

28/32-95 Hopkins-Frey House
204 Heil Road, Silver Spring

To: Pat Parker

Pictures attached to
Letter
to Historic Preservation Commission
dated Sept 24, 1994

From Lynn M. Fawcett and
William C. Schillerstrom
owners of 204 Hill Rd
Silver Spring MD

IMPORTANT MESSAGE

For Robin
Day 7/24 Time 10:45 A.M.
M Tom Albrecht P.M.
Of 202 - 514 - 6236
Phone (4) 301 - 294 - 5583
FAX Area Code Number Extension
MOBILE Area Code Number Extension

Telephoned	<input checked="" type="checkbox"/>	Returned your call	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
Came to see you	<input type="checkbox"/>	Please call	<input type="checkbox"/>	Special attention	<input type="checkbox"/>
Wants to see you	<input type="checkbox"/>	Will call again	<input type="checkbox"/>	<input checked="" type="checkbox"/> Caller on hold	<input type="checkbox"/>

Message HPC staff report had
his address as 204 Heil -
it is 202 in application.
Wants to talk about R/W issue
with you.

Signed [Signature]

IMPORTANT MESSAGE

For Robin Pat

Day 7/24 Time 2:20 A.M.
P.M.

M Tom Albrecht

Of _____

Phone 202/514-6236
Area Code Number Extension

FAX _____
MOBILE _____
Area Code Number Extension

Telephoned	<input checked="" type="checkbox"/> Returned your call	RUSH	
Came to see you	Please call	<input checked="" type="checkbox"/> Special attention	
Wants to see you	Will call again	Caller on hold	

Message _____

Signed [Signature]

See - please notice
of Albrecht case:

9/15/95

1. Applicant:

Thomas & Nancy Albrecht
P.O. Box 248
13520 Wainwright Rd.
Highland, Md. 20777

2. 3 adjacent neighboring
property owners (See attached)

Thanks:
Pat

8/28 - Driveway installed per plan.

9/1 - Permit removed

Driveway removed

Conrad Real Estate Corp fence

11 tons on lot blocking lot, R-O-W-

obstruction of use & sale of lot.

Per Allen 9/19/95
w/ Nancy Albrecht

Post-it [™] Fax Note	7671	Date	10/5/95	# of pages ▶
To	Tom Albrecht	From	PAT PARKER	
Co. Dept.	ADN: Pam Troia, SAO	Co.	MNCPPC	
Phone #		Phone #	(301) 495-4730	
Fax #	(301) 217-7441	Fax #	(301) 495-1307	

Post-it™ Fax Note 7671

Date	9/26/95	# of pages	11
To	Ward Brockett		
From	PAT PARKER		
Co./Dept.	MNCPC		
Phone #	(206) 495-4730	Phone #	(201) 495-4730
Fax #	958-3160	Fax #	(201) 495-4307

Fax

Pat -

7/25

1:00 PM

This gentleman dropped
this material off for
your review. He will
return after 2:00.

Denise S.

28132
HOPKINS-FREY

WILKES, ARTIS, HEDRICK & LANE
CHARTERED

JOAN D. SCHMITH
LEGAL ASSISTANT
(301) 215-6614

WORKING w/ PAT HARRIS

1-3-95

3 BETHESDA METRO CENTER
SUITE 800

BETHESDA, MD 20814 FAX (301) 656-3878

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

Tom Albrecht

PO Box 248

~~Highland~~ Highland, MD
20777

#28/32

(202) 514-6236(O)

PAT -

New

address -

R

20~~th~~ Ave Rd.
#28/32 Hopkins Fryhouse
APC 7/26/95

Adolphi
#28/32-95A



①

== 33 +00 NNNN 023 -14



== 33 +00 NANNY 023 +00

91



②

33 + 00 NNNN 023 + 06 =



== 33 +00 NANN 023 +01

51



④

== 33 + 00 NNNN 023 + 00



③

== 55 + 60 NANNH 025 + 00



17

ΣΣ +00 NANN 023 -10 =



== 33 +00 NANNI 023 +00

9



⑤

== 33 +00 NNNN 023 +14



== 33 +00 HANN 023 +01

(715)



== 33 +00 NANNH 023 -11





== 33 +00 NANN 023 -15

(6)



⑦

== 33 + 80 NANN 023 + 07



== 33 +00 NANN 023 -18





11

ΣΣ + 00 NNNN 023 + 18 =



12

== 33 +00 NANN 023 -15





== 33 +00 HANN 023 -16

(13)

Pictures attachment

to letter dated July 25, 1995

Proposed changes to Application

Permit No. 9507130140

for 204 Hill Rd Silver Spring

Submitted by William C. Schillerstrom
& Lynn M. Gouletski,



For sale sign for
development at 15004
Layhill Rd Silver Spring,
Access road to lots
remains unimproved, until
~~the development~~ construction phase
of development.

MAR 11 1991 10-32 AM



Example of
parallel strips of
gravel with grass
median at 5921

New Hampshire Ave, Silver Spring

Historic farm house with
rural setting, down the
road from Heil Rd.



Picture of access road
to undeveloped lots

For sale at 15004

Hayhill RD Silver Spring

042 11000 0421 00



175 10000 2012 00

Picture of access
road to undeveloped
lot - for sale at 15000
Leah Hill Rd Silver Spring



picture of access road
to undeveloped lots for
sale.

The access road has
been left unimproved
and shows signs of
car tracks as seen
in picture.

see proposed development
plat Gayfields on
~~Layton~~ Layhill Rd Silver Spring



5901 New Hampshire Ave,
Silver Spring.

Example of proposed changes
to driveway - two strips of
grass with grass medians.
Historic House within
1 mile of Hill Rd.



Picture of access road
to undeveloped lots for
sale at 15004
Layhill Rd Silver Spring.
also see Proposal
Plat Lots 14, 17 & 18
Block #

Road left ~~and~~ unimproved
to access lots for sale.



075 111111 28+27 80

Large gravel placed
at construction site while
house is being built.
In Bayfield subdivision
Silver Spring.
Very unattractive.



gravel placed
at construction site
for new house.

Very unattractive.

No foundation of crushed
gravel or grading done,

1972 FEBRUARY 28/29 01



35 Randolph Rd, Silver Spring.

Example of gravel strips
of gravel with median.

Traditional drive for
farm house setting. Used
by owner with both car and
pickup truck.

10 2018 11/11/18 08:12 31

House located close to
Heil Rd.



55 Randedy Rd
+ New Hampshire.

House has wonderful
country feeling with
parallel grave ship driveway.
This setting is preserved
even though house is bordered
on the one side by
condominiums + a
Grant food store, ship
mall on the other side.



Examples of
parallel stripes of
gravel with ~~grass~~ grass
median at 15508 -
Terra Rd Gum Spring Md
Country setting.
Proposed change to
application for road
at 204 Hill Rd.



15508 Terra rd

Example of parallel

strips of gravel and

grass median at 15508

Terra rd silver Spring MD

country setting in

Bayfield's subdivisions.



Example of two lots,
one with house in construction
phase with unattractive
large blue stone gravel
drive laid without proper
preparation. The ~~other~~
lot next door is an
empty lot ~~with~~ without
gravel drive, since development
has not yet started.

~~The~~ Development at Layhill
Valley, Silver Spring MD.



Example of no driveway
improvement to undeveloped
lot in new subdivision
at Southill Valley, Silver Spring.

DATE 10/10/00 0012 10



~~The~~
Example of the appearance
of the road proposed
by the alberts for
Don Hill Rd.

Notice how gravel has
spread due to run off
& erosion ~~from~~ ^{around} ~~the~~ ^{gravel}
grading or ~~the~~ ^{crushed} gravel
foundation.



17 72-02 20-27 21

Example of unattractive,
highly temporary, grass
on land being cleared
for development.



Sample of $\frac{3}{4}$ inch
blue stone gravel put
down without proper
grading or foundation -
crushed gravel.

This is the look that
will result if the
USE THROUGH 10-22 50
Albrecht's proposed gravel
road is lay as they
propose it in the application.



Example of parallel strips
of gravel with grass
median at 5901 New Hampshire
Rd.

The property, an old
farm house is just
down the road from
204 Hill Rd.

20 7.2+00 111111 3713

Driveway is in keeping
with rural setting of historic
house.



Example of
parallel strips of gravel
with grass median.

at 55 Rabbit Rd
& New Hampshire Ave
Silver Spring - MD.

In keeping with rural
Setting.



Picture of Easement
suitable for travel
by car or truck to
access empty lot 1.

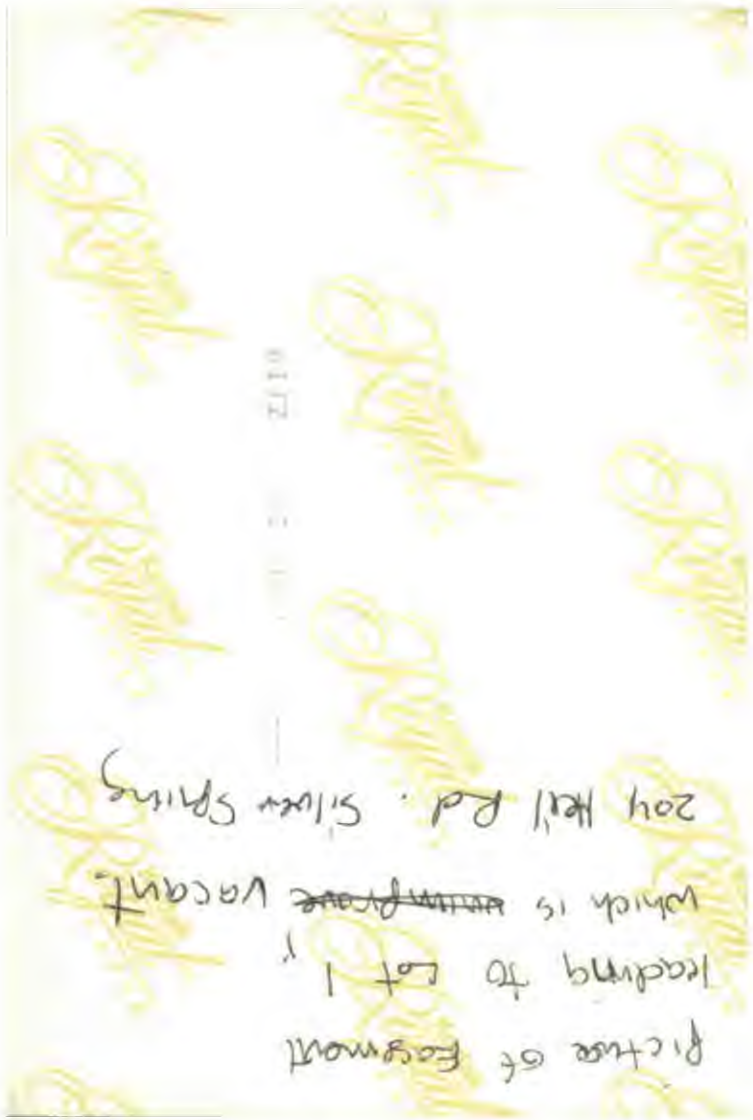




Picture of Existing
drive way at 204 Heil
Rd, which is quartz
gravel + grass in keeping
with rural farm setting
of house + property.

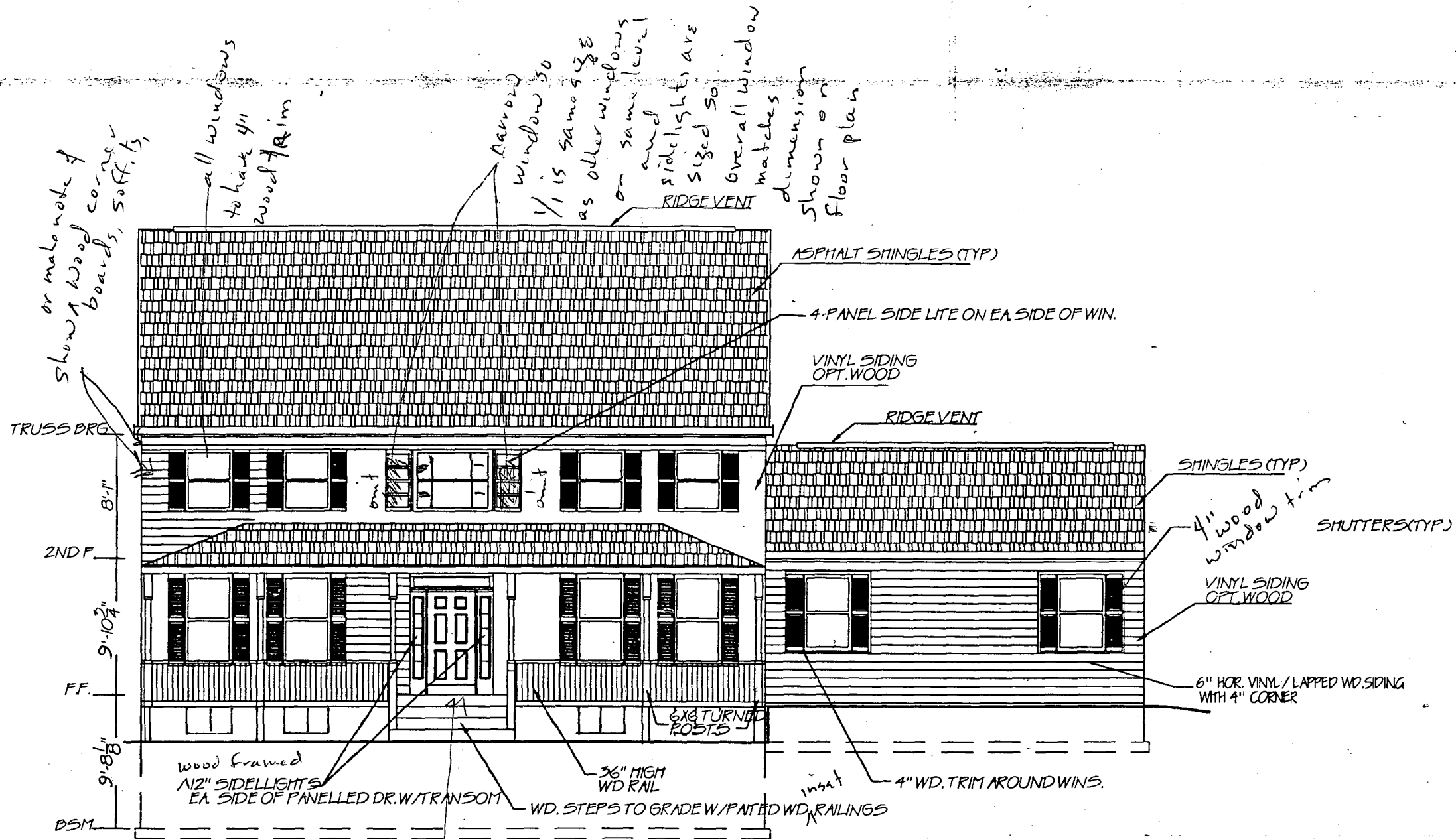
Proposed gravel road to
~~east~~ Lot 1 will extend
from existing gravel
drive way and should be
consistent with ~~the~~ existing
drive way in use of materials.





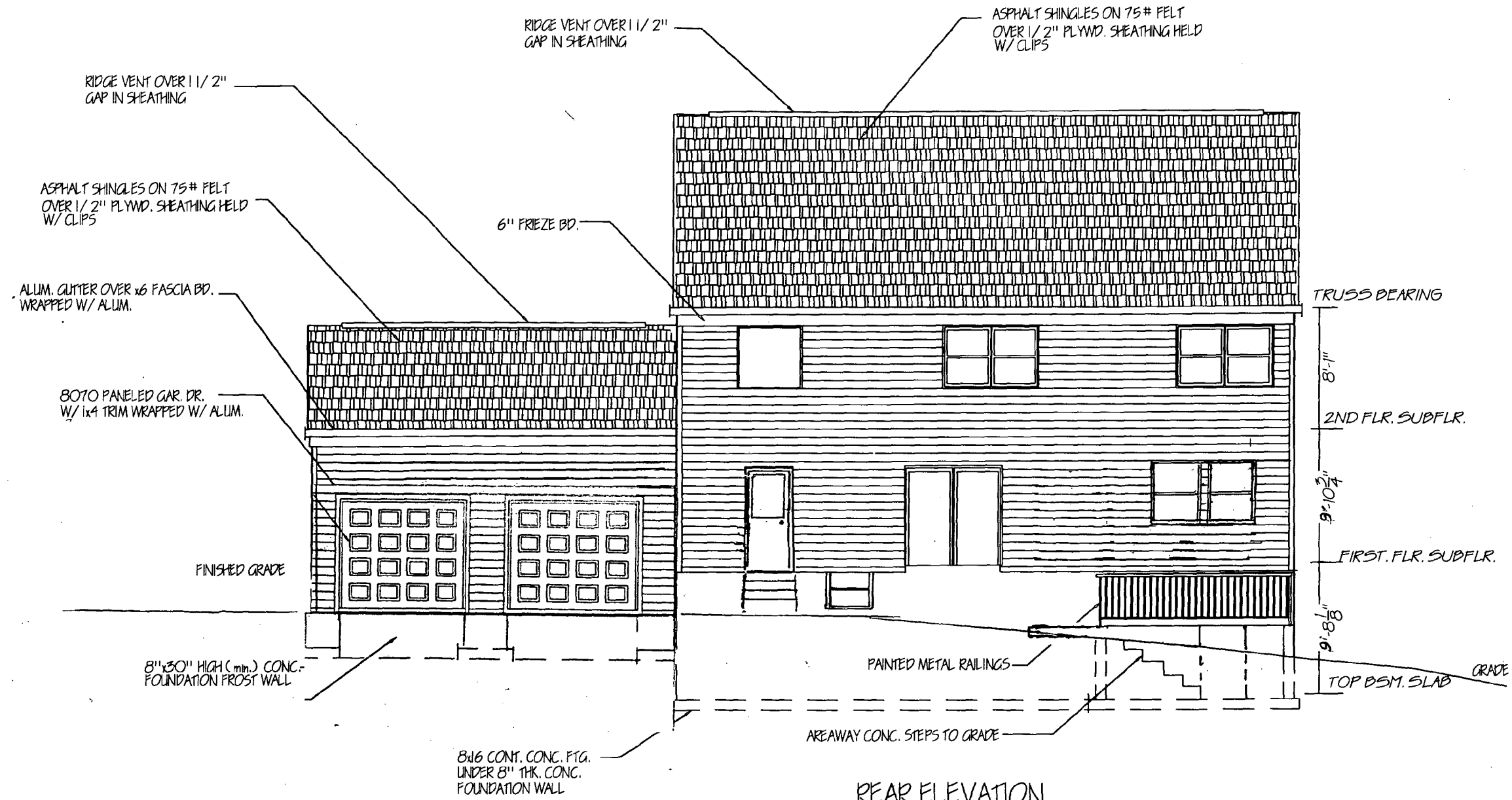


Picture of the Easement
property at 204 Heil Rd.
as one can see, the ground
is level with grass
covering, very suitable
for travel by foot, car or
truck for the 2 to
3 times a month the easement
is used to access lot 1.



FRONT ELEVATION
SCALE 1/8" = 1'

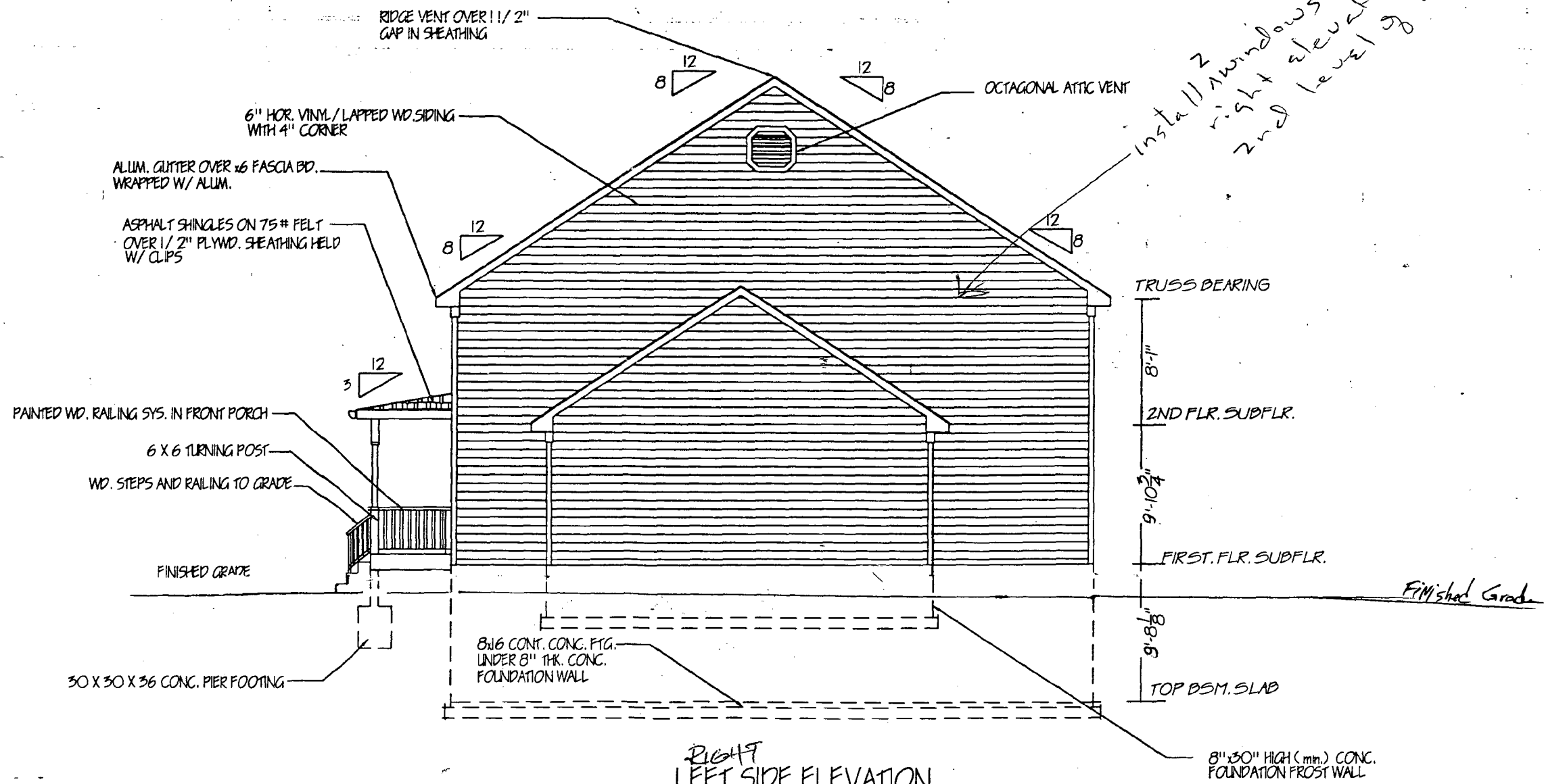
don't redraw -
 just add note
 that door can
 have rectangular
 glass panel in top 1/2
 (optional)



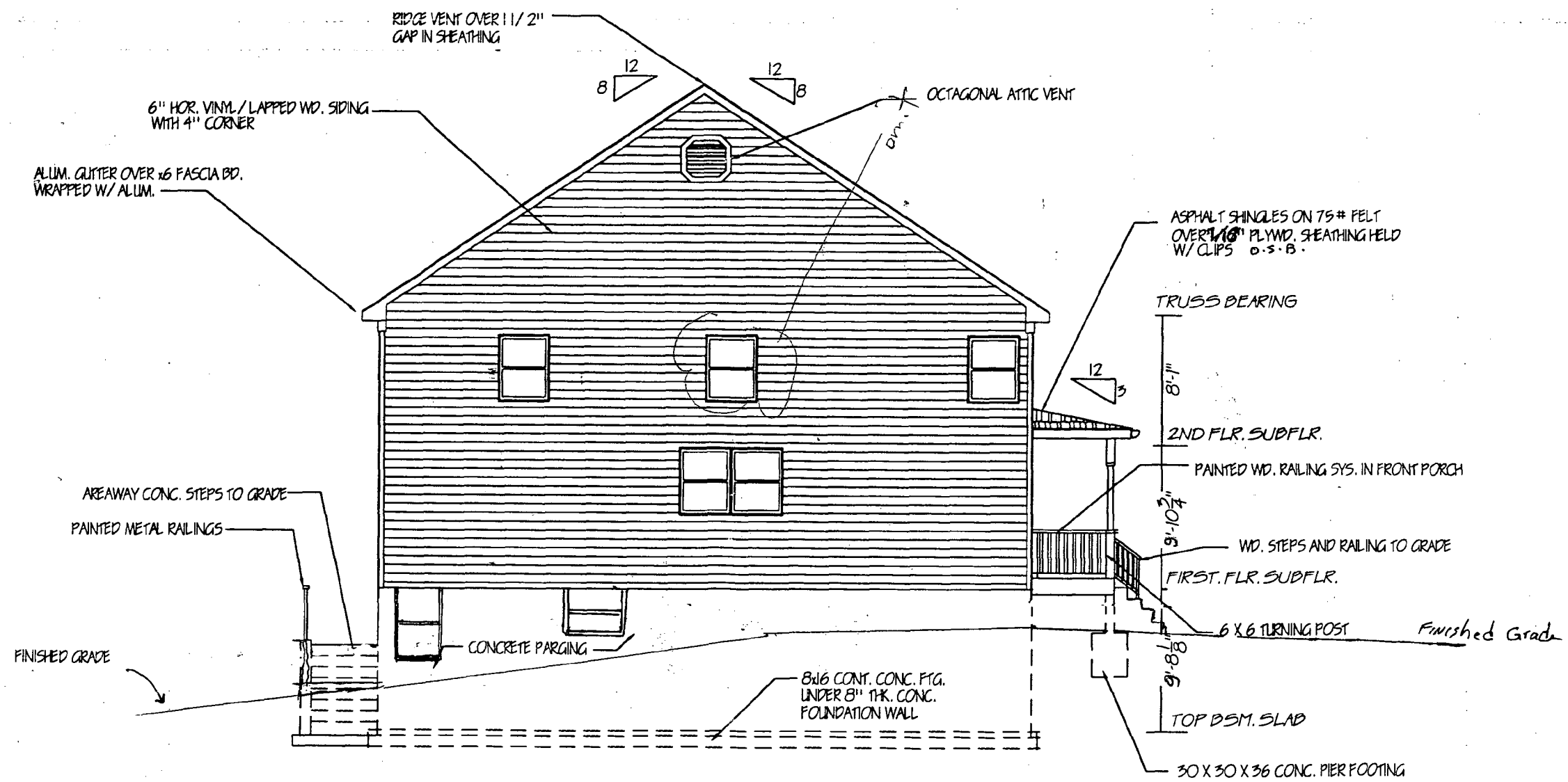
REAR ELEVATION

SCALE 1/8" = 1'

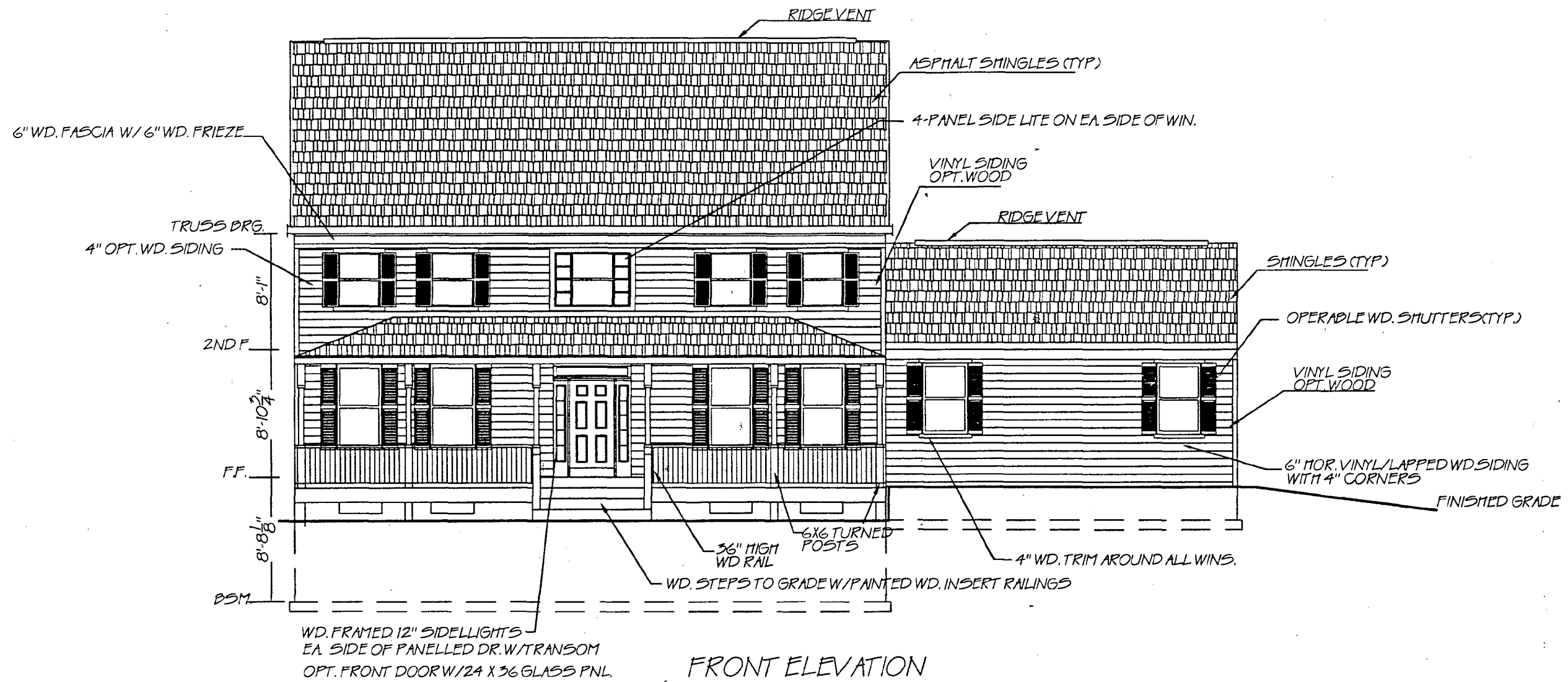
be sure doors & windows on
 1st floor rear elevation
 match the floor plan.



