

Preliminary
Consuet
(2nd appearance)

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY HISTORICAL PRESERVATION COMMISSION

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A hearing in the above-entitled matter was held on
November 26, 1997, commencing at 7:37 p.m., in the MRO
Auditorium, 8787 Georgia Avenue, Silver Spring, Maryland,
before:

GEORGE KOUSOULAS, CHAIRPERSON
MARTHA LANIGAN, VICE-CHAIRPERSON
PAULA BIENENFELD
SUSAN SODEBERG
STEVEN SPURLOCK
DAVID HONDOWICZ
THOMAS TRUMBLE

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1 chain link, or do you mean --

2 MS. EVERETT: No, I meant --

3 (Laughter.)

4 MR. COOK: Either enamel aluminum, or --

5 MS. EVERETT: Black.

6 MR. COOK: -- we were hoping that black iron,
7 something like that.

8 MR. SPURLOCK: Sometimes, people say things, and
9 you hear what you want to hear, but you don't always --

10 MR. COOK: Yeah, right.

11 MS. EVERETT: I'm sorry, I should have been more
12 specific. I'll have that pinned down before the next
13 meeting.

14 MR. KOUSOULAS: Okay.

15 MS. EVERETT: Thank you very much for your time.

16 MR. COOK: Thank you.

17 MS. EVERETT: Good night.

18 MR. KOUSOULAS: Okay. The next case is a
19 preliminary consultation in Kensington.

20 MS. ZIEK: The -- this preliminary consultation was
21 -- is part of an ongoing investigation of the potential for
22 new construction at 3922 Baltimore Street. As -- as you will
23 remember, the applicant had come to the Commission with an
24 actual Historic Area Work Permit in April for -- for the
25 proposal to demolish the existing garage and build a new

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1 house. And that particular proposal was reviewed and
2 essentially deemed as just too large for the site.

3 The applicant has been working with two
4 perspectives, one that -- that the actual design of the
5 structure is a factor, so that the two proposals in this
6 preliminary consultation, Proposals A and B, are both
7 structures that are designed with a different vocabulary,
8 moving away from the -- the vernacular -- the Victorian
9 vernacular, into a more of a 20th Century style. And that
10 has been one approach that the applicant is working on.

11 And then, of course, there's -- there's the issue
12 of size. And -- and both proposals, A and B, have responded
13 to the Commission, to some degree, in the extent of reducing
14 the -- the size, or the height, for example, of the
15 proposals.

16 The Proposal A is proposed to be 24 feet, six
17 inches from the -- the first floor -- finished first floor to
18 the -- to the roof. And B is proposed at 22 feet, six inches
19 from the finished first floor to the roof.

20 I looked at both of these proposals from the basic
21 framework, which we all have to work with for Kensington,
22 which involves Secretary of the Interior standards, the
23 amendment for the designation of the Kensington Historic
24 District, the National Register information about how to
25 apply the criteria -- National Register criteria, because

1 this is a National Register historic district as well, and
 2 the -- the planning document, a Vision of Kensington, which
 3 has been formally adopted, both by the HPC and by the Town of
 4 Kensington for planning guidance, in terms of evaluation of -
 5 - of proposals such as this.

6 So, using all of that material, I'll -- just
 7 basically skipping to my recommendations, because I know
 8 there's a lot of people here tonight to speak about this, and
 9 -- and the issues at hand.

10 I still feel that these proposals, both A and B,
 11 are -- are both too large. The applicant, in both of these
 12 proposals, is proposing not only a -- a single family house,
 13 but also, a two-car garage with -- at the very rear of the
 14 property, with the extensive paving, or the extensive
 15 driveway that would be necessary to provide access to the
 16 two-car garage.

17 Proposal A would have, with the house, 17.8 percent
 18 lot coverage, or property coverage, and with the garage, the
 19 percentage would be 23.4 percent. Proposal A is somewhat
 20 smaller, and basically, drops about two percentage points, so
 21 that what I end up feeling is that the applicant is -- is
 22 really starting to get a sense of some of the issues that are
 23 of major concern, both to the Town and to the Commission.
 24 But that neither of these proposals are there.

25 Another aspect of A, I feel, is essentially a -- a

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1 redressing, to some degree, of the first proposal. And --
2 and I didn't give it that much consideration, based on the --
3 the size, the massing. It's -- it's very large, and -- and
4 still would occupy much too much of the site.

5 And Proposal B, on the other hand, starts to do
6 something interesting, in the sense that it's -- it is a one
7 and a half story structure, at least from the front
8 elevation. Although, the -- the rear elevation is extensive.
9 The -- the house is still extensive. There is no way of
10 getting around that in -- in Proposal B. It's still a very
11 large structure being proposed.

12 But again, the applicant is moving closer to
13 something with a -- moving it down to one and a half story,
14 and moving the siting of the structure back on the lot, which
15 starts to respond to some of the concerns about the -- the
16 side gardens and the -- the setting of the original
17 structures in Kensington, which is -- is really one of our
18 main considerations.

19 Let's see, the -- the other thing to note is that
20 neither option really is -- the general concept for both
21 Proposal A and B is for a full-fledged single family
22 residence. And I think that that, as a concept, really needs
23 to be addressed, because the building pattern in Kensington
24 calls for primary resources and ancillary structures.

25 And I think that it's clear, as the applicant is

1 trying to move to a smaller structure, neither Proposal A nor
2 Proposal B achieves the character of an ancillary structure,
3 ancillary to the primary structures. So, this is a point
4 that we have discussed with the applicant, and I think that
5 you'll want to discuss further.

6 And unless there are questions about my staff
7 report, I think that we should have the people who are here
8 to speak tonight speak.

9 MR. KOUSOULAS: Any questions? All right. Would
10 the applicant like to come up?

11 MR. HOOBLER: When you phrase it that way, it makes
12 it a little harder.

13 MS. ZIEK: I'd like -- I'd like to note, I have
14 slides here tonight. If -- if, at any point, anybody thinks
15 that will be useful, I'll be happy to show the slides.

16 MR. KOUSOULAS: Maybe -- maybe down the line.

17 MS. HARRIS: Hi. I'm Pat Harris, with Wilkes
18 Artis, representing Carey Hoobler, the applicant, this
19 evening. As staff said, the original HAWP was before you in
20 April, and that was denied. That was for a -- a single
21 family building that had a footprint of 1,716 square feet.

22 Just to provide a little background, after that
23 meeting, Carey met with staff, both at the site and then,
24 also, at staff offices, to discuss the comments that came up
25 during the HAWP hearing, or alternatives, and sort of to try

1 to set some parameters as to where he should focus his
2 efforts in -- in redesigning the proposed house.

3 What he -- he went away from that meeting and came
4 up with both concepts A and B, which are before you and your
5 staff report. Then, we had the chance to review the staff
6 report that was issued. And then, about a week ago, we met
7 with staff, again, for the purpose of gaining additional
8 guidance. I mean, we're very appreciative of the staff's
9 input and the Commission's input. And our objective of that
10 meeting was to try to get more guidance, sort of more
11 definition to some of the issues, and hopefully, a consensus
12 of the design.

13 To phrase it another way, the real purpose of the
14 meeting, obviously, the -- the Commission feels that there's
15 a minimum size house, which -- or structure which would be
16 acceptable to you, and at the same time, there's a certain
17 size house that would be feasible for the applicant to go
18 forward with. It was our hope that somehow we would meet.
19 Obviously, we didn't.

20 And I think one of the thing that is important is
21 what staff brought up, the concept of ancillary, and what
22 that means. In your staff report, there are two designs,
23 both Design A and Design B. I -- we're comfortable with the
24 fact that, for purposes of this discussion, we can focus on
25 Design B, which is a smaller building. It's set back

1 further.

2 And as -- and as staff had pointed out, that it
3 reads from the front of the house -- from the street, as a
4 one and a half story structure. And as one of the staff --
5 one of the Commission members mentioned in the previous case,
6 that the fact that you can see the house on the -- in the
7 previous case, you can see the house from all sides, there
8 was still some recognition that the rear of the house is the
9 rear of the house, and that should be kept in mind.

10 What I would like to do is ask Carey to go through
11 the chronology, and explain, in more detail, the design. And
12 then, hopefully, as I said, get further feedback from the
13 Commission.

14 MR. HOOBLER: Do you think it -- my name is Carey
15 Hoobler. I'm the applicant. Do you think it would be
16 appropriate to -- to give you guys a chance to just look
17 through the four pages that I gave you and -- and then,
18 perhaps, even address questions? Or -- or would you --

19 MS. BIENENFELD: Yeah, I think it's --

20 MR. HOOBLER: Okay.

21 MS. BIENENFELD: Yeah, I'd like to have a minute to
22 look at it.

23 MR. HOOBLER: Okay. At the same time, I'm going to
24 drop off six photographs for you to look at. Two are in-fill
25 from the '20's and '30's. And four are in-fill that has

1 happened subsequent to that. So, you'll be able to figure
2 out which are which.

