

31/7-94E Cont. Lot 43
Capitol View Park H.D.

1017 S. MEADOWS
694 W. 2nd St
COLUMBIA, MO 65201
877-877-8777

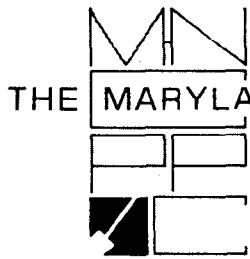
**THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
8787 GEORGIA AVENUE
SILVER SPRING, MARYLAND 20907**

Phyllis Michaels
Lot 43 Oak St
Silver Spring, MD
Capitol View Park

HPC 8/17/94
31/7-94 Econt.

Pat - For 1st Phyllis
Michael's case. Please
put in appropriate file.
Gwen

copy
also
sent to
Daisy Duncan
4/18/95



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

April 12, 1995

Bonnie Adler
10105 Meadowneck Court
Silver Spring, MD 20910

Dear Ms. Adler:

The County Executive forwarded to me a letter regarding your concerns about a new construction project which has taken place in your Capitol View Park neighborhood.

Some of the issues which you raise are related to actions and approvals by the Montgomery County Historic Preservation Commission (HPC), a government agency which is separate from the Maryland-National Capital Park and Planning Commission (M-NCPPC) - but which does share staff. It is this agency which approved the design of the new house and which developed requirements for new tree planting. M-NCPPC staff assigned to support the HPC monitored the project to assure that the requirements and conditions placed by the HPC were met by the developer. I have discussed this project with the staff involved and will attempt to respond to concerns that you have raised regarding staff actions and decisions.

The HPC approval of this project, dated August 17, 1994, allowed the developer to remove a substantial number of trees from the lot, but required the developer to replant a total of fifteen trees on the property - five @ 6" caliper, five @ 3" caliper, and five @ 1 1/2" caliper. The planting of fifteen trees was required over the strenuous objections of the developer and at the request of the Capitol View Park community.

Your letter specifically expressed a concern about the lack of a tree plan. It should be noted that the developer initially did not submit a full tree survey of the existing trees on the site or a plan for replanting. This is why the HPC deferred the case from its July 27, 1994 meeting to August 17th. For the August 17th meeting, the developer did prepare a tree survey prepared by a qualified professional (Todd Bolton, Associates, Inc.) and did include a drawings for a replanting scheme that involved planting only nine new trees. The HPC, at their August 17th meeting, found the proposed replanting scheme to be inadequate and required fifteen new trees. This replanting scheme was conceived at the HPC meeting, thus there was not a drawing to accompany the scheme delineating the specific location of each of the fifteen trees. In cases like this, it is typical for the final locations for the trees to be worked out with staff.

On March 6, 1995, the developer contacted staff and explained that, after consulting with two tree planting companies, she had been told it was not possible to bring a tree spade truck into the common driveway that leads to the site and, thus, it would not be possible to plant 6" caliper trees. The developer and her tree consultant proposed, as an alternative, to plant fifteen trees with five @ 4" caliper and ten @ 3" caliper - she submitted a plan for the proposed planting. Staff agreed to this alternative as the total number of trees being planted had not changed and there would be fewer really small trees (i.e. 1 1/2" caliper trees) than had been approved at the HPC meeting.

It is common in historic preservation construction projects for changes to come up during the project. It has been the HPC's policy to delegate review of minor changes to staff rather than requiring every minor alteration to come back before the HPC. The planting change described above falls into the category of such a minor change.

After receiving approval from staff on March 10, 1995, the developer proceeded to install the trees in accordance with the plan she had submitted. We are not aware of any violation of that approved plan in planting the fifteen required trees.

Your letter also expresses concern about a subdivision plan (#1-95032) that was recently approved by the Planning Board. The Board held a hearing on this matter on March 2nd and many residents testified at that hearing. In addition, comments from the HPC were received and reviewed by the Board. The Planning Board tried to address as many of issues which were raised as possible in their deliberations on the subdivision, but not all are within the Board's jurisdiction. For example, the Board cannot require - as part of a subdivision - that the large Oak tree remain. This type of requirement would be beyond the legal bounds of the Subdivision Regulations. However, the review of new construction for the lot created by this recent subdivision will be conducted by the HPC. Issues related to tree preservation or building design can be addressed at that time.

As you know, historic designation does provides an additional level of design review which does not exist in other neighborhoods throughout the County. In most single-lot infill projects elsewhere, there is no control over how many trees are removed and no requirement for replanting. **To date, no Historic Area Work Permit has been filed for this newly-created lot.**

Finally, you raise a number of issues about the County's commitment to preservation of the Capitol View Park Historic District, which was the first County historic district - designated in 1982. The County, M-NCPPC, and the HPC have a strong commitment to historic preservation in Capitol View Park and throughout Montgomery County. This is why a great deal of Planning Board, HPC, and staff time have been devoted to discussing issues on Meadowneck Court. However, in regulating property, the government must take all perspectives into account - including that of the property owner/applicant, the adjacent neighbors, the surrounding community, etc. - and must make decisions which balance all interests. The historic preservation design review and subdivision efforts that have taken place thusfar on Meadowneck Court have attempted to achieve that balance.

In addition, it should be noted that the Historic Preservation Ordinance specifically states that "In the case of an application for work on an historic resource located within an historic district, the commission [HPC] 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." Meadowneck Court - as a small neighborhood of new houses within the Capitol View Park Historic District, most of which were built after the creation of the district - is an area, therefore, which calls for - by law - a lenient level of design review.

I am sorry that the new construction project in your neighborhood has been so disruptive and has caused so many problems for you and your neighbors. M-NCPPC staff wish to remain available and accessible to answer any additional questions that you may have on this matter - feel free to call Malcolm Shaneman on subdivision issues (495-4585) or Gwen Marcus on historic preservation issues (495-4570).

Sincerely,

William H. Hussmann
Chairman

cc: The Honorable Douglas M. Duncan

4/11/95

Malcolm will
prepare response
to this letter.

Given

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

FILE NUMBER: 950436 DATE RECEIVED: 04/06/95

CORRESPONDENCE TYPE: letter DATE OF LETTER: 04/03/95

AGENDA DATE:

TO: Hussmann

FROM: Delegate Sharon Grosfeld

SUBJECT:

Letter transmits copies of correspondence received from Steven R. Kramer, resident of Capitol View Park, stating concerns re how new development will affect his property.

NEIGHBORHOOD DESIGNATION
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
APR 6 - 1995
SILVER SPRING, MD

TRANSMITTED TO: Pl. Dept./BH

COPIES TO: Shaneman/Marcus

DATE DUE:

[X] PREPARE REPLY FOR CHAIRMAN'S SIGNATURE

[] REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:

Please prepare response ASAP.

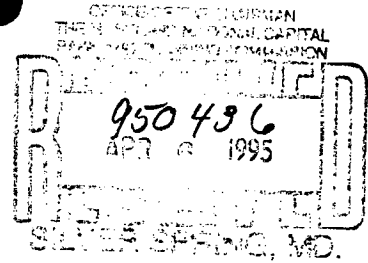
PLANNING DIRECTOR'S OFFICE

DATE RECEIVED BY PDO: DATE SENT TO DIVISION:

RESPONSIBLE STAFF:

DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:



HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401-1991

SHARON GROSFELD
LEGISLATIVE DISTRICT 18
MONTGOMERY COUNTY

April 3, 1995

ANNAPOLIS OFFICE:
223B LOWE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(301) 858-3028

DISTRICT OFFICE:
2506 PLYERS MILL ROAD
SILVER SPRING, MARYLAND 20902
(301) 946-1003

Mr. William Hussman
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Proposed Subdivision of Lots 44 and 45
Capital View Park, Silver Spring
Case # 31/7
File # 1-95032

Dear Mr. Hussman:

A couple of months ago I received correspondence from residents concerned about the construction of the above-referenced property. Unfortunately, due to my extremely heavy schedule during that point in the legislative session, I was unable to respond to the concerns expressed. Now however, as the 1995 session winds down, I would like to take this opportunity to request your assistance in this matter.

Enclosed are copies of the letters I have received, which detail the precise concerns of the residents who will be most effected by this new development. I would appreciate hearing your responses to the questions posed, as well as a status report on the construction if you can so provide.

I am grateful for your attention to this issue and look forward to hearing from you soon. Thanking you in advance.

Sincerely,

Sharon Grosfeld
Sharon Grosfeld

Enc.

10109 Meadowneck Ct.
Silver Spring, MD 20910
January 30, 1995

Ms. Sharon Grosfield
Maryland State Delegate
2506 Plyers Mill Rd.
Silver Spring, MD 20902

Subject: Proposed Subdivision of Lots 44 and 45, Capitol View Park, Silver
Spring, MD, File Number: 1-95032

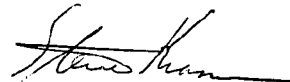
Dear Ms. Grosfield:

I am writing this letter as a concerned resident in regard to the above-referenced subdivision. My wife and I are the owners of the adjacent property to the proposed subdivision. Attached are copies of several letters written by the residents of Capitol View Park. There are several areas of concern in regard to this development which the Maryland National Capital Park and Planning Commission have chosen to disregard. To briefly summarize the concerns:

- Access to the proposed property by police and fire rescue vehicles.
- Increased water run off resulting in downstream flooding from proposed site after construction.
- Past performance of proposed builder.
- Removal of trees from the Capitol View Historic Area.
- Access to our property during construction and storage of construction materials.
- Damage to our neighborhood.

The Planning Commission and Historic Commission have made little effort to resolve any of the concerns of the taxpayers and residents of this area. The Commissions are inconsistent and anti-resident in their positions. Double standards seem to be the rule. We need your help to protect our homes and our neighborhood. We would appreciate any assistance your office could provide in this matter. I can be reached at the following telephone numbers: 202/223-9610 (office) and 301/495-5794 (home).

Sincerely,



Steven R. Kramer

Enclosures

10105 Meadowneck Court
Silver Spring, MD 20910
4 January 1995

Subdivision Office, Development Review Division
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Case # 31/7; File #1-95032
Lot 44, Oak Street/Meadowneck Court

Dear Sir/Madam:

I am writing to express my concern for the above mentioned property as it comes before you for consideration of subdivision. Although I addressed my concerns to the Historic Preservation Commission on December 21, 1994, I felt it necessary to address them to you as well.

I am a resident on Meadowneck Court and as such I'm very concerned about my neighborhood. The proposed subdivision of Mr Sailor's lot (master Plan #31-7) would allow yet another large home to be built on our street. After the past 2 winters it has been evident that there are problems with this proposal. Although I do not oppose the subdivision per se, I do oppose another home to be built mostly because we'll lose a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition it is located very near the center of the lot and a home probably cannot safely be built around it without causing irreparable damage to the tree and it's roots. As such, I propose that the subdivision, if approved, requires that the tree **MUST** be saved and not removed.

I ask this after we recently "lost" 26 large trees on the adjoining lot. This lot (10113 Meadowneck Court) is currently under construction by Phyllis Michaels/Allegro Development. Her HAWP allowed the cutting down of a forest of 26 trees, 21 on the property and 5 on the right-of-way (not to mention an extra tree "removed" during land preparation). I contacted an Arborist about this loss and was advised to request the HAWP be conditional based on the replacement of 15 trees. This was approved by the HPC. Currently, there is no requirement for a 'tree plan' which will indicate the location of these 15 trees to be planted on that lot. Doubts remain in my and other residents' mind whether all 15 trees will indeed be planted as required.

Although the saving of one tree may seem insignificant in the scope of the County as a whole, I respectfully request that this Oak tree be saved and indicated as such on the lot subdivision so no more trees of this size and stature are lost. We lost 26 trees and the canopy they provided for shade and cooling as well as beauty.

Living in an area designated as a "Historic District" comprises a region which, I believe, embraces a sense of preservation of the nature and aesthetic quality of the landscape, by the homes and the treed portions of the neighborhood to maintain and preserve the open airy park-like setting as it compliments the Historic Nature of the neighborhood. As such the Capital View Historic District is described as large and park-like with many large trees, mature landscapes in a mature setting.

The vast number of trees we lost reduces the historic quality of our Historic District and therefore can never be replaced. A tree of this mighty stature does not grow within the span of one persons' lifetime. The aesthetic quality of the neighborhood and the value our trees provide the overall character of Capital View Historic Park and must be preserved.

This mature tree, should be saved, like so many other lots with trees in our Historic District which cannot be cut down: By allowing removal of this very large tree (as occurred en-masse on the adjacent property) you are allowing development to whittle away at the very fabric of what our Historic District was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. I believe that it is under your purview that the mature plantings located in this Historic District be maintained and preserved.

If the decision is to remove this majestic tree, I have additional problems with the proposed builder. Ms. Phyllis Michaels with Allegro Development has proven herself to be a cancer to the community and County. Her rude insulting manner has left ALL the inspectors for her jobsite alienated, WSSC and Washington Gas staff offended and the residents in a total uproar. We have endured numerous violations of the noise ordinance, water being stolen from our taps by her workers, attacks both physical and verbal from this builder herself and total disregard for the neighbors' property and the neighborhood as a whole. The overall destruction and disregard for the residents' property has been appalling.

Although these items should only be temporary in scope, her manner/attitude is undesirable and unacceptable for taxpaying members of our community.

If these issues were not enough to concern your office, several more items trouble me:

Access to the Street:

The "street" that this second home would be built upon appears as a paper street on the county master plan and is merely an extension of a driveway. Although the lot owner began development of this "roadway," it was done so as a driveway. This "street" is not a street, and will incur the problems not yet known to the builder, mainly lack of access for county and emergency-related vehicles and services. Currently this driveway is approximately 12' across not the required 25' needed for access and passing of multiple vehicles up and down this drive. As it stands now, fire and rescue vehicles would be severely restricted to access these homes. Trash and mail service would suffer as well.

Winter Weather:

Winter ice conditions do not allow for any vehicle to drive up this "street." The previous winters were a testimony, that even the residents of my Court were unable to enter their street/driveways. Maintenance of this Oak Street driveway is to be borne by the residents on the drive. If they are unable to reach their homes, they cannot park on the Court, as there is No Parking allowed. This stipulation was required based on the inaccessibility of emergency vehicles onto our Court. If these residents were to park in the street, and there was a need for emergency vehicles, access would not be allowed. At this moment, our No Parking signs have been stolen and although no one witnessed the event, persons associated with the construction are considered the likely perpetrators. DOT has been informed and new signs are being made.

Access and Parking:

Development of this lot would cause construction vehicles and storing of construction materials to overflow into the street. As it stands now, this lot is being used for this purpose of the new construction on the adjacent lot.

Stormwater Retention:

Development of this lot will impact the current storm sewer system. The original storm sewer is currently not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain in our court. Additional runoff experienced from the one newly developed lot and this proposed lot will burden our already overflowing storm drain in Meadowneck Court. I'd like to see DEP storm water management folks look at this issue more closely.

Run-off and Stormwater Retention:

In relation to the stormwater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the county require this lot's development proposal to include some diversion ditch, storm drain or other item to be constructed to prevent additional runoff and control of sediment? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns. One DEP inspector suggested a solution to this current runoff problem. This would entail an enlarged drainage system to be placed across the entire street which would be connected to the existing storm sewer. Perhaps the builder should be required to install such a device to control the excess runoff from her new building sites.

(Although these issues were identified prior to the current construction, no resolution was proposed. In fact, the various permitting authorities were contacted, by letter, but chose to ignore these issues)

As you can see, there are concerns with this lot subdivision that are broad in scope. I believe the County needs to address these concerns before any new construction can be approved. I hope that some understanding of my concerns can be considered. Above all, I trust that you can appreciate the needs of the neighborhood by including this tree's preservation on the lot's deed. Thank you for your time and consideration.

Sincerely,

Bonnie Adler

10109 Meadowneck Ct.
Silver Spring, MD 20910
January 5, 1995

Maryland National Capital
Park and Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910
Att: Subdivision Office,
Development Review Division

Subject: Proposed Subdivision of Lots 44 & 45, Capitol
View Park, Silver Spring, MD
File Number: 1-95032

Ladies and Gentlemen:

This letter is to follow-up our earlier correspondence to you of November 7, 1994 and to raise additional concerns in regard to the above-referenced subdivision. We own the property adjacent on the south side to the proposed subdivision. The following are the additional items of concern:

1) Access to our property during construction at Lot 44

It is our understanding that a new home is proposed for construction on Lot 44. Access to Lot 44 is by a common driveway which crosses the entrance to our driveway. The common driveway also referred to as Oak St. is a one lane 12 ft. wide road. We are concerned that during construction of Lot 44 access to our home will become difficult and in some instances prohibitive.

Currently, a home is under construction on Lot 43 which is one lot north of Lot 44. During this construction process, Lot 44 is being used for parking of construction vehicles, storage of materials, storage of a portable toilet, and storage of a large trash dumpster. It is unknown where the builder of Lot 44 will place all these items to construct the house on Lot 44. We believe that the builder of Lot 44 should be required to submit a plan for storage of all materials that will not interfere with access to our property and prevent damage to our property. To not interfere with access to the common driveway, we request that all construction vehicles be prohibited from parking on the common driveway. We would recommend that all construction vehicles be required to park on Meadowneck Ct. or Lee St. (since parking is limited on Meadowneck Ct.).

2) Past Performance of Proposed Builder of Lot 44

At the recent meeting of the Historic Preservation Commission on December 21, 1994, Phyllis Michaels/Allegro Development indicated that she plans to be the builder of a house on Lot 44. Currently Michaels/Allegro is building a house at Lot 43 (also

Page 2
January 5, 1995

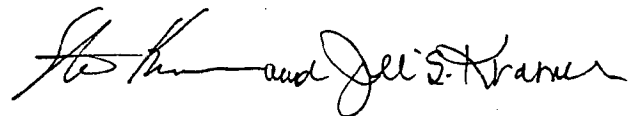
referred to as 10113 Meadowneck Ct.) We are very concerned about the past violations of laws and ordinances by this builder. On October 1, 1994, Phyllis Michaels assaulted one of the homeowners who lives on Meadowneck Ct., Montgomery County Police Case No. 594-229258. In addition, Citizens' Noise Complaints have been filed against Phyllis Michaels/Allegro Development on five separate occasions. These violations have occurred between October 1 - December 24, 1994. Even after being informed about quiet time in Montgomery County, Michaels/Allegro has chosen to disregard these periods and disrespect the residents who live on Meadowneck Ct.

Our yard and the adjacent right of way at 10109 Meadowneck Ct. were once again damaged by construction vehicles of Michaels/Allegro on December 19, 1994. We called Montgomery Police to report the incident and the officer who inspected the damage stated it was obvious that construction vehicles had vandalized our property. Michaels/Allegro has shown no willingness to repair the property. Therefore, we are left with damaged property or the need to take legal action.

These events are very concerning to us and the other residents of Meadowneck Ct. since they have repeatedly occurred and have not stopped. Before issuing a building permit to this builder, we would suggest that this builder be required to demonstrate an understanding of the ordinances for building a home in Montgomery County (in particular noise, sediment and erosion control and littering ordinances). In addition, we suggest that Ms. Michaels meet with the Montgomery Police to be provided a review of the laws of this region.

We appreciate the opportunity to submit these additional comments and need your assistance in preventing further destruction to our home and neighborhood by a reckless and inconsiderate builder.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven and Jill S. Kramer". The signature is written in a cursive, flowing style.

Steven and Jill Kramer

10109 Meadowneck Ct.
Silver Spring, MD 20910
November 7, 1994

Maryland National Capital
Park and Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910
Att: Subdivision Office,
Development Review Division

Subject: Proposed Subdivision of Lots 44 & 45, Capitol
View Park, Silver Spring, MD

Dear Sir or Madam:

This letter is in response to the Subdivision Application for the above-referenced property. As the homeowner of the adjacent property, we would like to take this opportunity to express our concerns in regard to this development. There are several issues that should be evaluated prior to the subdivision of this property.

1) **Preservation of Trees**

On Lot 44, there resides a large oak tree that is over 50 feet tall. This tree is located in the middle of the lot. As you are likely aware, the trees make the Capitol View Area an historic area rather than the houses. This tree should be preserved during any development of this lot.

2) **Access to Lot 44**

Access to Lot 44 is by a "paper" or unapproved street called Oak St. Oak St. is entered through Meadowneck Ct. The apron for our driveway appears to be the beginning of Oak St. We have been informed by the Department of Transportation that Oak St. will not become a road and the future owners of Lots 44 and 43 will be responsible for maintaining this street including road repairs and snow removal.

Additional concerns in regard to the use of Oak St. include fire and rescue needs, trash removal and mail service.

3) **Construction of a New House on Lot 44**

At the current time, a new house is under construction on Lot 43 which is the property north of Lot 44 on Oak St. During this construction, the builder--Allegro Development/Phyllis Michaels has violated several county ordinances and become a general nuisance for the neighborhood. Since this is a developed mature neighborhood, it would be common courtesy for any developer to respect our properties and inform the owners of how their lives will be impacted. Allegro Development/Michaels has violated noise ordinances, created unnecessary soil and erosion control problems,

Page 2
November 7, 1994

has not removed debris and mud left by construction vehicles on Meadowneck Ct., and assaulted one of the homeowners. Construction vehicles have driven over our property and harmed newly landscaped areas. Several reports have been filed with the police and the appropriate Montgomery County Agencies for these violations.

It is imperative that the future builder of Lot 44 is aware of the building ordinances and laws for this area.

At a minimum, we would recommend that any future developer of Lot 44 meet in advance with the homeowners of Meadowneck Ct. during the application process and prior to the initiation of construction. This would hopefully allow the property to be developed without the earlier mentioned difficulties.

While we are not opposed to the building of a new house on Lot 44, we believe that is important for any future builder to address the items cited earlier in this letter.

We appreciate the opportunity to comment and would be pleased to further discuss these items with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven R. and Jill S. Kramer". The signature is written in dark ink and is positioned above the typed names.

Steven R. and Jill S. Kramer

1/17/95

10208 Capitol View Ave.
Silver Spring, MD 20910
301-588-5054
202-501-7751

Mr. Doug Duncan, Chief Executive
Montgomery County

101 Monroe St.
Rockville, MD 20850
FAX: 301-217-2517

Re: Sailor subdivision proposal:

Dear Mr. Duncan:

The above referenced subdivision captures just about everything that is wrong with the Maryland-National Capitol Parks and Planning Commission (M-NCPPC). It is well documented for the community was in the courts for four years for the subdivided property immediately next door.

The enclosed letter to M-NCPPC attorney Michelle Rosenfeld identifies how the Planning Board promised the community in court to guard against local and down stream flooding and undue local negative effect on the local community and was completely abandoned by M-NCPPC and the County. In fact, the community was misled and lied to in the courts. Incredibly, the developer physically attacked a community person. Ms. Rosenfeld's response to the letter was to refer the community to a middle level bureaucrat, Joe Cheung, who begged off responding to any of our questions and referred us to Bob Marryman of MC/DEP.

The "flooding 10113" letter to Mr. Marryman identifies the complete lack of protection provided by the County along with identifying a \$325,000 flood plain correction necessitated by an earlier adjacent subdivision project in the area and paid for by the tax payer. Mr. Marryman is so contemptuous of the local community he hasn't even responded to our letter.

The "Sailor Subdivision" letter identifies how the M-NCPPC approved an adjacent dangerous subdivision along with recommending approval of the above mentioned subdivision. Both subdivisions, along with breaking County code, damaging local property values are also a fire hazard to local residences. In this letter the community recommends that the M-NCPPC be abandoned and be replaced with a less costly system.

The Hussmann letter identifies how the M-NCPPC and the County abuses this neighborhood by misleading the community about hearing notices, hearing cancellations, County insistence on not replacing no-parking signs torn down by

the local developer, and general indifference for local property values.

Finally, I'm told that, this thursday, the M-NCPPC staff is reviewing and recommending approval to the Planning Board of a proposal by the hopelessly corrupt "Appeals Board" to allow commercial vehicle street parking on residential streets where "exceptions" have been made for commercial use of residential properties. The communities being attacked are the Rock Creek Palisades and College View Estates neighborhoods. Unbelievable!! Let's destroy our neighborhoods!

It should be clear that M-NCPPC (along with the Appeals Board) is hell bent on destroying Montgomery County neighborhoods. **Mr. Duncan! Cut the M-NCPPC staff by 2/3's (see Sailor Subdivision letter), get rid of the Appeals Board, and have the remaining staff work on building up existing Montgomery County neighborhoods and not tearing them down. Start talking to community groups about building up their communities.**

Sincerely,



Barrett Glen Malko, Architect

enclosures

cc:Community groups including Meadowneck Court

floodg#5

1/18/95

10208 Capitol View Ave.
Silver Spring, MD 20910
301-588-5054
202-501-7751

Editorials
Gazette
4044 Blackburn Lane
Burtonsville, MD 20866
voice:301-421-5900
FAX:301-421-4232

Re: Sailor subdivision proposal:

Editor:

On January 12, 1995 the Maryland-National Capitol Parks and Planning Commission (for short the Montgomery County Planning Board) was to review the Sailor property subdivision proposal on Meadowneck Court. In advance, the planning staff had recommended approval of the subdivision with no written justification in the subdivision file.

The community challenged this subdivision because the property next door to the proposed subdivision, and presently under construction, did not meet the fire and safety code nor did it meet the subdivision code requiring one driveway per house (two under rare exception). The proposed subdivision also did not meet the code for the same reasons.

To "meet" the code the Planning Board along with the Montgomery County Dept. of Transportation deemed a 12 foot wide driveway a public "street" (12 feet is the definition of a driveway by County code) thereby allowing the subdivision to "meet" the street requirement portion of the code. Obviously, this "street" designation was arbitrary and capricious, but worse it put the surrounding property owners in danger for fire and safety vehicles could not negotiate the 12 foot driveway (fire and safety code requires 20 feet and the code is clear on this). The above argument along with others was submitted to the Planning Board in advance to the hearing.

At the day of the hearing the Planning Board withdrew the subdivision at the request of the applicant or so says the Board. Why? The Planning Board offers no explanation saying an applicant, can if they choose, withdraw an application. Clearly, the illegal house next door and under construction at 10113 Meadowneck Court is a danger to the neighborhood and an embarrassment to the Board. They approved it. Yet it continues under construction. If the house is illegal why has not the Planning Board contacted the permits section of the County and halted the

construction?

The full argument to stop construction of this illegal house and also deny the new Sailor subdivision has been submitted to new County Executive Doug Duncan. Will Mr. Duncan put a stop to this? We will see. The August 24, 1994 Gazette pointed out that eight out ten of the top donations to Mr. Duncan's 1994 fall campaign were in the building business. Will these donors "influence" Mr. Duncan?

We have asked Mr. Duncan to make severe changes to the County planning department both in staff size and function, eliminate the so called "Appeals Board", and rewrite the subdivision planning code to help protect County neighborhoods. We suggested Mr. Duncan's new motto be "let's build up our neighborhoods and not tear them down". I challenge each of the many community groups in Montgomery County to invite Mr. Duncan to their meetings allowing Mr. Duncan to explain how the County will now support his and our neighborhoods. I also challenge Mr. Duncan to explain the above subdivision approval.

Sincerely,



Barrett Glen Malko, Architect
cc:various community groups

enclosures:12 pages of letters and documentation

floodg#6

Pat - FYI
+ for the Phyllis
Michael's file.
Cover

3.29.95

10208 Capitol View Ave.
Silver Spring, MD 20910

Mr. Douglas Duncan
Chief Executive, Montgomery County
101 Monroe Street
Rockville, MD 20850

Dear Mr. Duncan:

This the second time I'm writing you about a development in my neighborhood - Meadowneck Court - in the Capitol View Park area. The reason that I write is I am the neighborhood "coordinator" for the issue of rain water run-off. And we have a serious rain water run-off problem in our neighborhood.

Let me refresh your memory. A development to the rear of my home had a number of stipulations put upon it by the Planning Board. These requirements were articulated in a number of court documents. Quotes from these document follow. They mainly state that the developer must provide drawings showing how rain water run-off from the development will be taken away from the site. When I called and wrote Michelle Rosenfeld, attorney for M-NCPPC, on October 11, 1994 for these drawings, she referred me to Mr. Joe Cheung of DEP and he said there were no such drawings. Well Mr. Duncan, the run-off from this site and two others are now routed over and through a neighbors yard, the Sussmans and onto five other neighbors yards. On March 2, 1995, a second adjacent sub-division was approved by the Planning Board and it also has no run-off drawings. Now read on Mr. Duncan for the details!

I hope you can see from the court documents, that M-NCPPC intended for the developer to ". . . document for DEP the existing topography and proposed grading plan and drainage area map for the site . . . With proper grading techniques, storm water can be contained on this site until it is absorbed into the ground."(see page 45). Mr. Duncan, should you visit the site you will see that water is now not contained on the site, but is running freely onto adjoining neighbors property. Further, the water run-off problem for the Sussman property was documented in the courts as early as January 12, 1990 (see page 12 and 32). M-NCPPC also stated in their brief that their own environmental planning staff "recommended to the Planning Board a condition of approval [of the subdivision] mandating the applicant to provide prior to receiving a building permit, a "clearing and grading plan . . . just to insure that this property . . . will not adversely affect an already existing [flooding] problem in the area" (see footnote 14, page 45 and page 71).

The neighbors conclude that no relevant drawings were ever to be prepared

for the development as stated in the court documents. We can only further conclude that M-NCPPC attorney, Michelle Rosenfeld, knew when she wrote the Planning Board position for the courts no drawings would be prepared. When Rosenfeld referred us to a middle level DEP bureaucrat, Joe Cheung, she indulged herself in yet more Planning Board obfuscation and deception. She knew that Mr. Cheung would say there were no such drawings. At this point we believe that the Planning Board attorney lied to us and the court. Yet the community pursued the matter even further.

To assure that the local rain water run-off meets the above stipulations, it was agreed upon by the developer, Allegro, at the required M-NCPPC Historical Commission public meeting (for a new but adjacent subdivision (Sailor property)), to slope the access driveway of this adjacent property to the Meadowneck Court cul-de-sac and from there down the already in place storm water drainage system. The developer Allegro (represented by Ms. Michaels) stated that the Montgomery County DOT officials said to her that, "We want you to put the concrete driveway in, exactly at the same elevations as the existing driveway and apron to match. . ." (see page 11 of HPC meeting transcript). Thus the agreement to this new subdivision would be a "guarantee" that the new access road would also carry run-off from the Allegro property as well as the new subdivision. In addition, in meetings with the neighbors and Allegro and DEP inspector Cathy Entz, it was agreed upon that the driveway from the Allegro property would be sloped to the cul-de-sac. A meeting at the site on March 21, 1995 with DEP sedimentary control supervisor Ray Givens confirmed this "understanding" that the required support road be sloped from the developed property to the cul-de-sac. By-the-way the developer was assessed two \$500 fines for sedimentary control violations as a result of this March 21, 1995 DEP visit. So now two separate "agreements" were in place regarding the slope of the required access road.

Unfortunately, Mr. Duncan, the developer agreed to carry run-off from the Allegro site to the cul-de-sac, but didn't do so! In fact, she dug up the concrete driveway referred to above on the adjoining site and reset the new driveway to different elevations. Allegro reversed the flow of run-off to the cul-de-sac back toward the neighbors properties. Now two separate agreements with County officials were broken by the developer and the county has taken no action.

During the past two months, the neighbors met with Emerson Carey, inspector for the county DOT, to discuss getting water away from the Allegro property. Mr. Carey heard the community concerns about run-off and also those of the developer. It was Mr. Carey's opinion that should the developer meet only the county code, the Sussman property would have had more run-off than from the final in ground "solution" of the developer which attempts to move water over and to the rear of the Sussman property and along the right-of-way of the adjoining Flavin property (see map page 73).

Unfortunately, rather than face the problem head-on at the Planning Board level, it was left to inspector Carey to resolve a problem he never created in the first place. Inspector Carey clearly did the best he could under the circumstances. Unfortunately, now two properties will be affected directly by the developers run-off "solution" - the Sussmans and the Flavins. In addition, five properties to the east along the rear of the Sussman and Flavin properties will also be hit by the run-off.