RIGHT
LEFT SIDE ELEVATION
SCALE 1/8" = 1'

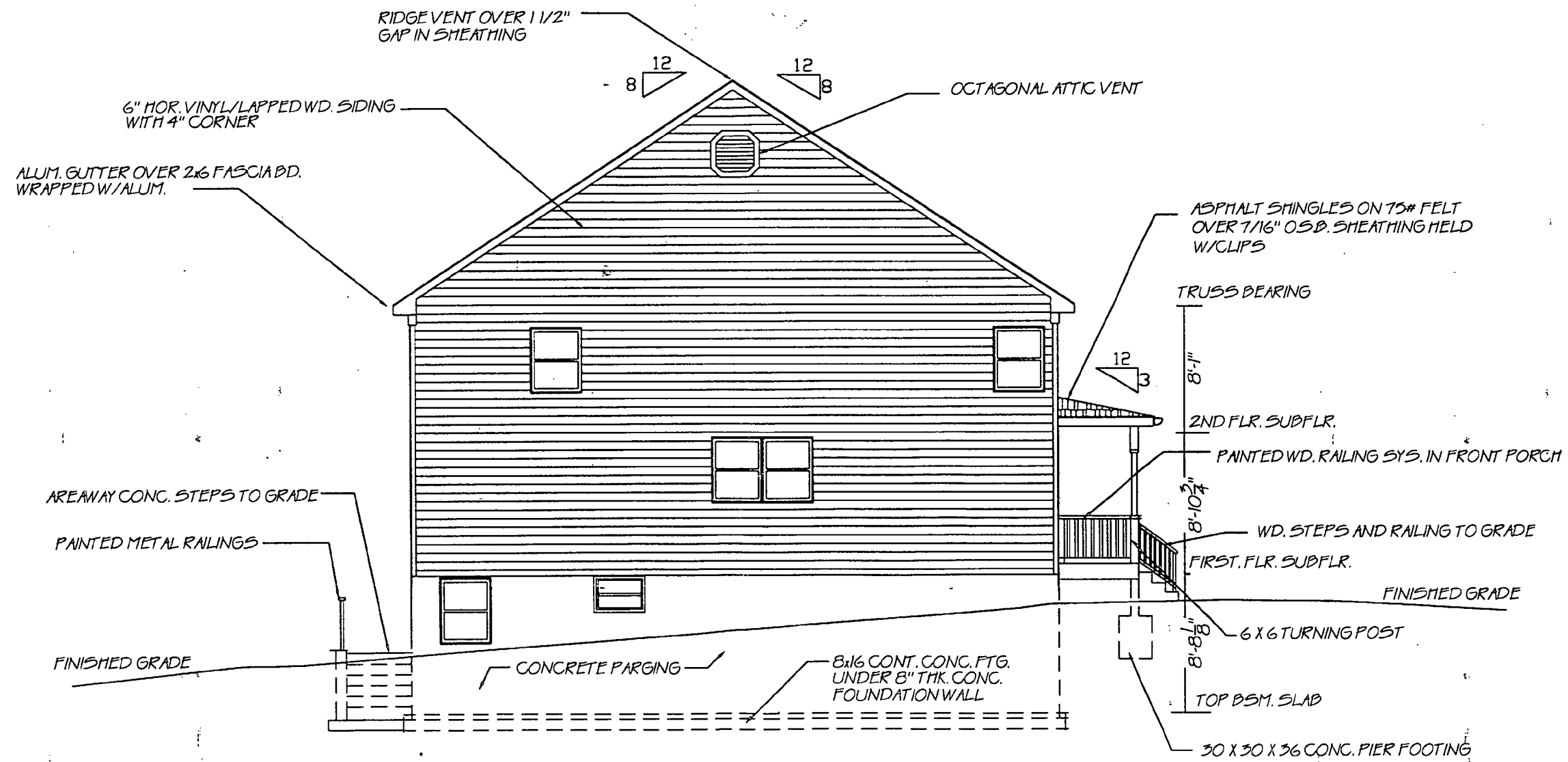


LEFT
 RIGHT SIDE ELEVATION
 SCALE 1/8" = 1'



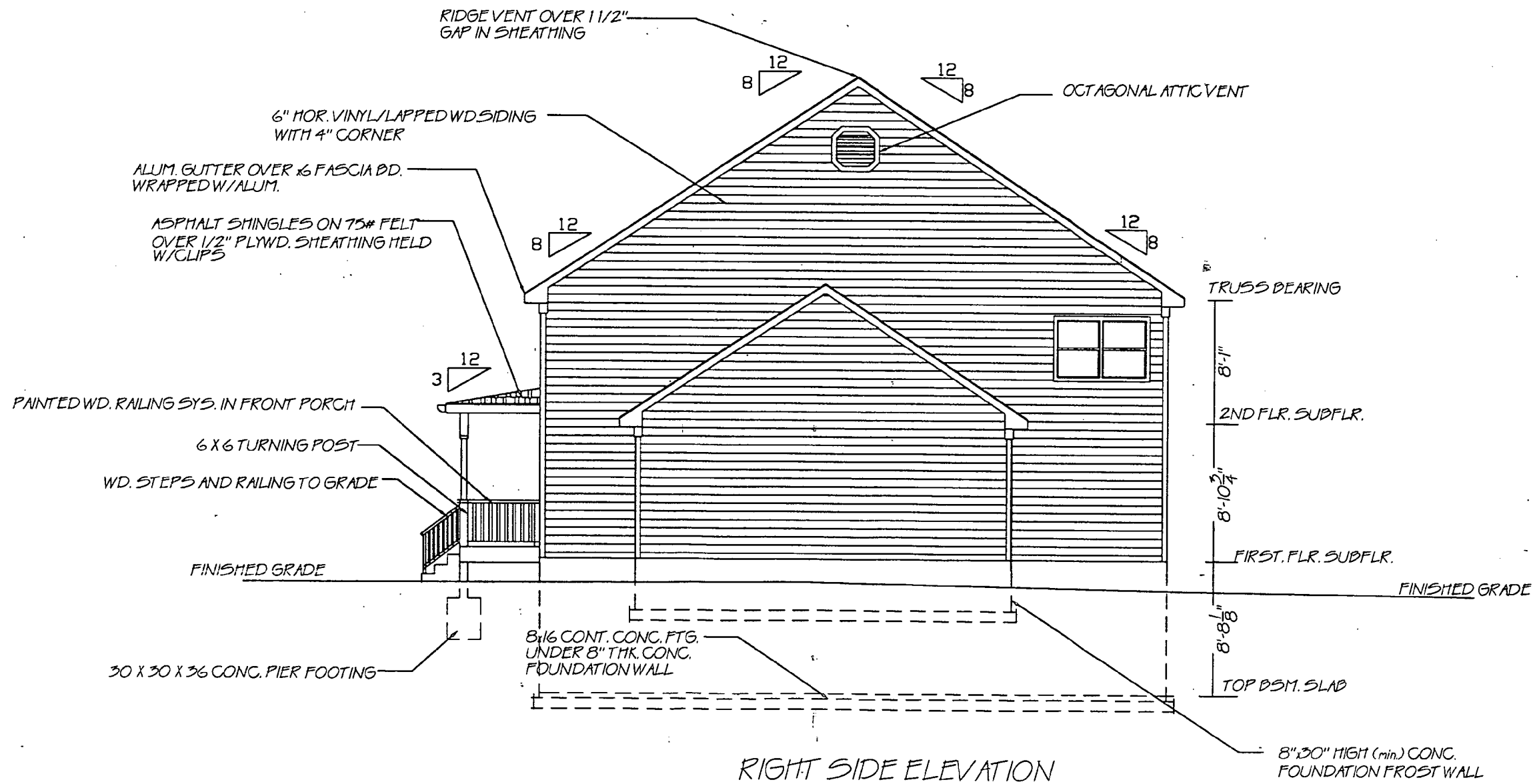
FRONT ELEVATION

1/8" = 1'-0"



LEFT SIDE ELEVATION

1/8" = 1'-0"



RIGHT SIDE ELEVATION
 1/8" = 1'-0"

ASPHALT SHINGLES ON 75# FELT
OVER 7/16" O.S.D. SHEATHING FIELD
W/CLIPS

RIDGE VENT OVER 1 1/2"
GAP IN SHEATHING

RIDGE VENT OVER 1 1/2"
GAP IN SHEATHING

ASPHALT SHINGLES ON 75# FELT
OVER 7/16" O.S.D. SHEATHING FIELD
W/CLIPS

ALUM. GUTTER OVER 1/2" FASCIA BD.
WRAPPED W/ALUM.

8070 PANELED GAR. DR.
W/1/4" TRIM WRAPPED W/ALUM.

6" FRIEZE BD.

FINISHED GRADE

8" 30" HIGH (MIN) CONC.
FOUNDATION FROST WALL

8x16 CONT. CONC. FFG
UNDER 8" THK CONC.
FOUNDATION WALL

TRUSS BEARING

8'-11"

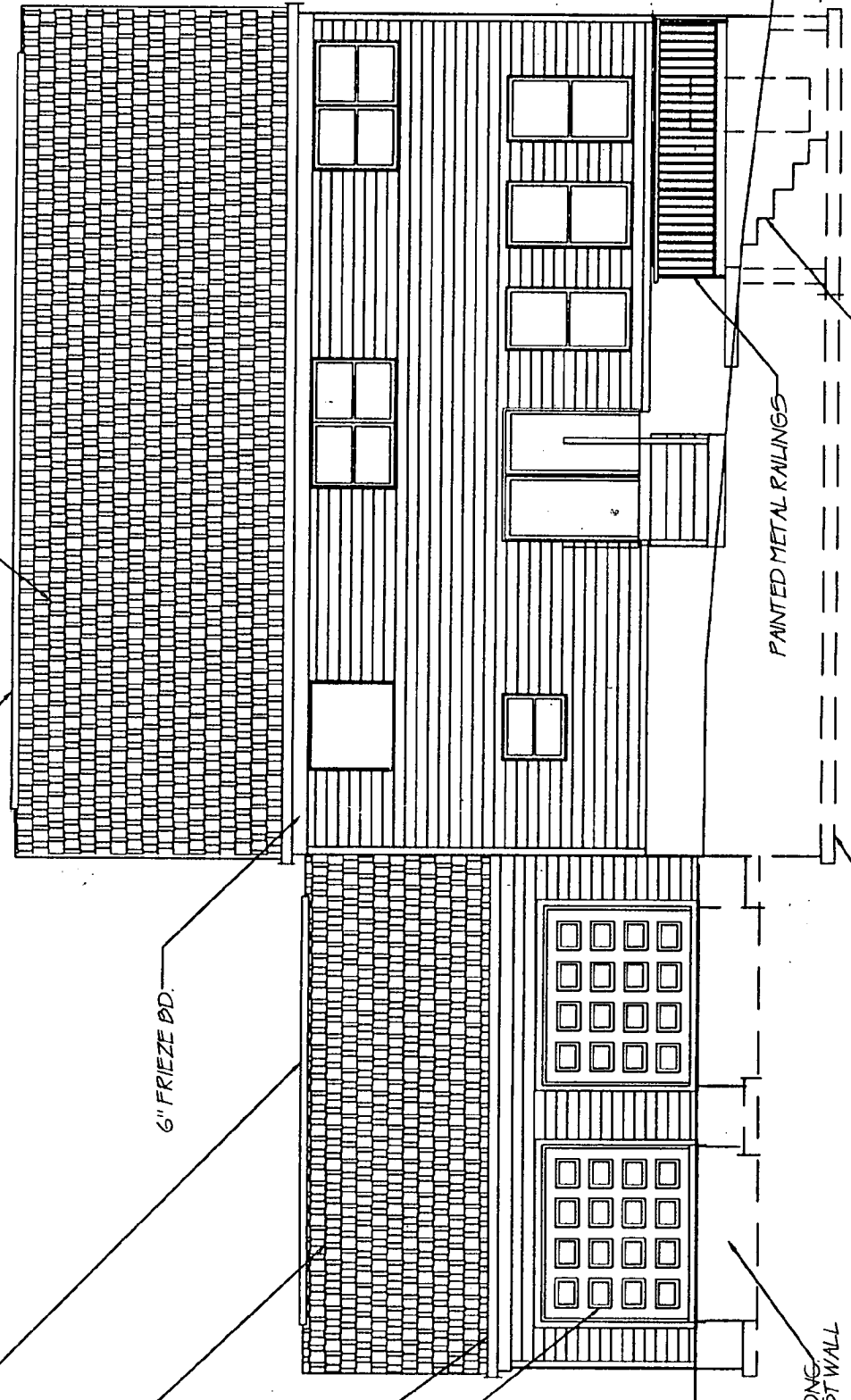
2ND FLR. SUBFLR.

8'-10 1/2"

FIRST FLR. SUBFLR.

8'-8"

TOP DSM. SLAB
GRADE



PAINTED METAL RAILINGS

AREAWAY CONC. STEPS TO GRADE

REAR ELEVATION

1/8" = 1'-0"

ASPHALT SHINGLES ON 75# FELT
OVER 7/16" OSB SHEATHING FIELD
W/CLIPS

RIDGE VENT OVER 1 1/2"
GAP IN SHEATHING

RIDGE VENT OVER 1 1/2"
GAP IN SHEATHING

ASPHALT SHINGLES ON 75# FELT
OVER 7/16" OSB SHEATHING FIELD
W/CLIPS

6" FRIEZE BD.

ALUM. GUTTER OVER 1/4" FASCIA BD.
WRAPPED W/ALUM.

8070 PANELED GAR. DR.
W/1/4" TRIM WRAPPED W/ALUM.

FINISHED GRADE

8" 20" HIGH (min) CONC.
FOUNDATION FROST WALL

8x16 CONT. CONC. FTG.
UNDER 8" THK CONC.
FOUNDATION WALL

PAINTED METAL RAILINGS

AREAWAY CONC. STEPS TO GRADE

TRUSS BEARING

1'-8"

2ND FLR. SUBFLR.

8'-10 3/4"

FIRST FLR. SUBFLR.

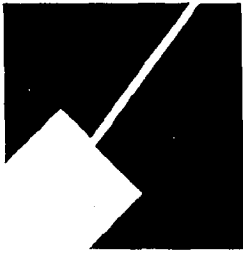
8'-8 1/8"

TOP DSM. SLAB
GRADE

REAR ELEVATION

1/8" = 1'-0"

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Date: 10.27.99

MEMORANDUM

TO: Robert Hubbard, Director
Department of Permitting Services

FROM: Gwen Wright, Coordinator
Historic Preservation *[Signature]*

SUBJECT: Historic Area Work Permit

The Montgomery County Historic Preservation Commission has reviewed the attached application for an Historic Area Work Permit. This application was:

 Approved

Approved with Conditions: 1) Replacements hemblocks to be planted along the easement under large hemblocks
2) Painted wood siding or vinyl siding to be used.
3) Eight foot gravel area to be used as entry driveway (not 10')

* and HPC Staff will review and stamp the construction drawings prior to the applicant's applying for a building permit with DPS; and

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERENCE TO THE APPROVED HISTORIC AREA WORK PERMIT (HAWP).

Applicant: Reza Shreibani

Address: 202 Heil Road Silver Spring.

and subject to the general condition that, after issuance of the Montgomery County Department of Permitting Services (DPS) permit, the applicant arrange for a field inspection by calling the Montgomery County DPS Field Services Office at 240-777-6210 prior to commencement of work and not more than two weeks following completion of work.



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
250 HUNGERFORD DRIVE, 2nd FLOOR, ROCKVILLE, MD 20850
301/217-6370

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Person: Ed Soltz
Daytime Phone No.: 301-775-7188

Tax Account No.: _____
Name of Property Owner: REZA SHEIBANI Daytime Phone No.: 301-785-4291
Address: 1800 Glen BARCLAY WILKINSON MD
Street Number City State Zip Code
Contractor: SELF Phone No.: _____
Contractor Registration No.: _____
Agent for Owner: _____ Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 202 Street: HEIL RD
Town/City: SILVER SPRING Nearest Cross Street: NEW HAMPSHIRE AVE
Lot: 1 Block: D Subdivision: STONEGATE
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE: Construct Extend Alter/Renovate Move Install Wreck/Raze Revision Repair Revocable

CHECK ALL APPLICABLE: AC Slab Room Addition Porch Deck Shed Solar Fireplace Woodburning Stove Single Family Fence/Wall (complete Section 4) Other: _____

1B. Construction cost estimate: \$ 20,000.00

1C. If this is a revision of a previously approved active permit, see Permit # _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____
2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches
3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:
 On party line/property line Entirely on land of owner On public right of way/easement

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

Ed Soltz Signature of owner or authorized agent 10.18.99 Date

Approved: W/conditions For Chairperson, Historic Preservation Commission
Signature: _____ Date: 10.22.99
Application/Permit No.: 203559 Date Filed: 10/19/99 Date Issued: _____

(5)

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. WRITTEN DESCRIPTION OF PROJECT

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

Currently there is no historical structure on the proposed property. The property is a grass lot adjacent to historical house.

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

The project is the building of a new house on the grass lot. It is going to be built adjacent to a historical house. The house next door (historical house) has been renovated and has new siding and looks like a modern home. There will be no change for the environment surrounding home other than the house itself.

2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- a. **Schematic construction plans**, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. **Elevations (facades)**, with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. TREE SURVEY

If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS

For **ALL** projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question. You can obtain this information from the Department of Assessments and Taxation, 51 Monroe Street, Rockville, (301)279-1355).

PLEASE PRINT (IN BLUE OR BLACK INK) OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.
PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE, AS THIS WILL BE PHOTOCOPIED DIRECTLY INTO MAILING LABELS.

(5)

include neighbors off of Stonegate

22 Stonegate Drive

Silver Spring, MD
20905

18 Stonegate Drive

Silver Spring, MD
20905

204 Heil Road

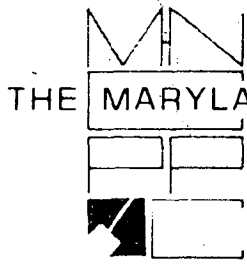
Silver Spring, MD
20905

115 Heil Road

Silver Spring, MD
20905

200 Heil Road

Silver Spring, MD
20905



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring Maryland 20910-3760

September 28, 1995

Mr. & Mrs. Thomas Albrecht
P.O. Box 248
13020 Wainwright Road
Highland, Maryland 20777

Re: 202/204 Heil Road; Silver Spring

Dear Mr. & Mrs. Albrecht:

The Historic Preservation Commission met on September 27, 1995 to consider your request for reconsideration of HPC Action on a Historic Area Work Permit (HAWP) to construct a gravel driveway at 204 Heil Road. At this meeting, the HPC decided not to reconsider its action.

The HAWP, on July 26, 1995, was approved with the following conditions:

- 1) The driveway shall be composed of two 2' wide bluestone or quartz gravel strips with grass in between. The driveway shall be no wider than 8'.
- 2) After the allee of trees, the proposed driveway shall move closer to the existing fencing at the property line and continue parallel for access to Lot 1.

Staff has received a copy of your filing to be heard before the Board of Appeals on October 11, 1995. At that time, the Board will review the Commission's decision de novo.

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

Sincerely,

Patricia E. Hayes Parker
Historic Preservation Planner



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

September 28, 1995

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13020 Wainwright Road
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Sincerely,



Patricia E. Hayes Parker
Historic Preservation Planner

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: 204 Heil Road Meeting Date: 9/27/95
Resource: Master Plan Site #28/32, HAWP: Alteration
Hopkins-Frey House
Case Number: 28/32-95A RECONSIDERATION Tax Credit: No
Public Notice: 09/13/95 Report Date: 9/20/95
Applicant: Tom Albrecht Staff: Patricia Parker
PROPOSAL: Construct Driveway RECOMMEND: Approval

BACKGROUND

The applicant, Tom Albrecht, appeared before the HPC on July 26, 1995 to discuss approval to construct a new gravel driveway at 204 Heil Road. The Master Plan Site, the Hopkins-Frey House (#28/32) was the subject of an approved subdivision proposal to divide the property into two lots. One lot (Lot #1) is unimproved and contains .900 acres and Lot #2 is improved by the farmhouse and outbuilding and contains 1.140 acres.

Subsequent to subdivision approval, the HPC denied a request of this applicant to reduce the environmental setting for the historic house from 2.04 acres. The HPC decided that the environmental setting should remain as 2.04 acres for Master Plan Site #28/32, the Hopkins-Frey House. Therefore, the HPC would continue to review proposals which involve change to the property or any portion thereof.

Access to the smaller lot (under the ownership of this applicant) is provided through an easement in a panhandle configuration on property under separate ownership. The applicant proposes to construct a gravel driveway to provide access to Lot #1, via deeded easement, crossing Lot #2, 1.140 acres, which includes the historic house.

The construction of this driveway was the subject of an earlier HPC discussion (Staff Report of 7/26/95). At that meeting on July 26, 1995, the HPC approved the HAWP with certain conditions. The conditions were:

- 1) The driveway shall be eight feet wide with two strips of gravel (bluestone or quartz) each approximately two feet in width.

2) After the allee of trees, the driveway would shift toward the fence.

Three Commissioners voted in approval of the motion with two voting against the motion. The applicant now requests that the HPC reconsider its decision due to the following reasons:

"1. After a thorough review of the new information presented at the hearing on July 26, we wish to give our response. Not enough time was allowed at the hearing for a complete review and response.

2. As a result of our inspection and observation of driveways of a number of Master Plan historic houses, we found no driveways that conformed to the requirements imposed on our Historic Area Work Permit.

3. The approved driveway does not accomodate our three vehicles and discussions with road experts indicate that the precise measurements of the specifications for our driveway can not be applied to gravel.

4. After receiving our Historic Area Work Permit, several events have occurred that impact on the HPC decision."

Item 4 refers to an incident which was communicated to staff verbally that described the dismantling of the driveway by the adjacent property owner.

STAFF DISCUSSION

Reconsideration of this proposal is necessary to afford the applicant ample opportunity to respond to received comments. Further, staff feels that the conditions of HAWP approval may require revisitation of this issue because of construction specifications within the conditions for HAWP approval. Driveways with gravel spread in this manner normally exist because the driveway is in need of maintenance - that is, the driveway may have started as full width gravel and become two parallel tracks due to use. Continued use of driveways often cause rutting and the spreading of gravel beyond the its limits. The appearance of grass as a median strip is often because gravel is absent in that area due to use - not due to design.

The proposal is to construct a 10' wide x 150' long driveway of 3/4" bluestone surface. The driveway would commence at Heil Road and proceed north to Lot #1. Tree removal is not a part of this proposal.

Staff feels that approval of the proposal, as presented, is necessary in order that the owner of the subject property not be deprived of reasonable use of the property. Note 3 on the Record Plat states "Access (is) restricted to single driveway entrance

to Heil Road for Lot 1." The applicant proposes to construct a single driveway entrance.