3 MS. SODEBERG: Well, while we're reading that, I do
4 have a question of the staff. Since this was a garden
5 suburb, planned railroad suburb, and when the lots were laid
6 out and the houses planned, they were planned with a
7 landscape plan. Because of this, would we be able to ask for
8 a landscape plan with the house? A plan proposal?

9 MS. ZIEK: If I understand what you're saying, you
10 -- you're wanting to know if Carey could provide to you a
11 landscape plan?

12 MS. SODEBERG: With the house.

13 MS. ZIEK: With this house proposal.

14 MS. SODEBERG: Because if he could, part of the
15 question here is that the house have -- have tall trees in
16 front of it, that it be screened from the street.

17 MS. ZIEK: I think that you can ask anything that
18 you think you'll need to further the proposal and the -- it
19 would be something that you and the applicant might want to
20 negotiate, or see what's -- you know, what's ever useful to
21 the questions at hand.

22 MR. HOBLER: If I can -- would you like me to
23 respond to that, at -- at this point? When I met with Robin,
24 Robin suggested I look at a project in Chevy Chase that had -
25 - had been landscaped. And I did go by that. I believe it

1 was 14 West Lenox, that was address. What you're suggesting,
2 I think, is a good idea. And I think that's why the Proposal
3 B is a good one, because I think it lends itself to what
4 you're suggesting.

5 MS. SODEBERG: Yes, I would appreciate that, but I
6 do think it's -- you should keep in mind, though, that Chevy
7 Chase is a more modern suburb than Kensington. And that it's
8 a streetcar, as --

9 MS. HARRIS: One of the things we'd like to do
10 though, is -- I mean, because I think that landscaping
11 certainly does present us an opportunity here, is to hear
12 suggestions as to what you think would be appropriate, in
13 terms of landscaping.

14 MS. SODEBERG: Well, Chevy Chase is more
15 intensively landscaped, every planting was -- was planned,
16 down to species and size. The Kensington type of railroad
17 suburb is much looser. There were landscape plans, but they
18 weren't that detailed. It was more space for garden. And
19 you plan your own garden. Although, of late the street --
20 the streetscapes, the plant -- the trees along the streets,
21 themselves, were planned.

22 (Pause.)

23 MR. HONDOWICZ: Robin, I'm just -- an idea -- a
24 question just popped to mind in terms of getting down at
25 least to a -- to a target property coverage that we were

1 talking about that might be acceptable to us, just in an
2 absolute sense, before we talk about trying to work something
3 out with the applicant.

4 My understanding is the current coverage that is
5 exist -- that exists at the site now is nine percent. And
6 from what I'm reading, if I interpret that correctly.

7 MS. ZIEK: No.

8 MR. HONDOWICZ: No?

9 MS. ZIEK: It's approximately five percent --

10 MR. HONDOWICZ: Five percent?

11 MS. ZIEK: -- to six percent. Now, that's -- I can
12 try to find that exactly. But it's -- it's approximately --

13 MR. HONDOWICZ: Okay, just -- well, it says, oh,
14 okay. It's -- so, the -- you mentioned your --

15 MS. ZIEK: Tell me what you're looking at?

16 MR. HONDOWICZ: Yeah. Yeah.

17 MS. ZIEK: Please?

18 MR. HONDOWICZ: I'm sorry. Circle 5. The bottom,
19 very bottom, there's a staff discussion on Proposal A, but I
20 believe it says this on both, it says, however, the proposed
21 property coverage is still far above the -- that recommended
22 for primary resources in this district. So --

23 MS. ZIEK: That is an average figure, and that
24 average figure of nine percent appears in the Vision of
25 Kensington as part of the planning document. It was -- and I

1 MS. ZIEK: Correct. And also, the Baltimore Street
2 has a very, very high percentage of primary resources. And
3 you can see that that average figure for primary resources in
4 the district is ten percent.

5 And then, that figure, the 15 percent, which is the
6 entire district, includes, is my understanding, all of the
7 properties in the historic district, whether they are
8 primary, secondary, or non-contributing. And that's
9 important, because Baltimore Street is a remarkable street in
10 Kensington because of the high percentage of primary
11 resources, the fact that it is, essentially, and intact
12 street with this high percentage of primary resources, and
13 very low percentage of intrusions in the district. That's
14 why we've been looking at the nine percent figure.

15 MR. TRUMBLE: Without trying to prejudge the -- the
16 battle of the percentages, which I'm sure we're going to hear
17 this evening, I think it is important to point out that there
18 is a range. And that -- that nine percent is an average, is
19 the mid-point of some range. So that there are presumably
20 some number of houses which have a considerably larger lot
21 coverage, and then, there are some that are smaller.

22 And one of the things that would be interesting to
23 know is whether or not the proposed site that Carey Hoobler
24 is going to give us falls within that range.

25 MS. ZIEK: I think that that is definitely an

1 under the blue line, that counts the house I'm proposing, its
2 -- its porch coverage, as well, and the garage.

3 And then, for 3920, I have the -- the garage that
4 would be moved, that's part of the house now, we've discussed
5 before, a shed that's there, and the house, itself.

6 And if you look at the green line, you'll see that,
7 in the lot area, that even after taking one of the lots out
8 of the equation, and giving it to 3922, if you will, we're
9 looking at .40 acres, which is a little bit under the
10 average. For lot coverage, we would be just a little bit
11 above the average, at 11 percent. The front yard setback, of
12 course, stays the same.

13 And the building separation, we would be a lot less
14 than what is noted here at the minimum, except I did notice
15 that there is a house across the street that I'm assuming is
16 a primary resource that is only about 15 feet from its
17 neighbor. So, I thought since it was on the same street, and
18 very close to each other, that it was appropriate to note
19 that. And so, if that is the case, then we would be
20 exceeding what that distance is by about seven feet.

21 However, I would remark that that is the biggest
22 decline, if you will, for the primary resource here is that
23 it does lose a pretty significant side yard setback on the
24 one side where I would be building the house. However, I
25 would note that we are intending to set this house back, and

1 one property on that street that was located 15 feet away
2 from another one? You don't -- do you know the address of
3 that property?

4 MR. HOOBLER: No, I don't. But it's --

5 MS. SODEBERG: Just across the street from --

6 MR. HOOBLER: It's across the street, two doors
7 down.

8 MS. SODEBERG: So, that would probably --

9 MR. HOOBLER: Towards Connecticut Avenue.

10 MS. SODEBERG: -- be 3913, which is a new
11 construction.

12 MR. HOOBLER: Yes, and the -- it's the distance
13 between that and its house -- the house to its right, as you
14 face it.

15 MS. SODEBERG: Right.

16 MS. ZIEK: That's very clearly shown on Circle 24,
17 I think that figure ground gives you the real -- a good
18 overview of -- of the layout on Baltimore Street.

19 MR. KOUSOULAS: Would anyone like to comment on
20 Proposal B, whether it may or not be appropriate, based on
21 all this dimensional stuff we've been going over?

22 MR. SPURLOCK: I'd like to hear from the other
23 speakers, if no one has any objection.

24 MR. KOUSOULAS: Okay.

25 MS. HARRIS: Will we have an opportunity to come

1 back and further comment, if necessary?

2 MR. KOUSOULAS: Oh, yeah, definitely. But since we
3 do have so many speakers --

4 MS. HARRIS: That's fine.

5 MR. KOUSOULAS: -- it probably makes sense to --

6 MS. HARRIS: Okay.

7 MR. KOUSOULAS: -- get all our comments in front of
8 us. Barbara Wagner?

9 MS. WAGNER: Hi. I'm Barbara Wagner. And I'm the
10 Chair of the LAP. And I guess I would like to call your
11 attention to the letter that I had submitted, it's dated --
12 dated November the 11th. And the LAP did meet and discuss
13 these new proposals. And we calculated percentages greater
14 than the average, because I think that that really identifies
15 what some of these issues are.

16 And so, for Proposal B, there's 75 percent greater
17 lot coverage, without the garage. And if you add his garage,
18 it's 133 percent greater than the average lot coverage in the
19 district. And I think that's very significant.

20 I guess I also wanted to talk, just a little bit,
21 about this district. It is a National Register District. It
22 was designated a National Register District about 20 years
23 ago. It was either 1977 or 1978.

24 And one of the houses that is listed in the
25 National Register application is the house directly next door

1 to this proposed property. It's 3924 Baltimore Street. It
2 is individually listed in the National Register application.
3 It's one of our most significant houses.

4 And about 10 years ago, I don't think anybody was
5 on the Commission, at the time, there were similar issues in
6 Kensington at Carroll Place. And there -- there was a
7 proposal to put a house on platted lots on each side of
8 another house that had been listed in the National Register
9 application.

10 And during that controversy, there were multiple,
11 multiple houses submitted, similarly to this. And at that
12 point in time, the Maryland Historical Trust wrote to the
13 Chairman of the Commission and they say that, in this
14 location, there are Queen Anne and four square houses, with
15 large lawns and set back from the street in a wooded, open
16 setting. So, yes, it's a different location, but it's very
17 similar.