In truth, DOT inspector Carey, could not have made a worse decision regarding the neighbors property. Agreements were cast to take this rain water away via the cul-de-sac, but Carey was left out of the loop. He made what he considered to be a reasonable decision, but unfortunately, the solution now seriously effects the adjacent neighbors.

By the way, I had an appointment with inspector Carey at the site at 5:00PM, the evening of March 22, 1995 to discuss the issue further. He didn't show up! A follow call to Carey on March 23, 1995 resulted in no return call.

In an effort to get the "legal" M-NCPPC input into this "report", I again called the above mentioned Michelle Rosenfeld of M-NCPPC on March 21, 1995. Ms. Rosenfeld was the attorney I faced in court for over four years regarding this property and she knows the case well. I quoted the above paragraphs to her and again asked for the drawings referred therein. She said, "If there are drawings they would be in the M-NCPPC record or with Mr. Joe Cheung of DEP." I said the record has no such drawings and Joe Cheung also said again that there were no such drawings "because they are not required". I said please provide the community with the drawings. Ms. Rosenfeld asked that I request the above information by letter and she will respond by letter also. I have posted a letter on March 29, 1995 to Rosenfeld requesting this material. A copy is enclosed.

Of course, you can see why the neighbors were stunned and angered to see the aforementioned driveway sloped in the direction of the Sussman and Flavin properties and, of course, to other adjoining properties as well. DEP's Ray Given's, when asked, had to say what we all knew. "It doesn't take a genius to see where the run-off will go". And by that he meant toward the Sussman and Flavin properties and the properties beyond them.

In summary, numerous references in court documents appear to be mere Planning Board fabrications, "agreements" between the county and the developer were abandoned and the county is doing nothing about it, and in the end adjoining neighbors were and will suffer off-site rain water run-off.

Mr. Duncan, please understand that the Meadowneck Court neighbors have no gripes with the county inspectors. They all have been put into untenable

positions by the leadership of DEP, DOT and M-NCPPC with the approval of the Allegro development and the new one next door. At a minimum the new development should be stopped until proper run-off corrections can be put in place. The inspectors all issued their concern for the neighbors and said, if given proper enforcement legislation, they would work hard to protect the tax payer. Our problem is not with them but with you and your department heads.

At this point, Mr. Duncan, the county has abandoned this small historic neighborhood. Will YOU step forward and help protect us. It appears that YOUR M-NCPPC lied in court and to the community. It never intended to protect the community with appropriate drawings. Of course, we hope we are wrong in this matter. Will you help correct the flooding problem created by YOUR county departments and the developer. We will meet with you at any time of your choosing!

Sincerely,



Barry Glen Malko, Architect and Planner

enclosures: court documents and M-NCPPC letter.

cc:WRomer, WHussman, JHruz of the Gazette, RGivens, CEntz, ECarey, GNorton, RMerryman, GMarcus, JHurson, CVon Hallen, Meadowneck Ct. neighbors

duncan1

In The
COURT OF SPECIAL APPEALS of MARYLAND

September Term, 1993

NO. 770

Barrett Glen Malko
Appellant

v.

Maryland-National Capitol Park and Planning Commission et al.
Appellees

Appeal from the Circuit Court for Montgomery County
(DeLawrence Beard, Judge)

Brief of the Appellant
Barrett Glen Malko

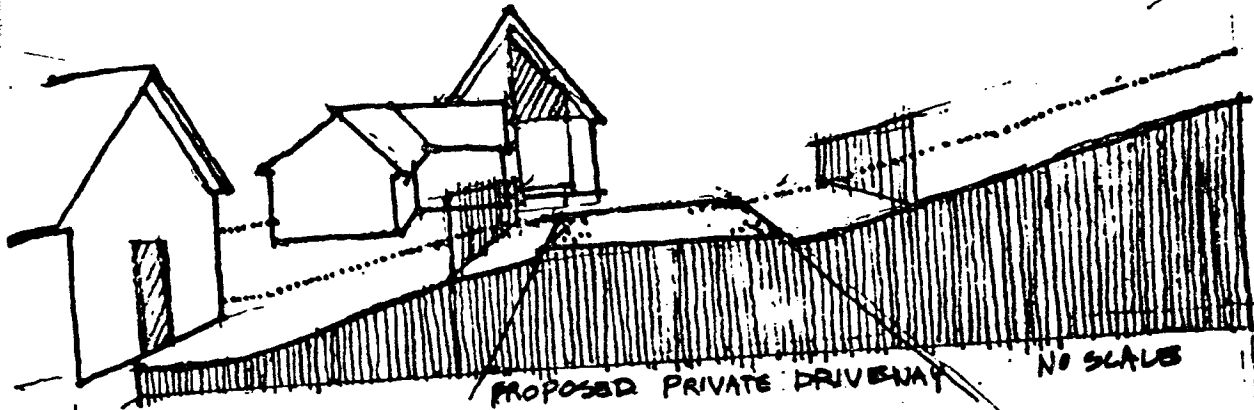
Barrett Glen Malko
10208 Capitol View Ave.
Silver Spring, MD 20910
(301) 588-5054
(202) 501-8050

August 30, 1993

developer regarding the use of public land. The plaintiff thinks not! The Planning Board must submit EVIDENCE to the court that it can.

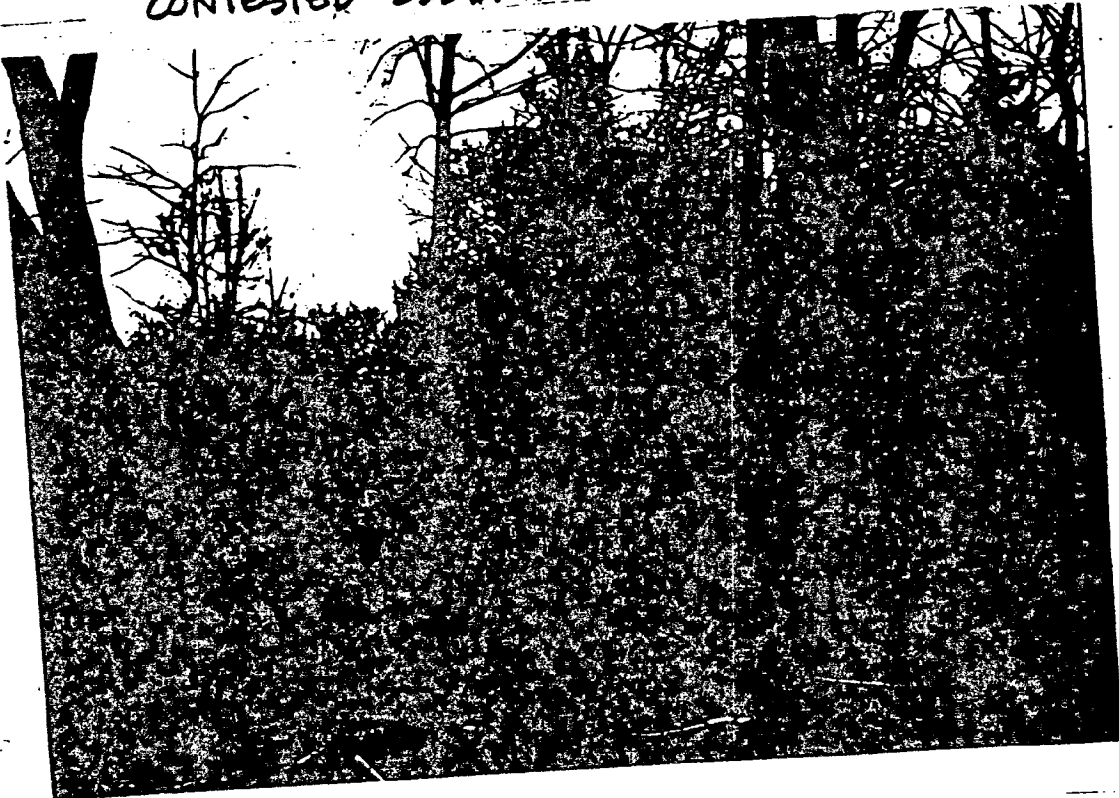
6) The Planning Board, by permitting the "public" support street to be developed as a sub-standard private driveway subverts the inherent structural protection to the public provided by County public street construction standards and ignores its own precedent in the area (see Exhibit 1, Meadowneck Court is standard street). These public street standards would provide adjoining property owners with a reasonable guarantee that the street will withstand public abuse including fire and emergency vehicles, delivery and trash removal trucks. Again, the Planning Board has not ruled for the record on the legality of such a private driveway scheme much less on the safety of it. Of course, this Planning Board scheme to use a private driveway as a public street abandons all the inherent additional safety benefits of a standard public street as storm water run-off control, fire and safety vehicle access, automobile bumper protection of a standard height curb and so on. Property 34 at 10208 Meadowneck Court (see Exhibit 1) will clearly receive severe rain water run-off as it cascades down hill from the contested subdivision and the private driveway onto and over the entire length of this property's side yard. (See section drawing and photograph, Exhibit 12). The defendant will claim that the Planning Board took extra precautions requiring a "clearing and grading plan" of the developer" . . . just to ensure that this property will not adversely effect an already existing problem in the area. . . . This so called precaution is pure nonsense! No on-site grading will ever in itself deter down stream flooding!

Clearly, the Planning Board puts the public in jeopardy when it permits sub-standard street construction on this so called "public" street. The Planning Board must submit EVIDENCE to the court as to why the private drive will be safe to the public. While the Planning Board apparently considers the private driveway a public right-of-



NO SCALE

SECTION THROUGH PROPOSED DRIVEWAY AND
CONTESTED SUBDIVISION



PHOTOGRAPH OF ABOVE SECTION VIEW

SECTION

SEPARATING PAGE

testimony from [redacted]s staff, and from Malko, [redacted] after consideration of the testimony and evidence before it, the Planning Board again approved the resubdivision application. It supported its decision with a detailed, five-page opinion that addresses the evidence before the Board, identifies the statutory provisions requiring specific Planning Board findings necessary to allow approval of the Plan, makes specific factual findings, and renders a decision based on these findings. The opinion clearly demonstrates that the Planning Board made a fairly debatable decision based upon substantial evidence of record, and its decision should be affirmed. The points of contention raised in Malko's brief fail to provide any legal or factual basis for overturning the Planning Board decision, as explained below.

A. THE BOARD'S OPINION CLEARLY SHOWS THAT THE PLAN MEETS STORM WATER MANAGEMENT REQUIREMENTS; THE BOARD BASED ITS DECISION UPON SUBSTANTIAL EVIDENCE IN THE RECORD AND ITS DECISION SHOULD BE UPHELD.

During the subdivision review process, the Board considers the adequacy of storm water management systems that will be affected by the proposed subdivision. The Board considers the expert recommendations made by other agencies, its own staff's evaluation of those recommendations, and other evidence presented at the hearing. In this case, Montgomery County's Department of Environmental Protection recommended approval of the plan based on a "waiver" of on-site stormwater management controls. As noted in the Planning Board's opinion, this waiver is granted when the proposed development will not increase the amount of stormwater runoff currently generated by the site.

Montgomery County's Department of Environmental Protection ("DEP") . . . granted the applicant a waiver of on-site stormwater management controls. . . . Planning Board staff testified that DEP grants these waivers only when stormwater runoff created by the new construction will be equal to or lesser than the amount of runoff currently generated on the property. DEP can determine the impact that the proposed development will have because the applicant must document for DEP the existing topography and proposed grading plan and drainage area map for the site. This information allows DEP's engineers to numerically assess the quality and quantity of stormwater that will be generated by the proposed new construction, and to determine the final disposition of the stormwater. With proper grading techniques, stormwater can be contained on this site until it is absorbed into the ground, thereby avoiding all impact on the surrounding storm drains.

See Attachment Four, page 3, and footnote three, and Attachment Three thereto.¹⁴

Malko also testified on this issue, stating that "intuitively, if there is a [stormwater runoff] problem, additional development will increase that problem." Attachment Four, page 4. The Planning Board asked Malko for specific empirical evidence in support of this assertion, and he had none to provide. The Board, in its opinion, noted that "if evidence to contravene [DEP and Planning Board staff's expert conclusions]

¹⁴Planning Board staff acknowledged that stormwater management problems exists in the Capital View area. Record Extract 33 p. 2, lines 2-19. Staff also noted, however, that the Board's Environmental Planning Division staff (who reviews the adequacy of stormwater management facilities) did not think that the addition of one extra lot would adversely affect the problem. In an abundance of caution, however, staff recommended to the Board a condition of approval mandating the applicant to provide, prior to receiving a building permit, a "clearing and grading plan . . . just to ensure that this property . . . will not adversely affect an already existing problem in the area." Record Extract 33 p. 2, lines 16-19. The Board imposed this extra precaution, notwithstanding the waiver granted by DEP. Attachment Four, p. 5, Condition No. 2.

is not submitted to them, then the Board has no basis for making a decision that contravenes staff and agency conclusions."

Attachment Four, page 4. And in fact, the Board made an express finding that "based on the expert testimony introduced into the record that establishes that the stormwater facilities will not be affected by the proposed development, the Board finds that the on-site stormwater management grading controls approved by DEP will be adequate to serve the proposed new development."

Attachment Four, page 4.

Clearly, the Board had substantial, uncontroverted evidence in the record to show that this application would not adversely affect the existing stormwater management problems in the area. Based upon the expert recommendations provided by the local agencies and the Planning Board staff, the Board based its decision to approve the subject application pursuant to substantial evidence in the record and made a fairly debatable decision that should be upheld by this Court.

B. AS A MATTER OF LAW, OAK STREET HAS PROPERLY BEEN DEDICATED AND PROVIDES NECESSARY PUBLIC ACCESS TO THE PROPERTY

The subject property faces Capital View Avenue to the east, and "Oak Street" to the west, a street dedicated to the County but not developed.¹⁵ See Record Extract No. 15 - Revised Preliminary Plan. Montgomery County Department of Transportation, (MCDOT) has not received a "full dedication" (the dedicated area

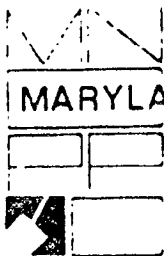
¹⁵See Record Exhibit 18 - Oak Street dedicated at Liber 272 Folio 463.

SECTION

SEPARATING PAGE

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760



MONTGOMERY COUNTY PLANNING BOARD
OPINION

Preliminary Plan No. 1-89198
Project: Capitol View Park

Action: Approval. (Motion made by Commissioner Keeney; seconded by Commissioner Floreen. Commissioners Keeney, Floreen, Bauman, Richardson and Baptiste voted in favor of the motion.)

Voitek Naplorkowski ("Applicant") filed a resubdivision application ("Plan") for a 14,200 square foot lot ("Property") located in the R-60 zone, seeking to resubdivide the Property into two lots.¹ The Property is a rectangular lot with frontage on the western side of Capitol View Avenue and the eastern side of Oak Street. The Property is improved with a single-family house that fronts on Capitol View Avenue.

The Montgomery County Planning Board ("Board") held a public hearing during which it reviewed the application and the public record,² and heard testimony from Board staff, the Applicant and Barrett Malko. Based upon the record and testimony presented

¹Applicant filed the Plan on August 3, 1989. The Planning Board approved the Plan on January 5, 1990, and Barrett Malko filed an appeal the Circuit Court for Montgomery County contesting the Board's approval. The Circuit Court upheld the Board's decision, and Malko appealed to the Court of Special Appeals. *Sua sponte*, the Court remanded the application to the Board with a directive that the Board conduct additional fact finding. This Opinion reflects the additional testimony received, the Board's evaluation of that testimony, and its specific findings based upon that evidence.

²The Board expressly adopted the public record and testimony presented during the first public hearing. Audio tapes of the first hearing were made available to all Planning Board members, and. In particular those Planning Board members not present during the first hearing (Commissioners Richardson and Baptiste) reviewed the audio tapes of the first hearing, and as a result were fully familiar with the original resubdivision hearing and participated in this decision.

during the first and second public hearings conducted for this application (and incorporated by reference into this Opinion), the Board finds the Application to be in compliance with the Subdivision Regulations and in particular the resubdivision criteria and approves the Plan as submitted, subject to conditions outlined in this Opinion. See Montgomery County Code Chapter 50-1, et seq., for approval criteria.

A proposed resubdivision application must meet the following resubdivision standards:

Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision. Montg. Co. Code Ch. 50-29(b)(2).

These subdivision requirements ensure that resubdivided lots will conform with the predominant characteristics of the surrounding neighborhood.

The Plan proposes resubdividing an existing 14,200 square foot lot into two lots, with proposed lot 43 having approximately 6,800 square feet and proposed lot 42 having approximately 7,400 square feet. See Attachment One. The property is located in the R-60 zone, which requires a minimum lot size of 6,000 square feet. The surrounding lots range in size from 13,000 square feet (Lot 23) to 5,000 square feet (Lot 41 at the intersection of Lee and Oak Streets). Staff testified that the proposed new lots conformed with the surrounding, existing lots under the resubdivision criteria.

Both proposed lots have fifty feet of frontage on a dedicated public right of way. Montgomery County's Department of Transportation ("DOT") recommended approval of the Plan, subject to several conditions specifically incorporated into this Opinion below. See Attachment Two. In its approval letter DOT acknowledges Oak Street is not improved, nor is it maintained by the County. DOT, however, expressly granted permission for the Applicant to access his property over the public right of way, along with Applicant's neighbors, conditioned on a maintenance agreement. Planning Board staff confirmed DOT's approval by noting in its testimony that the frontage on Capitol View Avenue and the dedicated right of way on Oak Street meets the Subdivision Requirement that "every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." Montg. Co. Code § 50-29(a)(2). Staff verbally reconfirmed DOT's original approval prior to the hearing on remand.] LKRB'

Montgomery County's Department of Environmental Protection ("DEP") also approved the resubdivision application, and granted the applicant a waiver of on-site stormwater management controls. See Attachment Three. Planning Board staff testified that DEP grants these waivers only when stormwater runoff created by the new construction will be equal to or lesser than the amount of runoff currently generated on the property.³ DEP staff verbally affirmed its original approval of the Plan to Planning Board staff several days before the hearing on remand.

Planning Board staff noted that a storm drain catchment that serves this area is not working properly, and that maintenance responsibilities lie with DEP and the State Highway Administration (which also recommended approval of the Plan. See Attachment Four). In light of DEP's stormwater management waiver, staff advised the Planning Board that the existing stormwater management facility would not be affected by this proposed development.

The Washington Suburban Sanitary Commission also reviewed the project, and determined that the water and sewer capacity necessary to service the Plan is available, as was specifically indicated on the staff recommendations for approval submitted to the Planning Board. See Attachments Five and Six. Further, staff noted that the Annual Growth Policy (guidelines adopted by the Montgomery County Council to provide the basis for the Planning Board's determination of the adequacy of certain public facilities) states that "[Subdivision] applications shall be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is . . . category I." FY 92 Annual Growth Policy p. 27, Section C. Therefore the water/sewer service for this application is adequate to support the proposed development.

The applicant agreed with all of the conditions proposed by the staff, and requested approval of the Plan as submitted. Mr. Malko testified in opposition to the Plan. He noted that a local stormdrain catchment routinely floods, and that this flooding problem contributes to the deterioration of Capitol View Avenue, which is caving in at certain locations. Mr. Malko asserted that

³DEP can determine the impact that the proposed development will have because the applicant must document for DEP the existing topography and proposed grading plan and drainage area map for the site. This information allows DEP's engineers to numerically assess the quality and quantity of stormwater that will be generated by the proposed new construction, and to determine the final disposition of the stormwater. With proper grading techniques, stormwater can be contained on this site until it is absorbed into the ground, thereby avoiding all impact on the surrounding storm drains.

this downstream flooding results from earlier subdivision approvals, and argued that "intuitively, if there is a problem, then additional development will increase that problem." Commissioner Baptiste asked Mr. Malko to provide any specific empirical evidence that he had in support of his assertion, such as the amount of runoff generated by the proposed development, to document his position that the project will add to flooding problem. Mr. Malko had none to provide.⁴

Commissioner Floreen noted that "This [hearing] is the time at which the experts debate these issues, at which the information is reviewed, analyzed and assessed." She further pointed out that the case was remanded precisely to conduct this fact-finding discussion. The Planning Board members further noted that if evidence to contravene the agency conclusions is not submitted to them, then the Board has no basis for making a decision that contravenes staff and agency conclusions.

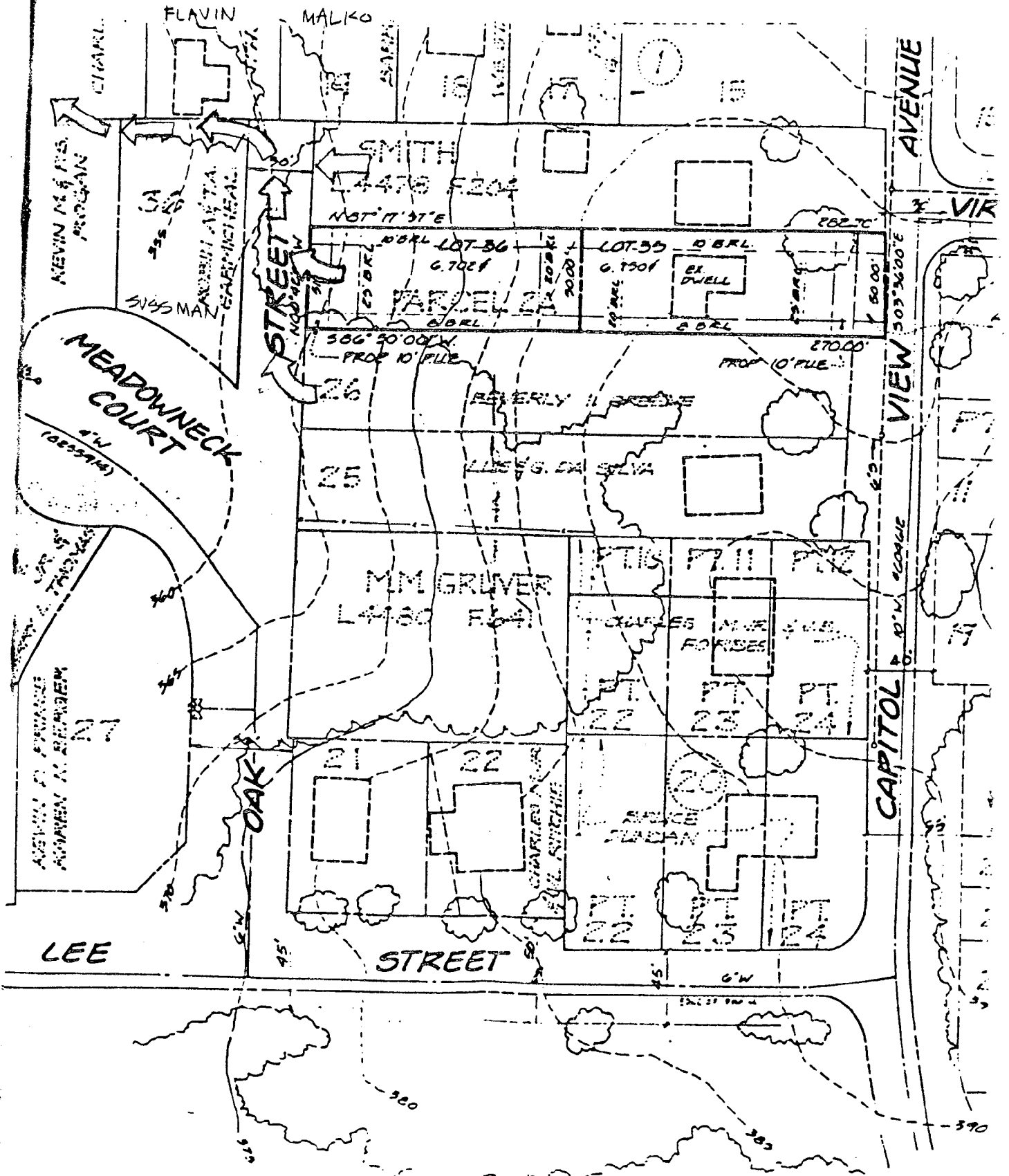
Based on the evidence and testimony provided, the Planning Board finds that the Plan as submitted meets the standards and conditions imposed by the subdivision regulations. The proposed new lots meet all the resubdivision criteria. In particular they are compatible with the surrounding neighborhood with respect to their width, shape, frontage and suitability for residential use. The lot sizes conform with the zoning requirements, and are in keeping with the lot sizes of the surrounding properties. Both lots have frontage on a road which has been dedicated to public use and which has acquired the status of a public road.

Further, the Board finds that the other public facilities necessary to support the proposed lots are adequate. The water/sewer facilities are available for use, as specified by WSSC. Also, based upon the expert testimony introduced into the record that establishes that the stormwater facilities will not be affected by the proposed development, the Board finds that the on-site stormwater management grading controls approved by DEP will be adequate to serve the proposed new development. Finally, necessary sediment and erosion controls associated with issuance of the building permit will be approved by Commission and DEP technical staff prior to construction, as provided below in the conditions of approval.

⁴Mr. Malko (who stated on the record that he is an architect and planner) asserted that "water has to go downstream" as justification for his assertion that the new development necessarily will impact surrounding stormwater facilities, but did not support this assertion with specific numbers or engineering information to contravene the conclusion reached by DEP's engineering staff.

The Board unanimously adopted a motion to approve the Plan, subject to the following conditions:

1. Dedication of Capitol View Avenue 30' off center line;
- * 2. Prior to Planning Board release of building permit, submit clearing and grading plan for technical staff approval;
3. DEP Stormwater Management Approval dated 11-3-89;
4. Necessary Easements;
5. WSSC letter of approval dated 8-16-89; and
6. DOT letter of approval 11-29-89.



SECTION
SEPARATING PAGE

1 MS. MARCUS: We need you to speak into a
2 microphone.

3 MS. MICHAELS: After having received the
4 letters from the neighbors and the HPC on Friday, I went
5 ahead and did some additional work, and that's the packet
6 that you have, trying to address the open issues. And it
7 seems to me that there were three categories of open
8 issues. One was the development of Oak Street; the
9 second was the elevation of my house in relationship to
10 the elevation of the other houses and adjacent
11 properties; and the third was the trees.

12 The first issue, the development of Oak Street,
13 I took the entire packet to DOT. I showed them every
14 letter. In addition to that, they confirmed that they
15 had received at least a half-dozen phone calls from the
16 neighbors. I asked them if they would recommend that I
17 do anything to the extension of Oak Street to address
18 their concerns. I even proposed a swell.

19 * [And their comments to me were, "We want you to
20 put the concrete driveway in, exactly the same elevations
21 as the existing driveway and apron to match. [We don't
22 want a swell because it creates an area for bugs. It's
23 only a little over a thousand square feet of concrete
24 that you're putting in, and we want you just to put it in
25 to match existing concrete elevations." They don't feel

SECTION

SEPARATING PAGE

3.29.95

10208 Capitol View Ave.
Silver Spring, MD 20910

Ms. Michelle Rosenfeld
M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

Dear Ms. Rosenfeld:

As you requested by telephone on March 21, 1995, I'm making a formal request for drawings referred to in Court of Special Appeals (CSA) (September Term, 1993; No. 770) documents that you prepared on behalf of M-NCPPC. I quote these court documents with the drawing references below and refer to the CSA's page numbers.

1) ". . . document for DEP the existing topography and proposed grading plan and drainage area map for the site . . . With proper grading techniques, storm water can be contained on this site until it is absorbed into the ground." (see page 45).

2) [M-NCPPC staff] "recommended to the Planning Board a condition of approval [of the subdivision] mandating the applicant to provide prior to receiving a building permit, a "clearing and grading plan . . . just to insure that this property . . . will not adversely affect an already existing [flooding] problem in the area" (see footnote 14, page 45).

I will share these drawings with the Meadowneck Court neighborhood when I receive them.

Sincerely,



Barry Glen Malko

cc:WHussmann

mncppc#4

Post-it™ Fax Note	7671	Date	3/9/95	# of pages	2
To	Phyllis Michaels	From	PAT PARKER		
Co./Dept	Allegro Develop. Inc.	Co.	M.NCPPC		
Phone #	(301) 564-4039	Phone #	(301) 495-4570		
Fax #	(301) 564-0928	Fax #	(301) 495-1307		



March 10, 1995

Phyllis Michaels, President
Allegro Development Inc.
P.O. Box 57
Kensington, Maryland 20895

Dear Ms. Michaels:

On August 17, 1994, the Historic Preservation Commission approved a proposal to construct a new house on Lot 43 with the following conditions:

- 1) The arborist's plan should be revised to include the planting of two (2) additional trees in the front yard and new plantings along the north and south property lines to further mitigate proposed tree loss;
- 2) Fifteen (15) new trees are to be planted: five (5) large trees - 6" in diameter; five (5) medium trees - 4" in diameter and five (5) small trees - 2" in diameter;
- 3) Provide adequate protection for the three trees in the front of the property at the west and on the south side of the property by establishing a temporary fencing line approximately five feet away from the trees; and
- 4) General Condition: The applicant shall notify the Department of Environmental Protection (DEP) five days prior to commencing work and within two weeks after completion.

On March 6, 1995, staff received a landscape plan for this property which included a proposed revision to plant 15 trees - but five of 4" caliper and 10 trees having 3" caliper. Your arborist's report proposed this landscape plan as an alternative because of the limited amount of space available. He felt that this plan could be successful considering the tight configuration of the lot and its small size.

Staff feels that this plan meets the objectives of the HPC to mitigate the substantial tree loss as a result of new construction and to provide necessary landscape buffers. Your plan includes the planting of fifteen trees having a mixture of caliper, as required by the HPC. All other conditions for adequate tree protection are to remain in effect.

Should you decide to use a multi-truncated ornamental tree in the front yard (3" Cornus Kousa shown on the revised plan), this should be 8'-10' min. height or the caliper of the tree may be calculated by using a formula of the caliper = size of the largest trunk + 1/2 the additive of the smaller trunks.

We will keep a copy of this plan for record purposes. If you have any further questions, please give me a call at (301)495-4570.

Sincerely,

A handwritten signature in black ink that reads "Patricia Parker". The signature is written in a cursive, flowing style.

Patricia Parker
Preservation Planner

encl:plan

Allegro Development Incorporated
P.O. Box 57
Kensington, Maryland 20895

March 6, 1995

Ms. Pat Parker
Historic Preservation
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: 10113 Meadowneck Court
Historic Work Permit

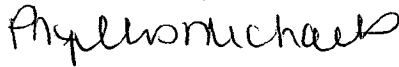
Dear Ms. Parker

The original historic work permit for the above referenced project required the planting of 15 trees. The trees were to be 5 @ 6" caliper, 5 @ 3" caliper, and 5 @ 1 1/2 " caliper. The cumulative caliper was 48.5 inches.

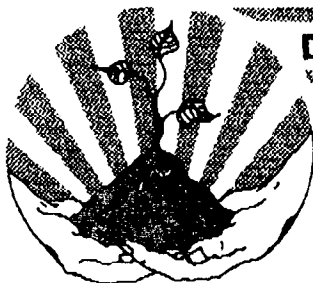
I have talked with two tree planting companies and both have told me that it is not possible to install the 6" trees on this site and its doubtful that the common driveway can support the tree spade truck which is required to install the 6 " trees. A letter addressing this issue is attached for your use. I am proposing an alternate plan of 5 trees @ 4" caliper and 10 trees @ 3" caliper. This would result in a cumulate caliper of 50 inches and greater canopy area. Attached is a tree plan which reflects this solution . The species were selected by the future owner and the layout addresses the future owners need to put a swing set in the rear yard.

Thank you for considering this alternate plan. A timely response would be appreciated.

Sincerely,



Phyllis Michaels
President



**D&A Dunlevy
Landscapers, Inc.**

February 23, 1995

Phyllis Michaels
Allegro Development
P.O. Box 57
Kensington, MD 20895
301-564-4039
301-564-0928 FAX

RE: 10113 Meadow Neck Court

To Whom it May Concern:

All trees to be planted at 10113 Meadow Neck Court, Silver Spring, MD for Allegro Development, Inc. must be of a ball and burlap size. The largest trees that can be planted are 3" - 4" cal. Any trees larger than this would require a truck mounted tree spade for which there is no access to most areas at this property.

If you have any questions concerning this matter, please call me @ 301-977-7593.