The material and placement of the driveway are consistent and appropriate for the historic site. The HPC has approved gravel as surfacing for driveways in the past. Staff feels that the driveway could bend closer to existing fencing after the allee of trees. However, staff does not feel that this feature should be a condition of approval.

RECOMMENDATION:

Staff recommends that the Commission find the proposal consistent with the purposes of Chapter 24A, particularly 24A-8(b)1 and 8(b)5:

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

The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship;

and with Standards #1 and #10:

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment; 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.

September 12, 1995

Historic Preservation Commission
MNCPPC
8787 Georgia Avenue
Silver Spring, MD 20910


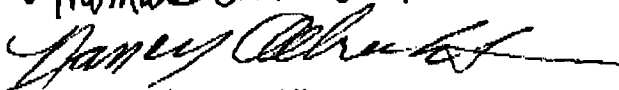
Dear HPC:

This letter is to request a reconsideration of the decision of the HPC at the hearing on July 26 regarding an application for a Historic Area Work Permit to construct a gravel driveway at 202 Heil Road, Silver Spring, MD. We would like to present new information on the following:

1. After a thorough review of the new information presented at the hearing on July 26, we wish to give our response. Not enough time was allowed at the hearing for a complete review and response.
2. As a result of our inspection and observation of driveways of a number of Master Plan historic houses, we found no driveways that conformed to the requirements imposed on our Historic Area Work Permit.
3. The approved driveway does not accommodate our three vehicles and discussions with road experts indicate that the precise measurements of the specifications for our driveway can not be applied to gravel.
4. After receiving our Historic Area Work Permit, several events have occurred that impact on the HPC decision.

We hope to show that our original request was both reasonable and appropriate and was in accordance with HPC staff recommendations. Please contact us if you have any questions.

Sincerely,

Thomas and Nancy Albrecht

September 11, 1995

TO: Pat Parker, HPC

FROM: Nancy and Thomas Albrecht

RE: Additional information for reconsideration of HPC
driveway approval

1. Our response to information presented at the hearing
2. Review of driveways for historic houses
3. Review of road specifications
4. Update on HAWP

TO: Patricia Parker, HPC
FROM: Thomas + Nancy Albrecht
DATE: Sept. 6, 1995
RE: Reconsideration Hearing

We would like to appear
before the HPC on Sept. 27
to request a reconsideration
to our Historic Area Work Permit
Application -

We have additional information
to present -

(Nancy) I can be reached at 301-294-5583
during the day -

V. AHh.
Pat Parker

Lynn M. Powalski
William C. Schillerstrom
204 Heil Rd.
Silver Spring, MD, 20905

Via ~~hand~~ ^{FAX} delivery:

September 24, 1995

The Historic Preservation Commission
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910
301-495-4570
301-495-1307

T
P

RE: **Reconsideration of Application/Permit No. 9507130140**

This letter is in response to the Albrecht's request for reconsideration of the Historic Preservation Commission ("HPC") decision regarding the Historic Area Work Permit (HAWP) granted the Albrechts on July 26, 1995. The Albrechts wish to replace the existing driveway with a 10 foot wide gravel road within the limited ingress/egress/utility easement ("Easement Property") on 204 Heil Road. The existing driveway conforms to the HAWP permitting construction of a road consisting of two parallel strips of gravel with a grass median. Each strip to be no wider than two feet with the driveway's over all width not to exceed eight feet. Further, the driveway is to run along the edge of the property line.

As the owners of 204 Heil Rd, we have not given the Albrechts our consent to submit the application for reconsideration or to modify, improve or manipulate the Easement Property. The limited ingress/egress/utility easement created by the Albrechts, as recorded in the deed conveyed to us, grants no rights to improve or modify the Easement Property. We, therefore continue to assert that the Commission does not have authority to grant such permit before the Albrechts have gained our consent for such improvements to the Easement Property.

However, in the spirit of trying to resolve this dispute over what improvements to the Easement Property we may grant the Albrechts, we are willing to participate in the State's Attorney for Montgomery County Mediation Program. Use of this forum to resolve this dispute was suggested by the Albrechts. We, therefore, request that the HPC delay its decision on the Albrecht's request for reconsideration until after the mediation. If the mediation is successful it would likely make the Albrecht's request for reconsideration moot.

Post-it™ Fax Note	7671	Date	10/5/95	# of pages	1
To	NANCY ALBRECHT	From	PAT PARKER		
Co./Dept.		Co.	M-NCP&C		
Phone #		Phone #	(301) 495-4730		
Fax #	(301) 294-5941	Fax #	(301) 495-1307		

For the record and the HPC's consideration, we, like the Albrechts, were not completely satisfied with the HPC's decision to grant the Albrecht's a HAWP to make unauthorized improvements to our property. The HPC decision failed to adopt a substantial portion of our counter proposal, not least being the granting of the HAWP. In contrast, the HPC's decision granted the Albrechts a HAWP, albeit in a slightly modified form than the Albrechts application. Since what was adopted, not adopted, and modified by the HPC's decision is already in the record, we will not recount these points at this time. From our participation in the July 26, 1995 hearing, we believing that the HPC's decision was not only based on sound historic preservation reasoning, but was also an effort to fashion a workable compromise between the two conflicting positions of the affected parties. With this in mind, and in an effort to put this dispute to rest, we elected to live with the HPC's decision. We voluntarily undertook substantial reconstruction of the driveway the Albrechts subsequently laid to bring it into conformity with the HAWP specifications. This was necessary because the Albrechts spread an excessive amount of gravel to construct the improvement, resulting in two strips of gravel each approximately three and one half feet in width and a grass median approximately one foot wide. The gravel was also spread six to eight inches in depth which once travel over by a car would have spread into a 10 foot wide gravel road with no grass medium. We suspect the Albrechts laid the gravel in this manner as a means to frustrate the HAWP specifications and achieve a road with the dimension they seek.

The Albrechts have proven repeatedly, by their actions prior and subsequent to the July 26, 1995 HPC hearing, that they are, to date, unwilling to accept anything less than 100% of their demands to improve and control the Easement Property according to their wishes. The Albrechts refuse to accept the fact that their rights in the Easement Property are limited to ingress/egress and laying of utilities. In addition to requesting this reconsideration, the Albrechts have filed an appeal with the Board of Appeals for Montgomery County, charging the HPC with abuse of its discretionary powers. In contrast, we have repeatedly sought compromise with the Albrechts to end this dispute in a manner agreeable to both parties. We believe the HPC decision on July 26, 1995 achieved this result in a reasonable and equitable manner. Therefore, we are strongly opposed to the HPC granting the Albrecht's demand to reconstruct the improvement now in place into a 10 foot wide gravel road on our property. We believe to do so, the HPC would be abandoning its efforts to find common ground between the positions of the affected parties. We also believe it would not be consistent with the historic character of the property, as explained below. Further, we refute the Albrecht's claims for reconsideration and will demonstrate with the aid of photographs attached herewith that these claims are without basis or merit.

We were told by the HPC Staff that the HPC will permit reconsideration if there is new information present that has a bearing on the HPC prior decision. Although we have not yet received a copy of the Albrecht's reconsideration request, in the interest of expediency, we are responding based on what the HPC Staff represented to us on September 20, 1995.

The Albrecht's claim for reconsideration is based on the following allegations:

1. That the Albrechts did not have sufficient time to respond to our submission prior to the July 24, 1995 HPC hearing;
2. The driveway, as approved by the HPC, is not usable for their vehicles;
3. Several Historic homes on the Montgomery County Master Plan that the Albrechts inspected did not have driveways of the same type that the HPC specified in granting the Albrechts the work permit; and that,
4. The driveway has been dismantled by us.

As to the first claim, the HPC staff notified the Albrechts of our counter proposal and discussed its contents over 24 hours prior to the HPC hearing. Whether or not this constitutes sufficient prior notice is not in its self grounds for granting reconsideration, since it provides no new information. The staff informed the Albrechts of this and requested further information from the Albrechts. The Albrechts responded to the HPC's request with allegation 2, 3, and 4.

On allegation 2, we refute the Albrecht contention. We have attached photographs herewith showing that the driveway, in accordance with HPC specifications, is very usable for a variety of vehicles. We support retaining the driveway as specified in the HAWP, since it is historically appropriate, highly functional, and already in place as demonstrated by the photographs attached herewith. To allow the construction of a ten foot wide "driveway", would effectively turn the Easement Property into an extension of Heil Road which is eleven feet wide and services two way traffic for seven houses. A ten foot wide drive on the Easement Property is excessive and not required for the reasonable use of the Easement Property for ingress/egress to 202 Heil Road. In his testimony at the July 26, 1995 HPC hearing, Tom Albrecht acknowledged that he decided on the ten foot width out of the belief that the bed of the dump

truck used to lay the gravel in constructing the drive was about 10 feet wide and, therefore, would make it easier to lay the gravel. Since the gravel is already in place, this rationale for making the drive 10 feet wide is no longer valid. Our pictures show use of the drive by a full size sedan and by a Jeep Cherokee Truck. We have also determined that the driveway should have no difficulty accommodating the Albrecht's pick-up truck. A local Chevrolet dealer confirmed that the wheel base on a half-ton pick-up truck such as the Albrechts is approximately the same wheel base as the Jeep Cherokee truck portrayed in the photographs we submitted. We are willing to widen or narrow the distance between the two gravel strips to better accommodate the Albrecht's vehicles if they believe that this would be an improvement. Additionally, since its installation, the driveway has been used with no difficulty by a variety of vehicles. We also note that the Albrechts drove their truck, cars, and horse trailer across this area for over twenty years without the benefit of any improvement. To now assert that their vehicles cannot access 202 Heil Road is somewhat disingenuous. However, in the interest of compromise we are willing to grant the Albrechts permission to leave the drive now in place under the specification set by the HAWP granted on July 26, 1995.

On the third assertion, we are reasonably sure that several historic homes do have a driveway with two strips of gravel with a grass median. Given more time we would be happy to research this issue. The Albrechts may have located several homes on the Historic Register that do not have the same driveway as specified in the HAWP, but this is not a valid reason to replace the drive now on the Easement Property. The Albrecht's claim that the drive as specified by the HAWP is unique, and therefore the HPC's decision to modify their original application was unreasonable. This claim is not true. It also ignores the fact the HPC did not arbitrarily come up with these modifications, but instead crafted a workable compromise between the Albrecht's proposal with our counter proposal. What is unique about this HAWP is that the applicant does not now own, nor in the foreseeable future plan to purchase the property at issue. Nor does the applicant have the permission of the owners of the property to submit a HAWP. Since the owners of the Easement Property did submit a counter proposal, it seems only reasonable and prudent for the HPC to have sought compromise in its decision. Historic homes have a variety of driveways. The two strips of gravel with grass median driveway is quite common in Eastern Montgomery County, as demonstrated by the photographs we submitted to the HPC when it made its initial decision. We are submitting additional photographs of these driveways showing that they have approximately the same dimensions as required by the HAWP. Driveways with these specifications are not only common in the area around 204 Heil Road, but are very usable, easy to maintain, and are in keeping with the rural setting of our historic farm house.

Regarding the Albrecht's final assertion, as you can see by the photographs submitted, we did not remove the driveway. We took upon ourselves the considerable task of putting the driveway into compliance with the specifications imposed by the HAWP. Given that the driveway is on our property, we were concerned that we could be fined by HPC or otherwise be held accountable for violating a Historic Work Permit. If the Albrechts did not want to follow the specifications required of the work permit, they should have filed for reconsideration or appealed before they proceeded to construct the driveway in total disregard for the permit they were granted.

We regret that the Albrechts have turned this process into a dispute. We believe, given a certain amount of give and take between ourselves and the Albrechts, that the HAWP to improve the Easement Property could have been a joint submission. Instead, the Albrechts approach has been one of confrontation and intransigence. They seem to be taking the approach that this is some kind of competition and that if they don't get 100% of what they want they have lost. This should not be about winning and losing, it should be about working to getting along with your neighbors through arriving at reasonable compromise by respecting each others needs and desires when disputes such as this one arise. It is with this view point in mind that we are willing to participate in the State's Attorney for Montgomery County Mediation Program.

We are disappointed that the Albrechts refuse to accept anything less than their 100%, and accept instead the HPC's decision on July 26, 1995, as we have, as a fair and reasonable compromise. We hope the HPC does not abandon its prior commitment to considering both parties' positions by overturning its decision of July 26, 1995, by granting the Albrecht's original application unmodified.

Thank you for your consideration,

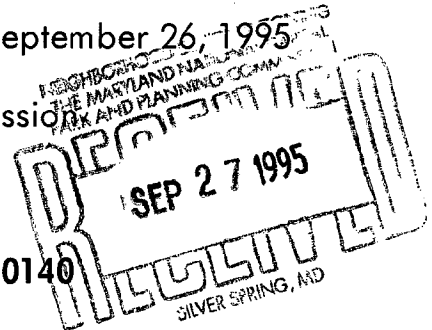
Respectfully,
Wm Schillerstrom
FOR Lynn Powalski, *Wm Schillerstrom*
William C. Schillerstrom
Lynn M. Powalski

Attachment (1)
1. Photographs

Lynn M. Powalski
William C. Schillerstrom
204 Heil Rd.
Silver Spring, MD, 20905

The Historic Preservation Commission
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910

September 26, 1995



RE: Reconsideration of Application/Permit No. 9507130140

Description of Photographs attached to letter to Historic Preservation Commission dated September 24, 1995.

1. Picture showing front view of Jeep Cherokee using existing drive on Easement Property.
2. Rear view picture of Jeep Cherokee using easement.
3. Front view picture of Toyota Camery using easement.
4. Front view picture of Toyota Camery using easement.
5. Picture of Heil Road showing width.
6. Picture of Heil Road measuring tape showing 11 ft width.
7. Picture of old house on New Hampshire Ave near 204 Heil Road with two strip gravel driveway with grass median.
8. Picture of driveway of Hampshire house with yard stick on one strip of driveway showing 2 feet width.
9. Picture of other strip of same driveway.
10. Picture of New Hampshire Ave house showing driveway with two strips of gravel with grass median.
11. Picture of house on Randolph Rd near 204 Heil Road showing driveway with two strips of gravel with grass median.
12. Picture of driveway at Randolph Road house with yard stick showing strip of driveway with 2 foot width.
13. Picture of driveway of house on Randolph Road showing both strips of with yard stick.

14. Picture showing existing drive on Easement Property conforming to HAWP. Also shows yellowed grass left along gravel strips where gravel was spread by the Albrechts before removal to make driveway comply with 2 foot requirement in HAWP.
15. Picture showing existing drive on Easement property.
16. Picture showing existing drive on Easement. Also shows yellow grass left where gravel was spread before removal to make driveway comply with 2 ft requirement in HAWP.
17. Picture of gravel strip of drive on Easement Property with measuring tape show 2 foot width of gravel strip.

Att.
Pat Parker

Lynn M. Powalski
William C. Schillerstrom
204 Heil Rd.
Silver Spring, MD, 20905

Via ~~hand~~ ^{FAX} delivery:

September 24, 1995

The Historic Preservation Commission
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave.
Silver Spring, MD 20910
301-495-4570

T
F

301-495-1307

RE: **Reconsideration of Application/Permit No. 9507130140**

This letter is in response to the Albretch's request for reconsideration of the Historic Preservation Commission ("HPC") decision regarding the Historic Area Work Permit (HAWP) granted the Albrechts on July 26, 1995. The Albrechts wish to replace the existing driveway with a 10 foot wide gravel road within the limited ingress/egress/utility easement ("Easement Property") on 204 Heil Road. The existing driveway conforms to the HAWP permitting construction of a road consisting of two parallel strips of gravel with a grass median. Each strip to be no wider than two feet with the driveway's over all width not to exceed eight feet. Further, the driveway is to run along the edge of the property line.

As the owners of 204 Heil Rd, we have not given the Albrechts our consent to submit the application for reconsideration or to modify, improve or manipulate the Easement Property. The limited ingress/egress/utility easement created by the Albrechts, as recorded in the deed conveyed to us, grants no rights to improve or modify the Easement Property. We, therefore continue to assert that the Commission does not have authority to grant such permit before the Albrechts have gained our consent for such improvements to the Easement Property.

However, in the spirit of trying to resolve this dispute over what improvements to the Easement Property we may grant the Albrechts, we are willing to participate in the State's Attorney for Montgomery County Mediation Program. Use of this forum to resolve this dispute was suggested by the Albrechts. We, therefore, request that the HPC delay its decision on the Albrecht's request for reconsideration until after the mediation. If the mediation is successful it would likely make the Albrecht's request for reconsideration moot.

For the record and the HPC's consideration, we, like the Albrechts, were not completely satisfied with the HPC's decision to grant the Albrecht's a HAWP to make unauthorized improvements to our property. The HPC decision failed to adopt a substantial portion of our counter proposal, not least being the granting of the HAWP. In contrast, the HPC's decision granted the Albrechts a HAWP, albeit in a slightly modified form than the Albrechts application. Since what was adopted, not adopted, and modified by the HPC's decision is already in the record, we will not recount these points at this time. From our participation in the July 26, 1995 hearing, we believing that the HPC's decision was not only based on sound historic preservation reasoning, but was also an effort to fashion a workable compromise between the two conflicting positions of the affected parties. With this in mind, and in an effort to put this dispute to rest, we elected to live with the HPC's decision. We voluntarily undertook substantial reconstruction of the driveway the Albrechts subsequently laid to bring it into conformity with the HAWP specifications. This was necessary because the Albrechts spread an excessive amount of gravel to construct the improvement, resulting in two strips of gravel each approximately three and one half feet in width and a grass median approximately one foot wide. The gravel was also spread six to eight inches in depth which once travel over by a car would have spread into a 10 foot wide gravel road with no grass medium. We suspect the Albrechts laid the gravel in this manner as a means to frustrate the HAWP specifications and achieve a road with the dimension they seek.

The Albrechts have proven repeatedly, by their actions prior and subsequent to the July 26, 1995 HPC hearing, that they are, to date, unwilling to accept anything less than 100% of their demands to improve and control the Easement Property according to their wishes. The Albrechts refuse to accept the fact that their rights in the Easement Property are limited to ingress/egress and laying of utilities. In addition to requesting this reconsideration, the Albrechts have filed an appeal with the Board of Appeals for Montgomery County, charging the HPC with abuse of its discretionary powers. In contrast, we have repeatedly sought compromise with the Albrechts to end this dispute in a manner agreeable to both parties. We believe the HPC decision on July 26, 1995 achieved this result in a reasonable and equitable manner. Therefore, we are strongly opposed to the HPC granting the Albrecht's demand to reconstruct the improvement now in place into a 10 foot wide gravel road on our property. We believe to do so, the HPC would be abandoning its efforts to find common ground between the positions of the affected parties. We also believe it would not be consistent with the historic character of the property, as explained below. Further, we refute the Albrecht's claims for reconsideration and will demonstrate with the aid of photographs attached herewith that these claims are without basis or merit.

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The Albrecht's claim for reconsideration is based on the following allegations:

1. That the Albrechts did not have sufficient time to respond to our submission prior to the July 24, 1995 HPC hearing;
2. The driveway, as approved by the HPC, is not usable for their vehicles;
3. Several Historic homes on the Montgomery County Master Plan that the Albrechts inspected did not have driveways of the same type that the HPC specified in granting the Albrechts the work permit; and that,
4. The driveway has been dismantled by us.

As to the first claim, the HPC staff notified the Albrechts of our counter proposal and discussed its contents over 24 hours prior to the HPC hearing. Whether or not this constitutes sufficient prior notice is not in its self grounds for granting reconsideration, since it provides no new information. The staff informed the Albrechts of this and requested further information from the Albrechts. The Albrechts responded to the HPC's request with allegation 2, 3, and 4.

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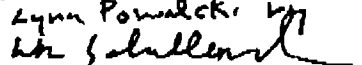
On the third assertion, we are reasonably sure that several historic homes do have a driveway with two strips of gravel with a grass median. Given more time we would be happy to research this issue. The Albrechts may have located several homes on the Historic Register that do not have the same driveway as specified in the HAWP, but this is not a valid reason to replace the drive now on the Easement Property. The Albrecht's claim that the drive as specified by the HAWP is unique, and therefore the HPC's decision to modify their original application was unreasonable. This claim is not true. It also ignores the fact the HPC did not arbitrarily come up with these modifications, but instead crafted a workable compromise between the Albrecht's proposal with our counter proposal. What is unique about this HAWP is that the applicant does not now own, nor in the foreseeable future plan purchase the property at issue. Nor does the applicant have the permission of the owners of property to submit a HAWP. Since the owners of the Easement Property did submit a counter proposal, it seems only reasonable and prudent for the HPC to have sought compromise in its decision. Historic homes have a variety of driveways. The two strips of gravel with grass median driveway is quite common in Eastern Montgomery County, as demonstrated by the photographs we submitted to the HPC when it made its initial decision. We are submitting additional photographs of these driveways showing that they have approximately the same dimensions as required by the HAWP. Driveways with these specifications are not only common in the area around 204 Heil Road, but are very usable, easy to maintain, and are in keeping with the rural setting of our historic farm house.

Regarding the Albrecht's final assertion, as you can see by the photographs submitted, we did not remove the driveway. We took upon ourselves the considerable task of putting the driveway into compliance with the specifications imposed by the HAWP. Given that the driveway is on our property, we were concerned that we could be fined by HPC or otherwise be held accountable for violating a Historic Work Permit. If the Albrechts did not want to follow the specifications required of the work permit, they should have filed for reconsideration or appealed before they proceeded to construct the driveway in total disregard for the permit they were granted.

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Thank you for your consideration,

Respectfully,

FOR Lynn Powalski by

William C. Schillerstrom
Lynn M. Powalski

Attachment (1)

1. Photographs

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

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

Official or agency from whose ruling or action this appeal is made: THE MONTGOMERY COUNTY HISTORIC Preservation Commission (HPC)

Brief description of ruling or action from which this appeal is made (attach duplicate copy of ruling or document indicating such action): DENIAL OF REQUEST TO CONSTRUCT 10 FEET WIDE GRAVEL DRIVEWAY AND APPROVAL OF TWO PARALLEL 2 FEET WIDE GRAVEL STRIPS WITH GRASS STRIP BETWEEN, NTE EIGHT FEET.

Date of that ruling or action: July 26, 1995 at approximately 9:30 pm.

Brief description of what, in appellant's view, the ruling or action should have been: APPROVAL OF (Gravel) Driveway AS Submitted in application For HISTORIC AREA WORK PERMIT AND AS RECOMMENDED by HPC STAFF REPORT.

Number of section, and subsection if any, of the Montgomery County Code 1984, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: _____

Error of fact, if any, involved in the ruling or action from which this appeal is made: Failure to adopt HPC staff recommendation + IMPOSING UNPRECEDENTED + UNNECESSARY Additional Requirements.

Error of law, if any, involved in the ruling or action from which this appeal is made: HPC Abused its DISCRETION WITH REGARD TO DRIVEWAY REQUIREMENTS.

Question(s) of fact, if any, presented to the Board by this appeal: THE UNPRECEDENTED REQUIREMENTS THAT WERE IMPOSED ON APPLICANT'S REQUEST TO CONSTRUCT A DRIVEWAY.

Question(s) of law, if any, presented to the Board by this appeal: WHETHER THE HPC HAS THE AUTHORITY TO IMPOSE ARBITRARY, UNPRECEDENTED + UNFOUNDED REQUIREMENTS ON DRIVEWAY.

Description of real property, if any, involved in this appeal: Lot 1, Block D
Parcel _____, Subdivision Rawls Springs, Street and Number 202 Heil Road
Town _____, Zone _____

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

Statement of appellant's interest, i.e., manner in which appellant is aggrieved by the ruling or action complained of (as property owner or otherwise): Ruling places undue restrictions on the construction of a driveway; will require additional expenditures and has caused undue delay due to inability to find Gravel Truck capable of spreading as required.

Further comments, if any: THE RULING OF 2 parallel 2 foot wide gravel strips with grass between results in an undue restriction on my ability to use AND Access my property. I want a normal driveway like everyone else has.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct. EXHIBIT NO. _____

Signature of Attorney

RECEIVED

Thomas Albrecht
Signature of Appellant(s)

Address of Attorney

AUG 28 1995
BOARD OF APPEALS
MONTGOMERY COUNTY, MD.

Address of Appellant(s)
P.O. Box 248
HIGHLAND, MD., 20777
1571 224-2588

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. A-4407

APPEAL OF THOMAS ALBRECHT

Notice is hereby given that a public hearing will be held by the Board of Appeals for Montgomery County, Maryland, in the Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, in the Second Floor Davidson Memorial Hearing Room, on the 11th day of October, 1995, at 1:30 p.m., or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 2-112 of the Montgomery County Code.

The appellant charges administrative error on the part of the Historic Preservation Commission in its imposition of conditions in its approval of a historic area work permit pertaining to driveway construction, dated July 26, 1995. In accordance with Chapter 2A, Administrative Procedures Act, a copy of the "charging document" (appeal) is attached to this notice.

The subject property is Lot 1, Block D, Rawls Springs Subdivision, located at 202 Heil Road, Silver Spring, Maryland.

Notices forwarded this 1st day of September, 1995, to:

Thomas Albrecht
County Attorney
Alan M. Wright, Senior Assistant County Attorney
Director, Department of Environmental Protection
Hal Phipps, Environmental Manager,
Department of Environmental Protection
Robert Hubbard, Chief, Division of Development Services
and Regulation, Department of Environmental Protection
Walter Booth, Chairperson, Historic Preservation Commission
Gwen Marcus, Historic Preservation Coordinator,
Historic Preservation Commission
Members, Board of Appeals
Contiguous and confronting property owners
Stonegate Citizens Association
Greater Colesville Citizens Association

County Board of Appeals

By Tedi S. Osias

Tedi S. Osias

Executive Secretary to the Board

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

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

Official or agency from whose ruling or action this appeal is made: THE MONTGOMERY COUNTY HISTORIC Preservation Commission (HPC)

Brief description of ruling or action from which this appeal is made (attach duplicate copy of ruling or document indicating such action): DENIAL OF REQUEST TO CONSTRUCT 10 FEET WIDE GRAVEL DRIVEWAY AND APPROVAL OF TWO PARALLEL 2 FEET WIDE GRAVEL STRIPS WITH GRASS STRIP BETWEEN, NTE EIGHT FEET.

Date of that ruling or action: July 26, 1995 at approximately 9:30 pm.

Brief description of what, in appellant's view, the ruling or action should have been: APPROVAL OF (Gravel) Driveway AS Submitted in application For HISTORIC AREA WORK PERMIT AND AS RECOMMENDED by HPC staff report.

