation League.
- . Warehouse Survey - Directed inventory and survey of over 100 railroad-related buildings, for D.C. Division of Historic Preservation in conjunction with D.C. Preservation League.

Commonwealth of Virginia County Cultural Resource Surveys

Directed architectural and historical surveys for the following counties:

- . Arlington County (1995-96) . Spotsylvania County (1995-96)
- . City of Falls Church (1995) . City of Norfolk (1994)
- . Cumberland County (1994) . Virginia Beach, Phase II (1993)*
- . Stafford County (1991-92)* . Caroline County (1991)
- . Powhatan County (1990-91) * included archaeology

Annapolis Historic District -Integrated Preservation System Application, 1992-present

Prepared application of the IPS Software for City of Annapolis Planning And Zoning Department.
Developed data elements, data dictionary, and data entry manual.

MUSEUM AND PUBLIC EDUCATION

Her interest in museum and public education has led to numerous public lectures, neighborhood walking tours, and courses. She has researched, designed and produced an exhibition at the Woodrow Wilson House, a National Trust for Historic Preservation museum property. She served as the Resource Coordinator for the Architect-in-School Program at the John Eaton School from 1978-82.

Mount Vernon College, 1995-

Lecturer, Interior Design Department: Courses: *Introduction to Historic Preservation and Architectural Techniques in Historic Preservation* (graduate and undergraduate credit).

American Institute of Architects, 1978-1988

Public Education Department - work included development of children's tour of the Octagon House, curriculum workshops, and four educational slide shows.

Smithsonian Institution Resident Associates Program, 1983-1986, 1988, 1990

Courses: *Introduction to American Architectural Style* and *D.C. Neighborhoods*.

Woodrow Wilson House, 1977-1988

Architectural historian and museum consultant to F.D. Lethbridge and Associates for Property Redevelopment Plan, 1978-79; Coordinator, House Reinterpretation Plan, 1981.

PUBLICATIONS

Eig, Emily Hotaling, "Kalorama" in *Washington at Home* (Kathryn Schneider Smith, Ed.). Northridge, CA: Windsor Publications, Inc., 1988.

Eig, Emily Hotaling, "Waddy Wood, Architect" in *Department of the Interior Building: Its Architecture and Its Art* (David W. Look and Carole L. Perrault). Washington, D.C.: U.S. Department of the Interior, National Park Service, Preservation Assistance Division, 1986.

Eig, Emily Hotaling with Laura Harris, "Chicago: City as a Museum, Building as Artifact" in *Journal of Museum Education*, Vol. 10, #4, Summer 1985.

Eig, Emily Hotaling with Gray Bryan III, *Waddy Wood in Kalorama: A Walking Tour*. Washington, D.C.: The Preservation Press, 1975.

PROFESSIONAL AFFILIATIONS

- . Society of Architectural Historians
- . Committee of 100 on the Federal City
- . Partners for Sacred Places
- . Society for American City and Regional Planning History
- . Association for Preservation Technology
- . Historical Society of Washington
- . Jewish Historical Society

HONORS

D.C. Preservation League. 1993 Building of the Year Award for Warner Theatre Building.
The Kaempfer Company.

D.C. Preservation League. 1992 Building of the Year Award for Washington City Post Office.
Postal Square and US Postal Service.

Logan Circle Community Association. LCCA Historic Preservation Award, 1989 and 1991.

EDUCATION

George Washington University, Washington, D.C.
Master of Arts in Teaching in Museum Education, 1975
Field of study: Architectural History

Brandeis University, Waltham, Massachusetts
Bachelor of Arts, Fine Arts (Art History), 1974
Senior Honors "Open Urban Space, The Development of Lafayette Square and Judiciary Square,
Washington, D.C."; *cum laude*.