Sincerely,


David K. Dunlevy

Dave Dunlevy

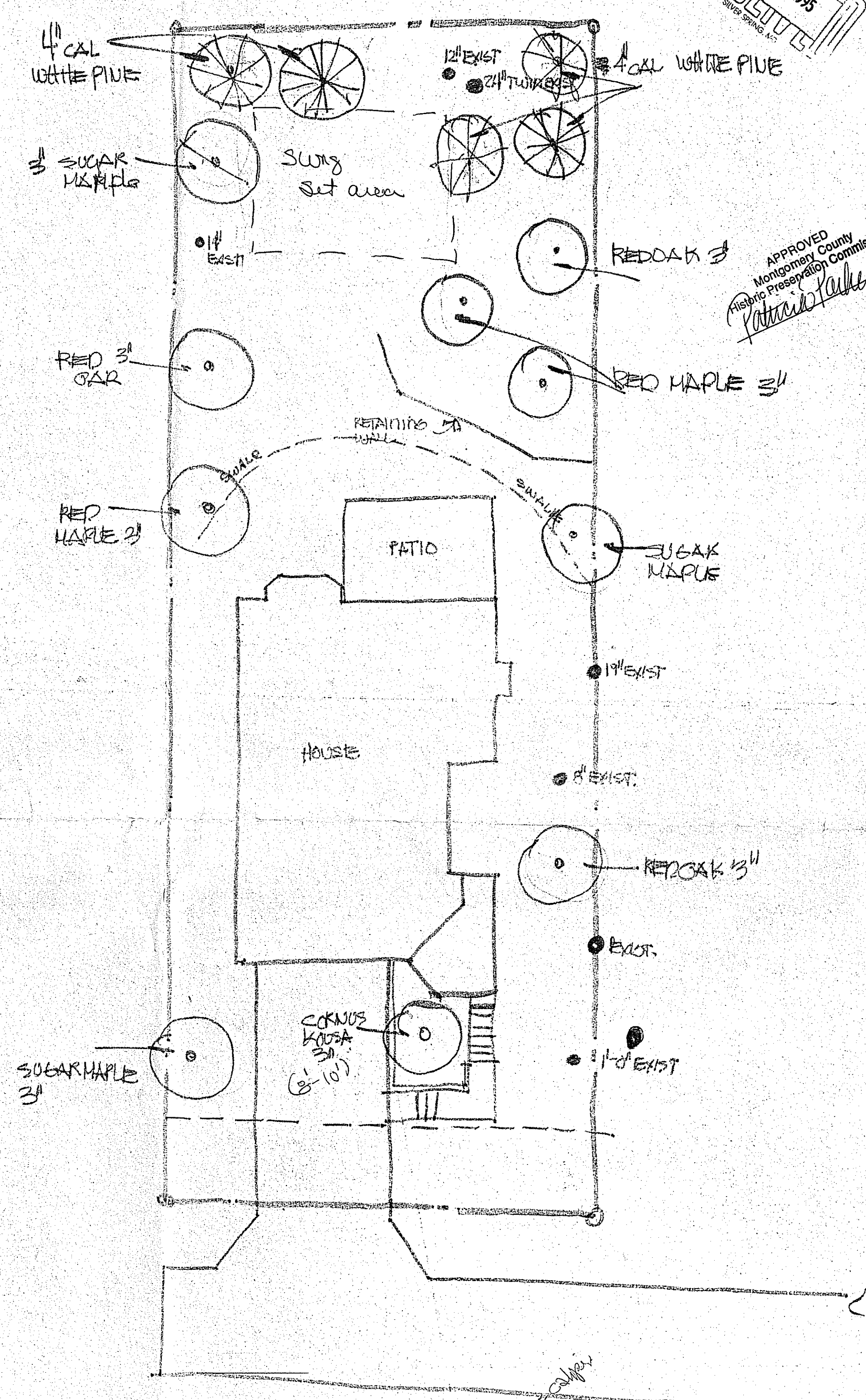


D&A Dunlevy
Landscapers, Inc.

Innovative Landscaping
Professional Maintenance
(301) 977-7593
FAX # (301) 977-9052

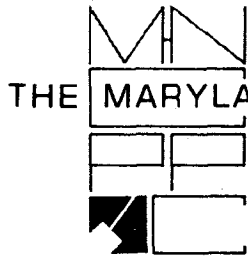
17030 Longdraft Road • Gaithersburg, Md. 20878

REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT
MAR 06 1995
SILVER SPRING, MD



APPROVED
Montgomery County
Historic Preservation Commission
Patricia Parker

Large trees 1/2 of way of other trees = caliper



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

November 14, 1994

Mr. Steven Kramer
10109 Meadowneck Court
Silver Spring, Maryland 20910

Dear Mr. Kramer:

Enclosed please find copies of 1) the Minutes of the August 17, 1994 HPC meeting; 2) a tree plan; and 3) the arborist's report on Lot 43, Oak Street in Capitol View Park Historic District.

In addition to conditions listed in the staff report on this item, the HPC approved the Historic Area Work Permit for this property subject to the planting of fifteen (15) new trees - five large trees, min. 6 inches in diameter; five medium caliper trees, min. 4 inches in diameter; and five small trees, min. 2 inches in diameter. You may remember, the applicant had proposed the planting of nine (9) new trees.

The general condition for all Historic Area Work Permits is also applicable. These conditions are listed on pages 57-58 of the HPC minutes.

Additionally, and for your information, this Office is also in receipt of a Preliminary Plan for subdivision of Lots 44 and 45 in Capitol View Park Historic District.

If you have further questions, please give me a call at (301)495-4570.

Sincerely,

Patricia E. Hayes Parker

encls.

Rec'd 11/14/94

10109 Meadowneck Court
Silver Spring, MD 20910
November 7, 1994

By Fax and Mail

Ms. Patricia Parker
Montgomery County Historic
Preservation Commission
51 Monroe St.
Suite 1001
Rockville, MD 20850

Dear Ms. Parker:

Could you please send me or inform me how to obtain the following documents:

- 1) Minutes of the meeting of the Historic Preservation Commission on August 17, 1994
- 2) Copy of the tree plan that indicates the location of new trees to be planted at Lot 43, Oak St./10113 Meadowneck Ct. in Silver Spring as determined by the Historic Preservation Commission

Please send the documents to me at the above-referenced address. If you need to contact me, I can be reached during daytime hours at 202/223-9610 or 202/332-4345 (fax).

Thank you for your assistance.

Sincerely,



Steven R. Kramer

10109 Meadowneck Court
Silver Spring, MD 20910
November 7, 1994

By Fax and Mail

Ms. Patricia Parker
Montgomery County Historic
Preservation Commission
51 Monroe St.
Suite 1001
Rockville, MD 20850

Dear Ms. Parker:

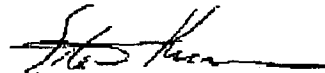
Could you please send me or inform me how to obtain the following documents:

- 1) Minutes of the meeting of the Historic Preservation Commission on August 17, 1994
- 2) Copy of the tree plan that indicates the location of new trees to be planted at Lot 43, Oak St./10113 Meadowneck Ct. in Silver Spring as determined by the Historic Preservation Commission

Please send the documents to me at the above-referenced address. If you need to contact me, I can be reached during daytime hours at 202/223-9610 or 202/332-4345 (fax).

Thank you for your assistance.

Sincerely,



Steven R. Kramer

10109 Meadowneck Ct.
Silver Spring, MD 20910
August 8, 1994

By Fax and Mail

Mr. Graham Norton
Director
Montgomery County Department
of Transportation
101 Monroe st.
Rockville, MD 20850

Subject: New Construction at Lot 43, Oak St., Capitol
View Park Historic District, Silver Spring, MD

Dear Mr. Norton:

The purpose of this letter is to document my telephone conversation of July 28, 1994 with Mr. Nick Kotzalas of your offices and also to raise some additional questions in regard to the proposed new construction at Lot 43, Oak St., Silver Spring, MD.

A new home is proposed to be built at Lot 43 on Oak St., see attached figure. The builder proposes to install a 12 ft. wide asphalt area in front of Lot 43 which will become part of Oak St. The area in front of Oak St. is currently wooded with a dedicated area for a street at some future date. No homes exist on Oak St. at this time. In essence, Oak St. is currently a "paper" or unapproved street. Access to Oak St. is obtained through Meadowneck Ct. My home at 10109 Meadowneck Ct. is located two sites south of the proposed new construction. The apron for our driveway appears to be the beginning of Oak St.

In my conversation with Mr. Kotzalas, he indicated that Oak St. will be privately maintained by the future homeowners who reside on this street. It was stated that Montgomery County will not perform snow removal and road repairs. Mr. Kotzalas said that Oak St. will serve as a common driveway for the residents who confront this area.

I expressed my concern to Mr. Kotzalas about potential damage to my property from construction traffic since there is inadequate space for construction vehicles. Mr. Kotzalas said that the Department of Transportation will require builders of homes on Oak St. to maintain a bond which protects my property from construction damage.

I would appreciate your response to the following additional questions in regard to the future use of Oak St:

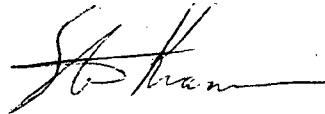
Page 2
August 8, 1994

(1) If Oak St. will be a common driveway and will not become a road, does the Department of Transportation intend to abandon the remaining areas previously dedicated for a road?

(2) With the proposed plan for the use of Oak St., access for trash collection and mail delivery is unclear. How will access be provided for these services?

Please inform me if any of the information in this letter is stated incorrectly. Thank your for assistance.

Sincerely,



Steven R. Kramer
202/223-9610 (phone)
202/332-4345 (fax)

Enclosure

cc: Patricia Parker, Historic Preservation Commission
(By Fax and Mail)

OWNERS DEDICATION

We, Luis de Silva and Graciete da Silva, the owners of the property shown, and described by of subdivision, establish the minimum building setback of 10 feet. This Utilizes Easement (F.U.E.) in a document entitled "Declaration of Terms of Easement" recorded in Liber 3834 Folio 457 of Records, subject to all current and applicable State and Local governing agencies. The proceeds of any and all easements of record. Establish to any and all subsequent development of the tract, as shown and described herein. The easement to this subdivision will be constructed and maintained.

There are no suits, actions, law, liens, leases, or the property included in this plan of Subdivision.

DATE: SEPT. 01, 1978
William J. Ehrhart
William J. Ehrhart
 WITNESSES
William J. Ehrhart
 WITNESS

SURVEYOR

I hereby certify that this is a correct copy of the original plat as recorded in Liber 3834 Folio 457 of Records, subject to all current and applicable State and Local governing agencies. The proceeds of any and all easements of record. Establish to any and all subsequent development of the tract, as shown and described herein. The easement to this subdivision will be constructed and maintained.

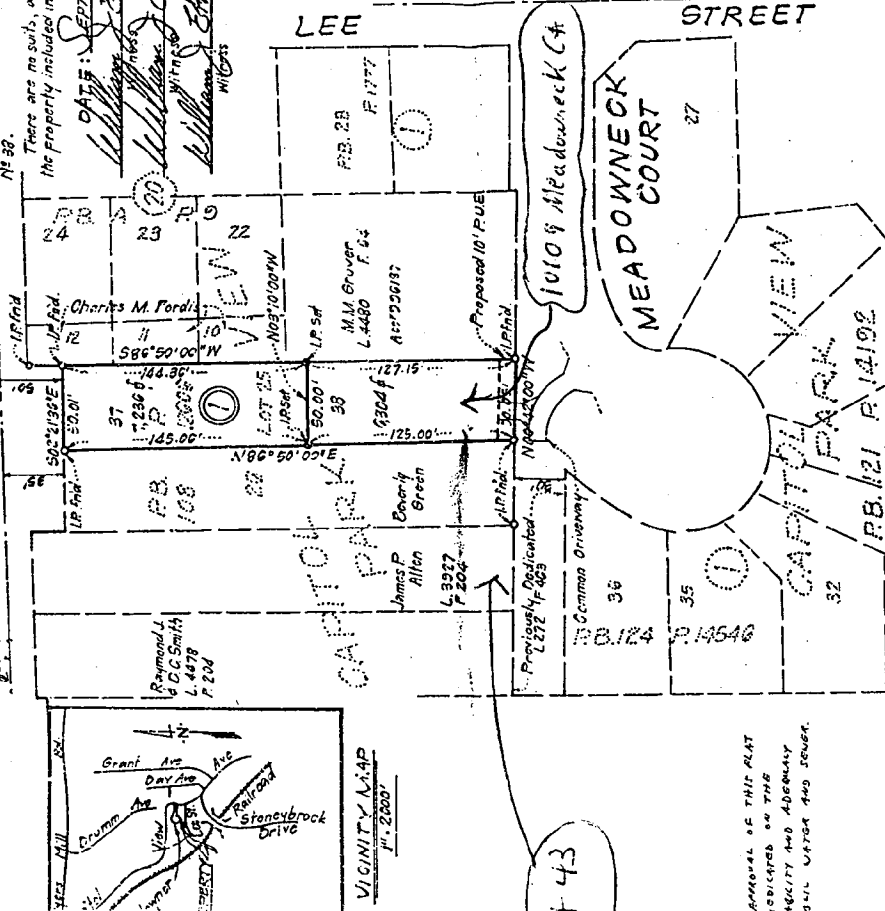
DATE: Sept. 1, 1978

Area of Lot:
 Area of Lot:
 Total area of

VIEW

CAPITOL PARK AVENUE
 VIRGINIA VIEW
 CAPITOL VIEW

LEE STREET
 MEADOWNECK COURT
 CAPITOL PARK VIEW



DEPARTMENT OF HEALTH
 Montgomery County, Maryland
 APPROVED: 10/31/87
 Health Officer

DEPARTMENT OF TRANSPORTATION
 APPROVED: October 19, 1988
 Chairman

DEPARTMENT OF PLANNING AND ZONING
 APPROVED: SEPTEMBER 15, 1988
 Chairman

RECORDED: 11-10-88
 PLAT BOOK: 150
 PLAT NO.: 17174
 SCALE: 1" = 50'

RICHARD H. BE
 1816 Langraf,
 Gaithersburg, MD

RECORD FILE NO. 874-9
 218-54181201-1001000022591

APPROVAL OF THIS PLAT
 INDICATED ON THE
 PLAT AND ADEQUATE
 TITLE OFFICE AND SEWER.

10105 Meadowneck Court-1069
Silver Spring, MD 20910
9 August 1994

Pat Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

RE: Case # 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. I have several concerns:

1) Loss of Many trees, (15-22) including several extremely large ones. Although this may be necessary as a part of development, there are viable alternatives to consider. One could be to require replacing many of the large trees with suitable replacements. Perhaps a ratio of 2:1 (2 trees cut to a new one, 3-4" in caliper, planted). Also, if 2 trees are cut that measure $\geq 2'$ in caliper then an 8" caliper is to be planted. This wont make up for the forest we lose, but it gives the new site a start towards reforestation. I'd like to request that the applicant donate \$5,000 towards the County Tree Fund.

I haven't see proposed landscape plan which includes: type, size and location of all new shrubs to be planted (i.e. 2' evergreen shrub). Did the applicant provide one? Also a current tree survey was not provided (indicating location of trees greater than 6" diameter and the species) showing those to be removed in relation to the proposed home.

2) Development of Oak Street: Although Oak street may be on the master plan, it is not really there. As such, development of this lot includes placement of Oak Street as either an extended driveway or as a Street. This is unclear. To develop this roadway (whichever is decided) will involve removal of 2 more very large trees (2'-4' DBH).

Additional concerns I have for this "roadway" include access for maintenance such as plowing snow; mail service, including location of mailboxes and delivery; fire and rescue needs and trash removal, including location of garbage cans.

3) How will development of this roadway affect my right of way, that currently serves as my lawn and driveway?

4) What about the impact of this development on the storm sewer system? The original storm sewer system is not adequate as observed by ponding near the storm drain after a heavy rainfall. Additional runoff will be experienced from this newly developed lot and very likely from development of the two remaining lots. This additional flow will surely overburden our already overflowing single storm drain in Meadowneck Court.

5) What provisions have been made for exacerbation of erosion in the neighborhood? Will some diversion ditch, curb, storm drain or something other be placed to prevent additional runoff/sediment control? What mechanisms are there in place for this concern? Will the addition of a curb help minimize the impact of the runoff to the storm sewer that is inadequate?

These are my concerns for the development as proposed. I look forward to your consideration/review of the plans for this lot and addressing the pertinent issues prior to issuance of a final building permit until these concerns are addressed. Thank you for your consideration.

Sincerely,

Bonnie Adler

Bonnie Adler



ADLER

Adler Construction Group, Inc.
Builders □ Developers

10105 Meadowneck Court
Silver Spring, MD 20910-1069
9 August 1994

Patricia Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

RE: Case # 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. As a builder I know how difficult it is to please residents in an infill area where new construction is proposed. As such, I'm also aware of the hurdles through one must jump in order to satisfy their concerns as well as the requirements of the various agencies overseeing new construction. After reviewing the proposal, I feel that more information is needed from the applicant before any building permit can be issued.

First, I'd like to address the lack of a current tree survey. According to county requirements, a recent (less than 1 year old) tree survey must be conducted, which identifies the lot, indicates a North arrow, locates the trees on the lot, their size, species and disposition as it relates to the proposal (i.e. removal or saving). Ms. Michaels indicated in the hearing on July 27, 1994 that she must remove all trees located within 15 feet of the home. I find this logic flawed, as I have saved such trees, many larger than 6" DBH in close proximity to some of my homes. If you'd like I can give you the addresses for verification. The trees slated for removal number somewhere from 15 to 22. If that many trees are removed, could the applicant be required to plant new ones for preservation of the natural area being disturbed? This is not unusual, as I have always replanted 1 to 2 trees on lots where only 1 or 2 were taken. Removal of a forest such as this should automatically dictate the planting of new trees, some greater than 6" in caliper.

Additionally, new home construction plans are required to provide a plan of all new shrubbery to be planted, including size, location and variety (i.e. 2' evergreen shrub, generally sited on a revised plan indicating new home and location of each plant). I do this every time I submit plans for new home construction.

Second, this proposal includes developing/extending a driveway, that appears as a paper street on the county master plan. Although another person began development of this "roadway," I believe he did so as a driveway, with a driveway permit, not a road permit. Therefore, Oak Street, is still not a street. If Ms. Michaels plans to provide access to her proposed home by extending this driveway, what conditions are to be imparted to her? Will she be required to place curb and gutter to 25' across the roadway? Will it be paved with asphalt or concrete? How thick will the asphalt or concrete be: 10", 12" or something else?

Additional questions I have are:

Will she include a design for the runoff/erosion control from the road and lot? There are two more lots to consider that will likely be developed after "Oak Street" is constructed. How about future runoff from their lots?

What provisions are made for fire and rescue services? Mail service? Trash removal service? Snow plowing?

Does development of Oak Street, include straightening out the driveway currently there, causing removal of lawns and driveways currently located in the right-of-way?

Third, this development will impact the current storm sewer system. The original storm sewer is not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain. Additional runoff experienced from this newly developed lot and the two additional lots likely to be developed, will burden our already overflowing storm drain in Meadowneck Court. I'd like to see DEP storm water management folks look at this issue more closely.

In relation to the stormwater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the proposal include some diversion ditch, storm drain or other be placed to prevent additional runoff/sediment control? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns.

Finally, I'd like to know why the applicant did not provide adequate notification to the confronting homeowners located across the "paper street." I have always found the directions for the description of a confronting home very concise, "...as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway in question." Due to this oversight, the comment period was extended to include notification of the

confronting neighbor, as well as other concerned neighbors on Meadowneck Court. I have respect for the process and appreciate the objectivity you impart on all applicants. I look forward to your consideration/review of the plans for this lot and the issues that concern the residents of the area prior to possible issuance of a final building permit.

Thank you for your time. I look forward to continuing my business pursuits with you as Adler Construction Group, Inc. continues to build quality homes in Montgomery County.

Sincerely,

Bonnie Adler for

Jeffrey Adler, President
Adler Construction Group, Inc.

Post-it™ Fax Note	7671	Date	7/27/94	# of pages	1
To	Phyllis Michaels	From	PAT PARKER		
Co./Dept.		Co.	M. NCPPC		
Phone #	(703) 305-9530	Phone #	(301) 495-4570		
Fax #	(703) 305-8536	Fax #	(301) 495-1507		

Verification Report

Date: Jul 27

Time: 03:29PM

1 page sent to:

97033058536

Transmission time: 00:00:50

Result: Transmission OK

To: Maryland-National Capital Park & Planning

Attn: Pat Parker

FAX# 495-1307

From: Rosaloe Chiara

Tel: 202-634-1781

pg 1 of 2 pgs.

COMMENTS ON HPC CASE NO. 3/7-94E

- 1) **Inadequate Notice:** Applicant did not notify any property owners on Meadowneck Court. The application requires that adjacent and confronting property owners be given notice. The proposed house will directly face the side of one house on Meadowneck, will be across a vacant lot from another and arguably, because of the court's configuration, all property owners on the court could be considered confronting. I understand that although the Commission plans to discuss this case on July 27, 1994, the record will be kept open an additional two weeks, until at least August 11, 1994, for additional comments. In addition, I understand that the applicant will be required to provide copies of the proposal to the appropriate property owners.
- 2) **Trees:** The application does not indicate which trees will be removed but the staff report notes that the proposal includes removal of at least seven trees. I feel there should be discussion of the types and sizes of trees proposed to be removed as well as discussion of alternatives that would result in the preserving of more trees. In addition, although the staff recommends a screen of shrubs at the back of the property, it does not address the issue of screening at the front of the property where the house will face directly into the windowed side of an existing house. I feel that there should be screening required along the front as well. This differs from the situation of the other three new houses on Meadowneck which face into the court itself and not into other homes.
- 3) **Parking Pad:** I feel that there should be discussion regarding the necessity of a concrete 2 car parking pad at the front of the proposed structure. The plan also includes construction of a 2 car garage and thus the proposal calls for parking for 4 cars which appears to be excessive. This parking pad will face into the court and will be the view that neighbors will have of the structure. The applicant should be required to justify the need for so much parking and propose a method to screen this pad from view.
- 4) **Oak Street:** The Proposal states that the house will be built on Oak Street. However, Oak Street does not exist. Instead, there is a 10 foot wide driveway built by another property owner which the applicant proposes to extend. The Commission should discuss the relation of these facts to the proposal.

I have provided these comments as member of the LAP and as a resident of Meadowneck Court.

Rosalee Chiara
10112 Meadowneck Court
Silver Spring, Md 20910
H-301-585-0626
W-202-634-1781

8/1/94:-

Lisa-

On this case-

please notice:

1. The attached list of residents on Meadowcreek Ct. (10)
- + 2. I & L.E. Saylor
10118 Capital View Avenue
Silver Spring, Md. 20910 (1)
- + 3. Maria S. Gonzalez et. al
754 College Parkway
Rockville, Md. 20850 (1)
- + 4. Raymond J & D C Smith
10122 Capital View Avenue
Silver Spring, Md. 20910 (1)
- + 5. David Clough
9809 Capital View Avenue
Silver Spring, Md. 20910 (1)

(14)

DEPARTMENT OF NATURAL RESOURCES
PUBLIC LANDS AND FORESTRY - FOREST SERVICE
2 South Bond Street
Bel Air, Maryland 21014

APPLICATION FOR ROADSIDE TREE PERMIT

Application Date: 8-1-94

Applicant's Name: Phyllis Michaels - Alleged Development

Address: 5225 Pooks Hill Rd # 1B10 N.

City/State/Zip: Bethesda, Md. 20814

A. Application is made for a permit to: REMOVE ONE 26" TULIP POPLAR, ONE 8" TULIP POPLAR, AND ONE 18" LOCUST TREE AT LOT 43 MEADOWNECK COURT.

PLEASE INCLUDE YOUR CHECK OR MONEY ORDER IN THE AMOUNT OF \$25.00 PAYABLE
to: DNR - Forest Service
and mail to: 2 South Bond Street, Bel Air, MD 21014

Applicant's Signature: *

FOR OFFICIAL USE ONLY

B. Reason for Permit Request: NEW HOME CONSTRUCTION AT THIS LOCATION
DRIVEWAY CLEARING NEEDED

C. Tree Condition

Crown: FAIR

Trunk: FAIR

Surface roots:

D. Site Condition

Sidewalk/Curb:

Width of median strip:

Utilities overhead & underground:

How will this treatment affect the neighborhood?

E. Recommendation of Inspector: RECOMMEND REMOVAL OF 26" TULIP POPLAR,
8" TULIP POPLAR AND 18" LOCUST TREE AT LOT 43
MEADOWNECK COURT

F. Planting Recommendations: NOTE! WILL TRY TO SAVE OAK + TULIP POPLAR IN
FRONT OF PROPERTY, FENCE OFF WITH TREE CONSTRUCTION FENCE
Contractor or Crew doing the work: _____

Is supervision required during the treatment? WOULD LIKE TO BE PRESENT.

Name of Inspector: Deborah Aiken

Inspection Date: 8-1-94

Todd Bolton

ASSOCIATES, Inc.



Integrating
Nature with Development

August 15, 1994

Montgomery County Historic Preservation Commission
51 Monroe Street
Rockville, MD 20850

RE: Lot 43 Oak Street
Capital View

Response to commission comments.

Red Cedars are Junipers, specifically *Juniperus virginiana*. This tree is a native species with an eventual height of > 40 ft. and a canopy width of 10 to 30 ft., depending on seed source or cultivar.

Both the text of my recommendations and the drawing, indicate 3 large shade trees to be planted in the southern side of the rear yard, not 2. Two of these trees are within 5 to 8 ft. of the property line in an attempt to provide a visual buffer. The third shade tree will be planted in almost a mirror image location of the only tree in the property abutting to the rear.

Utility easements may be excavated at any time, without the homeowners permission. To plant trees within the required 10 ft. easement on top of buried utilities would be a foolish investment at best, and may be against the county or state code governing these areas. The two largest contiguous areas within the front yard are approximately 20 ft. by 10 ft. The section to the right already contains a 12 inch d.b.h. American Elm, which is to be saved. My recommendations called for planting the fourth replacement large shade tree, a Green Ash, in the area to the left. Both *Fraxinus pennsylvannica* and *Ulmus americana* grow to 60 ft. in height and commonly have canopy diameters of half their height. This gives two trees located \pm 40 ft. apart with the potential to grow canopies with radii totaling 60 ft. Including a flowering ornamental, i.e. *Cornus kousa* @ \pm 30 ft. elev. by 20 ft. spread, as is called for in the landscape plan will provide three trees within the space of 40 ft. This should provide more than enough screening to match normal planting patterns, even within such a well treed area as Capital View. Locating 4 shade trees within a 50 by 20 foot frontage area, that will also have a driveway and front walk, will create intense competition for nutrients and moisture. This competition will in turn induce stress, slowing growth and making the trees more susceptible to disease and insect problems.

There are several reasons for not planting trees along the northern property line. First is the very limited space available, 8 feet. Planting a shade tree with less than 6 feet of clearance between the main trunk and a 30 foot tall house will lead to almost immediate conflicts between canopy structure and siding. Locating a tree this close to a structure, where it will be a continuous maintenance problem, is against all my training as both a landscaper and arborist. I also think it is important to remember the possible desires of the future homeowner when dictating the location and number of trees in their yard. Trees located in this area will be a barrier should the home owner wish to install a rear landscape requiring the use of even small excavation equipment. Perhaps the least important factor is that this home will not be visible from any public areas in that direction.

I am unsure what trees are included in the count of 14 trees along the north and south boundaries but would like to emphasize the fact that at least 3 would, in my opinion, be considered hazardous if there were targets present and 2 are already dead. The 3 hazardous trees are near the end of their life span and should be removed for safety reasons even if this home is not built. It is my opinion that there is room for perhaps one large shade tree, a Red Maple, on the southern property line near where the 2 ft. 8 in. Cherry is being removed.

The existing topography adds to the visual impact of this new structure, but to lower the basement and finish floor levels further would make it even more difficult to save those trees currently being retained. The Elm, in the south-eastern lot corner, will provide a relative scale that should help mitigate the visual impact of the height required to fit an average sized home on this narrow lot.

DEPARTMENT OF NATURAL RESOURCES
PUBLIC LANDS AND FORESTRY - FOREST SERVICE
2 South Bond Street
Bel Air, Maryland 21014

APPLICATION FOR ROADSIDE TREE PERMIT

Application Date: 8-1-94

Applicant's Name: Phyllis Michaels - Alleged Development

Address: 5225 Pooks Hill Rd # 1B10 N.

City/State/Zip: Bethesda, Md. 20814

A. Application is made for a permit to: REMOVE ONE 26" Tulip Poplar, ONE 8" Tulip Poplar, AND ONE 18" LOCUST TREE AT LOT 43 MEADOWNECK COURT.

PLEASE INCLUDE YOUR CHECK OR MONEY ORDER IN THE AMOUNT OF \$25.00 PAYABLE
to: DNR - Forest Service
and mail to: 2 South Bond Street, Bel Air, MD 21014

Applicant's Signature: *

FOR OFFICIAL USE ONLY

B. Reason for Permit Request: New home construction AT This location
Driveway clearing needed

C. Tree Condition

Crown: Fair

Trunk: Fair

Surface roots: _____

D. Site Condition

Sidewalk/Curb: _____

Width of median strip: _____

Utilities overhead & underground: _____

How will this treatment affect the neighborhood?

E. Recommendation of Inspector: Recommend Removal of 26" Tulip Poplar,
8" Tulip Poplar AND 18" LOCUST TREE AT LOT 43
MEADOWNECK COURT

F. Planting Recommendations: NOTE! Will try to save oak + Tulip Poplar in
FRONT OF PROPERTY, FENCED OFF WITH TAPE CONSTRUCTION FENCE
Contractor or Crew doing the work: _____

Is supervision required during the treatment? Would like to be present.

Name of Inspector: Salvador Hicken

Inspection Date: 8-1-94

Todd Bolton
ASSOCIATES, Inc.


Integrating
Nature with Development

August 15, 1994

Montgomery County Historic Preservation Commission
51 Monroe Street
Rockville, MD 20850

RE: Lot 43 Oak Street
Capital View

Response to commission comments.

Red Cedars are Junipers, specifically *Juniperus virginiana*. This tree is a native species with an eventual height of > 40 ft. and a canopy width of 10 to 30 ft., depending on seed source or cultivar.

Both the text of my recommendations and the drawing, indicate 3 large shade trees to be planted in the southern side of the rear yard, not 2. Two of these trees are within 5 to 8 ft. of the property line in an attempt to provide a visual buffer. The third shade tree will be planted in almost a mirror image location of the only tree in the property abutting to the rear.

Utility easements may be excavated at any time, without the homeowners permission. To plant trees within the required 10 ft. easement on top of buried utilities would be a foolish investment at best, and may be against the county or state code governing these areas. The two largest contiguous areas within the front yard are approximately 20 ft. by 10 ft. The section to the right already contains a 12 inch d.b.h. American Elm, which is to be saved. My recommendations called for planting the fourth replacement large shade tree, a Green Ash, in the area to the left. Both *Fraxinus pennsylvannica* and *Ulmus americana* grow to 60 ft. in height and commonly have canopy diameters of half their height. This gives two trees located \pm 40 ft. apart with the potential to grow canopies with radii totaling 60 ft. Including a flowering ornamental, i.e. *Cornus kousa* @ \pm 30 ft. elev. by 20 ft. spread, as is called for in the landscape plan will provide three trees within the space of 40 ft. This should provide more than enough screening to match normal planting patterns, even within such a well treed area as Capital View. Locating 4 shade trees within a 50 by 20 foot frontage area, that will also have a driveway and front walk, will create intense competition for nutrients and moisture. This competition will in turn induce stress, slowing growth and making the trees more susceptible to disease and insect problems.

There are several reasons for not planting trees along the northern property line. First is the very limited space available, 8 feet. Planting a shade tree with less than 6 feet of clearance between the main trunk and a 30 foot tall house will lead to almost immediate conflicts between canopy structure and siding. Locating a tree this close to a structure, where it will be a continuous maintenance problem, is against all my training as both a landscaper and arborist. I also think it is important to remember the possible desires of the future homeowner when dictating the location and number of trees in their yard. Trees located in this area will be a barrier should the home owner wish to install a rear landscape requiring the use of even small excavation equipment. Perhaps the least important factor is that this home will not be visible from any public areas in that direction.