Number of section, and subsection if any, of the Montgomery County Code 1984, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: _____

Error of fact, if any, involved in the ruling or action from which this appeal is made: Failure to adopt HPC staff recommendation + imposing UNPRECEDENTED + UNNECESSARY Additional Requirements.

Error of law, if any, involved in the ruling or action from which this appeal is made: HPC ABUSED its DISCRETION WITH REGARD TO DRIVEWAY REQUIREMENTS.

Question(s) of fact, if any, presented to the Board by this appeal: THE UNPRECEDENTED REQUIREMENTS that WERE IMPOSED ON APPLICANTS REQUEST TO CONSTRUCT A DRIVEWAY.

Question(s) of law, if any, presented to the Board by this appeal: WHETHER THE HPC HAS THE AUTHORITY TO IMPOSE ARBITRARY, UNPRECEDENTED + UNFOUNDED REQUIREMENTS ON DRIVEWAY.

Description of real property, if any, involved in this appeal: Lot 1, Block D
Parcel _____, Subdivision Rawls Springs, Street and Number 202 Heil Road
Town _____, Zone _____

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

Statement of appellant's interest, i.e., manner in which appellant is aggrieved by the ruling or action complained of (as property owner or otherwise): Ruling places undue restrictions on the construction of a driveway; will require additional expenditures and has caused undue delay due to inability to find Gravel TRUCK capable of spreading as required.

Further comments, if any: THE RULING OF 2 parallel 2 foot wide gravel strips with grass between results in an undue restriction on my ability to use AND Access my property. I want a normal driveway like everyone else has.

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct. EXHIBIT NO. _____

Signature of Attorney

Address of Attorney

RECEIVED
AUG 28 1995
BOARD OF APPEALS
MONTGOMERY COUNTY, MD.

Thomas Albrecht
Signature of Appellant(s)

Address of Appellant(s)
P.O. Box 248
HIGHLAND, MD., 20777
1707 REC-2588

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

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1 Report?

2 MS. PARKER: Yes, we do. This is a case which
3 involves a Master Plan Site Number 28/32, the Hopkins-Frey
4 House. At a previous meeting, the HPC decided that the
5 environmental setting should remain at 2.04 acres. There
6 was a subdivision proposal that was in front of you and that
7 subdivision proposal had been approved by the Planning
8 Board, had gone through all of its measures, and at that
9 meeting you focused on the size of the environmental
10 setting.

11 With that said, this application is a proposal to
12 construct a 10' wide x 150' long driveway utilizing 3/4"
13 bluestone surfacing. There are no trees that are involved
14 in the proposal. The material and placement of the driveway
15 Staff feels is consistent and appropriate for the historic
16 site. The HPC has approved gravel as surface for driveways
17 in the past.

18 In the Staff Report, Staff recommends that the
19 Commission find the proposal consistent with the purposes of
20 Chapter 24A-8(b)1, and with Standards 1 and 10. Subsequent
21 to the writing of the reports, Staff did receive additional
22 information from new property owner for 204 Heil. The 204
23 Heil is now divided into two lots, Lot 1 which is unimproved
24 and then there is the lot which contains the historic house.

25 The Schillerstrom's are the owners of the historic

1 house and the approximate 1 acre upon which it is
2 constructed. The Schillerstrom's have an objection to this
3 proposal, and I've placed before you the content of their
4 objection. To summarize, they feel that the Commission does
5 not have the authority to grant the permit before the
6 Albrecht's have obtained their consent for such improvement
7 to the easement property.

8 There is a easement that flows to and provides
9 access to Lot 1. They then have a question about, one, the
10 timing for this proposal, the appearance, the width, the
11 location, the preparation and the materials proposed, and
12 the contractor to carry out the work. They also have
13 raised, in addition -- in addition to the objections, they
14 also feel that the gravel driveway should take another form,
15 that the road should consist of two parallel strips of
16 quartz stone with a grass medium and that each strip should
17 be no wider than 2-feet with the roads overall width not to
18 exceed 8-feet.

19 Further, they propose that the path of the road
20 follow the extreme western border of the easement property.
21 Andd within the Staff Report, I believe we show you on
22 Circle 7 a portion of a plat which shows you the easement
23 that provides access to Lot 1. The historic property is on
24 the lot that is adjacent to Lot 1.

25 I'd like to review some slides for you to

1 reacquaint you with this property, and of course, for those
2 Commissioners who have not sat in on the previous
3 subdivision. This is the Hopkins-Frey House. This is
4 looking -- the road to the right there would be Heil Road,
5 so you're looking at the side and the front of the house.

6 You can see how close it is to Heil Road. The
7 proposed drive -- I'm standing -- you can see in the
8 foreground there that the driveway itself as proposed would
9 be coming in that area. These are just slides to show you
10 what the Hopkins-Frey House looks like. This is an adjacent
11 property to the property which contains the historic house.
12 It is an open field, currently used for by a produce stand.

13 This is also an adjacent property. You can see
14 that there has been -- there have been quite a few changes
15 in the immediate area of the Hopkins-Frey House. So it
16 really stands alone. You can see -- this is a slide which
17 shows you the bluestone that is -- that would be proposed
18 for surfacing for the driveway. This is another slide
19 showing you, again, the surfacing and the proposal -- I
20 think this slide is backwards, I'm sorry.

21 This is the entrance that would be used. Where
22 the sign is marked there, that's the position of Lot 1. So
23 that the access road would be through this easement area,
24 and it would access this lot which is Lot 1. The historic
25 property would be to your right. This is, as you're

1 standing back on Lot 1 and you're looking toward Heil Road
2 -- so you've got a fence on the side.

3 You got a very short lay of trees there. The
4 Schillerstrom's are proposing that as the road comes in
5 after the trees -- when the trees stop, that the road in
6 fact move over closer to the fencing there and continue on
7 forward to access Lot 1. These are photographs that just
8 show you the open field of Lot 1. This is -- I'm standing
9 in part of Lot 1 looking back at the historic house here.

10 This is another view of, again, showing you the
11 area where the gravel drive would be located, and it's again
12 looking out toward Heil Road. Same slide -- you can see
13 that the surfacing -- there is really no surfacing there as
14 such. At this point, the applicant, Mr. Albrecht the former
15 owner of the historic house, is proposing that 10-feet be
16 used to install bluestone gravel.

17 And that's the end of the report. I have included
18 as part of the comments that you've just received from the
19 Schillerstrom's. There is a drawing that accompanies that
20 to show where they propose the location for the gravel
21 drive.

22 CHAIRMAN BOOTH: Okay. Thanks Pat. A couple of
23 questions. The Albrecht's are now the current owners of
24 proposed Lot 1?

25 MS. PARKER: The Albrecht's are the owners of Lot

1 1. The historic property is on the adjacent lot.

2 CHAIRMAN BOOTH: That's on what we'll call Lot 2?

3 MS. PARKER: Correct.

4 CHAIRMAN BOOTH: And Lot 2 is owned by the
5 Schillerstrom's.

6 MS. PARKER: Correct.

7 CHAIRMAN BOOTH: This panhandle, who owns the
8 panhandle?

9 MS. PARKER: The property itself is under the
10 ownership of the Schillerstrom's. There is an easement that
11 was permitted and agreed to as part of convenience, and that
12 easement is for the construction of utilities and also to
13 provide access to Lot 1.

14 CHAIRMAN BOOTH: Does the easement describe the
15 access or how the access is to be obtained, or whether it is
16 to be obtained with consent?

17 MS. PARKER: The only documents I have are those
18 that you have received.

19 CHAIRMAN BOOTH: Okay.

20 MS. PARKER: That may be a question, certainly,
21 that you may want to ask.

22 CHAIRMAN BOOTH: It is certainly a question we're
23 going to need to address because if there is some concerns
24 about how this easement is worded or what's in the sense of
25 the easement, it may even affect the jurisdiction of this

1 Commission tonight to entertain the Albrecht's application.
2 The application itself may be in violation of the terms of
3 the easement.

4 MS. PARKER: Understood.

5 CHAIRMAN BOOTH: Okay. Any other questions for
6 Staff at this time from the Commissioners? Okay. Mr. Tom
7 Albrecht, please come forward. Mr. Albrecht, always in the
8 interest of due process, have you seen this?

9 MR. ALBRECHT: If that's the letter that Pat was
10 just reading, no I have not.

11 CHAIRMAN BOOTH: Okay. Do we have an extra copy
12 that we can provide Mr. Albrecht? If you'd like to take a
13 few moments and maybe address some of the concerns as raised
14 in the Staff Report that you just heard. I think the Staff
15 Report sort of summed up some of the concern of the
16 Schillerstrom's. I understand you'd like to take more time
17 and read it, but we do need --

18 MR. ALBRECHT: I understand that you have a busy
19 agenda.

20 CHAIRMAN BOOTH: Yes.

21 MR. ALBRECHT: I don't know whether this gets to
22 your question, but in the materials that we submitted with
23 the application is a xerox shrunken, making it that much
24 more difficult to read, of the recorded plat.

25 CHAIRMAN BOOTH: That would be Circle 8?

1 MR. ALBRECHT: That would be Circle 8, yes. And
2 under the notes on the left-hand side, there are three
3 points. As I understand those three points, the first is
4 that all of the terms and agreements that were made during
5 the application process, starting with the Preliminary Plan
6 and going through it, are to remain in effect. The second
7 is that the reforestation rules would apply and the third is
8 that the access is restricted to a single access for Lot
9 Number 1.

10 This is the documentation that exists for the
11 right-of-way, and as I read it, I have to have access to
12 that lot and this is the only binding documentation that we
13 have to work with. Not having had time to really fully
14 absorb the letter, I would say that the application which
15 was only filed after consultation with the Commission to
16 determine whether in fact this was the appropriate thing to
17 do and was instructed that it was, I'm of the opinion that
18 the application should be acted on.

19 CHAIRMAN BOOTH: Okay. Thank you. We may need to
20 call you back, but in the meantime I'd like to call Lynn M.
21 Powalski and William C. Schillerstrom. Good evening and
22 would you introduce yourselves for the record.

23 MS. POWALSKI: Yes, I'm Lynn Powalski.

24 MR. SCHILLERSTROM: And I'm William Schillerstrom.
25 We reside at 204 Heil Road. The Frey-Hopkins House is the

1 -- we're the current owners.

2 CHAIRMAN BOOTH: Okay. Any comments you'd like to
3 make? We do have a copy of your letter, but feel free to
4 take a few minutes and tell us your concerns.

5 MR. SCHILLERSTROM: Well, basically we're
6 concerned that the application was made basically on the
7 grounds that Lot 1 was a panhandle lot and that the easement
8 portion of our property was part of that other lot, and
9 since it's not, it's currently part of our property. We
10 believe that the proper party to make the application would
11 be us, or if we get the Albrecht's consent.

12 We're not opposed to the Albrecht's using the
13 easement. We understand that it's an ingress egress utility
14 easement. They do need access to that lot. But at this
15 time, it's an unimproved lot. It is on the market. The
16 ground you can see from the pictures is level and flat, and
17 is more than suitable for the occasional movement of cars or
18 trucks or footpaths that access the lot in curves which is
19 usually a couple times a month.

20 It does not get a lot of use because it's an
21 unimproved lot. We propose that the graveling of the
22 easement or portion of it for a driveway would be better
23 timed for prior -- or just prior to construction of the
24 house. We understand that the easement does need to be
25 improved for the construction phase as well as using the

1 house for whoever ultimately owns and lives in that house,
2 they need to travel back and forth.

3 So, that's the first issue is timing. The second
4 issue would be what was actually done with the road. In
5 terms of its construction, we believe that it should be
6 graded and that there should be proper crushed gravel
7 foundation so that there's not rutting and run off and other
8 possible damage to the adjacent property to the driveway, as
9 well as the type of stone.

10 The bluestone, the 1/4 inch proposed by the
11 Albrecht's, does produce quite a bit of dust when it's
12 traveled on. The quartz stone, which our driveway is right
13 now -- you couldn't really see from the pictures very well,
14 but the driveway is kind of a combination grass and quartz
15 stone, which we assume was put there by the Albrecht's
16 because they previously owned 204 Heil Road.

17 I have a sample of it here. This particular stone
18 does not produce the type of dust that the bluestone. Since
19 the easement kind of runs from our driveway, it would only
20 seem natural that it's an extension of our current driveway
21 that it would be with the same type of material. In terms
22 of its appearance, I went around and drove around and took a
23 bunch of pictures of different historic farmhouse settings
24 in northern Montgomery County around our property, and I
25 found that the most suitable one was the two strips of

1 gravel with the grass medium in the middle of it.

2 It's in keeping with the historic setting that the
3 house has. It would not be a substantial change from what
4 the Albrecht's want to do in terms of expense or trouble,
5 and I think it would have a less of an impact in terms of
6 the setting. In terms of the width of the proposed
7 driveway, the road in front of our house which services six
8 other houses, is only 11-feet wide in itself. So the
9 Albrecht's in a sense are proposing to put a 10-foot wide
10 road that will look essentially almost like what is in front
11 of our house.

12 A typical driveway is about 8-feet for this kind
13 of thing, and I think the 2-foot width of each strip with
14 the grass medium 8-feet is probably more than adequate.
15 Another problem I see with putting the gravel down at this
16 point, is that once construction does occur on the house for
17 the new lot, that they will have to put utilities under the
18 ground for sewage and water and possibly electricity.

19 They're going to have to at least rip up a part of
20 this road that they're planning to put down to sink those
21 utilities. If the road is moved over to the western border
22 of the property, it kind of bends around the trees, at least
23 that portion that is next to the fence will not probably
24 have to be ripped up only the portion near the trees because
25 the problem is that the trees encroach on this easement.

1 The easement is 25-feet wide and the trees move --
2 narrow it considerably in its -- in the early part -- at the
3 beginning of the easement. So, there's not going to be
4 really any room to put the utilities underneath the ground
5 without having to go basically the same path that the
6 driveway will take.

7 The Albrecht's do not live obviously in Lot 1,
8 they had moved to Howard County. The land is on the market
9 and -- so their interests are really one of expediency and
10 costs. They want to get this gravel down and they want to
11 do it on a -- basically, the least cost they can. We have
12 to basically live with the consequences of that because we,
13 of course, this is part of our side yard and back yard.

14 The dust that may be produced -- or will be
15 produced by bluestone with the ultimate user of the driveway
16 once the house goes up will probably kick up quite a bit of
17 dust. And I think just generally, aesthetically it would be
18 much -- would be better to have a less impact than 10-feet
19 of bluestone just dumped on the side of the property.

20 CHAIRMAN BOOTH: Okay. Thank you. Ms. Powalski.

21 MS. POWALSKI: I think he's pretty much covered
22 everything. But in case you're wondering, well, there's a
23 gravel road in front of the house why are we so concerned
24 about having it along the side of the house, well you can
25 see from the pictures that our front yard is very small and

1 we will be using -- our back yard is where the use and
2 enjoyment of our property will be. Everyone knows they're
3 going to have a road in front of their house, but they don't
4 expect to have it going through their back yard and causing
5 any kind of nuisance.

6 CHAIRMAN BOOTH: The a -- a question regarding the
7 fact that this is not a -- it is not a panhandle lot -- I
8 mean it's not a pipe stem, clearly that strip you own,
9 however, there clearly is a easement for some sort of
10 ingress and egress. Can you tell me from -- if you know of
11 any restriction where upon the easement as to the owner of
12 Lot 1 has to get your consent or anything else that might
13 sort of help us along these lines?

14 MS. POWALSKI: Yes. I mean, yes they do. I mean,
15 we've researched. Obviously, there is not a recorded
16 easement agreement. And just looking at general law that we
17 have researched, it does require consent of the parties.
18 And right there has been no meeting of the minds as to what
19 will occur on this easement. The Albrecht's being the
20 former owners of those two lots, could have very easily had
21 agreement amongst themselves prior to conveying to us that
22 they did not.

23 MR. SCHILLERSTROM: Part of the problem was that
24 there was a little bit of a misunderstanding in terms of who
25 owned the easement or what lot this portion of the property

1 belonged to when we were in the process of purchasing the
2 house. We've only been in the house now for about two
3 months. The Albrecht's, when we had seen this ingress
4 egress easement on the lot, they had informed us that in
5 fact that was part of Lot 1.

6 And it wasn't until the settlement when the
7 attorney was going over the survey, that it informed
8 actually both parties, Albrecht's as well as ourselves, that
9 no, this was part of Lot 2 and that it was just an easement.
10 And I think kind of the controversy has been one of where
11 the Albrecht's are reluctant to kind of give up control over
12 that portion of the land because they feel it's very
13 important for their selling Lot 1 that they maintain as much
14 control over that property as can be.

15 And then from our standpoint, we would like to
16 have as minimal burden on our property as can be, but with
17 the understanding that Lot 1 does need to have access to
18 this property and that they do need to construct a driveway
19 there. Our biggest concern is what it's going to look like,
20 and when we tried to discuss this with the Albrecht's, their
21 approach was that we can basically do anything we want, and
22 the discussion broke down from there.

23 CHAIRMAN BOOTH: Do you know what the difference
24 in price would be of using the paving strips of the quartz
25 that you're suggesting versus a 10-foot wide bluestone

1 gravel?

2 MR. SCHILLERSTROM: No.

3 MS. POWALSKI: No.

4 CHAIRMAN BOOTH: Okay.

5 MR. SCHILLERSTROM: Although I do suspect that the
6 -- a grading and a sub-foundation of crushed stone probably
7 will add to the current cost of what the Albrecht's intend
8 to do. From their application, it appears that they don't
9 even plan to use a contractor to do this work, but I could
10 be wrong on that. They may just be intending to have,
11 basically, a truck of gravel come in and dump it over the
12 easement and then they would with whoever they hired, move
13 it on.

14 Unfortunately, the construction sites that I
15 traveled around to where they had done this, it's not a very
16 suitable approach to a permanent road. It tends to
17 dissipate from its original path because of rain water and
18 travel. Most gravel driveways do have a grading and a
19 foundation before they dump the bluestone, unless it's a
20 construction site, then they usually just do it on the cheap
21 -- which they plan to remove after the construction is
22 completed.

23 CHAIRMAN BOOTH: Okay. Thank you very much. Pat,
24 a few questions arise as to historical consistency. I know
25 the Schillerstrom's have passed around a series of

1 photographs of numerous houses with the strips -- the double
2 strips of quartz stone. Is that more common in the area as
3 a historical matter or any light you can shed on the
4 historicity?

5 MS. PARKER: I can only say that recent HPC
6 opinions have been such that the provision of gravel -- you
7 always request it or recommend it, an approved gravel for
8 the use of driveways. I cannot say that there is a larger
9 percentage of the quartz in the County versus bluestone.
10 Sometimes we're really looking at a finer grade of
11 bluestone, but again when it is a permanent driveway, often
12 there is a sub-surfacing that's also provided.

13 Staff really felt that at some point, there was
14 going to be further construction in this area in order to
15 get utilities in. The HPC will really have to look at a
16 Historic Area Work Permit Application in total for the
17 construction of a driveway, in addition to the construction
18 of a single-family dwelling. So that -- I did raise that
19 question with Mr. Albrecht as to whether he felt that this
20 was a temporary measure.

21 And it was his feeling that it ends up being a
22 temporary measure because they do intend to, at some point
23 -- they look to conveyance of a lot and improvement. But,
24 they are basically selling an unimproved lot.

25 CHAIRMAN BOOTH: Is there a curb cut there at this

1 time?

2 MS. PARKER: No.

3 MR. RANDALL: Pat, if a house were to be built on
4 that other lot, is that something -- would the house be
5 readily visible from the street, and it would then become
6 obvious that this is a driveway rather than just a road
7 cutting across farmland.

8 MS. PARKER: Well I think that in the review of a
9 Historic Area Work Permit Application for the construction
10 of a single-family dwelling, I think Staff would look for
11 certain screening measures to be in place for the Hopkins-
12 Frey House. In other words, we would probably recommend a
13 row of -- a mixed row of deciduous trees to screen that
14 drive. Then, therefore, it would begin to have more of a
15 driveway appearance. We would also look for the subsoil
16 preparation that has been eluded to by Mr. Schillerstrom.

17 In addition, we would look to before recommending
18 approval on the part of the HPC, we would look to the actual
19 siting of the single-family dwelling too because we will
20 look at it and its relationship to the historic house.

21 MR. RANDALL: Very simply, let me recap this. If
22 a house were to go on the applicant's lot, Lot 1, would that
23 house most likely because of the topography and so forth and
24 what's back there, I didn't happen to pay much attention to
25 that when the slides came through, be readily visible from

1 the road?

2 MS. PARKER: The house would be visible from the
3 road.

4 MR. RANDALL: Okay. So then it would become
5 obvious at that point, that indeed you're dealing with a
6 driveway to provide ingress and egress to the house.
7 Because, I mean my sense was that if it were to be -- of
8 course, we're looking at something that may never occur, and
9 I guess I would say that an awful lot of places in the up-
10 County where I live have the dual strips if they're not
11 short driveways to a house or a driveway to a modern house
12 on a top of hill or something.

13 That's my inclination that would more,
14 particularly now, more appropriately be there rather than
15 something that appears to be a road to nowhere in terms of
16 compatibility with the historic structure. I can't say that
17 I've got any strong feeling quartz versus bluestone. It may
18 be that with the existing material that they have, maybe it
19 makes more sense for the quartz. I'm not that troubled by
20 the dust issue, I mean particularly at this point, where
21 apparently there's -- as you've noted there's not much
22 ingress or egress anyway.

23 I mean that's not really, I guess, an historic
24 preservation issue unless it were such a nuisance that
25 somebody couldn't appropriately live in the house. But my

1 inclination would be towards the dual kind of strip to
2 suggest that it's not just a big road cut through the middle
3 of a field for no purpose, and I think it just looks more in
4 keeping with, at least what see in the up-County.

5 In terms of the easement itself, I don't think we
6 should even pretend to wrestle with that tonight. That
7 looks like either it will be amicably resolved or litigated,
8 which is less amicable. Obviously, were we to approve a
9 HAWP this evening, I think it would -- it goes without
10 saying, but we'd probably ought to say it anyway, that that
11 would not confer any right or entitlement upon an individual
12 to build something that the law doesn't otherwise permit
13 them to build.

14 And we would not be interfering with that at all
15 and whatever remains in terms of the legal dispute, will not
16 be addressed by whatever we might do this evening and we're
17 only saying that if somebody is otherwise entitled by law to
18 put something there, this is what is most historically
19 compatible with the historic structure.

20 CHAIRMAN BOOTH: Bert, what would be your thoughts
21 in regards to understanding -- two strips versus a whole
22 layer of gravel, and you've addressed the issue regarding
23 the bluestone versus the quartz stone. The Schillerstrom's
24 have also suggested moving it over a few feet to run along
25 the hedge line and reducing it from 10-feet to 8-feet.

1 MR. RANDALL: I think smaller is probably better
2 than larger. I ultimately don't know what this easement
3 would permit somebody to do, but I would think an 8-foot
4 wide strip ought to accommodate most needs and secondly, it
5 makes it just a little bit less intrusive in terms of the
6 historic structure that we're concerned about. And moving
7 it over, yeah, I don't see a problem with that either. And,
8 of course, this doesn't address whatever -- legal
9 arrangements might ultimately move it or do other things to
10 it.

11 CHAIRMAN BOOTH: Okay. Thank you. I think --

12 MS. LANIGAN: I know it's a legal question, but is
13 it appropriate for someone who isn't the property owner to
14 file the HAWP?

15 MR. RANDALL: It happens not infrequently when
16 people coming in to -- as we know, that are intending to buy
17 a house for example, and we will then address it so that
18 they've got the certainty of being able to deal with it.
19 And what you're dealing with here Martha, I think, is
20 depending on what were to happen with the easement.

21 Let's say that if it went to court and the court
22 decided that indeed you have the right to get in and out and
23 a reasonable way to do that, and we think it's reasonable
24 for you to have a driveway, in a sense for our purpose I
25 think, the applicant then is a owner with the ability to

1 control that destiny. So I don't we have a problem
2 addressing a HAWP, but not resolving the underlying issue.

3 CHAIRMAN BOOTH: Yeah, I'd have to agree. I think
4 we've seen quite a few times with contract buyers coming in
5 with contingent contracts upon basically getting our
6 approval or Planning Board's approval. We have experienced
7 numerous times where the applicant is not particularly the
8 property owner. Any other comments?

9 MR. SCHILLERSTROM: May I just add one small
10 thing?

11 CHAIRMAN BOOTH: Very briefly.

12 MR. SCHILLERSTROM: Very briefly. To be fair, we
13 had not discussed the issue of two strips, the width of the
14 driveway or the change from bluestone to quartz with the
15 Albrecht's. We do not know if they're opposed to those
16 changes or not.

17 CHAIRMAN BOOTH: The bottom line is -- I guess
18 before we proceed too much further, I'm going to ask Mr.
19 Albrecht to please come on back up to the speaker's table.
20 You've heard some of the discussion. You've heard the
21 comments from the Schillerstrom's and I'd like to give you
22 an opportunity to respond.

23 MR. ALBRECHT: We had provided a courtesy copy of
24 the application to the Schillerstrom's and I was surprised
25 to learn what I learned when I arrived here this evening.

1 Our interest is in being able to get access to the lot. It
2 is not a road to nowhere, but it's a 8/10 of an acre lot
3 that I have to mow with some frequency just to keep it
4 cleaned up and to get it ready to be marketed.

5 Our proposal was a -- what we thought was a
6 proposal consistent with what is in the area after more than
7 20 years of maintaining Heil Road along with the eight or so
8 homeowners there. I did speak with the gravel supplier that
9 we had already used and was told that they could, as they do
10 in resurfacing the road itself, lay a strip the width of the
11 truck which was our intent.

12 The dimensions that I gave were approximate. Our
13 intent was not to go any wider than what that truck was
14 going to lay it down to be, but to give us the kind of
15 footing that we need to get back there. I usually try to
16 get a trailer over -- what I've had to do this summer so far
17 is to park it next door and then take the tractor out,
18 feeling as though I really don't have access to the lot the
19 way it was intended to be.

20 CHAIRMAN BOOTH: Let me ask you, maybe we can --
21 maybe even save you some money. There's been a suggestion
22 of two strips, approximately 8-foot wide with a slight bend
23 off to the left as you come in after the allay of trees, and
24 assuming that the Commission would approve the use of the
25 bluestone, what would be your feelings about doing that?

1 Obviously, it would use less gravel and it would meet
2 certainly most of the Schillerstrom's objections.

3 MR. ALBRECHT: That suggestion had been mentioned
4 to me by Pat Parker when we spoke yesterday, and I haven't
5 thought much more about it than I did at that time, that is
6 that I thought of the question that I would need to answer
7 is how am I going to do that? What seems to me is that --
8 that would require a supply of the paving materials to be
9 dumped somewhere.