ROBIN D. ZIEK
(301) 570-6268

18000 Bentley Road
Sandy Spring, Maryland 20860

EDUCATION

- 1987 M. Arch. University of Maryland-College Park
Architecture, professional degree
- 1978 M.A. University of Missouri-Columbia
Classical Archaeology
- 1974 B.A. Brooklyn College, CUNY
Classical civilization, Art history
- 1967 - 1970 Carleton College, Northfield, Minnesota

WORK EXPERIENCE

- 1995 to date Maryland-National Capital Park and Planning Commission
Historic Preservation Planner
- 1992 - 1995 Maryland Historical Trust, State of Maryland,
Preservation Officer - Easement Program
- 1989 - 1992 City of Takoma Park, Takoma Park, Maryland
Construction Coordinator-Housing Rehabilitation
- 1988 - 1989 Keyes Condon Florence Architects
Architect intern
- 1987 National Capital Planning Commission
Planner
- 1982 - 1987 As a fulltime student in the School of Architecture at the University of Maryland:

Geier Brown Renfrow Architects
Alan Sparber & Associates
Diversified Engineering
Kensington Historical Society
School of Architecture
- 1978 - 1982 National Park Service, Denver Service Center
Staff Archaeologist - National Capital Region

PUBLICATIONS

- 1992 "Preliminary Report on the 1989-1990 Seasons" (The Octagonal Building on the Temple Platform) Journal of Roman Archaeology, Supplementary Series Number Five, R. Lindley Vann, editor.
- 1986 Contributed drawings for the exhibit, "King Herod's Dream"; Smithsonian opening, Washington D.C., followed by nationwide tour; publication in exhibit catalogue.
- 1979 "Archaeology at Ferry Hill", The Towline.
- 1978 "The Damaging Effects of Light on Art Objects; an Annotated Bibliography", Art and Archaeology Technical Abstracts, summer supplement.

PROFESSIONAL PAPERS

- 1990 "The Lime Cements at Caesarea Maritima - Historic Artifacts", ASOR meeting, New Orleans
- 1982 "Ferry Hill. A Study in Historical Archaeology", Society for Historical Archaeology, Philadelphia.

Fig 1a

Resolution No. 10-2064
Introduced: July 7, 1986
Adopted: July 7, 1986

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

SUBJECT: Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County, Maryland re: Kensington Historic District

Background

1. On February 11, 1986, the Montgomery County Planning Board transmitted to the Montgomery County Council a Final Draft Amendment to the Historic Preservation Master Plan to designate an Historic District in Kensington.
2. On April 18, 1986, the Montgomery County Council held a public hearing regarding the Final Draft Amendment to the Master Plan for Historic Preservation for a Kensington Historic District.
3. On June 24, 1986, the Planning, Housing and Economic Development Committee reviewed the Final Draft Master Plan Amendment and the testimony given at the public hearing.
4. It was the position of the Planning, Housing and Economic Development Committee that part of Kensington should be designated a historic district.
5. On July 7, 1986, the Montgomery County Council reviewed the Final Draft Amendment to the Historic Preservation Master Plan, and the recommendations of the Planning, Housing and Economic Development Committee.

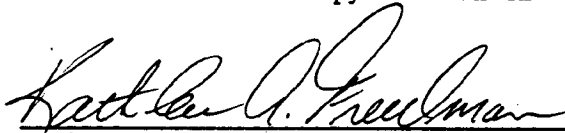
Action

For these reasons, the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Final Draft Amendment to the Historic Preservation Master Plan, dated August 1985, is approved designating a Kensington Historic District (#31/6).

The Kensington Historic District is wholly located within the Town of Kensington. The district includes residential sections along both sides of Connecticut Avenue, the commercial area along Howard Avenue, and also incorporates a northern annex of period structures along the east side of St. Paul Street. The general outline of the District is shown in Figure A. However, the district also specifically excludes the properties within the heavy outlines in Figure B, leaving only the right-of-ways in that sub-area as part of the Kensington Historic District.

This is a correct copy of Council Action.