I am unsure what trees are included in the count of 14 trees along the north and south boundaries but would like to emphasize the fact that at least 3 would, in my opinion, be considered hazardous if there were targets present and 2 are already dead. The 3 hazardous trees are near the end of their life span and should be removed for safety reasons even if this home is not built. It is my opinion that there is room for perhaps one large shade tree, a Red Maple, on the southern property line near where the 2 ft. 8 in. Cherry is being removed.

The existing topography adds to the visual impact of this new structure, but to lower the basement and finish floor levels further would make it even more difficult to save those trees currently being retained. The Elm, in the south-eastern lot corner, will provide a relative scale that should help mitigate the visual impact of the height required to fit an average sized home on this narrow lot.

FAX TRANSMITTAL PAGE

TO: Patricia Parker
Historic Preservation Commission
301/495-1307 (FAX)

FROM: Steven Kramer
202/223-9610 (phone)
202/332-4345 (FAX)

PAGES: 4 (including cover page)

DATE: August 8, 1994

10109 Meadowneck Ct.
Silver Spring, MD 20910
August 8, 1994

By Fax and Mail

Mr. Graham Norton
Director
Montgomery County Department
of Transportation
101 Monroe St.
Rockville, MD 20850

Subject: New Construction at Lot 43, Oak St., Capitol
View Park Historic District, Silver Spring, MD

Dear Mr. Norton:

The purpose of this letter is to document my telephone conversation of July 28, 1994 with Mr. Nick Kotzalas of your offices and also to raise some additional questions in regard to the proposed new construction at Lot 43, Oak St., Silver Spring, MD.

A new home is proposed to be built at Lot 43 on Oak St., see attached figure. The builder proposes to install a 12 ft. wide asphalt area in front of Lot 43 which will become part of Oak St. The area in front of Oak St. is currently wooded with a dedicated area for a street at some future date. No homes exist on Oak St. at this time. In essence, Oak St. is currently a "paper" or unapproved street. Access to Oak St. is obtained through Meadowneck Ct. My home at 10109 Meadowneck Ct. is located two sites south of the proposed new construction. The apron for our driveway appears to be the beginning of Oak St.

In my conversation with Mr. Kotzalas, he indicated that Oak St. will be privately maintained by the future homeowners who reside on this street. It was stated that Montgomery County will not perform snow removal and road repairs. Mr. Kotzalas said that Oak St. will serve as a common driveway for the residents who confront this area.

I expressed my concern to Mr. Kotzalas about potential damage to my property from construction traffic since there is inadequate space for construction vehicles. Mr. Kotzalas said that the Department of Transportation will require builders of homes on Oak St. to maintain a bond which protects my property from construction damage.

I would appreciate your response to the following additional questions in regard to the future use of Oak St:

Page 2
August 8, 1994

(1) If Oak St. will be a common driveway and will not become a road, does the Department of Transportation intend to abandon the remaining areas previously dedicated for a road?

(2) With the proposed plan for the use of Oak St., access for trash collection and mail delivery is unclear. How will access be provided for these services?

Please inform me if any of the information in this letter is stated incorrectly. Thank your for assistance.

Sincerely,



Steven R. Kramer
202/223-9610 (phone)
202/332-4345 (fax)

Enclosure

cc: Patricia Parker, Historic Preservation Commission
(By Fax and Mail)

OWNERS DEDICATION

We, Leo de Silva and Geraldine de Silva, in... of the property shown, and desiring to... establish the measure building... in a certain public utility... in a certain public utility... in a certain public utility...

There are no other... of the property... in the plan of subdivision...

SURVEYOR

Thereby certify... of the property... in the plan of subdivision...

DATE: Sept. 1, 1988

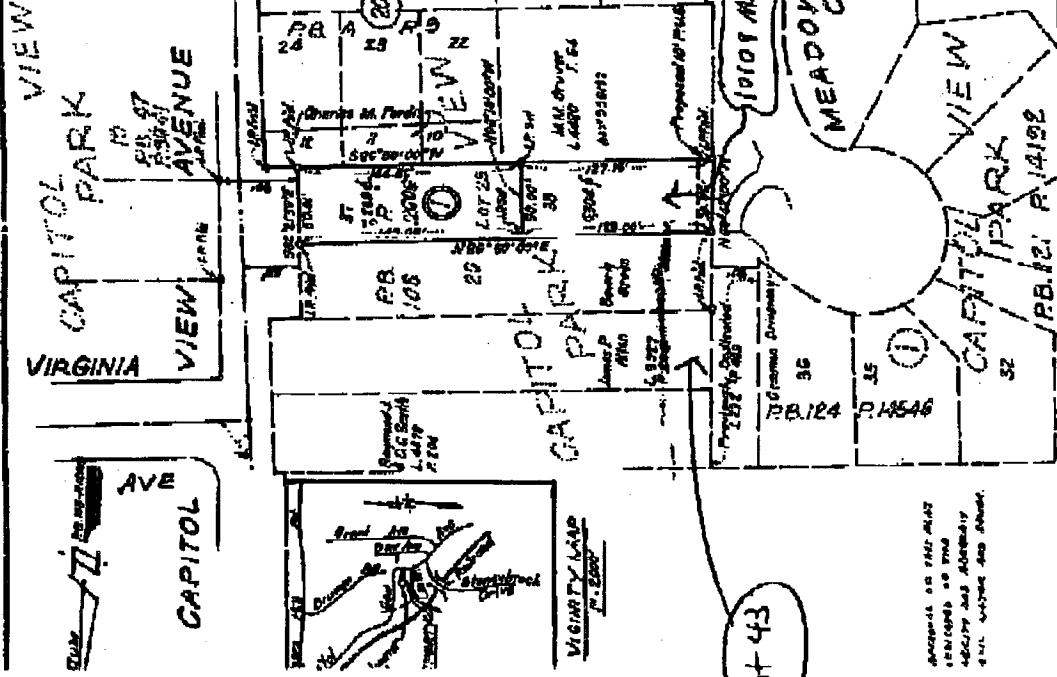
Area of Lot
Area of Lot
Total area of

DEPARTMENT OF HEALTH
LOCAL HEALTH DEPARTMENT
APPROVED: [Signature]
DATE: [Date]

LOT 37 AND LOT 38
CAPITOL VIEW
ELECTION, D.S.
MOUNT BERRY COUNTY

RECORDED IN
BOOK 100
PAGE 1773

213 JUN 3 1988



Lot 43

RECORDED IN THIS PLAN... TO BE KEPT IN THE... SECURITY AND ACCURACY... OF THE RECORDS AND SHOW...

TIME SENSITIVE:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

TELEPHONE: 703-308-9100
FACSIMILE: 703-308-8773

OFFICE OF PESTICIDE
PROGRAMS

**ACCELERATED REREGISTRATION BRANCH
SPECIAL REVIEW and REREGISTRATION DIVISION**

DATE: 8/9/94

TIME: 11:30

PLEASE DELIVER TO:

NAME: Patricia Parker

FAX #: 301-495-1307

ORGANIZATION: HRC.

LOCATION: MARYLAND

FROM: Bonnie Adler

TOTAL NUMBER OF PAGES (including this transmittal page): 6

TRANSMISSION PROBLEMS CALL: Jesse Billingslea 703-308-8064

MESSAGE: Pat: Comments from Bonnie Adler + Jeffrey Adler
for you to consider for the staff report,
concerning proposed construction in Capital
View Park.



Adler Construction Group, Inc.
Builders ■ Developers

ADLER

10105 Meadowneck Court
Silver Spring, MD 20910-1069
9 August 1994

Patricia Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

RE: Case # 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. As a builder I know how difficult it is to please residents in an infill area where new construction is proposed. As such, I'm also aware of the hurdles through one must jump in order to satisfy their concerns as well as the requirements of the various agencies overseeing new construction. After reviewing the proposal, I feel that more information is needed from the applicant before any building permit can be issued.

First, I'd like to address the lack of a current tree survey. According to county requirements, a recent (less than 1 year old) tree survey must be conducted, which identifies the lot, indicates a North arrow, locates the trees on the lot, their size, species and disposition as it relates to the proposal (i.e. removal or saving). Ms. Michaels indicated in the hearing on July 27, 1994 that she must remove all trees located within 15 feet of the home. I find this logic flawed, as I have saved such trees, many larger than 6" DBH in close proximity to some of my homes. If you'd like I can give you the addresses for verification. The trees slated for removal number somewhere from 15 to 22. If that many trees are removed, could the applicant be required to plant new ones for preservation of the natural area being disturbed? This is not unusual, as I have always replanted 1 to 2 trees on lots where only 1 or 2 were taken. Removal of a forest such as this should automatically dictate the planting of new trees, some greater than 6" in caliper.

Additionally, new home construction plans are required to provide a plan of all new shrubbery to be planted, including size, location and variety (i.e. 2' evergreen shrub, generally sited on a revised plan indicating new home and location of each plant). I do this every time I submit plans for new home construction.

Second, this proposal includes developing/extending a driveway, that appears as a paper street on the county master plan. Although another person began development of this "roadway," I believe he did so as a driveway, with a driveway permit, not a road permit. Therefore, Oak Street, is still not a street. If Ms. Michaels plans to provide access to her proposed home by extending this driveway, what conditions are to be imparted to her? Will she be required to place curb and gutter to 25' across the roadway? Will it be paved with asphalt or concrete? How thick will the asphalt or concrete be: 10", 12" or something else?

Additional questions I have are:

Will she include a design for the runoff/erosion control from the road and lot? There are two more lots to consider that will likely be developed after "Oak Street" is constructed. How about future runoff from their lots?

What provisions are made for fire and rescue services? Mail service? Trash removal service? Snow plowing?

Does development of Oak Street, include straightening out the driveway currently there, causing removal of lawns and driveways currently located in the right-of-way?

Third, this development will impact the current storm sewer system. The original storm sewer is not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain. Additional runoff experienced from this newly developed lot and the two additional lots likely to be developed, will burden our already overflowing storm drain in Meadowneck Court. I'd like to see DEP storm water management folks look at this issue more closely.

In relation to the storawater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the proposal include some diversion ditch, storm drain or other be placed to prevent additional runoff/sediment control? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns.

Finally, I'd like to know why the applicant did not provide adequate notification to the confronting homeowners located across the "paper street." I have always found the directions for the description of a confronting home very concise, "...as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway in question." Due to this oversight, the comment period was extended to include notification of the

confronting neighbor, as well as other concerned neighbors on Meadowneck Court. I have respect for the process and appreciate the objectivity you impart on all applicants. I look forward to your consideration/review of the plans for this lot and the issues that concern the residents of the area prior to possible issuance of a final building permit.

Thank you for your time. I look forward to continuing my business pursuits with you as Adler Construction Group, Inc. continues to build quality homes in Montgomery County.

Sincerely,

Bonnie Adler for

Jeffrey Adler, President
Adler Construction Group, Inc.

10105 Meadowneck Court-1069
Silver Spring, MD 20910
9 August 1994

Pat Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

RE: Case # 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. I have several concerns:

1) Loss of Many trees, (15-22) including several extremely large ones. Although this may be necessary as a part of development, there are viable alternatives to consider. One could be to require replacing many of the large trees with suitable replacements. Perhaps a ratio of 2:1 (2 trees cut to a new one, 3-4" in caliper, planted). Also, if 2 trees are cut that measure $\geq 2'$ in caliper then an 8" caliper is to be planted. This wont make up for the forest we lose, but it gives the new site a start towards reforestation. I'd like to request that the applicant donate \$5,000 towards the County Tree Fund.

I haven't see proposed landscape plan which includes: type, size and location of all new shrubs to be planted (i.e. 2' evergreen shrub). Did the applicant provide one? Also a current tree survey was not provided (indicating location of trees greater than 6" diameter and the species) showing those to be removed in relation to the proposed home.

2) Development of Oak Street: Although Oak street may be on the master plan, it is not really there. As such, development of this lot includes placement of Oak Street as either an extended driveway or as a Street. This is unclear. To develop this roadway (whichever is decided) will involve removal of 2 more very large trees (2'-4' DBH).

Additional concerns I have for this "roadway" include access for maintenance such as plowing snow; mail service, including location of mailboxes and delivery; fire and rescue needs and trash removal, including location of garbage cans.

3) How will development of this roadway affect my right of way, that currently serves as my lawn and driveway?

4) What about the impact of this development on the storm sewer system? The original storm sewer system is not adequate as observed by ponding near the storm drain after a heavy rainfall. Additional runoff will be experienced from this newly developed lot and very likely from development of the two remaining lots. This additional flow will surely overburden our already overflowing single storm drain in Meadowneck Court.

5) What provisions have been made for exacerbation of erosion in the neighborhood? Will some diversion ditch, curb, storm drain or something other be placed to prevent additional runoff/sediment control? What mechanisms are there in place for this concern? Will the addition of a curb help minimize the impact of the runoff to the storm sewer that is inadequate?

These are my concerns for the development as proposed. I look forward to your consideration/review of the plans for this lot and addressing the pertinent issues prior to issuance of a final building permit until these concerns are addressed. Thank you for your consideration.

Sincerely,

Bonnie Adler

Bonnie Adler

To: The Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Md. 20910

Attn: Patricia Parker
Historic Preservation Planner
Design, Zoning and Preservation Div.

Re: Case Number 31/7-94E
Lot 43, Oak Street

We are opposed to the proposed house on Lot 43, Oak Street, off Meadowneck Court, because we do not think it is appropriate for the following reasons:

1. The scale of the house is not compatible with the houses closest to it in terms of massing, size and scale, particularly from a visual perspective. Yes, the other three new houses on Meadowneck Court to which it is being compared are the same architecturally. But two of these houses are not actually in the court but on the road that leads into the court. And none of them are in one's field of vision when one looks at the other older houses in the court. One can either look at the smaller court houses or the three newer ones but not at both at the same time. However, the proposed house on Lot 43 will be right next to 10128 Meadowneck, which is one of the smaller, older houses, and is not only not compatible architecturally, but will dwarf this house because of its proposed approx. 38 foot height and the fact that it is on land about 10 feet above it and very close as well.

2. The ambience of Capital View Park is provided as much if not more by the many tall old trees as by the historic older houses. The trees are what distinguishes this area from most suburban developments and give it its "rural" feeling. If we keep cutting down these mini forests for yet another house, we eventually change the character of the neighborhood drastically and for ever. Replanting cannot duplicate old growth.

Two old large trees on the Oak St. easement would be cut down for the new house, plus almost all of the trees on the lot, given the size of the house.

3. The houses on the hill below lot 43 (10128, 10124, 10120, and 10116 Meadowneck Ct.) have serious drainage problems in the front and back gardens, and this will only be exacerbated by decreasing soil drainage abilities above. The lot to the right (south) of Lot 43 is being subdivided, presumably for another new house, which would cause even

August 10, 1994

To: The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Att: Patricia Parker
Historic Preservation Planner
Design, Zoning and Preservation Division

Re: Case number 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker:

We own the home at 10128 Meadowneck Court, and we wish to establish our strong opposition to the present plans for building on Lot 43, Oak Street, which is adjacent to our home.

The house proposed for Lot 43, Oak Street, is totally out of proportion to the existing homes on the Court, and certainly out of scale compared to my home, which it will loom over. The proposed house will be approximately 38 feet in height and built on a ten foot rise. This massive structure will architecturally overpower my home and the other houses on the Court. It is aesthetically inconsistent at the least to plop down such a behemoth to tower above a quiet cul-de-sac of smaller, older homes. It is certainly not our idea of preservation or wise planning to do so.

Meadowneck Court may not be steeped in architectural history or ancient homes, but it is ringed by magnificent tall trees. These trees actually define the neighborhood's character, one of quiet and privacy. It is a lovely spot, rich in greenery and bird life, vastly different from sterile suburban areas which have been denuded of their old growth trees. Yet if the proposed house is built on Lot 43, at least two old, tall trees will be cut down, and most of the smaller trees on the lot will also be sacrificed. Stripping Meadowneck Court of this many trees will, in effect, contribute to the destruction of the neighborhood's unique character.

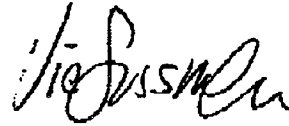
We are deeply concerned about the future of Meadowneck Court. The lot south of Lot 43 is going to be subdivided and the odds are another house will eventually be built there. Once that happens, the drainage problems on the Court, already a problem, will worsen. Stripped of trees, the land will run with mud and water, all of which will pour into the Court (and on to the Bay) and into our backyards. Also, there is another empty lot to left

of Lot 43, which will also face development. Then, and if Oak Street is made a through street to accomodate the additional houses, Meadowneck Court will be swallowed in traffic.

There you have it: Clear cutting old trees, allowing a huge home to be built literally in the face of smaller homes, worsening an already poor drainage situtaion, and opening the door to the destruction of a quiet cul-de-sac by increasing the traffic flow. This is a terrible plan for the future of a now vibrant and beautiful neighborhood, and we hope you--as we do--will oppose the project at Lot 43.

Thank you.

Vic Sussman and Megin Walsh-Sussman
10128 Meadowneck Court
Silver Spring, MD 20910
565-3050
(202) 955-2093 (o)



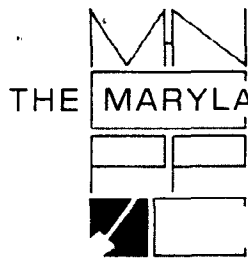
further drainage problems, and opening up Oak St. would only encourage more development on it. (There is another empty lot to the left of Lot 43) If this happens, Meadowneck Court would no longer be a cul-de-sac, but have through traffic.

Thank you for considering our viewpoint.

Irene and Sheldon Rutter
10120 Meadowneck Court
Silver Spring, Md. 20910

Irene Rutter
Sheldon Rutter

Aug. 10, 1994



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

April 12, 1995

Bonnie Adler
10105 Meadowneck Court
Silver Spring, MD 20910

Dear Ms. Adler:

The County Executive forwarded to me a letter regarding your concerns about a new construction project which has taken place in your Capitol View Park neighborhood.

Some of the issues which you raise are related to actions and approvals by the Montgomery County Historic Preservation Commission (HPC), a government agency which is separate from the Maryland-National Capital Park and Planning Commission (M-NCPPC) - but which does share staff. It is this agency which approved the design of the new house and which developed requirements for new tree planting. M-NCPPC staff assigned to support the HPC monitored the project to assure that the requirements and conditions placed by the HPC were met by the developer. I have discussed this project with the staff involved and will attempt to respond to concerns that you have raised regarding staff actions and decisions.

The HPC approval of this project, dated August 17, 1994, allowed the developer to remove a substantial number of trees from the lot, but required the developer to replant a total of fifteen trees on the property - five @ 6" caliper, five @ 3" caliper, and five @ 1 1/2" caliper. The planting of fifteen trees was required over the strenuous objections of the developer and at the request of the Capitol View Park community.

Your letter specifically expressed a concern about the lack of a tree plan. It should be noted that the developer initially did not submit a full tree survey of the existing trees on the site or a plan for replanting. This is why the HPC deferred the case from its July 27, 1994 meeting to August 17th. For the August 17th meeting, the developer did prepare a tree survey prepared by a qualified professional (Todd Bolton, Associates, Inc.) and did include a drawings for a replanting scheme that involved planting only nine new trees. The HPC, at their August 17th meeting, found the proposed replanting scheme to be inadequate and required fifteen new trees. This replanting scheme was conceived at the HPC meeting, thus there was not a drawing to accompany the scheme delineating the specific location of each of the fifteen trees. In cases like this, it is typical for the final locations for the trees to be worked out with staff.

On March 6, 1995, the developer contacted staff and explained that, after consulting with two tree planting companies, she had been told it was not possible to bring a tree spade truck into the common driveway that leads to the site and, thus, it would not be possible to plant 6" caliper trees. The developer and her tree consultant proposed, as an alternative, to plant fifteen trees with five @ 4" caliper and ten @ 3" caliper - she submitted a plan for the proposed planting. Staff agreed to this alternative as the total number of trees being planted had not changed and there would be fewer really small trees (i.e. 1 1/2" caliper trees) than had been approved at the HPC meeting.

It is common in historic preservation construction projects for changes to come up during the project. It has been the HPC's policy to delegate review of minor changes to staff rather than requiring every minor alteration to come back before the HPC. The planting change described above falls into the category of such a minor change.

After receiving approval from staff on March 10, 1995, the developer proceeded to install the trees in accordance with the plan she had submitted. We are not aware of any violation of that approved plan in planting the fifteen required trees.

Your letter also expresses concern about a subdivision plan (#1-95032) that was recently approved by the Planning Board. The Board held a hearing on this matter on March 2nd and many residents testified at that hearing. In addition, comments from the HPC were received and reviewed by the Board. The Planning Board tried to address as many of issues which were raised as possible in their deliberations on the subdivision, but not all are within the Board's jurisdiction. For example, the Board cannot require - as part of a subdivision - that the large Oak tree remain. This type of requirement would be beyond the legal bounds of the Subdivision Regulations. However, the review of new construction for the lot created by this recent subdivision will be conducted by the HPC. Issues related to tree preservation or building design can be addressed at that time.

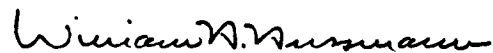
As you know, historic designation does provides an additional level of design review which does not exist in other neighborhoods throughout the County. In most single-lot infill projects elsewhere, there is no control over how many trees are removed and no requirement for replanting. **To date, no Historic Area Work Permit has been filed for this newly-created lot.**

Finally, you raise a number of issues about the County's commitment to preservation of the Capitol View Park Historic District, which was the first County historic district - designated in 1982. The County, M-NCPPC, and the HPC have a strong commitment to historic preservation in Capitol View Park and throughout Montgomery County. This is why a great deal of Planning Board, HPC, and staff time have been devoted to discussing issues on Meadowneck Court. However, in regulating property, the government must take all perspectives into account - including that of the property owner/applicant, the adjacent neighbors, the surrounding community, etc. - and must make decisions which balance all interests. The historic preservation design review and subdivision efforts that have taken place thusfar on Meadowneck Court have attempted to achieve that balance.

In addition, it should be noted that the Historic Preservation Ordinance specifically states that "In the case of an application for work on an historic resource located within an historic district, the commission [HPC] 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." Meadowneck Court - as a small neighborhood of new houses within the Capitol View Park Historic District, most of which were built after the creation of the district - is an area, therefore, which calls for - by law - a lenient level of design review.

I am sorry that the new construction project in your neighborhood has been so disruptive and has caused so many problems for you and your neighbors. M-NCPPC staff wish to remain available and accessible to answer any additional questions that you may have on this matter - feel free to call Malcolm Shaneman on subdivision issues (495-4585) or Gwen Marcus on historic preservation issues (495-4570).

Sincerely,



William H. Hussmann
Chairman

cc: The Honorable Douglas M. Duncan

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

FILE NUMBER: 950435 DATE RECEIVED: 04/05/95

CORRESPONDENCE TYPE: letter DATE OF LETTER: 03/30/95

AGENDA DATE:

TO: Hussmann

FROM: County Executive Douglas M. Duncan

SUBJECT:

Letter transmits copy letter from Bonnie Adler, resident of Capitol View Hist.Pk. neighborhood who has questions re PB commitment to preservation of historic district. CE requests PB to respond.

TRANSMITTED TO: Pl.Dept./BH

COPIES TO: Marcus/Shaneman(fyi)

DATE DUE:

PREPARE REPLY FOR CHAIRMAN'S SIGNATURE

REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:

Please prepare response w/copy to CE ASAP.

PLANNING DIRECTOR'S OFFICE

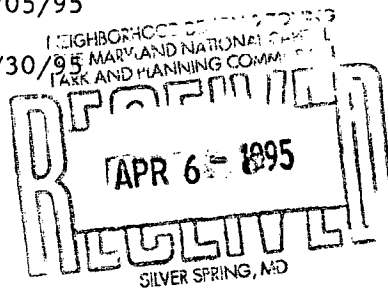
DATE RECEIVED BY PDO:

DATE SENT TO DIVISION:

RESPONSIBLE STAFF:

DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:





OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

95043F
APR 6 1995

Douglas M. Duncan
County Executive

March 30, 1995

The Honorable William H. Hussmann
Chairman
Montgomery County Planning Board
9500 Brunett Avenue
Silver Spring, MD 20901

Dear ^{Bill} ~~Mr.~~ Hussmann:

Enclosed is a copy of a letter I recently received from Ms. Bonnie Adler, a resident of the Capital View Historic Park neighborhood. As you can see, Ms. Adler has questions about the Planning Board's commitment to the preservation of the historic character of her Historic District. Because this matter lies within the purview of the Commission, I ask that a letter addressing Ms. Adler's concerns be sent to her at your earliest convenience.

Thank you for your attention to this matter. If you have any questions or need additional information, please do not hesitate to call me.

Sincerely,

Douglas M. Duncan
County Executive

DMD:jp

0515-5



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan
County Executive

March 30, 1995

Ms. Bonnie Adler
10105 Meadowneck Court
Silver Spring, MD 20910

Dear Ms. Adler:

Thank you for your letter regarding the Maryland-National Capital Park and Planning Commission. I welcome input from citizens on all issues, particularly on matters as important as those addressed in your letter.

Your letter raises several questions about the commitment of M-NCPPC to the preservation of Capital View Historic Park. As you may know, however, the Commission is an independent agency that is not part of the County Government. Nonetheless, I will convey your concerns to the Chairman of the Commission and ask the Commission to respond directly to you on the issues that you have raised.

Thank you again for your letter and please do not hesitate to express your views to me in the future.

Sincerely,

Douglas M. Duncan
County Executive

DMD:jp

CECC 0515-5 ✓
Read File
Jerry Pastorek

S-5150

10105 Meadowneck Court
 Silver Spring, MD 20910
 22 February 1995

Douglas Duncan
 Montgomery County Executive
 County Executive Office Building
 101 Monroe Street
 Rockville, MD 20850

RECEIVED COUNTY EXEC FEB 23 1995

RE: Park and Planning's Tree planting requirements at 10113 Meadowneck Court/Lot 44 Oak Street; and permit requirements in general.

Dear County Executive Duncan:

I am writing to express my concerns and frustrations towards the M-NC Park and Planning Commission (P&P). Earlier this year, (8/17/94) I attended a Historic area work permit hearing that involved obtaining a permit to build a house on a lot where 21 trees larger than 6" diameter were to be removed (with five additional ones located on the right-of-way). At that hearing the recommendation from the board was to allow the permit with conditions. These conditions included replacement with 15 trees [5 large, 6" caliper; 5 medium 3" caliper; and 5 small understory trees, such as redbud, and dogwoods] to be planted to account for the diversity of the canopy that was standing there pre-construction. This stipulation was required as part of development of this lot. At that time the builder shouted from her seat at the hearing that she couldn't put 15 trees on her lot as developed. The developer was informed to appeal this decision to the courts. She chose not to appeal.

It is only now that the house is finished and the trees are to be placed that a re-negotiation is in pursuit to modify that permit requirement. The very person whom I had contacted to gain an opinion for the replacement of trees (Jeff Miskin of Ace Tree Movers) spoke with me recently (2/17/95) and told me that he has prepared a tree plan for this developer. This plan includes no 6" caliper trees on the site and, in fact, only a few small trees (up to 3" in caliper) are to be planted on the lot. He mentioned that the developer is willing to block the right of way with a few trees to appease the neighbors. The neighbors do not want this, as there is no room for more trees on the DOT right of way. I fear that by the time you read this letter, P&P has waived this requirement (with their magic wands).

My problem with P&P begins here. It appears to me that P&P is not interested in preserving the neighborhood or the Historic District in which I live. The Capital View Historic Park (CVHP) was established to preserve the nature and aesthetic quality of the landscape, either by the homes or the treed portions of the neighborhood to maintain the historic feel. As such, CVHP is described as large and park-like with many large trees, mature landscapes in a mature setting. By allowing additional removal of these very large trees P&P is allowing the developer to whittle away at the very fabric of what the historic district was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. It is my assertion that it is P&P's mission and under their purview that mature plantings located in this Historic District be maintained and preserved. I had sent P&P a letter dated 8/9/94 (enclosed, attachment 1) and I presented my comments to P&P the night of the hearing concerning this matter (enclosed, attachment 2).

What I'm trying to determine, is why P&P doesn't require a tree plan prior to issuance of permits. The developer is planning to now circumvent the permit requirement (placement of the 15 trees) and it is most likely that P&P will not require her to cut 10-20' off her house to accommodate these trees.

In a related issue, the developer has approached P&P to develop a second lot immediately adjacent to her house sans 15 trees. At this time, the lot is attached to the home identified as the Sailor Subdivision File # 1-95032. This property if/when subdivided, will provide a second lot adjacent to her mostly complete house. There is one large problem with this lot. Development of a house on this lot will cause the loss of a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition this tree is located very near the center of the lot and a house cannot safely be built around it without causing irreparable damage to the tree and its roots. Considering the previous issue I mention in this letter, and the track record of the developer in this neighborhood (her first construction attempt ever in all of Maryland and Montgomery County) I propose that P&P remedy their previous "policy" of not requiring tree plans, landscape plans and grading plans. P&P should require at a minimum that these plans are provided prior to building permit review; be approved by licensed authorities (such as landscape architects, engineers, etc.); and agreed to by all parties involved prior to issuance of ANY permit to build a house in a Historic District, perhaps anywhere in the county.

The hearing for the subdivision of this lot, originally scheduled for January 5, 1995, was stayed until further study was completed to address stormwater concerns at this site. In fact, an earlier developer abandoned his plans to build on the previous lot due to these same concerns raised by the neighbors. This lot has many problems, other than the tree. However, I'm a concerned citizen who lives in an area delineated as a Historic District. P&P seems to have no concern for this stipulation. I feel that the County is more concerned about building a tax base with new homes than preserving this and other trees that provide shade, tranquility and a home to songbirds and squirrels, many of whom were displaced by the removal of the forest next door. These concerns are listed in my letters to P&P dated January 4, 1995 and February 7, 1995, (enclosed, attachments 3 and 4).

Mr. Duncan, what can be done about this lack of oversight that P&P allows to continue on a regular basis? I'm angry, frustrated and have exhausted myself with trying to reason with the officials of that useless entity. It seems to me that all concerns have been ignored and perhaps, the Historic designation for my neighborhood is more of a stigma than it is an attraction. Is there some way to remedy this situation before we lose this stately oak tree and the wildlife that inhabit it? I'm tired of fighting a losing battle with P&P. Please save my neighborhood.
Thank you very much.

Sincerely,

Bonnie Adler

Bonnie Adler

Enclosures

ATTACHMENT 1

10105 Meadowneck Court-1069
Silver Spring, MD 20910
9 August 1994

Pat Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

RE: Case # 31/7-94E
Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. I have several concerns:

1) Loss of Many trees, (15-22) including several extremely large ones. Although this may be necessary as a part of development, there are viable alternatives to consider. One could be to require replacing many of the large trees with suitable replacements. Perhaps a ratio of 2:1 (2 trees cut to a new one, 3-4" in caliper, planted). Also, if 2 trees are cut that measure $\geq 2'$ in caliper then an 8" caliper is to be planted. This wont make up for the forest we lose, but it gives the new site a start towards reforestation. I'd like to request that the applicant donate \$5,000 towards the County Tree Fund.

I haven't see proposed landscape plan which includes: type, size and location of all new shrubs to be planted (i.e. 2' evergreen shrub). Did the applicant provide one? Also a current tree survey was not provided (indicating location of trees greater than 6" diameter and the species) showing those to be removed in relation to the proposed home.

2) Development of Oak Street: Although Oak street may be on the master plan, it is not really there. As such, development of this lot includes placement of Oak Street as either an extended driveway or as a Street. This is unclear. To develop this roadway (whichever is decided) will involve removal of 2 more very large trees (2'-4' DBH).

Additional concerns I have for this "roadway" include access for maintenance such as plowing snow; mail service, including location of mailboxes and delivery; fire and rescue needs and trash removal, including location of garbage cans.

3) How will development of this roadway affect my right of way, that currently serves as my lawn and driveway?