18 There is uniformity among the houses, a quality of
19 openness, and a rhythm to the streetscape, and a defined
20 sense of time and place. These are the factors which were
21 cited as the basis for significance in the National Register
22 nomination for the district. The district is a -- is
23 significant, primarily for the collection of late 19th and
24 early 20th Century houses, which stand in a turn of the
25 century, garden-line setting of curving streets, tall trees,

1 and the mature shrubbery.

2 The houses which exhibit the influence of Queen
3 Anne, Shingle, East Lake and Colonial Revival styles have a
4 uniformity of scale, design and construction materials that
5 combine with their juxtaposition and placement upon the
6 gently sloping terrain to create a significant urban
7 neighborhood which still retains much of its early 20th
8 Century environment.

9 They go on to say, it appears that any new
10 construction on the two lots in question, and in our case,
11 it's one lot, but it's so similar, would have some degree of
12 adverse effect on the qualities from which the district
13 derives its historic significance.

14 In this case, they write, the setting of the house
15 at 10234 Carroll Place, with its large yard and extensive
16 shrubbery, by the proximity of new buildings on either side -
17 - but this would be on either side of a primary resource --
18 the historic streetscapes of large wooded lots, and the sense
19 of time and place conveyed by this district would be changed
20 by the introduction of greater density.

21 The Kensington Historic District previously has
22 experienced some development that is incompatible with the
23 characteristics that qualified the district for listing in
24 the National Register. However, that development has not
25 been of sufficient magnitude to jeopardize continued listing.

1 We are not in the position to judge whether the proposed
2 development would alter that situation, but a significant
3 trend in its direction certainly would.

4 And we have had more in-fill. One of the houses
5 that we just discussed tonight, where there is a very small
6 distance between houses, is some of that in -- in-fill. So,
7 if we add more in-fill, directly across the street, I would
8 suggest to you that we are getting to the point where our
9 National Register designation is in jeopardy. Thanks for
10 considering that.

11 MR. KOUSOULAS: Thank you. Julie O'Malley?

12 MS. O'MALLEY: Hi. I'm Julie O'Malley on Frederick
13 Avenue in Kensington. And I'm speaking tonight for the
14 Preservation Committee of the Kensington Historical Society.
15 I've circulated a letter. Unfortunately, I didn't get it in
16 before tonight. So, I'm just going to hit a little of the
17 points I made in the letter.

18 Due to the specific location where homes are
19 surrounded by open space with ample gardens, it would be
20 extremely difficult to build a home which would neither
21 disrupt the rhythm of the street, nor take away from the
22 environmental setting, major factors in Kensington's
23 designation.

24 Our committee concurs with the staff's report. The
25 scale is inappropriate for the lot size. The percentage of

1 lot size -- lot coverage recommended by the Vision of
2 Kensington should be used to guide new construction. While
3 realizing that the percentages cited as appropriate only
4 pertain to the house and the garage, the actual impact would
5 be even worse than those measurements indicate.

6 Because of the difficulty of building a large house
7 on 50-foot front parcel, the builder has been forced to put
8 in a long driveway, extended the entire depth of the
9 property. Considering the driveway, as well, the builder
10 proposes a total of over 4,000 square feet of coverage on an
11 -- and this is an error, it should be 8,625 square foot lot.

12 It's inconceivable that this amount of coverage
13 could be consistent with the green space and landscape
14 development characteristic of this garden suburb historic
15 district. These proposals would cover almost half of the
16 lot, with asphalt and other building materials. This would
17 certainly be a threat the integrity of our district, and
18 extremely difficult to justify.

19 I would also like to mention that where he has
20 cited on Page 4, any further reduction of size and character
21 to produce an ancillary structure would potentially lack the
22 quality most people want in a home.

23 My first home in Kensington was on Armory Avenue,
24 and it was one story, two rooms wide, and I lived there
25 happily for six years, till I moved five blocks to another

1 home. But there are other homes in Kensington in the
2 historic district that are much smaller than this.

3 MR. KOUSOULAS: Helen Wilkes?

4 MS. WILKES: Hi. I'm Helen Wilkes. I'm a member
5 of the -- I'm sorry, I'm an adjacent property owner. I am an
6 architect. And I'm also President of the Kensington Land
7 Trust. And I would like to make a few points I think are
8 very important to this case.

9 I would urge you to look long and hard at Circles
10 22 and 24, which give you the solid void relationships here.
11 They've been mentioned, previously. It just seems so
12 glaringly obvious when one looks at these figure ground
13 pictures what a mistake an in-fill building would be in our
14 historic district.

15 To cite the house at 3913, the in-fill there, it is
16 galling to me that it would be considered as anything but an
17 example of what not to do to the historic district in
18 Kensington. It is a precedent only in the sense that it was
19 a terrible thing to do. It's a pretty enough developer
20 house, but it is a very bad precedent.

21 And the Maryland Historical Trust has cited that
22 type of in-fill in Kensington as -- as endangering our
23 historic district status, as mentioned by Barbara Wagner.

24 I have spoken with Michael Day, at the Maryland
25 Historical Trust, about this case. He has not reviewed the

1 case in substance, nor has anyone else there. But I am
2 certainly prepared to take this case to them, because it is
3 that important to the -- our historic district. And I am
4 prepared to get their input on this.

5 I'm equally prepared to bring the builder -- the
6 proposed -- the proposal -- the proposed builder, the owner
7 of the property, to meet with representatives of the -- the
8 Maryland Historical Trust, to meet with members of the
9 Maryland Environmental Trust, the Kensington Land Trust, the
10 Kensington Historical Society, whoever and whatever it takes
11 for these people to understand why this is so critical to our
12 historic district, and why it is so dangerous a precedent and
13 so threatening to our -- our historic district status.

14 I -- I'm -- even if I weren't an adjacent property
15 owner, here, it just -- it is galling to me that someone
16 would come in and attempt to destroy the very qualities that
17 they are attempting to exploit in the historic district,
18 which are the -- the green space and the environmental
19 setting.

20 In -- I mean, I would -- I would draw your
21 attention, also, to an indiv -- I'm sorry, I'm having trouble
22 speaking tonight -- a Vision of Kensington, the passage on
23 Page 21, which refers to the houses to the east and the west
24 of Connecticut Avenue, sited along the curvilinear streets,
25 many of the structures being placed in the middle of two

1 lots, with large open space to either side of the structure.
2 And the mature trees dotting the environment, the garden --
3 gardens which encompass the historic resource and
4 characterize the residential evolution in this section of the
5 district, and consequently, have become intrinsic character
6 defining features.

7 I would point out, also, that there's a very, very
8 critical difference here in discussing this in-fill lot. The
9 -- the smaller houses that have been built in Kensington, or
10 the houses that have been built historically to 50-foot lots
11 were not built as in-fill houses between two historic
12 resources of greater scale and size.

13 This proposed house is not comparable to those
14 houses in Kensington which were built where there was an
15 historic pattern of development on 50-foot lots. This is a
16 house that is being proposed for a -- a lot that was shorn
17 from an existing historic resource, that was built to three
18 lots.

19 Therefore, the scale issues, the pattern of -- and
20 rhythm of house to open space, is being severely compromised
21 here. It's a very, very different situation than you have
22 where houses were built originally on 50-foot wide lots. And
23 so, the reason this new idea of building the house to look
24 like an ancillary structure is really in response to that
25 very compelling fact.

1 There -- there isn't precedent for building a new
2 house like that in Kensington. But it is an attempt to
3 answer the fact that their -- this is a problem house in this
4 setting. And you cannot disguise the fact that it would
5 destroy the rhythm of that streetscape to have a house built
6 on that lot.

7 I am against building on that lot. I am for
8 helping the applicants come to some sort of closure. And
9 whoever wants to sit out -- down with whomever from the
10 agencies I've mentioned to talk about win/win ways that we
11 might all benefit, the community, the owner.

12 I don't know whether the builder would come away
13 with anything except maybe a better understanding of why it
14 is a mistake to build here. But I offer my part to help
15 bring a better understanding of why this is a mistake.
16 That's all.

17 MR. SPURLOCK: Excuse me, but you -- could you
18 envision any sort of structure built on this lot? Is that
19 what you're saying? Or no structure, whatsoever?

20 MS. WILKES: I have a hard time seeing any
21 structure, whatsoever. And I realize that's a risky thing to
22 say in a public hearing. I recognize the great difference
23 between the -- the property rights argument. I recognize
24 it's a grey area. In this case, I do, with all my heart,
25 believe that it's a -- a serious violation of this historic

1 district to build there.

2 MR. KOUSOULAS: Any other type of questions? Thank
3 you.

4 MS. LANIGAN: Yeah, I have a question. We have a
5 letter before us from Barry Peoples, President of the
6 Kensington Historical Society. Well, it deals with the
7 Kensington -- the Land Trust --

8 MS. WILKES: Right.

9 MS. LANIGAN: -- Conservation Land Trust. That's
10 what I wanted to ask her.

11 MR. KOUSOULAS: Oh.

12 MS. WILKES: Yes. You'd like to know about the
13 reference to the conservation easement idea there?

14 MS. LANIGAN: Yeah. Yeah. If -- I'm interested in
15 finding out if this is at all a possibility.

16 MS. WILKES: Well, Mr. Peoples did not accurately
17 convey what I had -- had offered, in that, we do not -- we
18 have -- first of all, we -- we haven't taken any easements
19 yet, although we are in a position to do that, and we're --
20 are ready, willing and able to receive easements.