Kathleen A. Freedman, Secretary
County Council


Attachments: Figures A and B

B738/5

LOCAL KENSINGTON HISTORIC DISTRICT

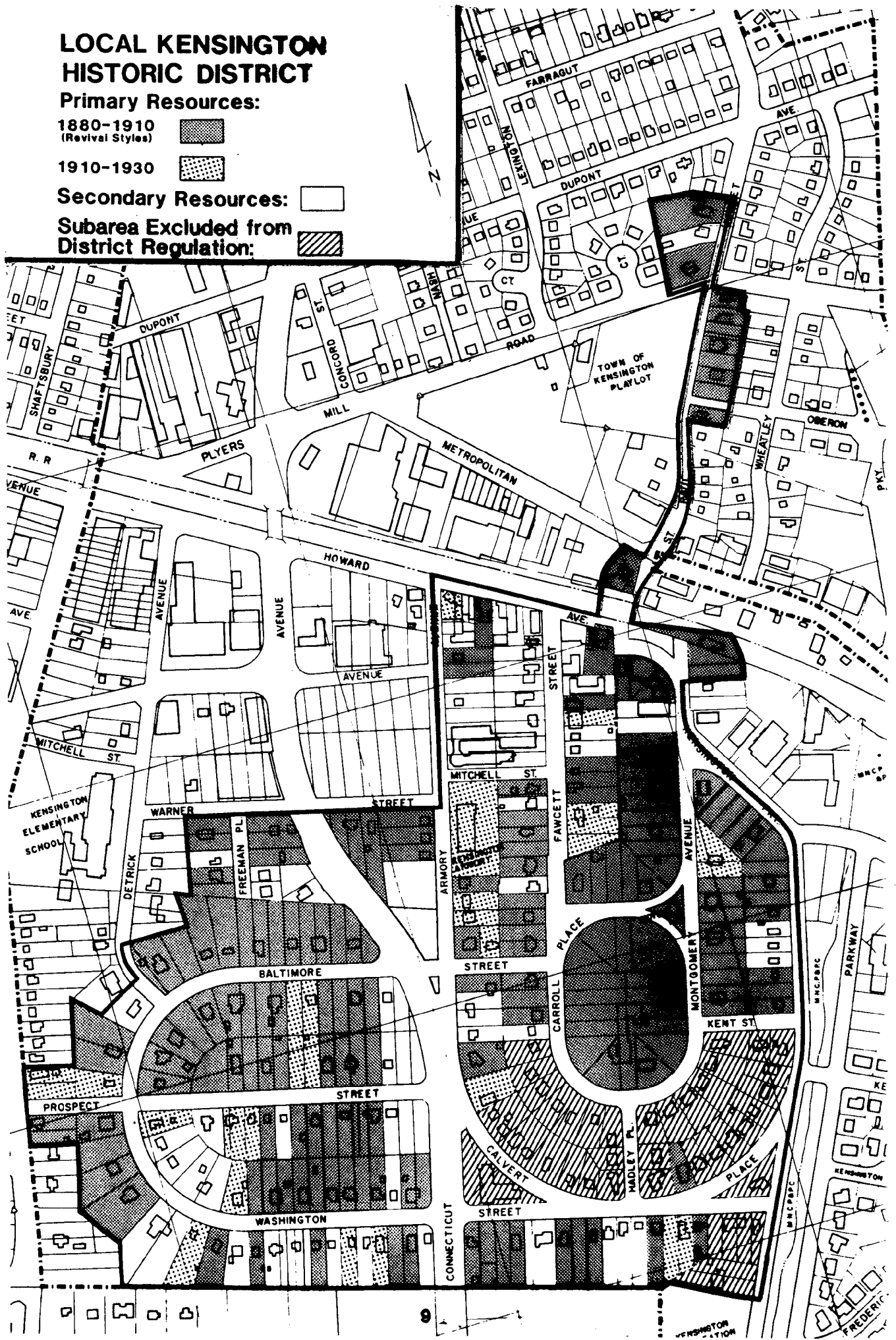
Primary Resources:

1880-1910 (Revival Styles) 

1910-1930 

Secondary Resources: 

Subarea Excluded from District Regulation: 



MARYLAND
HISTORICAL



TRUST

Office of Research,
Survey and Registration

Parris N. Glendening
Governor

Patricia J. Payne
Secretary, DHCD

DATE: 8/11/97

TO: Robert Zieck
Telephone: (301) 495-4570
FAX: (301) 495-1307

FROM: Suzanne Shepherd
Telephone: (410) 514-7456
FAX: (410) 987-4071

Number of pages including this cover page: 3

COMMENTS:

CONFIDENTIALITY NOTICE: This facsimile contains information which may also be legally privileged and which is intended only for the use of the addressee(s) named above. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this facsimile, or the taking of any action in reliance of the contents of this telecopied information, may be strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the entire facsimile to us at the address below via the US Postal Service. Thank you.