4) What about the impact of this development on the storm sewer system? The original storm sewer system is not adequate as observed by ponding near the storm drain after a heavy rainfall. Additional runoff will be experienced from this newly developed lot and very likely from development of the two remaining lots. This additional flow will surely overburden our already overflowing single storm drain in Meadowneck Court.

5) What provisions have been made for exacerbation of erosion in the neighborhood? Will some diversion ditch, curb, storm drain or something other be

placed to prevent additional runoff/sediment control? What mechanisms are there in place for this concern? Will the addition of a curb help minimize the impact of the runoff to the storm sewer that is inadequate?

These are my concerns for the development as proposed. I look forward to your consideration/review of the plans for this lot and addressing the pertinent issues prior to issuance of a final building permit until these concerns are addressed. Thank you for your consideration.

Sincerely,

Bonnie Adler

Bonnie Adler

ATTACHMENT 2

To the commission: 8/17/94

I spoke at considerable length to Jeff Miskin of Ace Tree Movers in Gaithersburg. Basically he informed me that there several issues for you to consider tonight:

1) I am aware that the Mission of the Capital View Historic District was to preserve the nature and aesthetic quality of the landscape, either by the homes or the treed portions of the neighborhood to maintain the historic feel. As such CVHP is described as large and park-like with many large trees, mature landscapes in a mature setting. By allowing additional removal of these very large trees you are allowing the developer to whittle away at the very fabric of what the historic district was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. As the HPC, I feel that it is your duty and under your purview that the mature plantings located in this Historic District be maintained and preserved.

Mr. Miskin and I discussed the tree varieties to be used. Although there is no requirement as to the type of tree, the developer mentioned using ash. Currently the Green Ash variety available in this area are susceptible to lilac borer and ash borer and are not recommended per Mr. Miskin. Instead, if ash is to be used, then the preference of a white ash was recommended. Additionally, it is the intention of the county to delineate the size limitations of trees planted as replacements.

Mr. Miskin mentioned that the "American Standard for Nursery Stock" indicates that tree sizes are listed from 1.5" to 8", with 1.5" to 2.5" considered to be small; 3" to 4" considered to be medium; and ≥ 4.5 " are considered to be large. This standard also indicated that "size" is described as based on the final tree height. Additionally, the County requires that 2.5" or larger trees are the standard for replacement of street trees and builders/developers trees to be installed on their jobs.

2) What are the Historic Commission's concerns?... To replace a forest canopy?... or Provide screening? Since screening has been proposed for the house and indicated to be located to the rear and sides of the property, then I believe that the canopy is the main issue here.

Our canopy of 21 trees will be lost especially if only 5 are required to be replanted to replace this canopy (as recommended by the HPC in their staff report).

The proposed home is larger than those recently completed down the street. Also the builder/developer for these other homes preserved several large trees, thus maintaining some of the canopy removed. Surely the historic character of the CVHP is not preserved if a forest such as 21 trees are removed.

We are not asking that the replacement of a mature forest be accomplished here, but that an effort to preserve the canopy for the future be considered. In requesting this, we are asking that 15 trees [5 large, 6" caliper; 5 medium 3" caliper; and 5 small understory trees, such as redbud, and dogwoods] be planted to account for the diversity of the canopy that stands there now. We ask for 15 variable size trees be planted to replace the 21 6"-24+" caliper trees currently located on the lot.

Requiring 5 trees 2-2.5" in caliper, per the HPC's recommendation, is inadequate and won't replace the 21 6"-24+" taken, according to Mr. Miskin.

Additionally, it is not unusual to require large trees to replace trees taken. For example, the HPC required that one large 8" caliper tree be planted as a one to one replacement for one specific large tree we removed. We were required to plant an 8" caliper tree as specified by the HPC at the Hearing during the spring of 1992. If we were required to replace only one tree for one taken, I see

no reason why the same stipulation cannot be applied here for the 21 trees taken. We are not asking for a replacement of the canopy, but a start in replacing the aesthetics of the historic value of the neighborhood.

Since the developer is not planning to reside at the home, here in CVHP, then the developer must acknowledge that these are the costs of developing in a Historic District. Other choices are to scale down the home (thus allowing it to be moved back on the property and save more trees/canopy) or replacing several trees to help replace the canopy over the lifetime of the neighborhood. Wouldn't the new homeowner prefer to have a large home surrounded by large trees thus preserving the rhythm of the streetscape?

As such, the vast number of trees lost reduces the historic quality of the CVHP and therefore can never be replaced.

*3) One last concern would be for the absolute preservation of two extremely large trees located adjacent to the path of the construction traffic. Mr. Miskin and I discussed measures to be taken by developers to mitigate the impact of the construction traffic to these trees. The developer **MUST** provide some barriers and a size restriction of the truck traffic and load to this area where the 2 large (24" + caliper maple and tulip poplar) trees are located. Protection of the area under the drip line of these trees are to be absolutely preserved. If the developers trucks damage the root structure of these trees, they will die 3-5 years from now. The developer will be long gone by then, and the owners of the property (which the trees are situated on) will bear the costs of removal, estimated to be \$3,000-5000.*

Please consider the aesthetic quality of the neighborhood and the value these trees provide to the overall character of Capital View Historic Park.

ATTACHMENT 3

10105 Meadowneck Court
Silver Spring, MD 20910
4 January 1995

Subdivision Office, Development Review Division
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Case # 31/7; File #1-95032
Lot 44, Oak Street/Meadowneck Court

Dear Sir/Madam:

I am writing to express my concern for the above mentioned property as it comes before you for consideration of subdivision. Although I addressed my concerns to the Historic Preservation Commission on December 21, 1994, I felt it necessary to address them to you as well.

I am a resident on Meadowneck Court and as such I'm very concerned about my neighborhood. The proposed subdivision of Mr Sailor's lot (master Plan #31-7) would allow yet another large home to be built on our street. After the past 2 winters it has been evident that there are problems with this proposal. Although I do not oppose the subdivision per se, I do oppose another home to be built mostly because we'll lose a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition it is located very near the center of the lot and a home probably cannot safely be built around it without causing irreparable damage to the tree and its roots. As such, I propose that the subdivision, if approved, requires that the tree MUST be saved and not removed.

I ask this after we recently "lost" 26 large trees on the adjoining lot. This lot (10113 Meadowneck Court) is currently under construction by Phyllis Michaels/Allegro Development. Her HAWP allowed the cutting down of a forest of 26 trees, 21 on the property and 5 on the right-of-way (not to mention an extra tree "removed" during land preparation). I contacted an Arborist about this loss and was advised to request the HAWP be conditional based on the replacement of 15 trees. This was approved by the HPC. Currently, there is no requirement for a "tree plan" which will indicate the location of these 15 trees to be planted on that lot. Doubts remain in my and other residents' mind whether all 15 trees will indeed be planted as required.

Although the saving of one tree may seem insignificant in the scope of the County as a whole, I respectfully request that this Oak tree be saved and indicated as such on the lot subdivision so no more trees of this size and stature are lost. We lost 26 trees and the canopy they provided for shade and cooling as well as beauty.

Living in an area designated as a "Historic District" comprises a region which, I believe, embraces a sense of preservation of the nature and aesthetic quality of the landscape, by the homes and the treed portions of the neighborhood to maintain and preserve the open airy park-like setting as it compliments the Historic Nature of the neighborhood. As such the Capital View Historic District is described as large and park-like with many large trees, mature landscapes in a mature setting.

The vast number of trees we lost reduces the historic quality of our Historic District and therefore can never be replaced. A tree of this mighty stature does not grow within the span of one persons' lifetime. The aesthetic quality of the neighborhood and the value our trees provide the overall character of Capital View Historic Park and must be preserved.

This mature tree, should be saved, like so many other lots with trees in our Historic District which cannot be cut down. By allowing removal of this very large tree (as occurred en-masse on the adjacent property) you are allowing development to whittle away at the very fabric of what our Historic District was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. I believe that it is under your purview that the mature plantings located in this Historic District be maintained and preserved.

If the decision is to remove this majestic tree, I have additional problems with the proposed builder. Ms. Phyllis Michaels with Allegro Development has proven herself to be a cancer to the community and County. Her rude insulting manner has left ALL the inspectors for her jobsite alienated, WSSC and Washington Gas staff offended and the residents in a total uproar. We have endured numerous violations of the noise ordinance, water being stolen from our taps by her workers, attacks both physical and verbal from this builder herself, and total disregard for the neighbors' property and the neighborhood as a whole. The overall destruction and disregard for the residents' property has been appalling.

Although these items should only be temporary in scope, her manner/attitude is undesirable and unacceptable for taxpaying members of our community.

If these issues were not enough to concern your office, several more items trouble me:

Access to the Street:

The "street" that this second home would be built upon appears as a paper street on the county master plan and is merely an extension of a driveway. Although the lot owner began development of this "roadway," it was done so as a driveway. This "street" is not a street, and will incur the problems not yet known to the builder, mainly lack of access for county and emergency-related vehicles and services. Currently this driveway is approximately 12' across not the required 25' needed for access and passing of multiple vehicles up and down this drive. As it stands now, fire and rescue vehicles would be severely restricted to access these homes. Trash and mail service would suffer as well.

Winter Weather:

Winter ice conditions do not allow for any vehicle to drive up this "street." The previous winters were a testimony, that even the residents of my Court were unable to enter their street/driveways. Maintenance of this Oak Street driveway is to be borne by the residents on the drive. If they are unable to reach their homes, they cannot park on the Court, as there is No Parking allowed. This stipulation was required based on the inaccessibility of emergency vehicles onto our Court. If these residents were to park in the street, and there was a need for emergency vehicles, access would not be allowed. At this moment, our No Parking signs have been stolen and although no one witnessed the event, persons associated with the construction are considered the likely perpetrators. DOT has been informed and new signs are being made.

Access and Parking:

Development of this lot would cause construction vehicles and storing of construction materials to overflow into the street. As it stands now, this lot is being used for this purpose of the new construction on the adjacent lot.

Stormwater Retention:

Development of this lot will impact the current storm sewer system. The original storm sewer is currently not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain in our court. Additional runoff experienced from the one newly developed lot and this proposed lot will burden our already overflowing storm drain in Meadowcck Court. I'd like to see DEP storm water management folks look at this issue more closely.

Run-off and Stormwater Retention:

In relation to the stormwater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the county require this lot's development proposal to include some diversion ditch, storm drain or other item to be constructed to prevent additional runoff and control of sediment? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns. One DEP inspector suggested a solution to this current runoff problem. This would entail an enlarged drainage system to be placed across the entire street which would be connected to the existing storm sewer. Perhaps the builder should be required to install such a device to control the excess runoff from her new building sites.

(Although these issues were identified prior to the current construction, no resolution was proposed. In fact, the various permitting authorities were contacted, by letter, but chose to ignore these issues)

As you can see, there are concerns with this lot subdivision that are broad in scope. I believe the County needs to address these concerns before any new construction can be approved. I hope that some understanding of my concerns can be considered. Above all, I trust that you can appreciate the needs of the neighborhood by including this tree's preservation on the lot's deed. Thank you for your time and consideration.

Sincerely,

Bonnie Adler

Bonnie Adler

ATTACHMENT 4

10105 Meadowcreek Court
Silver Spring, MD 20910
7 February 1995

A. Malcolm Shaneman
Development Review
Planning Department
Maryland National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Subject: Sailor Subdivision
File # 1-95032

Dear Mr. Shaneman:

I am writing this letter as follow-up to our conversation on February 3, 1995, in which we discussed the subject property. As part of our conversation, you mentioned that there was a way to ensure proper enforcement of any landscape/tree preservation plan requested by the Historic Planning Commission (HPC). This would entail placing any limitations requested in the preliminary plan proposed by the HPC to the M-NCPPC Planning Department as part of the overall recommendation for lot subdivision. As such you indicated that you would contact Gwen Marcus of the HPC and suggest that they revise their recommendation to include a landscape plan and a tree preservation plan. That recommendation came from the December 21, 1994 hearing. I attended that hearing, and I recall that these items were indeed already included as part of the HPC's recommendation. Perhaps they were noted as "conditions" of the HPC's recommendation.

There are a few items that still concern me:

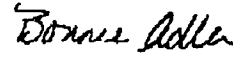
- * Does a conditional approval for subdivision allow any subdivision to occur with only subsequent receipt of a plan, but not any review by a licensed landscape architect or engineer to approve the adequacy of said plans?
- * Who reviews and approves these plans?
- * When are these reviews conducted?
- * Can such reviews be challenged?
- * Is there some mechanism where the Planning Department can reject the proposed action until ALL plans are received and reviewed by proper licensed persons?
- * What about a grading plan? In our conversation you indicated to me that this was more of a concern to you than the 4' diameter oak tree that'll be lost due to subdivision/construction.

It seems that the Planning Department is not exercising their full potential in reviewing the situation beforehand and limiting subdivision/building of a lot when the potential for destruction to the neighborhood is evident.

I suggest that the Planning Department disapprove this subdivision until all plans (landscape, tree preservation, grading, etc.) are received AND reviewed AND approved by proper officials prior to granting the proposed lot subdivision. All conditions MUST be met prior to granting this subdivision approval.

Thank you for your attention to this matter.

Sincerely,



Bonnie Adler

cc: Gwen Marcus, HPC

4/12

~~4/10~~

~~Staff to
draft resp.~~

DINE

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

✓ - April 12th letter
✓ - Went out of copy to
D. Duncan

FILE NUMBER: 950435 DATE RECEIVED: 04/05/95
CORRESPONDENCE TYPE: letter DATE OF LETTER: 03/30/95
AGENDA DATE:

TO: Hussmann
FROM: County Executive Douglas M. Duncan

SUBJECT:

Letter transmits copy letter from Bonnie Adler, resident of Capitol View Hist. Pk. neighborhood who has questions re PB commitment to preservation of historic district. CE requests PB to respond.

TRANSMITTED TO: Pl. Dept. BH
COPIES TO: Marcus/Shaneman(fyi)
DATE DUE:

[X] PREPARE REPLY FOR CHAIRMAN'S SIGNATURE
[] REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:
Please prepare response w/copy to CE ASAP.

✓
Sent 4/21
Bren - are you working on this?
R.
or have they been done?

PLANNING DIRECTOR'S OFFICE

DATE RECEIVED BY PDO: DATE SENT TO DIVISION:
RESPONSIBLE STAFF:
DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:



950434
APR 5 1995

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan
County Executive

March 30, 1995

The Honorable William H. Hussmann
Chairman
Montgomery County Planning Board
9500 Brunett Avenue
Silver Spring, MD 20901

Dear ^{Bill} ~~Mr.~~ Hussmann:

Enclosed is a copy of a letter I recently received from Ms. Bonnie Adler, a resident of the Capital View Historic Park neighborhood. As you can see, Ms. Adler has questions about the Planning Board's commitment to the preservation of the historic character of her Historic District. Because this matter lies within the purview of the Commission, I ask that a letter addressing Ms. Adler's concerns be sent to her at your earliest convenience.

Thank you for your attention to this matter. If you have any questions or need additional information, please do not hesitate to call me.

Sincerely,

Douglas M. Duncan
County Executive

DMD:jp

0515-5



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan
County Executive

March 30, 1995

Ms. Bonnie Adler
10105 Meadowneck Court
Silver Spring, MD 20910

Dear Ms. Adler:

Thank you for your letter regarding the Maryland-National Capital Park and Planning Commission. I welcome input from citizens on all issues, particularly on matters as important as those addressed in your letter.

Your letter raises several questions about the commitment of M-NCPPC to the preservation of Capital View Historic Park. As you may know, however, the Commission is an independent agency that is not part of the County Government. Nonetheless, I will convey your concerns to the Chairman of the Commission and ask the Commission to respond directly to you on the issues that you have raised.

Thank you again for your letter and please do not hesitate to express your views to me in the future.

Sincerely,

Douglas M. Duncan
County Executive

DMD:jp

CECC 0515-5 ✓
Read File
Jerry Pasternak

5-5150

10106 Meadowneck Court
Silver Spring, MD 20910
22 February 1995

Douglas Duncan
Montgomery County Executive
County Executive Office Building
101 Monroe Street
Rockville, MD 20850

RECEIVED COUNTY EXEC FEB 23 1995

RE: Park and Planning's Tree planting requirements at 10113 Meadowneck Court/Lot 44 Oak Street; and permit requirements in general.

Dear County Executive Duncan:

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It is only now that the house is finished and the trees are to be placed that a re-negotiation is in pursuit to modify that permit requirement. The very person whom I had contacted to gain an opinion for the replacement of trees (Jeff Miskin of Ace Tree Movers) spoke with me recently (2/17/95) and told me that he has prepared a tree plan for this developer. This plan includes no 6" caliper trees on the site and, in fact, only a few small trees (up to 3" in caliper) are to be planted on the lot. He mentioned that the developer is willing to block the right of way with a few trees to appease the neighbors. The neighbors do not want this, as there is no room for more trees on the DOT right of way. I fear that by the time you read this letter, P&P has waived this requirement (with their magic wands).

My problem with P&P begins here. It appears to me that P&P is not interested in preserving the neighborhood or the Historic District in which I live. The Capital View Historic Park (CVHP) was established to preserve the nature and aesthetic quality of the landscape, either by the homes or the treed portions of the neighborhood to maintain the historic feel. As such, CVHP is described as large and park-like with many large trees, mature landscapes in a mature setting. By allowing additional removal of these very large trees P&P is allowing the developer to whittle away at the very fabric of what the historic district was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. It is my assertion that it is P&P's mission and under their purview that mature plantings located in this Historic District be maintained and preserved. I had sent P&P a letter dated 8/9/94 (enclosed, attachment 1) and I presented my comments to P&P the night of the hearing concerning this matter (enclosed, attachment 2).

What I'm trying to determine, is why P&P doesn't require a tree plan prior to issuance of permits. The developer is planning to now circumvent the permit requirement (placement of the 15 trees) and it is most likely that P&P will not require her to cut 10-20' off her house to accommodate these trees.

In a related issue, the developer has approached P&P to develop a second lot immediately adjacent to her house sans 15 trees. At this time, the lot is attached to the home identified as the Sailor Subdivision File # 1-95032. This property if/when subdivided, will provide a second lot adjacent to her mostly complete house. There is one large problem with this lot. Development of a house on this lot will cause the loss of a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition this tree is located very near the center of the lot and a house cannot safely be built around it without causing irreparable damage to the tree and its roots. Considering the previous issue I mention in this letter, and the track record of the developer in this neighborhood (her first construction attempt ever in all of Maryland and Montgomery County) I propose that P&P remedy their previous "policy" of not requiring tree plans, landscape plans and grading plans. P&P should require at a minimum that these plans are provided prior to building permit review; be approved by licensed authorities (such as landscape architects, engineers, etc.); and agreed to by all parties involved prior to issuance of ANY permit to build a house in a Historic District, perhaps anywhere in the county.

The hearing for the subdivision of this lot, originally scheduled for January 5, 1995, was stayed until further study was completed to address stormwater concerns at this site. In fact, an earlier developer abandoned his plans to build on the previous lot due to these same concerns raised by the neighbors. This lot has many problems, other than the tree. However, I'm a concerned citizen who lives in an area delineated as a Historic District. P&P seems to have no concern for this stipulation. I feel that the County is more concerned about building a tax base with new homes than preserving this and other trees that provide shade, tranquility and a home to songbirds and squirrels, many of whom were displaced by the removal of the forest next door. These concerns are listed in my letters to P&P dated January 4, 1995 and February 7, 1995, (enclosed, attachments 3 and 4).

Mr. Duncan, what can be done about this lack of oversight that P&P allows to continue on a regular basis? I'm angry, frustrated and have exhausted myself with trying to reason with the officials of that useless entity. It seems to me that all concerns have been ignored and perhaps, the Historic designation for my neighborhood is more of a stigma than it is an attraction. Is there some way to remedy this situation before we lose this stately oak tree and the wildlife that inhabit it? I'm tired of fighting a losing battle with P&P. Please save my neighborhood.
Thank you very much.

Sincerely,

Bonnie Adler

Bonnie Adler

Enclosures

ATTACHMENT 1

10105 Meadowneck Court-1069
Silver Spring, MD 20910
9 August 1994

Pat Parker
Montgomery County Historic Preservation Commission
51 Monroe Street, Suite 1001
Rockville, MD 20850

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Lot 43, Oak Street

Dear Ms. Parker;

I am a resident on Meadowneck Court who is very concerned about the proposed construction of a new home on "Oak Street" near my home. I have several concerns:

1) Loss of Many trees, (15-22) including several extremely large ones. Although this may be necessary as a part of development, there are viable alternatives to consider. One could be to require replacing many of the large trees with suitable replacements. Perhaps a ratio of 2:1 (2 trees cut to a new one, 3-4" in caliper, planted). Also, if 2 trees are cut that measure $\geq 2'$ in caliper then an 8" caliper is to be planted. This wont make up for the forest we lose, but it gives the new site a start towards reforestation. I'd like to request that the applicant donate \$5,000 towards the County Tree Fund.

I havcn't sec proposed landscape plan which includes: type, size and location of all new shrubs to be planted (i.e. 2' evergreen shrub). Did the applicant provide one? Also a current tree survey was not provided (indicating location of trees greater than 6" diameter and the species) showing those to be removed in relation to the proposed home.

2) Development of Oak Street: Although Oak street may be on the master plan, it is not really there. As such, development of this lot includes placement of Oak Street as either an extended driveway or as a Street. This is unclear. To develop this roadway (whichever is decided) will involve removal of 2 more very large trees (2'-4' DBH).

Additional concerns I have for this "roadway" include access for maintenance such as plowing snow; mail service, including location of mailboxes and delivery; fire and rescue needs and trash removal, including location of garbage cans.

3) How will development of this roadway affect my right of way, that currently serves as my lawn and driveway?

4) What about the impact of this development on the storm sewer system? The original storm sewer system is not adequate as observed by ponding near the storm drain after a heavy rainfall. Additional runoff will be experienced from this newly developed lot and very likely from development of the two remaining lots. This additional flow will surely overburden our already overflowing single storm drain in Meadowneck Court.

5) What provisions have been made for exacerbation of erosion in the neighborhood? Will some diversion ditch, curb, storm drain or something other be

placed to prevent additional runoff/sediment control? What mechanisms are there in place for this concern? Will the addition of a curb help minimize the impact of the runoff to the storm sewer that is inadequate?

These are my concerns for the development as proposed. I look forward to your consideration/review of the plans for this lot and addressing the pertinent issues prior to issuance of a final building permit until these concerns are addressed. Thank you for your consideration.

Sincerely,

Bonnie Adler

Bonnie Adler

ATTACHMENT 2

To the commission: 8/17/94

I spoke at considerable length to Jeff Miskin of Ace Tree Movers in Gaithersburg. Basically he informed me that there several issues for you to consider tonight:

1) I am aware that the Mission of the Capital View Historic District was to preserve the nature and aesthetic quality of the landscape, either by the homes or the treed portions of the neighborhood to maintain the historic feel. As such CVHP is described as large and park-like with many large trees, mature landscapes in a mature setting. By allowing additional removal of these very large trees you are allowing the developer to whittle away at the very fabric of what the historic district was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. As the HPC, I feel that it is your duty and under your purview that the mature plantings located in this Historic District be maintained and preserved.

Mr. Miskin and I discussed the tree varieties to be used. Although there is no requirement as to the type of tree, the developer mentioned using ash. Currently the Green Ash variety available in this area are susceptible to lilac borer and ash borer and are not recommended per Mr. Miskin. Instead, if ash is to be used, then the preference of a white ash was recommended. Additionally, it is the intention of the county to delineate the size limitations of trees planted as replacements.

Mr. Miskin mentioned that the "American Standard for Nursery Stock" indicates that tree sizes are listed from 1.5" to 8", with 1.5" to 2.5" considered to be small; 3" to 4" considered to be medium; and ≥ 4.5 " are considered to be large. This standard also indicated that "size" is described as based on the final tree height. Additionally, the County requires that 2.5" or larger trees are the standard for replacement of street trees and builders/developers trees to be installed on their jobs.

2) What are the Historic Commission's concerns?... To replace a forest canopy?... or Provide screening? Since screening has been proposed for the house and indicated to be located to the rear and sides of the property, then I believe that the canopy is the main issue here.

Our canopy of 21 trees will be lost especially if only 5 are required to be replanted to replace this canopy (as recommended by the HPC in their staff report).

The proposed home is larger than those recently completed down the street. Also the builder/developer for these other homes preserved several large trees, thus maintaining some of the canopy removed. Surely the historic character of the CVHP is not preserved if a forest such as 21 trees are removed.

We are not asking that the replacement of a mature forest be accomplished here, but that an effort to preserve the canopy for the future be considered. In requesting this, we are asking that 15 trees [5 large, 6" caliper; 5 medium 3" caliper; and 5 small understory trees, such as redbud, and dogwoods] be planted to account for the diversity of the canopy that stands there now. We ask for 15 variable size trees be planted to replace the 21 6"-24+" caliper trees currently located on the lot.

Requiring 5 trees 2-2.5" in caliper, per the HPC's recommendation, is inadequate and won't replace the 21 6"-24+" taken, according to Mr. Miskin.

Additionally, it is not unusual to require large trees to replace trees taken. For example, the HPC required that one large 8" caliper tree be planted as a one to one replacement for one specific large tree we removed. We were required to plant an 8" caliper tree as specified by the HPC at the Hearing during the spring of 1992. If we were required to replace only one tree for one taken, I see

no reason why the same stipulation cannot be applied here for the 21 trees taken. We are not asking for a replacement of the canopy, but a start in replacing the aesthetics of the historic value of the neighborhood.

Since the developer is not planning to reside at the home, here in CVHP, then the developer must acknowledge that these are the costs of developing in a Historic District. Other choices are to scale down the home (thus allowing it to be moved back on the property and save more trees/canopy) or replacing several trees to help replace the canopy over the lifetime of the neighborhood. Wouldn't the new homeowner prefer to have a large home surrounded by large trees thus preserving the rhythm of the streetscape?

As such, the vast number of trees lost reduces the historic quality of the CVHP and therefore can never be replaced.

*3) One last concern would be for the absolute preservation of two extremely large trees located adjacent to the path of the construction traffic. Mr. Miskin and I discussed measures to be taken by developers to mitigate the impact of the construction traffic to these trees. The developer **MUST** provide some barriers and a size restriction of the truck traffic and load to this area where the 2 large (24" + caliper maple and willow poplar) trees are located. Protection of the area under the dripline of these trees are to be absolutely preserved. If the developers trucks damage the root structure of these trees, they will die 3-5 years from now. The developer will be long gone by then, and the owners of the property (which the trees are situated on) will bear the costs of removal, estimated to be \$3,000-5000.*

Please consider the aesthetic quality of the neighborhood and the value these trees provide to the overall character of Capital View Historic Park.

ATTACHMENT 3

10105 Meadowneck Court
Silver Spring, MD 20910
4 January 1995

Subdivision Office, Development Review Division
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Case # 31/7; File #1-95032
Lot 44, Oak Street/Meadowneck Court

Dear Sir/Madam:

I am writing to express my concern for the above mentioned property as it comes before you for consideration of subdivision. Although I addressed my concerns to the Historic Preservation Commission on December 21, 1994, I felt it necessary to address them to you as well.

I am a resident on Meadowneck Court and as such I'm very concerned about my neighborhood. The proposed subdivision of Mr Sailor's lot (master Plan #31-7) would allow yet another large home to be built on our street. After the past 2 winters it has been evident that there are problems with this proposal. Although I do not oppose the subdivision per se, I do oppose another home to be built mostly because we'll lose a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition it is located very near the center of the lot and a home probably cannot safely be built around it without causing irreparable damage to the tree and its roots. As such, I propose that the subdivision, if approved, requires that the tree MUST be saved and not removed.

I ask this after we recently "lost" 26 large trees on the adjoining lot. This lot (10113 Meadowneck Court) is currently under construction by Phyllis Michaels/Allegro Development. Her HAWP allowed the cutting down of a forest of 26 trees, 21 on the property and 5 on the right-of-way (not to mention an extra tree "removed" during land preparation). I contacted an Arborist about this loss and was advised to request the HAWP be conditional based on the replacemnt of 15 trees. This was approved by the HPC. Currently, there is no requirement for a "tree plan" which will indicate the location of these 15 trees to be planted on that lot. Doubts remain in my and other residents' mind whether all 15 trees will indeed be planted as required.

Although the saving of one tree may seem insignificant in the scope of the County as a whole, I respectfully request that this Oak tree be saved and indicated as such on the lot subdivision so no more trees of this size and stature are lost. We lost 26 trees and the canopy they provided for shade and cooling as well as beauty.

Living in an area designated as a "Historic District" comprises a region which, I believe, embraces a sense of preservation of the nature and aesthetic quality of the landscape, by the homes and the treed portions of the neighborhood to maintain and preserve the open airy park-like setting as it compliments the Historic Nature of the neighborhood. As such the Capital View Historic District is described as large and park-like with many large trees, mature landscapes in a mature setting.

The vast number of trees we lost reduces the historic quality of our Historic District and therefore can never be replaced. A tree of this mighty stature does not grow within the span of one persons' lifetime. The aesthetic quality of the neighborhood and the value our trees provide the overall character of Capital View Historic Park and must be preserved.

This mature tree, should be saved, like so many other lots with trees in our Historic District which cannot be cut down. By allowing removal of this very large tree (as occurred en-masse on the adjacent property) you are allowing development to whittle away at the very fabric of what our Historic District was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. I believe that it is under your purview that the mature plantings located in this Historic District be maintained and preserved.

If the decision is to remove this majestic tree, I have additional problems with the proposed builder. Ms. Phyllis Michaels with Allegro Development has proven herself to be a cancer to the community and County. Her rude insulting manner has left ALL the inspectors for her jobsite alienated, WSSC and Washington Gas staff offended and the residents in a total uproar. We have endured numerous violations of the noise ordinance, water being stolen from our taps by her workers, attacks both physical and verbal from this builder herself and total disregard for the neighbors' property and the neighborhood as a whole. The overall destruction and disregard for the residents' property has been appalling.

Although these items should only be temporary in scope, her manner/attitude is undesirable and unacceptable for taxpaying members of our community.

If these issues were not enough to concern your office, several more items trouble me:

Access to the Street:

The "street" that this second home would be built upon appears as a paper street on the county master plan and is merely an extension of a driveway. Although the lot owner began development of this "roadway," it was done so as a driveway. This "street" is not a street, and will incur the problems not yet known to the builder, mainly lack of access for county and emergency-related vehicles and services. Currently this driveway is approximately 12' across not the required 25' needed for access and passing of multiple vehicles up and down this drive. As it stands now, fire and rescue vehicles would be severely restricted to access these homes. Trash and mail service would suffer as well.

Winter Weather:

Winter ice conditions do not allow for any vehicle to drive up this "street." The previous winters were a testimony, that even the residents of my Court were unable to enter their street/driveways. Maintenance of this Oak Street driveway is to be borne by the residents on the drive. If they are unable to reach their homes, they cannot park on the Court, as there is No Parking allowed. This stipulation was required based on the inaccessibility of emergency vehicles onto our Court. If these residents were to park in the street, and there was a need for emergency vehicles, access would not be allowed. At this moment, our No Parking signs have been stolen and although no one witnessed the event, persons associated with the construction are considered the likely perpetrators. DOT has been informed and new signs are being made.

Access and Parking:

Development of this lot would cause construction vehicles and storing of construction materials to overflow into the street. As it stands now, this lot is being used for this purpose of the new construction on the adjacent lot.

Stormwater Retention:

Development of this lot will impact the current storm sewer system. The original storm sewer is currently not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain in our court. Additional runoff experienced from the one newly developed lot and this proposed lot will burden our already overflowing storm drain in Meadowneck Court. I'd like to see DEP storm water management folks look at this issue more closely.

Run-off and Stormwater Retention:

In relation to the stormwater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the county require this lot's development proposal to include some diversion ditch, storm drain or other item to be constructed to prevent additional runoff and control of sediment? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns. One DEP inspector suggested a solution to this current runoff problem. This would entail an enlarged drainage system to be placed across the entire street which would be connected to the existing storm sewer. Perhaps the builder should be required to install such a device to control the excess runoff from her new building sites.