21 We're not in the immed -- immediate position of
22 being able to buy a conservation easement. Although we'd
23 like to be able to, we're a very small land trust. And we
24 have very limited resources. And it would mean a major
25 fundraising effort. And I'm not even sure that we could do

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1 build?

2 MS. WILKES: No, of course not. I would never do
3 that.

4 MR. TRUMBLE: But you said you couldn't envision
5 any property on this -- any house on this property.

6 MS. WILKES: That's correct. That's me,
7 personally, speaking.

8 MR. TRUMBLE: But then, how do you go back to the
9 homeowner and say, you know, you have a -- a lot which has
10 buildable --

11 MS. WILKES: Yes.

12 MR. TRUMBLE: You -- that is worth something.

13 MS. WILKES: Yes.

14 MR. TRUMBLE: And essentially, for aesthetic
15 reasons, we're not going to let you build there. I mean, how
16 do you answer that?

17 MS. WILKES: I -- I don't think it -- it's as
18 simple as aesthetic reasons. It's not just aesthetic. It
19 has to do with why does a community work. It -- the
20 arguments are, perhaps, more esoteric. But when you start to
21 disrupt existing patterns that occur in any community, you
22 start to create aberrations that -- just like chaos in any
23 situation in life. They -- they produce visual chaos, which
24 then translates, to my mind, to chaos in terms of the
25 community structure, the community organization.

1 It's just -- it's like trash on the street. It's
2 like, you know, chaos in the classroom. It's something that,
3 you know, you can point to one party or another that's
4 creating the disruption and the problem. And yet, the entire
5 community, or the entire classroom is effected by this chaos.
6 It's visual chaos.

7 And it's more than that. I mean, I can't --
8 obviously, if it were easy to explain, we wouldn't have to go
9 on and on in this hearings about explaining, you know, why
10 this is a problem. But I wish I could. I wish I were far
11 more eloquent on the subject.

12 MR. KOUSOULAS: Ms. Wagner, did you want to add
13 something?

14 MS. WAGNER: I wanted to say that there is --

15 MR. KOUSOULAS: We need to get you on a mic.

16 MS. WAGNER: One of the purposes in the appraisal
17 is that it's very evident to a large number of people in the
18 historic district that houses with their side yards are
19 significantly more valuable because of their aesthetics, and
20 that in many ways, we would like to help this property owner
21 understand that the decrease in value to her primary
22 residence may be greater than any monetary increase that she
23 has received from selling her side yard.

24 The other thing that we need to show with this
25 appraisal is that the value to the primary residence at 3924

1 Baltimore Street will probably be extremely significant. And
2 why do we have a right, because it's a platted lot, because
3 that's the way they did things back in 1890, why do we have a
4 right to devalue other properties in the district?

5 Because it's very clear from the selling prices
6 that the space -- the open space is valued monetarily. And
7 so, we need this appraisal that Barry Peoples has suggested,
8 to put a dollar value on this historic district. It's a
9 meaningful dollar value. And we'd like to educate people
10 about that.

11 MR. KOUSOULAS: Ms. Wilkes, I -- I've got a
12 question. When we look at sort of a hypothetical district of
13 structures, and we say, you know, this is valuable about
14 building this style, front facade, whatever. We do add on
15 and modify these things somewhat. And we pick and choose
16 where we want to do that, and then where it makes the most
17 sense. But we do certainly remove original material. We
18 plug up original openings. And all this work has to take
19 place on the back, sometimes, the -- on the sides. But it
20 does happen.

21 Could you distinguish between that and, say, the
22 legacy of open space in Kensington, where -- is there a way
23 that it can partially happen there? Or -- or not? Do you
24 see what I'm getting at?

25 MS. WILKES: I'm sorry, what can partially happen?

1 MR. KOUSOULAS: Okay. You have a -- this open
2 space in Kensington, which is like the houses I was talking
3 about before. Is there a way to build on pieces of it,
4 however small and however carefully, or is that kind of
5 nibbling a problem in itself? The kind of nibbling away of
6 the existing character that we would accept in houses, for
7 instance?

8 MS. WILKES: I -- I think, when you take the -- all
9 the factors that are -- are listed very -- very coherently in
10 the Vision of Kensington report, it is not any one factor,
11 necessarily, that is the problem. It is not in-fill, per se,
12 that is the problem. Because in Kensington, in fact, there
13 are areas, streets even, where there is an historic pattern
14 of development along the street of 50-foot lots.

15 And so, you don't see as many people coming before
16 you from Kensington in those cases, although there are people
17 who want to see no in-fill in Kensington. Yes, those are
18 much harder to argue. So, on the one hand, you have those
19 possibilities.

20 On the other hand, you see an historic pattern
21 within an historic district, as recently as -- as within the
22 last several years, where in those intact areas like
23 Baltimore Street, where there's an existing rhythm that would
24 be disrupted by this proposal, people add on. People make
25 alterations to the house. And yet, the fabric of the

1 finance it, myself.

2 So, it is -- what we're looking at is not
3 unfeasible. And would be potentially a win/win for everyone.
4 As I mentioned to the builder this afternoon, the only person
5 who may potentially lose is the builder. But everybody gains
6 in their experience. And also, any time you're in business,
7 you understand the risk whenever you're trying to make a
8 given reward.

9 MR. KOUSOULAS: Thank you. Okay. Thank you.
10 Okay. If you'd like to come on up, and is there anybody else
11 here that would like to speak that -- okay.

12 MR. RITZMANN: I'm Councilman Robert W. Ritzmann,
13 the Town of Kensington, 3710 Mitchell Street, Kensington. I
14 wanted to go last, because my tempo is going to change a
15 little bit, and it's going to be very simple.

16 I speak to you tonight, not only as a Councilman,
17 but in behalf of the Mayor and the entire Council of
18 Kensington. I'm President Pro Tem, the Mayor is out of town.
19 That, in effect, makes me Mayor.

20 Shortly -- at the last time we met, there was some
21 confusion about the status of the Vision of Kensington
22 report. There was confusion on our part as to what the HPC's
23 status of it was. And once we got that clarified, the Town
24 Council very quickly adopted the -- the report, so the Coun -
25 - the Town is very much behind this report, which provides

1 The -- the fact that the in-fill at 3913 was
2 mentioned, I mean, we realize from the staff report that the
3 Commission and staff feels like that was a mistake. And the
4 reason that we're going through this exercise now is -- is to
5 come up with an acceptable design that staff and the
6 Commission would not consider a mistake, which is compatible
7 and -- and with the -- with the historic district, and fits
8 in and -- and doesn't upset the rhythm of -- of the street.

9 I don't think -- I mean, that project was desig --
10 was approved after the designation. And although there may
11 be a feeling that that was a mistake, because of the design,
12 I don't think that there should be a precedent of no build on
13 any in -- on any existing subdivided lot.

14 And as -- as the HPC Chair had said, that taken to
15 the logical extreme of no building on in-fill structures,
16 then one could say that a historically designated structure
17 should in no way be modified or added to. And certainly,
18 that's the bulk of this Commission's authority, is to approve
19 that, but make sure that it is compatible.

20 And -- and finally, in connection with the land
21 trust issues, I just wanted to say that I -- we don't re --
22 Wilkes Artis does not represent the existing property owner.
23 Therefore, at this point, I can't engage in any discussion
24 about that.

25 But I would say that we heard some differing

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1 opinions as to whether such an easement or trust on the
2 property -- whether it was feasible or not. We heard two
3 extremes of whether it -- it would, in fact, be feasible.
4 Thank you. Do you want -- do you have additional
5 information?

6 MR. HOOBLER: I want to try to respond to some of
7 the comments that were made. But let me just mention that
8 the six free picture -- the loose pictures that I passed
9 around are really -- are four of in-fill that have been done
10 recently. Probably, within the last 10 or 15 years, on
11 either Baltimore Street or on the same block that 3922 is.

12 I passed those around, and then, I passed, also,
13 two other photographs of houses that are in the same area of
14 -- and they are in-filled. It was done in the '20's or
15 '30's. And what I meant to suggest by that is that I think
16 my Plan B approximates that kind of in-fill much more than it
17 does the -- the in-fill that has happened in the last 10 or
18 15 years. So, I was trying to, at least, conjure up that
19 distinction with those photographs.

20 I'm -- I'm a little bit surprised that the -- that
21 -- that the tack has changed a little bit from some of the
22 folks that are opposed. Before, it -- you know, people
23 weren't -- weren't coming and talking to Jeannie. They were
24 complaining about her garage, or -- or whatever.

25 Now, suddenly, we're talking about having a win/win

1 situation. But I -- I am a little doubtful of -- of whether
2 that's just posturing, or not. When -- when we spoke today
3 with Mr. Peoples, he -- he said that he would provide us with
4 a letter of what he's talking about. However, the letter was
5 provided to you and addressed to you. So, that really we're
6 sort of a little bit still out of the loop. And I'm just
7 sort of wondering why it's not coming to us, instead of
8 coming to you guys.