Division of Historical and Cultural Programs
100 Community Place • Crownsville, Maryland 21032 • (410) 514-7644/7650
The Maryland Department of Housing and Community Development (DHCD) pledges to foster
the letter and spirit of the law for achieving equal housing opportunity in Maryland.



Maybe don't include
this. 1992 also to
Sec 11 Int. Students
addresses the distinction
between the 37 CFR 67 with
is used for that purpose, & the
Students, used as general
guidance for any business
structure.

cept of the complete ap-
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Secretary shall determine
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supporting documenta-
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work inconsistent with
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tax consequences of a
certification will be de-
the Secretary of the

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atory letter will be sent
with a copy to the
ollitated property not in

conformance with the Standards for
Rehabilitation and which is deter-
mined to have lost those qualities
which caused it to be nominated to the
National Register, will be removed
from the National Register in accord
with Department of the Interior regu-
lations 36 CFR part 60. Similarly, if a
property has lost those qualities which
caused it to be designated a certified
historic structure, it will be certified as
noncontributing (see § 67.4 and § 67.5).
In either case, the delisting or certifi-
cation of nonsignificance is considered
effective as of the date of issue and is
not considered to be retroactive. In
these situations, the Internal Revenue
Service will be notified of the substan-
tial alterations. The tax consequences
of a denial of certification will be de-
termined by the Secretary of the
Treasury.

§ 67.7 Standards for Rehabilitation.

(a) The following Standards for Re-
habilitation are the criteria used to de-
termine if a rehabilitation project
qualifies as a certified rehabilitation.
The intent of the Standards is to
assist the long-term preservation of a
property's significance through the
preservation of historic materials and
features. The Standards pertain to his-
toric buildings of all materials, con-
struction types, sizes, and occupancy
and encompass the exterior and the
interior of historic buildings. The
Standards also encompass related
landscape features and the building's
site and environment, as well as at-
tached, adjacent, or related new con-
struction. To be certified, a rehabili-
tation project must be determined by
the Secretary to be consistent with
the historic character of the
structure(s) and, where applicable, the
district in which it is located.

(b) The following Standards are to
be applied to specific rehabilitation
projects in a reasonable manner,
taking into consideration economic
and technical feasibility. (The applica-
tion of these Standards to rehabilita-
tion projects is to be the same as
under the previous version so that a
project previously acceptable would
continue to be acceptable under these
Standards.)

(1) A property shall be used for its
historic purpose or be placed in a new
use that requires minimal change to
the defining characteristics of the
building and its site and environment.

(2) The historic character of a prop-
erty shall be retained and preserved.
The removal of historic materials or
alteration of features and spaces that
characterize a property shall be avoid-
ed.

(3) Each property shall be recog-
nized as a physical record of its time,
place, and use. Changes that create a
false sense of historical development,
such as adding conjectural features or
architectural elements from other
buildings, shall not be undertaken.

(4) Most properties change over
time; those changes that have ac-
quired historic significance in their
own right shall be retained and pre-
served.

(5) Distinctive features, finishes, and
construction techniques or examples
of craftsmanship that characterize a
historic property shall be preserved.

(6) Deteriorated historic features
shall be repaired rather than replaced.
Where the severity of deterioration re-
quires replacement of a distinctive fea-
ture, the new feature shall match the
old in design, color, texture, and other
visual qualities and, where possible,
materials. Replacement of missing fea-
tures shall be substantiated by docu-
mentary, physical, or pictorial evi-
dence.

(7) Chemical or physical treatments,
such as sandblasting, that cause
damage to historic materials shall not
be used. The surface cleaning of struc-
tures, if appropriate, shall be under-
taken using the gentlest means possi-
ble.

(8) Significant archeological re-
sources affected by a project shall be
protected and preserved. If such re-
sources must be disturbed, mitigation
measures shall be undertaken.

(9) New additions, exterior alter-
ations, or related new construction
shall not destroy historic materials
that characterize the property. The
new work shall be differentiated from
the old and shall be compatible with
the massing, size, scale, and architec-
tural features to protect the historic

integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: improper repointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of certification. For further information on appropriate and inappropriate rehabilitation treatments, owners are to consult the Guidelines for Rehabilitating Historic Buildings published by the NPS, "Preservation Briefs" and additional technical information to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's Standards for Rehabilitation are available from the SHPOs and NPS regional offices. Owners are responsible for procuring this material as part of property planning for a certified rehabilitation.