(Although these issues were identified prior to the current construction, no resolution was proposed. In fact, the various permitting authorities were contacted, by letter, but chose to ignore these issues)

As you can see, there are concerns with this lot subdivision that are broad in scope. I believe the County needs to address these concerns before any new construction can be approved. I hope that some understanding of my concerns can be considered. Above all, I trust that you can appreciate the needs of the neighborhood by including this tree's preservation on the lot's deed. Thank you for your time and consideration.

Sincerely,

Bonnie Adler

Bonnie Adler

ATTACHMENT 4

10105 Meadowneck Court
Silver Spring, MD 20910
7 February 1995

A. Malcolm Shaneman
Development Review
Planning Department
Maryland National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Subject: Sailor Subdivision
File # 1-95032

Dear Mr. Shaneman:

I am writing this letter as follow-up to our conversation on February 3, 1995, in which we discussed the subject property. As part of our conversation, you mentioned that there was a way to ensure proper enforcement of any landscape/tree preservation plan requested by the Historic Planning Commission (HPC). This would entail placing any limitations requested in the preliminary plan proposed by the HPC to the M-NCPPC Planning Department as part of the overall recommendation for lot subdivision. As such you indicated that you would contact Gwen Marcus of the HPC and suggest that they revise their recommendation to include a landscape plan and a tree preservation plan. That recommendation came from the December 21, 1994 hearing. I attended that hearing, and I recall that these items were indeed already included as part of the HPC's recommendation. Perhaps they were noted as "conditions" of the HPC's recommendation.

There are a few items that still concern me:

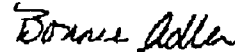
- * Does a conditional approval for subdivision allow any subdivision to occur with only subsequent receipt of a plan, but not any review by a licensed landscape architect or engineer to approve the adequacy of said plans?
- * Who reviews and approves these plans?
- * When are these reviews conducted?
- * Can such reviews be challenged?
- * Is there some mechanism where the Planning Department can reject the proposed action until ALL plans are received and reviewed by proper licensed persons?
- * What about a grading plan? In our conversation you indicated to me that this was more of a concern to you than the 4' diameter oak tree that'll be lost due to subdivision/construction.

It seems that the Planning Department is not exercising their full potential in reviewing the situation beforehand and limiting subdivision/building of a lot when the potential for destruction to the neighborhood is evident.

I suggest that the Planning Department disapprove this subdivision until all plans (landscape, tree preservation, grading, etc.) are received AND reviewed AND approved by proper officials prior to granting the proposed lot subdivision. All conditions MUST be met prior to granting this subdivision approval.

Thank you for your attention to this matter.

Sincerely,



Bonnie Adler

cc: Gwen Marcus, HPC

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

FILE NUMBER: 950436 DATE RECEIVED: 04/06/95

CORRESPONDENCE TYPE: letter DATE OF LETTER: 04/03/95

AGENDA DATE:

TO: Hussmann

FROM: Delegate Sharon Grosfeld

SUBJECT:

Letter transmits copies of correspondence received from Steven R. Kramer, resident of Capitol View Park, stating concerns re how new development will affect his property.

TRANSMITTED TO: Pl. Dept. / BH

COPIES TO: Shaneman/Marcus

DATE DUE:

[X] PREPARE REPLY FOR CHAIRMAN'S SIGNATURE

[] REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:

Please prepare response ASAP.

PLANNING DIRECTOR'S OFFICE

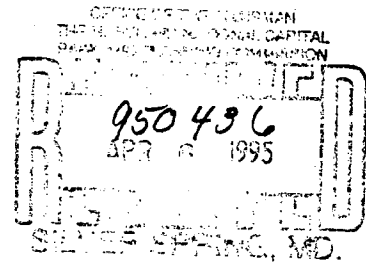
DATE RECEIVED BY PDO: DATE SENT TO DIVISION:

RESPONSIBLE STAFF:

DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:

*Malcolm
Shaneman
to
respond*



HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401-1991

SHARON GROSFELD
LEGISLATIVE DISTRICT 18
MONTGOMERY COUNTY

April 3, 1995

ANNAPOLIS OFFICE:
223B LOWE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(301) 858-3028

DISTRICT OFFICE:
2506 PLYERS MILL ROAD
SILVER SPRING, MARYLAND 20902
(301) 946-1003

Mr. William Hussman
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Proposed Subdivision of Lots 44 and 45
Capital View Park, Silver Spring
Case # 31/7
File # 1-95032

Dear Mr. Hussman:

A couple of months ago I received correspondence from residents concerned about the construction of the above-referenced property. Unfortunately, due to my extremely heavy schedule during that point in the legislative session, I was unable to respond to the concerns expressed. Now however, as the 1995 session winds down, I would like to take this opportunity to request your assistance in this matter.

Enclosed are copies of the letters I have received, which detail the precise concerns of the residents who will be most effected by this new development. I would appreciate hearing your responses to the questions posed, as well as a status report on the construction if you can so provide.

I am grateful for your attention to this issue and look forward to hearing from you soon. Thanking you in advance.

Sincerely,

Sharon Grosfeld

Sharon Grosfeld

Enc.

10109 Meadowneck Ct.
Silver Spring, MD 20910
January 30, 1995

Ms. Sharon Grosfield
Maryland State Delegate
2506 Plyers Mill Rd.
Silver Spring, MD 20902

Subject: Proposed Subdivision of Lots 44 and 45, Capitol View Park, Silver
Spring, MD, File Number: 1-95032

Dear Ms. Grosfield:

I am writing this letter as a concerned resident in regard to the above-referenced subdivision. My wife and I are the owners of the adjacent property to the proposed subdivision. Attached are copies of several letters written by the residents of Capitol View Park. There are several areas of concern in regard to this development which the Maryland National Capital Park and Planning Commission have chosen to disregard. To briefly summarize the concerns:

- Access to the proposed property by police and fire rescue vehicles.
- Increased water run off resulting in downstream flooding from proposed site after construction.
- Past performance of proposed builder.
- Removal of trees from the Capitol View Historic Area.
- Access to our property during construction and storage of construction materials.
- Damage to our neighborhood.

The Planning Commission and Historic Commission have made little effort to resolve any of the concerns of the taxpayers and residents of this area. The Commissions are inconsistent and anti-resident in their positions. Double standards seem to be the rule. We need your help to protect our homes and our neighborhood. We would appreciate any assistance your office could provide in this matter. I can be reached at the following telephone numbers: 202/223-9610 (office) and 301/495-5794 (home).

Sincerely,



Steven R. Kramer

Enclosures

10105 Meadowneck Court
Silver Spring, MD 20910
4 January 1995

Subdivision Office, Development Review Division
Maryland National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Case # 31/7; File #1-95032
Lot 44, Oak Street/Meadowneck Court

Dear Sir/Madam:

I am writing to express my concern for the above mentioned property as it comes before you for consideration of subdivision. Although I addressed my concerns to the Historic Preservation Commission on December 21, 1994, I felt it necessary to address them to you as well.

I am a resident on Meadowneck Court and as such I'm very concerned about my neighborhood. The proposed subdivision of Mr Sailor's lot (master Plan #31-7) would allow yet another large home to be built on our street. After the past 2 winters it has been evident that there are problems with this proposal. Although I do not oppose the subdivision per se, I do oppose another home to be built mostly because we'll lose a specimen oak tree standing approximately 90 feet tall with a trunk diameter approaching 4 feet. In addition it is located very near the center of the lot and a home probably cannot safely be built around it without causing irreparable damage to the tree and it's roots. As such, I propose that the subdivision, if approved, requires that the tree **MUST** be saved and not removed.

I ask this after we recently "lost" 26 large trees on the adjoining lot. This lot (10113 Meadowneck Court) is currently under construction by Phyllis Michaels/Allegro Development. Her HAWP allowed the cutting down of a forest of 26 trees, 21 on the property and 5 on the right-of-way (not to mention an extra tree "removed" during land preparation). I contacted an Arborist about this loss and was advised to request the HAWP be conditional based on the replacement of 15 trees. This was approved by the HPC. Currently, there is no requirement for a 'tree plan' which will indicate the location of these 15 trees to be planted on that lot. Doubts remain in my and other residents' mind whether all 15 trees will indeed be planted as required.

Although the saving of one tree may seem insignificant in the scope of the County as a whole, I respectfully request that this Oak tree be saved and indicated as such on the lot subdivision so no more trees of this size and stature are lost. We lost 26 trees and the canopy they provided for shade and cooling as well as beauty.

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The vast number of trees we lost reduces the historic quality of our Historic District and therefore can never be replaced. A tree of this mighty stature does not grow within the span of one persons' lifetime. The aesthetic quality of the neighborhood and the value our trees provide the overall character of Capital View Historic Park and must be preserved.

This mature tree, should be saved, like so many other lots with trees in our Historic District which cannot be cut down. By allowing removal of this very large tree (as occurred en-masse on the adjacent property) you are allowing development to whittle away at the very fabric of what our Historic District was established to protect. Although I agree that infill development cannot be stopped, something must be done to preserve the trees and the streetscape as a whole. I believe that it is under your purview that the mature plantings located in this Historic District be maintained and preserved.

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Although these items should only be temporary in scope, her manner/attitude is undesirable and unacceptable for taxpaying members of our community.

If these issues were not enough to concern your office, several more items trouble me:

Access to the Street:

The "street" that this second home would be built upon appears as a paper street on the county master plan and is merely an extension of a driveway. Although the lot owner began development of this "roadway," it was done so as a driveway. This "street" is not a street, and will incur the problems not yet known to the builder, mainly lack of access for county and emergency-related vehicles and services. Currently this driveway is approximately 12' across not the required 25' needed for access and passing of multiple vehicles up and down this drive. As it stands now, fire and rescue vehicles would be severely restricted to access these homes. Trash and mail service would suffer as well.

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Winter ice conditions do not allow for any vehicle to drive up this "street." The previous winters were a testimony, that even the residents of my Court were unable to enter their street/driveways. Maintenance of this Oak Street driveway is to be borne by the residents on the drive. If they are unable to reach their homes, they cannot park on the Court, as there is No Parking allowed. This stipulation was required based on the inaccessibility of emergency vehicles onto our Court. If these residents were to park in the street, and there was a need for emergency vehicles, access would not be allowed. At this moment, our No Parking signs have been stolen and although no one witnessed the event, persons associated with the construction are considered the likely perpetrators. DOT has been informed and new signs are being made.

Access and Parking:

Development of this lot would cause construction vehicles and storing of construction materials to overflow into the street. As it stands now, this lot is being used for this purpose of the new construction on the adjacent lot.

Stormwater Retention:

Development of this lot will impact the current storm sewer system. The original storm sewer is currently not adequate as witnessed by the back-up and resultant standing water after a heavy rainfall located at the storm drain in our court. Additional runoff experienced from the one newly developed lot and this proposed lot will burden our already overflowing storm drain in Meadowneck Court. I'd like to see DEP storm water management folks look at this issue more closely.

Run-off and Stormwater Retention:

In relation to the stormwater issue I identified above, I'd like to know what provisions have been made for exacerbation of runoff in the neighborhood. Does the county require this lot's development proposal to include some diversion ditch, storm drain or other item to be constructed to prevent additional runoff and control of sediment? Perhaps a storm drain extension to the existing outfall can be dug to solve runoff concerns. One DEP inspector suggested a solution to this current runoff problem. This would entail an enlarged drainage system to be placed across the entire street which would be connected to the existing storm sewer. Perhaps the builder should be required to install such a device to control the excess runoff from her new building sites.

(Although these issues were identified prior to the current construction, no resolution was proposed. In fact, the various permitting authorities were contacted, by letter, but chose to ignore these issues)

As you can see, there are concerns with this lot subdivision that are broad in scope. I believe the County needs to address these concerns before any new construction can be approved. I hope that some understanding of my concerns can be considered. Above all, I trust that you can appreciate the needs of the neighborhood by including this tree's preservation on the lot's deed. Thank you for your time and consideration.

Sincerely,

Bonnie Adler

10109 Meadowneck Ct.
Silver Spring, MD 20910
January 5, 1995

Maryland National Capital
Park and Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910
Att: Subdivision Office,
Development Review Division

Subject: Proposed Subdivision of Lots 44 & 45, Capitol
View Park, Silver Spring, MD
File Number: 1-95032

Ladies and Gentlemen:

This letter is to follow-up our earlier correspondence to you of November 7, 1994 and to raise additional concerns in regard to the above-referenced subdivision. We own the property adjacent on the south side to the proposed subdivision. The following are the additional items of concern:

1) Access to our property during construction at Lot 44

It is our understanding that a new home is proposed for construction on Lot 44. Access to Lot 44 is by a common driveway which crosses the entrance to our driveway. The common driveway also referred to as Oak St. is a one lane 12 ft. wide road. We are concerned that during construction of Lot 44 access to our home will become difficult and in some instances prohibitive.

Currently, a home is under construction on Lot 43 which is one lot north of Lot 44. During this construction process, Lot 44 is being used for parking of construction vehicles, storage of materials, storage of a portable toilet, and storage of a large trash dumpster. It is unknown where the builder of Lot 44 will place all these items to construct the house on Lot 44. We believe that the builder of Lot 44 should be required to submit a plan for storage of all materials that will not interfere with access to our property and prevent damage to our property. To not interfere with access to the common driveway, we request that all construction vehicles be prohibited from parking on the common driveway. We would recommend that all construction vehicles be required to park on Meadowneck Ct. or Lee St. (since parking is limited on Meadowneck Ct.).

2) Past Performance of Proposed Builder of Lot 44

At the recent meeting of the Historic Preservation Commission on December 21, 1994, Phyllis Michaels/Allegro Development indicated that she plans to be the builder of a house on Lot 44. Currently Michaels/Allegro is building a house at Lot 43 (also

Page 2
January 5, 1995

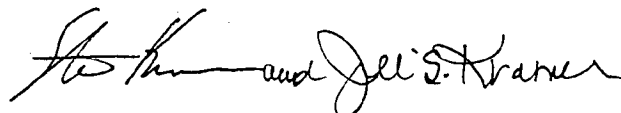
referred to as 10113 Meadowneck Ct.) We are very concerned about the past violations of laws and ordinances by this builder. On October 1, 1994, Phyllis Michaels assaulted one of the homeowners who lives on Meadowneck Ct., Montgomery County Police Case No. 594-229258. In addition, Citizens' Noise Complaints have been filed against Phyllis Michaels/Allegro Development on five separate occasions. These violations have occurred between October 1 - December 24, 1994. Even after being informed about quiet time in Montgomery County, Michaels/Allegro has chosen to disregard these periods and disrespect the residents who live on Meadowneck Ct.

Our yard and the adjacent right of way at 10109 Meadowneck Ct. were once again damaged by construction vehicles of Michaels/Allegro on December 19, 1994. We called Montgomery Police to report the incident and the officer who inspected the damage stated it was obvious that construction vehicles had vandalized our property. Michaels/Allegro has shown no willingness to repair the property. Therefore, we are left with damaged property or the need to take legal action.

These events are very concerning to us and the other residents of Meadowneck Ct. since they have repeatedly occurred and have not stopped. Before issuing a building permit to this builder, we would suggest that this builder be required to demonstrate an understanding of the ordinances for building a home in Montgomery County (in particular noise, sediment and erosion control and littering ordinances). In addition, we suggest that Ms. Michaels meet with the Montgomery Police to be provided a review of the laws of this region.

We appreciate the opportunity to submit these additional comments and need your assistance in preventing further destruction to our home and neighborhood by a reckless and inconsiderate builder.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven and Jill S. Kramer". The signature is written in dark ink and is positioned above the typed names.

Steven and Jill Kramer

10109 Meadowneck Ct.
Silver Spring, MD 20910
November 7, 1994

Maryland National Capital
Park and Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910
Att: Subdivision Office,
Development Review Division

Subject: Proposed Subdivision of Lots 44 & 45, Capitol
View Park, Silver Spring, MD

Dear Sir or Madam:

This letter is in response to the Subdivision Application for the above-referenced property. As the homeowner of the adjacent property, we would like to take this opportunity to express our concerns in regard to this development. There are several issues that should be evaluated prior to the subdivision of this property.

1) **Preservation of Trees**

On Lot 44, there resides a large oak tree that is over 50 feet tall. This tree is located in the middle of the lot. As you are likely aware, the trees make the Capitol View Area an historic area rather than the houses. This tree should be preserved during any development of this lot.

2) **Access to Lot 44**

Access to Lot 44 is by a "paper" or unapproved street called Oak St. Oak St. is entered through Meadowneck Ct. The apron for our driveway appears to be the beginning of Oak St. We have been informed by the Department of Transportation that Oak St. will not become a road and the future owners of Lots 44 and 43 will be responsible for maintaining this street including road repairs and snow removal.

Additional concerns in regard to the use of Oak St. include fire and rescue needs, trash removal and mail service.

3) **Construction of a New House on Lot 44**

At the current time, a new house is under construction on Lot 43 which is the property north of Lot 44 on Oak St. During this construction, the builder--Allegro Development/Phyllis Michaels has violated several county ordinances and become a general nuisance for the neighborhood. Since this is a developed mature neighborhood, it would be common courtesy for any developer to respect our properties and inform the owners of how their lives will be impacted. Allegro Development/Michaels has violated noise ordinances, created unnecessary soil and erosion control problems,

Page 2
November 7, 1994

has not removed debris and mud left by construction vehicles on Meadowneck Ct., and assaulted one of the homeowners. Construction vehicles have driven over our property and harmed newly landscaped areas. Several reports have been filed with the police and the appropriate Montgomery County Agencies for these violations.

It is imperative that the future builder of Lot 44 is aware of the building ordinances and laws for this area.

At a minimum, we would recommend that any future developer of Lot 44 meet in advance with the homeowners of Meadowneck Ct. during the application process and prior to the initiation of construction. This would hopefully allow the property to be developed without the earlier mentioned difficulties.

While we are not opposed to the building of a new house on Lot 44, we believe that is important for any future builder to address the items cited earlier in this letter.

We appreciate the opportunity to comment and would be pleased to further discuss these items with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven R. and Jill S. Kramer".

Steven R. and Jill S. Kramer

1/17/95

10208 Capitol View Ave.
Silver Spring, MD 20910
301-588-5054
202-501-7751

Mr. Doug Duncan, Chief Executive
Montgomery County

101 Monroe St.
Rockville, MD 20850
FAX: 301-217-2517

Re: Sailor subdivision proposal:

Dear Mr. Duncan:

The above referenced subdivision captures just about everything that is wrong with the Maryland-National Capitol Parks and Planning Commission (M-NCPPC). It is well documented for the community was in the courts for four years for the subdivided property immediately next door.

The enclosed letter to M-NCPPC attorney Michelle Rosenfeld identifies how the Planning Board promised the community in court to guard against local and down stream flooding and undue local negative effect on the local community and was completely abandoned by M-NCPPC and the County. In fact, the community was misled and lied to in the courts. Incredibly, the developer physically attacked a community person. Ms. Rosenfeld's response to the letter was to refer the community to a middle level bureaucrat, Joe Cheung, who begged off responding to any of our questions and referred us to Bob Marryman of MC/DEP.

The "flooding 10113" letter to Mr. Marryman identifies the complete lack of protection provided by the County along with identifying a \$325,000 flood plain correction necessitated by an earlier adjacent subdivision project in the area and paid for by the tax payer. Mr. Marryman is so contemptuous of the local community he hasn't even responded to our letter.

The "Sailor Subdivision" letter identifies how the M-NCPPC approved an adjacent dangerous subdivision along with recommending approval of the above mentioned subdivision. Both subdivisions, along with breaking County code, damaging local property values are also a fire hazard to local residences. In this letter the community recommends that the M-NCPPC be abandoned and be replaced with a less costly system.

The Hussmann letter identifies how the M-NCPPC and the County abuses this neighborhood by misleading the community about hearing notices, hearing cancellations, County insistence on not replacing no-parking signs torn down by

the local developer, and general indifference for local property values.

Finally, I'm told that, this thursday, the M-NCPPC staff is reviewing and recommending approval to the Planning Board of a proposal by the hopelessly corrupt "Appeals Board" to allow commercial vehicle street parking on residential streets where "exceptions" have been made for commercial use of residential properties. The communities being attacked are the Rock Creek Palisades and College View Estates neighborhoods. Unbelievable!! Let's destroy our neighborhoods!

It should be clear that M-NCPPC (along with the Appeals Board) is hell bent on destroying Montgomery County neighborhoods. **Mr. Duncan! Cut the M-NCPPC staff by 2/3's (see Sailor Subdivision letter), get rid of the Appeals Board, and have the remaining staff work on building up existing Montgomery County neighborhoods and not tearing them down. Start talking to community groups about building up their communities.**

Sincerely,

A handwritten signature in cursive script that reads "Barrett Glen Malko". The signature is written in black ink and is positioned above a horizontal line.

Barrett Glen Malko, Architect

enclosures

cc:Community groups including Meadowneck Court

floodg#5

1/18/95

10208 Capitol View Ave.
Silver Spring, MD 20910
301-588-5054
202-501-7751

Editorials
Gazette
4044 Blackburn Lane
Burtonsville, MD 20866
voice:301-421-5900
FAX:301-421-4232

Re: Sailor subdivision proposal:

Editor:

On January 12, 1995 the Maryland-National Capitol Parks and Planning Commission (for short the Montgomery County Planning Board) was to review the Sailor property subdivision proposal on Meadowneck Court. In advance, the planning staff had recommended approval of the subdivision with no written justification in the subdivision file.

The community challenged this subdivision because the property next door to the proposed subdivision, and presently under construction, did not meet the fire and safety code nor did it meet the subdivision code requiring one driveway per house (two under rare exception). The proposed subdivision also did not meet the code for the same reasons.

To "meet" the code the Planning Board along with the Montgomery County Dept. of Transportation deemed a 12 foot wide driveway a public "street" (12 feet is the definition of a driveway by County code) thereby allowing the subdivision to "meet" the street requirement portion of the code. Obviously, this "street" designation was arbitrary and capricious, but worse it put the surrounding property owners in danger for fire and safety vehicles could not negotiate the 12 foot driveway (fire and safety code requires 20 feet and the code is clear on this). The above argument along with others was submitted to the Planning Board in advance to the hearing.

At the day of the hearing the Planning Board withdrew the subdivision at the request of the applicant or so says the Board. Why? The Planning Board offers no explanation saying an applicant, can if they choose, withdraw an application. Clearly, the illegal house next door and under construction at 10113 Meadowneck Court is a danger to the neighborhood and an embarrassment to the Board. They approved it. Yet it continues under construction. If the house is illegal why has not the Planning Board contacted the permits section of the County and halted the

construction?

The full argument to stop construction of this illegal house and also deny the new Sailor subdivision has been submitted to new County Executive Doug Duncan. Will Mr. Duncan put a stop to this? We will see. The August 24, 1994 Gazette pointed out that eight out ten of the top donations to Mr. Duncan's 1994 fall campaign were in the building business. Will these donors "influence" Mr. Duncan?

We have asked Mr. Duncan to make severe changes to the County planning department both in staff size and function, eliminate the so called "Appeals Board", and rewrite the subdivision planning code to help protect County neighborhoods. We suggested Mr. Duncan's new motto be "let's build up our neighborhoods and not tear them down". I challenge each of the many community groups in Montgomery County to invite Mr. Duncan to their meetings allowing Mr. Duncan to explain how the County will now support his and our neighborhoods. I also challenge Mr. Duncan to explain the above subdivision approval.

Sincerely,

A handwritten signature in cursive script that reads "Barrett Glen Malko". The signature is written in black ink and includes a horizontal line at the end.

Barrett Glen Malko, Architect
cc:various community groups

enclosures:12 pages of letters and documentation

floodg#6

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: Lot 43, Oak Street	Meeting Date: 08/17/94
Resource: Capitol View Park Historic District	HAWP: New construction
Case Number: 31/7-94E CONTINUED	Tax Credit: No
Public Notice: 08/03/94	Report Date: 08/10/94
Applicant: Phyllis Michaels	Staff: Patricia Parker
PROPOSAL: New construction of single-family home	RECOMMEND: Approval w/ condition

BACKGROUND

This proposal to construct a frame, two-story single-family home with basement was reviewed by the HPC on July 27, 1994. At that meeting, the Commissioners decided to withhold voting on this proposal until 1) adequate and complete noticing of adjacent and confronting property owners was completed and 2) a clear and current tree survey performed by an arborist was submitted with an accompanying report of the condition, size and identification of each tree on the site. The tree survey was to indicate the footprint of the proposed structure. Also, the arborist, as part of this report, was to indicate suggested replacement plantings to mitigate the substantial tree loss proposed for the property.

The property is surrounded by other recent **non-contributing** structures. This lot location is spatially and visually separated from historic resources within the historic district. (See page 5.) Access to the lot would be via a new street, not yet built - Oak Street.

In the interim, staff has provided notice to additional parties (including confronting and adjacent property owners) and staff has received additional information from the applicant, DOT and interested parties on Meadowneck Court. The applicant has provided for staff review a recently completed tree survey with recommendations to mitigate tree loss.

The tree survey suggests that the applicant remove 21 trees due to poor health or to meet construction requirements. Of these 21, 19 trees are 6" or greater in caliper. To mitigate tree loss, the arborist proposes establishing an evergreen screen across the rear of the property utilizing 3 Red Cedar/or Junipers and 2 American Hollies in a staggered row. Additionally, the arborist

proposes the planting of 2 large shade trees - red oak or green ash. The tree survey also shows the footprint of the proposed house.

Staff discussed problems of access with the DOT. Officials at DOT have informed the applicant that Oak Street will not be built. Instead, the applicant will be permitted to extend a 12' driveway from the existing private driveway apron of the adjacent property. The applicant will be responsible for construction and maintenance of the driveway. Mailboxes for all properties abutting the new private driveway will be located on Meadowneck Court.

Staff has also received comments from other interested parties on Meadowneck Court. Copies of these comments are included as part of this report.

STAFF DISCUSSION

The applicant proposes to construct a frame two-story single-family house with basement. The structure would be 30'-8" wide by 44'-8" long. The structure would have a floor area of approximately 2500 square feet on two floors. The house, as proposed, would be sheathed in vinyl or painted hardboard siding. Roofing shingles would be fiberglass and landscaping would be confined to the front yard. As proposed, the plan indicates that the house would be serviced by a concrete driveway abutting the structure in the front yard of the property. At the rear of the property, the proposal indicates a small concrete patio. The plan provides for a 20' rear setback and 8' and 10' sideyard setbacks. The elevations, plan and material submission are consistent with existing houses on this street and with those constructed after the Historic District was created.

This property is surrounded on three sides by **non-contributing, out-of-period** structures. Within the district and at the rear of the property and facing Capitol View Avenue are two structures built between 1917-1935. The lots which face Meadowneck Court are improved with structures, many lower in height. Several lots to the south of the property on the same side of the street (also facing Meadowneck Court) are about the same height as this proposed house and of very similar architectural design. Therefore, the applicant's proposal is compatible and consistent with the other new construction in the immediate area.

Therefore, staff directs the HPC to review of the impact of the proposal on the streetscape - that is, on issues of size, scale and massing and tree loss. A review of the applicant's proposal indicates a structure of similar size, scale and mass as some of the other properties to the north on Meadowneck Court. Again, although some houses facing Meadowneck Court are lower in scale, there is precedent for the height of the proposed house. Further, as the entire Court consists of non-contributing struc-

tures, there is no historic preservation impact on the historic district other than removal of trees, which are considered characteristic of the historic district.

With this proposal, two street trees will be lost with the development of Lot 43 due to the installation of utilities. Staff suggests that the applicant consider the planting of two new trees in the front yard. As proposed, the house would be setback 30' from the front property line, in line with adjacent properties. Of significant impact will be the continuation of a 12' concrete driveway to access this property. The loss of three street trees is unfortunate and will exacerbate the problem. The planting of two new trees and the new ash and the preservation of a 12" elm would provide shade and would mitigate the additional concrete in the front yard and in the new extended 12' driveway. Further, these plantings and preservation would be consistent with the character of the Capitol View Park Historic District, which is recognized for its wooded yard.

There are fourteen trees along the north and south property lines. The arborist's plan proposes to preserve only five of these trees and plant three new trees. Staff suggests that the arborist's plan be revised to more adequately address tree loss in these areas.

The arborist's plan does address the need for screening at the rear of the property. On this issue, the arborist proposes a staggered hedgerow of mixed plantings. The planting of these shrubs would also provide a screen for the rear of contributing resources located on Capitol View Avenue.

Lot 43 is a buildable lot. The issue of access is not before the HPC. This issue has been resolved by DOT. Further, the maintenance of the new driveway and access to Lot 43 by emergency vehicles are not matters before the HPC.

STAFF RECOMMENDATION

Staff recommends that the Commission find the proposal **consistent** with the purposes of Chapter 24A-8(b)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;

and with the Secretary of the Interior's Standards for Rehabilitation #9 and #10:

New additions, exterior alterations, 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 architectural features to protect the historic integrity of the property and its environment; and,

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;

and with the condition:

1. The arborist's plan be revised to include the planting of two additional trees in the front yard and new plantings along the north and south property lines to further mitigate proposed tree loss;

and with the general condition for all Historic Area Work Permits: The applicant shall notify the Department of Environmental Protection (DEP) five days prior to commencing work and within two weeks after completion.

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: Lot 43, Oak Street	Meeting Date: 07/27/94
Resource: Capitol View Park Historic District	HAWP: New construction
Case Number: 31/7-94E	Tax Credit: No
Public Notice: 07/13/94	Report Date: 07/20/94
Applicant: Phyllis Michaels	Staff: Patricia Parker
PROPOSAL: New construction of single-family home	RECOMMEND: Approval w/ conditions

BACKGROUND

The applicant proposes to construct a new frame single-family two-story structure in the Capitol View Park Historic District. The property is surrounded by other recent **non-contributing** structures. This lot location is spatially and visually separated from other historic resources within the District. (See page 8)

Unlike other historic districts where many of the houses date from the same period, Capitol View Park is a Historic District made up of heterogeneous architecture. It is an interesting district, expressive of its evolution.

STAFF DISCUSSION

The applicant proposes to construct a frame two-story single-family house with basement. The structure would be sheathed in vinyl or painted hardboard siding. Roofing shingles would be fiberglass and landscaping would be confined to the front yard. As proposed, the plan indicates that a concrete parking pad would be located in the front yard of the property. At the rear of the property, the proposal indicates a concrete patio. The elevations, plan and material submission are consistent with existing adjacent houses constructed after the Historic District was created.

This property is surrounded on three sides by non-contributing out-of-period structures. Within the district and at the rear of the property and facing Capitol View Avenue are two structures built between 1917-1935. The applicant's proposal is compatible and consistent with other changes already in place. Staff feels that, in this case, the HPC should only focus on the impact of

the proposal on the streetscape - that is, on issues of size, scale and massing. A review of the applicant's proposal indicates a structure of similar size, scale and mass as other adjacent properties on Meadowneck Court.

However, this proposal does include the removal of seven trees as part of the process to site the house. Staff feels that the applicant should mitigate this loss. On this issue, staff would recommend that the HPC require the planting of a continuous grouping of shrubs at the rear property line. The planting of these shrubs would also provide a screen for the rear of contributing resources located on Capitol View Avenue.

STAFF RECOMMENDATION

Staff recommends that the Commission find the proposal **consistent** with the purposes of Chapter 24A-8(b)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;

and with the Secretary of the Interior's Standards for Rehabilitation #9 and #10:

New additions, exterior alterations, 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 architectural features to protect the historic integrity of the property and its environment; and,

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;

and with the condition:

1. A row of shrubs shall be planted at the rear property line to form a screen;

and with the general condition for all Historic Area Work Permits: The applicant shall notify the Department of Environmental Protection (DEP) five days prior to commencing work and within two weeks after completion.

386

LOT 35

5 03° 36' 00" E 50.00'



384

LOT 36
6,888 ±

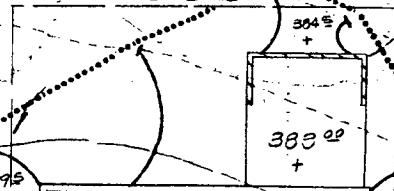
382

Prop. Retaining Wall

20' B.R.L.