10 As best as I could figure out how I was going to
11 do this to save any money of having a contractor come in and
12 lay this down, I can see myself with a wheelbarrow and a
13 shovel trying to first outline and then follow a pattern to
14 go down, which I don't know about the dollars and cents of
15 it, but I know of the practical aspects of getting that work
16 done.

17 It would be considerably more to try to do that
18 than it would be to lay the gravel down as is down on other
19 houses right there on Heil Road. It also raises the
20 question of the maintenance of that strip which -- I guess
21 all of us have mowed our lawn and all of us have at one time
22 or another hit a rock trying to do so, maintaining that
23 grass strip I would think would be a hassle.

24 I guess the third thought that I had is that I
25 just didn't -- I didn't have any compelling evidence that

1 that was in fact going to in anyway be an improvement over
2 what we had proposed. I saw it as being more of a challenge
3 in order to both do it and to maintain it, and I haven't
4 seen the double lane roads in our -- I haven't seen the
5 pictures that were circulated, but I also haven't seen them
6 in our section of the County at all.

7 CHAIRMAN BOOTH: If you'd like to take a moment,
8 we do have the photographs.

9 MR. RANDALL: Let me just -- an observation that
10 struck me, certainly it's more difficult to lay the gravel
11 rather than just having a truck do it all at one time, I
12 really wonder if you'd have to mow that lawn or if would be
13 the owners of the property in between it. I think you might
14 not have the maintenance problem with mowing that, but
15 that's for some other lawyer to resolve.

16 (Laughter)

17 MR. ALBRECHT: I realize that. I guess it's a
18 question of the standards that would have to be in place.
19 If it got too high, I would think that the owner of the Lot
20 I would certainly want to maintain that property. I guess
21 the only last thought that I had was I don't know how this
22 happens, but I'm pretty sure -- I guess, speculate, that
23 situations that you find like this are not the result of a
24 homeowner implementing a forward looking plan for how to
25 access and exit their property, but rather is a practical

1 solution to a problem that occurs after you have simply
2 driven across bare ground in dry weather and then in wet
3 weather and then cause ruts to develop, and after shoveling
4 back in the dirt and having it rain again and getting stuck
5 and getting more of a rut, you wind up applying gravel to
6 those strips that you have created by driving on it.

7 We had hoped to not follow that pattern, number
8 one, and would again suggest that the easiest and most
9 consistent with the immediate property would be the single
10 strip. That's the other -- Mr. Chairman, we want to be able
11 to get back and forth and we want to be able to market the
12 property.

13 CHAIRMAN BOOTH: I understand that that's your
14 concern and actually that's your right. We're just trying
15 to approach this from something that can make everybody
16 happy and that everybody can live with, with the
17 understanding that you are marketing this property and you
18 are not going to be using or living next to this driveway,
19 that is something that we have to keep in mind.

20 I sometimes wonder if with the legal issues sort
21 of pending over this and with the property being sold and
22 the potential buyer may be coming in wanting a different
23 type of driveway, it sometimes occurs to me that this may
24 even be premature because whoever buys it, may not want the
25 driveway that you're going to put in, of course, he may not

1 want the driveway that the Schillerstrom's are suggesting.

2 MR. ALBRECHT: I agree. I'm not proposing a
3 permanent driveway, what I'm proposing is a practical method
4 for us to be able to maintain access to that property as we
5 need to and as we desire to.

6 CHAIRMAN BOOTH: Okay. Any other Commissioners
7 with comments or questions?

8 MS. LANIGAN: The road described with the strip
9 down the middle is very common in eastern Montgomery County,
10 very close to this one.

11 MS. BIENENFELD: So would you be willing to make a
12 narrower strip then? Is that a reasonable request?

13 MR. ALBRECHT: I would be less willing to make it
14 narrower than the body of a truck which I have to admit I
15 estimated and I tried to estimate it so that I would not be
16 saying one thing and then coming back with something that
17 was more than that, but rather to say something and if
18 anything, come back with something that was considerably
19 less than that. I don't think you'd have a 10-foot wide
20 truck, but I don't know, I should have checked that but I
21 did not.

22 MS. BIENENFELD: And what at the issue of the type
23 of gravel the quartz versus the bluestone?

24 MR. ALBRECHT: Well, I sort of agreed with the
25 Chairman when he said he didn't have a feeling one way or

1 the other. I talked with the Rockville gravel supply place,
2 whatever it is, and was going on their recommendation that
3 for laying gravel on ground that has not previously had it
4 on it, that this is what is the standard that they use and
5 recommend. I don't -- I haven't done any checking in terms
6 of availability or costs for the other.

7 MS. BIENENFELD: And what basis are they
8 recommending it, just ease of laying it down or ease of
9 maintenance or --

10 MR. ALBRECHT: Again, I didn't get into it
11 probably as much as I could. My sense is, however, that
12 when you are putting gravel down on land and in this case,
13 land that has never been used for a drive before, that
14 there's going to be some absorption and that you are in fact
15 building up a foundation and this is the most common, and
16 that may very well be because that's what is most commonly
17 available in this section of the County probably.

18 MS. BIENENFELD: Okay. This is a question for
19 Staff. But would we be -- when construction occurs on the
20 Lot 1, would be reviewing that?

21 MS. PARKER: Yes you would. You will be reviewing
22 any exterior changes and that will include the construction
23 of a driveway.

24 MS. BIENENFELD: Okay, so if this is a temporary
25 convenience for access, and then the owner or the

1 construction, whoever builds the house wants to put in a
2 permanent driveway, we would review what that would look
3 like?

4 MS. PARKER: Yes.

5 MS. BIENENFELD: Okay.

6 CHAIRMAN BOOTH: But if we approve this as a
7 driveway and it's there and the new owner wants to just
8 leave it like it is, then we're stuck with it, that's going
9 to be there and it's only if he wants to change it at that
10 point.

11 MR. RANDALL: Can I mentioned screening or
12 something? The person on Lot 1 wouldn't have any basis to
13 any screening on the other property, it would only be on Lot
14 1 that we could insist the purchaser to do something in
15 terms of screening. Are we about done with this?

16 CHAIRMAN BOOTH: I think so.

17 MR. RANDALL: We've got a lot of folks out here.

18 CHAIRMAN BOOTH: I know we've got a lot of folks
19 out here. All right. Would somebody like to try a motion?
20 Commission Randall?

21 MR. RANDALL: Sure. I'd like to move that an
22 Historic Area Work Permit be granted in this case, but with
23 some changes and that would be for a dual strip, each of the
24 strips approximately 2-feet wide and not wider than 8-feet
25 and there was some discussion of moving part of it about 2-

1 foot over -- I think you're going to have to help me out
2 with that in a moment, and from my perspective I wouldn't
3 mind whether it was either bluestone or quartz.

4 CHAIRMAN BOOTH: Okay. Is there a second?

5 MS. SODERBERG: I second the motion.

6 CHAIRMAN BOOTH: Okay. There's a motion and a
7 second. The motion would be for approval with the following
8 conditions that the driveway be two strips of approximately
9 2-feet wide a piece for a total width of 8-feet, and that
10 after the alley of trees, the driveway would move
11 approximately 2-feet shifting to the left. Is that what
12 everybody understands it to be? With that, close the public
13 record. All those in favor, please raise your right-hand.
14 All those opposed? Motion carries three to two with
15 Commissioner Lanigan and Bienenfeld voting against. Thank
16 you.

17 MR. ALBRECHT: Mr. Chairman, I realize that the
18 Board has completed its work, and I wonder after the fact if
19 would have made any difference in your deliberations if it
20 could have been determined that one or more of the pictures
21 that we looked at, were in fact a full strip that had simply
22 been driven over as a car will drive over it and if the
23 grass had grown up through the gravel, which I suspect is
24 the case.

25 CHAIRMAN BOOTH: I don't think it would have made

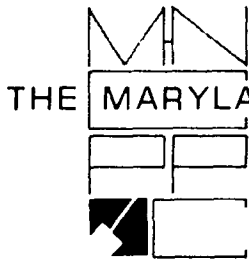
1 any difference sir.

2 MR. ALBRECHT: You don't.

3 CHAIRMAN BOOTH: No. There has been an Historic
4 Area Work Permit that has been approved. Even though it has
5 been approved, you do have the right to appeal and you may
6 take whatever further actions you wish. Staff can give you
7 the details on the appeal, if that's what you desire. The
8 next item on the agenda is Agenda Item G, the application of
9 William and Diana Conway for alterations at 10600 River Road
10 in Potomac, HPC Case Number 29/7-95A to the John McDonald
11 House. Do we have a Staff Report?

12 MS. PARKER: Yes, we do. This proposal involves
13 Master Plan Site #29/7, the John McDonald House in Potomac,
14 Maryland. It was reviewed by the HPC as a Preliminary
15 Consultation at your most recent meeting. The applicants,
16 having received comments from HPC Commissioners, both within
17 that Preliminary Consultation and also on the site, have
18 incorporated these comments into this proposal and they now
19 submit a formal Historic Area Work Permit Application.

20 The proposal includes significant change to the
21 principal facade, and the changes include removing the
22 existing one bay porch and reconstructing an enlarged porch
23 of three bays composed of different features and the
24 addition of a front gable with ocular window at the roof
25 line. Then on the east elevation, the applicant proposes to



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

DATE: July 26, 1995

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.

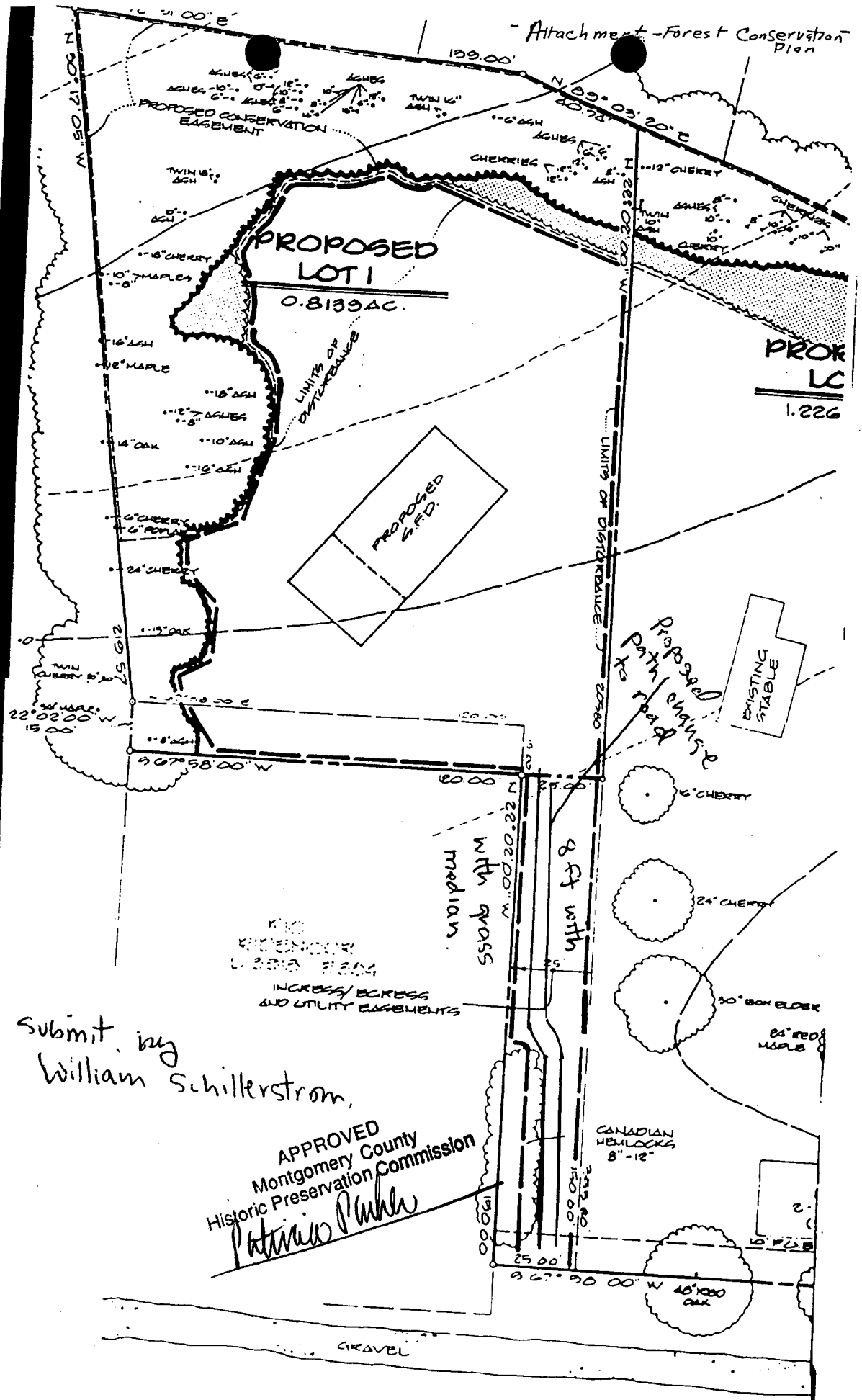
You may now apply for a county building permit from the Department of Environmental Protection (DEP), at 250 Hungerford Drive, Second Floor, in Rockville. Please note that although your work has been approved by the Historic Preservation Commission, it must also be approved by DEP before work can begin.

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.

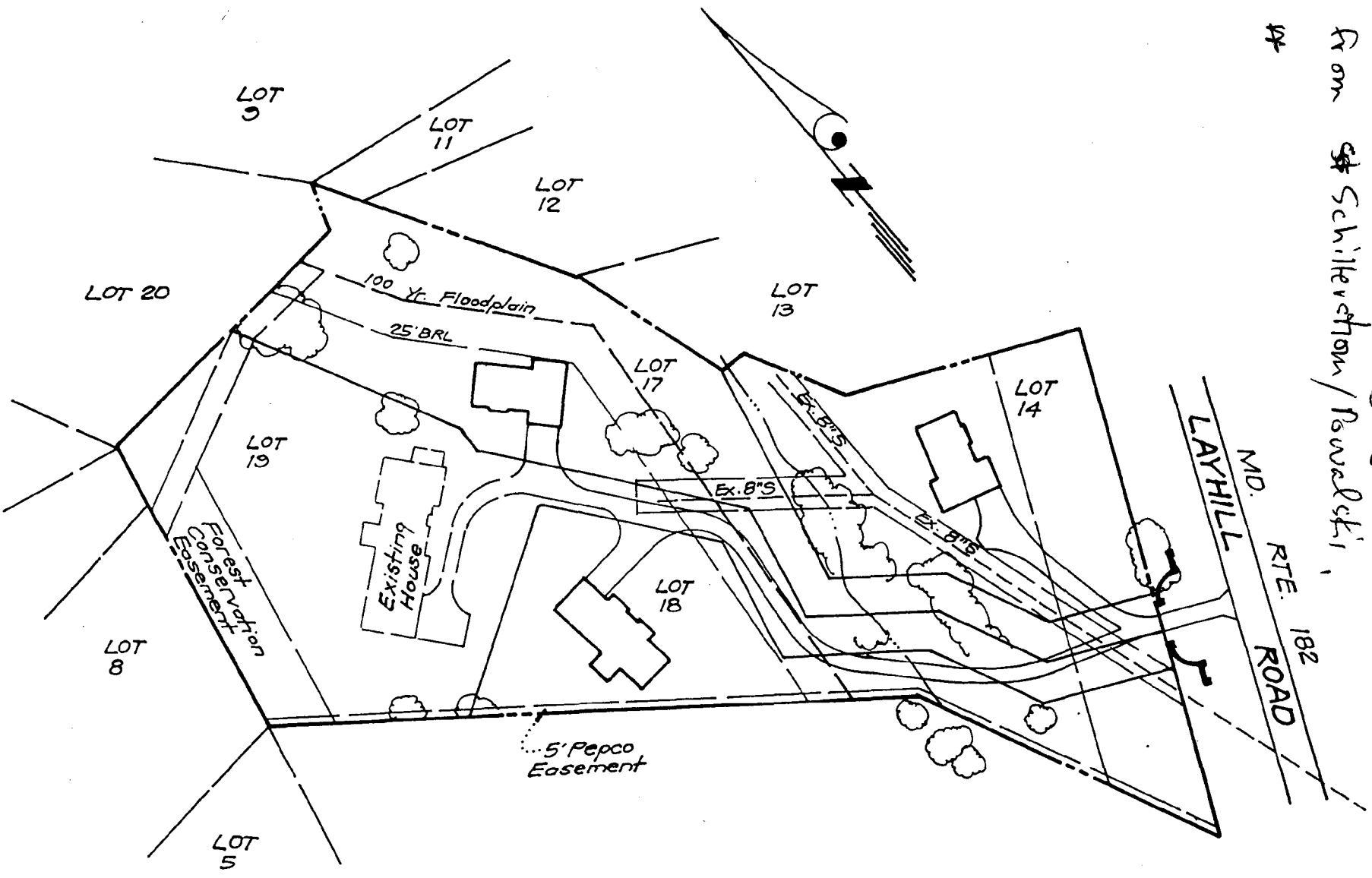
Thank you very much for your patience and good luck with your project!




Submit by
William Schillerstrom,

APPROVED
Montgomery County
Historic Preservation Commission
Patricia Parker

Submitted with picture attachments
 For letter dated July 25, 1995
 From ~~St~~ Schillerstrom/Powalski,
 PA



 CLARK • FINEROCK & SACKETT, INC. ENGINEERS • PLANNERS • SURVEYORS <small>7135 MINSTREL WAY • COLUMBIA, MD. 21045 • (410) 381-1500 - BALTO. • (301) 621-8100 - WASH.</small>		SCALE
DESIGNED J.M.E.	LOTS 14, 17 & 18, BLOCK H GAYFIELDS 13TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND <small>For: Mount Bay Homes, Inc. 10304-A Baltimore National Pike Ellicott City, Md 21048</small>	DRAWING 1 OF 1
DRAWN PTD		JOB NO. 95-066
CHECKED J.M.E.		FILE NO. 95-066X
DATE		

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: 204 Heil Road	Meeting Date: 7/26/95
Resource: <u>Master Plan</u> Site #28/32, Hopkins-Frey House	HAWP: Alteration
Case Number: 28/32-95A	Tax Credit: No
Public Notice: 07/12/95	Report Date: 7/19/95
Applicant: Tom Albrecht	Staff: Patricia Parker
PROPOSAL: Construct Driveway	RECOMMEND: Approval

BACKGROUND

The applicants most recently appeared before the HPC to discuss a proposal to reduce the environmental setting for Master Plan Site #28/32, the Hopkins-Frey House. At that meeting, the HPC decided that the environmental setting should remain as 2.04 acres. Therefore, the HPC would continue to review proposals which involve change to the property. The applicants now own Lot #1 comprised of .8 acres and unimproved (Lot #2, 1.2 acres, which includes the historic house was recently conveyed and is under separate ownership) and propose to construct a gravel driveway within the panhandle for access to the property.

The HPC did request and obtain an opinion from legal staff as to the status and validity of subdivision for this property because the HPC did not formally review the subdivision proposal as required. Unfortunately, error occurred during staff review and the HPC did not formulate a recommendation for the Planning Board. Attorneys for the HPC have determined that subdivision of the property into two lots is valid; unfortunately, revisitation of this issue by the HPC would be futile.

STAFF DISCUSSION

The proposal is to construct a 10' wide x 150' long driveway of 3/4" bluestone surface. No trees are involved in this proposal.

The material and placement of the driveway are consistent and appropriate for the historic site. The HPC has approved gravel as surface for driveways in the past.

STAFF RECOMMENDATION

The staff recommends that the Commission find the proposal consistent with the purposes of Chapter 24A, particularly 24A-8(b)1:

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

and with Standards #1 and #10:

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment; 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.

APPLICATION FOR HISTORIC AREA WORK PERMIT

CONTACT PERSON Thomas Albrecht
 DAYTIME TELEPHONE NO. (202) 514-6236
 TAX ACCOUNT # 16 05 03096812
 NAME OF PROPERTY OWNER Thomas + Nancy Albrecht DAYTIME TELEPHONE NO. tom (202) 514-6236
Po BOX 248 N - 301-294-5583
 ADDRESS 13020 Wainwright Rd Highland MD 20777
 CITY STATE ZIP CODE
 CONTRACTOR _____ TELEPHONE NO. () _____
 CONTRACTOR REGISTRATION NUMBER _____
 AGENT FOR OWNER _____ DAYTIME TELEPHONE NO. () _____

LOCATION OF BUILDING/PREMISE

HOUSE NUMBER 202 STREET Heil Road
 TOWN/CITY Silver Spring NEAREST CROSS STREET N.H. Ave.
 LOT 1 BLOCK D SUBDIVISION Rawls Springs
 LIBER _____ FOLIO _____ PARCEL _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CIRCLE ALL APPLICABLE: CIRCLE ALL APPLICABLE: A/C Slab Room Addition
 Construct Extend Alter/Renovate Repair Move Porch Deck Fireplace Shed Solar Woodburning Stove
 Wreck/Raze Install Revocable Revision Fence/Wall (complete Section 4) Single Family Other gravel driveway
 1B. CONSTRUCTION COST ESTIMATE \$ 150 - 350.-
 1C. IF THIS IS A REVISION OF A PREVIOUSLY APPROVED ACTIVE PERMIT SEE PERMIT # _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. TYPE OF SEWAGE DISPOSAL 01 () WSSC 02 () SEPTIC 03 () OTHER _____
 2B. TYPE OF WATER SUPPLY 01 () WSSC 02 () WELL 03 () OTHER _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. HEIGHT _____ feet _____ inches
 3B. INDICATE WHETHER THE FENCE OR RETAINING WALL IS TO BE CONSTRUCTED ON ONE OF THE FOLLOWING LOCATIONS:
 On party line/property line _____ Entirely on land of owner _____ On public right of way/easement _____

I HEREBY CERTIFY THAT I HAVE THE AUTHORITY TO MAKE THE FOREGOING APPLICATION, THAT THE APPLICATION IS CORRECT, AND THAT THE CONSTRUCTION WILL COMPLY WITH PLANS APPROVED BY ALL AGENCIES LISTED AND I HEREBY ACKNOWLEDGE AND ACCEPT THIS TO BE A CONDITION FOR THE ISSUANCE OF THIS PERMIT.

Thomas Albrecht July 10, 1995
 Signature of owner or authorized agent Date

APPROVED _____ For Chairperson, Historic Preservation Commission

DISAPPROVED _____ Signature _____ Date _____

THE FOLLOWING ITEMS MUST BE COMPLETED AND THE REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.

1. WRITTEN DESCRIPTION OF PROJECT

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

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

2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" X 17". Plans on 8 1/2" X 11" paper are preferred.

- a. Schematic construction plans, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. **An existing and a proposed elevation drawing of each facade affected by the proposed work is required.**

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. TREE SURVEY

Historic Area Work Permit Application
Thomas and Nancy Albrecht
Lot 1, Block D, Rawls Spring
Residential Building Lot
202 Heil Road
Silver spring , MD 20905

List of Attachments

- 1) Written Description: The work to be completed under this HAWP application consists of spreading a strip of 3/4 inch bluestone gravel approximately 4 inches deep, 10 feet wide and 150 feet long to establish a driveway. This driveway will be located within an easement established in a sub-division plan approved by the Maryland National Capital Park and Planning Commission and the Montgomery County Planning Board and recorded by the applicants in April, 1995.
- 2) Site Plan: See attached plat.
- 3) Material Specifications: The materials will consist of 3/4 inch bluestone gravel as supplied by Rockville Crushed Stone.
- 4) Photographs: To be supplied.
- 5) Tree Survey: A forest conservation plan was completed during the sub-division process. The plan identified a treerow consisting of 8-12 inch Canadian Hemlocks, approximately 60 feet long, located along the west side of the driveway and beginning at the entrance along Heil Road.
- 6) Adjacent and Confronting Property Owners Addresses:

Harry P. Ridenour Jr.
15208 Water Oak Drive
Gaithersburg, MD 20878

Noel M. and M.E. Gregos
112 Heil Road
Silver Spring, MD 20905

Lewis D. and S. Watson
14 Stonegate Drive
Silver Spring, MD 20905

Adrian W. and E. S. Sybor
18 Stonegate Drive
Silver Spring, MD 20905

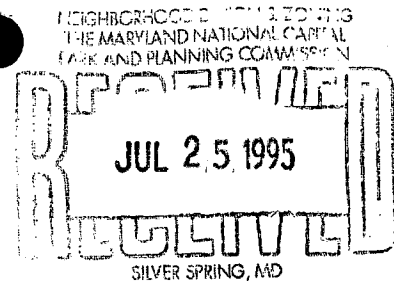
Wm L. Jr. and M. M. Morris
22 Stonegate Drive
Silver Spring, MD 20905

Marita N. Turner et al
26 Stonegate Drive
Silver Spring, MD 20905

Om P. and M. Arora
115 Heil Road
Silver Spring, MD 20905

Wm Schillerstrom and L. Powalski
204 Heil Road
Silver Spring, MD 20905

Lynn M. Powalski
William C. Schillerstrom
204 Heil Rd.
Silver Spring, MD, 20905



Via hand delivery:

July 25, 1995

The Historic Preservation Commission
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910

RE: Application/Permit No. 9507130140

This letter is in response to the Historic Area Work Permit (HAWP) application submitted by Albrechts on July 10, 1995. The application proposes the construction of a new road within a limited ingress/egress/utility easement ("Easement Property") on 204 Heil Road. The road is to be approximately 10 feet wide and 150 feet long using 3/4 inch blue stone gravel.

We are the owners of 204 Heil Rd, (see deed and survey of conveyed property attached herewith) and have not given the Albrechts our consent to submit this application or modify, improve or manipulate the Easement Property, (see letter to the Albrechts dated 7/3/95 attached herewith). Contrary to what the Albrechts have represented to this Commission, 202 Heil Rd (Lot 1) is not a panhandle property. We therefore assert that the Commission does not have authority to grant such permit before the Albrechts have gained our consent for such improvement to the Easement Property. The Albrecht's have refused our repeated efforts to discuss the matter, preferring instead to act unilaterally in the decision making process and ignoring the fact that they no longer own the Easement Property.

We strongly oppose the road the Albrecht's propose constructing on our property in terms of its timing, appearance, width, location on the easement, preparation, materials used and lack of professional contractor to carry out the work. The Albrechts interests in constructing the road are very limited in scope, centering on doing it as quickly and cheaply as possible - to be forgotten as soon as they dispose of Lot 1. Our interest in contrast are substantial in that we must live every day with the consequence of how, where and when the road is constructed. It will not only impact the use and enjoyment of our property, it will likely reduce the value of our property if the Albrecht's application is approved as submitted.