(d) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the Secretary will consider such extreme intervention as part of a certified rehabilitation if:

(1) The necessity for dismantling is justified in supporting documentation;

(2) Significant architectural features and overall design are retained; and

(3) Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

Section 48(g) of the Internal Revenue Code of 1986 exempts certified historic structures from meeting the physical test for retention of external walls and internal structural framework specified therein for other rehabilitated buildings. Nevertheless, owners are cautioned that the Standards for Rehabilitation require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, i.e., external walls that detract from the historic character of the structure such as in the case of a nonsignificant later addition or walls that have lost their structural integrity due to deterioration, may be certified as meeting the Standards for Rehabilitation.

(e) Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the Secretary for Federal tax purposes. The Secretary's Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located.

(f) The qualities of a property and its environment which qualify it as a certified historic structure are determined taking into account all available information, including information derived from the physical and architectural attributes of the building; such determinations are not limited to information contained in National Register or related documentation.

§ 67.8 Certifications of statutes.

(a) State or local statutes which will be certified by the Secretary. For the purpose of this regulation, a State or local statute is a law of the State or local government designating, or pro-

viding a me of, a histori includes: an that contain the certifica ute must c substantially, preserving a ties of histo trict. To be the statute a duly design a review bc power to re to structure within the or districts ute except t tal entities under the body.

(b) When statutes will tricts in spe tary encour notify and local official quest for cer

(c) State e authorizes l nate, or pr with a meth district or d unless acco that imple State law, which design tricts and c plementing fied. If the contains pr the intent designated enabling leg fied. When exists, it m local statu thorty can

(d) Who certification: may be ma ed Official enacted th thorized re shall certifi is authoriz or local go certification



REGULAR MEETING OF MAYOR AND COUNCIL, KENSINGTON, MARYLAND
June 30, 1997

The Meeting was Called to Order at 8:10 p.m. with Mayor Stuart and Council Members Basle, Dedes, Ritzmann and Wagner present. The Pledge of Allegiance was recited.

Two issues will be added to the May Minutes as printed: 1.) a citizen asked the status of paving St. Paul St. and 2.) inquired about proposed plantings on the Town lot on N. Kensington Pkwy. These two items will be added to the May Minutes as part of the record. Approval of the May minutes will be deferred until these additions are incorporated.

*amendments
to May Mts.
should have
been under
NEW BUSINESS*

WORKSESSION: at the worksession of Mayor and Council on June 9 at 7:30, the Mayor and all Council Members and the Town Administrator were present and the following issues were addressed:

- The project list was reviewed and updated;
- The May Minutes were reviewed for corrections and additions;
- The Council concurred on the details of the new street signs using the new Town Logo;
- Mayor Stuart updated the Council on the Armory Committee Meeting. The committee is developing a wish list for the next stage of renovation. It will also pursue appealing the decision of Maryland Historic Trust on window repair.
- Council Member Ritzmann updated the Council on the Sign Committee meeting. The committee is reviewing the proposed changes in the Montgomery County Sign Ordinance.

STAFF REPORT: Pat McAuley

- The Armory Committee met on June 3 and discussion included finalizing Phases I and II of the renovation, window replacement/repair, and prioritizing further work.
- The Revitalization Committee met on June 18. Washington Gas pipe replacement on Howard Ave. and tree selection were among topics discussed.

BUILDING INSPECTOR'S REPORT: Chris Bruch

- Permits issued in June: Deck at 3413 Plyers Mill Rd., 2nd floor dormer at 3501 Farragut Ave., fence at 10610 St. Paul St. and porch at 3702 Dupont Ave.
- The Town will ensure that Kensington Court complies with all agreements required by MNCPPC.