9 And as for the -- the meetings that we will be
10 invited to by the Land Trust, and other folks, or the Town
11 Council, or anybody else, we have not yet been invited to any
12 of these meetings, both last summer or here recently. So,
13 I'm -- I'm just sort of wondering what sort of the level of
14 sincerity there is with that.

15 And if the Commission were to turn us down on our
16 proposal, I'm wondering what the staying power would be of
17 these people who have suggested that they want to have a
18 win/win situation here. I have a feeling that they would
19 disappear rather quickly. And I don't have anything yet
20 that's tangible that would make me believe something
21 differently.

22 I also think that's a little bit of a ruse, when I
23 go to offer someone -- someone to buy their property, I don't
24 suggest that I'm going to get -- get an appraisal, and then,
25 offer them an amount. I offer them an amount, contingent on

1 the appraisal. And that's the way that I have dealt with
2 Mrs. Ahern. And I wouldn't expect any less from anybody
3 else.

4 I just note that I appreciate the fact that the
5 Land Trust is a small land trust. I am a small builder. And
6 then, I -- I think that sort of where we're headed, if -- if
7 we're -- we're agreed that -- that this is a buildable lot,
8 is what are we going to be able to build there?

9 And I think the Board was rather clear, last time,
10 that they didn't like the house I brought in. But I think
11 that then leaves us with two other options. In-fill that is
12 similar to the nature of the '20's and '30's, which is
13 around, I mean, on this block, on this street. Or in-fill
14 that has been suggested as being something more of like a
15 carriage house, or a -- a converted ancillary structure.

16 And I think that's really where the -- where the
17 decision is. And as I've looked at it, at least from -- from
18 my perspective, I see the ancillary structure as being very
19 difficult and very problematic, and potentially so
20 idiosyncratic that, although something like that would appeal
21 to some people, and quite frankly, if I didn't have five
22 kids, it would appeal to me. But for most people, I don't
23 think that's what they are looking for when they're thinking
24 of a home.

25 And I'm wondering if we -- if we make something too

1 small, and potentially too goofy, if it's not going to come
2 to sting us later. And those are my thoughts.

3 MS. HARRIS: If I could just follow up with one
4 thing that Carey said. After our last meeting with staff,
5 last week, where the concept of an ancillary structure or a
6 carriage house type look was proposed, at the architects.

7 And Carey had -- did come up with a couple --
8 couple of concepts, which -- and Carey discussed and reviewed
9 with his potential realtor, who reaffirmed what he just said.
10 That, in fact, it is too idiosyncratic and that it would --
11 it would be practically un -- un -- it would not be a
12 marketable, economically feasible product to build, which is
13 why we came back here to present Proposal B to you to try to
14 get additional feedback, additional parameters, with that
15 design.

16 MR. KOUSOULAS: Could you -- did you want to
17 respond to something that --

18 MR. PEOPLES: Yes, actually, in our meeting this
19 afternoon, I told Carey that, one, I did hope to have a
20 letter that I would present to the Commission tonight, and
21 that I would provide him a copy of it before the meeting --
22 before this testimony, I should say. And I did provide him
23 with a copy of that letter before this testimony, did I not?

24 MR. HOUBLER: I think we must have had a
25 misunderstanding. I thought that you were making a proposal

1 to us, not a proposal to the Historic Preservation
2 Commission.

3 MR. PEOPLES: Since it was a Commission meeting,
4 obviously, I thought it was a letter to the Commission that
5 would involve what we had discussed this afternoon. And the
6 idea was actually born in the LAP Meeting, which I'm also a
7 Board Member of. And through a process of getting all the
8 right people together and brainstorming, we hope to have come
9 up with a winning combination.

10 I also would refer the Council -- Commissioners
11 back to a letter done by Frank O'Donald, who is the Vice-
12 President of Kensington Historical Society, also a past
13 Councilmember of Kensington, dated July 2nd, that the -- that
14 the Coun -- Councilmembers were copied on.

15 In this letter, he addresses the notorious
16 Washington Street house that we ha so many problems with.
17 And he had made a -- the first offer on that house, which was
18 turned down because the thinking was that the house on the
19 side lot was worth more broken up. That if they sold the
20 house separately, and the side lot separately, that it would
21 be more valuable.

22 As it turns out, his original offer was greater
23 than or equal to the value of the two -- the house sold
24 separately and the side lot sold separately, such that -- as
25 well as we've recently had a very large home in Kensington

1 sold with large side lots that carried a -- a substantial
2 price.

3 I think that we may be able to prove to Mrs. Ahern
4 that she will maximize her value by not subdividing this lot.

5

6 MR. HOOBLER: I would suggest Mrs. Ahern was
7 expecting to receive a letter tonight that was addressed to
8 her, suggesting the things that have been suggested to you.
9 And I personally find it to be a little bit deceptive.

10 MR. KOUSOULAS: Okay. Well, we can set aside what
11 the value of the lot might be, whether it's three together or
12 just two remaining or if it's -- you know, I think that needs
13 to be decided, perhaps, by other people at a different time,
14 if it comes to that.

15 A few people tonight have said -- or maybe implied,
16 that maybe nothing should ever be built here. Other people
17 have said, I think, also, that if anything is going to be
18 built here, it needs to be the right thing.

19 I think it's fair to characterize the -- the
20 Commissions thinking in the past that that has been the way
21 you've looked at Kensington, that it needs to be the right
22 thing. And we have Proposal B in front of us. And I think
23 we should look at that, specifically.

24 And maybe from two points of view. One, that maybe
25 it isn't close enough, and -- and should -- there should be a

1 different proposal in front of us. Or perhaps, that it's
2 close enough, and it needs tweaking. But let's look at this
3 specific Scheme B.

4 And maybe I'll start things off by tossing out a
5 couple of comments. My initial impression of the front
6 facade is that it's a very charming little house. It's a
7 bungalow. When you look at all the drawings, you see that
8 it's a bungalow that's been added on quite substantially,
9 maybe doubled in size.

10 That may not be a problem in certain districts
11 where bungalows are common, and they are being added on to.
12 But there's something about the bungalow style, which is very
13 much like a house -- it is a house. It's clearly nothing but
14 a house. And it calls a lot of attention to its facade. And
15 I don't that facade wants to be tucked away, way behind all
16 the other houses.

17 And so, the -- the sense of this house, I think, is
18 fighting the idea that it needs to be an ancillary structure.
19 Whether it's an ancillary structure in the detailing and
20 appearance, this goofy house that you talk -- brought up, or
21 not, that may be a matter of architectural detailing.

22 But I'm talking more about an ancillary house that
23 is kind of set back and -- and it's a particular, peculiar
24 location on the property, compared to all the other houses.
25 And -- and this wants to be right up, dead center, in the

1 lot, up in front with all the others.

2 MR. HOBLER: George, do you see any detailing, as
3 you were mentioning before, that could change that character,
4 so that -- that that could be where it is? Be what it is,
5 without being a bungalow?

6 MR. KOUSOULAS: Well, the bungalow's a very strong
7 form. I mean, some people think of them as modest houses,
8 because they were usually one and a half stories. But I
9 mean, you've got a very strong porch, and a very strong shed
10 door. And some very robust geometry to what's otherwise a
11 very simple house.

12 So, I don't know if -- I would have to think you'd
13 have to -- you couldn't even start with a bungalow. You'd
14 have to start some place else. That's my big concern is the
15 bungalow.

16 Maybe, Steve, you might want to --

17 MR. SPURLOCK: I think the bung -- the badge of the
18 drawings you've given us is the -- is the front facing eave
19 that makes the building appear to be smaller than it is. I
20 think that's the benefit. But I do agree with the Chairman
21 that the -- the style -- I mean, it's a -- it's a radically
22 different sort of feel to the Victorians in the community,
23 and the adjacent houses.

24 MR. HOBLER: That is a -- I mean, that is -- one
25 of the photographs that I passed around earlier is a

1 thing that I keep dealing with is, you know, there's been
2 sort of talk of it being an ancillary structure. But there's
3 already -- if that is one, there's another one behind it.
4 So, there's almost like two in the yard. I mean, if you
5 built a free-standing garage in the back.

6 MR. HOOBLER: Yeah, I -- I wasn't suggesting that
7 this was an ancillary structure. I was trying to say that
8 this -- this is more of a -- of a secondary kind of house,
9 compared to the primary ones. But not that it was a garage
10 or a converted garage, or something of that nature.

11 We did explore that kind of possibility, after
12 having a meeting with staff and -- and the Chairman came, as
13 well. And it was -- I thought it was -- it was a good study,
14 but it didn't -- it didn't produce anything I felt
15 comfortable with.

16 MR. SPURLOCK: Also, the staff report mentions that
17 these -- both of these proposals are similar in scale to the
18 one you came with --

19 MR. HOOBLER: I don't believe that's actually the
20 case. The -- there's a -- a third one that I did submit with
21 the package that -- that you've not -- I guess, not seen,
22 that -- that probably was similar between what you see as A,
23 and then, the house that I came with before. But we're
24 really looking at -- at different floorplans and -- and we've
25 -- we've lost a bedroom from what we had before.