The limited ingress/egress/utility easement was created by the Albrechts. No rights to improve or modify the easement were enumerated in the deed conveyed to us. We have no interest in restricting the Albrecht's right to use the Easement Property for purposes of ingress, egress and utilities to Lot 1, an unimproved property now on the market. As an unimproved lot, the Albrechts and/or their guests only rarely (2 to 3 times a month) travel across the Easement Property to access Lot 1. The current state of the Easement Property is a level grass covered yard which is more than suitable for the occasional ingress/egress by foot, car or truck.

The Albrechts desire to improve the Easement Property is clearly for purposes of appearance and confrontation, not utility. The Albrechts did not see a need to gravel the Easement Property for the approximately fourteen months they owned 204 Heil Rd and marketed Lot 1 as a subdivision for sale. Further, the Albrechts did not make any such improvements in the over twenty years as owner to better assess the back half of the 2.04 acres of property (where lot 1 is located) before subdivision, even though they frequently traveled over the property by truck, horse trailer, and car in order to service their two horses.

Unfortunately the Albrecht's acknowledged desire to gravel the Easement Property only arises out of a minor confrontation over our request that they remove two of the three "For Sale" signs they had posted on the front of the Easement and several large, unsightly pieces of junk they were storing on the Easement Property after selling 204 Heil Rd.

We fully appreciate that the owner's of Lot 1 will need to construct a gravel drive within the Easement Property when they are ready to start construction on a new house. Nevertheless, we believe it is now premature to construct a road for the occasional access to an unimproved lot. Construction of a road across the Easement Property should coincide with the construction of a house on Lot 1, which may be several years in the future. Any road laid before the construction of a house on lot 1 would require being ripped up in order to put down the utilities.

Assuming for the sake of argument that we give our consent, we propose that the laying of any road is properly graded with a crushed gravel foundation to prevent erosion, water runoff or other damage to our property, as well as, assuring a long useful life of the road. All such construction must be done in a professional manner by an experienced, licensed and bonded contractor.

In addition to its proper construction, the appearance of the road should be attractive and compatible with the existing historic farm property so as not to negatively impact the value and enjoyment of our property. Specifically, the gravel used to construct the road should be of the same kind as the existing driveway serving 204 Heil Rd from which the new road will extend. The existing drive is a mixture of quartz stone and grass in keeping with the rural look of the house and setting (see submitted sample stones). In addition to its appearance, the quartz stone does not produce the clouds of dust that blue stone kicks-up when driven on. Such dust would create a substantial nuisance to our use and enjoyment of our backyard.

As is commonly found in historic farm settings, we propose that the road consist of two parallel strips of quartz stone with a grass median. Each strip should be no wider than two feet with the road's over all width not to exceed eight feet (see picture attached under separate cover).

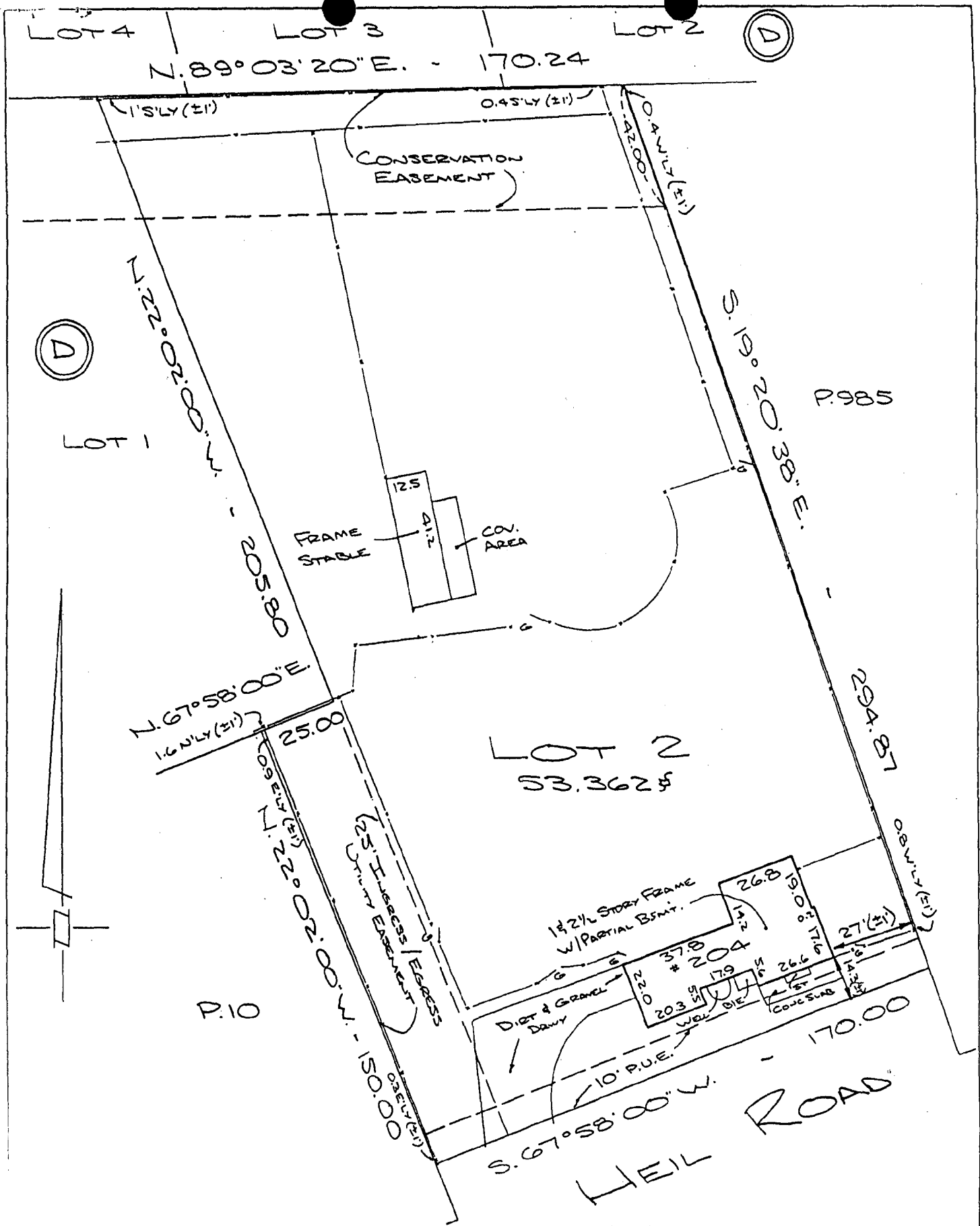
We propose the path of the road follow the extreme western border of the Easement Property without disturbing the existing tree-line. This will allow for ample room for plantings and/or a fence to run along the side of the road if shielding from the nuisance effects of the road is/are later to be found necessary. We propose that all utilities be placed underground within the easement.

We will be attending the hearing tomorrow evening in order to present our concerns as outlined above. We will be happy to answer any of the Commission's questions at that time. Additionally, if you need to contact us for further information our phone number is 301 879 2308.

Signed,
William C. Schillerstrom
Signed for Lynn M. Powalski
by *William C. Schillerstrom*
William C. Schillerstrom
Lynn M. Powalski

Attachments: (4)

- (1) Deed
- (2) Survey of conveyed property
- (3) Letter to the Albrechts dated 7/3/95
- (4) Gravel sample
- (5) Pictures



Capitol Surveys, Inc.

1300 Mercantile Lane
 Suite 138
 Landover, Maryland 20785
 Phone 301-772-1654
 Fax 301-341-1285

NOTES: Plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing; the plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements; and the plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.
 This property lies within Zone C, (Areas of minimal flooding) as delineated on the maps of the National Flood Insurance Program, unless otherwise shown.

LOCATION DRAWING

LOT 2 BLOCK D

RAWLS SPRING

MONTGOMERY COUNTY, MARYLAND

Recorded in Plat Book 176 Plat 19703 Scale 1" = 40'

CASE: 479-95 FILE: 51874

DATE: MAY 23, 1995

I hereby certify this location drawing was prepared in accordance with the minimum standards of practice for the State of Maryland and is, to the best of my belief of what can be visually and accessibly observed.

Edward L. Lopez, Jr.
 Edward L. Lopez, Jr.
 Maryland Property Line Surveyor No. 522

This Deed

②

5-1-1663178

Tax Account No./Parcel Identifier

Made this 25th day of May, 19 95, by and between
THOMAS F. ALBRECHT and NANCY L. ALBRECHT, Husband and wife, Tenants by the Entirety
party(ies) of the first part, and
WILLIAM C. SCHILLERSTROM and LYNN M. POWALSKI, Husband and wife
party(ies) of the second part:

Witnesseth, that in consideration of the sum of \$ _____ receipt of which is hereby
acknowledged, and which party(ies) of the first part certify under the penalties of perjury as the actual considera-
tion paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said party(ies) of
the first part do(es) grant and convey unto the party(ies) of the second part in fee simple as _____
all that property situate in MONTGOMERY County, State of Maryland,
described as:

Lot numbered TWO (2) in Block lettered "D", in the subdivision known as "RAWLS
SPRING", as per plat thereof duly recorded among the Land Records of
Montgomery County, Maryland in Plat Book 176 at Plat No. 19703.

which has an address of 204 Heil Road, Silver Spring, Maryland 20905

Subject to covenants, easements and restrictions of record.

To Have and To Hold said land and premises above described or mentioned and hereby intended to
be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every ti-
le, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for
the proper use only, benefit and behalf forever of said party(ies) of the second part in fee simple.
Being the same property described in Liber 4542 folio 532, among the said Land Records.

And the said party(ies) of the first part covenants that it will warrant specially the property hereby con-
veyed and that it will execute such further assurances of said land as may be requisite or necessary.

In Testimony Whereof, the said party of the first part has set its hand(s) and seal(s) the year and day
first above written.

(SEAL) Thomas Albrecht (SEAL)
THOMAS F. ALBRECHT

(SEAL) Nancy L. Albrecht (SEAL)
NANCY L. ALBRECHT

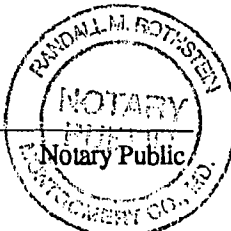
State of Maryland, County of Montgomery ss/

I Hereby Certify that on this 25th day of May, 19 95,
before me, the undersigned subscriber, did personally appear THOMAS F. ALBRECHT and NANCY L.
ALBRECHT, Husband and wife

known to me or satisfactorily proved to be the person(s) whose name(s) are set forth in the within deed, and did fur-
ther acknowledge that they executed the foregoing deed for the purposes therein contained.

Witness My Hand And Notarial Seal.

My commission expires 8/1/98

Randall M. Rothstein
Randall M. Rothstein


I certify that this instrument was prepared under the supervision of an attorney admitted
to practice before the Court of Appeals of Maryland.

Randall M. Rothstein Attorney

STEIN, SPERLING, BENNETT, DE JONG, DRISCOLL, GREENFEIG & METRO, P.A.
ATTORNEYS AT LAW
25 WEST MIDDLE LANE
ROCKVILLE, MARYLAND 20850-2204

MILLARD S. BENNETT*
DAVID S. DE JONG*
DAVID C. DRISCOLL, JR.*
JACK A. GARSON*
STUART S. GREENFEIG*
ANN G. JAKABCIN*
A. HOWARD METRO*
JEFFREY M. SCHWABER*
DONALD N. SPERLING*
PAUL T. STEIN*

TELEPHONE 301/340-2020

TELECOPIER 301/340-8217

WRITER'S DIRECT LINE:
301/838-3210

KIEYASIEK K. MOORE*
JAMES D. DALRYMPLE*
FRED A. BALKIN*
JEFFREY D. GOLDSTEIN*
DARCY A. SHOOP*
JANET A. ZUCKERMAN*
ANN MARIE M. MEHLERT*
ANDREW S. KASMER*

July 3, 1995

VIA HAND DELIVERY

OUR FILE NUMBER

MD, DC, VA, CT*
MD, DC, VA*
MD, DC, FL*
MD, DC*
MD, VA*
MD, NY*
MD, ONLY*

Thomas and Nancy L. Albrecht
13020 Wainright Road
Highland, MD 20777

RE: 204 Heil Road
Silver Spring, Maryland 20905

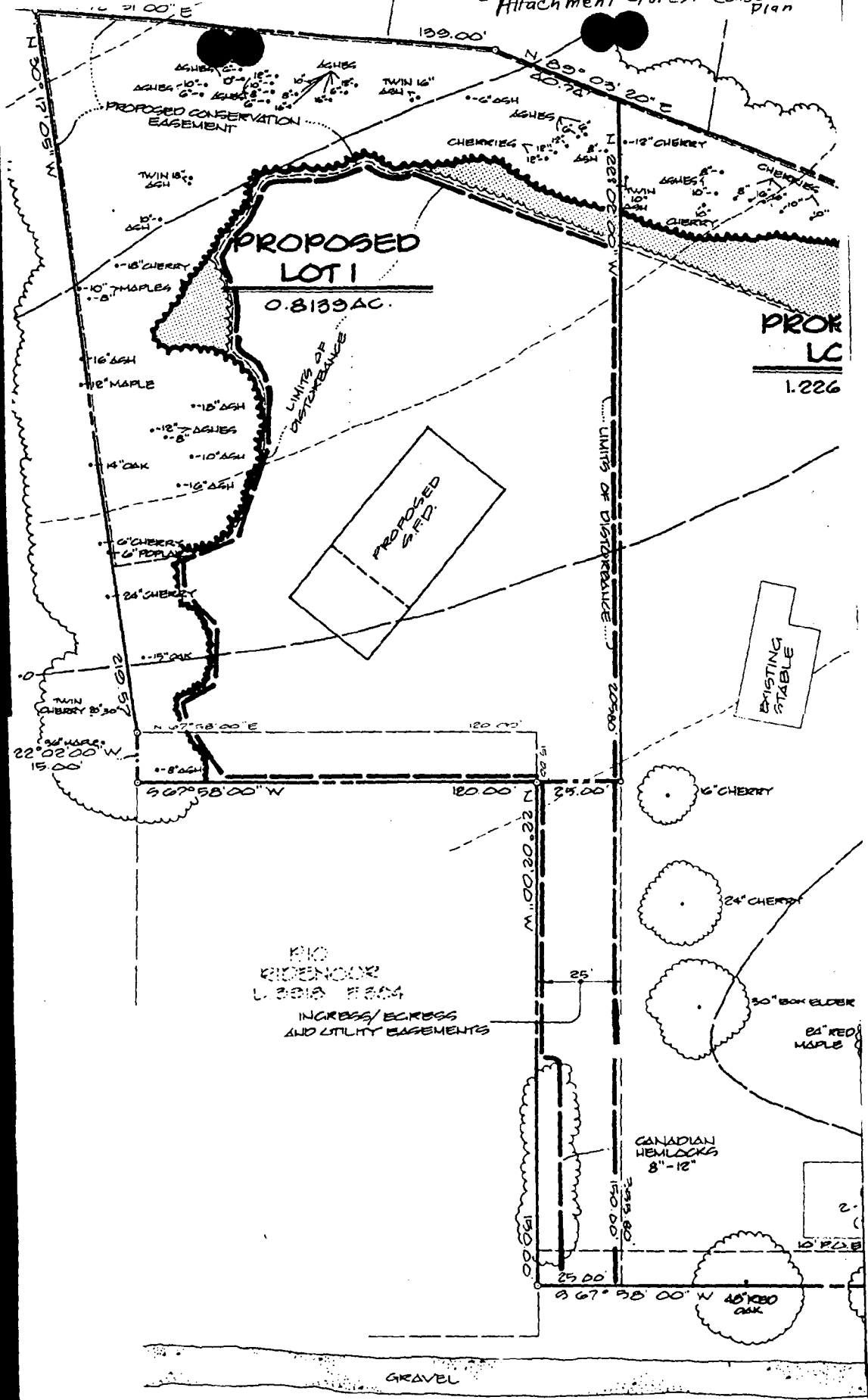
Dear Mr. and Mrs. Albrecht:

This law firm has been retained to represent William C. Schillerstrom and Lynn M. Powlaski, owners of the above-referenced property (the "Heil Road Property"). Specifically, my clients are concerned with certain encroachments you have threatened on a portion of their property over which you have retained a limited ingress/egress utility easement (the "Easement Property").

As you know, when you sold the 204 Heil Road Property to my clients, you conveyed a 1.23 acre parcel which included the entire Easement Property. You specifically retained for the prospective owner of Lot 1 of the newly subdivided property a limited right to use the existing Easement Property for ingress and egress, as well as for appropriate utility lines. At no time did you retain control over the Easement Property, or any right whatsoever to modify, improve, and/or manipulate the Easement Property in any manner.

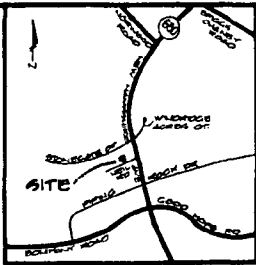
You have advised my client of your intention to have a contractor lay a gravel road over the Easement Property this Wednesday, July 5, 1995. As you are aware, my clients have serious misgivings about your proposed scope of work, and have not authorized any of the improvements and/or modifications you propose to make.

Additionally, as you know, any modification within a Montgomery County Historic Area requires a work permit. When my office contacted the Montgomery County Historic Planning Commission this morning, they informed us that you have not applied for any permits whatsoever. In any event, any such permits with regard to



HEIL RD
EXISTING 60' R/W

- Attachment - Record Plat -
Site Plan



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A SUBDIVISION OF ALL OF THE TRACT OF LAND CALLED "ANOWDEN'S MANOR ENLARGED" CONVEYED TO THOMAS F. ALBRECHT AND MARY L. ALBRECHT, HIS WIFE, BY THE TWO FOLLOWING DEEDS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND:

1. FROM MAURICE T. BEL DATED JUNE 8, 1974 AND RECORDED IN LIBER 4941 AT FOLIO 938.

2. FROM MAURICE T. BEL DATED FEBRUARY 28, 1980 AND RECORDED IN LIBER 5301 AT FOLIO 975.

THAT PERMANENT PROPERTY MARKERS WILL BE PLACED IN ACCORDANCE WITH SECTION 50-24 (b) OF THE SUBDIVISION REGULATIONS OF MONTGOMERY COUNTY, MARYLAND; AND THAT THE TOTAL AREA INCLUDED IN THIS PLAT OF SUBDIVISION IS 20,920 SQUARE FEET OR 0.475 ACRES OF LAND, MORE OR LESS.

5/26/94
DATE

Mario E. Siano
MARIO E. SIANO
PROFESSIONAL LAND SURVEYOR
NO. 15 10065

OWNER'S DEDICATION

WE, THOMAS F. ALBRECHT AND MARY L. ALBRECHT, OWNERS OF THE PROPERTY SHOWN HEREON AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HEREBY ACCEPT THE PLAN OF SUBDIVISION; ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES; ESTABLISH THE INGRESS/EGRESS EASEMENT FOR BENEFIT OF LOT 1 SHOWN HEREON; GRANT TO THE WASHINGTON SUBURBAN SANITARY COMMISSION (W.A.S.C.) SUCH EXCLUSIVE RIGHTS AS NECESSARY FOR COLLECTION, REGULATION, OPERATION, MAINTENANCE AND REPAIR OF SANITARY SEWER AND WATER MAIN APPURTENANCES WITHIN THE WATER AND SEWER RIGHTS OF WAY/BASEMENTS SHOWN HEREON, SUBJECT TO AND TOGETHER WITH THE CONDITIONS CONTAINED IN A RIGHT OF WAY DOCUMENT FROM THE CREATOR(S) THEIR SUCCESSORS OR ASSIGNS TO THE W.A.S.C. AND TO BE RECORDED HEREAFTER, GRANT A PUBLIC UTILITY EASEMENT (P.U.E.) AS SHOWN HEREON TO THE BENEFIT IN THAT CERTAIN DOCUMENT ENTITLED "DECLARATION OF TERMS AND PROVISIONS OF PUBLIC UTILITY BASEMENTS" RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 9634 AT FOLIO 497 WHICH SAID TERMS ARE INCORPORATED HEREIN AND ALSO GRANT TO MONTGOMERY PLANNING BOARD, M.P.C. A P.U.E. CATEGORY I CONSERVATION EASEMENT AS SHOWN HEREON, INCORPORATING HEREIN TERMS AND CONDITIONS DESCRIBED IN A CONSERVATION EASEMENT AGREEMENT RECORDED AMONG THE FORESAID LAND RECORDS IN LIBER 1078 AT FOLIO 501.

THERE ARE NO MORTGAGES, ACTIONS, LEASES, LENS, MORTGAGES OR OTHERS AFFECTING THE PROPERTY HOLDERS IN THIS PLAT OF SUBDIVISION EXCEPT A MORTGAGE AND ALL RIGHTS IN INTEREST THEREIN HAVE BEEN AND ARE BEING ACQUITTED UPON THEIR AGREEMENT TO THIS PLAN OF SUBDIVISION.

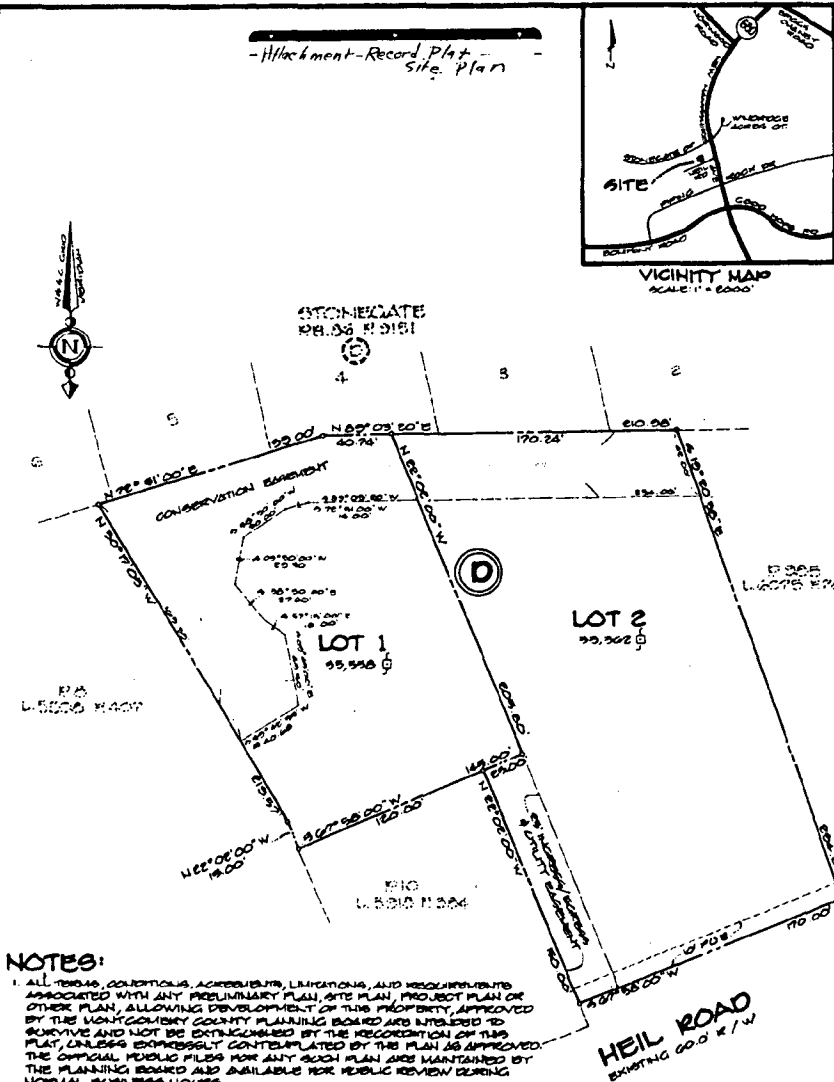
Thomas F. Albrecht
THOMAS F. ALBRECHT
5/25/94
DATE

Charles Williams 5/25/94 *Mary L. Albrecht*
WITNESSES DATE MARY L. ALBRECHT

WE ASSENT TO THIS PLAT OF SUBDIVISION UNBENEFITED UNLESS CORRECTED BY:

John Williams 11/29/94 *J. L. Dolan*
WITNESSES DATE WITNESSES

John Williams 11/29/94
WITNESSES DATE



NOTES:

- ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INCORPORATED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDED OF THIS PLAT, UNLESS EXPRESSLY CONTINGENT BY THIS PLAN AS APPROVED. THE ORIGINAL RECORD FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
- DEVELOPMENT OF THIS PROPERTY SHALL BE IN ACCORDANCE WITH THE FOREST CONSERVATION ACT, 1986.
- ACCESS RESTRICTED TO SINGLE DRIVEWAY ENTRANCE TO HEIL ROAD FOR LOT 1.

**LOTS 1 AND 2, BLOCK D
RAWLS SPRING**

ELECTION DISTRICT NO. 5
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 50'
MAY, 1994

LANDMARK ENGINEERING
CIVIL ENGINEERS - LAND PLANNERS - SURVEYORS
1751 ELTON ROAD, SUITE 202
SILVER SPRING, MARYLAND 20903
PHONE: (301) 434-9550
FAX: (301) 434-7427

DEPARTMENT OF ENVIRONMENTAL PROTECTION
MONTGOMERY COUNTY, MARYLAND

APPROVED: *September 27, 1994*
FOR DIRECTOR: *[Signature]*

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD
APPROVED: *June 3, 1994*
CHAIRMAN: *[Signature]*
DEPT. SECRETARY/TREASURER: *[Signature]*

M.N.C.P. & P.C. RECORD FILE NO.: 524

DEPARTMENT OF TRANSPORTATION
MONTGOMERY COUNTY, MARYLAND

APPROVED: *September 6, 1994*
FOR DIRECTOR: *[Signature]*

RECORDED: _____
PLAT BOOK: _____
PLAT NO.: _____

294241



Harry P. Ridenour Jr. ✓
15208 Water Oak Drive
Gaithersburg, Md. 20878

William L. Jr. & M.M. Morris ✓
22 Stonegate Drive
Silver Spring, Md. 20904

Noel M. & M.F. Gregos ✓
112 Heil Road
Silver Spring, Md. 20905

Marita N. Turner Et Al ✓
26 Stonegate Drive
Silver Spring, Md. 20904

Leonard & B.J. Becraft
15640 Santini Road
Burtonsville, Md. 20866

Md. Academy of Engery & Ecology
Box 52, Route 198
Burtonsville, Md. 20866

George J. & A.M. Dehney
10 Stonegate Drive
Silver Spring, Md. 20904

Arora Om P. & M. ✓
115 Heil Road
Silver Spring, Md. 20904

ADD

Lewis D. & S. Watson ✓
14 Stonegate Drive
Silver Spring, Md. 20904

Mr. + Mrs. William Schillerstrom ✓
204 Heil Rd
Silver Spring, MD. 20905

Adrian W. & E.S. Sybor ✓
18 Stonegate Drive
Silver Spring, Md. 20904

Tom Albrecht
PO Box 248
Highland, MD 20777



TO:

NAME: Pat Parker

COMPANY: _____

FAX #: 495-1307

FROM:

NAME: Nancy Albrecht

COMPANY: R.O.W. SCIENCES, INC.