UNFINISHED BUSINESS

- Armory Window Replacement: Chris Bruch, Armory Committee, presented sample windows that could be used to replicate the current ones. After meeting with Richard Brand, Maryland Historical Trust, the Town was under the assumption that replacement windows would be acceptable. However, recent correspondence indicated that the Trust wants the current windows repaired. There was considerable discussion on the two options. Chris presented a chart comparison of window options. Economics is an important consideration. Some of the Armory Committee will visit sites in Baltimore and the University of Maryland to see examples of both repairs and replacement of similar windows.
- NEKCOM Status: State Highway Administration has committed \$40,000 for a concept plan for improvements to Metropolitan Ave. Funding for these improvements will be competing against other communities. Council Member Dedes will now serve on this committee.
- Sign Committee: Kerry Thompson reported that the committee met on June 12 to review the proposed Mont. Co. Sign Ordinance. The group found many parts of the document confusing. At its next meeting, the committee will start to draft a proposed more comprehensive Town Ordinance.
- "Storage of Motor Vehicles": It was proposed, seconded, and passed unanimously to amend this ordinance as Introduced at the May Town Meeting.

NEW BUSINESS

- Variance Request for Lot 9, Block 4, R.B. Detrick's Subdivison: after considerable discussion and input from neighbors, Council Member Ritzmann moved to grant the side lot setback variance for the proposed residence at the northeast corner. Seconded and passed unanimously. Stormwater Management will be addressed as part of the permitting process.
- Concrete Plant: there have been rumors circulating that the owners of the property are planning to upgrade the plant into a "state of the art" operation. The Town has received no information on this nor have the owners applied for a demolition permit

REGULAR MEETING OF MAYOR AND COUNCIL, KENSINGTON, MARYLAND
JULY 28, 1997 8:00 P.M.

The Meeting was Called to Order at 8:00 p.m. with President Pro Tem of the Council Basle, and Council Members Dedes, Scanlon and Wagner present. The Pledge of Allegiance was followed by unanimous approval of the June minutes as printed and amended May minutes as printed.

ORGANIZATIONAL MEETING OF MAYOR AND COUNCIL: July 7, 1997, 7:30 p.m.: Mayor Stuart, Council Members Basle, Dedes, and Scanlon and Administrator McAuley were present.

- Mayor Stuart executed the Oath of Office to newly elected Council Members Dedes and Scanlon.
- Council present unanimously elected Council Member George Basle President Pro Tem of the Council.
- The Mayor encouraged Council to be involved in areas they show a special interest in.
- Former Council Member Ritzmann reviewed his prior roles on Town appointed committees. He was a Council representative on the Sign Committee and NEKCOM but he will no longer serve on these committees. He will continue to participate on the Commercial Revitalization Committee.

WORKSESSION OF MAYOR AND COUNCIL: July 14, 1997, 7:30 p.m.

- Mayor Stuart and Council Members Basle, Scanlon and Wagner were present and the following issues were addressed:
 1. June minutes were reviewed for corrections and additions;
 2. The project list was reviewed and updated including:
 - a.) letters concerning the proposed Washington St./Connecticut Ave. signal should be forwarded to Senator Chris Van Hollen
 - b.) Pizza Hut Lights: the County needs to get involved because the distracting lighting is against County Code
 - c.) American Self Storage: a meeting is scheduled for Friday, July 16 with Mr. Duggin and his attorney

d.)Mont. Co. Group Home Legislation: the Council recommends that it does not support as drafted. Council Member Scanlon will write a memo addressing the Council's objections

e.)Illumination for new street lights for Howard Ave. Commercial Revitalization Project: Council wants spec sheets on both metal halide and high pressure sodium before making a choice; it will await a recommendation from the Commercial Revitalization Committee

f.)Three Way Stop at Howard Ave./Fawcett St.: Options are for signage or speed bumps; Council Member Scanlon will research this to include the merchants' input

STAFF REPORT: Pat McAuley

- The Armory Committee met on July 21 and discussed their "wish lists" for future phases of the renovation. The Committee will continue to press for replacement rather than repair of the windows. Members will attempt to locate a facility where repair of similar windows has been accomplished. *See update by Chris Bruch under Unfinished Business.
- The Commercial Revitalization Committee met on July 23 and agreed unanimously to approve the Shade Master Honey Locust as the street tree for Howard Ave. and metal Halide as the illumination for the street lights.
- State Highway Administration engineers and landscape planners have begun their feasibility study for the streetscape improvements along Metropolitan Ave. Maryland Department of Transportation staff has indicated that a walkway from St. Paul St. to the north platform of the train station can be funded through this agency.