1 So, it's -- it's -- it's come down. That's --
2 you're looking at a -- B is almost a fourth generation. And
3 it's really -- it's almost ten feet shorter than the house
4 that we initially came in with. And A is about eight feet
5 shorter than what we came in with. So, I think there has
6 been some -- I think there's been a fair amount of movement
7 there.

8 MS. ZIEK: Some of that information is provided on
9 Page 1, in background, in the first paragraph under
10 background, where I provide the square footage for the first
11 proposal, which you can, then, compare with the description
12 on Circle 5, which gives the square footage for the Proposal
13 B.

14 MS. SODEBERG: I would like to comment on a couple
15 of things. First of all, I'm a historian on the Commission,
16 so I look at this very important historic district, which is
17 a National historic site, as -- as extremely important to the
18 County, and to the community.

19 And the real estate pattern, itself, is one of the
20 things that we're trying to preserve in this historic
21 district. That is, the 1890's real estate pattern. We tend
22 to look at real estate a lot differently today than we looked
23 at it in the 1890's.

24 And I believe that it's -- this district was
25 divided into the smaller lots, the 50-foot lots, so that the

1 buyer would have a choice of one, two or three lots to buy to
2 build his house on. The only -- one lot was only chosen when
3 it was larger, because of being on an outside curve.

4 The original purchaser of the lot, and builder on
5 the lot -- original builder had no expectation of building on
6 the other lot, or the other two lots, when he purchased
7 three. And I think that you can see that on Circle 25, the
8 fact that the lot between 3923 Baltimore Street and 3919
9 Baltimore Street was divided in half between the two. If
10 they had thought of that originally as a buildable lot, they
11 would never had divided it in half, because that made it no
12 longer buildable.

13 So, the precedent was set at the time of the
14 subdivision. And you are asking now for an exception to that
15 rule. And each exception to that rule must be judged on its
16 own merit. And that is why I do not believe in -- that --
17 the previous in-fill in this historic district has any
18 relation to the current in-fill that we're looking at now.

19 And the way I see it, my -- my suggestion to this
20 is, looking at this as a historian, that you are not building
21 a house that should look like the other houses. And all --
22 you are building a house that's not supposed to be there in
23 this historic district. So, what you need to do to build
24 this house is to try to make it disappear, to let it -- try
25 to make it look like it's not there.

1 There are three ways of doing that. Number one is
2 setback. Number two is landscaping. And number three is
3 size. And I don't see how you can put a house of more than
4 100 square foot footprint on this lot, and still make it
5 disappear.

6 MR. HOOBLER: In the '30's, and the -- in the '20's
7 and '30's, how is it that those house -- I -- I'm still not
8 getting how those houses were then built.

9 MS. SODEBERG: That was another generation that's
10 40 years after the original plan.

11 MR. HONDOWICZ: Yeah, let's also keep in mind that
12 the current process that we're working under now has only
13 been in existence for the past decade, or so. So, things --
14 things that happened before the Historic Preservation
15 Ordinance, and so forth, you know, alls -- all the Commission
16 can do is lament.

17 We can -- just because things were done 20, 30
18 years ago, well before -- or 40, 50, well before all of us,
19 or at least, I was born, then that -- that can't hold us
20 back. We have to focus on trying to work with what we have
21 now, along the lines of the -- the guide Vision of
22 Kensington, and so forth.

23 So, telling me it was done in the '20's, if -- if
24 we don't feel, based on regulations and all the guidelines we
25 have now, we could -- we have to go with what -- what's going

1 on now. So, to a certain extent, what happened in the '20's
2 only has limited, if any relevance, at least in my opinion.

3 MS. SODEBERG: Well, that -- that's probably true.
4 But what I'm saying is that beginning when this district was
5 planned, that's what we are looking at.

6 MR. HONDOWICZ: Well, I'm not necessarily
7 disagreeing with you. I'm just trying to say that we can
8 only -- generally speaking, we can only take an historic
9 argument so far. That's all I'm saying. I'm not saying --
10 I'm not disagreeing with anybody.

11 MS. SODEBERG: Yes, that's true.

12 MR. HOUBLER: I'm just wondering if what the
13 generation 40, 50 years ago did doesn't set some sort of
14 pattern of how things are done?

15 MS. SODEBERG: Well, it -- it does, but this
16 particular historic district was made historic, was put on
17 the National Register, for the 1890's period. And that's the
18 period that we're looking at. We're looking at the houses
19 built at that time, the architecture. But we're also looking
20 at the community. And what the culture was like. And we're
21 looking at the real estate evidence that developed at that
22 time, and a railroad garden suburb.

23 MR. SPURLOCK: I think your -- you've made your own
24 argument, to a certain extent. Those lots have been vacant
25 for a hundred years now, and all of those houses are reaching

1 100 years in age. And because -- just simply because of
2 economic pressures, suburbs closing in, the traffic, and that
3 sort of thing, living in closer is more desirable. But until
4 those pressures existed, there was no desire to in-fill. The
5 fact that the streets been intact for 100 years is -- is
6 pretty remarkable.

7 MS. HARRIS: But I think there needs to be
8 recognition that it's -- the process doesn't freeze something
9 in time. If that were the case, then, again, no additions or
10 modifications could be made to an individual structure that
11 was designated historic. And I think that point was -- the
12 Commis -- was trying to be made earlier.

13 MR. SPURLOCK: Well, I think -- the house -- I can
14 also turn that back and say, well, the houses have all been
15 modernized -- not all, but often been modernized, they've
16 been added to and modified. But there haven't -- have not
17 been any desires to in-fill the structures on the majority of
18 that street, with the exception of the one down right at
19 Connecticut Avenue.

20 MS. SODEBERG: But it's too -- it's true, on
21 certain very important structures, we did try to freeze time.
22 And you have to see that we are looking at historic
23 preservation from different perspectives with different
24 structures. Some are important for their architecture. Some
25 are important because of -- of important people who lived

1 I think the task that Commissioner Sodeberg set
2 out, that somehow this house has to look like it isn't there,
3 is the right one. I mean, somehow you're going to have to be
4 able to come up with something that doesn't plug that hole.

5 MR. HOOBLER: But we -- we teased about that a
6 little bit about that in that -- that meeting last week. How
7 to try to do that.

8 MS. BIENENFELD: I -- I like both the designs. But
9 this is a National Register district, and I think
10 Commissioner Sodeberg has eloquently talked about its
11 history, and what period we're trying to preserve, and what
12 we have to respect about the reasons it is in the National
13 Register, you know, an identified nationally in -- you know,
14 nationally.

15 And I don't think that is the right place for these
16 houses. And I think you -- you might be better off looking
17 for in-fill in Rockville or in Takoma Park, or some place
18 where that -- that would be a reasonable place for it.

19 I mean, I like both these designs. I really like
20 the bungalow. But this is not the place for a house, in a
21 National Register district that's been recognized.

22 And I would also say to the -- to the neighbors and
23 members of the historical society, you must know that, in
24 fact, being on the National Register doesn't really mean
25 anything. It doesn't offer you any protection.

1 And I think you need to take -- this question is
2 going to come up over and over and over again. And I think
3 you need to take some other kind of action, because you
4 really don't have any protection from the trust, and -- and
5 there's no protection from being on the National Register.
6 So, you might consider that in your future meetings.

7 But my conclusion is that this is not the place for
8 a structure, at all. Although, I do like the designs.

9 MS. LANIGAN: I agree with Commissioner Bienenfeld.
10 And I was going to say, before she spoke, that I agree with
11 the staff report, in that, first of all, Option B is -- is
12 not an ancillary structure. I think if -- if I -- my first
13 preference is -- is that -- that the lot not be built on. I
14 think it's critical to the integrity of the district that --
15 that it not be built on.

16 And -- but if it's absolutely has to be, then an
17 ancillary structure, 750 to 800 square feet footprint is it.
18 Tops. Max. Disappears, just like Commissioner Sodeberg
19 said.

20 I would also urge the community -- I certainly
21 agree with your position that -- to do something quickly in
22 this case to try to come up with a solution to this problem.

23 MR. TRUMBLE: And it seems to me that this is --
24 serves as a classic example of why this business gets hard.
25 We're not in a position, legally, to say that these -- that

1 these lots can't be built on. And I'm not prepared to say
2 that.

3 It seems to me that the -- that there is -- there
4 is no justification for that position in 24-A, and that the
5 Board of Appeals wouldn't support it. You have the right to
6 build on the lot.

7 The problem becomes, of course, that to build on
8 any one of these lots, and particularly a -- a structure that
9 runs between 13 and 1,500 square feet, it does consider --
10 considerable degree of aesthetic damage to the rest of the
11 neighborhoods.

12 And so, we're in this trap between what I think are
13 relatively clear property rights that the owners of these
14 lots have, and the -- the equally strong and equally valid
15 concerns that the other property owners have about there goes
16 the neighborhood.