380

Silt Fence



Proposed
2
Story

Bsmt: 374.50
F.F.: 383.50

SMITH PROPERTY
2,447± F204

378

376

374

372

370

N 87° 17' 57" E

368

366

10' B.R.L.

25' B.R.L.

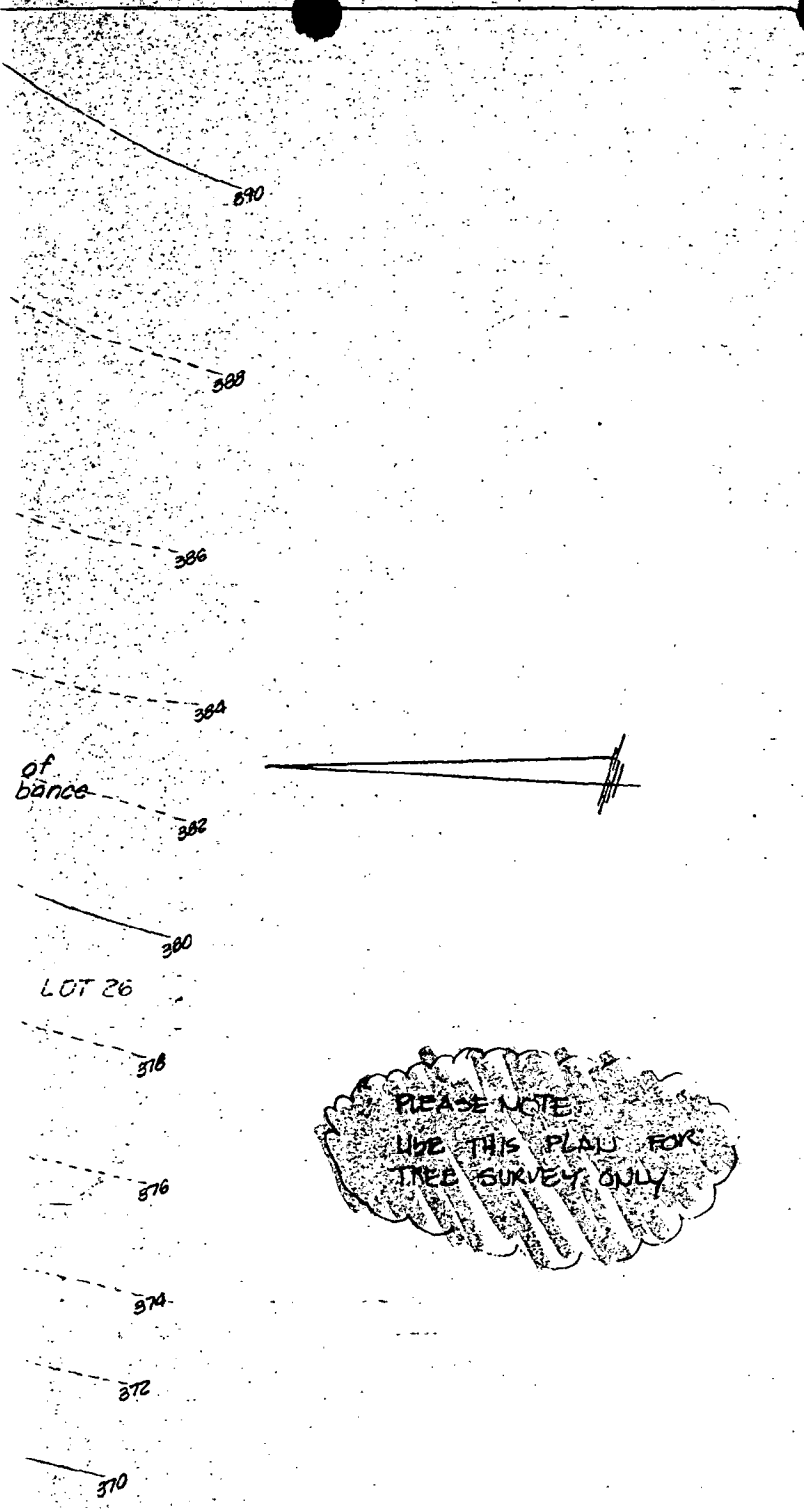
8' B.R.L.

N 86° 50' 00" W

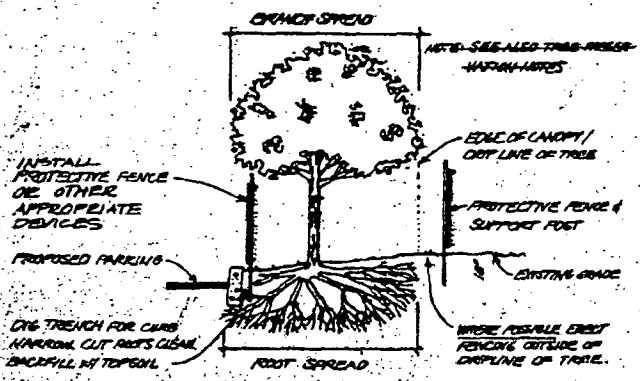
Proposed
2
Car
Parking

N 00° 42' 00" W 51.61'

9



PLEASE NOTE
USE THIS PLAN FOR
TREE SURVEY ONLY



- NOTES**
1. Ref. Drawing: L5.2236
 2. ⊕ = Existing Trees to be Removed. (7)
 3. Disturbed Area: 2984 sq ft
 4. Frequency of Tulip (Yellow) Popular Trees: 90%
 5. Total Number of Trees on Lot 36. = 25(0)

LE & A

- ENGINEERS
- PLANNERS
- SURVEYORS

Light, Elliott & Assoc., Inc.
 8508 ADELPHI ROAD 328-A HWY 925 SOUTH
 ADELPHI, MARYLAND 20783 WALDORF, MARYLAND 20604
 Telephone 422-6080 Telephone 843-4927
 Fax 422-6086 Fax 843-4928

DATE	REVISION

SITE DEVELOPMENT PLAN
 Oak Street
 Lot 36, Block 1
 (A RESUBDIVISION OF PARCEL 2-A)
CAPITOL VIEW PARK
 Wheaton (13) Election District
 Montgomery County, Maryland.

SCALE 1"=10'	DESIGNER Sul	APPROVED
DATE 2-21-90	DRAFTSMAN Sul	FIELD BOOK 2362-22

Todd Bolton

ASSOCIATES, Inc.



Integrating
Nature with Development

August 3, 1994

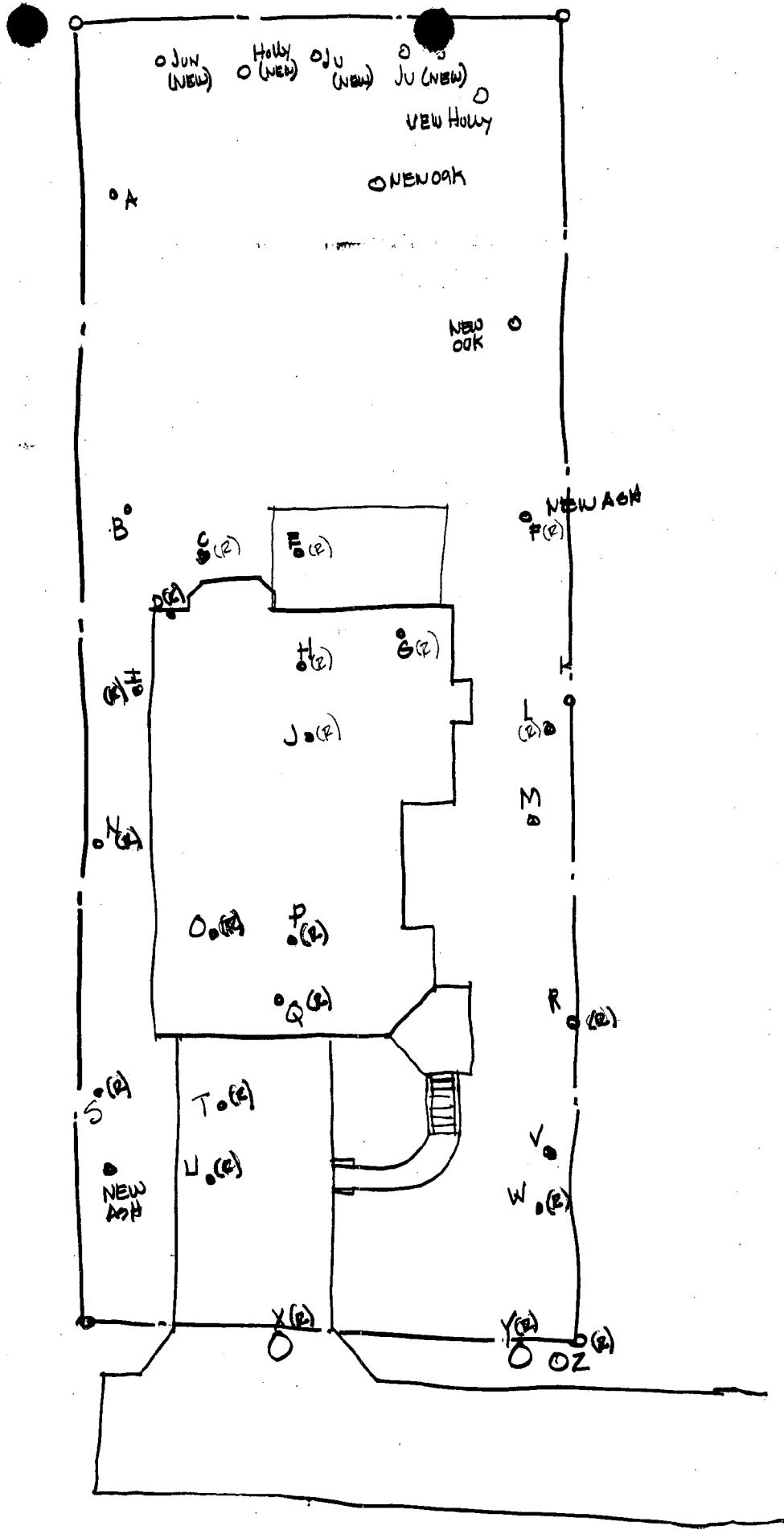
The following table is an updated list of the trees present on the Oak Street site Ms. Michaels hopes to develop. The # correspond to those shown on the plan. The "condition" given is from a very brief visual inspection. The /S and /C refer to reasons for removal, with the S standing for safety and the C indicating it will be required by construction. It is a problem on this property that the densest grouping of trees is in the only buildable spot. The clearing and grading required is close to the minimum possible. Although the 2 poplars at the southeastern corner of the property do not need to be removed for construction of this house there are regulations requiring the 10 ft. utility easement be cleared.

#	Size	Species	Condition	Fate
A	14"	Silver Maple	Good	Preserve
B	8"	Locust	Good	Preserve
C	10"	Locust	Good	Remove/C
D	17"	Locust	Good	Remove/C
E	7"	Black Cherry	Fair	Remove/C
F	28"	Locust	Poor	Remove/S
G	6"	Poplar	Good	Remove/C
H	12"	Poplar	Good	Remove/C
I	8"	Green Ash	Good	Remove/C
J	5"	Red Maple	Good	Remove/C
K	19/10"	Dbl. Cherry	Good	Preserve
L	8"	Locust	Poor	Remove/S
M	8/8"	Dbl. Ash	Good	Preserve
N	1' 2"	Cherry	Dead	Remove/S
O	5"	Ash	Poor	Remove/C
P	11"	Red Maple	Good	Remove/C
Q	18"	Poplar	Good	Remove/C
R	30"	Cherry	Poor	Remove/S
S	12"	Locust	Fair	Remove/C
T	12"	Poplar	Good	Remove/C
U	10"	Poplar	Fair	Remove/C
V	12"	Elm	Good	Preserve
W	14"	Cherry	Dead	Remove/S
X	24"	Poplar	Good	Remove/C
Y	24"+	Poplar	Good	Remove/C
Z	12"	Poplar	Good	Remove/C

The trees on the southern side are larger, and farther from the house, than those on the north side. These trees will provide immediate benefit by maintaining a visual screen from Meadow Neck Court, and in reduction of energy required for air conditioning. Therefore an attempt will be made to save those trees that do not need to be removed for safety reasons. Root pruning, using a vibrating blade, will be done parallel to and approximately 8 ft. inside the property line. Safety fence will be erected along the cut line and maintained until final grading with only foot traffic allowed on this side of the house.

The distance between the house and the northern boundary is only 8'. The Locust and Ash on the north side of the house are probably within 3 ft. of areas that will need to be excavated for construction purposes and their survival is unlikely. The removal of these trees will allow equipment and personnel to travel into the rear yard during construction. Access to the rear of a project this size is almost absolutely necessary and allowing the passage here should prevent workers from cheating up the southern side.

Replacement plantings have been designed taking into account the limited size of the lot, energy savings, privacy, and gardening or other possible uses by future homeowners. The plantings will include establishing an evergreen screen across the rear of the property using 3 Red Cedar, *Juniperus virginiana* @ 5 to 6 ft., and 2 American Holly, *Ilex ovata* @ 5 to 6 ft., in a staggered row. Additional replacement plantings would include 4, 2-2.5" large shade trees, Red Oak or Green Ash would be suitable for the site. Approximate placements are indicated on the accompanying drawing. The saved and replacement trees will eventually provide shade over at least 75% of the site and more plantings than this would severely limit the homebuyers ability to enjoy their property.



(R) = REMOVE



Historic Preservation Commission

51 Monroe Street, Suite 1001, Rockville, Maryland 20850
217-3625

APPLICATION FOR HISTORIC AREA WORK PERMIT

TAX ACCOUNT # 994435 703 305 4538 w
 NAME OF PROPERTY OWNER PHYLLIS MICHAELS TELEPHONE NO. 301 564 4039 H
(Contract/Purchaser) (Include Area Code)
 ADDRESS 5225 POOKS HILL RD #1810N BETHESDA MD 20814
CITY STATE ZIP
 CONTRACTOR _____ TELEPHONE NO. _____
 PLANS PREPARED BY PHYLLIS MICHAELS TELEPHONE NO. SOME IS ABOVE
(Include Area Code)
 REGISTRATION NUMBER _____

LOCATION OF BUILDING/PREMISE
 House Number _____ Street LOT #43 OAK STREET
 Town/City SILVER SPRING, MD Election District _____
 Nearest Cross Street LEE STREET / HEADWATER COURT
 Lot 43 Block _____ Subdivision CAPITOL VIEW PARK
 Liber 3834 Folio 457 Parcel 579-21/156 1773

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 Revision Porch Deck Fireplace Shed Solar Woodburning Stove
 Fence/Wall (complete Section 4) Other _____
 1B. CONSTRUCTION COSTS ESTIMATE \$ 100,000
 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? NO

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS
 2A. TYPE OF SEWAGE DISPOSAL WSSC 2B. TYPE OF WATER SUPPLY WSSC
 01 WSSC 02 () Septic 01 WSSC 02 () Well
 03 () Other _____ 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:
 1. On party line/Property line _____
 2. Entirely on land of owner _____
 3. On public right of way/easement _____ (Revocable Letter Required).

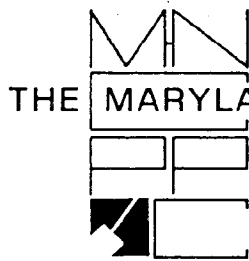
I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Phyllis Michaels 7.5.94
 Signature of owner or authorized agent (agent must have signature notarized on back) Date

APPROVED _____ For Chairperson, Historic Preservation Commission
 DISAPPROVED _____ Signature _____ Date _____

APPLICATION/PERMIT NO: _____ FILING FEE: \$ _____
 DATE FILED: _____ PERMIT FEE: \$ _____
 DATE ISSUED: _____ BALANCE \$ _____
 OWNERSHIP CODE: _____ RECEIPT NO: _____ FEE WAIVED: _____

SEE REVERSE SIDE FOR INSTRUCTIONS



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

DATE: 8/19/94

MEMORANDUM

TO: Historic Area Work Permit Applicants

FROM: Gwen Marcus, Historic Preservation Coordinator
Design, Zoning, and Preservation Division
M-NCPPC

SUBJECT: Historic Area Work Permit Application - Approval of
Application/ Release of Other Required Permits

Enclosed is a copy of your Historic Area Work Permit application, approved by the Historic Preservation Commission at its recent meeting, and a transmittal memorandum stating conditions (if any) of approval.

You may now apply for a county building permit from the Department of Environmental Protection (DEP), at 250 Hungerford Drive, Second Floor, in Rockville. Please note that although your work has been approved by the Historic Preservation Commission, it must also be approved by DEP before work can begin.

When you file for your building permit at DEP, you must take with you the enclosed forms, as well as the Historic Area Work Permit that will be mailed to you directly from DEP. These forms are proof that the Historic Preservation Commission has reviewed your project. For further information about filing procedures or materials for your county building permit review, please call DEP at 217-6370.

If your project changes in any way from the approved plans, either before you apply for your building permit or even after the work has begun, please contact the Historic Preservation Commission staff at 495-4570.

Please also note that you must arrange for a field inspection for conformance with your approved HAWP plans. Please inform DEP/Field Services at 217-6240 of your anticipated work schedule.

Thank you very much for your patience and good luck with your project!



Historic Preservation Commission

51 Monroe Street, Suite 1001, Rockville, Maryland 20850
217-3625

APPLICATION FOR HISTORIC AREA WORK PERMIT

TAX ACCOUNT # 994435 703 305-9538 w
 NAME OF PROPERTY OWNER PHYLLIS MICHAELS TELEPHONE NO. 301 564-4039 H
(Contract/Purchaser) (Include Area Code)
 ADDRESS 5225 POOKS HILL RD #1810N BETHESDA MD 20814 703 305-8536
CITY STATE ZIP
 CONTRACTOR _____ TELEPHONE NO. _____
 PLANS PREPARED BY PHYLLIS MICHAELS CONTRACTOR REGISTRATION NUMBER _____
(Include Area Code) TELEPHONE NO. SAME AS ABOVE
(Include Area Code)
 REGISTRATION NUMBER _____

LOCATION OF BUILDING/PREMISE

House Number _____ Street LOT #43 OAK STREET
 Town/City SILVER SPRING, MD Election District _____
 Nearest Cross Street LEE STREET / MEADOWNECK COURT
 Lot 43 Block _____ Subdivision CAPITOL VIEW PARK
 Liber. 3834 Folio 457 Parcel 579-21/156 1773

- 1A. TYPE OF PERMIT ACTION: (circle one)
- | | | | | | | |
|---|-------------------------------------|---|------------------------------------|--|--------------------------------|--|
| <input checked="" type="checkbox"/> Construct | <input type="checkbox"/> Extend/Add | <input type="checkbox"/> Alter/Renovate | <input type="checkbox"/> Repair | Circle One: <input type="checkbox"/> A/C | <input type="checkbox"/> Slab | <input type="checkbox"/> Room Addition |
| <input type="checkbox"/> Wreck/Raze | <input type="checkbox"/> Move | <input type="checkbox"/> Install | <input type="checkbox"/> Revocable | <input type="checkbox"/> Porch | <input type="checkbox"/> Deck | <input type="checkbox"/> Fireplace |
| | | | <input type="checkbox"/> Revision | <input type="checkbox"/> Shed | <input type="checkbox"/> Solar | <input type="checkbox"/> Woodburning Stove |
| | | | | <input type="checkbox"/> Fence/Wall (complete Section 4) Other _____ | | |
- 1B. CONSTRUCTION COSTS ESTIMATE \$ 100,000
 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? NO

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

- 2A. TYPE OF SEWAGE DISPOSAL
- | | |
|---|------------------------------------|
| 01 <input checked="" type="checkbox"/> WSSC | 02 <input type="checkbox"/> Septic |
| 03 <input type="checkbox"/> Other _____ | |
- 2B. TYPE OF WATER SUPPLY
- | | |
|---|----------------------------------|
| 01 <input checked="" type="checkbox"/> WSSC | 02 <input type="checkbox"/> Well |
| 03 <input type="checkbox"/> 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:
 1. On party line/Property line _____
 2. Entirely on land of owner _____
 3. 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.

Phyllis Michaels 7.5.94
 Signature of owner or authorized agent (agent must have signature notarized on back) Date

APPROVED _____ For Chairperson, Historic Preservation Commission

DISAPPROVED _____ Signature _____ Date _____

APPLICATION/PERMIT NO: 9467060065 FILING FEE: \$ _____
 DATE FILED: _____ PERMIT FEE: \$ _____
 DATE ISSUED: _____ BALANCE \$ _____
 OWNERSHIP CODE: _____ RECEIPT NO: _____ FEE WAIVED: _____



SUPPLEMENTAL APPLICATION FOR HISTORIC AREA WORK PERMIT
REQUIRED ATTACHMENTS

1. WRITTEN DESCRIPTION OF PROJECT

- a. Description of existing structure(s) and environmental setting, including their historical features and significance:

NEW CONSTRUCTION OF A SINGLE FAMILY HOME

- b. General description of project and its impact on the historic resource(s), the environmental setting, and, where applicable, the historic district:

THE HOME WAS DESIGNED IN PLAN AND ELEVATION
TO BE CONSISTANT WITH VICTORIAN DETAILING AND
IS CONSISTANT WITH OTHER NEW HOMES.

2. Statement of Project Intent:

Short, written statement that describes:

- a. the proposed design of the new work, in terms of scale, massing, materials, details, and landscaping:

THE HOME IS DESIGNED WITH A VICTORIAN DETAILING USING SIDING EITHER VINYL OR HANDBOARDED PAINTED. USING A 3 COLOR SCHEME IN THE PINK ROSE PALETTE. VICTORIAN DETAILS ARE STOCK ORDERED MATERIALS. SHINGLES ARE FIBERGLASS. LANDSCAPING WILL PRIMARILY BE IN THE FRONT AREA

- b. the relationship of this design to the existing resource(s):

THIS DESIGN IS CONSISTENT WITH OTHER ADJACENT HOMES ON MEDWICK CT.

- c. the way in which the proposed work conforms to the specific requirements of the Ordinance (Chapter 24A):

USING HISTORICAL DETAILING, COLOR PALETTE.

3. Project Plan:

Site and environmental setting, drawn to scale (staff will advise on area required). Plan to include:

- a. the scale, north arrow, and date;
- b. dimensions and heights of all existing and proposed structures;
- c. brief description and age of all structures (e.g., 2 story, frame house c.1900);
- d. grading at no less than 5' contours (contour maps can be obtained from the Maryland-National Capital Park and Planning Commission, 8787 Georgia Avenue, Silver Spring; telephone 495-4610); and
- e. site features such as walks, drives, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

4. Tree Survey: If applicable, tree survey indicating location, caliper and species of all trees within project area which are 6" in caliper or larger (including those to be removed).

5. Design Features: Schematic construction plans drawn to scale at 1/8" = 1'-0", or 1/4" = 1'-0", indicating location, size and general type of walls, window and door openings, roof profiles, and other fixed features of both the existing resource(s) and the proposed work.
6. Facades: Elevation drawings, drawn to scale at 1/8" = 1'0", or 1/4" = 1'0", clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for 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.
7. Materials Specifications: General description of materials and manufactured items proposed for incorporation in the work of the project.
8. Photos of Resources: Clearly labeled color photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
9. Photos of Context: Clearly labeled color photographic prints of the resource as viewed from the public right-of-way and from adjoining properties, and of the adjoining and facing properties.

Color renderings and models are encouraged, but not generally required.

Applicant shall submit 2 copies of all materials in a format no larger than 8 1/2" x 14"; black and white photocopies of color photos are acceptable with the submission of one original photo.

10. Addresses of Adjacent 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. If you need assistance obtaining this information, call the Department of Assessments and Taxation, at 279-1355.

1. Name ~~VICTOR + MARY ROSENTHAL~~
 Address ~~1111 HANCOCK ST~~
 City/Zip ~~ST. LOUIS~~

2. Name I + L E SAYLOR
 Address 10118 CAPITOL VIEW AVE
 City/Zip SILVER SPRING, MD 20910
LOT 26/1



3.
40/1

Name MARIA S GONZALEZ ETAL
Address 754 COLLEGE PARKWAY
City/Zip ROCKVILLE MD 20850

N888

4.

Name RAYMOND J + D C BRITN
Address 10122 CAPITAL VIEW AVE
City/Zip SILVER SPRING MD 20910

5.

Name _____
Address _____
City/Zip _____

6.

Name _____
Address _____
City/Zip _____

7.

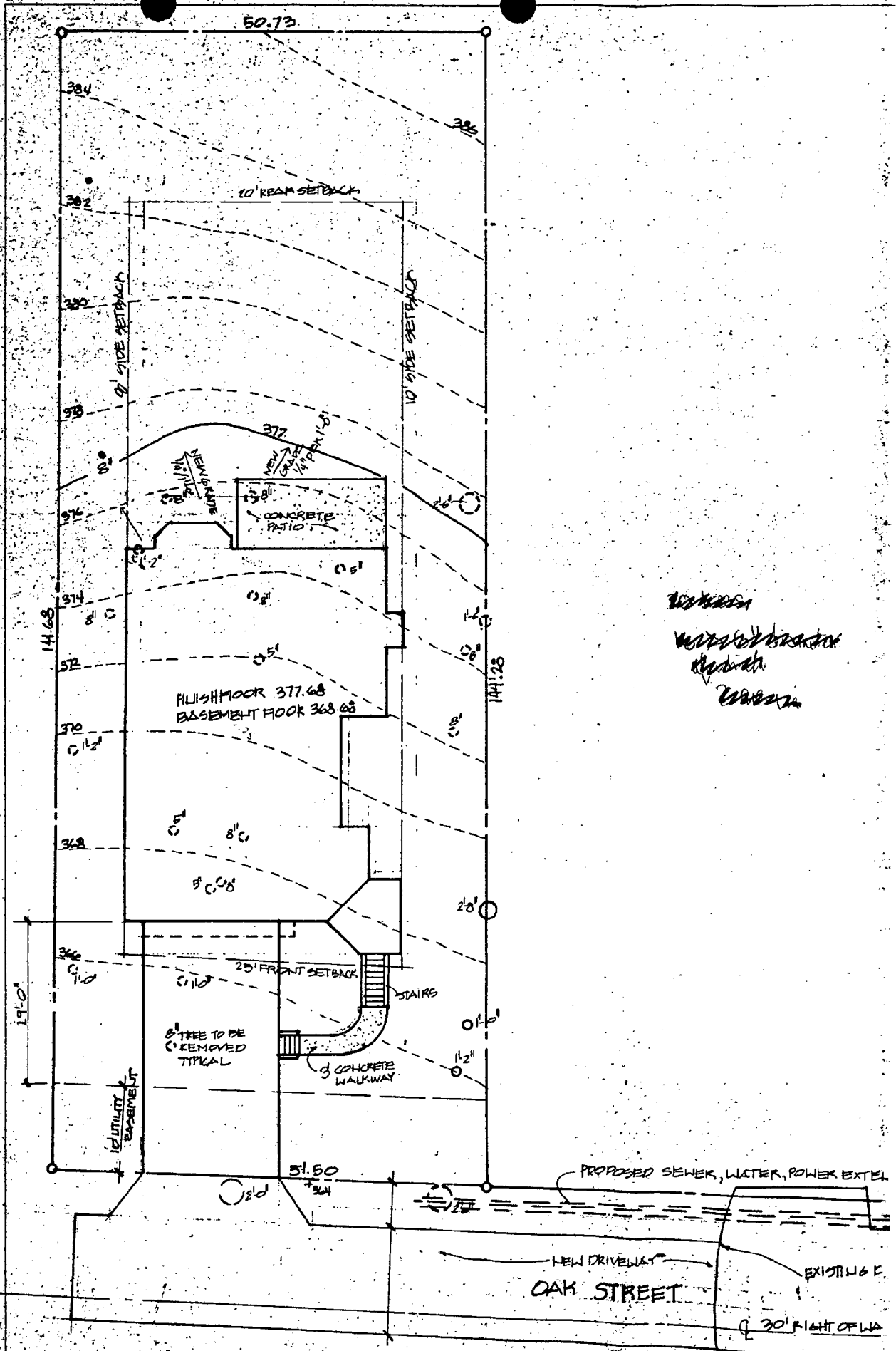
Name _____
Address _____
City/Zip _____

8.

Name _____
Address _____
City/Zip _____

1757E

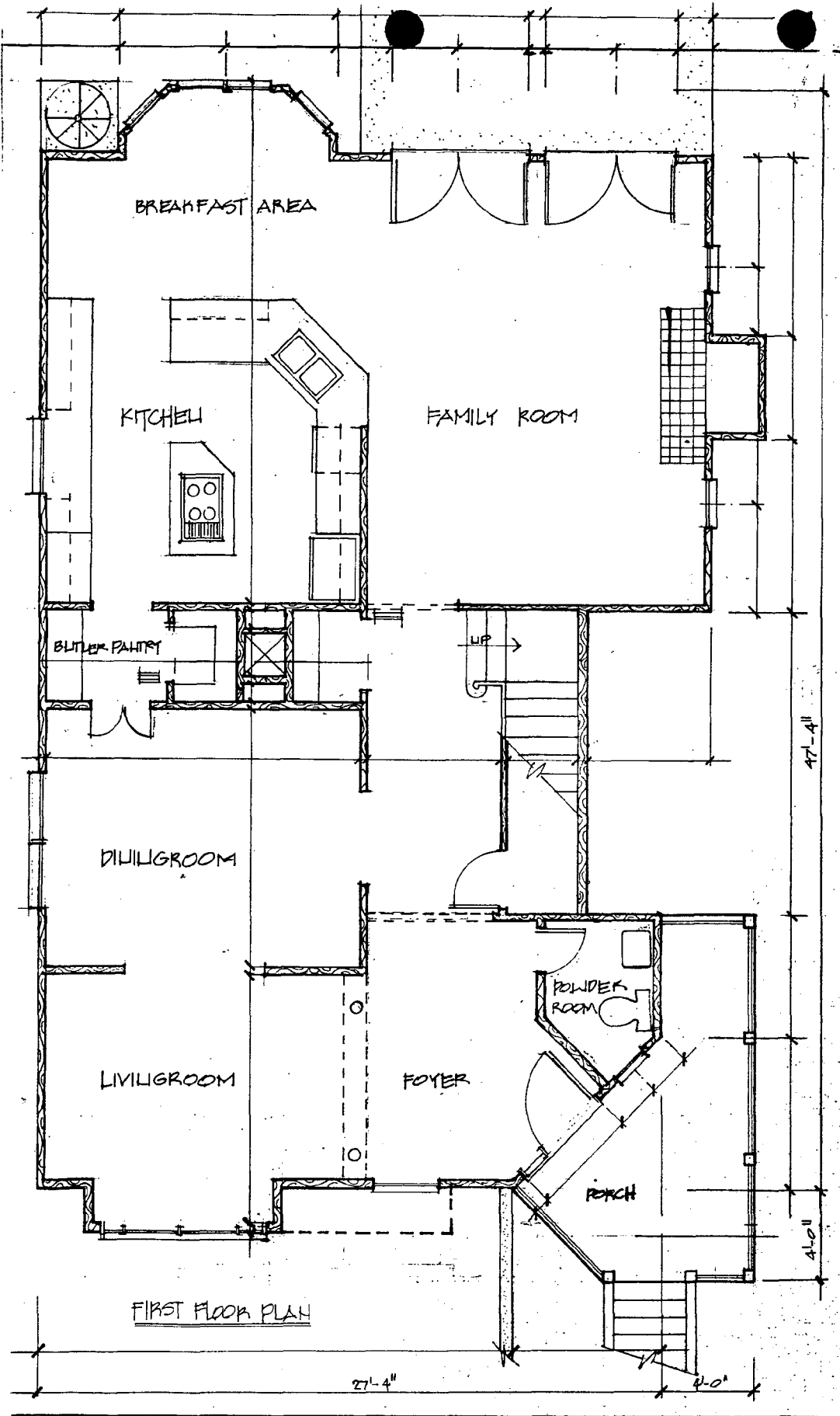




30' REAR SETBACK
 10' SIDE SETBACK
 10' SIDE SETBACK

FINISH FLOOR 377.68
 BASEMENT FLOOR 368.08





**GLEN BLAN
&
ASSOCIATES**

PROJECT NAME

PHYLLIS MICHAELS

PROJECT NUMBER

8408

PROJECT LOCATION

SILVER SPRING MD

REVISIONS

NO.	DATE	INIT.