BUILDING INSPECTOR'S REPORT: Chris Bruch

- The Town has not yet received applications for building permits for the Courts of Kensington townhouses that have property within Town limits. Forms will be forwarded to the builder.

UNFINISHED BUSINESS:

- Illumination for new street lights on Howard Ave.: Marian Hershenson, Project Manager for the Howard Ave. Commercial Revitalization Project, Mont. Co. Dept. of Housing and Community Development, presented a comparison of halide and sodium illumination for the lights. Halide lights must be replaced more often and may require more poles but they emit a more pleasing color of illumination.

- Choice of street trees on Howard Ave.: Honey locusts are favored. There are already a number of this species in Kensington, they are lacy and diffuse with few droppings and they tolerate salt, heat and compaction..
- In determining the species of street trees and street light illumination the Council unanimously passed the following resolution: Be It Resolved by the Council of the Town of Kensington that it supports the recommendations of the Kensington Commercial Revitalization Committee.
- Armory Window replacement/repair update: Chris Bruch, Armory Renovation Committee Representative, reported that the architect, mentioned at the previous meeting as a source for seeing similar windows that have been repaired on a building in Baltimore, was contacted. In the course of this project he had produced five mock ups for repairs but ended up replacing the windows. The committee cannot find a restoration project to visit, nor can Maryland Historical Trust provide an example of a repair project. All windows in the Armory will need to be addressed. New windows would have a removable handle so that only authorized persons could open/close them. Fixed windows would be less expensive, but there would be no opportunity to enjoy fresh air during a passive event on a nice day.
- Silver Creek Flooding: a letter sent to Edgar Gonzalez, Chief, Division of Transportation Engineering, in December was then followed up by a second letter but the Town has yet to receive a response. It was suggested that a letter be sent to Graham Norton, Director, Mont. Co. Public Works and Transportation.
- American Self Storage: Council Member Dedes asked that the Council go on record directing a response from Stephen Johnson, Town Attorney, to Mr. Hillman's, American Self Storage Attorney, request for documents. Council Member Scanlon will contact Mr. Johnson and approve any correspondence before it is sent. Mr. Johnson will be asked to forward a progress report.

Mr. Scanlon moved and it was seconded and passed unanimously to reiterate the Town's position on this issue to the citizens.

- John Stewart, Chair of NEKCOM, reported that the State Highway Administration has not responded to a letter sent by the committee.

NEW BUSINESS

- Roy Rogers' conversion to McDonalds: a public hearing will be scheduled for September. Chris Bruch will secure a set of plans.
- A citizen submitted the following to be a part of the minutes:

“residents should be aware that a new law to address loud car stereos is now in effect. This obnoxious fad not only does irreparable damage to the driver’s hearing, but disturbs everyone, especially babies, elderly, and ill people. It also renders the driver incapable of hearing emergency vehicles. The fine for an offense is \$50, and possible points against a driving record. Citizens are encouraged to obtain and report the license tags of any offenders to the police, who will soon initiate a crackdown of this irresponsible nuisance.”

- Richard Cantor, Builder of Courts of Kensington will be asked to provide the Council with information as to why certain trees were removed and why permits have not been secured.
- David Gregg has not yet removed a tree that was marked to be cut down last fall. The staff will follow up on this.
- Council Member Scanlon will educate himself on the Town lots under part of the HOC facility.

There being no further New Business the meeting ended at 9:45 p.m.

Respectfully submitted,

Patricia McAuley, Town Administrator

The next Town Meeting is August 25, 8:00 p.m. The next worksession is September 8, immediately following Public Hearing

PUBLIC HEARING

Representatives from McDonalds present plans for the conversion of the Roy Rogers on Connecticut Ave. on September 8 at 7:30 p.m. All interested persons should plan on attending.

A-4771
Request Intervener
status.

Write Brad to request
Intervener status

: Steven Tarabull
BOA 100 ND Ave
Rockville 20850

People affected by the
outcome - Show
how they are
affected -
Changes the district.

June 15 July 6 1989
3925 Prospect f
Frank Murray July 21
HPL # 31/6
Aug 17
3929 Prospect.

01018977

Lots 26 + 27 Kenozym PK

III R

Parcel size 25,875

8/24/95

libor/Exo 13582/0221

13/015