17 I think that Profess -- that -- you know, that
18 Commissioner Bienenfeld has -- has clearly identified the
19 issue. That if -- if Kensington wants to protect those lots,
20 and maintain their current ambience, maintain the vision that
21 they have recently codified, then they're going to have to
22 come up with some sort of economic structure to do that.

23 I'm not convinced that us saying you can't build
24 there is going to fly, if it's appealed. I also understand
25 that a house of approximate -- if my math is correct, 776

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1 square foot footprint isn't necessarily going to have a whole
2 lot of commercial strength in Kensington. Even if you went
3 up to 1,000 feet, which would be about 12 percent of the
4 coverage, that's still, given that neighborhood, a relatively
5 small footprint.

6 And so, the -- the conundrum is that the community,
7 as a whole, wants to maintain the open space. The property
8 owner wants to get his or her value out of it. And no one's
9 putting any money on the table. If Kensington wants to
10 protect those lots, and I'm saying that not as a --
11 particularly, as an HPC -- member of the HPC, but just the
12 way I read the Board of Appeals, you're going to have to do
13 something financially about that.

14 You have, I gather, R-60 zoning there. This would
15 satisfy the requirements of R-60 zoning.

16 MS. HARRIS: They said no.

17 MR. TRUMBLE: R-90?

18 MS. WAGNER: It's 50-foot lots that were
19 grandfathered in, and there have been many explorations on
20 how to do things. And there really isn't any clear solution.
21 No one --

22 MR. TRUMBLE: You need to come up, I think.

23 MS. WAGNER: These lots are not buildable in any
24 other part of Montgomery County. Because they are historic
25 lots, they're grandfathered in at 50-foot lots. Nothing else

1 in Montgomery County is like that.

2 We've explored trying to get the grandfathering
3 removed. We can't. We haven't gotten there. It's the same
4 conundrum.

5 There have been instances, and the Carroll Place
6 that I referred to has been through not just the Board of
7 Appeals, it's been through an appeals court. And it has been
8 upheld that a large building should not be placed on a small
9 lot in this historic district.

10 So, I think that there are clear precedents,
11 through the court system, that you do not have a right to
12 come into this historic district and put an out of place
13 house on it.

14 MR. TRUMBLE: I think you -- you may well be right.
15 But I think if -- if a builder came through and he had -- put
16 an 800 square foot footprint, and it met the design
17 guidelines as they were portrayed this evening, which I've
18 heard the community say wouldn't be acceptable to them,
19 either. I gather that was the feeling. That might cause a
20 different situation.

21 MS. WAGNER: And that may well pose a different
22 situation.

23 MR. TRUMBLE: It also -- you also may up --
24 ultimately come up with a very difficult financial hardship
25 for an owner.

1 and that additional thought needs to be given to the fact of
2 how you will decide to protect those lots.

3 MS. ZIEK: I think that that is certainly an
4 ongoing problem and -- and it's taking a lot of creative
5 energy on a lot of people's parts.

6 MR. TRUMBLE: See, but the decision we make tonight
7 --

8 MS. ZIEK: You're not making a decision.

9 MR. TRUMBLE: Well, the -- the recommendation we
10 make tonight is, in effect, the beginning of a precedent for
11 Kensington. And I'm just -- I'm -- I would --

12 MS. ZIEK: I think --

13 MR. TRUMBLE: -- we don't have a lawyer anymore on
14 board, but I would really like to hear what --

15 MS. ZIEK: We have a --

16 MR. TRUMBLE: -- are the legal issues of us saying
17 you can't build there.

18 MS. ZIEK: We have a lawyer on board. Nobody is
19 saying that you can't build there. I think that the
20 Commission should stand back on your own record, and really
21 look very hard at your own record, which is that you have
22 approved new construction in Kensington, in the historic
23 district, on sites that were appropriate with projects that
24 were appropriate.

25 The issue before you tonight is exactly the same.

1 And I guess -- I guess that, really, what the applicant has
2 come here tonight is to hear your comments on a very specific
3 proposal about whether his Proposal B is appropriate on this
4 lot, and if -- and whatever comments you can make will be
5 very much welcomed. Because that is what he needs to hear.
6 He needs your guidance.

7 MR. HONDOWICZ: Mr. Chair, I'd like -- first of
8 all, I -- while I'm going to address the long debate that's
9 just occurred, it's going to be extremely brief. Because we
10 don't need to belabor it, and I'm just want to get myself on
11 record.

12 Whatever -- whatever specific covenant issues are
13 involved, that's a matter for the State court system. We
14 have no authority to deal with that.

15 This Commission is not authorized to say, we -- you
16 cannot build at all. That's not allowable under the law. We
17 have no auth -- no legal authority to do that. We operate
18 under Chapter 24-A, and we don't have that option. That's
19 just a fact.

20 Next, in terms of specific structures that we have
21 before us, I certainly would agree with the comments that
22 were made by many of the folks from Kensington that the
23 trends in Kensington regarding in-fill are disturbing. We're
24 starting to lose the nature and character of the community.

25 So, while I would not support an absolute no -- no

1 build approach, I certainly think it is quite appropriate for
2 us to regulate the overall size of the structure, and the
3 other aspects that are under our jurisdiction, even if it --
4 if it's to the point where the applicant feels it's not
5 commercially viable.

6 Because if it's an issue between commercial
7 viability and historic integrity, clearly, this Commission
8 has to lean on the side of historic integrity. That's also
9 my interpretation of Chapter 24-A.

10 I'm glad that -- I believe it was first the
11 Chairman, and perhaps, others who mentioned about chopping
12 off that extension back there. I don't know if that's
13 necessarily going to solve the problem, but it certainly gets
14 us a little bit closer, both in terms of the over -- the
15 overall coverage that you get from that part of the
16 structure, and from the appearances from having looked from
17 all the different side drawings and -- and so forth.

18 I think that removing that back appendage would
19 certainly improve what you have here. Whether or not it
20 would meet -- still meet my muster, and certainly, whether or
21 not it would meet my colleagues I certain -- definitely
22 couldn't tell you. But that certainly would help.

23 And I also, beyond the coverage and the appearance
24 -- I don't know to the extent -- I believe that this circle
25 you have here -- does that cover one of the trees in the

1 rear? Is that --

2 MR. HOOBLER: That is the canopy of the Red --

3 MR. HONDOWICZ: That's what I thought. I had that
4 located on the lot. Okay. I'm glad you drew that there,
5 because unfortunately, that tree, which of course we don't
6 want to lose, sort of restricts --

7 Let's say, theoretically, for a moment, you were
8 willing to get rid of the garage and the driveway, and just
9 talk about the home. If -- if that was the case, and you
10 didn't have the tree, and you cut off that back corner, and
11 you then put the structure back as far back as you could go
12 under the law, then, gee, that would be really great, from my
13 point of view.

14 Unfortunately, that's not much of an option. So,
15 alls I would say, in terms of a -- I'm glad Robin mentioned
16 giving you some guidance, because that's why you're here.

17 I would suggest that making this project relatively
18 more acceptable to this Commissioner, and I'm only one of
19 seven or nine, how many we have at a time -- so I don't know
20 how much my opinion's going to matter, in the end, but I
21 believe you need to, at least, chop off that back corner, or
22 in some way significantly reduce the overall size of the --
23 of the home.

24 Clearly, while the averages vary and individual
25 homes throughout Kensington vary -- vary, in this particular

1 area, and particularly, the primary site next to it is at the
2 low end of the average coverage, so we need to direct you
3 towards the lower end.

4 Perhaps, also, in terms of discussion about
5 pavement, I don't know if this is viable here, but I've seen
6 plenty of examples, including where I'll be going tomorrow up
7 in -- in Northern New Jersey, where they have grass, and/or
8 gravel type of driveways. I don't know if that would be
9 viable. But it certainly would be more viable and help
10 preserve open space and green space more than paving it,
11 absolute.

12 So, I would suggest a grass type of driveway,
13 cutting the size of the home down, particularly by removing
14 that corner, and by pushing the home back as far as you can,
15 given the restrictions from the trees. Those -- those would
16 be my recommendations.

17 MR. HOOBLER: Thank you.

18 MR. KOUSOULAS: Let me -- let me just clarify one
19 thing. Our ordinance is -- is silent on whether we can or
20 cannot prohibit construction on a piece of property. It
21 basically talks about --

22 MR. TRUMBLE: I -- I would disagree with that.
23 You're -- clearly, the ordinance says we cannot deprive a
24 homeowner of the economic use of their property. And I would
25 be very surprised if you're going to get away with saying on

1 building on a buildable lot.

2 MR. KOUSOULAS: No, no. I'm not saying that. I'm
3 just saying that it's not explicit that we have to allow --
4 or we cannot not allow -- whatever, the reasonable use of the
5 property, and the takings clause, and then, that happens --
6 is mentioned in other places. And I think we need to always
7 keep it in mind. And --

8 MR. HONDOWICZ: Well, Mr. Chairman, I thought what
9 I was -- what --

10 MR. KOUSOULAS: But as long as this Commission,
11 like you have done, focuses on the proposal in front of them,
12 and can explain why that specific proposal is either good
13 enough or not good at all for that specific lot, I think this
14 Commission is on firm ground.