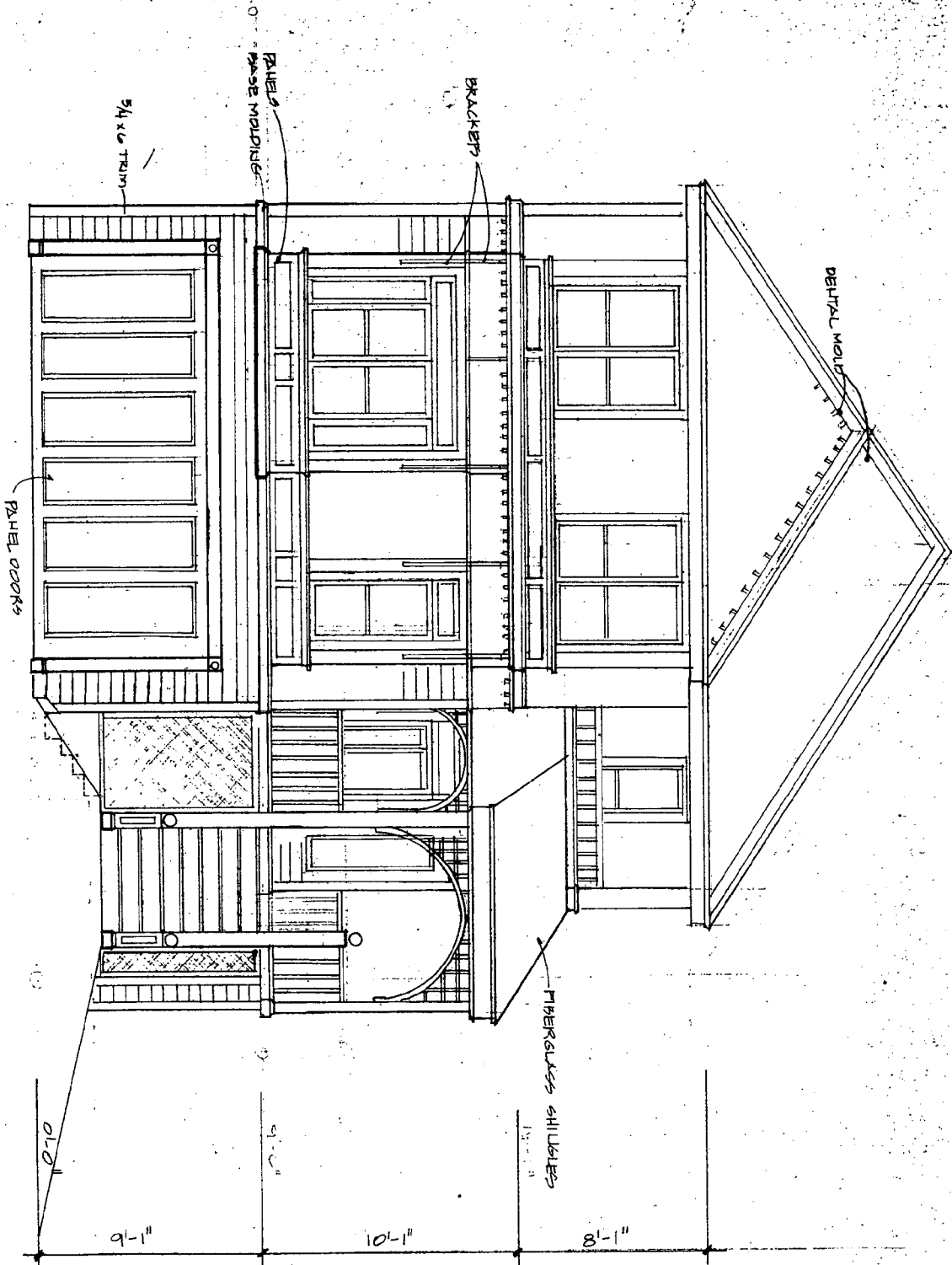
2715 NICHOLSON S
HYATTSVILLE
MARYLAND 20782

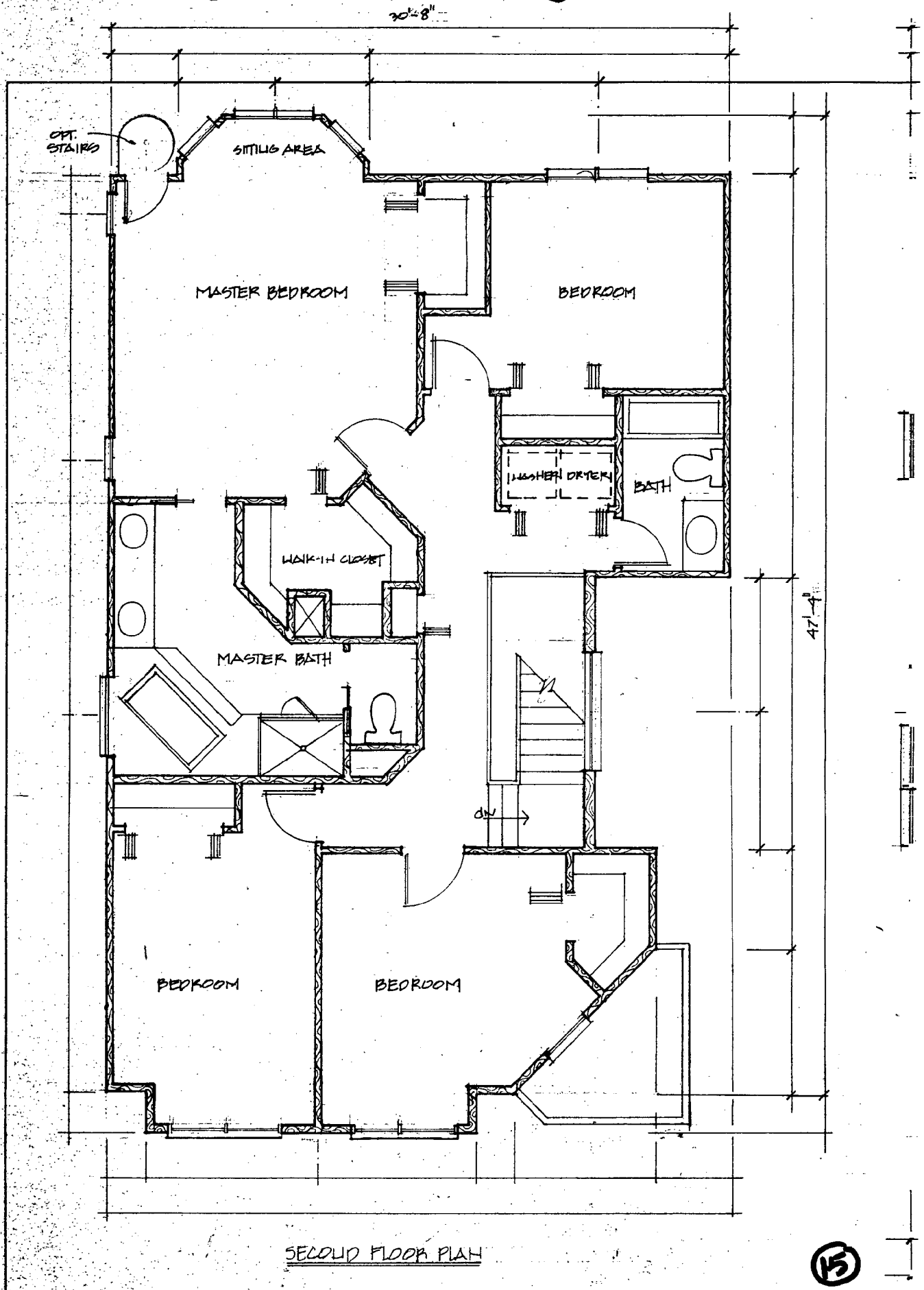
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DATE: [Date]

NO. FILE IN

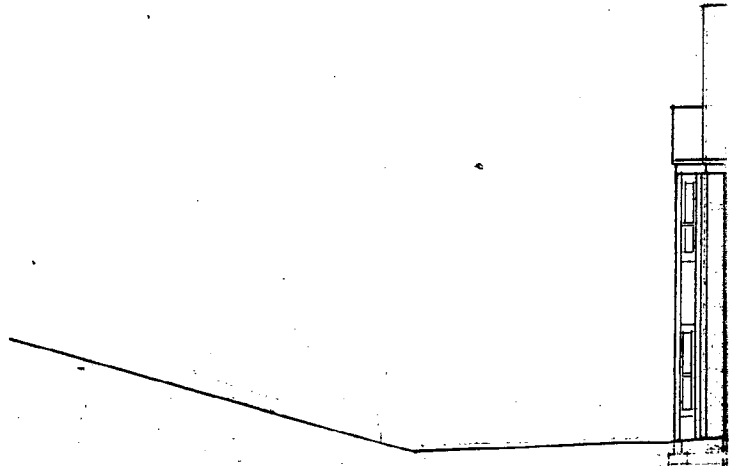
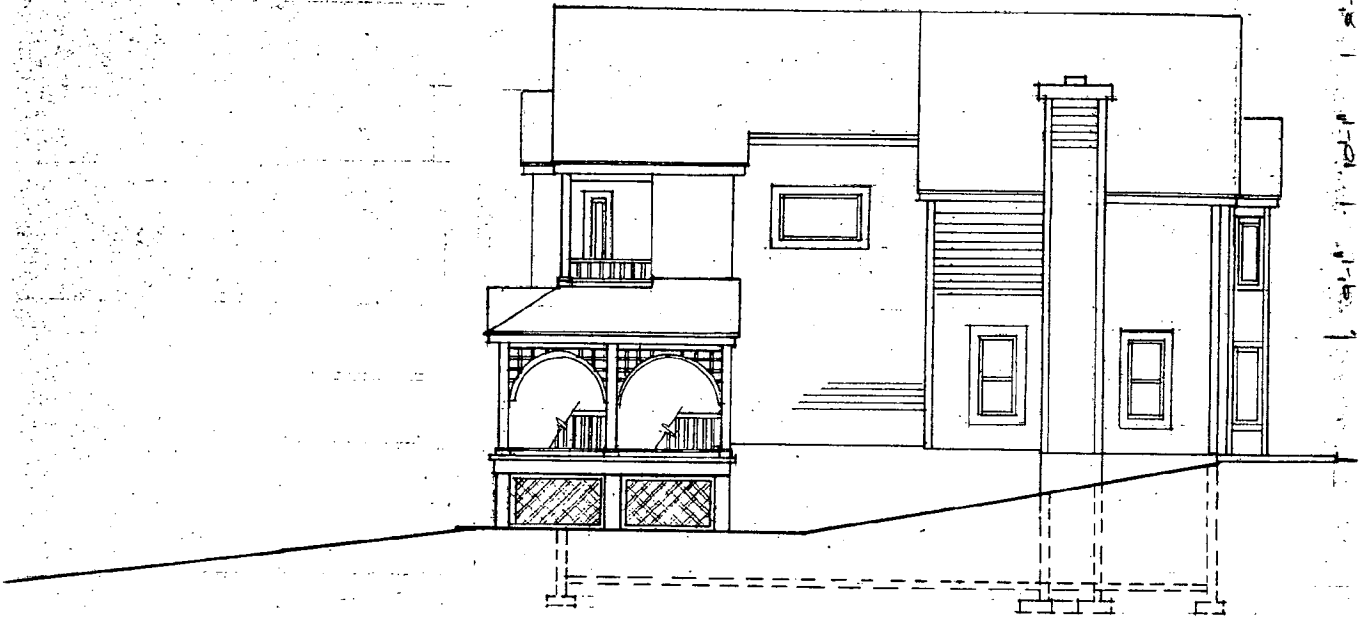
SHEET NO. A-2

FRONT ELEVATION





SECOND FLOOR PLAN



**GLEN BLANC
&
ASSOCIATES**

PROJECT NAME

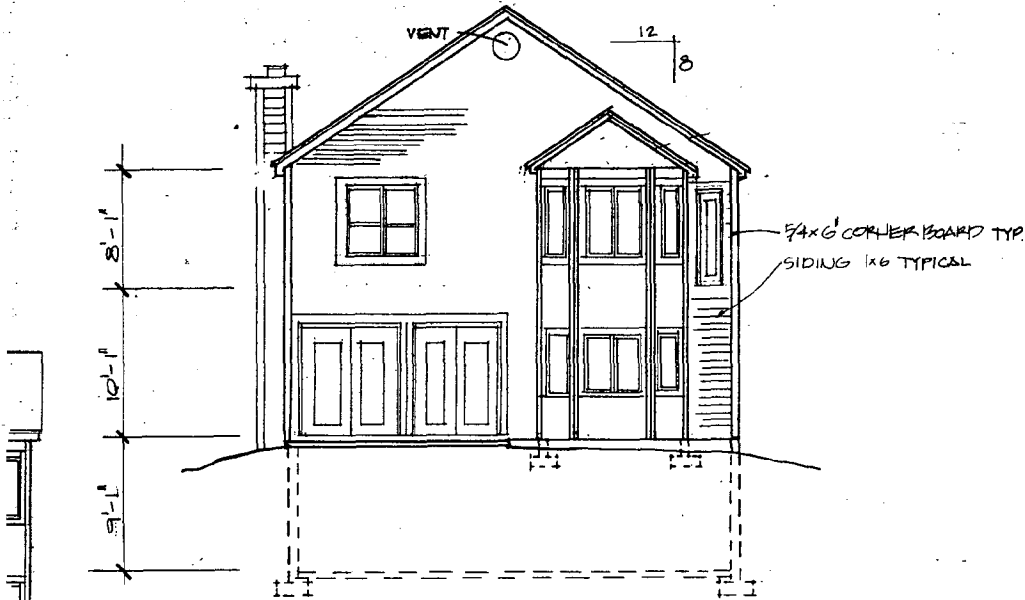
PHYLLIS MICHAELS

PROJECT NUMBER

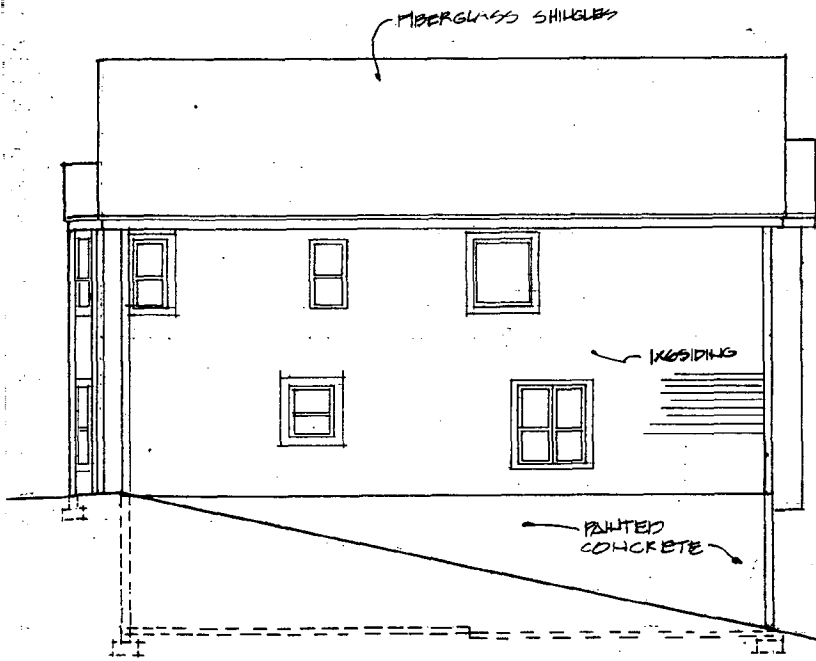
9408

PROJECT LOCATION

SILVER SPRING MD



REAR ELEVATION



SIDE ELEVATION

REVISIONS

NO.	DATE	INITIALS

2715 NICHOLSON ST
HYATTSVILLE
MARYLAND 20782

TEL: 301 983 7972
DRAWN BY: G. BLANC

DWG FILE NO.

SHEET NO. A-6



81

FAX TRANSMITTAL PAGE

TO: Patricia Parker
 Historic Preservation Commission
 301/495-4730 (fax)

FROM: Steven Kramer
 202/223-9610 (phone)
 202/332-4345 (fax)

DATE: July 29, 1994

PAGES: 1

As requested, the following is a list of the residents that reside on Meadowneck Ct. in Silver Spring:

Bonnie and Jeff Adler
10105 Meadowneck Ct.

Any Eisenstadt
10107 Meadowneck Ct.

Jill and Steven Kramer
10109 Meadowneck Ct.

Vic and Megan (unsure of last name)
10128 Meadowneck Ct.

Elizabeth and Pompiliu Verzariu
10124 Meadowneck Ct.

Irene and Sheldon Rutter
10120 Meadowneck Ct.

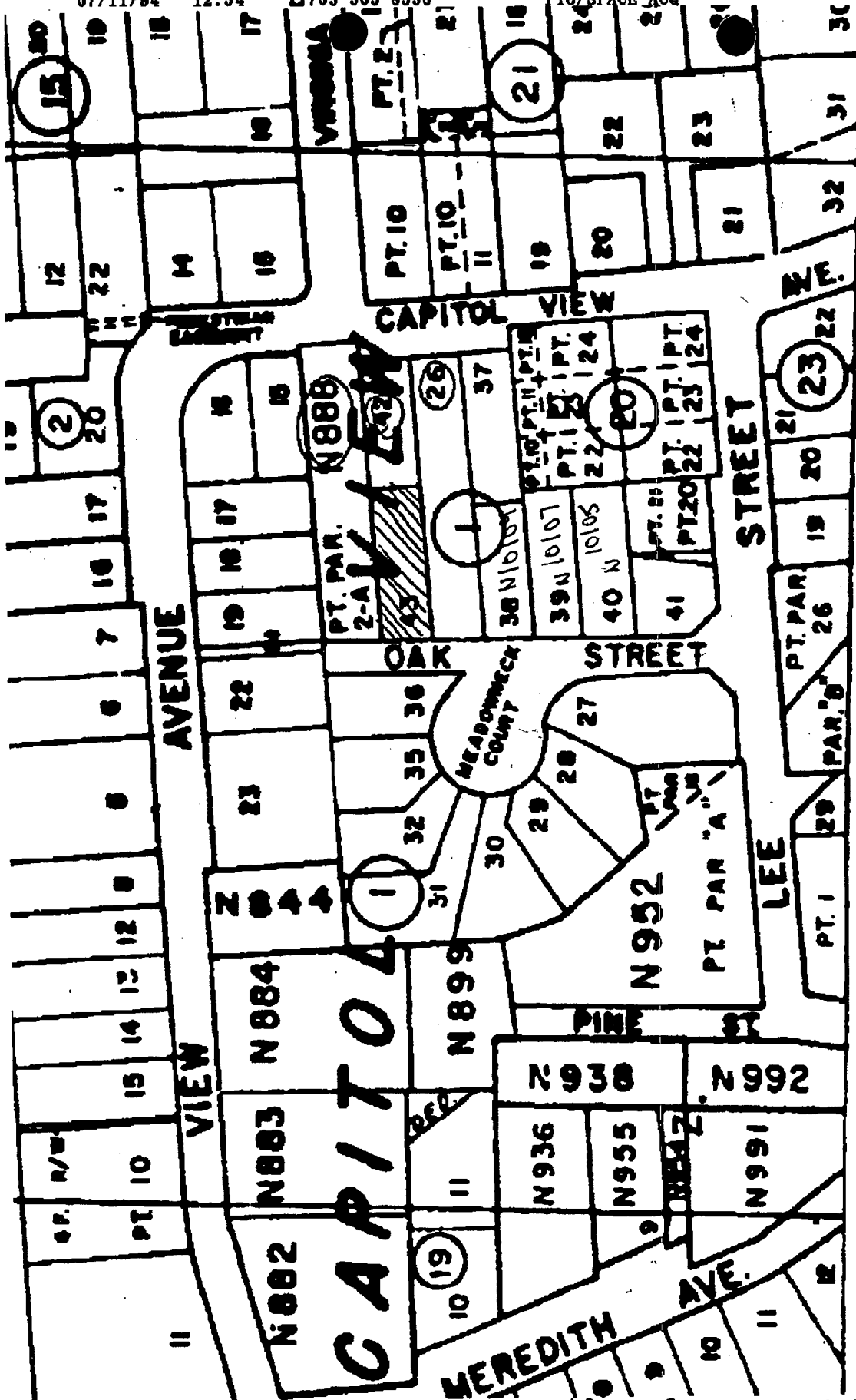
Phyllis Book
10116 Meadowneck Ct.

Rosalie Chiaua
10112 Meadowneck Ct.

Cathy Moran
10108 Meadowneck Ct.

Glen Fuller
10104 Meadowneck Ct.

Commissioner's Note: All these residents received notice + all listed on the applicant's HANP form.



HP 562

TO:
NANCY Wythoff

FROM:
Phyllis
Mehar



NOTES

1. Ref. Drawing: L5.2236
2. ⊕ = Existing Trees to be Removed. (7)
3. Disturbed Area: 2984 ±
4. Frequency of Tulip (Yellow) Poplar Trees: 90%
5. Total Number of Trees on Lot 36 = 25(0)

PLEASE NOTE:
USE THIS PLAN FOR
TREE SURVEY ONLY

LE & A

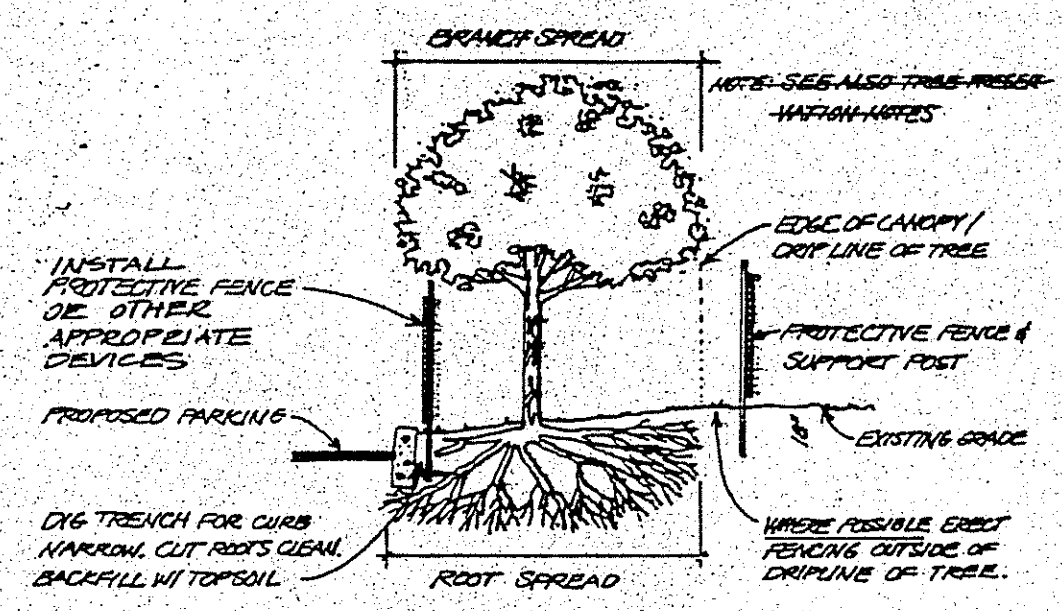
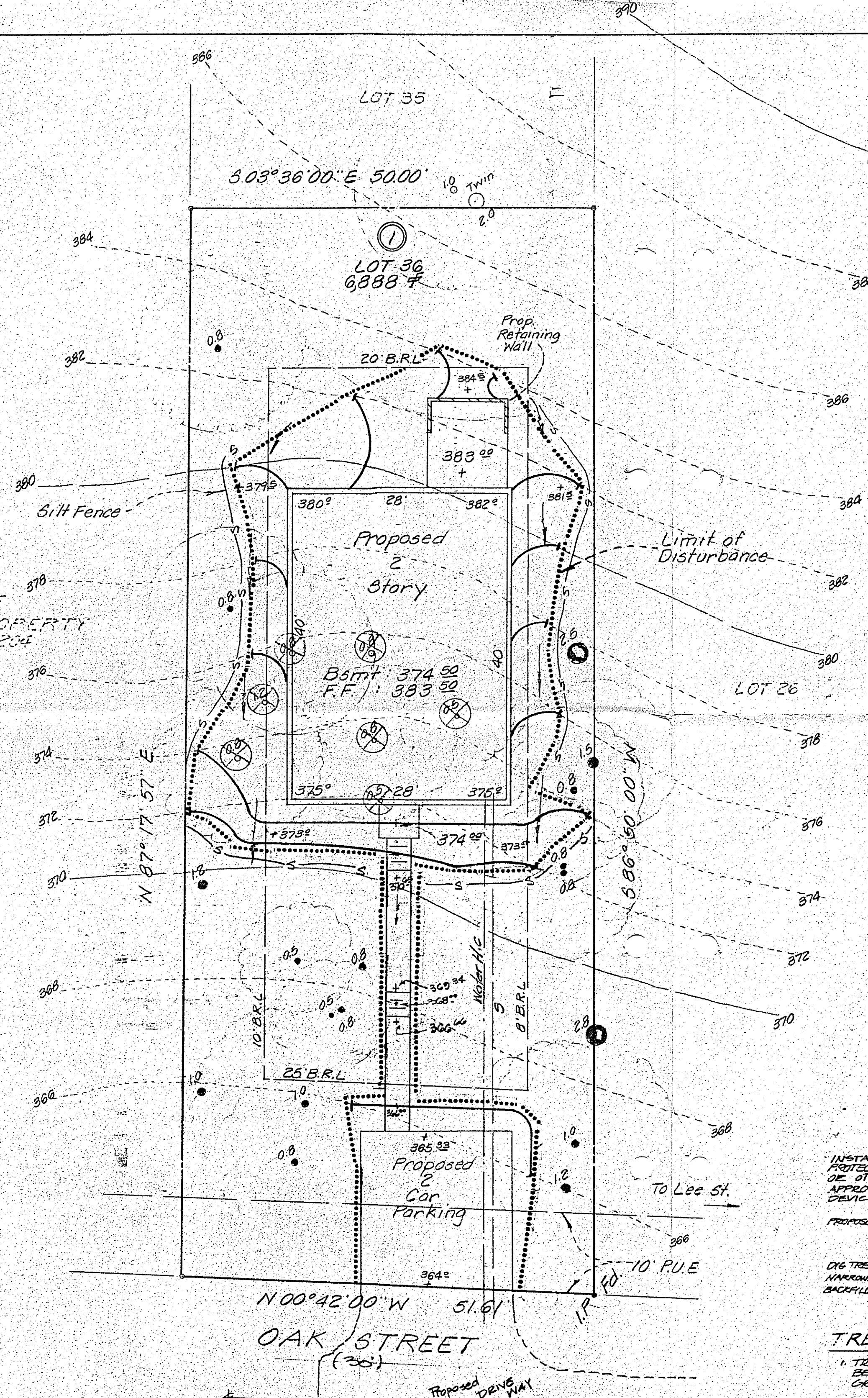
- ENGINEERS
- PLANNERS
- SURVEYORS

Light, Elliott & Assoc., Inc.
 8508 ADELPHI ROAD ADELPHI, MARYLAND 20783
 328-A HWY 925 SOUTH WALDORF, MARYLAND 20604
 Telephone 422-6080 Telephone 843-4927
 Fax. 422-6086 Fax. 843-4928

DATE	REVISION

SITE DEVELOPMENT PLAN
 Oak Street
 Lot 36, Block 1
 (A RESUBDIVISION OF PARCEL 2-A)
CAPITOL VIEW PARK
 Wheaton(13) Election District
 Montgomery County, Maryland.

SCALE 1"=10'	DESIGNER Sul	APPROVED
DATE 2-21-90	DRAFTSMAN Sul	FIELD BOOK 2362-22
JOB NUMBER MD1319	SHEET NUMBER One	FILE NUMBER MSP5395

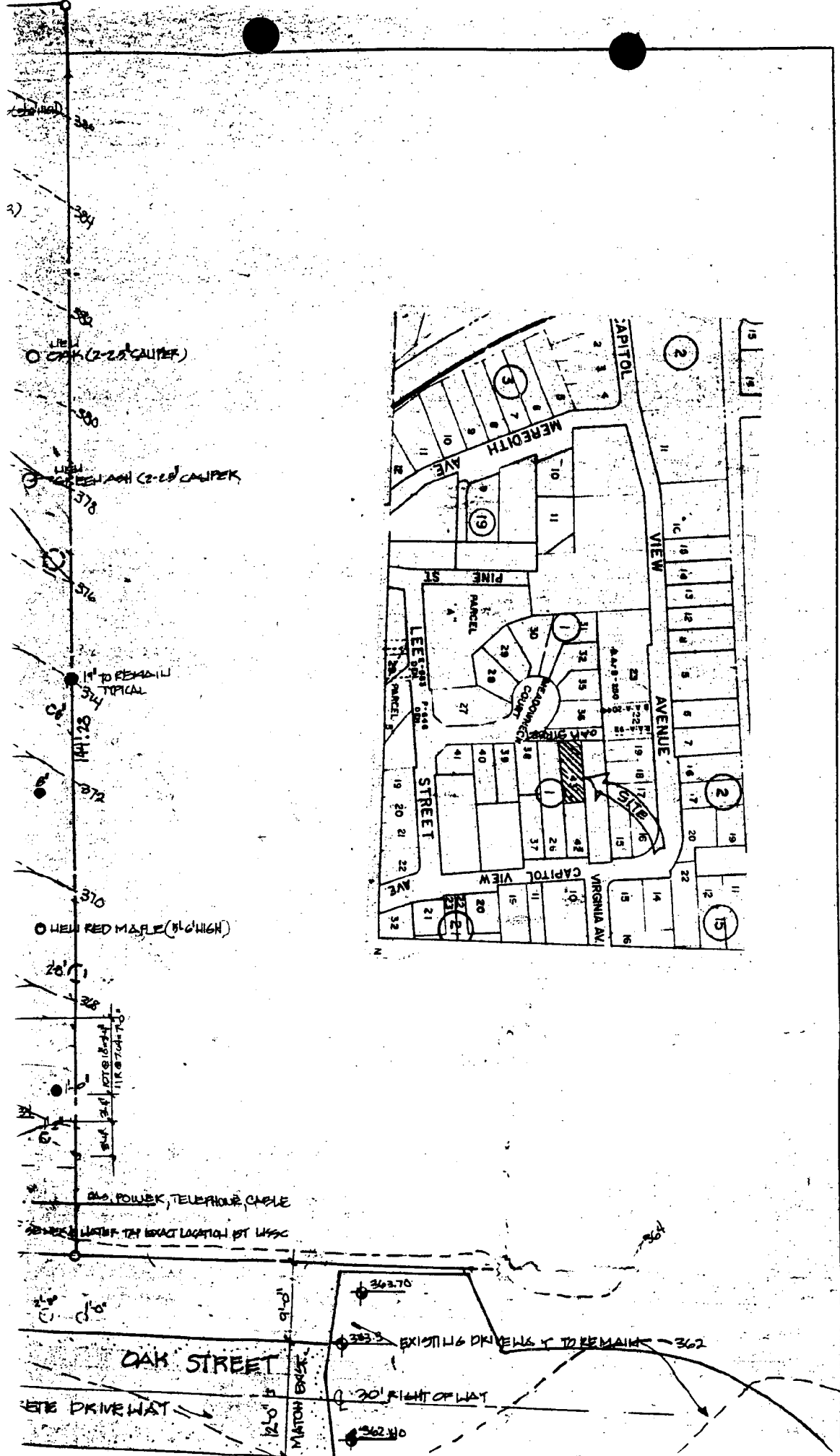


TREE PRESERVATION DETAIL - NO SCALE
 1. TREE PRESERVATION DEVICES TO BE INSTALLED PRIOR TO ROUGH GRADING ON SITE.

SMITH PROPERTY
 14478 F.204E

OAK STREET
 (25')

To Lee St.



OAK STREET

MAY DRIVEWAY

12'-0" MATCH BRICK

30' RIGHT OF WAY

EXISTING DRIVEWAY TO REMAIN - 362

360