TOTAL PAGES: 2
(including cover)

DATE: Sept 12

REMARKS:

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R.O.W. Sciences, Inc.
 Fax Number (301) 294-5401
 If retransmission is necessary, call: (301) 294-5400



*Called 9/7/95
5:00pm. to
request the
"additional documentation"*

TO:
NAME: Patricia Parker
COMPANY: HP C
FAX #: 495-1307

FROM:
NAME: Nancy Albrecht
COMPANY: R.O.W. SCIENCES, INC.
TOTAL PAGES: _____
 (including cover)
DATE: _____
REMARKS: _____

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R.O.W. Sciences, Inc.
 Fax Number (301) 294-5401
 If retransmission is necessary, call: (301) 294-5400



TO:

NAME: Pat Parker

COMPANY: HPC

FAX #: 495-1307

FROM:

NAME: Nancy Albrecht

COMPANY: R.O.W. SCIENCES, INC.

TOTAL PAGES: 2
(including cover)

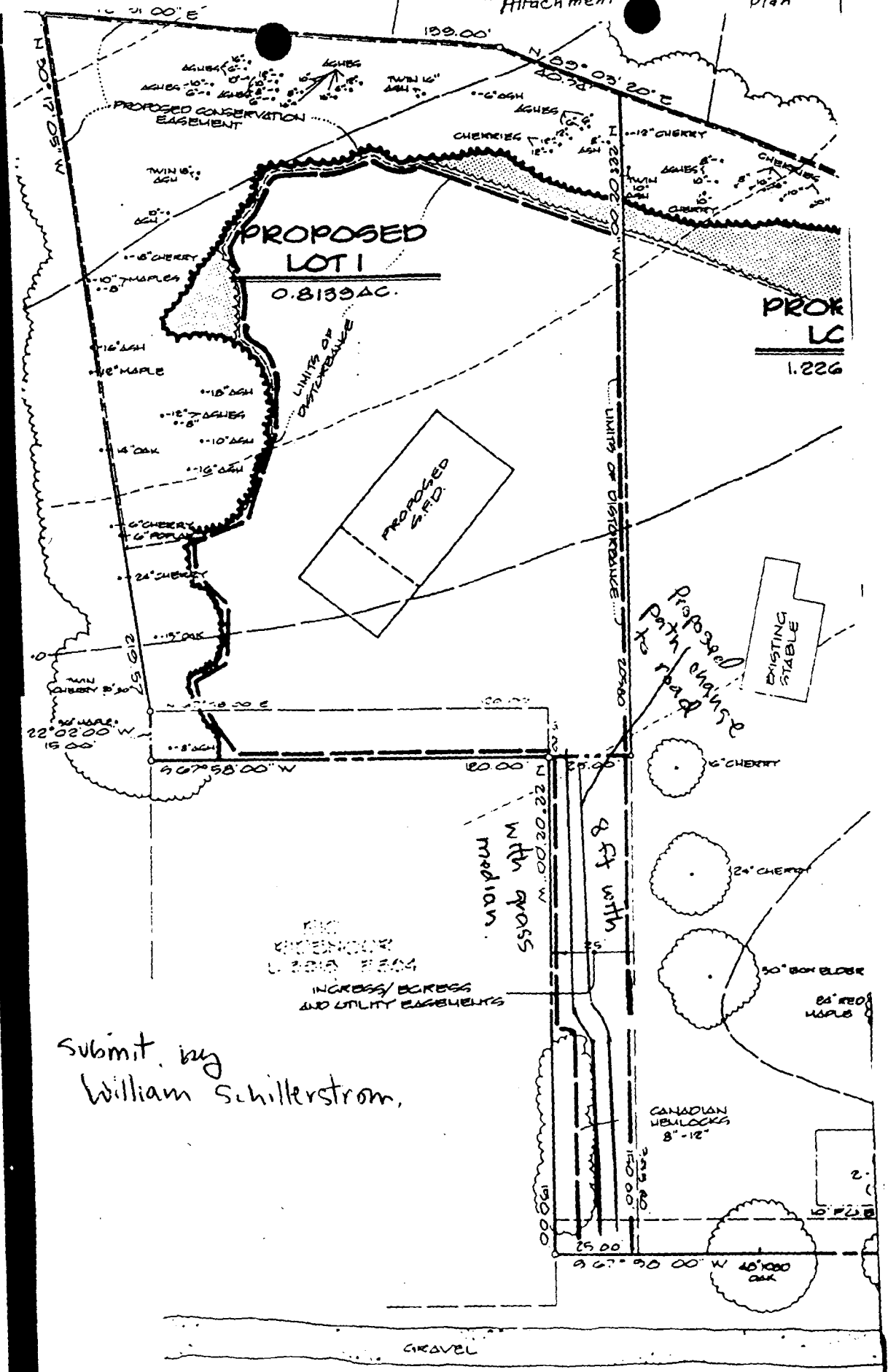
DATE: Sept. 11, 1995

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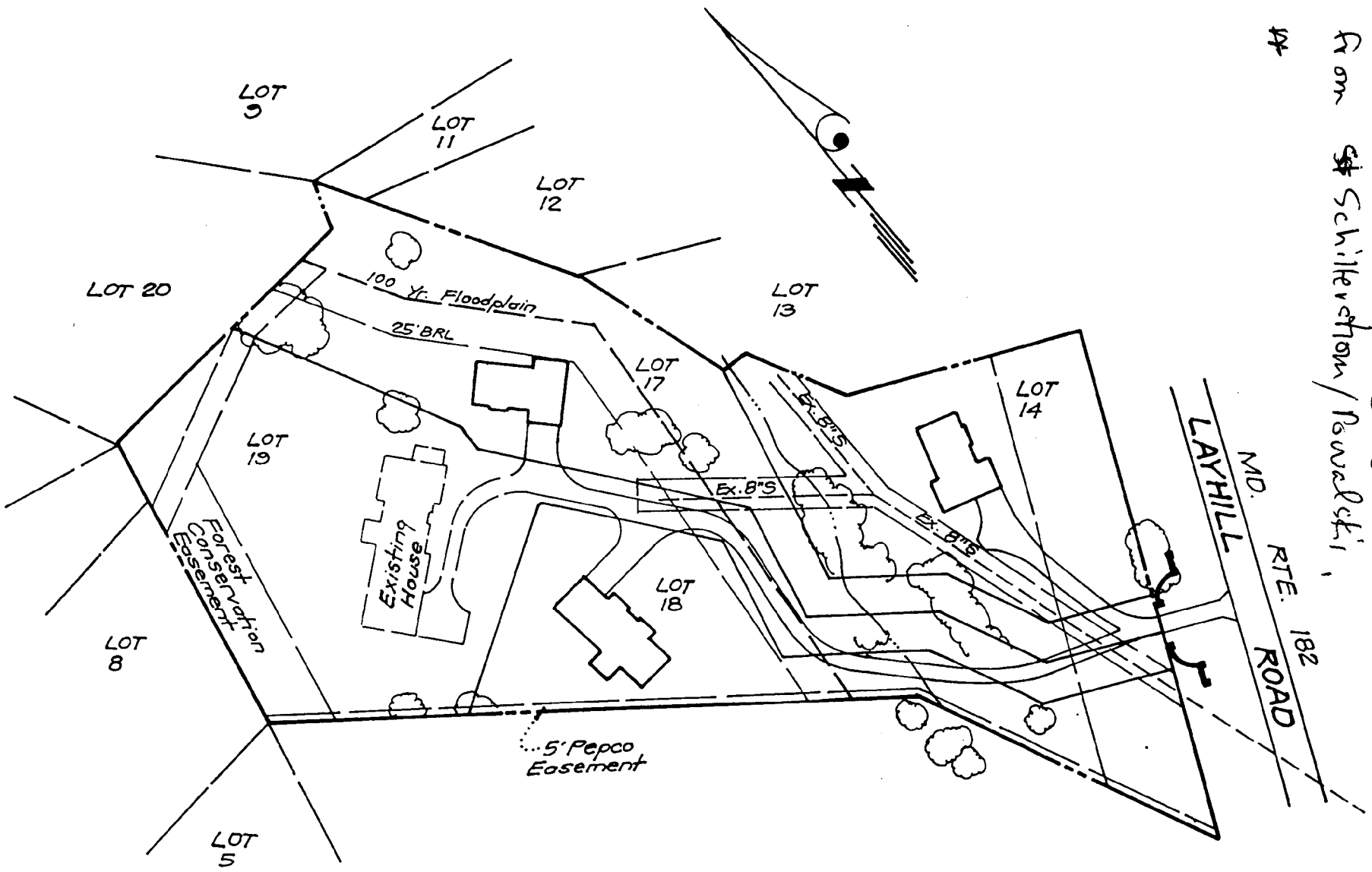
R.O.W. Sciences, Inc.
 Fax Number (301) 294-5401
 If retransmission is necessary, call: (301) 294-5400




Submit by
William Schillerstrom.

HEI 12

Submitted with picture attachments
 for letter dated July 25, 1995
 from ~~St~~ Schillerstrom/Rovaleski,
 PA



 CLARK • FINEFROCK & SACKETT, INC. ENGINEERS • PLANNERS • SURVEYORS 7135 MINSTREL WAY • COLUMBIA, MD. 21045 • (410) 381-7500 - BALTO. • (301) 621-8100 - WASH.		
DESIGNED J.M.E.	LOTS 14, 17 & 18, BLOCK H GAYFIELDS 13TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND For: Mount Bay Homes, Inc. 10304-A Baltimore National Pike Ellicott City, MD 21043	SCALE
DRAWN PTD		DRAWING 1 OF 1
CHECKED J.M.E.		JOB NO. 25-066
DATE		FILE NO. 25-066X

Historic Area Work Permit Application
Thomas and Nancy Albrecht
Lot 1, Block D, Rawls Spring
Residential Building Lot
202 Heil Road
Silver spring , MD 20905

List of Attachments

- 1) Written Description: The work to be completed under this HAWP application consists of spreading a strip of 3/4 inch bluestone gravel approximately 4 inches deep, 10 feet wide and 150 feet long to establish a driveway. This driveway will be located within an easement established in a sub-division plan approved by the Maryland National Capital Park and Planning Commission and the Montgomery County Planning Board and recorded by the applicants in April, 1995.
- 2) Site Plan: See attached plat.
- 3) Material Specifications: The materials will consist of 3/4 inch bluestone gravel as supplied by Rockville Crushed Stone.
- 4) Photographs: To be supplied.
- 5) Tree Survey: A forest conservation plan was completed during the sub-division process. The plan identified a treerow consisting of 8-12 inch Canadian Hemlocks, approximately 60 feet long, located along the west side of the driveway and beginning at the entrance along Heil Road.
- 6) Adjacent and Confronting Property Owners Addresses:

Harry P. Ridenour Jr.
15208 Water Oak Drive
Gaithersburg, MD 20878

Noel M. and M.E. Gregos
112 Heil Road
Silver Spring, MD 20905

Lewis D. and S. Watson
14 Stonegate Drive
Silver Spring, MD 20905

Adrian W. and E. S. Sybor
18 Stonegate Drive
Silver Spring, MD 20905

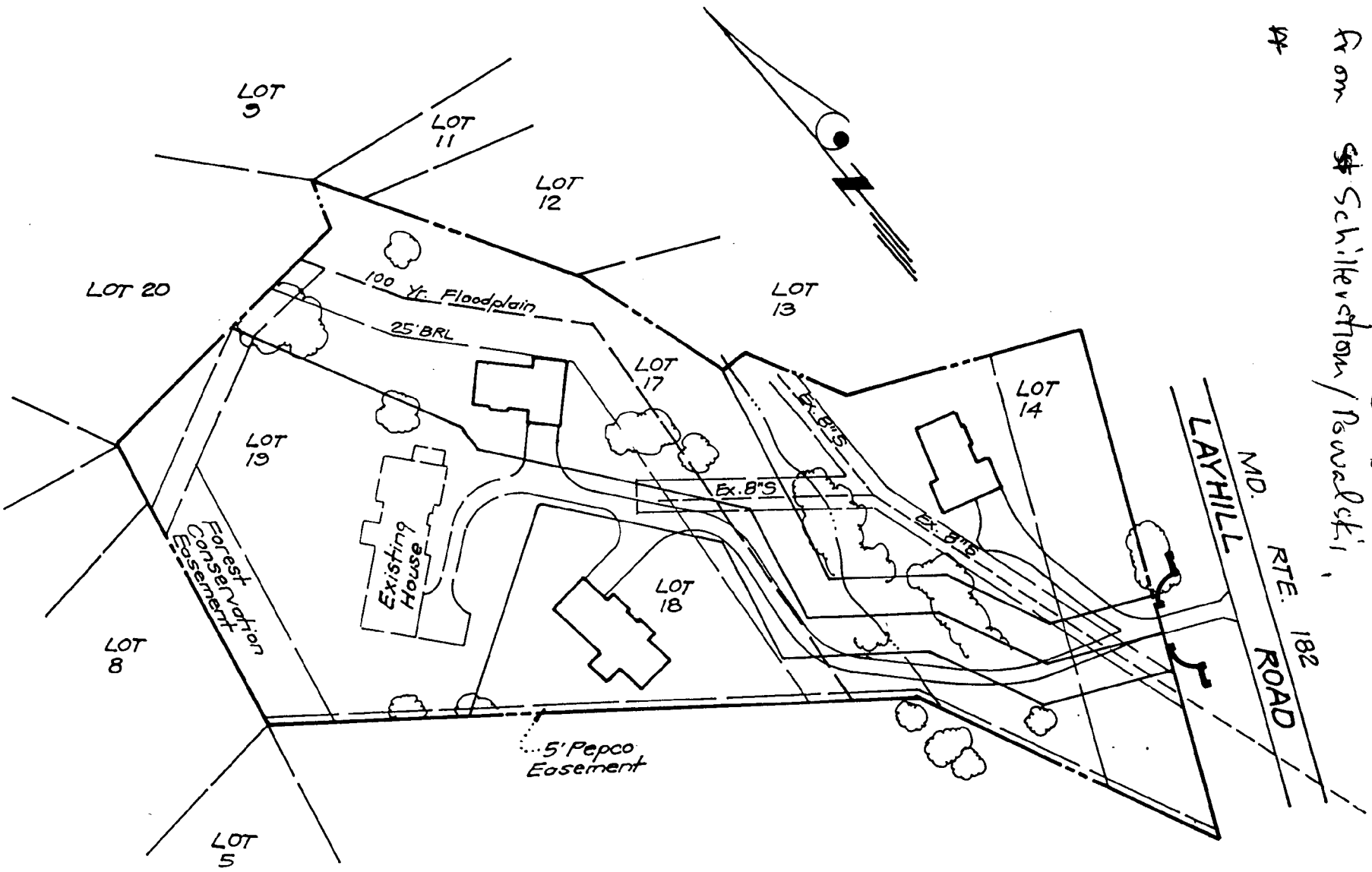
Wm L. Jr. and M. M. Morris
22 Stonegate Drive
Silver Spring, MD 20905


Marita N. Turner et al
26 Stonegate Drive
Silver Spring, MD 20905

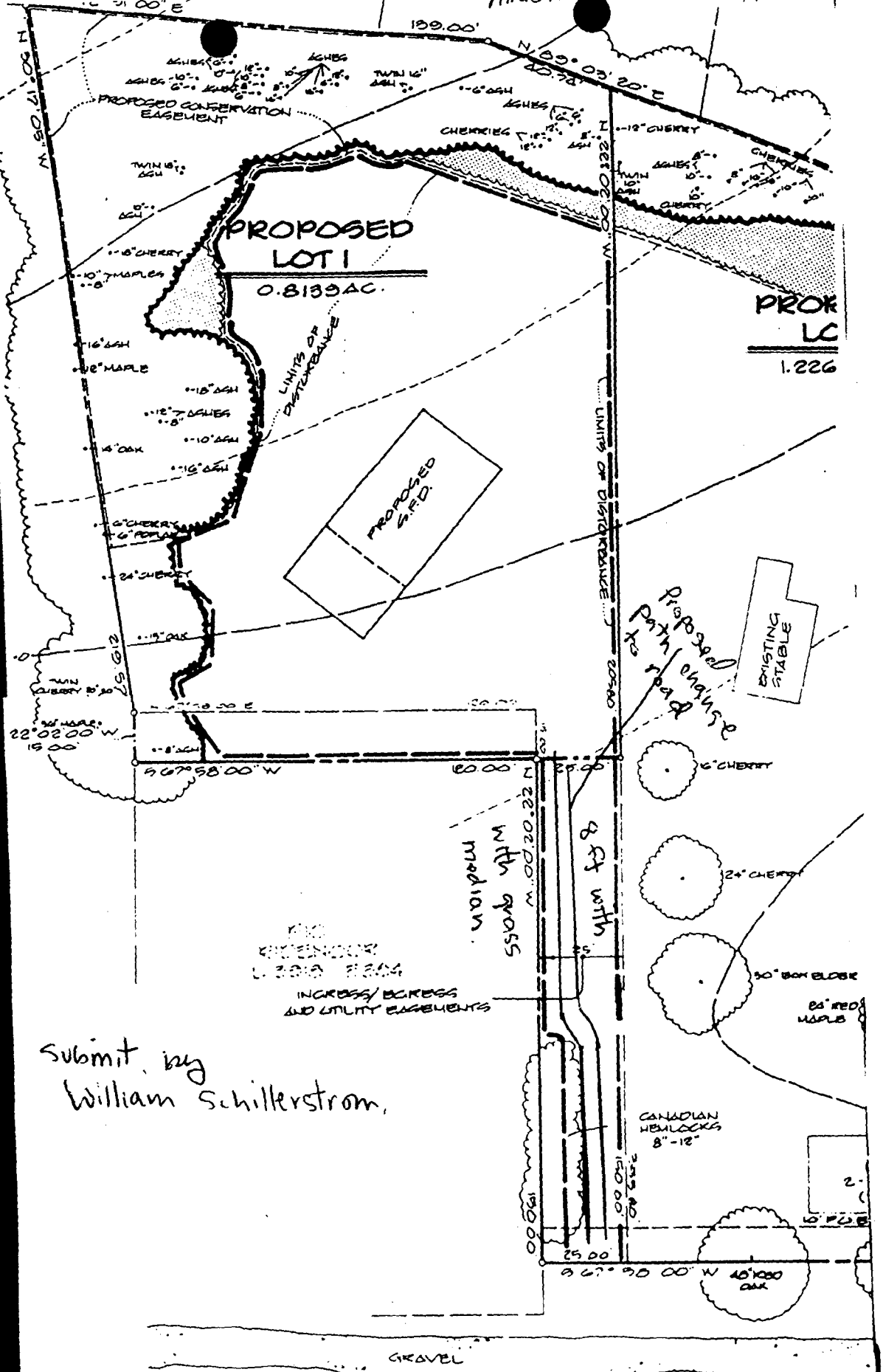
Om P. and M. Arora
115 Heil Road
Silver Spring, MD 20905

Wm Schillerstrom and L. Powalski
204 Heil Road
Silver Spring, MD 20905

Submitted with picture attachments
 For letter dated July 25, 1995
 from ~~St~~ Schillerstrom/Rusalski,
 et

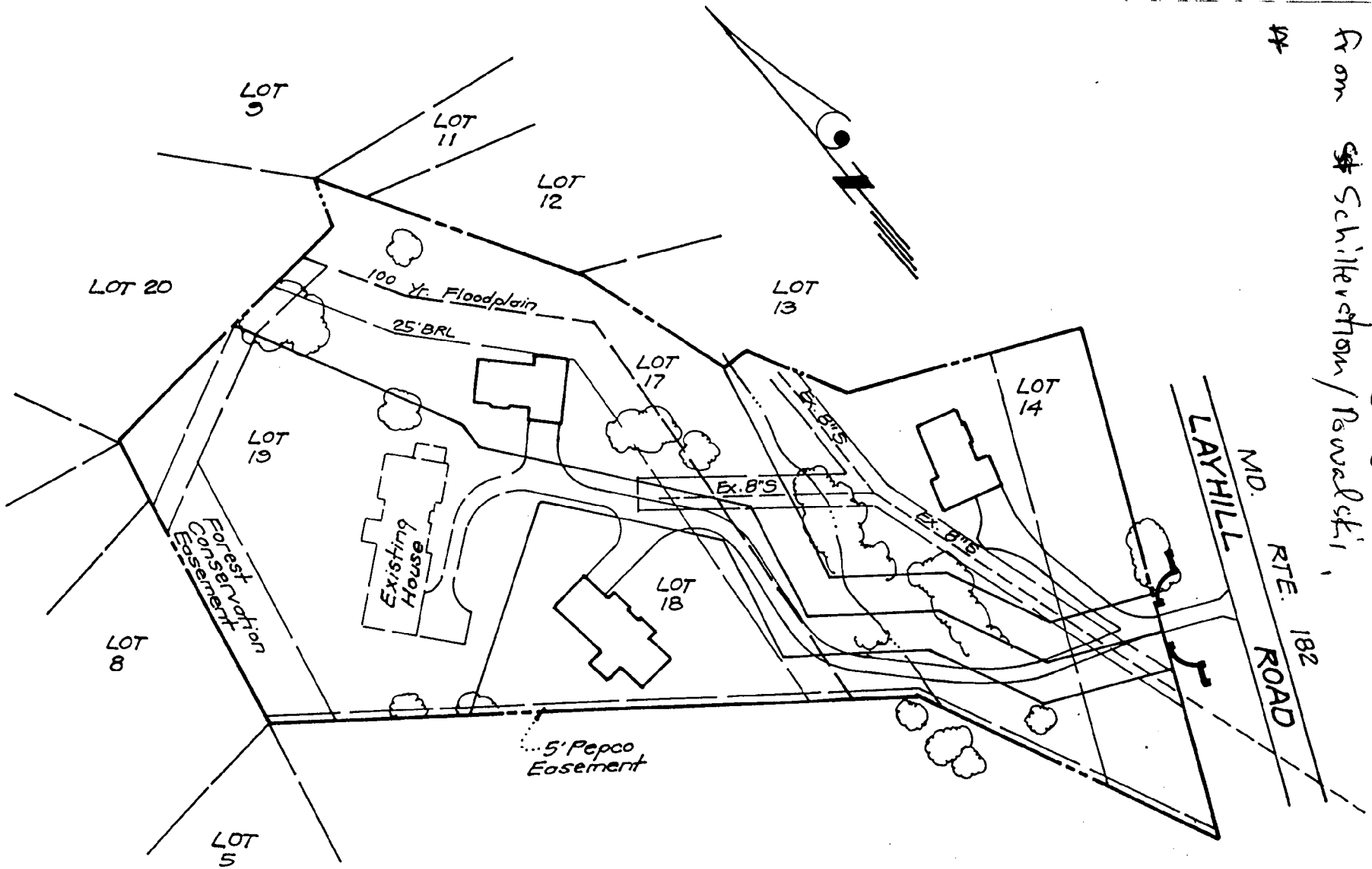



 CLARK • FINEFROCK & SACKETT, INC. ENGINEERS • PLANNERS • SURVEYORS 7125 MINSTREL WAY • COLUMBIA, MD. 21045 • (410) 381-7500 - BALTO. • (301) 621-8100 - WASH.		
DESIGNED J.M.E.	LOTS 14, 17 & 18, BLOCK H GAYFIELDS 13TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND For: Mount Bay Homes, Inc. 10304-A Baltimore National Pike Bellicott City, MD 21048	SCALE
DRAWN FTD		DRAWING 1 OF 1
CHECKED J.M.E.		JOB NO. 95-066
DATE		FILE NO. 95-066X



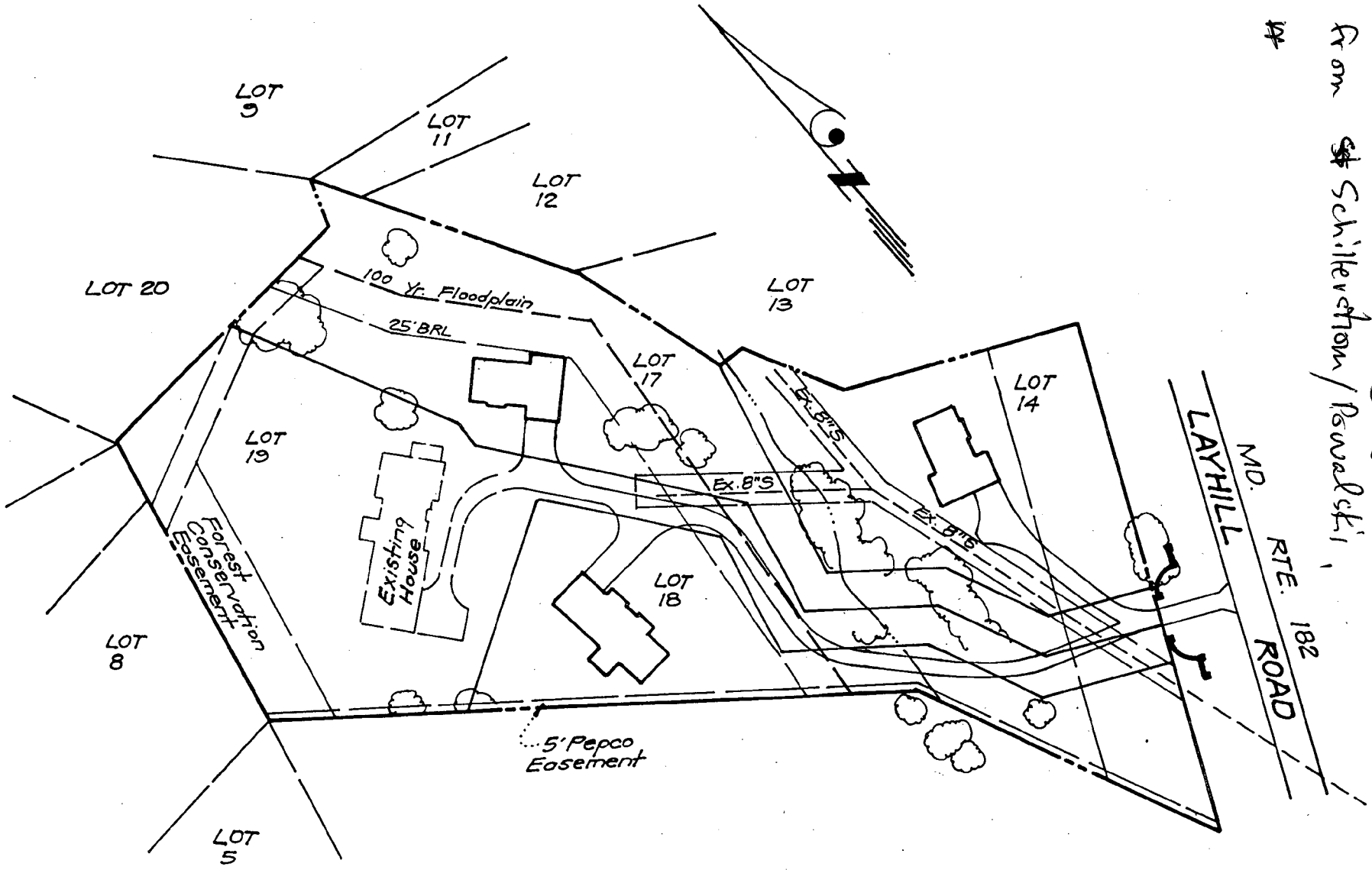
Submit by
William Schillerstrom.