15 MR. HONDOWICZ: Okay. I just want to make -- make
16 it -- clarify what you're saying, is that I don't think we're
17 -- we're different. Everything I say, all the time -- let me
18 maybe just state this generally. When I comment, unless I
19 actually quote from the ordinance, I'm mentioning my
20 interpretation of the ordinance.

21 So, I don't believe I stated literally, certainly,
22 that that was written down in the ordinance. And to the
23 degree that one could infer that from my comments, that's not
24 what I meant to say. I meant to say that in my opinion the
25 interpretation is -- is not that difficult to make. That's

1 the point I'm trying to make. And I thank you for pointing
2 it out.

3 MR. KOUSOULAS: Any other comments?

4 MR. SPURLOCK: I think I'd just like to real
5 quickly reiterate some of the other comments, for your
6 benefit.

7 MR. HOOBLER: Thank you.

8 MR. SPURLOCK: I think whether the back is chopped
9 off or not, the Chairman made an excellent point that that
10 type of design really wants to be up at the -- the house line
11 with the basic buildings. And because of that, it's going to
12 plug that open space visually from the street.

13 And I think, unfortunately, what other
14 Commissioners have been saying, just making it smaller and
15 pushing it further back will necessitate a different type of
16 design that's going to -- as Commissioner Sodeberg, said, to
17 disappear or look more like the nature of something that's
18 not a house, but something -- as you put it, goofy order.

19 MR. HOOBLER: Well, hopefully -- hopefully not, but
20 there is that fear.

21 MR. SPURLOCK: I mean, the house -- the adjacent
22 house -- I don't remember all the numbers -- has a variety of
23 structures in the rear yard. They somehow exist. And I'm
24 not suggesting that you duplicate those, by any means.

25 MR. HOOBLER: Thanks.

1 MR. SPURLOCK: But something that's a little less
2 of a traditional house looking structure would be more
3 appropriate for this, as opposed -- yeah, I think I agree
4 that the bungalow is a very handsome design. But it's not --
5 doesn't seem to be an appropriate design for this -- this
6 location.

7 MR. KOUSOULAS: Well, I think we have a pretty
8 decent consensus on Scheme B. And you've expressed that
9 other versions, the more ancillary approach -- ancillary
10 structure approach to this yields a house that is
11 unmarketable? Or --

12 MR. HOOBLER: That's -- that's my fear. It's --
13 it's so idiosyncratic that it's either going to be terribly
14 successful, or more likely, terribly unsuccessful. It's a
15 fun place for the person that wants to live there. It's just
16 the hoi piloi that I have to cater to that I'm afraid of.

17 I -- I'm willing to accept checks tonight if
18 someone would like to place a deposit on it.

19 Can I also just comment quickly that there are 40-
20 foot and 50-foot lots in the other -- in other places in the
21 County that are being built on and have been built on for
22 quite a long period of time. I think it's misinformation to
23 suggest that this is the only place --

24 MR. KOUSOULAS: Well, I guess it's not an R-60 lot,
25 but there must be some standards that allow it to be built

1 on. How is the Washington Avenue? It's the same lot, right?
2 But it's another one of these lots. So, the County, if -- if
3 we didn't place any restriction on it, the County would come
4 up with some mechanism for somebody to fit a house on there.

5 MS. SODEBERG: It just seems to me that the County
6 is -- since the 25 years I've lived here, has invented at
7 least ten new forms of zoning. Why couldn't they invent one
8 for this particular problem?

9 MS. BIENENFELD: Maybe the LAP or the Historical
10 Society could work with staff, who, in fact, are staff at the
11 Planning Commission, right? So, I don't -- I don't know how
12 far that could go, but maybe that would be something to
13 consider.

14 MR. KOUSOULAS: Well, to do what? To come up with
15 -- but I mean, there is a zoning there. It -- I mean, it --
16 it has --

17 MS. BIENENFELD: There's a zoning, but things
18 change, as Susan said. And --

19 MS. ZIEK: It sounds like you're proposing an
20 overlay zone, which they are doing in the -- in the County.
21 And it would be very interesting. And it seems like it could
22 be an appropriate suggestion to come from the Commission. I
23 -- I don't know --

24 MS. SODEBERG: Exactly. That's --

25 MR. KOUSOULAS: It could be spot zoning, I don't

1 know. It seems pretty --

2 MS. SODEBERG: Well, this --

3 MS. ZIEK: It would be controversial. You would
4 have to know that.

5 MS. HARRIS: I think the problem is you have a
6 buildable lot, and there are certain rights that are -- that
7 are associated with that. So, to -- to either eliminate that
8 provision of the zoning ordinance, or propose an overlay,
9 that would eliminate those rights. You essentially get down
10 to the issue that you've taken those people's property.

11 Which is why the zoning ordinance, and other forms
12 has nonconforming use or nonconforming developments, to -- to
13 deal with that very issue.

14 MR. TRUMBLE: I think, so far, what this stalemate
15 is that -- I think it's pretty obvious. There's no option
16 you're going to propose that -- that we're going to approve
17 that you can sell. And that is -- is where it comes down to.

18 Which means that for the -- for the time being,
19 those lots have a de facto form of protection, don't they? I
20 mean, a builder comes in and says, I need the other -- the
21 only way I can make any money is with a 12, 13, 1,500 square
22 foot, and we turn around and we say, well, you know, nine
23 percent is less than 800.

24 So, we have a kind of an interesting stalemate
25 here. I think -- I think the stalemate is going to -- is

1 going to be broken one of two ways. Either someone's going
2 to push the eagle -- the issue legally. Or, and I would
3 prefer to see the Town of Kensington is going to come up with
4 some way of -- of -- either through a covenant or -- or some
5 other device, of requiring a property owner -- or encouraging
6 the property owners to maintain their -- these lots intact.

7 But I -- I think in this time of government, where
8 people are increasingly questioning the way in which zoning
9 looks like a taking, this is an unstable situation that
10 Kensington has.

11 MR. KOUSOULAS: Yes.

12 MS. WILKES: I just wanted to fill in some facts
13 here. In -- in around 1990, I sat down with Mr. Gus Bauman,
14 when he was head of the Planning Commission, and an attorney,
15 who was helping us with an in-fill problem, at that time, to
16 talk about -- well, brainstorming about ideas.

17 And we did look at -- at all the various things.
18 And everyone basically left scratching their heads, you know.
19 Overlay zoning is difficult, politically. And etc., etc.

20 The Land Trust does continue to look for creative
21 solutions. We -- we are coming up with some ideas. And in
22 fact, we have not ever been to this point, Mr. Hoobler, where
23 we could sit down with a would-be builder. Nobody has been
24 quite a tenacious. Other situations have resolved themselves
25 in a more satisfactory manner than -- than has happened here.

1 We are, in fact, very sincere about sitting down
2 with you to talk to you. There are -- there are other
3 strategies that we've been coming up with over time that
4 haven't presented themselves in the past. Resubdividing,
5 erasing lot lines is something that I do. We're bringing to
6 the community now as the Land Trust. We're basically
7 operating as an educational arm.

8 And we're told by Gary Ditta, who is our sort of --
9 one of the main realtors in Kensington, that we are having an
10 effect. That people are conscious about this preservation of
11 green space issue in Kensington. And so, it's kind of a
12 voluntary system, so far. It doesn't suffice. You're
13 absolutely right. It's not -- it doesn't carry any legal
14 weight.

15 We're very hopeful that, you know, for people who
16 are part of the community, that our message has great
17 meaning. When builders come from outside the community, or
18 when people move in with building on their mind, there's a --
19 a very different mindset. And it's very hard to reach these
20 people.

21 But that doesn't mean that we're not willing to
22 try. We're there. We're ready to talk to you, if you're
23 willing to talk to us.

24 MR. HOOBLER: Start with Jeannie. Give me a call.

25 MS. BIENENFELD: I wanted to mention something else

1 to Ms. Wilkes, is that the Maryland Historical Trust has
2 grant applications that are due December 12th for a non-
3 capital grant. And you might be interested in working with
4 the Trust and, you know, see about getting a grant to pursue
5 this.

6 MS. WILKES: Thank you. We'll look into it.

7 MR. KOUSOULAS: So --

8 MR. HOOBLER: Thank you.

9 MS. HARRIS: Thank you for your input.

10 MR. HOOBLER: We appreciate -- appreciate it.

11 MS. O'MALLEY: Can I just say one -- one very short
12 thing?

13 MR. KOUSOULAS: Sure.

14 MS. O'MALLEY: I just wanted to remind you that the
15 house I lived at, while the footprint was 1,050, it was only
16 one floor, so it looked very small from the street. And the
17 -- the house is never empty. Someone always buys it. So,
18 maybe builders need to realize that, yes, they can build
19 something. But maybe they don't want to waste their time on
20 something that small. Well, then, they should be building in
21 another area.

22 MR. KOUSOULAS: Okay. Thank you for your time.

23 MS. HARRIS: Thank you.

24 MR. HONDOWICZ: Ma'am -- ma'am --

25 MR. KOUSOULAS: Okay. The next item is the