Submitted with picture attachments
 For letter dated July 25, 1995
 From ~~St~~ Schillerstrom/Rowalski,
 #



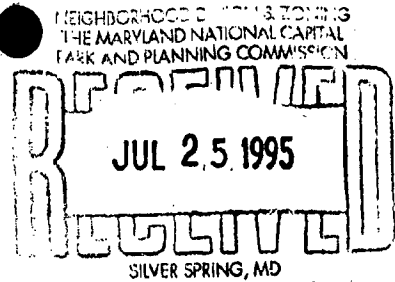
 CLARK • FINEFROCK & SACKETT, INC. ENGINEERS • PLANNERS • SURVEYORS <small>7135 MINISTREL WAY • COLUMBIA, MD. 21045 • (410) 381-7500 - BALTO. • (301) 821-8100 - WASH.</small>		
DESIGNED J.M.E.	LOTS 14, 17 & 18, BLOCK H GAYFIELDS 13TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND <small>For: Mount Bay Homes, Inc. 10304-A Baltimore National Pike Ellicott City, MD 21043</small>	SCALE
DRAWN PTD		DRAWING 1 OF 1
CHECKED J.M.E.		JOB NO. 25-066
DATE		FILE NO. 25-066X

Submitted with picture attachments
 For letter dated July 25, 1995
 From ~~St~~ Schillerstrom/Roswaldski,
 #4



 CLARK • FINEFROCK & SACKETT, INC. ENGINEERS • PLANNERS • SURVEYORS <small>7135 MINSTREL WAY • COLUMBIA, MD. 21045 • (410) 381-7500 - BALTO. • (301) 621-8100 - WASH.</small>		
DESIGNED	J.M.E.	SCALE
DRAWN	LOTS 14, 17 & 18, BLOCK H GAYFIELDS 13TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND <small>For: Mount Bay Homes, Inc. 10304-A Baltimore National Pike Ellicott City, Md 21043</small>	DRAWING
CHECKED		JOS. NO.
DATE		FILE NO.
		1 OF 1 95-000 95-000X

Lynn M. Powalski
William C. Schillerstrom
204 Heil Rd.
Silver Spring, MD, 20905



Via hand delivery:

July 25, 1995

The Historic Preservation Commission
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910

RE: Application/Permit No. 9507130140

This letter is in response to the Historic Area Work Permit (HAWP) application submitted by Albrechts on July 10, 1995. The application proposes the construction of a new road within a limited ingress/egress/utility easement ("Easement Property") on 204 Heil Road. The road is to be approximately 10 feet wide and 150 feet long using 3/4 inch blue stone gravel.

We are the owners of 204 Heil Rd, (see deed and survey of conveyed property attached herewith) and have not given the Albrechts our consent to submit this application or modify, improve or manipulate the Easement Property, (see letter to the Albrechts dated 7/3/95 attached herewith). Contrary to what the Albrechts have represented to this Commission, 202 Heil Rd (Lot 1) is not a panhandle property. We therefore assert that the Commission does not have authority to grant such permit before the Albrechts have gained our consent for such improvement to the Easement Property. The Albrecht's have refused our repeated efforts to discuss the matter, preferring instead to act unilaterally in the decision making process and ignoring the fact that they no longer own the Easement Property.

We strongly oppose the road the Albrecht's propose constructing on our property in terms of its timing, appearance, width, location on the easement, preparation, materials used and lack of professional contractor to carry out the work. The Albrechts interests in constructing the road are very limited in scope, centering on doing it as quickly and cheaply as possible - to be forgotten as soon as they dispose of Lot 1. Our interest in contrast are substantial in that we must live every day with the consequence of how, where and when the road is constructed. It will not only impact the use and enjoyment of our property, it will likely reduce the value of our property if the Albrecht's application is approved as submitted.

The limited ingress/egress/utility easement was created by the Albrechts. No rights to improve or modify the easement were enumerated in the deed conveyed to us. We have no interest in restricting the Albrecht's right to use the Easement Property for purposes of ingress, egress and utilities to Lot 1, an unimproved property now on the market. As an unimproved lot, the Albrechts and/or their guests only rarely (2 to 3 times a month) travel across the Easement Property to access Lot 1. The current state of the Easement Property is a level grass covered yard which is more than suitable for the occasional ingress/egress by foot, car or truck.

The Albrechts desire to improve the Easement Property is clearly for purposes of appearance and confrontation, not utility. The Albrechts did not see a need to gravel the Easement Property for the approximately fourteen months they owned 204 Heil Rd and marketed Lot 1 as a subdivision for sale. Further, the Albrechts did not make any such improvements in the over twenty years as owner to better assess the back half of the 2.04 acres of property (where lot 1 is located) before subdivision, even though they frequently traveled over the property by truck, horse trailer, and car in order to service their two horses.

Unfortunately the Albrecht's acknowledged desire to gravel the Easement Property only arises out of a minor confrontation over our request that they remove two of the three "For Sale" signs they had posted on the front of the Easement and several large, unsightly pieces of junk they were storing on the Easement Property after selling 204 Heil Rd.

We fully appreciate that the owner's of Lot 1 will need to construct a gravel drive within the Easement Property when they are ready to start construction on a new house. Nevertheless, we believe it is now premature to construct a road for the occasional access to an unimproved lot. Construction of a road across the Easement Property should coincide with the construction of a house on Lot 1, which may be several years in the future. Any road laid before the construction of a house on lot 1 would require being ripped up in order to put down the utilities.

Assuming for the sake of argument that we give our consent, we propose that the laying of any road is properly graded with a crushed gravel foundation to prevent erosion, water runoff or other damage to our property, as well as, assuring a long useful life of the road. All such construction must be done in a professional manner by an experienced, licensed and bonded contractor.

In addition to its proper construction, the appearance of the road should be attractive and compatible with the existing historic farm property so as not to negatively impact the value and enjoyment of our property. Specifically, the gravel used to construct the road should be of the same kind as the existing driveway serving 204 Heil Rd from which the new road will extend. The existing drive is a mixture of quartz stone and grass in keeping with the rural look of the house and setting (see submitted sample stones). In addition to its appearance, the quartz stone does not produce the clouds of dust that blue stone kicks-up when driven on. Such dust would create a substantial nuisance to our use and enjoyment of our backyard.

→ As is commonly found in historic farm settings, we propose that the road consist of two parallel strips of quartz stone with a grass median. Each strip should be no wider than two feet with the road's over all width not to exceed eight feet (see picture attached under separate cover).

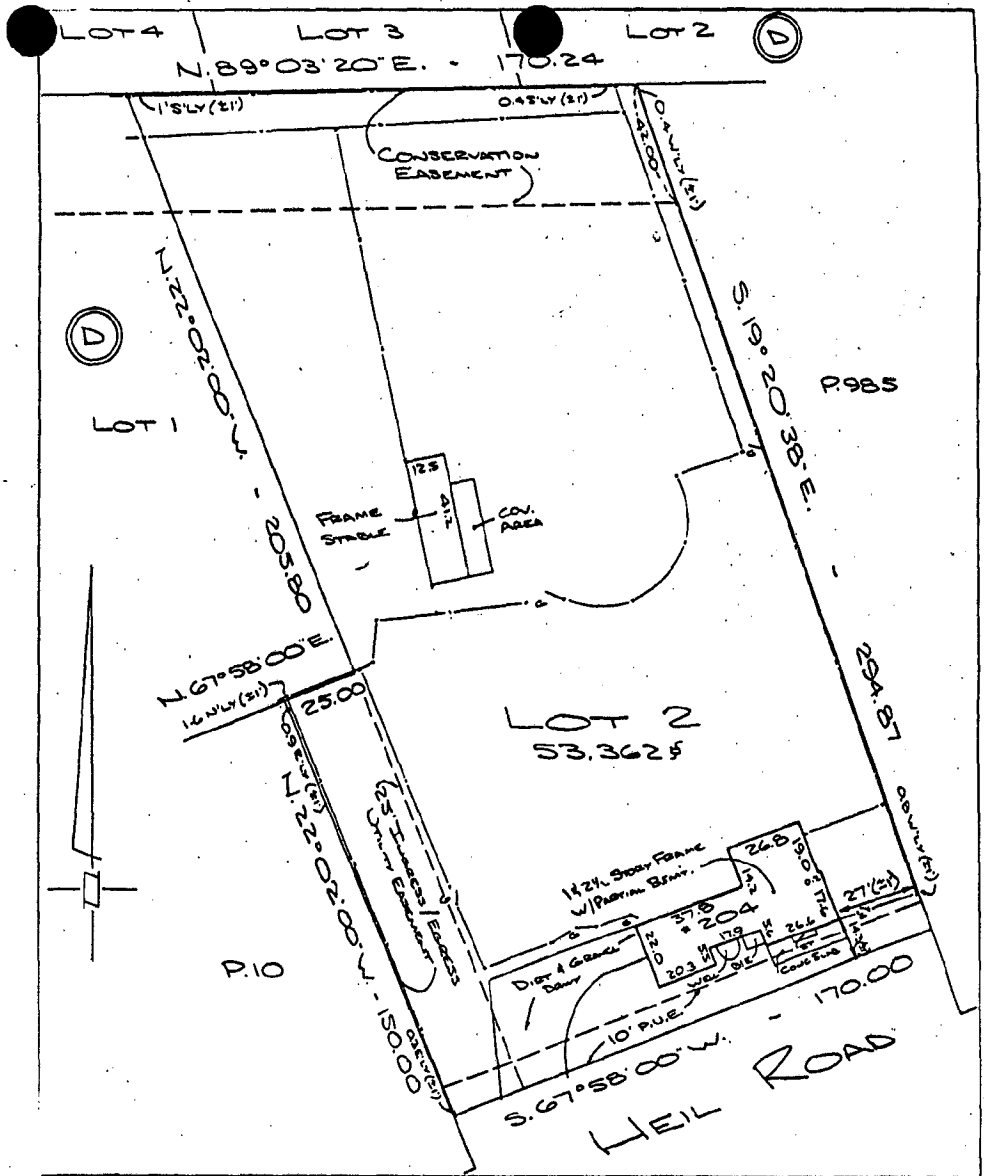
→ We propose the path of the road follow the extreme western border of the Easement Property without disturbing the existing tree-line. This will allow for ample room for plantings and/or a fence to run along the side of the road if shielding from the nuisance effects of the road is/are later to be found necessary. We propose that all utilities be placed underground within the easement.

We will be attending the hearing tomorrow evening in order to present our concerns as outlined above. We will be happy to answer any of the Commission's questions at that time. Additionally, if you need to contact us for further information our phone number is 301 879 2308.

Signed,
William C. Schillerstrom
Signed for Lynn M. Powalski
by *William C. Schillerstrom*
William C. Schillerstrom
Lynn M. Powalski

Attachments: (4)

- (1) Deed
- (2) Survey of conveyed property
- (3) Letter to the Albrechts dated 7/3/95
- (4) Gravel sample
- (5) Pictures



Capitol Surveys, Inc.

1300 Mercantile Lane
 Suite 138
 Landover, Maryland 20785
 Phone 301-772-1654
 Fax 301-341-1285

NOTES: Plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing; the plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements; and the plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or security in financing or re-financing.
 This property lies within Zone C, (Areas of minimal flood hazard) as indicated on the maps of the National Flood Insurance Program, unless otherwise shown.

LOCATION DRAWING

LOT 2 BLOCK D
RAWLS SPRING
 MONTGOMERY COUNTY, MARYLAND

Recorded in Plat Book 176 Plat 19703 Scale 1" = 40'
 CASE: 479-95 FILE: S1874
 DATE: MAY 23, 1995

I hereby certify this location drawing was prepared in accordance with the minimum standards and practice for the State of Maryland and as correct to the best of my belief of what can be visually and accessibly observed.

Edward L. Lopez, Jr.
 Edward L. Lopez, Jr.
 Maryland Property Line Surveyor No. 522



This Deed

3

5-1-1663178
Tax Account No./Parcel Identifier

Made this 25th day of May, 19 95, by and between
THOMAS F. ALBRECHT and NANCY L. ALBRECHT, Husband and Wife, Tenants by the Entirety
party(ies) of the first part, and
WILLIAM C. SCHILLERSTROM and LYNN M. POWALSKI, Husband and Wife
party(ies) of the second part:

Witnesseth, that in consideration of the sum of \$ _____ receipt of which is hereby
acknowledged, and which party(ies) of the first part certify under the penalties of perjury as the actual considera-
tion paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said party(ies) of
the first part do(es) grant and convey unto the party(ies) of the second part in fee simple as _____
all that property situate in MONTGOMERY County, State of Maryland,

described as:
Lot numbered TWO (2) in Block lettered "D", in the subdivision known as "RAWLS
SPRING", as per plat thereof duly recorded among the Land Records of
Montgomery County, Maryland in Plat Book 176 at Plat No. 19703.

which has an address of 204 Hill Road, Silver Spring, Maryland 20905

Subject to covenants, easements and restrictions of record.
To Have and To Hold said land and premises above described or mentioned and hereby intended to
be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every ti-
tle, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for
the proper use only, benefit and behalf forever of said party(ies) of the second part in fee simple.
Being the same property described in Liber 4542 folio 532 among the said Land Records.

And the said party(ies) of the first part covenants that it will warrant specially the property hereby con-
veyed and that it will execute such further assurances of said land as may be requisite or necessary.

In Testimony Whereof, the said party of the first part has set its hand(s) and seal(s) the year and day
first above written.

(SEAL) Thomas F. Albrecht (SEAL)
THOMAS F. ALBRECHT

(SEAL) Nancy L. Albrecht (SEAL)
NANCY L. ALBRECHT

State of Maryland, County of Montgomery
I Hereby Certify that on this 25th day of MAY, 19 95
before me, the undersigned subscriber, did personally appear THOMAS F. ALBRECHT and NANCY L.
ALBRECHT, Husband and Wife
known to me or satisfactorily proved to be the person(s) whose name(s) are set forth in the within deed, and did fur-
ther acknowledge that they executed the foregoing deed for the purposes therein contained.

Witness My Hand And Notarial Seal.
My commission expires 8/1/98

Randall M. Rothstein



I certify that this instrument was prepared under the supervision of an attorney admitted
to practice before the Court of Appeals of Maryland.

Randall M. Rothstein Attorney

Y

STEIN, SPERLING, BENNETT, DE JONG, DRISCOLL, GREENFEIG & METRO, P.A.

ATTORNEYS AT LAW
25 WEST MIDDLE LANE
ROCKVILLE, MARYLAND 20850-2204

MILLARD S. BENNETT*
DAVID S. DE JONG*
DAVID C. DRISCOLL, JR.*
JACK A. CARSON*
STUART S. GREENFEIG*
ANN G. JAKABCIN*
A. HOWARD METRO*
JEFFREY M. SCHWABER*
DONALD N. SPERLING*
PAUL T. STEIN*

TELEPHONE 301/340-2020

TELECOPIER 301/340-8217

WRITER'S DIRECT LINE:
301/838-3210

KIEYASIEK K. MOORE*
JAMES D. DALRYMPLE*
FRED A. BALKIN*
JEFFREY D. GOLDSTEIN*
DARCY A. SHOOP*
JANET A. ZUCKERMAN*
ANN MARIE M. MEHLERT*
ANDREW S. KASMER*

July 3, 1995

VIA HAND DELIVERY

OUR FILE NUMBER

MD, DC, VA, CT*
MD, DC, VA*
MD, DC, FL*
MD, DC*
MD, VA*
MD, NY, D
MD, ONLY*

Thomas and Nancy L. Albrecht
13020 Wainright Road
Highland, MD 20777

RE: 204 Heil Road
Silver Spring, Maryland 20905

Dear Mr. and Mrs. Albrecht:

This law firm has been retained to represent William C. Schillerstrom and Lynn M. Powlaski, owners of the above-referenced property (the "Heil Road Property"). Specifically, my clients are concerned with certain encroachments you have threatened on a portion of their property over which you have retained a limited ingress/egress utility easement (the "Easement Property").

As you know, when you sold the 204 Heil Road Property to my clients, you conveyed a 1.23 acre parcel which included the entire Easement Property. You specifically retained for the prospective owner of Lot 1 of the newly subdivided property a limited right to use the existing Easement Property for ingress and egress, as well as for appropriate utility lines. At no time did you retain control over the Easement Property, or any right whatsoever to modify, improve, and/or manipulate the Easement Property in any manner.

You have advised my client of your intention to have a contractor lay a gravel road over the Easement Property this Wednesday, July 5, 1995. As you are aware, my clients have serious misgivings about your proposed scope of work, and have not authorized any of the improvements and/or modifications you propose to make.

Additionally, as you know, any modification within a Montgomery County Historic Area requires a work permit. When my office contacted the Montgomery County Historic Planning Commission this morning, they informed us that you have not applied for any permits whatsoever. In any event, any such permits with regard to

Thomas and Nancy L. Albrecht
July 3, 1995
Page 2

the Easement Property would ultimately be obtained by or on behalf of my clients, the owners of the Easement Property.

This letter shall serve as formal notice for you to cease and desist from any further activities with regard to the Easement Property, other than specifically for ingress and egress over the current Easement Property. Any effort by you to pursue construction, modification or other work on the Easement Property will result in immediate intervention by my clients to seek redress for any wrongful actions by you, to assure compliance with all county and state requirements and to assure protection of my clients' rights and remedies under law.

Notwithstanding the above, as my clients have repeatedly attempted to explain, they are ready, willing and able to discuss with you an appropriate agreement which specifies the parties' respective rights, obligations and intentions with regard to the Easement Property. My clients have every intention of allowing you (as well as any ultimate purchaser of Lot 1) appropriate ingress and egress as was bargained for in the initial transaction. They will not, however, allow you unilaterally to determine what you wish to have done to their property, or to undertake those modifications yourself without their involvement, input and approval and without the appropriate permits. In that regard, I will be happy to discuss with you a mechanism for resolving and memorializing this matter without the need for litigation and unnecessary expense.

Thank you for your immediate attention to this matter. Please feel free to contact me if you wish to discuss this matter further.

Very truly yours,

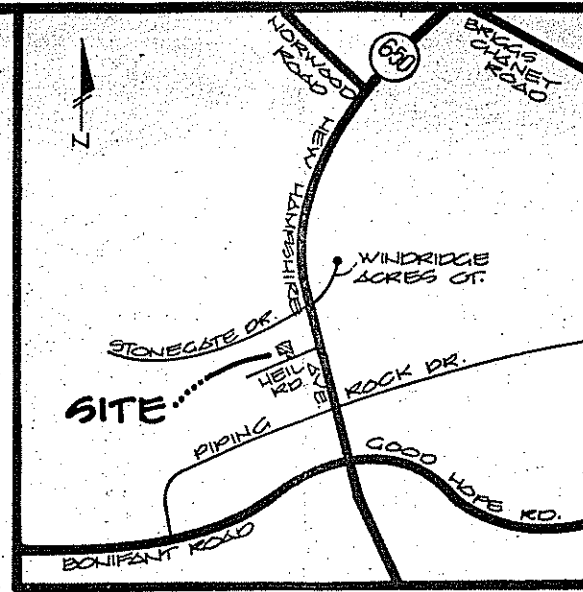

Jeff Schwaber

JMS:meh

cc: William C. Schillerstrom and
Lynn M. Powalski

H:\WP_FILES\CLIENTS\SCHILLER.WIL\ALBRECHT.000\541ALBC.LTR

Attachment-Record Plat -
Site Plan



VICINITY MAP
SCALE: 1" = 2000'

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT, THAT IT IS A SUBDIVISION OF ALL OF THE TRACT OF LAND CALLED "SNOWDEN'S MANOR ENLARGED" CONVEYED TO THOMAS F. ALBRECHT AND NANCY L. ALBRECHT, HIS WIFE, BY THE TWO FOLLOWING DEEDS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND:

1. FROM MAUDE T. HEIL DATED JUNE 3, 1974 AND RECORDED IN LIBER 4541 AT FOLIO 532.
 2. FROM MAUDE T. HEIL DATED FEBRUARY 25, 1980 AND RECORDED IN LIBER 5501 AT FOLIO 379;
- THAT PERMANENT PROPERTY MARKERS WILL BE PLACED IN ACCORDANCE WITH SECTION 50-24 (b) OF THE SUBDIVISION REGULATIONS OF MONTGOMERY COUNTY, MARYLAND; AND THAT THE TOTAL AREA INCLUDED IN THIS PLAT OF SUBDIVISION IS 88,920 SQUARE FEET OR 2.0413 ACRES OF LAND, MORE OR LESS.

5/26/94
DATE

Mario E. Sirano
MARIO E. SIRANO
PROFESSIONAL LAND SURVEYOR
MD. NO. 10883

OWNER'S DEDICATION

WE, THOMAS F. ALBRECHT AND NANCY L. ALBRECHT, OWNERS OF THE PROPERTY SHOWN HEREON AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HEREBY ADOPT THIS PLAN OF SUBDIVISION; ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES; ESTABLISH THE INGRESS/EGRESS EASEMENT FOR BENEFIT OF LOT 1 SHOWN HEREON; GRANT TO THE WASHINGTON SUBURBAN SANITARY COMMISSION (W.S.S.C.) SUCH EXCLUSIVE RIGHTS AS NECESSARY FOR CONSTRUCTION, RECONSTRUCTION, OPERATION, MAINTENANCE AND REPAIR OF SANITARY SEWER AND WATER MAIN APPURTENANCES WITHIN THE WATER AND SEWER RIGHTS OF WAY/EASEMENTS SHOWN HEREON, SUBJECT TO AND TOGETHER WITH THE CONDITIONS CONTAINED IN A RIGHT OF WAY DOCUMENT FROM THE GRANTOR(S) THEIR SUCCESSORS OR ASSIGNS TO THE W.S.S.C. AND TO BE RECORDED HEREAFTER; GRANT A PUBLIC UTILITY EASEMENT (P.U.E.) AS SHOWN HEREON TO THE PARTIES NAMED IN THAT CERTAIN DOCUMENT ENTITLED "DECLARATION OF TERMS AND PROVISIONS OF PUBLIC UTILITY EASEMENTS" RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 3834 AT FOLIO 457 WHICH SAID TERMS ARE INCORPORATED HEREIN; AND ALSO GRANT TO MONTGOMERY PLANNING BOARD, M.N.C.P. & P.C. CATEGORY I CONSERVATION EASEMENT AS SHOWN HEREON, INCORPORATING HEREIN THOSE TERMS AND CONDITIONS DESCRIBED IN A CONSERVATION EASEMENT AGREEMENT RECORDED AMONG THE AFORESAID LAND RECORDS IN LIBER 10728 AT FOLIO 501.

THERE ARE NO SUITS, ACTIONS, LEASES, LIENS, MORTGAGES OR TRUSTS AFFECTING THE PROPERTY INCLUDED IN THIS PLAN OF SUBDIVISION, EXCEPT A MORTGAGE, AND ALL PARTIES IN INTEREST THEREIN HAVE HEREON AFFIXED THEIR SIGNATURES INDICATING THEIR ASSENT TO THIS PLAN OF SUBDIVISION.

Thomas F. Albrecht 5/25/94
WITNESS DATE THOMAS F. ALBRECHT

Nancy L. Albrecht 5/25/94
WITNESS DATE NANCY L. ALBRECHT

WE AGREE TO THIS PLAT OF RECONDIVISION:
HOUSEHOLD FINANCE CORPORATION III

PR Newell 11/29/94
WITNESS DATE P. R. NEWELL

J.L. Dolan 11/29/94
WITNESS DATE J.L. DOLAN

NOTES:

1. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT, UNLESS EXPRESSLY CONTEMPLATED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
2. DEVELOPMENT OF THIS PROPERTY SHALL BE IN ACCORDANCE WITH THE FOREST CONSERVATION ACT, 1992.
3. ACCESS RESTRICTED TO SINGLE DRIVEWAY ENTRANCE TO HEIL ROAD FOR LOT 1.

294241/94062 200040797

DEPARTMENT OF ENVIRONMENTAL PROTECTION
MONTGOMERY COUNTY, MARYLAND

APPROVED: SEPTEMBER 27, 1994

FOR DIRECTOR: *Steve Wray*

FOR PUBLIC WATER SUPPLY
AND SEWERAGE SYSTEMS ONLY

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD
APPROVED: JUNE 2, 1994

William C. Lugin
CHAIRMAN

Barbara C. Lugin
ASST. SECRETARY/TREASURER

M.N.C.P. & P.C. RECORD FILE NO.: 594

294241

DEPARTMENT OF TRANSPORTATION
MONTGOMERY COUNTY, MARYLAND

APPROVED: SEPTEMBER 16, 1994

FOR DIRECTOR: *Mark Meagher*

RECORDED: _____

PLAT BOOK: _____

PLAT NO.: _____

LOTS 1 AND 2, BLOCK D RAWLS SPRING

ELECTION DISTRICT NO. 5
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 50' MAY, 1994



LANDMARK ENGINEERING

CIVIL ENGINEERS · LAND PLANNERS · SURVEYORS

1751 ELTON ROAD, SUITE 202
SILVER SPRING, MARYLAND 20903
PHONE: (301) 434-9550
FAX: (301) 434-7427

9834 DV

594-
10/10/94